

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

- 1. What information is available concerning the treatment of Chinese in Malaysia?**
- 2. Are there any restrictions operating in Malaysia for ethnic Chinese which would prevent him from finding employment if he returned to Malaysia?**
- 3. Is Certificate IV in Agriculture likely to be recognised in Malaysia?**

RESPONSE

- 1. What information is available concerning the treatment of Chinese in Malaysia?**
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Ethnic Chinese in Malaysia constitute approximately 25% of the population. They are economically well off in relation to other ethnic groups according to a 2007 Immigration and Refugee Board of Canada report:

...there are four Chinese-language newspapers in Malaysia (US 6 Mar. 2007, Sec. 2a). Media sources indicate that Malays of Chinese origin “dominate” the business sector (AFP 29 Aug. 2005; *Asia Times Online* 24 Mar. 2006; Reuters 24 Aug. 2005). As well, the Malaysian Chinese Association (MCA) is a political association which is part of the governing National Front (Barisan Nasional, BN), a coalition of 15 parties (Freedom House 2007) (Immigration and Refugee Board of Canada 2008, *MYS102643.E – Malaysia: Reports of discrimination against Malaysians of Chinese descent (June 2004 – October 2007)*, 5 November http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=451553 – Accessed 13 October 2008 – Attachment 1).

Despite Chinese dominance of the business sector, there is substantial evidence to suggest a degree of discrimination against ethnic Chinese in Malaysia. Reports indicate that there are laws in place which institutionalize some forms of discrimination against ethnic Chinese and other minorities in order to preference ethnic Malays (bumiputras). This includes in education, in government and private sector employment, and in obtaining business permits and licenses. The 2008 US State Department report on human rights in Malaysia outlines some of the preferential programs:

The law and government policy provide for extensive preferential programs designed to boost the economic position of bumiputras. Such programs limit opportunities for non-bumiputras in higher education, government employment, business permits and licenses, and ownership of land. Businesses are subject to race-based requirements that limit employment and other economic opportunities for nonbumiputra citizens. According to the government, these programs are necessary to ensure ethnic harmony and political stability.

Despite the government's stated goal of poverty alleviation, these race-based policies are not subject to upper income limitations and appeared to contribute to the broadening economic disparity within the bumiputra community. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups. Another goal of this policy is for bumiputras to hold 30 percent of the nation's wealth. According to several studies, the program reached or exceeded this target; however, official government figures placed bumiputra equity at 18.9 percent. The government did not respond to public requests to make its methodology available.

In 2006 the minister of higher education stated that the nation's 17 public universities employed few nonbumiputra deans. At the Universiti Malaya, 19 of 20 deans were bumiputras; in many other universities, deans were exclusively bumiputras. They also accounted for more than 90 percent of the country's almost 1.15 million civil servants at the end of the year. The percentage has steadily increased since independence in 1957 (US Department of State 2009, *Human Rights Report for 2008 – Malaysia*, February, Section 5 – Attachment 2).

The above mentioned 2007 Canadian report supports the view that ethnic Chinese are discriminated against, including in areas of employment:

However, in 2005, the government renewed an affirmative action policy initiated in 1969 after the race riots (Freedom House 2007). Under governmental provisions, ethnic Malays and other indigenous people are given advantages concerning property ownership, civil service work, access to higher education and other benefits (US 6 Mar. 2007; *Asia Times Online* 24 Mar. 2006; Freedom House 2007). The affirmative action policy, known as the *New Economic Policy*, was adopted to lift the economic condition of ethnic Malays (ibid.). Sources indicate that the policy has created tensions among communities and a “feeling of being discriminated against” for minorities (AFP 29 Aug. 2005; *Asia Times Online* 24 Mar. 2006). According to *Asia Times Online*, the results of a survey on race relations published in March 2006 clearly indicated that racism and stereotyping are significant issues in Malaysia (ibid.).

Additional information on specific examples of discrimination against Malaysians of Chinese descent was scarce among the sources consulted by the Research Directorate. However, according to the United States Department of State, the Malaysian police have been accused of ethnic profiling in arresting Chinese women deemed to be prostitutes (US 6 Mar. 2007, Sec. 5). Furthermore, a 17 November 2006 Reuters article reported on a confrontation between protesters and Malaysian police officers following attempts by local authorities to demolish a Chinese temple on the island of Penang because it was not built with the proper

approval (Immigration and Refugee Board of Canada 2008, *MYS102643.E – Malaysia: Reports of discrimination against Malaysians of Chinese descent (June 2004 – October 2007)*, 5 November http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=451553 – Accessed 13 October 2008 - Attachment 1).

However, the report argues that the alleged discrimination has not resulted in serious conflict between the ethnic groups in recent times:

According to media sources, Malaysia has known relative peace amongst its ethnic communities since riots against the Chinese minority occurred in 1969 (*Asia Times Online* 24 Mar. 2006; AFP 17 Nov. 2006; AFP 29 Aug. 2005). Although Islam is the official religion, the constitution guarantees religious freedom to minorities (HRWF 17 July 2007). Sources indicate that minorities are free to practise their culture and religion without restrictions and that the government does not impose restrictions in the field of education (Immigration and Refugee Board of Canada 2008, *MYS102643.E – Malaysia: Reports of discrimination against Malaysians of Chinese descent (June 2004 – October 2007)*, 5 November http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=451553 – Accessed 13 October 2008 - Attachment 1).

In 2009, Minority Rights Group International discussed the attitude of ethnic Chinese towards affirmative action policies:

Many members of the Chinese minority continue to feel they are victims of discrimination through the actions of public authorities who continue to favour *Bumiputeras* in terms of employment and education, the use of an exclusive Malay-language policy for state schools, and various other measures which are still in place in order to enhance the position of Malays in many areas of society.

While there has been a perceptible shift in some official statements since 2003, suggesting that affirmative action programmes have either not worked as expected or should be replaced, overall there have not been any significant developments in 2005 or 2006 other than permitting English to be used for the teaching of mathematics and sciences in state schools, and teaching Mandarin as an elective in some state schools. None of these steps change the main causes of exclusion and disadvantage, which may constitute discrimination since they appear to be in place to maintain Malay dominance of society, if not of the economy.

However, recent statements in 2006 made by the government coalition's main dominant political party, United Malays National Organization (UMNO), are particularly worrying for the Chinese minority. Several high-profile speakers during a telecast conference referred to the need to defend their race and religion with their own blood and warned non-Malays (especially the Chinese) against any threats to the special rights for *Bumiputeras* ('World Directory of Minorities: Malaysia – Chinese' 2009, Minority Rights Group International website <http://www.minorityrights.org/4528/malaysia/chinese.html> - Accessed 17 October 2008 – Attachment 3).

Evidence suggests a strong attachment by many ethnic Malays to the policy of preferencing bumiputras, with any talk of implementing even minor changes eliciting strong protest. A 2007 *Economist* article describes the reaction of some in the ruling party to the questioning of ethnic Malay dominance of the country:

As criticism has grown, UMNO's leaders have resorted ever more frequently to growling that nobody should question the "social contract". This is a reference to the metaphorical deal

struck between the races at independence, in which the Malays got recognition that the country was basically theirs, while the Chinese and Indians were granted citizenship. The veiled threat of violence lurking behind calls to uphold the social contract was made explicit during last year's UMNO conference, at which one delegate talked of being ready to "bathe in blood" to defend Malay privileges and the education minister, no less, brandished a traditional Malay dagger ('Tall buildings, narrow minds – Malaysia at 50' 2007, *The Economist*, 1 September – Attachment 4).

Similarly, Amnesty International reported in 2009 of the "public outcry" against the proposition to allocate places to non-Malays at a certain university:

There was a public outcry in August after a state official proposed that the University Teknologi Mara (UITM) allocate 10 per cent of university places to non-Malays. The university, home to 120,000 students, has been open only to Malays for the last five decades. The Prime Minister and the Minister of Higher Education rejected the proposal (Amnesty International 2009, *Amnesty International Annual Report 2009 – Malaysia* <http://thereport.amnesty.org/en/regions/asia-pacific/malaysia> - Accessed 1 September 2009 – Attachment 10).

A 2007 political risk assessment by the *Economist Intelligence Unit* warns that "foreign businesses should be acutely aware of the potential for tension between the generally prosperous ethnic Chinese and indigenous Malays, some of whom – as even the government acknowledges – have come to expect official favouritism" ('Malaysia risk: Political stability risk' 2007, *Economist Intelligence Unit*, 10 August – Attachment 5).

Please see the following research responses for further information:

- *Research Response MYS33741*, dated 17 October 2008, provides information on discrimination against the ethnic Chinese (RRT Research & Information 2007, *Research Response MYS33741*, 17 October – Attachment 6)
- *Research Response MYS32430*, dated 25 October 2007, also provides information on discrimination against the ethnic Chinese (RRT Research & Information 2007, *Research Response MYS32430*, 25 October (Question 3) – Attachment 7)
- *Research Response MYS32252*, dated 3 September 2007, provides information on mistreatment of ethnic Chinese by government authorities and within the judiciary (RRT Research & Information 2007, *Research Response MYS32252*, 3 September – Attachment 8);
- *Research Response MYS17186*, dated 3 March 2005, provides information on the manner in which ethnic Chinese are discriminated against in Malaysia in terms of access to education and employment (RRT Country Research 2005, *Research Response MYS17186*, 3 March – Attachment 9).

3. Is Certificate IV in Agriculture likely to be recognised in Malaysia?

As discussed above, ethnic Chinese suffer discrimination in terms of access to higher education, with programs and policies in place favouring bumiputras.

Details of the Certificate IV in Agriculture course are available on the ‘TAFE Courses Directory 2009’ website. A phone call placed to the ‘TAFE Course Line’ on 1 September 2009 found that the course is a nationally accredited course in Australia and therefore internationally recognised. No information was found on whether the Certificate IV in Agriculture was recognised in Malaysia in particular (TAFE Courses Directory 2009, ‘Certificate IV in Agriculture’, 13 June 2007 <http://www.tafe.vic.gov.au/tafecourses/search/Courses/Detail.asp?ID=6525> – Accessed 1 September 2009 – Attachment 11).

List of Sources Consulted

Internet Sources:

Government Information and Reports

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

Malaysia Ministry of Education <http://www.moe.gov.my/>

UK Home Office <http://www.homeoffice.gov.uk/>

Topic Specific Links

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

TAFE Courses Directory <http://www.tafe.vic.gov.au/>

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

Human Rights Watch <http://www.hrw.org/>

International News & Politics

BBC <http://news.bbc.co.uk>

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

Time <http://www.time.com>

Guardian <http://browse.guardian.co.uk/>

Search Engines

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

Copernic <http://www.copernic.com/>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

MRT-RRT Library Catalogue

List of Attachments

1. Immigration and Refugee Board of Canada 2008, *MYS102643.E – Malaysia: Reports of discrimination against Malaysians of Chinese descent (June 2004 – October 2007)*, 5 November http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=451553 – Accessed 13 October 2008.
2. US Department of State 2009, *Human Rights Report for 2008 – Malaysia*, February, Section 5.

3. 'World Directory of Minorities: Malaysia – Chinese' 2009, Minority Rights Group International website <http://www.minorityrights.org/4528/malaysia/chinese.html> - Accessed 17 October 2008.
4. 'Tall buildings, narrow minds – Malaysia at 50' 2007, *The Economist*, 1 September. (FACTIVA)
5. 'Malaysia risk: Political stability risk' 2007, Economist Intelligence Unit, 10 August. (FACTIVA)
6. RRT Research & Information 2007, *Research Response MYS33741*, 17 October.
7. RRT Research & Information 2007, *Research Response MYS32430*, 25 October.
8. RRT Research & Information 2007, *Research Response MYS32252*, 3 September.
9. RRT Country Research 2005, *Research Response MYS17186*, 3 March.
10. Amnesty International 2009, *Amnesty International Annual Report 2009 – Malaysia* <http://thereport.amnesty.org/en/regions/asia-pacific/malaysia> - Accessed 1 September 2009.
11. TAFE Courses Directory 2009, 'Certificate IV in Agriculture', 13 June 2007 <http://www.tafe.vic.gov.au/tafecourses/search/Courses/Detail.asp?ID=6525> – Accessed 1 September 2009.