

MALAYSIA RACIAL DISCRIMINATION REPORT 2020



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Compiled and Prepared By:

PUSAT KOMAS

NON-DISCRIMINATION PROGRAMME

Malaysia

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Malaysia Racial Discrimination Report 2020

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FOREWORD

The Malaysia Racial Discrimination Report 2020 is the sixth annual documentation of the incidences of racial discrimination in Malaysia produced by Pusat KOMAS. This report is crucial in combatting the problems of racism, racial discrimination and xenophobia as they present the evidence and record of the progress that has been made as well as the incidences and violations that have taken place in Malaysia.

2020 had been a turbulent year for Malaysia with the country grappling with both the Covid-19 pandemic and political crisis. The sudden political realignment had led to the transition of the Pakatan Harapan (PH) government to the Perikatan Nasional (PN) government just two years after a historic election that brought the former into power. In fact, prior to the demise of the Pakatan Harapan government, the government struggled to manage the issue of race and religion played by political actors and public leaders who would find every opportunity to be heralded as the so-called champion of their own race and ethnic origin. The continuous use of race and religion as a political weapon has sowed greater tensions among the different ethnic groups in Malaysia.

These ethnic tensions could be seen in the seven different trends of racial discrimination captured in this report which could be seen in various sectors. Although the incidences of racial discrimination documented in this report are alarming and may have the potential to fuel tensions and discords, several positive initiatives by Malaysians to denounce these unfavorable actions could also be seen. These efforts were identified and documented in this report and were indicative that ordinary citizens have the power to combat racism and to promote national unity and social cohesion.

We are hopeful that the Malaysian government, political and public leaders could demonstrate an unequivocal political will and commitment to move beyond the use of race and religion as a political weapon before it would severely damage the social fabric. These groups should condemn and take action against any forms of hate speech and acts of incitement to hatred. It is timely for Malaysia to move beyond race and ethnicity and ensure that all Malaysians are treated equally and with dignity. As such, we hope that this report would serve as an important document to inform the public about racism and racial discrimination in Malaysia and inspire every Malaysian to join the efforts to promote national unity and social cohesion for our beloved nation.

Dr. Ryan Chua
Programme Director
Pusat KOMAS

EXECUTIVE SUMMARY

The year 2020 saw a change of the Malaysian government. In late February 2020, the ruling Pakatan Harapan government collapsed and was replaced by the Perikatan Nasional government led by Tan Sri Muhyiddin Yassin on 1st March 2020. Unfortunately, due to the Covid-19 pandemic outbreak from March 2020 onwards, all attention from the government and stakeholders were devoted towards controlling the spread of the virus. In this context, efforts to combat racism and racial discrimination took a backseat. Additionally, due to the limited interaction between peoples under the Movement Control Order, it can be postulated that the limited interaction and the focus to control the pandemic had contributed to the decrease of the incidences of racial discrimination and racism in Malaysia.

Thus, it comes as no surprise that there was a drop of efforts to promote national unity and incidences of racial discrimination and racism. Based on the exploratory observation by Pusat KOMAS, there were 19 notable efforts in promoting national unity and combatting racial discrimination. It can be noted that there were 32 efforts identified in 2019. On the incidences of racial discrimination and racism, there were 50 such incidences in 2019, while the number of incidences reported in 2020 are 21.

Incidences of racial discrimination captured in this report include those in politics, in education, property, employment and social media. Xenophobic behaviours were also documented in this report. These incidences were categorized in the Malaysia Racial Discrimination Report 2020 into seven different trends of racial discrimination in Malaysia which are as follows:

1. Racial and Religious Politics
2. Racism in Parliament
3. Racial and Religious Incitement
4. Racism in Education
5. Racism in Social Media
6. Xenophobic Behaviours
7. Racism in Other Sectors

In order to capture the incidences of racial discrimination, the report documented cases of racial discrimination as reported in the media, as well as direct reports via the Pusat KOMAS Report Racism mobile application. As this report is an exploratory observation, it only reviewed information and data that were already available. Even though numerous quarters may decry the incidences claiming that the occurrences reported by the media may be sensationalized, we believe that the news reported and obtained via the mobile application should not be ignored as it may provide an indication of the situation on the ground. As the report serves as an exploratory observation, the findings from this report should not serve as an index; but as an indication of the issues of racial discrimination in Malaysia.

We believe that this report can serve as an important document to move the nation forward to achieve high standards of national unity that was dreamt of by our forefathers and generations before us. Furthermore, this report was conducted to spur initiatives to overcome the issue. This report is also intended to be an important tool to facilitate

engagement with relevant stakeholders such as government agencies, political parties, education institutions, academicians and non-governmental organizations (NGOs). The documentation of the incidences of racial discrimination would also be helpful to raise awareness and educate the public on the worrying state and extent of racial discrimination in the country. As this document also contains information on efforts taken by various individuals, groups and agencies to promote national unity and social cohesion, such efforts could be replicated or expanded upon by other stakeholders.

Incidences of racial discrimination and efforts to promote national unity and social cohesion are compiled from mainstream online media sources, Pusat KOMAS Report Racism mobile application and secondary sources such as accounts and views from individuals in social media. These cases provide examples of violations of basic rights which are enshrined in the Federal Constitution of Malaysia and international standard of racial discrimination.

Although they do not encompass all incidences of racial discrimination in Malaysia, we are optimistic that Malaysians from all walks of life would contribute to the annual Malaysia Racial Discrimination Report and therefore enhance its contents.

RACIAL DISCRIMINATION: DEFINITION AND APPLICATION

Racial discrimination is defined as:

*“any **distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin** which has the **purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life**”.*

The definition of racial discrimination is derived based on the principle of equality: where all human beings are born free and equal in dignity and rights. Therefore, any action that serves to differentiate one class of people over another based on race, colour, or ethnicity is unjust, dangerous and has no justification. It is the action of distinction, exclusion, restriction or preference that amounts to racial discrimination.

It is important to note that racism is different from racial discrimination. Where racism deals with internal biases and prejudices, racial discrimination focuses on discriminatory actions. Racism refers to a complex set of attitudes, practices and beliefs which may produce discrimination and exclusion. Sometimes, it could manifest itself as derogatory statements. Currently, the very concept of ‘race’ is being questioned. This is on the basis that all human beings belong to the same species and there is only the human race. Should identification be made based on our cultural heritage, then ‘ethnicity’ should be used, e.g. X is an ethnic-Chinese.

The extent of racial discrimination depends on how much lesser the discriminated class of people exercise or enjoy human rights in comparison to the other classes of people. Nevertheless, one has to take into account that not every difference of treatment is a discrimination. It is generally accepted that a difference of treatment is legitimate if the criteria founding it are reasonable and objective and if their aim is to achieve a legitimate purpose according to the respective law or policy.

In Malaysia and in any other country, racial discrimination takes place in two ways: vertical discrimination and horizontal discrimination. Vertical racial discrimination is by the state on the individual and occurs in the public sphere. This is on the basis that the state always bears the obligation to protect and promote human rights and fundamental liberties. These rights are codified in the Malaysian Federal Constitution and include, amongst others, the right to life, the right to have the equal protection of the law, the right to religion or belief and the right to freedom of expression. Horizontal racial discrimination are discriminatory actions that take place in the private sphere and generally relates to social and cultural rights. These actions are committed in the individual’s or community’s private and personal capacity but yet have the consequence of fundamentally impairing other individuals’ liberties and freedoms. In this context, the state then bears the responsibility to enact and regulate laws that would prohibit and bring to an end racial discrimination by any person, group or organisation in the private sphere.

¹ Article 1, International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

² Article 1, Universal Declaration of Human Rights

Application of the Definition of Racial Discrimination

The definition of racial discrimination protects both racial or ethnic groups and individuals, as victims of racial discrimination. There is no need for such a group to be recognized as a minority or having another status. The generally accepted rule is self-identification as a member of such a group; there is no need for a person to be or to prove that he/she is a member of such a group, in order to be protected against acts of racial discrimination. Thus, the application of the definition is not depending of separate definitions given elsewhere. To clarify, this definition prohibits racial discrimination, not racism or xenophobia.

Xenophobia in itself is not racial discrimination. Xenophobia is defined as a systematic hostility towards strangers, a passion or a feature of the psychological character of a person. However, xenophobia may lead to racial discrimination and can mobilise a community against others. Conversely, discrimination on the basis of ethnicity or national origin remains as racial discrimination and has the widest application: it concerns persons of an ethnic origin which is different from that of other individuals or groups, regardless of whether they are recognised as ethnic minorities or indigenous peoples. It also includes foreigners, immigrants, asylum-seekers and refugees. In this context, it is not wrong for the government to regulate laws on citizenship and nationality, but in doing so, the state cannot discriminate against a specific nationality, that is among persons from different states.

Descent is also one of the grounds covered in the definition above. Therefore, caste discrimination falls under the ambit racial discrimination. Caste discrimination is rooted in a cultural stigma that is attached to one's descent. In Malaysia discrimination based on descent were found to take place within the Indian ethnic group and sporadically in Chinese ethnic groups. Unfortunately, discrimination based on descent which occurs intra-ethnicity remains an invisible phenomenon in the larger context of racial discrimination which occurs and impacts inter-ethnicities.

It is important to note that this definition takes into consideration for special measures to be implemented. Special measures or affirmative action are measures taken for the sole purpose of securing adequate advancement of certain groups or individuals. These groups require such protection to ensure their equal enjoyment or exercise of human rights and fundamental freedoms. Such measures shall not be deemed racial discrimination, provided that they do not lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken are achieved. Hence, as not any differential treatment is regarded as discrimination, it is acknowledged that special measures are an integral part of the principle of non-discrimination when the objectives of the implementation of the special measures to ensure the exercise of human rights on equal terms are accounted for.

Hence, special measures or affirmative action is part of the definition of racial discrimination and not an exception to the principle. They are compulsory when the

circumstances make them necessary in order to eliminate inequalities and as long as they are necessary for that purpose. Specifically, in Malaysia the Federal Constitution dedicates a provision for special measures under Article 153. In summary, the definition of racial discrimination aims to identify and isolate actions of distinction, exclusion, restriction and preference which have the consequence of preventing certain peoples from exercising their human rights as they ordinarily should be able to. These actions of discrimination can either be committed by the state (vertical discrimination) or by other individuals (horizontal discrimination). In both contexts, the state then bears the responsibility to address the discrimination by putting in place laws and policies that would ensure the enjoyment of human rights on equal footing by all citizens in Malaysia.

POSITIVE STEPS TOWARDS NATIONAL UNITY

In 2020, the Malaysian government was largely focused on implementing measures to control the spread of Covid-19 and to reduce the severity of the pandemic's impact. Yet, several noteworthy initiatives promoting national unity were identified: government officials, enforcement agencies and state rulers reiterated the need for national unity in critical times. Below are the commended positive steps taken to forge greater cohesion and unity amongst Malaysians.

1. **Datuk Seri Wan Azizah shows support for Puchong school after complaints against Chinese New Year decor**

8 January 2020

Deputy Prime Minister Datuk Seri Wan Azizah Wan Ismail showed support for schools celebrating Chinese Year. Initially, Parti Bumiputera Perkasa Malaysia (Putra) vice-president Mohd Khairul Azam Abdul Aziz threatened legal action against the school for supposed excessive Chinese New Year decorations, which he said had upset several Muslim parents. However, Wan Azizah stated that "This is a cultural celebration... What we're seeing here is an issue made out of something which shouldn't have even been brought up. We in the government want to promote unity in a nation that is multicultural and is diverse in religion and race." Those present with Datuk Seri Wan Azizah included Finance Minister Lim Guan Eng, Foreign Minister Datuk Saifuddin Abdullah, Communications Minister and Puchong MP Gobind Singh Deo, Youth and Sports Minister Syed Saddiq Abdul Rahman, de facto religious minister Datuk Muzahid Yusof Rawa and Water, Land and Natural Resources Minister Datuk Xavier Jeyakumar.



Image 1⁴

Datuk Seri Wan Azizah showing support with fellow ministers

³ <https://www.malaymail.com/news/malaysia/2020/01/08/dpm-ministers-show-support-for-puchong-school-after-complaints-against-cny/1825930>

⁴ Image source: <https://www.malaymail.com/news/malaysia/2020/01/08/dpm-ministers-show-support-for-puchong-school-after-complaints-againcny/1825930>

2. Penang Deputy Chief Minister calls for JAKIM and Ministry to retract 'haram' directive over Ponggal celebrations

14 January 2020

Penang Deputy Chief Minister II P Ramasamy slammed the Education Ministry for issuing the directive to all schools that Muslim students should not take part in Ponggal festivities, as they have been declared haram by the Department of Islamic Development Malaysia (Jakim). Ramasamy stated "Although the majority of Hindus celebrate Ponggal, it is not a Hindu event. Cooking a pot of milk with ghee and sugar and letting it overflow is a mark of a bountiful harvest and prosperity to come...And for this directive to come from the ministry, this looks like another element of the deep state, when the issue of Ponggal has never been an issue before... Just after the issue of lanterns in schools, this has now become an issue. Is this an act of sabotage, an act to embarrass the prime minister, who is now the acting education minister?" Calling on the ministry to remember its secular roots, Ramasamy asked if it was now an Islamic ministry which blindly followed directives from Jakim.

3. Don't incite racial tensions, advises Sabah Police Commissioner

4 February 2020

State police commissioner Datuk Omar Mammah advised the public against making sensitive remarks to avoid creating unnecessary racial tensions among the multicultural people of Sabah. Omar expressed concerns over developments in Sabah, where racial issues are being played up as of late. "There are sensitive comments that can be offensive, provocative, and racially hostile. We want to maintain peace and I advise the people against spreading issues that can create dissatisfaction among Sabah people... We must take note that we are living in a multicultural society and must respect on another regardless of the differences in racial and religious beliefs. If possible, we must not prolong this issue (making racial remarks) and put an end to it," he told reporters after paying a courtesy call to the Chief Minister Datuk Seri Mohd Shafie Apdal at the Sabah Administrative Centre on the same day.

4. Standing up against racism in football

10 March 2020

The Malaysia Premier League (MFL) wants the M-League teams to be more proactive to combat racism following left-back K. Prabakaran being derogatorily called "keling" by social media fans. Chief executive officer (CEO) Datuk Abdul Ghani Hassan said the racial abuses happened on social media and the best way to curb the abuses was to lodge complaints with the relevant authorities. "Racial abuses in the M-League are not widespread but we do view seriously the incidents that angered Sathianathan. But there is little we can do about what happens on social media," said Abdul Ghani after the Football Association of Malaysia (FAM) exco meeting... Teams need to be proactive in combating this menace, the teams can monitor so provocations on social media don't go overboard." He also said that the teams can and should lodge official reports to the relevant authorities.

⁵ <https://www.freemalaysiatoday.com/category/nation/2020/01/14/ramasamy-boils-with-rage-over-education-ministry-directive-on-haram-ponggal-festival/>

⁶ <https://www.nst.com.my/news/nation/2020/02/562496/dont-incite-racial-tensions-advises-sabah-police-commissioner>

5. Malaysian Human Rights Commission (SUHAKAM) calls for national unity
22 March 2020

The Human Rights Commission of Malaysia (SUHAKAM) acknowledges that there are, undoubtedly, challenges in maintaining the country's stability and peace given its multi-racial society; with a mix of many religions and ethnicity, some being the majority and others are minorities. This diversity can be the strength and unity. SUHAKAM reminded the government of Malaysia of the fiduciary relation that exists between it and the citizens, and that the government has an imperative duty in ensuring that Article 8 (1) of the Federal Constitution that 'All persons are equal before the law and entitled to the equal protection of the law', is upheld and protected regardless in times of peace or crises.

As stated by SUAHAKAM, "Removing discrimination is a vital step in terms of paving the way towards achieving equality for all persons, regardless of race, colour or country of origin. Quoting the United Nations High Commissioner for Human Rights, Michelle Bachelet "Each country affected should take appropriate steps in dealing with xenophobia or stigmatisation"; SUHAKAM commends the government and authorities, which have focused their efforts on containing the disease, to identify and treat suspected or infected persons, regardless if they are Malaysians or those from the marginalised or migrant communities."

6. Dong Zong's campaign to overcome racism and xenophobia
5 June 2020

The Federation of Malaysian Chinese Schools Board Organizations (Dong Zong) launched a campaign to channel care ahead of the Covid-19 outbreak in an effort to address hatred and discrimination against certain community groups, amid the Covid-19 pandemic. Dong Zong said the campaign on social media was also to increase public awareness on diversity as well as the problems of racism and xenophobia (prejudice against foreigners) that exist.

7. SUHAKAM calls for Malaysians to stop racism and racial prejudice
8 June 2020

Following the death of George Floyd in the United States of America who died brutally while under police custody, debates were sparked globally on institutionalised racism and racial discrimination. In Malaysia, the death of George Floyd renewed debates on enforcement mechanisms being discriminatory and abusive. In response, SUHAKAM released a statement holding that "Rather than debate whether racism exists in Malaysia, perhaps it is time to move beyond the surface of unity and dive deep to undo decades of systematic racial discrimination. SUHAKAM calls for each and every one of us to stand up against racial prejudice and intolerant attitudes as racism is morally wrong, in principle. The ability to look beyond religion, race, descent or place of birth is a what we need to cultivate in a multiracial society such as in Malaysia."

⁷ <https://www.thestar.com.my/sport/football/2020/03/10/rage-against-racism>

⁸ <https://www.freemalaysiatoday.com/category/opinion/2020/03/22/racism-is-as-contagious-as-covid-19/>

⁹ <https://www.malaysiakini.com/news/528851>

8. Dewan Rakyat Speaker Art Harun standing up against racism

21 July 2020

In response to Umno's Baling MP Datuk Seri Abdul Azeez Abdul Rahim racist remark against DAP's Batu Kawan MP Kasthuriraani Patto 'Gelap, tak nampak', Speaker Datuk Azhar Azizan Harun warns lawmakers that action will be taken if racist, sexist or seditious words are used in Dewan Rakyat. Azhar, also known as Art Harun, said that on Monday (July 20), he had met party whips and they unanimously pledged support to ensure racist, sexist or rude ("biadab") remarks are not made by MPs. "My Deputies and I will take actions based on the Standing Orders against lawmakers who utter such words or comments in the House. "I will also like to take the opportunity to remind Yang Berhormats and myself of the great responsibility of upholding the decorum in the House, which is the hope of the rakyat," he told lawmakers before the proceedings started on Tuesday (July 21).

9. Responding to Dr M's statement 'Chinese a wealthy lot'

27 June 2020

Following Dr Mahathir's statement to Asia Times that Malaysian Chinese are a "wealthy lot" and that the Chinese community is "controlling" almost all the cities and towns in the country" many politicians corralled support to debunk Dr Mahathir's racially charged statement. Dr Mahathir had also said, "In Malaysia, we found that the inequality between urban Chinese and rural Malays is drastic. We need to correct it. I think many Chinese will agree with what I said.. it is unhealthy that they live in urban areas".

In response to Dr Mahathir's statement, Dr Wee Ka Siong said Dr Mahathir's comments are false as the latest statistics show that the income level of Chinese has declined over the years. "I am not sure if Dr Mahathir is pretending not to know, or he is merely playing the racial card," said the Transport Minister, adding that the former premier should stop perpetuating the illusion that Malaysian Chinese in the country are rich, as such unfair stereotyping would hurt racial harmony.

Following Dr Wee's statement, many leaders have since joined the fray to refute Dr Mahathir's claims with facts. DAP's Bangi MP Ong Kian Ming on 30 June, said that it is untrue that most Malays still live in rural areas, while the cities and towns are dominated by non-Malays. Citing 2016 figures from the Department of Statistics Malaysia (DOSM), he said 75% of the total population live in urban areas. "Of this 75%, a majority or 56% are Bumiputeras. In fact, the number of Bumiputeras who live in urban areas outnumbers those who live in rural areas two to one," Ong said.

The Associated Chinese Chambers of Commerce and Industry of Malaysia (ACCCIM) president Tan Sri Ter Leong Yap also cited a similar report from 2016 to disprove Dr Mahathir's claims. Ter said 70% of the Chinese population were wage earners, only a small difference behind Malays - 72% - while 83% of Indians were wage earners. "In addition, the data showed that 0.4% of Malaysians live

¹⁰ <https://suhakam.org.my/2020/06/press-statement-no-16-of-2020-suhakam-calls-for-malaysians-to-stop-racism-and-racial-prejudice/>

¹¹ [https://www.thestar.com.my/news/nation/2020/07/21/art-harun-warns-mps-action-will-be-taken-if-racist-sexist-seditious-words-used-in-dewa rakyat](https://www.thestar.com.my/news/nation/2020/07/21/art-harun-warns-mps-action-will-be-taken-if-racist-sexist-seditious-words-used-in-dewan-rakyat)

¹² <https://www.chinapress.com.my/20200626/敦马：大马华人很有钱-近乎掌控所有城镇/>

¹³ <https://www.thestar.com.my/news/nation/2020/06/27/dr-wee-unfair-to-label-chinese-as-a-039wealthy-lot039>

in extreme poverty reach, while the absolute poor Chinese population is 0.1%. Therefore, the gap between the rich and the poor is common among all ethnic groups, including between urban and rural areas,” Ter explained. “

10. National Unity Ministry to instil Rukun Negara principles in school-goers

25 August 2020

The National Unity Ministry is in strategic collaboration with three ministries called to instill Rukun Negara principles at the early childhood education level for primary and secondary schools. Its minister Datuk Halimah Mohamed Sadique pointed out that the matter of unity transcends all existing limitations. “As such the ministry is having strategic collaboration with a few other ministries on the matter,” she said at the Dewan Rakyat on Tuesday. According to Halimah, the matter will be solved with the National Unity Action Plan. “The result of this National Unity Action Plan will be based on the blueprint or national unity action framework from which we will produce a National Unity Policy. There will be no limitation to it, it will include Sabah and Sarawak,” she said.

11. ‘Remain calm’- response over remark on Christian Bible

30 August 2020

Following Pasir Puteh MP Nik Muhammad Zawawi Salleh’s remark that the Christian Bible was distorted and that “They (the Christians) have no right to be offended. What I said was not an accusation, but a fact”, Warisan Treasurer-General Terence Siambun said, “On this, I urge all Malaysians to remain calm and pray that Parliamentarians like Pasir Puteh and those who shares his views will be blessed with wisdom to finally have the humility to apologise over his error in judgment, to have the respect for all Malaysians and to embrace what the Rukun Negara of the Federation Malaysia is all about.” The former Federal Minister also took to task Sabah PN leaders. He challenged Sabahans to stand firm after Nik Muhammad Zawawi Salleh’s remarks had caused a huge uproar in Sabah.

12. All ethnicities to be treated equally, retain vernacular schools

31 August 2020

The United Chinese Schools Joint Committee (Dong Zong) Association chairman Datuk Vincent Lau opposed the call by Deputy Youth and Sports Minister Senator Wan Ahmad Fayhsal Wan Ahmad Kamal to abolish vernacular schools in Malaysia. According to Lau, “A true nationalist must treat all races and ethnicities equally and respect their rights in establishing vernacular schools,” he said. Lau also said that Senator Wan Ahmad Fayhsal’s statement had reflected his racist and chauvinist tendencies to implement a monolingual single stream education policy. “These attempts will marginalize vernacular schools, alter the unique characteristics of other races and cultures, ultimately eliminating them,” he stressed. He said it did not portray individuals who wanted to unite Malaysians even though Wan Fayhsal wanted to be portrayed as such.

“In fact, he supports a biased elite narrative, aimed at assimilating other races which will result in growing inter -ethnic tensions. The vernacular school system

¹⁴ <https://www.freemalaysiatoday.com/category/nation/2020/06/30/guan-eng-joins-the-fray-in-row-over-rich-chinese/>

¹⁵ <https://www.thestar.com.my/news/nation/2020/06/29/accim-gap-between-rich-and-poor-is-a-socio-economic-issue>

¹⁶ <https://www.theborneopost.com/2020/08/25/national-unity-ministry-to-instill-rukun-negara-principles-in-schoolgoers/>

has been deeply embedded in the carpet of the Malaysian education system. Seizing the way to preserve culture is to distance ourselves from what exists in Malaysia - a multi -racial society that is tolerant of each other's identities," he said. Lau said Wan Ahmad Fayhsal was not the first player in the political arena to fan the flames of racism. He said there were many individuals and politicians with vested interests who wanted to play on racist sentiments and create inter -racial distrust. "Our collective responsibility is to expose those who want to divide Malaysians through hate speech," he said.

13. Rukun Negara the basis for national unity

1 September 2020

Rukun Negara which was conceived 50 years ago as the basis for national unity and the formation of this country, is not just to be raised symbolically through a reading every time the country celebrates National Day, said Yang di-Pertuan Agong Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah. Instead, he said, the spirit of the pillars of the country should be lived and practiced in every aspect of daily life. "The five principles of Rukun Negara are the formula of how people of various races, religions, cultures and languages can overcome all these differences and diversity, and then live in harmony and peace."

14. Poverty eradication programme will be fair for all- PM Muhyiddin

7 September 2020

According to Prime Minister Muhyiddin Yassin, the country's poverty eradication programme has been implemented after taking into consideration not only the racial and ethnic composition but also various other factors in an effort to create fair and equal opportunities for all. He said it was also to ensure that the nation's wealth could be distributed and enjoyed equally by the people.

"The Perikatan Nasional government's policy is to implement a comprehensive poverty eradication programme and this takes into account the disparities between Bumiputeras and non-Bumiputeras, and regional and non-regional areas, including those in Sabah and Sarawak, after various initiatives done previously," he said. He said this in reply to Senator Razali Idris, who wanted to know about the initiatives taken by the government to tackle poverty in Kelantan, Terengganu, Sabah and Sarawak.

15. Social media content contains racist remarks; call for greater penalties to be imposed

11 September 2020

A director with the Faculty of Communication and Media Studies Universiti Teknologi Mara (UiTM), Associate Professor Datuk Dr. Ismail Sualman said the government was proposed to create penalties on behalf of those who deliberately made racist provocations in the country. The matter is necessary to curb the issue which is seen to becoming more prevalent. This is because, a study conducted with the Malaysian Communications and Multimedia Commission (MCMC) showed that 80

¹⁷ <https://inisabahbah.com/christians-have-no-right-to-be-offended-by-bible-are-distorted-remarks-says-pn-mp/>

¹⁸ <https://www.utusanborneo.com.my/2020/08/31/gesaan-hapus-sekolah-vernakular-di-malaysia-ditentang>

¹⁹ <https://sarawakvoice.com/2020/09/01/rukun-negara-asas-perpaduan-negara/>

percent of the content on social media is currently racist. “Many cases that we have seen before end with the wrong-doer merely offering an apology after that the perpetrator is released. That is why there are still incidents such as scratching pictures of leaders and public displays of vandalizing images of leaders... So, to curb racist comments more effectively, there must be a harder penalty or punishment for those who use social media as a racist arena,” he said.

16. To Ku Li: This is Malaysia

19 September 2020

In a counter-narrative against Umno veteran Tengku Razaleigh Hamzah’s statement which discouraged Malay youth from joining DAP on the basis that DAP was going to take over Tanah Melayu, Zairil Khir Johari (Tanjung Bunga assemblyperson and Penang DAP vice-chairperson) stated that “from having no elected Malay representative for 18 years from 1995, DAP produced two Malay MPs and one state assemblyperson in the 2013 general election. This result was tripled in 2018 with nine Malay DAP representatives being elected (one MP and eight assemblypersons, four of whom were appointed state executive councillors). More interestingly, six out of the nine were under the age of 40... I think it would not be amiss for me to remind him that this is Malaysia, and there is no other place for Malaysians to go.”

17. Racial politics in pluralistic Malaysia should not continue- PM Muhyiddin

29 September 2020

Prime Minister Tan Sri Muhyiddin Yassin said identity politics or racial politics in the lives of the various races and ethnicities in the country should not continue even if it could not be eliminated as a whole. Muhyiddin said with the current social media, society is easily ‘touched’ when issues related to race, religion, and income are raised, causing it to affect inter-racial relations. “Everyone has sentiments, yet these should not invoke ill feelings. For example, with regard the distribution of wealth in the country, the Malays who form a large component in the community feel they are not taken care of. They feel the need greater mechanisms of protection even though the New Economic Policy was in place. In retrospect, this effort had many shortcomings causing persistent dissatisfaction to still exist amongst the Malays,” he said.

18. Strategy for unity amongst races in Selangor- response in State Legislative Assembly

30 October 2020

State assemblyman Lai Wai Chong provided clarification on the issue of the role of the government in strengthening unity with respect to increasing racial issues. The assemblyman stated that “The current government should focus on the well-being of the people by emphasizing on aspects of social development that highlight the need to appreciate and fully practice the principles of Rukun Negara which are beginning to be forgotten in our daily lives. Currently, there are racist issues that occur, not only due to the lack of understanding of the content contained in the

²⁰ <https://www.freemalaysiatoday.com/category/nation/2020/09/07/poverty-eradication-programme-will-be-fair-for-all-says-muhyiddin/>

²¹ <https://www.utusan.com.my/berita/2020/09/80-peratus-kandungan-media-sosial-berbaur-isu-perkauman/>

Federal Constitution, but also many of us do not make the Principles of Rukun Negara as a guide to live in daily life, especially community life.

“Although there are many efforts made through programs with elements of harmony and national integration by government or private agencies such as the Department of National Unity and National Integration, Information Department, Education Department and so on, but the impact is still less felt and fully embraced by the multiracial people in this country. This appreciation also still fails to be worked on and felt fully by the political leaders who lead the country today.

“Therefore, the duty and responsibility to strengthen this unity should be shouldered jointly, especially from the leaders to the people. The responsibility of the government today is to try to provide an explanation to the people so that all issues involving racism can be resolved. The government will do its best to communicate with all parties involved in channeling official government information to the people to resolve all misunderstandings.”

19. Unity is a treasure and must be protected

25 December 2020

The Raja Muda of Perlis, Tuanku Syed Faizuddin Putra Jamalullail said that Malaysians in general are very lucky for the good relations they have amongst the community. “This is because, they can live in a country and state that has various races, religions, cultures, customs and languages in peace and tranquility,” he said. Therefore, unity and harmony among the people in this country is a treasure that must always be nurtured, sown and defended by present and future generations.

²² <https://www.malaysiakini.com/letters/543188>

²³ <https://www.pmo.gov.my/ms/2020/09/politik-kaum-dalam-masyarakat-majmuk-tidak-boleh-diteruskan-pm-muhyiddin/>

²⁴ <http://dewan.selangor.gov.my/question/strategi-bagi-perpaduan-di-antara-perkauman-dalam-negeri-selangor/>

SUMMARY OF EFFORTS TO PROMOTE NATIONAL UNITY

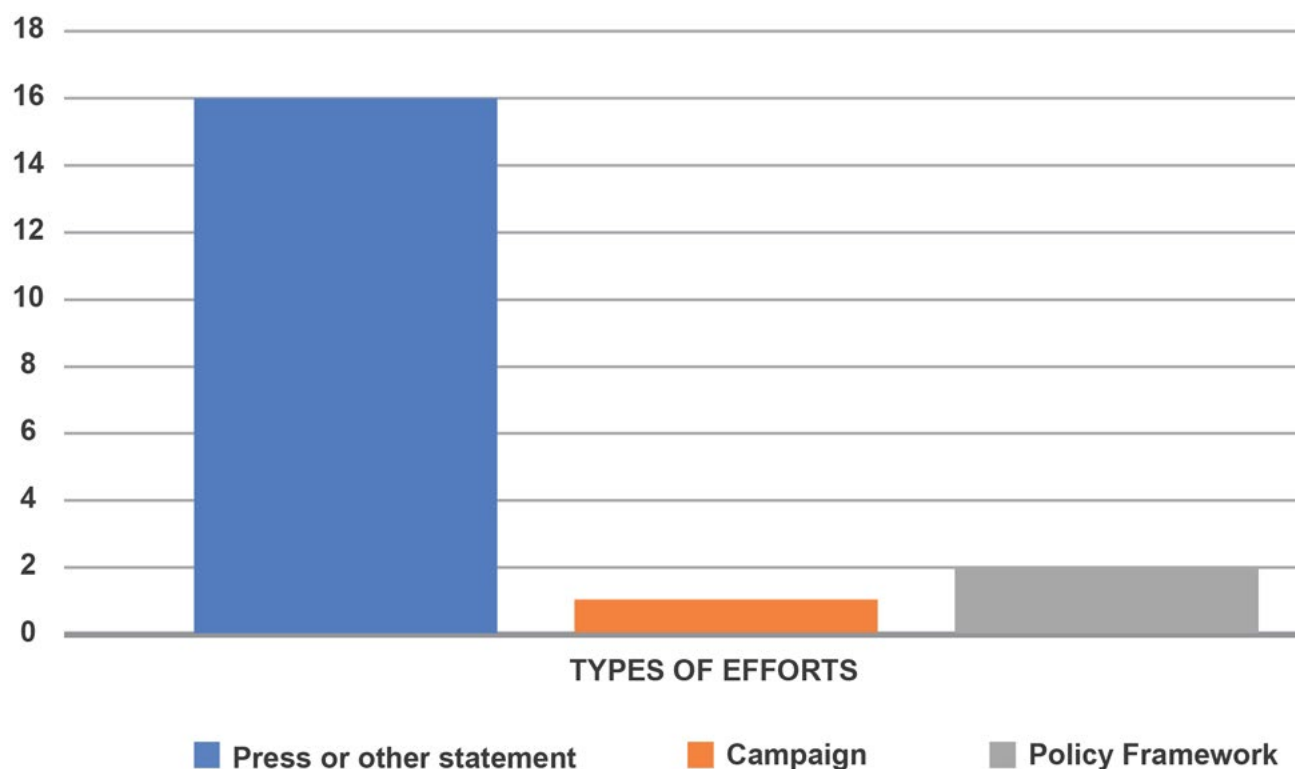


Table 1. Summary of Stakeholders Efforts in Promoting National Unity

In our observations, the Rukun Negara has been repeatedly cited as the bedrock for national unity. The Yang di-Pertuan Agong, the Raja Muda of Perlis, Minister of the National Unity Ministry and debates in the Selangor State Assembly affirmed the same. In the same vein, Prime Minister Muhyiddin has called out for inclusive measures to be in place, taking into consideration the existing sentiments of harbored by the respective ethnicities. The Malaysian Human Rights Commission has also been vocal in reminding the government of Malaysia of the fiduciary relation that exists between it and the citizens, and that the government has an imperative duty in ensuring that the right to equality is upheld and protected regardless in times of peace or crises. These efforts are much welcomed and must continue to progress in its efficacy to combat and overrule deep-seated racial discrimination in Malaysia.

²⁵ <https://www.utusan.com.my/nasional/2020/12/perpaduan-khazanah-harus-dipertahankan/>

INCIDENCES OF RACIAL DISCRIMINATION AND RACISM IN MALAYSIA

Overview

The year of 2020 has seen a decrease from 50 incidences of racial discrimination and racism reported in 2019 to 21 cases in 2020. This is a decrease of 58%. However, it must be noted that this decrease is not indicative of an improvement of the situation. Instead, it could be attributed to the lack of interactions during lockdowns in the Covid-19 pandemic.

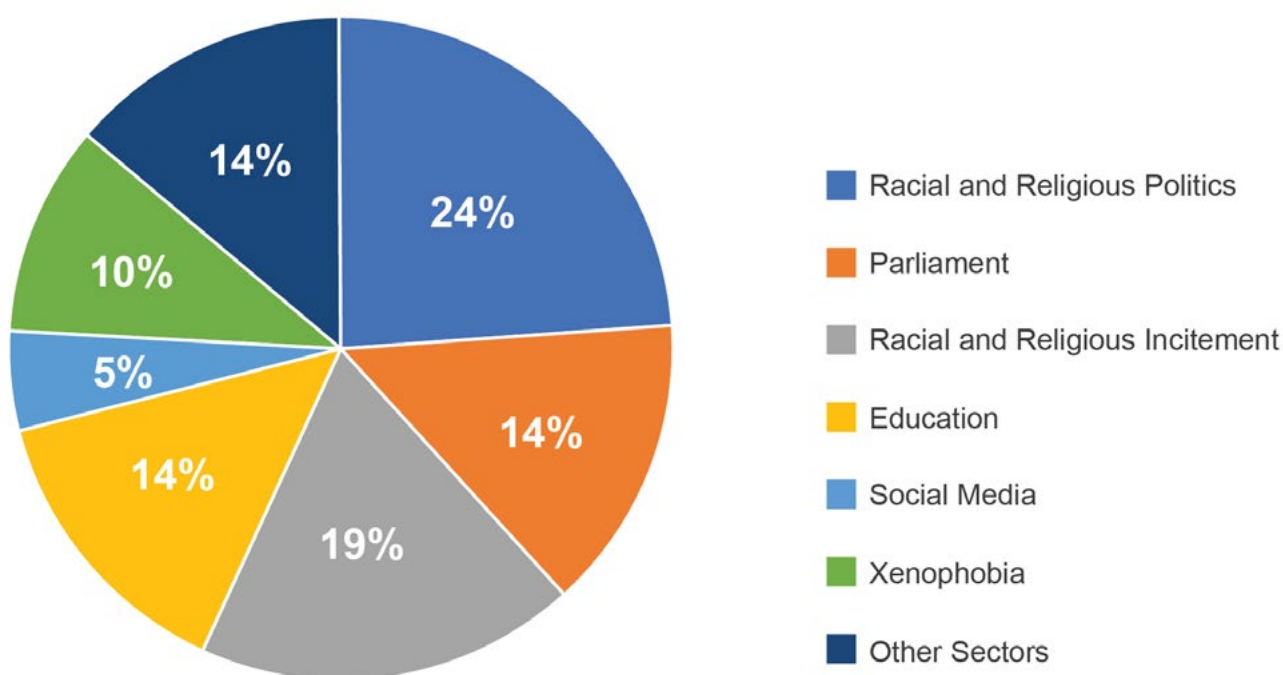


Chart 1. Breakdown of Racial Discrimination Incidences in 2020

Data analysis of the number of incidences reported in the Malaysia Racial Discrimination Report 2020 indicate that racial and religious politics recorded the highest incidence, at 24%. Racial and religious incitement recorded the next highest level at 19%. What is alarming is that an aggregate of discrimination relating to religion amounts to 43% of all incidences. An increase in discrimination from 2019 is that in education, at 14%. Also at 14% are racism in Parliament and in other sectors. Xenophobia was at 10% and racism in social media was the lowest, at 5%.

Racial and Religious Politics

1. Only Malay-Muslim can be Malaysia's education minister, insists PAS MP 3 January 2020

PAS MP Ahmad Amzad Hashim expressed fear that Maszlee Malik may have been forced out of the post of the Education Minister on 2 Jan 2020 by an “agenda to weaken” efforts to base national education on the Federal Constitution. Ahmad

Amzad Hashim then stated that the minister replacing Maszlee must be a Malay-Muslim with better qualities and one possessing the drive to promote education based on Malaysia being a sovereign Islamic nation.

The Jawi controversy, in particular, had caught the Pakatan Harapan unaware and left the ruling coalition in a dilemma. While Ahmad Amzad only signalled his disapproval of vernacular education, others such as Perlis Mufti Datuk Mohd Asri Zainal Abidin have been more overt in claiming it to be an interminable barrier to national unity.

2. PAS leader suggests Dr M a ‘coward’ for working with DAP

15 May 2020

PAS vice-president Idris Ahmad has suggested that Dr Mahathir Mohamad is a coward for working with DAP. Contrary to the former premier’s argument, he said Malays who possessed the courage to oppose the predominantly-Chinese party were principled. “Malays who fight DAP are those brave to swim upstream because they disagree with the concept brought by the party and its attempt to unravel the social contract.. The cowards are the minority of Malays still in cohorts with DAP and act according to its directions in return for temporary power,” he was quoted as saying by Harakah Online today. He added that PAS and Umno as well as the majority of Malays are battling DAP in order to safeguard the position of Islam and Malay rights.

Idris was responding to Mahathir’s scathing salvo against the Malays over their belief that DAP posed a threat to the race. Recalling how the Malays fought the British and refused to bow to major powers, the former premier asked: “Are the Malays so weak that a political party can destroy them?”

3. Hadi Wants Fresh Elections for a More Malay Government

12 August 2020

PAS president Abdul Hadi Awang has repeated his call for Malay domination, saying it was important to maintain political stability in Malaysia. “To ensure political stability, it is important to have the race that dominates society lead the government,” Hadi said. At the same time, he said each race must be represented by their own kind. “Areas that are majority Muslim should be represented by Muslims, and likewise areas that are majority non-Muslim should be represented by non-Muslims.” Malays, who are Muslims, make up 60% of the population of 32 million.

4. Don’t let DAP dupe you, Ku Li tells Malay youth

18 September 2020

Malay youth eager to join DAP must be mindful not to be used by the party but instead work towards dominating the Chinese-based organisation, said Umno veteran Tengku Razaleigh Hamzah. The Gua Musang MP also reminded the Malays in the party, especially federal lawmakers and assemblymen, to be careful against being used by the party to take over “Tanah Melayu”. He warned that

²⁶ <https://www.malaymail.com/news/malaysia/2020/01/03/only-malay-muslim-can-be-malaysias-education-minister-pas-mp-insists/1824243>

²⁷ <https://www.malaysiakini.com/news/525821>

²⁸ <https://www.themalaysianinsight.com/s/266453>

young Malays in DAP should “not let themselves be used by the party in order to control this country”, and that he hopes “they will realise this is Tanah Melayu (Malay land) and there is no other place for the Malays to go.”

5. Demolition of the Hindu Temple Reflects the Religious Intolerance of the Kedah Menteri Besar

6 December 2020

Member of Parliament for Kuala Langat Xavier Jayakumar questions PAS Kedah Menteri Besar Muhammad Sanusi Md Nor who supported the demolition of the temple by the authorities. The question was whether Kedah MB had failed to appreciate the sentiments of the Indian community who are ethnic minorities in Malaysia. The demolition reflected religious intolerance of the state towards creating divisive politics based on race and religion.

In response, Muhammad Sanusi had defended the temple demolition Taman Bersatu, Kuala Kedah on December 1 as a legal issue and not one of racial or religious prejudices, saying it was built on gazetted land in response to criticism by MIC and DAP leaders. Muhammad Sanusi also said his critics were speaking “because one is drunk on the toddy of popularity, and become race champions in the present” as they were quick to jump on the matter of temple demolitions, they were however silent on the demolition of structures belonging to Malays. “Senior politicians such as they might as well not drink one bottle, but get drunk on two or three instead,” he was reported saying of his MIC and DAP critics. The Kedah Menteri Besar also held that as Islam is the official religion, the state will not allocate any grant for temples.



Image 2³³

Demolition of the Hindu Temple in Kuala Kedah

²⁹ https://www.themalaysianinsight.com/s/273242?utm_source=dlvr.it&utm_medium=twitter

³⁰ <https://malaysiaindru.my/187648>

³¹ <https://www.malaymail.com/news/malaysia/2020/12/06/amanah-joins-call-for-kedah-mb-to-publicly-apologise-over-drunk-on-toddy-co/1929379>

³² <https://malaysiaindru.my/187533>

³³ Image source: <https://www.freemalaysiatoday.com/category/nation/2020/12/21/apologise-for-unethical-remarks-demolishing-temple-hindus-tell-kedah-mb/>

Racism in Parliament

1. Racist Remark in Parliamentary Sitting: ‘Gelap, tak nampak’

13 July 2020

Umno’s Baling MP Datuk Seri Abdul Azeez Abdul Rahim made a racist remark against DAP’s Batu Kawan MP Kasthuriraani Patto. He said to Batu Kawan MP “Dark, cannot see” , and he refused to recant his statement during that day but did so the next sitting. “I did not say that she was dark. I only said ‘dark’. I am also dark. So wear some make-up.” He added, “For 2 years I sat in the same spot and it’s dark there so we never get the attention of the Speaker. I meant the space. By God’s will I was also born dark and had no intention of calling anyone dark, and I apologise,” he said. However, his apology was not enough for Kasthuriraani Patto.

“No matter what reason given by Baling, it’s not appropriate as we know it’s not about this area being dark. Why does he have to say “wear powder”? That’s very sexist and racist,” said Kasthuriraani.

2. Azmin accused of racial stereotyping in Parliament

22 July 2020

Two MPs from Pakatan Harapan today called out International Trade and Industry Minister Azmin Ali for using racial stereotypes in Parliament. This is after Azmin, in talking about incentives by the government for car buyers, used the example of Mak Cik Kiah buying a Myvi and an Encik (Mr) Hong buying a Mercedes Benz S560. Khalid Samad (Harapan-Shah Alam) then interjected, saying: “This is racial stereotyping.” Azeez Abdul Rahim (BN-Baling) then chimed in, saying that Khalid was racist.

3. Parliamentary debate: Tanah Melayu and Bumiputera privileges

20 July 2020

In a Parliamentary debate, Tajuddin Abdul Rahman (BN-Pasir Salak) emphasized on “Tanah Melayu” and bumiputera privileges. Tajuddin said, “Like it or not, people who came from the outside must accept this is Tanah Melayu. The Malays are the original inhabitants of our country... Malays are the bumiputera and have certain privileges which must be defended by the government and all of us. The non-Malays are also citizens of this country, and we must accept their rights as citizens... But there is a difference between the rights of a bumiputera and non-bumiputera.”

Tajuddin also argued that there was nothing oppressive about claiming one’s own rights. “Why would people who claim their own rights be considered oppressive? They are only oppressive if they take the rights of others. “Do not suggest that Malays defending their own rights and privileges mean that they are being oppressive to other races. That is not right,” he said.

³⁴ <https://www.malaysiakini.com/news/534183>

³⁵ <https://www.malaysiakini.com/news/535524>

³⁶ <https://www.malaysiakini.com/news/535232>

Racial and Religious Incitement

1. Why individuals with vendetta against Islam elected as Deputy Minister of National Unity?

4 May 2020

The president of the Islamic movement, Ikatan Muslimin Malaysia (ISMA), Haji Aminuddin Yahaya said the appointment of Datuk Seri Ti Lian Ker as Deputy Minister of Unity is of great concern to Muslims. He added that this appointment is an insult to the unity of the country and will most certainly hinder efforts to uphold Islam in Malaysia as Ti Lian Ker is one of the individuals who loudly opposes the laws and policies related to the religion.

2. A Bumiputera Minister should develop Sabah following Islamic moulds

5 October 2020

The Malaysian Muslim Solidarity (ISMA), a Malaysian Islamist non-government organisation published in its website that, "According to a source from the Department of Statistics Malaysia (2010), 65.4 percent are Muslim majority in Sabah. This shows that Muslims in this state need an Islamic leader who can develop the economy of society. We acknowledge that the economy in Sabah is lagging behind compared to other states and it is held by a minority. The Malay Bumiputeras in Sabah sometimes only afford to work under employers who do not give the Muslims the right to perform prayers and wear hijab. Therefore, only with a true Islamic guideline can guide leaders and society towards a better life. Do not be easily swayed by the pressure of chauvinists who want to join the cabinet minister. We are confident in the Sabah Bumiputera Muslim Malay ability to lead and ensure the welfare of the country."

3. Men spray black paint over Chinese characters on road sign

26 October 2020

Two men sprayed black paint over Chinese characters on two road signs in Penang, located in Gat Lebu Armenian and Weld Quay. The act of vandalism was recorded on camera and posted online. One man who sprayed the signs spoke facing the camera, saying that the country had a constitution and that according to the Constitution the Malay language was the language of the country, not the Mandarin language. They taunted, "If you want, you can catch me," and also alleged that the state government had brought about disharmony.

4. Jaya Grocer closes liquor and non-Halal section after receiving memorandum from Jeram assemblyperson

3 December 2020

Jeram assemblyperson Mohd Shaïd Rosli from Pejuang, sent a memorandum to the management of the Jaya Grocer outlet in Eco Grandeur, Puncak Alam, asking for the non-halal liquor section to be removed. He stated that he had received

³⁷ <https://ismaweb.net/2020/05/04/mengapakah-individu-tentang-islam-jadi-timbangan-menteri-perpaduan/>

³⁸ <https://ismaweb.net/2020/10/05/menteri-bumiputera-perlu-bangunkan-sabah-ikut-acuan-islam/>

³⁹ <https://www.nst.com.my/news/crime-courts/2020/10/635478/report-lodged-against-man-who-defaced-penang-road-signs-bearing>

complaints from the local residents who objected to the sale of alcohol. According to Mohd Shaid, the protest against the non-halal section was based on several factors including “respecting the sensitivities of the 90% Muslim population in Puncak Alam”. He also attributed social crimes and fractured family relationships to drinking alcohol, and cited cases vandalism on public recreation places which were littered with liquor bottles.

The management of Jaya Grocer subsequently closed off the section and this incited racial debates. Some questioned whether the management is discriminating against non-Muslim patrons. “I won’t step in Jaya Grocer Puncak Alam and any other JG outlets from today onwards. Not keen on spending my money to support a business who give in to a racial bully,” said a patron. “Why did you open here? As a ‘big’ supermarket, you should give convenient to all residents, shouldn’t be for specific ‘people’. Very disrespectful to our Chinese and Indian race,” remarked another. “Malaysia is a multi-racial country. Please respect our non-Muslim rights. Don’t affect your company’s prospects because of those stupid people’s words. If your company insists not to sell alcohol or pork. I will not step into your shop. I believe many people will not,” another person said.

Racism in Education

1. Education Ministry issues directive on ‘haram’ Ponggal festival

14 January 2020

Department of Islamic Development Malaysia (Jakim) declared Ponggal celebrations illegal in schools and thereafter, Education Deputy Director-General Adzman Talib issued a directive to the Education Director-General and other ministry division chiefs that Jakim shariah experts panel had met on April 8 and 9 last year and decided that Ponggal was haram for Muslims and they should not take part in it.

In the letter, Adzman said Muslims students were strictly forbidden to take part in the festivities. However, he said, they were allowed to wish those celebrating the festival. The six conditions stated in the letter are:

- To not wear any special clothing which might relate to Hinduism, including clothing of Hindu priests;
- To not use any paraphernalia such as chains and floral garlands, making figures, and applying powders on the body that relate to Hinduism;
- To be not involved in any sort of ritual;
- To not scold or make fun of the Hindu gods;
- To not enter Hindu places of worship when Ponggal is ongoing, and
- To wish “selamat” to friends and neighbours without putting Islam down.

2. Calling for the abolishment of vernacular schools in stages

26 August 2020

Deputy Youth and Sports Minister Senator Wan Ahmad Fayhsal Wan Ahmad Kamal said that Parti Pribumi Bersatu Malaysia’s Youth wing continues to support

⁴⁰ <https://www.freemalaysiatoday.com/category/nation/2020/01/14/ramasamy-boils-with-rage-over-education-ministry-directive-on-haram-ponggal-festival/>

the abolishment of vernacular schools in the country. “Armada completely rejects the statement that vernacular schools will not be closed,” he said, referring to a remark by National Unity Minister Datuk Halimah Sadique in Parliament yesterday. He claimed that, “Superior national identity also requires not only fluency but also good mastery of the national language. The average vernacular school student is only able to exhibit the identity of ‘certain ethnicities’ according to school that are separated based on ethnicity. “So if evaluated, on average they do not look national or do not reflect the national image in the determination to achieve national integration,” he said.

3. Racism in Limkokwing University

26 June 2020

A billboard went up on the campus of Limkokwing University (LKWU) in Cyberjaya glorifying its founder and namesake as the “King of Africa”. The move garnered national coverage and severe backlash from students as well as the general public for being culturally and racially insensitive and insulting.

Thereafter, claims of discrimination by former students and LKWU staff surfaced. Anagha Nair, 23, a Kenyan, said she had been passed over for scholarships despite the promise of one if she maintained a high CGPA during her first year at the university. “I was promised a scholarship if I got a high CGPA after my first year at the university... I later found out from the Kenyan representative that they don’t really offer scholarships to students from Kenya.... It was difficult to raise concerns. And, to be frank, as foreigners, it’s even more difficult to express ourselves as we could be blacklisted or not have our visa renewed.” She said, “Many students did not have their visas renewed for reasons unexplained. As foreigners, we often find ourselves battling visa problems and yet students from other universities don’t have the same problem.” Founder of the institution Lim has yet to respond to the allegations.



Billboard with Lim Kok Wing as 'King of Africa'

Image 3 ⁴³

⁴¹ <https://www.malaymail.com/news/malaysia/2020/08/26/wan-ahmad-fayhsal-says-bersatu-youth-adamant-vernacular-schools-abolished-i/1897415>

⁴² <https://focusmalaysia.my/mainstream/ex-limkokwing-students-reveal-on-campus-racism-discrimination/>

⁴³ Image source: <https://www.scmp.com/week-asia/lifestyle-culture/article/3089808/king-africa-billboard-sparks-racism-claims-university>

Racism in Social Media

1. **Ustaz wanted govt to ban all Chinese words as it's not the national language** 9 Jan 2020

Ustaz Abu Syafiq Al-Asy'ary made a call to abolish all Chinese characters from every single place one can find them. In a Facebook video, the ustaz said, "Here is a suggestion for all Malaysians. We will eradicate all Chinese characters," he said in his video, which was uploaded to his Facebook page with more than 180,000 followers. "The country must eliminate and remove all items printed with Chinese characters, including billboards, newspapers, textbooks, or novels. We must immediately ban, eliminate, and haramkan (forbid) all Chinese words, leaving no trace behind... In Malaysia we have the Malay language, we have our national language. Chinese is not our national language and Chinese is not a language that is meant to be used by Malaysians."

The video got the attention of Gerakan president, Dr Dominic Lau, who said that his party will be making a police report against Abu Syafiq. Lau added that even Saudi Arabia has incorporated Chinese into its education system and that cities in Europe, America, and Indonesia have signboards written in Chinese. "So we have to deal with the behavior and behavior of the extremists involved. We can also see signs with Chinese characters on the roads in some European and American cities, and even neighboring Indonesia has Chinese signs."

"So, from the mouth of that Islamic preacher, how could it be said that all Chinese characters should be banned? I must emphasise that Malaysia is a country with multiple races, cultures and religions. We can defend the rights of each race, religion and culture, but we cannot influence other races and religions," said Lau.

Xenophobic Behaviour

1. **Opposition leaders, anti-PSS supporters hold peaceful demonstration** January 15, 2020

Protesters convened at the old Membakut town to send a strong objection to the implementation of the Sabah Temporary Pass (PSS). Present were Former Kimanis MP Datuk Seri Anifah Aman, Sabah Progressive Party president Datuk Yong Teck Lee, Parti Bersatu Sabah (PBS) secretary general Datuk Jahid Jahim, and PBS information chief Datuk Joniston Bangkuai.

Anifah said, "This is not about racism, but we (Sabah people) have dignity. We have to remember that (the Philippines) is still pursuing a claim on Sabah. They asked why we did not negotiate with the Philippines to drop the claim. If we negotiate, it means we are opening a door for them. I said no deal, no way, this is our country, our state. There's no way I am going to sit down with (the Philippines) to give away our state."

⁴⁴ <https://worldofbuzz.com/video-msian-ustaz-wants-govt-to-ban-all-chinese-words-as-its-not-the-national-language/>

2. The KL Wholesale Market is now comfortable, safe for customers, clean from foreigners

13 Jun 2020

Berita Harian newsportal insensitively reported that Kuala Lumpur was “Clean, safe and systematic” after the KL Wholesale Market ‘cleaning process’ of foreigners was done during the Tightened Movement Control Order (PKPD) at the market, recently.

“The clean -up efforts by the Ministry of Federal Territories through Kuala Lumpur City Hall (DBKL) and the Malaysian Immigration Department (JIM) clearly have a very positive impact in providing a new, more comfortable, safe and conducive environment in the wholesale market. The visitor, Mohd Hasmizal Asmi, who was found admitted that the atmosphere of the Kuala Lumpur Wholesale Market is now much changed from before when the situation is cleaner and more orderly.

“There used to be a lot of rubbish piles including leftover damaged vegetables, the floor here is dirty and red because it is filled with ‘betel saliva’ from foreigners but now the situation here is very clean.” If before this place was full of foreigners and made us feel unwell comfortable, but the situation is very different now, it’s hard to see them involved, “he said, who is also a mini market trader in Nilai, Negeri Sembilan. BH previously reported that at least 3,500 illegal immigrants (PATI) who were previously free to work at the Kuala Lumpur Wholesale Market were successfully ‘eliminated’ by DBKL following the implementation of PKPD in the area.”

Racism in Other Sectors

1. Man sentenced 5 months for physically and verbally assaulting (racial slurs) food delivery rider

2 September 2020

A 33-year-old college student pleaded guilty to the charge of voluntarily causing hurt to a food delivery rider, and was sentenced to 5 months of jail. In committing the assault, the accused had hurled racial verbal insults and threats to the rider. The incident where he assaulted a 34-year-old food delivery rider was recorded on a closed-circuit surveillance system, and the recording which made its round on the Internet recorded the verbal and physical assaults.

2. Ipoh factory allegedly perpetuating racism, man found dead as consequence

11 November 2020

A factory in Ipoh, Perak was allegedly held to be perpetuating racism that led to the death of one of its employees last week. The man, who was recently fired, had left the building of the US-based technology company on foot, but was killed by a lorry while crossing the road an hour later. Shortly after, a video of the man telling of his misery and depression at the workplace was shared on social media. In the video, the man, in his 50s, said he had been doing well since joining the

⁴⁵ <https://www.nst.com.my/news/politics/2020/01/556744/opposition-leaders-anti-pss-supporters-hold-peaceful-demonstration>

⁴⁶ <https://www.bharian.com.my/berita/nasional/2020/06/699865/pasar-borong-kl-kini-selesa-selamat-kepada-pelanggan-bersih-daripada>

⁴⁷ <https://www.enanyang.my/要闻/送餐员送餐被打案-学院生判监5个月>

company, earning bonuses, increments and other incentives, but that he was later accused of having “performance issues”, without being shown any evidence of his alleged shortcomings. He added that he made two police reports about what he was going through at his workplace and another on alleged racism in the company. In response, Human Resources Minister M Saravanan assured that those involved in the alleged incident would be held responsible for their actions.

3. Foreigner discriminated at job interview

17 November 2020

Benice Nkpokiti, who has been living in Malaysia since 2014, took to his Instagram account, sharing that he was discriminated during a job interview recently by Allianz Malaysia. Nkpokiti said he had applied for the job and received an invitation for an interview. He was approached by a recruiter for Allianz Malaysia and had sent a video clip of himself. However, upon his arrival for the interview, he was told that the company did not hire foreigners.

In response, Allianz Malaysia Bhd acknowledged that due diligence was not exercised by an agency when shortlisting a foreigner for the position of an insurance agent. Allianz Malaysia said the incident was deeply regrettable and assure the public that appropriate actions were in place to address any shortcomings over the incident.

⁴⁸ <https://www.freemalaysiatoday.com/category/nation/2020/11/11/hr-ministry-to-investigate-ipoh-factory-over-racism-claims/>

⁴⁹ <https://www.nst.com.my/news/nation/2020/11/642656/allianz-malaysia-apologises-nkpokiti-over-job-interview-experience>

MALAYSIAN FEDERAL CONSTITUTION: RIGHT TO EQUALITY

In Malaysia and in constitutions all around the world, the right to equality is a fundamental right and the bedrock to a working democracy. This notion of equality refers to the right to be treated equally before the law and to have the equal protection of the law. It is called formal equality. The obligation rests only on the state (institutions of the government and civil servants) to treat people equally.

The right to equality is the legal basis from which the principle of prohibition of racial discrimination stems from. Discrimination is essentially an act of distinction and when such distinction is prohibited, it means all things are to be treated equally. In other words, equality and the prohibition of racial discrimination are two sides of the same coin.

In Malaysia, the right to equality is guaranteed under Article 8 of the Federal Constitution. It is a procedural law. Formal equality is usually worded in constitutions as “all persons are equal before the law and entitled to the equal protection of the law”. The next lines would prohibit all forms of discrimination only on the grounds of religion, race, descent, place of birth, gender, etc. What this means is if X commits a crime, X must be brought before a court of law and be subject to a fair hearing which commensurate a fair judicial process. Similarly, if M and N are in dispute and appeal to the judiciary to affect justice, then treating M and N without vested interests is an act of formal equality by the judiciary. Formal equality also demands that punishments meted by the judiciary are done fairly and are proportionate to the wrong committed.

It is important to note that the right to equality under Article 8 is not invoked unless a person pursues a legal action under the Malaysian judiciary. This means, unless there is an incidence of discrimination by a civil servant or a government institution, and unless the aggrieved party decides to pursue a legal action in court, no individual, community or organization is effectively made to respect the constitutional right on equality. Furthermore, the Federal Constitution holds that the equality provision only applies in the public sphere. Incidences of racial discrimination in the private sphere i.e. by individuals or organizations in their private and personal capacity are not subject to this obligation. The primary effect of the provision is: i.) in their personal capacity, any person may say and act racially discriminatorily; and ii.) civil servants and government institutions can get away with racial discrimination and are only penalized when a legal action is pursued against them.

⁵⁰ There are other types of equalities, like equality of opportunities, equality of outcome. D. Rae in *Equalities* 133 (1981) said that there were at least 108 types of equality. Formal equality is just one of the many types.

⁵¹ “[T]he applicant must show that some law or action of the Executive discriminates against her so as to controvert her rights... Constitutional law, as a branch of public law, deals with the contravention of individual rights by the Legislature or the Executive or it agencies Constitutional law does not extend its substantive or procedural provisions to infringements of an individual's legal right...”, held in the Federal Court case of Beatrice a/p AT Fernandez v. Sistem Penerbangan Malaysia & Ors [2005] 3 MLJ 681, judgment of Abdul Malek Ahmad FCJ.

⁵² “However, Article 8 clause (5) of the Federal Constitution contains specific constitutional exceptions to the rule against discrimination... [it]recognises the difference between factual equality which is not empirically borne out in real life and a legal status that is recognised by law”, held in *Majlis Agama Islam Wilayah Persekutuan v Victoria Jayaseele Martin and another appeal* [2016] 2 MLJ 309.

The aforementioned constitutional provisions are,

Article 8 Equality:

- (1) “All persons are equal before the law and entitled to the equal protection of the law.
- (2) Except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent, place of birth or gender in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.”

Article 8(5) lists grounds where the right to equality is inapplicable, and notable grounds include any provision (a) regulating personal law, (b) employment connected with the affairs of any religion, or of an institution managed by a group professing any religion, to persons professing that religion, (c) the protection, well-being or advancement of the aboriginal peoples of the Malay Peninsula (including the reservation of land) or the reservation to aborigines of a reasonable proportion of suitable positions in the public service.

⁵³ Article 8(5) clauses (a) to (c) of the Federal Constitution.

MALAYSIA'S COMMITMENT TO INTERNATIONAL HUMAN RIGHTS STANDARDS

Malaysia's relationship with international human rights law and commitment to international human rights standards are fragile. International law is not afforded a place under the definition of "law" in Malaysia's Federal Constitution and any incorporation of international human rights law may only be to the extent that it is consistent with the Federal Constitution. Aside from the UN Charter and the Universal Declaration of Human Rights, the only core UN treaties ratified by Malaysia are CEDAW, CRC, and CRPD. This means that Malaysia cannot be held in the international justice system to be in breach of treaty obligations to which it is not a signatory; and even where treaties are signed and ratified, they are not self-executing domestically. However, by becoming a State party to those treaties, Malaysia is expected to carry out treaty obligations that arise inter-State and intra-State, and it is imperative that Malaysia's State practice be consistent and in compliance with these obligations.

Below is key international legislations Malaysia has ascribed to:

Universal Declaration of Human Rights

Article 2

Everyone is entitled to all the rights and freedom set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any limitation of sovereignty.

⁵⁴ Malaysian Const. Article 160, § 2.

⁵⁵ This is because international law cannot override Malaysia's supreme Constitution. Moreover, Human Rights Commission of Malaysia Act 1999 § 4(4) states: "For the purpose of this Act, regard shall be had to the Universal Declaration of Human Rights 1948 to the extent that it is not inconsistent with the Federal Constitution".

⁵⁶ Convention on the Elimination of All Forms of Discrimination Against Women- ratified by Malaysia on 5th July 1995.

⁵⁷ Convention on the Rights of the Child- ratified by Malaysia on 17th February 1995.

⁵⁸ Convention on the Rights of Persons with Disabilities- signed by Malaysia on 7th April 2008 and ratified on 19th July 2010.

⁵⁹ "An act of a State does not constitute a breach of an international obligation unless the State is bound by the obligation in question at the time the act occurs", Art. 13, Draft Articles on State Responsibility for Internationally Wrongful Acts (GA/Res/56/83).

⁶⁰ It was held in *R v Chief Immigration Officer, Heathrow Airport ex p Salamat Bibi* (1976) 3 All ER 843 that whilst treaties that are signed and ratified by the Executive are binding internationally, it nonetheless requires incorporation by the Parliament to constitute and be enforceable as the law of the land. The court rationalised that if the Executive was to be allowed to amend/change the law of the land through the signing and ratifying of treaties, it would result in a serious travesty of the doctrine of separation of powers, as only the Parliament has powers to make law.

⁶¹ Where obligations arise from the Charter, compliance is monitored by Charter-based bodies: the Office of the High Commissioner for Human Rights (OHCHR) offers support and oversees monitoring mechanisms in the UN system. The primary Charter-based monitoring body is the Human Rights Council (HRC). The HRC, through the Universal Periodic Review mechanism, assesses human rights situations in all Member States, under the advice of the Advisory Committee. Potential complainants may take up violations of human rights through the HRC through the Complaint Procedure. Where treaty obligations are concerned, treaty-based bodies monitor their implementation, e.g. the Committee on the Elimination of Discrimination Against Women, Committee on the Rights of the Child, and Committee on the Rights of Persons with Disabilities.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 18

Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 26 (2)

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedom. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Article 27 (1)

(1) Everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

ASEAN Human Rights Declaration

Provision 2

Every person is entitled to the rights and freedoms set forth herein, without distinction of any kind, such as race, gender, age, language, religion, political or other opinion, national or social origin, economic status, birth, disability or other status.

Provision 3

Every person has the right to recognition everywhere as a person before the law. Every person is equal before the law. Every person is entitled without discrimination to equal protection of the law.

Provision 9

In the realization of the human rights and freedoms contained in this Declaration,

the principles of impartiality, objectivity, non-selectivity, non-discrimination, non-confrontation and avoidance of double standards and politicization, should always be upheld. The process of such realization shall take into account peoples' participation, inclusivity and the need for accountability.

Provision 22

Every person has the right to freedom of thought, conscience and religion. All forms of intolerance, discrimination and incitement of hatred based on religion and beliefs shall be eliminated.

Provision 31 (3)

Education shall be directed to the full development of the human personality and the sense of his or her dignity. Education shall strengthen the respect for human rights and fundamental freedoms in ASEAN Member States. Furthermore, education shall enable all persons to participate effectively in their respective societies, promote understanding tolerance and friendship among all nations, racial and religious groups, and enhance the activities of ASEAN for the maintenance of peace.

Sustainable Development Goals (SDG)

Goal 10 - Reduced Inequality Within and Among Countries

SDG Target 10.2

By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status

SDG Target 10.3

Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard

CONCLUSION AND RECOMMENDATIONS

The government's efforts to promote national unity and social cohesion is much welcomed but it is still lacking substantive implementation frameworks. 84% of these efforts in 2020 were only statement-based and merely calls for national unity, while concrete approaches to combat racial discrimination and racism were prevaricated. There needs to be political will to combat racial discrimination and racism in Malaysia. Often times, most of these efforts are symbolic in nature but in effect, they do not address the structural issues that are embedded in the system.

Unfortunately, the PN government had at several instances displayed itself as a Malay Muslim government. This is a departure from previous governments who made efforts to call itself a government for all Malaysians. This stance indicates that Prime Minister Muhyiddin's government is rather insincere in its' agenda of national unity. On that account, it is questionable whether the PN government truly possess the political will to implement previous suggestions and recommendations instead of it being a symbolic move. The establishment of the National Unity Consultative Council (NUCC) and the implementation of those recommendations were only disclosed by the former Minister of National Unity and Social Wellbeing P. Waythamoorthy under the PH government. However, the current PN government has decided to forgo and reject key recommendations from the NUCC such as the proposal to set up a National Harmony Commission even though significant work on the draft bill has already been done.

Suggested policy frameworks cannot afford to be used as a tool of political propaganda. Implementers of any policy to promote national unity must comprise of individuals or groups who have an actual conviction to dismantle racism in Malaysia. The implementers must come from various backgrounds – both the civil service and other stakeholders, and they must have the moral courage to stand up against all forms of racism in the country with skills to reshape a new agenda for the nation.

It is also important to note that existing laws and policies that accentuate racism and discrimination have not been tackled nor addressed in a systematic way for the last six decades. The government must show its willingness to collaborate on this important national agenda by working with civil society organisation partners on the subject matter to find a way forward to eradicate racism and to promote national unity. Moreover, while we need a whole-nation approach to promote national unity, politicians have a responsibility to protect Malaysia against racism and not perpetuate it. They need to set an example for all Malaysians through their debates in Parliament and their actions.

In combatting racial discrimination and racism, the government has an obligation to prohibit racism, racial discrimination, xenophobia and related intolerance. The government has a responsibility to create an environment where the right to equality is respected by all. The failure to do so may perpetuate the persistence of racist attitudes and practices. In this sense, discrimination could easily escalate to exclusion; and the very persistence, and impunity becomes a lived reality.

Indeed, racial discrimination should be seen as a precursor to extremism. Racial discrimination can manifest itself in various facets of politics. The politics of supremacism causes aggressors to reject equality and seek domination. This produces instances

⁶² The NUCC was founded on 25 November 2013 and was given the mandate to effect policy changes, and amongst other things to prepare a national blueprint for national unity and social cohesion. The NUCC also drafted three separate bills, namely: The Racial and Religious Hate Crimes Bill, the National Harmony and Reconciliation Bill, and the National Harmony and Reconciliation Commission Bill.

of the aggressors resorting to coercion by, for e.g., far-right parties, militant groups, religious fundamentalists. Likewise, the politics of exclusion leads to the rejection of equality too. Victims of such politics are de-humanized and subject to violence. This is a causal process apparent in Antisemitism, Islamophobia, xenophobia. And inadvertently, the politics of victimization leads to marginalization, humiliation of the oppressed and in turn generates violence. In all these politics, racism and discrimination in politics and political institutions spark and protract large- scale atrocities and engender human rights violations.

As such, this report would serve as an important document to inform the public about racism and racial discrimination in Malaysia and inspire every Malaysian to join the efforts to promote national unity and social cohesion for our beloved nation. As citizens of a pluralistic society, we must be able to see beyond racial lines. One must start knowing, interacting and learning about the others' ideas and cultures. Additionally, it is hope that this report would spur the urgency to reform laws that have enabled regressive racist actions to continue. It must also spark the creation of anti-incitement laws and other similar laws to counter racism in Malaysia. Furthermore, the media too should play an active role in achieving positive-peace as their writing can become a tool to facilitate either conflict or peace. Community awareness and mobilization are also required to eradicate racial discrimination in Malaysia.

It is long overdue for us to institutionalize a new Malaysia where every Malaysian is treated equally. The government of Malaysia needs to respect and engage diversity from the lens of human rights, in congruence with international standards and norms. This approach does not take away any legal provisions that were instituted as affirmative action policies, as this is allowed if for the sole purpose of achieving equality.

REPORT COMPILED AND PREPARED BY PUSAT KOMAS MALAYSIA

ABOUT KOMAS

Pusat KOMAS is a human rights organisation in Malaysia which was established in 1993. KOMAS actively promotes equality and the elimination of all forms of racial discrimination in Malaysia. #akubangsamalaysia.

Since its inception, KOMAS has conducted human rights workshops, forums and conferences to promote social cohesion and national unity in Malaysia. In addition, KOMAS leads the national campaign to ratify the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) in Malaysia. As part of its advocacy to ratify ICERD, KOMAS has been engaging the federal, state and local government and conducted dialogues with the grassroots to increase the knowledge and awareness on the issue of Racial Discrimination in Malaysia and the importance of the ratification of ICERD.

Pusat KOMAS has been working in close collaboration with Jaringan Kampung Orang Asli Semenanjung Malaysia (JKOASM) since 1993. JKOASM is a network of indigenous villages in Peninsular Malaysia, that advocates the issues of the Orang Asli and empowers the communities on their ancestral rights and basic human rights.

KOMAS has always felt proud to be at the forefront along other civil society movements in the promotion and enhancement of democracy, equality and human rights in Malaysia.

KOMAS has been working in collaboration with several NGO coalitions in Malaysia such as BERSIH 2.0, the Coalition of Malaysian NGO's (COMANGO) for the Universal Periodic Review (UPR) process, Malaysian Civil Society Organizations on Sustainable Development Goals (CSO-SDG Alliance), the Ratify ICERD Working Group and Gabungan Bertindak Malaysia (GBM). Furthermore, KOMAS is also an active participant at the regional level.

KOMAS is an accredited member of Asian Forum for Human Rights and Development (Forum Asia) and the ASEAN Intergovernmental Commission on Human Rights (AICHR). In addition, KOMAS is a voting member of the World Alliance for Citizen Participation (CIVICUS). KOMAS is also an active participant of the ASEAN Civil Society Conference/ ASEAN's Peoples Forum (ACSC/APF) and had played the secretariat and co-secretariat role in Malaysia and Timor Leste in 2015 and 2016 respectively.

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