

# Challenges to the Rights of Malaysians of Indian Descent

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KARMVEER SINGH, FEB 6 2013

The success of democracy in a multi-cultural society could be measured in terms of ethnic accommodation, since there are greater possibilities for communitarian antagonism owing to rising expectations. However, every multi-cultural society has evolved a political structure through a historical process to meet the indispensable demands (i.e. liberty and equal opportunities of development) of multiple ethnic groups. This article attempts to address the problem of Indian minorities through the prism of human rights, as enshrined in the charter of international human rights. It also seeks to cast light on the peculiar political arrangement in the case of Malaysia, which is discriminatory and restricts the genuine functioning of a fair democratic process.

### Introduction

Malaysia is a multi-ethnic and multi-cultural society, where Malays and indigenous groups (Orang Asli, Sabahans and Sarawakians etc.), who are defined as *bumiputera* (son of the soul), comprise 67 percent of the population (Department of Statistics, Malaysia 2010). By constitutional definition, all Malays are Muslims and speak the Malay language. They dominate national politics, administrative and other governmental jobs. About a quarter of the population consists of Malaysians of Chinese descent, a group which historically has played a significant role in the field of trade and business. Malaysians of Indian descent comprise 7.3 percent of the population, and include Hindus, Buddhists, Sikhs, Christians and Muslims (Department of Statistics, Malaysia 2010).

The term 'Indian' in Malaysia is used to refer to all people from the sub-continent – Indians, Pakistanis, Bangladeshis and Sri Lankans. Malaysia has one of the largest communities of peoples of Indian origin in the world outside the subcontinent, numbering about two million. The overwhelming number are of South Indian origin, predominantly Tamil-speaking and a significant numbers speak Telugu, Malayalam, Hindi and Punjabi. The Indians began migrating to Malaysia in the latter part of the 19<sup>th</sup> Century, while under British rule, to work as indentured labourers in plantations. The subsequent waves from other parts of India and Sri Lanka were for the security services, railways and clerical services (Kuppuswamy 2010). As the years progressed, they integrated themselves into the society and culture of Malaysia while retaining their language and religion. About eighty percent of ethnic Indians in Malaysia are Hindus and their problems are the same as the problems of minorities in a multicultural society. Apart from the economic discrimination they have suffered under Malaysia's *Bumiputera* policies since 1971, a number of sensitive issues relating to demolitions of Hindu temples and Hindu Burial grounds, forced religious conversion, denial of birth certificates and national identity documents and others have come up.

While overseas Indians are amongst the best educated and successful communities in the world (The Ministry of Overseas Indian Affairs), peoples of Indian origin living in Malaysia find themselves marginalized and excluded from the mainstream of national development in almost every aspect of day-to-day living. The economic and political rights of ethnic Indians have witnessed both moderate and violent contestations from native socio-political forces. As Dilip Lahiri points out, Indians are categorically denied basic and elementary needs and necessities, fundamental rights and equal opportunities of progress. They have to face racial discrimination in many fields, including: the allotment of business licenses, the awarding of government scholarships, the closure of Tamil primary schools, citizenship applications, granting of permits for taxis, allotment of land, admission to universities, appointment of lecturers or

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teachers, etc. (Lahiri 2008).

The notable thing is that, at the time of Malaysia's independence in 1957, the condition of ethnic Indians was much better than today's. Even, in the aftermath of independence, all ethnic groups were given equal rights and opportunities of development. However, Islam was made the official religion of the Federation; non-Malays were also given enough space to exercise their religious and cultural customs and traditions. All three major ethnic groups (Malays, Chinese and Indians) were given representation through the ethnic parties such as the UMNO (United Malay National Organisation), the MCA (Malaysian Chinese Association) and the MIC (Malaysian Indian Congress) within the ruling coalition of the Alliance Party (BN- Barisan Nasional).

## Affirmative Action Policy

In 1969, politics in Malaysia took a dramatic turn when, for the first time since independence, the ruling Malay party lost many seats in the general elections. The subsequent political developments, including bloody ethnic riots in May 1969 between Malays and non-Malays (principally Chinese), provided grounds for the ruling Malay elites within the Alliance Party to consolidate their position. The Parliament was suspended and all political and administrative powers were taken away by Malay leaders. In order to ensure the peace and stability in the pluralist society of Malaysia, a political formula of 'Affirmative Action Policies' was found to address Malay 'grievances'. With this in mind, the government introduced a number of policies to improve the condition of the *Bumiputeras* (sons of the soil) in all sectors of life. In 1971, the New Economic Policy (NEP) was launched, effectively imposing a regime of 'positive discrimination' for Malays in a variety of sectors from education and business to the bureaucracy (Crouch 1996: 24-26). Later revisions of this, such as the New Development Plan (1991-2000) as well as the New Vision Policy (2000-2010), all targeted the promotion of the local Malay population.

The implementation of the above-mentioned policies and measures in favour of Malays means the following things: Malay domination in the public sector, special privileges for Malays in the educational and economic realms, generous loans and scholarships for Malay students, the promotion of Malay culture and religion, and so on. These privileges accorded to Malays also implied the discrimination of non-Malays in the business sector, reduced intake into higher educational institutions, denial of scholarship, and a reduction in the space for the promotion of the ethnic and cultural rights of the non-Malays (Ramasamy 2004: 151). The notable point is that nobody can challenge the 'special rights' granted to Malays, since the Malaysian Constitution does not allow any discussion on these 'sensitive' issues.

## Political Representation

In the aftermath of the riots of 1969, politics in Malaysia has shifted from an ethnic-elite cooperation mechanism to a Malay hegemonic system. In the changed political scenario, the UMNO has played a predominant role in championing the privileges of Malays on the grounds of their indigenous status, which has seeded dissonance among the sections of non-Malays. According to P. Ramasamy, non-Malay political parties within the ruling coalition Barisan Nasional (BN) function without any real power, and therefore inter-ethnic bargaining and compromise does not exist in any real sense (Ramasamy 2004: 151).

The change in power relations in the BN coalition has posed serious difficulties for the effective representation of numerically-weaker ethnic groups, such as Indians. Given the absence of inter-elite bargaining and compromise, the MIC, the biggest Indian political party and a constituent of the ruling coalition government at the centre since independence does not have much political clout and has not been able to do anything substantial to improve the lot of the Indians. In contrast, with allegations of corruption and little regard for the plight of the Indian community the party today has lost its credibility as the voice of the marginalized sections of the peoples of Indian origin in Malaysia (Sundararaman 2009). The results of the last general elections of 2008 clearly indicate that the MIC has lost the confidence and popular support amongst the Indian community. The party had to face a massive defeat in the Parliamentary elections, even the party's longest serving president (1979-2010) Dato Seri S. Samy Vellu lost the seat to his ethnic Indian opponent, R. Jeyakumar, who was contesting for the multi-racial party PKR (Parti Keadilan Rakyat) (Shekhar 2008:). At present, there is no single powerful political party in the Parliament or in the local

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legislative bodies which can raise its voice to protect the interests of the Indian community in Malaysia.

## Socio-Economic Marginalization

The shift from an ethnic-elite cooperation mechanism to a Malay hegemonic model of politics in the aftermath of the 1969 ethnic riots has been particularly hard on numerically-weaker ethnic communities in the country. Constituting nearly eight percent of the population, Indians have been adversely affected by the pro-Malay policies (Bumiputera policies) of the regime. Although the Chinese have been affected in a political sense, their economic clout has mitigated the worst effects of the Malay hegemonic model. Meanwhile Indians, being numerically small and economically weak, have to suffer with the full brunt of government policies that prioritise Malay interests (Ramasamy 2004: 152).

As long as Malay interests are prioritised under the model of Malay hegemony, it becomes very difficult for Indians to get a fair chance. According to a prominent Malaysian Indian scholar P. Ramasamy, without the necessary political support, and in the absence of equal opportunities of development, working-class Indians find it impossible to venture into business and other forms of entrepreneurial activities. Public sector tenders, contracts and business licenses are virtually beyond the reach of ordinary Indians. Even licenses for garbage collection and disposal are denied to Indians on the grounds of their ethnicity (Ramasamy 2004: 156). In the Ninth Malaysian Plan report, it was highlighted that ethnic Indians control only 1.2 percent of the corporate wealth in Malaysia, a decline from the 1.5 percent that they controlled previously (Osman 2007: 1).

It is not that Indians lack the necessary professional skill and knowledge, but it is the particular kind of racial politics in the country that prevents them from seizing the opportunities. Ramasamy points out that people of Indian origin living in Malaysia do not want any kind of affirmative action programme to boost their level of economic participation; they just want the systematic removal of the discriminative racial policies that stand in the way of their progress (Ramasamy 2004).

Amid its social and economic marginalization, the Indian community has faced serious challenges in the last three decades due to major changes in the plantation sector. As mentioned earlier, the majority of Malaysian Indians are Tamils, and about 60 percent of them are descended from plantation workers. As the country progressed, recording impressive economic growth rates from the 1980s, the largely Indian plantation resident communities were left behind, as well as becoming victims to the overall national development. More than three hundred thousand poor Indian workers have been displaced after the plantations were acquired for property and township development over the years (CPPS 2006). When evicted from the plantations, these people not only lost their jobs, but, more importantly, housing, basic amenities and socio-cultural facilities built up over decades. Despite the very large number of people involved in this involuntary stream of migration from rural plantation areas to urban areas, little or nothing was done by the authorities to provide skills training and resettle these communities in more sustainable and improved livelihoods. Thus, the government's discriminatory policies and the worst living condition of the displaced community contributed to a situation where many Indian youths have turned to illegal activities to sustain themselves (CPPS 2006).

The following statistics collected by various sources apparently indicate the marginalisation and deprivation of the Indians in Malaysia in every aspect of life:

- Seventy percent of the two million Indians are very poor or poor; the national average poverty level is a mere 2.8 percent (Ponnusamy 2009: 27).
- Less than 1 percent of Malaysia's education budget goes to Indian schools, even though Indians comprise about 8 percent of the total population (South Asian Voice 2008).
- Indians' participation in the civil services declined from about 40 percent in 1957 to about 2 percent in 2007 (Kuppuswamy 2010).
- About 90 percent of the armed forces personnel are from the majority Malay Muslims (Ramakrishnan 2011).
- 78 percent of the government services are occupied by Malays, while Indians share only 4 percent

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(Ramakrishnan 2011).

- Indians comprise 60 percent of the urban squatters and 41 percent of all beggars (The Economist, February 22nd, 2003).
- 95 percent of Malaysian victims shot dead by the police and 90 percent of the deaths in police and prison custody victims are Indians (Ponnusamy 2009: 32).

## Religious Persecution

Besides economic and political discrimination, religious persecution has been a formidable source of marginalization of the people of Indian origin in Malaysia. In the last couple of years, the growing religious intolerance and Islamic conservatism have heightened the sense of insecurity among minorities, especially in Hindu Tamils.

A number of Hindu temples have been demolished by city hall authorities in Malaysia. According to a report, every one week one Hindu temple is demolished in the country. Between 2004 and 2007, 96 Hindu temples were demolished in Selangor state alone (Ponnusamy 2008: 14). The centuries-old Malaimel Sri Selva Kaliyammam Temple, located in Kuala Lumpur, was destroyed by the City Hall Authorities on 21 April 2006 because of a violation of construction laws. It was followed by a series of destructions of many temples in the city and outside. For instance, on 11 May 2006, part of a 90-year-old suburban Hindu temple was forcefully demolished by armed city hall officers in Kuala Lumpur on grounds that the temple was built illegally. Moreover, the 100-year-old historical Temple of Maha Mariyamman was destroyed by the Malaysian authorities in the region of Shah Alam on 30 October 2007 (Gill & Gopal 2010). This incident occurred just around the time of *Deepavali* (most important Hindu festival, popularly known as the “festival of lights”) and later triggered the unrest that was led by the HINDRAF (Hindu Rights Action Force). The devotees who resisted the government’s act of temple demolitions were doused with water cannons and beaten by baton-wielding security forces several times (Bukhari 2006). The manner in which these incidents were dealt with shows the degree of intolerance and insensitiveness on the part of the Malaysian government towards the religious sentiments of the Indian community.

Temple demolitions are only a precursor to other forms of religious persecutions amongst ethnic Indians in Malaysia. The issue of forced religious conversion has also been at the forefront. There are several cases of non-Muslim Malaysian Indians finding themselves or their children forcibly converted to Islam and unable to reverse the process. For instance, in February 2008 a teenager of Indian origin was converted to Islam (without his parents’ knowledge) by school friends who took him to the religious department where he recited the *syahada* (proclamation of faith) and received a conversion certificate. He was subsequently given a Malaysian identity card (MyKad) which stated “Islam” as his religion. The teenager still practices Hinduism and wants to leave Islam but cannot revert to his religion of choice, as he faces a tough legal battle in the Syariah Courts (Gill & Gopal 2010). Such cases are not limited to Hindus only. A similar case involving an Indian, Sikh Mohan Singh, occurred in the region of Shah Alam. On 4 June 2009, the *Syariah* High Court of Shah Alam ruled that Mohan Singh was a Muslim at the time of his death and should be buried according to Muslim rites. However, Mohan’s family claimed that he had neither converted nor practiced Islam (Gill & Gopal 2010). There are many such cases of conversion to Islam, either voluntary or forced upon the ethnic Indian community, which has caused fear and apprehensions among the group.

However, in order to dispel apprehensions of non-Muslims over the conversion of minors, in April 2009, the government of Prime Minister Najib Tun Razak passed a ruling that conversion of minors should only be done with the consent of parents (both mother and father). Many Muslim organizations like *Pembela* criticised the move. Finally, the decision came under the purview of the Sultans of Malaysia, the final authority on issues related to Islam in Malaysia, who have deferred a decision on the issue (Jha 2009). The predominance of *Shariah* courts on religious affairs has created dissent among non-Muslim communities. Therefore, there have been demands for reverting to the pre-1988 arrangement where both civil and *Shariah* courts’ jurisdictions were demarcated (Jha 2009). It was Prime Minister Mahathir who led the Islamisation of administration, education and judiciary in the 1980s (which still continues in some ways) to fulfill his political ambitions.

The lack of sensitivity on the part of the Malaysian authorities in dealing with the issues of temple demolition, religious conversion and other issues have led to massive outcries from the Indian community. As Mohamed Osman states:

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“The attitude of government officials, many of whom are Muslims, is reflective of a new sense of religious superiority that many Malaysian Muslims feel. These Muslims feel that with the introduction of Islam Hadhari as a new model of development for Malaysia, the position of Islam has been elevated and many feel little need to show respect for other religious groups” (Osman 2007: 2).

## The HINDRAF Movement

The unrest and grievances boiling amongst the Indian community for years finally blew up in 2007, when around fifty thousand people assembled under the banner of the HINDRAF (Hindu Right Action Force, a composition of more than 30 non-governmental organizations) in the streets of Kuala Lumpur. For the first time in the history of post-Colonial Malaysia, such a huge gathering of people wielded the portraits of Mahatma Gandhi and Nelson Mandela and demonstrated against the government’s discriminative policies. The Indians who rallied were emotionally charged and angered by the growing transgression of their fundamental rights, demolition of Hindu temples, economic deprivation and religious persecution. The Hindraf champions religious freedom, the abolition of Indians’ poverty and investigation into the deaths of Indians in police custody (Lahiri 2008).

Unfortunately, the Malay-Muslim dominated government of Malaysia handled these non-violent and peaceful protests in a brutal manner, using tear-gas and water cannon to disperse the mob. Several prominent Hindraf members were arrested—some on charges of sedition, and five were detained without trial under the draconian law Internal Security Act (ISA), normally associated with acts of terror and extremism. The prominent leaders of the organisation P. Uthayakumar, M. Manoharan, R. Kengatharan and V. Ganapathi Rao were arrested under the ISA. However, shortly after Prime Minister Najib Razak was sworn in (in April 2009), two Hindraf leaders were freed among the 13 detainees released from detention under the Internal Security Act (Yang & Ishak 2012: 168). Although the Malaysian government crushed the Hindraf movement forcefully, it has emerged as a powerful political voice (not a political party) of the marginalized Indian community in Malaysia, exposing the ground reality of the country’s “multi-cultural” image.

## Conclusion

In multicultural Malaysia, the Malays are politically dominant, the Chinese have the economic influence and the Indians have neither. Indians continue to be looked down upon and mantras like “the Malays are lazy, the Chinese are greedy and the Indians are cheats” are still a part of Malaysian lore, degrading each community. As long as Malay interests are going to be prioritised under the Malay hegemony model, it will be difficult for Indians to obtain a fair chance of development.

However, there is a little hope from the Political Transformation Plan of Najib Razak, who is trying to regain the support of non-Malays, particularly Indians and Chinese, to secure his second consecutive term as Prime Minister. Under this plan, the Malaysian government has passed several bills related to civil liberties. Most recently, Najib has announced the National Harmony Act (2012), which will replace the age-old Sedition Act 1948. According to Prime Minister Najib, “the decision to replace the Sedition Act was made to find a mechanism that could determine the best balance between guaranteeing every citizen’s freedom of expression and the need to tackle the complex nature of the country’s multi-racial and multi-religious society” (New Straits Times 11 July, 2012). Although Malaysia is a nation on the path of progress, it can neither ignore the violation of human rights nor appease the rising aspirations of contending identities for much longer.

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