

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

- 1. Please provide information on the prospects or opportunities for Chinese Malaysians in the educational system, particularly access to university from the high school system, and in employment.**
- 2. Please provide any further information on the treatment of ethnic Chinese in Malaysia.**

RESPONSE

- 1. Please provide information on the prospects or opportunities for Chinese Malaysians in the educational system, particularly access to university from the high school system and employment.**

The sources consulted provided information which suggests that ethnic Chinese are subject to discrimination in Malaysia with regard to the question of access to university and employment. In both cases, access is restricted to publicly owned, government administered, institutions. Access to the Malaysian public service is restricted by a quota system which works towards the benefit of the Bumiputera community (who are largely ethnic Malay) and to the detriment of the non-Bumiputera communities (principally the ethnic Chinese and ethnic Indian communities). Access to Malaysia's public universities was also once restricted in this manner, but is now ostensibly open to all under the new "meritocracy" system. Reports indicate, however, that the effects of the quota system continue as a consequence of certain systemic features in Malaysia's university admission processes.

It should be noted, before proceeding, that press freedom in Malaysia is restricted by government censor. Furthermore, several of the nation's most prominent publications are owned by the *New Straits Time Press*, a consortium "closely tied to UMNO [United Malays National Organisation], through ownership by companies seen as proxy to the party" ('No politics in Malaysian media chief's dismissal' 2003, *Manila Times*, source: *Agence France-*

Presse, 23 November

<http://www.manilatimes.net/national/2003/nov/23/yehey/world/20031123wor3.html> – Accessed 8 February 2005 – Attachment 1).

On 20 January 2003, BBC News (World Edition) reported that “Malaysian police [had] raided the offices of the independent news website, Malaysiakini”. The raid was said to have occurred “in connection with a complaint issued by the youth wing of Malaysia’s ruling party, UMNO, over a letter carried by Malaysiakini which criticised the government’s preferential treatment of ethnic Malays”. The report concludes by noting that “Malays retain certain benefits under affirmative action programmes introduced in 1971”; the “special privileges established quotas allowing Malays to enter universities and gain employment even if less qualified than applicants from other races” (‘Malaysian police raid website office’ 2003, BBC News (World Edition), 20 January <http://news.bbc.co.uk/2/hi/asia-pacific/2676297.stm> – Accessed 7 February 2005 – Attachment 2).

The US Department of State’s most recent *Country Reports on Human Rights Practices for Malaysia* indicates that Malaysian government has “maintained extensive preferential programs” which marginalize the employment opportunities of ethnic Chinese. The relevant extract follows in detail:

The Government maintained extensive preferential programs designed to boost the economic position of the Malay majority, which remained poorer on average than the Chinese minority. Such preferential programs and policies limited opportunities for non Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs were instrumental in ensuring ethnic harmony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country’s poorest groups (US Department of State 2005, *Country Reports on Human Rights Practices for Malaysia – 2004*, 28 February <http://www.state.gov/g/drl/rls/hrrpt/2004/41649.htm> – Accessed 29 February 2005 – Attachment 3).

On 8 August 2004, Singapore’s *Straits Times* reported on the findings of “a new study by Dr Heng Pek Koon, a Malaysian academic now based at the American University in Washington”. According to this report, Dr Heng feels that “her findings ... indicate that the NEP’s pro-bumiputera policies were no longer a matter of ‘widespread discontent’ among non-Malays, as they were in the 1970s”; in a “‘random’ survey she conducted among 501 college students in the period between July 1999 and August 2000”, ethnic Chinese produced “surprising” responses when questioned about Malaysia’s New Economic Policy (NEP); “most of her Chinese respondents ranked better infrastructure first and ‘no change’ second”. The report states that, of the ethnic Chinese respondents, “[o]nly 13 per cent said the NEP should be terminated (5th), and 11 per cent said it should be implemented more fairly (6th)” (‘Emerging role of religion in Malaysian politics’ 2004, *The Straits Times* website, 8 August <http://straitstimes.asia1.com.sg/columnist/0,1886,145-203763--1081634340,00.html> – Accessed 14 February 2005 – Attachment 4).

On 19 June 2004 LittleSpeck.com, a Singapore based electronic journal for regional politics, published an extensive discussion of the alleged inequities in play in Malaysia’s present university admissions system. Authored by a unidentified person, writing under the *nom de plume* of Z Sunday, the article laments the fact that “Malay students ... this year [2004] comprise between 56.4% and 72.8% of the intake to the medical, dentistry, accountancy, and chemical and electrical engineering faculties in local public universities”, when, of the “1,774

top scorers” who “netted the maximum cumulative grade point average (CGPA) of 4.0, and are vying for places in local public universities”, “922 [or 52%] are Chinese and 790 [or 45%] are bumiputeras”. The disparity between the proportion of Bumiputera students admitted to these critical courses and the proportion of Bumiputera students achieving top tier results is, Z Sunday argues, rendered even more problematic by the fact that, of the Bumiputera students who do achieve a CGPA of 4.0, the vast majority (all but one Bumiputera student in 2004) achieve this mark through a scheme of study known as the ‘matriculation’ scheme; a scheme of study which does not, it is widely held, enjoy parity with the scheme sat by most ethnic Chinese students, the Sijil Tinggi Persekolahan Malaysia (STPM); which is deemed a much more challenging assessment pathway (the “matriculation programme ... accepted non-bumiputeras for the first time for the 2003/4 session”). Z Sunday also claims that, “[s]ome 10,650 university places are reserved for bumiputeras only”; and that these exclusive places are “not factored into the annual intake of 35,000-40,000 students to local public universities” (Z Sunday qualifies this by noting that, of the aforementioned 10,650 places, some 3,500 places are provided by the International Islamic University (IIU) Malaysia, which is not a public university). The entire report is supplied as Attachment 5 (Z Sunday 2005, ‘Malaysia’s “Dual” meritocracy 1: Impedes racial integration’ LittleSpeck.com website, 19 June <http://www.littlespeck.com/informed/2004/CInformed-dual-040619.htm> – Accessed 7 February 2005 – Attachment 5).

On 6 June 2004, a report published by Malaysia’s *New Sunday Times* identified “the two-track system” as “[t]he core problem” in Malaysia’s university admissions system. According to this report, “Chinese [are] suspicious of the formula used to make matriculation and STPM results comparable”; and a number of academics have testified to the problematic nature of the current system. Professor Datuk Dr Shamsul Amri Baharuddin, of University Kebangsaan Malaysia (UKM), is reported to have told *The New Sunday Times* that the matriculation system “caters for a hand-picked Malay majority”. An extract from the report, concerning the academic views on the matriculation and STPM programs, follows below:

Matriculation is essentially a one-year, semester style pre-university course, where examinations are held immediately after the subject is taught. Questions are set and marked internally.

In STPM, exams are held after almost two years of comprehensive studies and exam papers are set and marked externally, on a national level.

“An A in one system cannot be equated with an A in the other as the systems differ greatly in teaching methods, content and how the exams are set and marked,” says Yayasan Strategik Sosial executive director Dr Denison Jayasooria.

To introduce a merit-based system with two very different exams creates doubts that will polarise children for a long time to come.

“Instead of skirting around the issue, let’s call a spade a spade,” says UKM’s Prof Datuk Dr Shamsul Amri Baharuddin.

“The dual system is seen as a problem in Malaysia because one system caters for a hand-picked Malay majority whereas a large majority of the non-Malays take the STPM,” adds the social anthropologist (John, E. Chelvi, K.T. Kui, Y.T. 2004, ‘The angst of having a perfect score’, *Sunday Times*, 6 June – Attachment 6).

On 1 June 2004, Singapore’s *Straits Times* reported that, in Malaysia, “questions remain over whether the ‘meritocracy’ system is still loaded against non-bumiputeras”. According to this

report, “Malay newspapers” were, at this time, “trumpeting the fact that the Malays have shown they can thrive under meritocracy”; “[b]ut the Chinese and English dailies are highlighting complaints by top-scoring Chinese and Indian students who did not get the courses they applied for”. As in the reports above, the “the matriculation examination, tailored specially for Malay students”, is noted as a core issue. So too is the fact that, “[d]espite merit being the determining factor, it is the Education Ministry that has the last say on who gets into university and the courses offered” (Ahmad, Reme 2004, ‘KL’s university merit debate’, *Straits Times*, 1 June – Attachment 7).

On 30 May 2004, the Bernama.com news service reported on “the number of Bumiputera students offered places in public universities for the 2004/2005 academic session”; and the comments of the Malaysian Deputy Prime Minister, Datuk Seri Najib Tun Razak, in this regard. According to this report, “a total of 24,837 Bumiputera students had been offered university places, the biggest number since meritocracy was introduced in 2002”. The article reports that the Deputy Prime Minister Najib has expressed the view that this increase indicates that Bumiputera are able to compete for public university places “without the quota system”. According to this report, Najib has accused those, who question the legitimacy of the Malaysian government’s “meritocracy” policy, of “playing cheap [racial] politics to arouse people’s emotions” (‘Do Not Turn Meritocracy into Political Issue – Najib’ 2004, Bernama.com website, 30 May <http://www.bernama.com.my/bernama/v3/printable.php?id=70296> – Accessed 8 February 2005 – Attachment 8).

A report on education in Malaysia, published in October 2003 and jointly produced by the Commonwealth of Learning (COL) and the United Nations Education, Science and Cultural Organisation (UNESCO), provides information on the two schemes of study and assessment – the STPM and the Matriculation schemes – which can lead to university admission. The report also notes the, then recent, introduction of the system of meritocracy in place of the quota system which had been in operation since 1971. The relevant extracts follow in detail:

Students who perform well in the SPM take publicly funded pre-university courses either in school 6th forms for 2 more years, or by taking Matriculation courses (1-2 years) run by the Matriculation Department of the Ministry of Education in Matriculation Centres and Universities. At the end of school 6th forms, the students take the Sijil Tinggi Pelajaran Malaysia (STPM) or Malaysian Higher School Certificate. The STPM is accredited by the University of Cambridge Local Examination Syndicate of England (UCLES) and is equivalent to a General Certificate of Secondary Education (GCSE) “A” Levels certificate. The STPM is not only the entry qualification for Malaysian universities but is recognised by most universities and professional examination bodies worldwide.

...Matriculation programmes are preparatory classes for local public universities conducted at various Matriculation Colleges throughout the country, leading to the Matriculation Certificate. Originally, these matriculation colleges were meant exclusively for Bumiputera students but now 10 per cent of the places are allocated to non-Bumiputera students.

...From 1971 until 2002, a strict quota of around 45% was in place at all public universities for the admission of non-Bumiputera students in order to address historic imbalances and inequalities (GETIS, 2000). This was part of the government’s nation-building agenda. Thus, the Chinese and Indian populations make up the majority of enrolments in private institutions, while there is a majority of Bumiputera students in the public institutions. In some faculties there may be more Bumiputera students than in others.

The quota system resulted in a situation whereby most Bumiputera students were from rural backgrounds and educated in the public sector who were more comfortable conversing in Malay, while non-Bumiputera students studied private or transnational courses in urban areas, and were more comfortable with the English language (Lee 2001). However, changes have now been introduced so that all students have access, and since January 2003, all enrolment has been solely based on merit. (Commonwealth of Learning & UNESCO 2003, 'Case Study: Malaysia', *The Role of Transnational, Private, and For-Profit Provision in Meeting Global Demand for Tertiary Education: Mapping, Regulation and Impact*, Commonwealth of Learning website, October, pp.7, 14, 18-19 http://www.col.org/Consultancies/03Transnational_Malaysia.pdf – Accessed 8 February 2005 – Attachment 9).

A Minority Rights Group publication, *The Chinese of South-East Asia*, provides a chapter on the situation of ethnic Chinese in Malaysia. According to this July 2000 study, Malaysia's ethnic Chinese "suffer discrimination in relation to employment, education and economic opportunities". According to this study, the "private sector is the main source of employment for almost the whole Chinese population" as the "public service is effectively closed to them due to the bumiputera-first policy". The report also notes that, in the past, the Malay dominated Malaysian government has instituted regulations such that "[l]arge companies were required to have a minimum of 30 per cent of their staff from the bumiputera community". The relevant extracts follow in detail:

The Chinese suffer discrimination in relation to employment, education and economic opportunities. The private sector is the main source of employment for almost the whole Chinese population. The public service is effectively closed to them due to the bumiputera-first policy. Recruitment in the public service has traditionally been set at one non-Malay (read Chinese or Indian) for every four Malay recruits. This rule, however, has never been strictly observed and anecdotal evidence suggests that the ratio is closer to one non-Malay to every ten Malay. In the upper echelons of the civil service, non-Malays definitely constitute less than 10 per cent of the elite administrative service.

...Another area of concern to the Chinese community relates to its share of the economy and opportunities for expansion. Under the NEP, the target for the Malay share of the economy was set at 30 per cent by 1990. In 1971 when the NEP was promulgated, the Malay share was estimated to be only around 2 per cent. To fast-track the Malay share, the government, first, aggressively promoted selected Malay businessmen. They were given multi-million government infrastructure contracts without going through a tender process.

Second, the government discriminated in favour of bumiputera businessmen across the whole spectrum of the economy. Bumiputera businessmen were given first preference for all government projects, supply tenders and trade licences. Certain government contracts could only be awarded to bumiputera companies. All financial institutions had to set aside a set percentage of their loans for bumiputera businesses.

Public listed companies and large companies were legally obliged to set aside 30 per cent of their shares for bumiputera investors. These shares often had to be sold at below market value simply to conform to the shareholding rule. The government's aim was to create a 'Bumiputera Industrial and Commercial Community' that was on a par with that of the Chinese. While the aims were noble, the outcome so far has been the creation of a rentier bumiputera business class more interested in using the government's discriminatory policies for quick gains than in becoming genuine entrepreneurs.

While the larger Chinese business concerns can withstand the government's discriminatory policies, and in some cases thrive by using Malay fronts for their business activities, small to

medium Chinese traders have been seriously hurt by the NEP and the NDP. Many believe that Chinese business would have expanded much faster if the policies had not been in place. Overall, Chinese business has suffered because of the government's bias towards Malay businesses.

Despite the restrictions, the Chinese share of the economy was estimated at 40-50 per cent at the end of the NEP in 1990. Presently, the Malay share of the economy is estimated to be in the region of 20-30 per cent. The rest is owned by foreign interests.

One area where the Chinese community was seriously hurt was employment. Large companies were required to have a minimum of 30 per cent of their staff from the bumiputera community. This rule was not applied in reverse. Malay companies could have a 100 per cent bumiputera staff. Many government-owned companies and statutory bodies have bumiputera-first hiring policies resulting in more than 90 per cent of their staff being bumiputera (Ung Ho, Chin 2000, 'The Chinese Of Malaysia', BeBeyond.com website, source: *The Chinese of South-East Asia*, Minority Rights Group, 15 July <http://www.bebeyond.com/LearnEnglish/BeAD/Readings/DiasporaMalaysia.html> – Accessed 3 March 2000 – Attachment 10).

2. Please provide any further information on the treatment of ethnic Chinese in Malaysia.

For an expansive consideration of the history of ethnic inequality in Malaysia, see Maznah Mohamad's February 2005 publication 'Ethnicity and Inequality in Malaysia: a Retrospect and a Rethinking', which is supplied as Attachment 11 (Mohamad, Maznah 2005, 'Ethnicity and Inequality in Malaysia: a Retrospect and a Rethinking', Centre for Research on Inequality, Human Security and Ethnicity website, February <http://www.crise.ox.ac.uk/pubs/workingpaper9.pdf> – Accessed 3 March 2005 – Attachment 11).

An article of 1 September 2004, published in the New Straits Times Press (NSTP) magazine *Malaysian Business*, reported that "[the] Malaysian Chinese Association (MCA) Youth education bureau chief Dr Wee Ka Siong" had expressed the view that "the [Malaysian] government is doing its best to address [education and employment related] setbacks regardless of race". Relevant extracts from the article's reportage of Mr Wee's views follow in detail. It may interest the Member that the article notes the "growing Islamisation of the [Malaysian] education system" as a significant issue.

The Malaysian Chinese Association (MCA) Youth education bureau chief Dr Wee Ka Siong says the government is doing its best to address these setbacks regardless of race. Among the steps taken are the retraining of graduates with the relevant skills and introduction of double-majors at universities.

...Concedes Wee, 'Although Chinese students are a minority in public universities, there are still Chinese student leaders at these universities. There is still an element of power-sharing.' While the NEP took on a strong Bumiputera or nationalist stand in the 1970s, the present situation reveals another dimension that includes growing Islamisation of the education system. For example, early last month, the headmaster of an urban school was reported to have decreed that non-halal food should not be brought to the school canteen.

Wee however dismisses this as a non-issue. He sees it as a matter of respecting the

customs and traditions of the Muslims. 'It is mutual respect. We do not eat pork in front of our Muslim friends, and we also do not eat beef in front of our Hindu and Buddhist friends,' he says.

However, it is hard to deny the growing Islamic presence in the country's education system, especially in the rural hinterlands.

...Ultimately, what makes the Malaysian education system unique is that it reflects the consensus politics of the ruling Barisan Nasional coalition.

Wee notes, 'While there may be differences in opinion, we are still able to sit down and discuss things in a gentlemanly manner and this arrangement extends to almost all education policies.' Today, the Malaysian education system is poised for greater challenges in this age of globalisation. Wee says even though the government's role in education may be decreasing with the increased number of private colleges and universities, it is difficult to separate politics from education.

He sees the Malaysian education system as a political legacy of the Independence's social contract between the Malays, Chinese and Indians.

'You would not lose all nor would you be able to win all,' says Wee, referring to the political and educational realities of the country (Ngui, Clarence Y.K. 2004, 'Harnessing education', *Malaysian Business*, 1 September – Attachment 12).

An *Asia Times* report, of 8 July 2004, notes that a government minister, the leader of the Malaysian Indian Congress (MIC), has recently broached the issue of reforming aspects of Malaysia's public education curriculum. The leader of the MIC "has proposed replacing moral studies with religious studies for non-Muslim students"; "[a]s it stands, Muslim students in primary and secondary schools attend compulsory Islamic-studies classes several times a week, while non-Muslim students are divided out to study secular-based morals". The report notes that, according to Sangam (a "hindu-focused" NGO), calls for this type of reform have never before been made by a member of the governing *Barisan Nasional* coalition. The author of the report, Ioannis Gatsiounis, speculates that such voices are now being heard because "Prime Minister Abdullah Badawi is widely believed to be more receptive and liberal-minded than his predecessor, the iron-fisted Mahathir Mohamad". Gatsiounis is, however, sceptical of Abdullah Badawi's commitment to actual reform. Gatsiounis goes on to observe that "relations among the peninsula's three major ethnic groups, the majority Muslim Malays, the Indians and the Chinese [are] by most accounts worse than they were 30 years ago when schools were more integrated and the Islamic revival had not yet begun". Pertinent extracts from the report follow in detail:

In an effort to promote the rights of non-Muslims and better educate students of different faiths in Malaysia, the leader of this multi-ethnic Islamic state's largest Indian political party, the Malaysian Indian Congress (MIC), has proposed replacing moral studies with religious studies for non-Muslim students.

...Some groups, such as the Sangam, have been urging the government to allow non-Muslims to study their various religions – Buddhism, Hinduism, Christianity – in school since the early 1980s. But according to Sangam's president, A Vaithilingam, this is the first time a government minister has voiced his support.

Which raises the question, why now?

Much of it has to do with the change in leadership. Prime Minister Abdullah Badawi

is widely believed to be more receptive and liberal-minded than his predecessor, the iron-fisted Mahathir Mohamad, who retired last October after more than two decades in power.

Whether Abdullah takes up, let alone follows through on, the proposal is anyone's guess, as many of his early promises regarding reform appear to have stalled. But Vellu's proposal is important for another reason; it raises the larger question: How are relations among the peninsula's three major ethnic groups, the majority Muslim Malays, the Indians and the Chinese – by most accounts worse than they were 30 years ago when schools were more integrated and the Islamic revival had not yet begun – being affected by the current school curriculum? (Gatsiounis, I. 2004, 'Malaysia loses faith in secular studies', *Asia Times*, 8 July – http://www.atimes.com/atimes/Southeast_Asia/FG08Ae02.html - Accessed 7 February 2005 –Attachment 13).

List of Sources Consulted

Internet Sources:

Government Information & Reports

The Commonwealth of Learning website <http://www.col.org/>

US Department of State website <http://www.state.gov>

United Nations (UN)

International Bureau of Education – UNESCO <http://www.ibe.unesco.org>

UN High Commissioner for Refugees (UNHCR) website <http://www.unhcr.ch/cgi-bin/texis/vtx/home>

UN Office of the High Commissioner for Human Rights (UNHCHR) website <http://www.unhchr.ch>

Non-Government Organisations

Amnesty International website <http://www.amnesty.org/>

Centre for Research on Inequality, Human Security and Ethnicity (CRISE) website <http://www.crise.ox.ac.uk>

Human Rights Watch (HRW) website <http://www.hrw.org/>

Minority Rights Group International website <http://www.minorityrights.org/>

International News & Politics

The Asia Times website <http://www.atimes.com/>

BBC News (World Edition) website <http://news.bbc.co.uk/>

The Economist website <http://www.economist.com>

The Guardian website <http://education.guardian.co.uk>

The Manila Times website <http://www.manilatimes.net>

Time Asia Magazine website <http://www.time.com/time/asia/>

Region Specific Links

BeBeyond.com website <http://www.bebeyond.com>

Bernama.com website <http://www.bernama.com.my>

LittleSpeck.com website <http://www.littlespeck.com>

Malaysiakini website <http://www.malaysiakini.com>

Malaysian Chinese Association (MCA) website <http://www.mca.org.my>

Malaysian Business website <http://www.malaysianbusiness.com.my/>

The New Straits Times website <http://www.nst.com.my/>

The Star (Malaysia) website <http://thestar.com.my/>

StudyMalaysia.com website <http://www.studymalaysia.com>

Search Engines

Google search engine <http://www.google.com.au/>

StaggerNation website's Google API Proximity search engine

<http://www.staggenation.com/cgi-bin/gaps.cgi>

University Sites

Institute of Southeast Asian Studies (ISEAS) website <http://www.iseas.edu.sg>

Databases:		
Public	<i>FACTIVA</i>	Reuters Business Briefing
DIMIA	<i>BACIS</i>	Country Information
	<i>REFINFO</i>	IRBDC Research Responses (Canada)
RRT	<i>ISYS</i>	RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State <i>Country Reports on Human Rights Practices</i> .
RRT Library	<i>FIRST</i>	RRT Library Catalogue

List of Attachments

1. 'No politics in Malaysian media chief's dismissal' 2003, *Manila Times*, source: *Agence France-Presse*, 23 November. (<http://www.manilatimes.net/national/2003/nov/23/yehey/world/20031123wor3.html> – Accessed 8 February 2005)
2. 'Malaysian police raid website office' 2003, BBC News World Edition), 20 January. (<http://news.bbc.co.uk/2/hi/asia-pacific/2676297.stm> – Accessed 7 February 2005)
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5. Z Sunday 2005, 'Malaysia's "Dual" meritocracy 1: Impedes racial integration' LittleSpeck.com website, 19 June <http://www.littlespeck.com/informed/2004/CInformed-dual-040619.htm> – Accessed 7 February 2005.
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7. Ahmad, Reme 2004, 'KL's university merit debate', *Straits Times*, 1 June. (FACTIVA)

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12. Ngui, Clarence Y.K. 2004, 'Harnessing education', *Malaysian Business*, 1 September. (FACTIVA)
13. Gatsiounis, I. 2004, 'Malaysia loses faith in secular studies', *Asia Times*, 8 July. (http://www.atimes.com/atimes/Southeast_Asia/FG08Ae02.html – Accessed 7 February 2005)