

"AN ASSESSMENT OF THE HUMAN RIGHTS OF THE PEOPLE OF INDIAN ORIGIN IN MALAYSIA"

6TH DECEMBER, 2007 INDIAN LAW INSTITUTE, NEW DELHI-110 001 BACKGROUND PAPER BY MR. P. WAYTHA MOORTHY PRESIDENT, HINDU RIGHTS ACTION FORCE (MALAYSIA) PUBLISHED BY FEDERATION OF HUMAN RIGHTS ORGANIZATIONS OF INDIA FACT FILE OF THE VIOLATIONS OF THE HUMAN RIGHTS OF THE PEOPLE OF INDIAN ORIGIN IN MALAYSIA

1. LOWEST PER CAPITA

Studies have revealed that Indians have the lowest per capita income of only about RM 1000.00 per month when the national per capita income is projected at RM17,741 in the 2006 budget (The Star Online September 30th 2005) This is about 98.3% below the national average. At the ground we are aware of many ethnic Indian families earning a meagre RM450.00 (USD 118.00) per month.

2. UNIVERSITY INTAKE

University intake for Indians reduced from 20% in 1956 and by about 50% from the over 10% quota in 1970 to 5.2% in 2003. (Note: If all MARA higher education institutes and overseas scholarships are taken into account the Indians would actually end up having only about 1% of intake into higher education institutions) In 2004 the supposed meritocracy system was introduced but it turned out to be "meritocracy without merits" Hundreds of especially poor ethnic minority Malaysian Indian students were deprived of their basic right to education. Matriculation courses for entry into public universities are almost exclusively for the majority Malay Muslim community.

3. MEDICAL SEATS

Medical seats in the University of Malaya were reduced by 98% from 16 seats in 2001 to only 1 seat in 2003. This in effect means that the almost 1.8 million Indians have to compete for just one (1) medical seat at this university. When they opted to study at affordable Universities overseas, the government in June 2005, in an effort to reduce the number of ethnic Malaysian Indian medical students studying overseas acted in the most hostile manner. The Crime State

medical university's medical degrees were derecognized for dubious and questionable reasons. In an effort to reduce the number of Indian medical doctors most other foreign medical universities with high ethnic Malaysian Indian student enrolment is currently having its status reviewed and is also expected to be derecognized.

4. TAMIL SCHOOLS 80% of the 523 Tamil schools (ethnic minority Malaysian Indian schools) are in dilapidated conditions with almost no sports, recreational, computer, library and other basic facilities accorded to National Schools and are still not made fully aided government schools when primary school education has been made compulsory by law. To the contrary, the prime minister announced a sum of RM1.8 billion for primary and secondary schools in the 2004 budget (NST 13/9/2003 at page 12 (Note: all the above are in breach of Article 8 (equality before the law and Article 12 (rights to education) of the Federal Constitution and the Education Act 1968. About 95% of these Tamil schools do not have kindergartens unlike 99% in national schools which have the same. 5. NO BUSINESS LICENCES / OPPORTUNITIES Meager or no business licenses permits, business loans /opportunities / small businesses / commercial licenses for Malaysian Indians to run businesses resulting in less than 1% Indian participation in the country's economic wealth. (and that too believed to be largely held by one state sponsored Indian millionaire) .

6. LABOUR CLASS

Hopelessness, poverty and lack of opportunities leads to high Indian involvement in crime arising out of poverty. 70% of ethnic Malaysian Indians have degenerated into becoming laborers, Industrial Manual Group (IMG) workers, office boys, security guards, public toilet cleaners, general workers, road sweepers, beggars, squatters, criminals, gangsters etc, as a result of the nearly 50 years of direct discrimination by the UMNO controlled state / government.

7. ETHNIC MALAYSIAN INDIAN POOR

Indians form sixty percent (60%) of urban squatters and forty-one (41%) of beggars (the economist 22/2/2003). About 70% of this community is in the poor and / or hardcore poor bracket but receives the least attention as they don't have much political clout and ordraw funding locally and / or their plight not properly ventilated by the NGOs, Opposition parties and the Malaysian civil society locally and / or internationally.

8. POVERTY AMONG ESTATE WORKERS / URBAN LABOURERS

Fifty- four (54%) of Malaysian Indians work as plantation or urban underpaid laborers. (Asia week 26/1/2002)

9. PATHETIC MONTHLY WAGES

After 46 years of independence the state has capped the monthly salary of plantation workers at RM325.00 (USD85.00) per month and RM 350.00(USD92. 00) per month for rubber tapers.

10. POOR STUDENTS

RM200 million was allocated to assist poor students to continue withtheir education (NST 13/9/2003 at page 12) but it is doubtful if even1% of the ethnic minority Indians benefit from this allocation.

11. SQUATTERS

Due to rapid development large plantations have been developedresulting in the plantation workers being displaced and forced tobecome squatters. Their squatter colonies are in turn demolished to make way for development with no or little alternative housing.Classical case of poverty leading to further poverty.

12. ORPHANS / OLD FOLKS

The majority of orphanages and old folks homes are filled up withmembers of this ethnic minority Indian community as evidenced by localnews report. This is yet another clear indicator of poverty.

13. TOKEN PARTICIPATION IN THE CIVIL SERVICE

Discrimination in employment in the Civil Service sectors (Indian participation in the civil service reduced from about 40% in 1957 to about 2% in 2007. This remaining 2% of these Indians largely work in the clerical and industrial manual group (IMG) levels. Senior, Middle level and executive level civil service jobs are almost exclusively for the majority Malay Muslims. For promotions etc there is no equal opportunity but mired in racial discrimination. . This is contrary to article 8 (equality before the law) of the Federal Constitution.

14. DISCRIMINATION IN THE PRIVATE SECTOR

The economy is controlled by the ethnic Chinese minority. The Government has "forced" the Chinese to "accept" average Malay (but not Indians Muslims) into the top levels of the business and corporate sectors. Only the cream of the ethnic minority Indians (about 1%) make it good in the private sector

15. NO SKILLS TRAINING

Accesses to even the lowest level skills training Institutions are deprived for this community resulting in most of them remaining unemployed or unskilled workers. Even at the NTS Arumugam Pillaiskills training Institute which was build on funds derived from the now dissolved of South Indian Labour Fund, not even a single ethnic Malaysian Indian student was admitted in the first intake.

16. HINDU TEMPLE DEMOLISHMENTS

Malaysia is about the one and only country in the world where one Hindu temple / shrine is unlawfully broken down by the state authorities in every three weeks contravening article 11 (freedom of religion) of the Federal Constitution and Sections 295,296, 298A, 411of the Penal Code. The emergency ordinance (outdated by about 40years) is often used to legalize their actions. There have been reported cases of policemen torching temples, Molotov cocktails thrown into temples by policemen and state authorities or they are simply burnt down or bulldozed down or forced to relocate next to sewerage tanks.

17. EMERGENCE OF A NEW ETHNIC MALAYSIAN INDIAN CRIMINAL CLASS.

Over the last 25 years a new ethnic Malaysian Indian criminal clashes emerged as a result of the aforesaid years of direct discrimination, oppression and suppression. A high incidence of crime, violence, slashing and killings largely among themselves take place even over the most mundane issues and / or is poverty related.

18. VICTIMISATION BY POLICE /STATE

Studies have revealed that Indians form about 60% of suspects shot dead by the police including an 8-month pregnant Indian lady, 60 % of innocent people dying in police custody, 60% of suspects / detainees in police lockups and other detention centers. Latest update,

MalayMail, October 3rd 2005 at page 4, 4 ethnic Malaysian Indian men (mere suspects) was shot dead by the police in one day and in one incident. There was zero outcry from the "Malaysian civil society" as opposed to the London underground suspected bomber who was shot dead and getting worldwide attention and the Prime Minister of the UK apologizing despite being a country at war (Malay Mail, October 3rd, 2005 at page3) and "Senior cop to be charged" New Straits Times, October 9th 2005at page 29.

19. KG.MEDAN GENOCIDE

The genocide by a state sponsored mysterious mob against the innocent and unarmed people of Kg Medan in 2001 left 100 over killed and / or seriously injured still remains a mystery. The Malaysian Human Rights Commission refused to hold an inquiry while the State refused to hold a royal commission of inquiry. The courts / Attorney General refused to hold Inquests into the deaths contrary to Article 5 of the Federal Constitution and section 339 of the Criminal Procedure Code. Worst still only USD526.00 to a maximum of USD6, 578 for some victims being permanently maimed and / or loss of life cases was awarded for the said victims though RM136.8 billion was approved for the 2006 budget (The Star Online, Friday, September 30th, 2005)

20. NO EFFECTIVE LEGAL AID

Out of the aforesaid 60% suspected ethnic Indian criminals, almost 95%of them plead guilty when they may not necessarily be guilty. Most of the crimes they commit (if any) are poverty related. They cannot afford legal fees and neither is there an effective legal aid system. They spend long prison sentences and come out of prisons to be more hardened criminals and potential terrorists.

21. MAJORITARIAN RULE THROUGH THE CIVIL SERVICE, POLICE AND ARMED FORCES About 97% of the Civil Servants, police and armed forces personnel are from the majority Malay Muslims. This "force" is used to rule by "majoritarian might" at the expense and violations of fundamental Human Rights and victimization of this ethnic minority Malaysian Indians.

22. NO INDEPENDENT MEDIA

The local print and electronic media gives this community the lowest priority though they suffer the most serious discrimination,

victimization and violations of human rights. The local media too plays to the gallery and almost often highlighting "majoritarian issues" / issues which carries mileage. The International media prefers Iran, Africa, Katrina terrorist etc.

23. INDIAN PROFESSIONALS AND BUSINESSMEN UNABLE TO HELP VERY MUCH

Unlike the economically powerful Chinese community who are able to help their lower middle income and poor directly or indirectly through their self sustaining community, the Indian Professionals and businessmen are unable to help very much.

24. UNDOCUMENTED ETHNIC MINORITY MALAYSIAN INDIANS

Despite 48 years of Independence, there are thousands of ethnic minority Malaysian Indians left being undocumented, without birth certificates, identity cards, marriage certificates etc. This in effect precludes and excludes them from even the formal primary schooling structure what more obtaining licences to run a business or from securing employment. (c/f almost all aboriginal people in the remotest areas Malaysia are documented)

25. ABUSE OF WOMEN AND CHILDREN

Everyday even ethnic minority Indian women and children are not spared. As part of interrogation by the police, an Indian lady was told to perform oral sex on another male detainee at the Rawang police station. Her husband was then brought in naked before her and her daughter. She was then told that her 18 year old daughter would be raped later that night. Another 14 years old ethnic minority Indian boy was arrested from his house and was told to do 150 push ups in police custody. When he stopped at 20 he was kicked with police boots which broke his leg.

26. THE MALAYSIAN HUMAN RIGHTS COMMISSION AND THE ROYAL COMMISSION ON THE POLICE REFUSE TO REPORT THE TRUTH

The Malaysian Human Rights Commission and the Royal Commission on the Police have continuously refused to report even the most serious violations of human rights by the state against this community. For example the Kg. Medan genocide, shootings to death of suspects, some deaths in police custody and the gunpoint attack on a human rights lawyer.

27. INDEPENDENT JUDICIARY?

The independence of the judiciary has been put to question in the aforesaid - Kampung Medan genocide for example (and many other public interest litigation) when the High Court struck out with costs a civil suit by a victim bring a class action against the Malaysian Human Rights Commission for failing to hold an Inquiry without even hearing the merits of the case which the victims believe is because all the victims were ethnic minority Malaysian Indians and the attacks are believed to be state sponsored. Most other such cases against the state authorities are dismissed in a similar fashion or at the end of the trial In the latest public interest litigation to stop the Hindu temple demolishment's the UMNO Government has again applied to strikeout the suit without even wanting to reply to the very serious allegations in anticipation of striking out the said suit ab initio (T.K.O)

28. INDEPENDENT ATTORNEY GENERAL?

The Attorney General has not been independent in many instances where he has acted partially in prosecuting lawyers / activists for defending the rights of this community and / or for failing to initiate Inquests into custodial deaths / deaths by police shootings of suspects and / or for failing to prosecute police criminals /authorities and / or for failing to act without fear or favor.

29. GOVERNMENT BODIES / INSTITUTIONS NOT INDEPENDENT

Almost all government institutions including hospitals, police, chemistry registration department etc are biased and in favor of the government and have been known or engaged in "covers up" in favor of the authorities and against the people and in particular the ethnic minority Malaysian Indians.

30. LEAST ATTENTION BY THE OPPOSITION PARTIES NGOS' AND CIVIL SOCIETY.

Because this community is politically, economically and internationally insignificant and where there is not much "mileage" to be made, and / or no local and / or international funding, even the opposition parties, NGOS' and the Malaysian civil society generally give this community the least attention and /or prefer to play to the gallery and / or the "majoritarian issues" and / or rather focus on where there is local or international "mileage" to be made. In short they too are generally "selective" in championing even the worst violated cases / issues and /

or Human Rights issues. (Refer Latest Open Letter dated 5/9/2005 by 30 Malaysian NGOs campaigning for all issues concerning merely the majority community / internationally acclaiming issues except the most serious affecting the Malaysian Indians)

31. NO FUNDING FOR NON PRO-GOVERNMENT NGOS

No funding is granted by the Government for almost all non pro-government NGO's with which they would be a million times more effective.

32. FEAR FACTOR

This community as a result of the years of oppression and suppression and the factors herein above mentioned has turned out to be a fear riddled community. They are fearful to stand up for even the worst form of violations, victimization, discrimination and human rights abuses against them. The fatal factor is that they even get the least support from even NGOs, Opposition parties and the "Malaysian Civil Society".

33. ALARMING HIGHEST SUICIDE RATE AMONG INDIANS

Having very little or no equal opportunities and/or no upward mobility opportunities the Indians end up having the highest suicide rate in the country because of primarily poverty or poverty related matters, (or and to a lesser extent) loss of loved ones for example, divorce, etc. Health Minister Datuk Chua Soi Lek stated , "for Indians, 21.1 persons for every 100,000 suicides, Chinese 8.6 persons for every 100,000 suicides and for Malays 2.6 persons for every 100,000 suicides(Sadatul Nahir And Rosli, Utusan Malaysia 12/9/2005).

ADVOCATE P. WAYTHA MOORTHY PRESIDENT, HINDU RIGHTS ACTION FORCE (MALAYSIA)