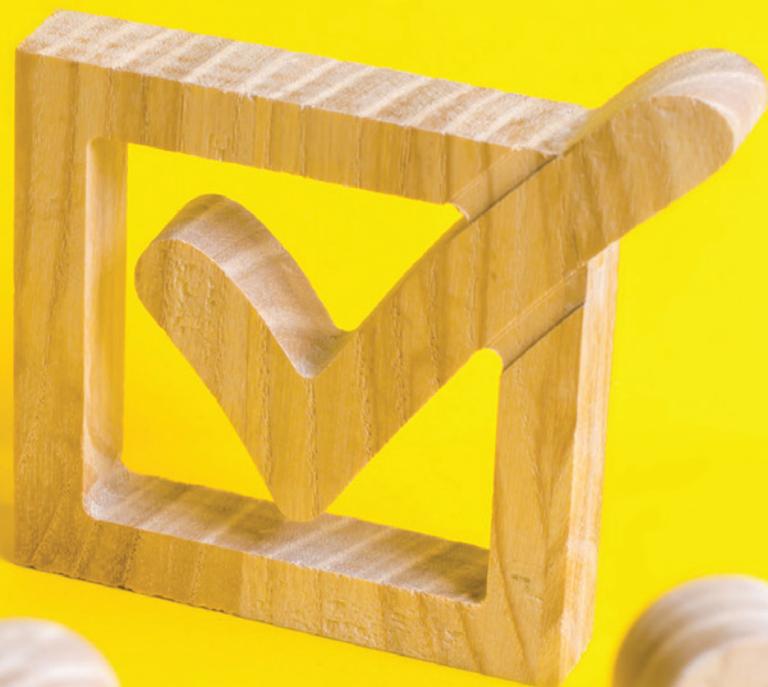


INCLUSIVE ELECTORAL REFORMS IN MALAYSIA

bersih^{2.0}
gabungan pilihanraya bersih dan adil





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EXECUTIVE SUMMARY

This paper investigates the various barriers to electoral and political participation by traditionally marginalized potential voters in Malaysian society.

It looks into four social groups: women, Orang Asli, low-income groups and persons with disabilities. Using a literature review and a series of focus group discussions, the major barriers will be identified, and the corresponding recommendations made.

Women may face social and cultural barriers as voters rather than direct barriers to voting.

Their needs as caretakers need to be balanced against their rights as political actors and decision makers. The Election Commission needs to implement procedures to handle cases of sexual harassment and prevent cat-calling in and around polling centres. More can be done to address media's sexualisation of women politicians, particularly in the domain of social media, and creating networks that encourage women leaders to help other women leaders.

The concerns of the Orang Asli community are unique to their way of life and require those from the community to represent them.

While the groups of Orang Asli we spoke to showed a keen awareness of politics and the democratic importance of voting, the same cannot be said about village members of other Orang Asli communities. Apathy stems from the disjuncture between their major issues of land rights and identity rights, and electoral outcomes. The lower political education levels of these communities needs be addressed through training workshops and other forms of outreach. They need to understand how the state functions, and therefore how their participation safeguards their cultural and ancestral heritage.

Our research and discussion results show that the only barrier for urban low-income groups to vote is physical, specifically financial. Allowing them

sufficient time, making sure employers give it to them and easing the financial burden of travelling to cast their ballot would go a long way to increasing voting access for all sectors of the low-incomed. More needs to be done to understand the barriers for the rural poor, and urban poor outside Klang Valley.

The participation of persons with disabilities in political and electoral life is largely framed by their physical and communication access.

Disability-friendly building design, integration of the Election Commission's database with a national list of persons with disabilities, and more disability-friendly information about elections are important first steps to increasing that access. Trainings in relation to persons with disabilities and basic sign language needs to be initiated by the Election Commission for all those involved in the polling process. Legislatively, creating a formal complaints mechanism for obstructions or acts of discrimination against persons with disabilities would facilitate the improvements that need to be made. Encouraging and facilitating persons with disabilities to become election observers and party candidates is a crucial next step to ensuring the community's concerns are addressed in the most effective and respectful manner.

Amongst the issues that cut across these groups, political representation was raised in every session except with the low-incomed.

This is especially prescient with the Orang Asli case as this affects the issue of their customary lands and by extension, their livelihoods. Another was the need for a drastic reduction of queues and wait time for voting during general elections. More systematic parking management at the polling centres will allow for pregnant women and persons with disabilities to vote comfortably.

INTRODUCTION

BACKGROUND

MALAYSIA HAS A history of elections going back almost three quarters of a century. Its first representative election was held in 1955 in the territories of the Federation of Malaya, which saw the Alliance (later renamed the National Front, consisting of parties representing the three main ethnic groups, Malays, Chinese and Indians) coming to power as the nation's first government. The states of Sabah and Sarawak, both making up what is commonly referred to as East Malaysia would later join the federation to form Malaysia in 1963. The country's population comprises a Bumiputera (comprising of Malays and indigenous peoples) majority of 67.4%, and persons of Chinese and Indian descent of 24.6% and 7.3% respectively.¹

Malaysia's electoral system takes after the United Kingdom's Westminster system of government, in which the legislature at the federal level comprises the Dewan Rakyat which has members of parliament elected in single member district plurality contests, and the Dewan Negara which consists of senators, some of which are elected by the state legislatures and others appointed by Yang di-Pertuan Agong. At the state level, Ahli Dewan Undangan Negeri, commonly referred to as ADUNs, are elected to the state legislature. Every five years, Malaysians cast their ballots to elect their members of parliament and the ADUNs. There are at present no elections for officials below the state level in spite of discussions about reinstating local council elections. The coalition of parties that gain majorities in the Dewan Rakyat and state legislatures will form government at their respective levels.

Malaysia has a population of 32 million (as of February of 2019) and registered voters numbering almost 15 million as of June of 2018.² Voter registration was done on individual initiative up until the passing of legislation to lower the voting age from 21 to 18 years alongside automatic voter registration on 16 July 2019. Voter turnouts in recent years have been high by global standards with the last five elections averaging 76.44%, with the most recent ones at 84.61% in 2013 and 82.32% in 2018.³

Barisan Nasional, or the National Front, of which the hegemonic party is United Malay National Organisation (UMNO), has been the governing coalition since the first election up until the most recent election. It was able to retain a two-thirds majority, and by extension the ability to amend the constitution in the Dewan Rakyat until the 2008 elections. Due to its long reign and status as the parties that brought the nation to independence, it has been able to write and rewrite the electoral rules in Malaysia, as well as design and dominate democratic institutions. Despite the appearance of separation of powers, there have long been allegations that the independence of the Election

Commission is compromised. The prevalence of money politics and the culture of patronage has been and continues to be a feature of Malaysia's electoral politics. Rumours and allegations of voting irregularities have been reported and the public's trust in the institutions of the state has been low as its perception of corruption in government is high. The issue of malapportionment (the creation of electoral districts between which there are large differences in the ratios of registered voters to elected representatives) has been one that is continually raised by civil society.

Given the backdrop of these issues faced by Malaysian elections, this project seeks to analyse the barriers to electoral and political participation by traditionally marginalized potential voters. The results of this analysis are to be provided to the Electoral Reform Committee and Election Commission to inform the electoral reform process. It also aims to enhance the capacity of traditionally marginalized potential voters to provide inputs on barriers to their political/electoral inclusion that need to be addressed in the electoral reform process.

METHODOLOGY

This project is a fact-finding study to generate preliminary informational leads on the quality of inclusivity of current electoral institutions, producing an analysis detailing identified barriers, and generate potential recommendations for future reform in ensuring electoral inclusivity.

It contains two inputs, with the first being desk research or a literature review. This exercise has examined the Malaysian and wider context of electoral inclusion of vulnerable groups. These include women, indigenous peoples (Orang Asli), low-income groups and persons with disabilities. This research informed a set of questions that were used in a series of focus group discussions, one for each of the four groups above.

Due to the nature of convenience sampling used, various cross-sections of these four groups studied were not investigated. Future studies should look into a number of crucial categories left out from this study: women who live in rural communities, indigenous peoples of East Malaysia, rural low-income groups, and persons with mental and learning disabilities. Another aspect that should be studied is the attitudes towards representation by women, Orang Asli, the poor and persons with disabilities. The results of our study suggest that there may be prejudice against these marginalised groups becoming candidates or taking public office.

For further details on our discussion groups, see the **Appendix on Methodology** on page 24.

Are there any gender-specific cultural practices in families that discourage women from voting? Do women feel threatened or insecure when voting?

WOMEN

WOMEN'S ACCESS TO ELECTIONS & POLITICS

Summary: Generally, women in Malaysia are able to exercise their right to vote and participate in politics. However, our research suggests that there are nuanced issues around the implicit costs and burden in exercising their political rights, compounded by internalised cultural attitudes and external expectations placed on women. More needs to be done to realise the target of having Parliament comprise 30% of lawmakers, in addressing polling station issues that affect women, and in changing wider societal attitudes and double standards towards women exercising their right to political participation.



Official documents state that Malaysian women have been conferred the right to vote and freedom to participate in politics since independence... In the subsequent elections since 2004, registered women voters became a majority and outnumbered men by a slim margin.

WOMEN

INTERNATIONAL STANDARDS AND ISSUES

THE MAIN CONVENTIONS which highlight the right for women to access politics are: the United Nations' Convention on the Elimination of All Forms of Discrimination against Women 1981 (CEDAW) and the United Nations Sustainable Development Goals 2015 (SDG).

Malaysia has ratified CEDAW in 1995, with reservations unrelated to political participation, and CEDAW Article 7 states that:

“countries should ensure to women, on equal terms with men, the right: (a) to vote in elections and be eligible for election to all publicly elected bodies; (b) to participate in the formulation of government policy and to hold public office and perform all public functions at all levels of government.”⁴

For the SDGs, Goal 5 specifically is on Achieving Gender Equality. Target 5.5 is to “ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life”. Goal 16 is on promoting inclusive societies, with Target 16.7 under the 16th UN Sustainable Development Goal being “Ensure responsive, inclusive, participatory and representative decision-making at all levels”. This target uses two indicators, one of which is “Proportion of population who believe decision-making is inclusive and responsive, by sex, age, disability and population groups” (16.7.2).⁵

Furthermore, there has been historical precedence of violence against women which specifically and systemically prevents women from participating in elections and politics.

A background paper by the National Democratic Institute summarily writes:

“As voters, women may face various forms of marginalization, ranging from physical violence to bar them from voting to more subtle efforts to coerce their votes. After being nominated as candidates, women may confront negative reactions from their families and spouses, including the threat of ostracism or divorce, in an effort to curb their political ambition... Once elected, women may encounter a host of subtle and not-so-subtle tactics to marginalize them and render them less effective, including pressures to conform to masculine norms of behavior. Finally, despite the greater presence of women in elected positions, female party members may find that spaces largely hidden from public view – like internal party decision-making bodies – remain solidly male-dominated.”⁶

MALAYSIAN CONSTITUTIONAL AND LEGAL FRAMEWORK

Article 8 of the Malaysian Constitution on equality, was amended on 2 August 2001 to include mention of gender, enshrining the rights of women before the law explicitly. While the Domestic

Violence Act 1994 and the Child Act 2001 (a streamlined combination of the Women and Girls Protection Act 1973 and the Child Protection Act 1991) address the protection of women in certain aspects, no laws have specific mention of their rights to political participation.

BACKGROUND & LITERATURE REVIEW

In our review of existing literature on women's participation in politics and electoral history, we could not find evidence that Malaysian women have been historically barred from voting by law. Official documents state that Malaysian women have been conferred the right to vote and freedom to participate in politics since independence.⁷ Statistics on female voters' patterns are difficult to find, but some data indicates that by 2004, 49.75% of the total voters in Malaysia were women. In the subsequent elections since 2004, registered women voters became a majority and outnumbered men by a slim margin.⁸ Women's auxiliaries in political parties remain active today: Wanita UMNO in the recent UMNO General Assembly negotiated for its chief to be regarded as equal to a deputy president in the party.⁹

The most common issue raised by Malaysian gender activists is representation at parliamentary level. Despite women being the technical majority as registered voters, the number of women Parliamentarians remains low and seems to be a more pressing issue than direct access to the polls for women. Until today, women have never comprised more than 15% of the Malaysian Parliament.¹⁰

In the Sixth Malaysia Plan (1991-1995), the government recognised the issue of women's political representation,¹¹ and in 1995 the Malaysian government ratified the Convention on the Elimination of Discrimination Against Women (CEDAW).¹² Malaysian civil society followed suit in the 1999 and 2004 elections with campaigns to encourage women to run as candidates and vote in female Parliamentarians.¹³ The Ninth Malaysian Plan (2006-2010) also recognised and recommended gender-based targets or "soft quotas".¹⁴

In 2008, the Malaysian government adopted the National Plan of Action for the Advancement of Women 2009-2020, which interprets increasing female participation in politics also as a representation issue. For the Sector of "Women at the Decision-making and Political Level", the National Plan set an objective of a minimum of 30% of women at all decision-making levels in all sectors in accordance with CEDAW.¹⁵

However, even by the 2013 and 2018 elections, female representation amongst Parliamentarians remained low. Both major coalitions, Barisan Nasional and Pakatan Harapan, offered gender quotas in their manifestos. Pakatan Harapan as the winner of the 2018 election has yet to fulfil its promise.¹⁶

The above suggests that the common understanding is that there are few institutional barriers for women to vote in Malaysia; it is taken that women are able to vote, by-and-large and that they have a right to political participation. There is even

some acknowledgement that "more Malaysian women take the trouble to register as voters and more women than men turn out to cast their ballot".¹⁷

While the Malaysian government and activists are focussed on female representation, we cannot take for granted that there are no implicit pressures or barriers against female participation in politics. Sexist verbal attacks and harassment against female leaders and politicians may be precursors to greater violence as a progressive, escalatory strategy specifically targeting female leaders, or symbolic to "communicate to society as a whole that women should not participate in politics in any capacity".¹⁸

Some authors suggest that there are cultural and attitudinal barriers to representation which stymie women's full participation in politics. Early authors note that while women's participation is broadly accepted, they also believe that "political power and responsibility are male prerogatives", while it was the political duty of women to remain "supportive and subordinate" to men.¹⁹ Women who do choose to lead, are expected to maintain their household roles of caretaker and housekeeper, placing a dual burden on female leaders.

Penang Women's Development Corporation, formed in 2014 to advocate for gender equality in the state government of Penang, issued conference proceedings on gender and electoral reform, identifying social-cultural barriers, political and organisational barriers, legal and state barriers, and funding barriers that disproportionately affect women from entering politics.²⁰

Maznah Mohammad, citing Derichs,²¹ highlights that there are at least three reasons that impede Malaysian women politicians from having fair competition with their male counterparts: First, there is no encouragement from men for women to rise to the highest ranks within the party. A second reason for the poor record of women being fielded and elected is the first-past-the-post system in which the winner takes all, thereby reducing the chances of women being selected as candidates. The third reason is ethnic politics, which trumps gender as the distributive goal in Malaysian politics.

FOCUS GROUP DISCUSSION RESULTS

Given the above, we expected that few institutional, legal architectural, or geographical problems with regards to voting for women, would be raised, but some lines of inquiry were made to ensure that participants felt that there were no effective barriers in these categories. We expected most of the concerns to come from nuanced attitudinal and cultural barriers affecting women's ability to exercise their right to vote.

On the aspect of physical aspects of voting, it seems that women in general are able to vote, but participants raised issues of elderly women, pregnant women and women caring for children in their ability to vote. Many participants cited the issue of queueing in voting. While the Presiding Officer (*Ketua Tempat Mengundi*) of the polling station is empowered to make a judgement call on who can be expedited to the top of the queue

A participant related how the carnival-like atmosphere of polling day led one woman to plan a feast for her family, and ‘sacrificed’ her right to vote to ensure her family was well-fed.

or redirected to the most accessible voting stream (*Saluran 1*), for many women (and men) they have no choice but to queue.

Queues may be so long that people may have to stand in line for hours under open conditions, exposing voters to the hot tropical sun. As a result, some people resort to some form of voting timing strategy—either to go as early as possible, or to wait until late afternoon to avoid the queues.

Participants reported that not all polling stations will provide chairs for voters to sit on while waiting and even so, the provision of chairs is limited to only *Saluran 1*. For many schools, the voting streams are on second, third or fourth floors which are not as accessible granted that most Malaysian schools have no elevators or ramps.

Another issue that cropped up was the issue of transportation. For participants who lived and voted in urban areas, transportation does not seem to be a prominent issue. But others who had family in rural areas reported more difficulties and the existence of parties bussing voters to polling stations and indirectly influencing them to vote a certain way. In some places, women were more than happy to leave the voting to men.

This intersects with the typecast notion of woman as carer: a participant related how the carnival-like atmosphere of polling day led one woman to plan a feast for her family, and ‘sacrificed’ her right to vote to ensure her family was well-fed; or that a woman’s children were her priority, and she can regain her right to vote after they are able to care for themselves.

An intersecting issue between architecture and geography is vehicle parking. Many schools in Malaysia are not immediately accessible by public transportation, relying on parents’ private vehicles or school buses to transport students. When schools are used as polling centres, there is little space for parking vehicles—forcing many to park far away. Additionally, because queues are long, turnover is slow for car parking spaces. The issue adds to the difficulty of voting.

The perceived lengthy and onerous task of voting may dissuade women, who in turn may be infirm, are carers to children, or are pregnant.

Participants mentioned that there were no issues related to restrictions on dressing. However, one participant did highlight

potential issues with identification for transwomen, as national registration did not recognise transpeople.

On the aspect of communication, one participant reported that while in urban areas polling stations are generally well-ordered, in rural areas voters may not know what to do within the school compound. The lack of clarity of directions may feed into lack of confidence at polling stations, ultimately dissuading some women from voting.

In discussion on communication, one issue that came up was the greater awareness of politics amongst women. Participants felt that there were fewer avenues for women to discuss politics, compared to men as reported in their respective lived realities of political choices.

One participant related the case of her friend who felt she had to follow her husband’s political choices; another felt like her female family member was treated unfairly after being found with political material that did not align with her father’s, but she felt that such treatment would not have happened to a male family member; a third related that her voting area was a stronghold of a political party, so she felt people (and therefore women) voted without an informed choice; a fourth participant shared that in Kelantan, a family would ‘sell’ their vote to bidding canvassers as they feel they can hardly make a difference.

Complicating the above is the issue of safety and sexual harassment. Participants also mentioned that they did not feel safe going to political rallies alone, while their brothers could; another participant mentioned that her friend was attacked at a rally, and it could happen on both sides of the political divide.

Safety at the polling station is also an issue. While it was acknowledged that polling centres were not an especially problematic area for sexual harassment, participants reported that they did not feel completely at ease. They were collectively appalled when one of the participants mentioned that women do get catcalled while entering a polling centre. Other times, rowdy canvassers immediately outside the voting centres can become intimidating.

Participants also brought up issues of the effects of representation. One participant mentioned that typical political discussion panels only feature men. Another participant also commented on the same note that women politicians and the media often judge them for the way they look, but not for their ‘merit’ or substantive policy positions. However, another participant suggested a balance, that is how certain female politicians carry themselves as Azalina Othman, a woman BN politician, did not receive much judgement or attacks for being a woman. Nevertheless, they reported people can easily sexualise female politicians, easily calling one young muslim woman politician “a slut” for being spotted in a club; social media has also spread memes caricaturing female politicians as submissive and demure.

Another commented that in the previously dominant party UMNO, much of their political support was derived from women but women were not empowered to go further than that. Other times, it might be that it is female politicians who would not help other women rise up. They agreed that women politicians can act like a “big fish in a small pond”, and yet have more to prove than a male politician. Participants, however, reported that other parties were comparatively more progressive in empowering women, such as DAP—who easily elevate female Muslim candidates in order to improve its image against being a Chinese-dominant party.

CONCLUSION

The responses from this focus group discussion remain aligned with the literature that generally Malaysian women have access to the right to vote, but there remain many issues that should be addressed nonetheless, many which require changing nuanced attitudes towards the role of women in politics, both within women and by men. This has resulted in skewed results against female representation in Parliament and as candidates. The literature also indicates that despite recognition since the 1990s, the government of Malaysia and its compositional political parties have not been able to meet the target of 30% women Parliamentarians—an effort that it needs to take more seriously.

Against our expectations derived from the literature, participants indicated a fair number of issues which stem from the architecture of the polling station (which typically use schools of a design which dates back to the 70s), and the conduct of elections that makes people queue for hours on end—issues which disproportionately affect women. Long queues, transportation, catcalling and sexual harassment at voting stations are also issues that need addressing.

Additionally, discussions suggest that some elements of Malaysian culture place certain nuanced but gendered pressures on women as voters as well as potential leaders and candidates: interweaving roles of caretaker and family member, with their public duties. The worst case is that women confine themselves to a role as caretakers, sometimes forgoing their right to vote in order to fulfil that role. Even in larger representation in Parliament and media, they are more likely to face stereotyped judgement to be cast only in a welfare-specific role, whether as voters, candidates, potential party leaders; and also face disproportionate double standards of over-sexualization.

RECOMMENDATIONS

While the focus group discussion is quite preliminary, the following is clear: the Malaysian Government and lawmakers in Parliament need to consider and implement more serious and drastic steps in promoting and achieving 30% female representation in Parliament. Political parties also need to seriously review their own leadership programmes and procedures so that they do not implicitly diminish female participation.

“One of the most insulting things that happened in GE14 was a public forum [...] and the topic was, ‘Is appearance an issue in politics?’. Like, really are you going to judge us based on our beauty not our brains? [...] As if you’re saying *makcik-makcik kampung* (village ladies) vote for who is the prettiest.”

—a participant

The Election Commission needs to take steps in drastically reducing the queue and average wait time for voting at the general elections, in recognising that the current onerous burden of voting can disproportionately discourage certain segments of society from exercising their right to vote. The Election Commission should draft procedures for seriously handling female safety, sexual harassment and cat-calling at polling stations and political rallies—women should feel safe and free at polling stations and rallies, as all individuals deserve.

Towards changing societal attitudes on the above, more work needs to be done and supported especially in terms of media sexualisation, in the domain of social media, media panel representation, cultivating women leaders to help other women leaders, and the reconceptualising the dual role of both domestic caretaker and political leader of women. The Election Commission can initiate a women-targeted voter motivation campaign that emphasises the duty to vote without overburdening women.

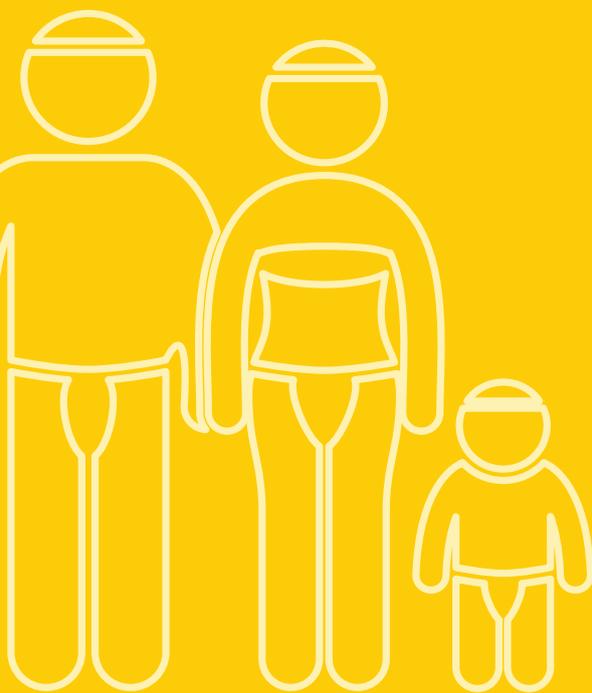
Additionally, we should explore how transpeople go through the polling process to ensure no one is denied the right to vote.

Do Orang Asli voters think that voting is important? Is there an attitude of apathy for Orang Asli in voting or political participation?

INDIGENOUS

INDIGENOUS PEOPLES' ACCESS TO POLITICS & ELECTIONS

Summary: Orang Asli in Peninsular Malaysia are generally able to vote, with a handful of elections where winning their vote was pivotal. However, our findings show that Orang Asli are unable to bring their political issues into mainstream electoral politics, such as the perennial issue of native customary land rights and provision of basic amenities—the former is being addressed separately, the latter historically has been offered as a voting inducement. We also find that voter apathy among Orang Asli an issue that needs to be tackled, and while Orang Asli typically vote as a collective village bloc, we find that it is not a major issue.



‘Indigenous peoples comprise 14% of Malaysia’s overall population, but only 0.7% of Peninsular Malaysia’s population... In some constituencies where the Orang Asli vote could tip the balance against the incumbent ruling party, they were “once again made to feel as if they matter in Malaysian politics”.’

INDIGENOUS PEOPLES

INTERNATIONAL STANDARDS AND ISSUES

THE HIGHEST INTERNATIONAL agreement on indigenous peoples’ rights is the United Nations Declaration on the Rights of Indigenous Peoples 2007 (UNDRIP).²² It is however, a non-binding resolution. Furthermore, the UNDRIP does not have any specific mention of electoral rights as an issue for indigenous peoples. Instead, the focus of political rights is on indigenous autonomy and the right to self-determination (Article 4), although they too have a right to nationality (Article 6). Article 5 simply reaffirms a generalised right to “participate in the political, economic, social and cultural life of the State” if they so choose. Malaysia voted to adopt the United Nations Declaration on the Rights of Indigenous Peoples in 2007 and is broadly supportive of it in principle.²³

Internationally, there are documented cases of low indigenous turnout during elections, with various reasons.²⁴ For example, Canada did not enable the right to vote for its indigenous peoples until 1960, and even so in 2014, a new law was passed to tighten identification of voters but was fought by aboriginal activists.²⁵ In Australia, the Australian Constitution Act of 1901 placed narrow conditions for indigenous people to gain the right to vote, effectively denying political rights to vote. The right to vote was later fully extended in 1962 and the 1967 constitutional amendment referendum.²⁶

In the Canadian literature exploring indigenous participation at elections, there are multiple theories: Bedford and Pobihushchy argue that their separate identity as First Nations is the leading reason for lower turnout;²⁷ Barsh et al highlighted feelings of exclusion, lack of practical and strategic information, and a gap in political optimism based on age and gender, money dominating politics, white politicians being prejudiced, and no difference between political parties, while also suggesting deliberate suppression of the vote, gerrymandering, incomplete enumeration, and lack of access to polling stations;²⁸ Ladner suggested the alienation of indigenous peoples from the Canadian political system, and a nationalism discourse amongst

the indigenous communities. Indigenous Canadians make up about 4.5% of the Canadian population.²⁸

In the Australian literature, voting for indigenous peoples remains low. There was a voter education campaign targeted at Australian indigenous peoples that started in the late 60s but was abruptly halted in 1996.²⁹ Mobile polling, which collected votes in sparsely populated areas was hailed as a success by an academic study,³⁰ but had its share of criticisms too.³¹ Australian Indigenous peoples only comprise 3.3% of all Australians.

MALYSIAN CONSTITUTIONAL AND LEGAL FRAMEWORK

Article 8, Clause 5 (c) of the Constitution makes direct mention that the constitutional provision of equality before the law cannot contravene the “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.” Article 45 on the Composition of the Senate, Clause 2 states that the Yang di-Pertuan Agong has the discretion to appoint persons who are “representative of racial minorities or are capable of representing the interests of aborigines.” Item 16 of the Federal List (Ninth Schedule to the Federal Constitution) provides for the welfare of the aborigines. The Aboriginal Peoples Act 1954 define aborigines, outlines the governance of reserve land and other administrative regulations, but no protection or guarantee is given to their political participation.

BACKGROUND & LITERATURE REVIEW

Demographically, indigenous peoples comprise 14% of Malaysia’s overall population, but only 0.7% of Peninsular Malaysia’s population. In East Malaysia, they hold the plurality of the population in Sabah and Sarawak (approximately 60% and 40% respectively). In West Malaysia, most Orang Asli remain in the rural and remote parts of the country. The 10th Malaysia Economic Plan (2011-2015) gave the statistic that the incidence of poverty amongst Orang Asli was at 50% in 2010.³²

“For me and him (points), we were at the Bersih rallies! We went by our own car on our own, no one picked us up or paid us.”

—*a participant*

Orang Asli typically refer to the indigenous peoples of Peninsular Malaysia, while Orang Asal is the term for East Malaysian indigenous peoples. There are 67 indigenous ethnic groups and they are afforded special recognition in the Malaysian constitution (Articles 5, 6, 8, 10, 11 and 12). Unlike the West Malaysian counterparts, East Malaysian Orang Asal have historically organised into their own political parties, such as Parti Bansa Dayak Sarawak and United Pasokmomogun Kadazan Organisation (Sabah). Orang Asal have also had representation at the Federal ministerial level—with Baru Bian (Lun Bawang) in the current government, and Idris Jala (Kelabit) in the previous.

Just as many indigenous peoples across the globe, Orang Asli and Orang Asal in Malaysia have the same types of political issues in terms of their legal status of land ownership, provision of public utilities and health services, and political representation. In certain electoral districts in West Malaysia, they become a significant “third” voting block with interests and a political culture separate from the typical Malay/Non-Malay dichotomy.

Politically, the foremost issue of Orang Asli is Native Customary Land Rights matters. Endicott and Dentan wrote that the Aboriginal Peoples Act 1954 was enacted not to safeguard Orang Asli rights but to weed out communist influence; until 2002, Malaysian law did not acknowledge Orang Asli rights to the land and legally considered them “squatters”.³³ Therefore, while they are afforded special recognition under the Malaysian constitution, the realisation of the reservation of land for Orang Asli is not well implemented. The Human Rights Commission of Malaysia (SUHAKAM) documents that in some cases, companies begin operation even before consulting with settled Orang Asli communities.³⁴ As a result, outside of elections, the Orang Asli are perennially in a battle to defend what they consider their collective lands from encroachment from loggers and developers and in some cases, Orang Asli have been forcibly displaced from their homes.³⁵ In 2013-2014, a government Taskforce on Indigenous Land Rights was formed to study SUHAKAM’s recommendations. Formally through the commission, the government adopted 17 out of 18 of the recommendations but by 2017, SUHAKAM declared that none of the recommendations had been implemented.³⁶

Secondly is the low political representation of West Malaysian Orang Asli. In the 2018 elections, only 3 state seat candidates were Orang Asli.³⁷ The Democratic Action Party (DAP) itself fielded its first Orang Asli candidate ever in that election.³⁸ Access to

decision-making positions also is historically low, as the first-ever Orang Asli Director-General for the Orang Asli Development Department (JAKOA) was appointed in 2019.³⁹ A perennial complaint has been that Orang Asli communities are neglected until the election season, where they typically are expected to vote for Barisan Nasional. Amnesty International also found that Orang Asli communities do not have “free, prior and informed consent” with regards to development (whatever form it takes) in their backyard, and remain fearful of filing police reports for fear of reprisal.⁴⁰

Otherwise, Some Orang Asli villages remain concerned about the poor provision of basic utilities such as government funding for housing, clean water or consistent electricity supply. There is some evidence that the typical Pakatan Harapan (PH) issues of governance, reform and anti-corruption do not resonate with Orang Asli communities, citing their lack of cultural tact leading PH candidates to be perceived as condescending.⁴¹

At the same time, the typical electoral practice of candidates is to promise provision of the above goods in exchange for votes.⁴² There is an understanding that parties routinely practice vote-buying to win the support of village heads, who in turn exert significant influence over the voting pattern of their respective villages. Edwards documents that there is a fear that such money can be withheld if villagers are seen to be considering supporting the opposition.⁴³ The BERSIH-organised People’s Tribunal on Malaysia’s 13th General Election also found that government bodies like the Orang Asli Welfare Department were also used to campaign for Barisan Nasional support in Orang Asli villages.⁴⁵

In April 2019, a National Orang Asli Convention was held and issued a document of 136 Resolutions grouped in 7 Focus areas.⁴⁶ There is no specific group header on political rights. Instead, there is a group on “Leadership”, which singles out the appointment of the village headmen (Tok Batin), the establishment of an Orang Asli Customs Council and the relationship between JAKOA and Tok Batins. This suggests that the exercise of electoral rights is not within the list of major concerns for the community; whether it indicates a cynical distrust of the electoral system because of its failures, or if it is not a concern because there are few or no major issues with it—remains to be examined.

One study that reveals the political involvement of indigenous peoples in Malaysia is Fang, Sarjit and Talib which surveyed a cross section of youth in Malacca, Selangor and Kedah and included 110 participants from Orang Asli communities. They found Orang Asli had the lowest aggregate scores in political participation, and speculated that they regard themselves as separate group deserving of self-governance distinct from the rest of Malaysian political structure.⁴⁷

Colin Nicholas paints a picture of the political significance of the Orang Asli as a means to “secure the position of the country’s leadership”.⁴⁸ This observation was made in light of the 1987 UMNO crisis when the party split into two opposing factions.

As a result, UMNO Baru would open membership to the Orang Asli, but only to bolster its numbers to achieve a target of a 600,000-strong membership, and while there was some take-up initially, Nicholas remarks that “their numbers did not materially affect the structure of their party”.⁴⁹ Again in the 1990 elections, where in some constituencies where the Orang Asli vote could tip the balance against the incumbent ruling party, they were “once again made to feel as if they matter in Malaysian politics... development projects for the Orang Asli were being announced right up to polling day itself”.⁵⁰ However, Nicholas also documents that Department of Orang Asli Affairs (JHEOA) officers were unduly influencing Orang Asli voters to vote for a certain party despite also being electoral administrators.⁵¹

FOCUS GROUP DISCUSSION

Given the above, we expected that there would be few institutional and physical barriers to voting as there is little evidence that the Orang Asli do not vote, although there are a number of issues to unpack with the how and why of their voting patterns. We wanted to know how disenfranchised they felt from the electoral system, and how they felt with regards to being able to use the system towards their collective political issues despite being a very small minority; furthermore, since the village typically votes as a block, what are the cultural arguments and if they were sufficiently empowered with information to make an informed choice for voting.

With regards to physical and institutional barriers, our participants reported that there were only a few problems. For them, transport to the polling station is surmountable, although they mentioned that their counterparts who live in deep rural areas like Kelantan or Hulu Perak may have a greater transport-accessibility issue. If it’s relatively close to urban areas, the Department of Orang Asli Development (*Jabatan Kemajuan Orang Asli*, JAKOA) does not arrange transportation but in more inaccessible places, they will be involved.⁵¹

Similarly, participants did not report any institutional problems, such as voter registration. For one village, occasionally external visitors would come to register them; village headmen can also sometimes facilitate the process. Representatives from one village said that it was up to individuals. However, the same individuals demonstrated knowledge that the current government is making voter registration automatic, which they agreed that in the future there was less of a barrier for individuals.

We asked questions regarding the interweaving of the role of elections with the role of the Orang Asli Convention demands with regards to voting as a means for instituting change. They agreed that both of them serve an independent role between each other. Participants also indicated that politicians are more likely to cater for Orang Asli needs when they form a significant voting bloc in their respective constituencies, and vice-versa to their detriment.

One headman reported that he even distributed two different political flags to each household to “strengthen democracy”.

Orang Asli participants reported apathy amongst their peers. Participants spoke on behalf of others that many feel that there was no difference whether they voted or not and did not know their role and rights as voters. This attitude was equal amongst men and women, and more prevalent in youth than older people. Most political information arrived to them via television; candidates would also come during the election campaign period to gather their support. However, participants also expressed scepticism that once victorious, they would no longer visit, thus exacerbating the feeling of indifference towards electoral processes.

When further questioned, they felt that the television did not give sufficient information—the basics of when and where was given, but the substantive issues in deciding who to vote for is lacking. Furthermore, there was still poor voter education on process (there was an anecdote of all old man crossing out all the boxes, thus spoiling his vote, but who remained adamant that it was right) and government structure (for example, difference between state and federal seats). Nevertheless, they did not feel wholly isolated from the process, as the hosting village reported they held an election results watching party in their communal hall. When asked, they reported difficulty in estimating the proportion of apathetic people.

We also inquired about their practices about voting as a collective bloc. For these Orang Asli participants, there are good reasons to do so. Participants mentioned that they do not want politics to divide the village, so as to preserve good relations between members of the village. Nevertheless, they were keenly politically aware: if they could not get what they wanted from one political party, they went to the other. One headman reported that he even distributed two different political flags to each household to “strengthen democracy”. There is anecdotal evidence that in some other villages, people do get shunned for their differing individual political alignments.

Finally, when asked about violence, during the 2013 elections, they reported some level of (veiled) threats in their vicinity. There is some element of pressure from parties, with more pronounced pressure in one village compared to the next because of its proximity to a party election operations office (*bilik gerak*).

CONCLUSION

Overall, there are few institutional barriers and surmountable physical barriers for Orang Asli. There may be a significant level of apathy, potentially because Orang Asli do not see the connection between politics and how it affects day-to-day living—the dissociation between their major issues of land rights and identity rights, and electoral outcomes. We speculate that this may be because of lower political education levels, on the basis of a lack of community awareness of how the government operates, and therefore inability to ensure their votes can be used to safeguard their cultural and ancestral heritage that was raised by discussion participants. However, participants in the focus group discussion demonstrated keen awareness of politics and the democratic importance of voting.

There needs to be deeper inquiry into electoral systems and practices and how they intersect with Orang Asli interests: change needs to be reciprocal. The fact that candidates/politicians typically only visit Orang Asli villages in the run-up to election suggests a reification of Orang Asli to become mere votes to be won. The phenomenon that Orang Asli interests only become politically significant when their voting numbers are pivotal towards the election of key politicians is indicative that the first-past-the-post system is broadly unfavourable to minority interests.

The issue of village-level bloc voting is a factor in Orang Asli political behaviour. Urban dwellers may have to balance multiple (and even contradictory) needs, and so practice the right to choose as individuals. On the other hand, village-level bloc voting by Orang Asli can be construed as a democratic right to discuss the political choices that benefit their community. However, while participants in the focus group discussion seemed to have a freedom of choice, further explorations need to confirm if other Orang Asli villages practice the same level of choice.

RECOMMENDATIONS

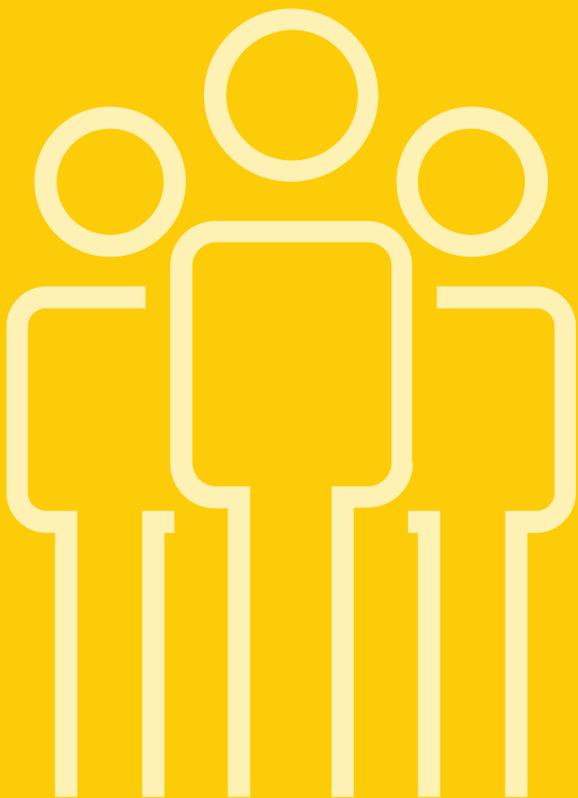
The issues of Orang Asli apathy towards political participation, particularly youth apathy with the lowering of the voting age to 18, need to be addressed in motivational civic education activities by the Election Commission and education authorities. The focus group discussion suggests that there needs to be an increase in Orang Asli political education in general as Orang Asli participants requested for more political education and training workshops to be held.

For this, JAKOA and the Election Commission need to work together to increase the scale of workshops. To combat election period attempts by State authorities and personnel to influence Orang Asli voters, the election reform process needs to introduce rigorous provisions to outlaw the abuse of state resources in election campaigns and legally define caretaker government conventions.

Furthermore, these preliminary results would favour advocacy for greater representation of Orang Asli at the state level which handles land matters, which is likely to be the issue of greatest political interest for Orang Asli.

Are the poor financially able to travel back to their voting district to cast their ballot? Is there a perception that society does not value the opinions of the poor?

LOW INCOME



LOW INCOME GROUPS' ACCESS TO ELECTIONS & POLITICS

Summary: No constitutional or legal protections for the poor and low-income groups in terms of their political participation are currently in place. Our research and discussion results show that the significant barrier for this group to vote is financial and time-related. Mandating employers to give them sufficient time to vote, mandating voting day be a weekend and easing the financial burden of travelling to cast their ballot would increase voting access for low income groups nationally. Further studies should explore the barriers for the rural poor, and urban poor outside the Klang Valley.

“Now that we have a new government that the people have chosen, let us see. If nothing good or helpful comes from it, maybe it’ll change back but we can’t be sure that will happen. Everyone has the right to choose.”

—a participant

LOW-INCOME GROUPS

INTERNATIONAL STANDARDS & ISSUES

THERE ARE CURRENTLY no international treaties or laws that directly address the political participation of the poor. In the wider international context, it has been shown that in some countries the poor are less likely to turnout to vote.^{52,53} In some cases, it is that economic adversity makes it such that politics is the furthest thing from the minds of the poor. In others, it is an expression of political rejection and confirmation that “politicians do not seek to represent them”. In the United States, the issue of voter suppression, typically of minority and low-income voters is a topic of fierce debate.⁵⁴ A study done in neighbouring Indonesia, however, showed that low-income respondents are as likely to vote as high-income ones.⁵⁵ A similar case is found in Latin America, where a study of voter turnout in the region found that poor economic conditions can cause citizen mobilization and higher voter turnouts.⁵⁶ This suggests that the conditions for every country may vary based on the levels of inequality, welfare arrangements and demographics.

MALAYSIAN CONSTITUTIONAL AND LEGAL FRAMEWORK

There is currently no provision in the Malaysian constitution that directly addresses low-income groups as a social group or class. Similarly, no law protects the political rights specifically of the poor or low-income groups.

BACKGROUND AND LITERATURE REVIEW

Poverty and its alleviation have been high on the Malaysian state’s agenda since the days of the New Economic Policy in 1970. Since then, official poverty numbers have been drastically reduced and Malaysia has been lauded by the international community as an exemplar in its alleviation efforts. Poverty, defined by international standards, has gone from 49% of the households in 1970 to 0.4% in 2016. More recent discussions about poverty have thrown some of the legacy into doubt,⁵⁷ but by and large improvement of living standards has been achieved as Malaysia is the richest large country in Southeast Asia. Today, policy discussion about the poor or low-income groups revolves around a category coined in the previous administration’s New Economic Model, the bottom 40% or B40. This all-encompassing category removes any specificity to this grouping beyond an income bracket, muddying the waters when crafting policies to address their plight.

Self-organising of the poor or those in the lower income brackets has been largely absent in Malaysia. Labour unions, if they can be considered representatives of those who are employed in lower-paying occupations have been co-opted by the state and pacified to a great extent. While religious and charity organisations do attempt to reduce suffering, they are by no means able to or have come forward to represent the poor. Existing election rules would make any attempt at representation by the poor difficult from a financial standpoint, with an election deposit needed (10,000 ringgit to contest a parliamentary seat and 5,000 for a state assembly seat) as well as funds to run a campaign.

Studies on the political participation of the poor in Malaysia are absent from the literature. One study investigated the correlation of income groups to the political coalition and parties they support.⁵⁸ This, however, does not give any insight into the segments of the poor who do not vote or participate politically in any manner. Another paper studied the relationship between life satisfaction and voting for the incumbent in Malaysia,⁵⁹ but this also does not reveal anything pertinent to the voting patterns of the poor. Voting amongst the poor in Malaysia is mostly discussed in relation to vote buying.⁶⁰ The narrative of politicians using money or promises of development to garner votes is one that has remained persistent and prevalent. This reinforces the notion that the poor do not vote independently and are easily swayed by material rewards. Repeated critiques of cash assistance to the poor is equated with vote getting by the incumbents at the expense of the tax paying middle class.⁶¹

FOCUS GROUP DISCUSSION RESULTS

Given the B40 are employed in low-paying service jobs, informally self-employed or work in the gig economy, we were looking for whether these individuals were given enough time to vote in their constituencies. Moreover, with less disposable income and even if they could get time off work, would they be able to afford to travel back to their constituencies to cast their ballot. Another thrust of questions was the importance they attached to their votes, whether they felt their vote mattered and how did they perceive the value of their votes.

Those whose polling station was within the compound of the housing project faced no issue in physically accessing their polling stations. Schools were a preferred location due to their proximity to the residents as well as the space available.

One participant did raise that in rural areas where transportation is not provided, the elderly would struggle to get to the polling stations. However, when transportation for the elderly is provided, it is not well publicised as one participant highlighted. Nonetheless, elderly or not, all participants felt that they had a duty to make the effort to cast their ballot.

There was an indication that employers did allow for time off to vote but required them to return to work after they had done so. The last election was unusual as it was held on a weekday as opposed to being held on a weekend as in the past. One participant remarked that it would be difficult for someone who works in a supermarket to take the day off but asserted that the employer should allow him/her to go out to vote. Another complained that the time given by employers was too short.

Suggestions were also made to lengthen the time for ballots to be cast and the voting process to be made quicker and more efficient. The access of the participants to information about the elections was largely uninhibited, with sources ranging from television to Whatsapp to the housing block leaders. Participants asserted that they had enough information to make independent decisions on who to vote for, with no threat of recourse or undue influence.

Participants indicated there were no legal or institutional barriers to voting. They felt that their vote mattered and that there was no perceived prejudice towards their participation. One participant asserted that it would be a waste not to vote. Apathy towards voting was said to be minimal. Access to the ADUN to resolve matters was available according to one participant. When asked about any external or familial pressures to vote a certain way, they indicated there were none. As with the women's group, the issue of taking care of young children was raised, requiring the family to coordinate and take turns to vote. One participant mentioned receiving a small sum of money from politicians to travel back to his/her constituency to vote. In closing the discussion, participants saw no major barriers to voting that they wished to highlight.

“Whenever they have talks, they can say how they will be different and criticize the other side, that is required in any contest. But we know how to think for ourselves what is right and what is not.” —a participant

CONCLUSION

The issues faced by those with low incomes, as anticipated, are largely financial. No undue influence is felt by this group of urban voters and there is an overall sense that their vote matters. This may not be representative of urban voters in other states, or rural voters of low income. Further study is needed to make better recommendations for addressing barriers to voting of the poor and low-income groups as a whole.

RECOMMENDATIONS

Enacting and enforcing tighter rules on allowing service employees enough time to vote would be a good first step. Easing the financial and time burden of traveling back to one's constituency, in the form of a monetary subsidy or making sure voting day is a weekend, is important to allowing this social group to vote. Better and better publicised enforcement of anti-bribery and treating provisions and introduction of abuse of state resources and caretaker government provisions in electoral law will assist in reducing perceptions of vote buying amongst low income groups.

PERSONS WITH DISABILITY

Do you think there are adequate facilities for persons with disabilities to vote? Do you think political information and the way it is delivered is suitable for persons with disabilities to make an informed political decision?

PERSONS WITH DISABILITIES' ACCESS TO ELECTIONS & POLITICS

Summary: The progress to include persons with disabilities in Malaysian electoral and political life has been slow and lacking in many respects. Addressing their physical and communicative access to voting and political information is very much needed. Disability-friendly building design, integration of the Election Commission's database to contain disabilities information, more disability-friendly political and electoral information and media coverage, and a formal complaints mechanism within the Election Commission are important steps to improving that access. Disability-related training for Election Commission staff and having persons with disabilities as election candidates and observers are also important steps to take.



PERSONS WITH DISABILITIES

INTERNATIONAL STANDARDS & ISSUES

MALAYSIA BECAME A signatory to the United Nations' Convention on the Rights of Persons with Disabilities (CRPD) in 2008 and ratified it in 2010. The convention underpins the equal rights of persons with disabilities and their protection from discrimination. Article 29 of the convention guarantees the rights of persons with disabilities to participate in public and political life, and the opportunity to vote and to be elected to public office.⁶² Although ratified, there would be no legal recourse if the government does not enforce the clauses of the CRPD. It has been pointed out that Malaysia should sign the optional protocol of the CRPD that will allow persons with disabilities to file a complaint to the International Supervisory Committee in case of non-compliance. Globally, the exclusion of persons with disabilities from exercising their political rights remains an issue that most societies need to address. A recent study that covered 32 European countries, analysed the effects of perceived disability-based discrimination on political participation.⁶³ Results confirm that disability does decrease the likelihood of voting but persons with disabilities are more likely to take part in demonstrations and contact their politicians.

MALYSIAN CONSTITUTIONAL AND LEGAL FRAMEWORK

Article 8.1 of the Malaysian Constitution ensures equality and protection of the law. Article 8.2 forbids discrimination on the basis of religion, race, descent, place of birth or gender but disabilities are given no specific mention. Mentions of persons with disabilities are not found in the Constitution. The Persons with Disabilities Act of 2008, described as addressing "the registration, protection, rehabilitation, development and wellbeing of persons with disabilities, the establishment of the National Council for Persons with Disabilities, and for matters

connected therewith." The Act does not give protection to the political rights of persons with disabilities.

BACKGROUND AND LITERATURE REVIEW

Malaysia's population of persons with disabilities officially registered with the Department of Social Welfare stands at 453,258 as of 2017. The largest subgroups are persons with physical disability (35.2%) and those with learning disabilities (34.8). Those with hearing (7.6%), vision (8.9%), mental (8.3%), speech (0.5%) and multiple disabilities (4.7%) make up the rest.⁶⁴ These numbers may be misleading as the World Health Organisation estimates that 15% of the world's population lives with some form of disability. With the Malaysian population being at 32.63 million in the third quarter of 2019, the actual number of persons with disabilities would be significantly higher, with one estimate placing the number at 4.419 million.⁶⁵ This number is also expected to rise as Malaysia becomes an aging society, as a significant portion of the elderly will face varying degrees of disability.

While Article 119(1) of the Federal Constitution of Malaysia guarantees that all citizens of Malaysia, aged 21 years old and above can register and vote, Article 119(3) of the Federal Constitution of Malaysia stipulates that those who have unsound mind are not eligible to register as voters. However, this may be more a psychological than a real barrier to registering as a voter as there is no requirement to disclose one's medical or psychological condition during registration. Legal recognition of the need for more attention to be paid to the disability community has come relatively recently with the Persons with Disabilities Act of 2008. This important legal step forward has been met with criticism, with some arguing that it does not go far enough in advancing the rights of persons with disabilities, for example it does not deal with the electoral and political rights of persons with disabilities.

In 2017, Malaysia's Human Rights Commission publicly called for amendments to be made to the Persons with Disabilities Act 2008, citing its "lack of legal remedies or redress mechanisms against the government for violating the rights of persons with disabilities".⁶⁶ In 2019, a similar outcry was made by the Malaysian Bar, calling the Persons with Disabilities Act "neither comprehensive nor sufficiently inclusive", and urging a holistic review of the Act.⁶⁷ There has also been a suggestion for the National Council for Persons with Disabilities and the Development of Persons with Disabilities Department to be placed under the Prime Minister's Department for more effective implementation to occur.⁶⁸

A wide array of non-government organisations (NGO) have been setup by and for persons with disabilities. Malaysia CARE, an NGO aimed at the poor and needy, has an online directory of the hundreds of organisations that are involved with persons with disabilities.⁶⁹ These NGOs engage in a wide range of activities that include childcare, elderly care, education, employment and support groups. Their presence in civil society can be described as highly visible at this point in time. So far, the political

“The main problem is that [polling] is held in schools: there is no ramp or curb, no way of access. And there are drains that don’t allow me to cross.”

—*a wheelchair-using participant*

representation of persons with disabilities can only be seen through the appointment of senators in the upper house of the parliament. Malaysia’s first senator with a disability was the late Professor Datuk Dr. Ismail Salleh, who was blind, who served from in 2007 to 2009. The latest was a senator, Ms. Bathmavathi Krishnan, who has a physical disability. Her term ended in 2019.

There is documented evidence that the Election Commission (EC) is paying attention to the challenges that face the disability community. In a media statement, it has committed to implement measures that will enhance the comfort, confidence and maintain the secrecy of the votes of those with disabilities. Among them are: allowing a family member or trusted person to accompany them voting; preparing personnel to assist persons with disabilities to the polling station; preparing wheel chairs for the elderly or persons with disabilities; giving persons with disabilities priority at the polling stations.⁷⁰

Media reports show that the EC has provided and coordinated transport services for persons with disabilities during recent by-elections, but no verification is available that these facilities were deployed in the general election. The EC’s website also states that it gives the presiding officer of the polling station authority to give persons with disabilities and pregnant women priority of entry into polling stations in order for them not to experience a long wait.⁷¹

We are aware of only one Malaysian academic study that directly addresses the issue of persons with disabilities’ access to voting or political participation, but there are a few studies with some adjacency that provide some insight. A study looked into the effectiveness of the Persons with Disabilities Act 2008 in protecting the freedom of expression in casting votes of visually impaired persons.⁷² It found that the Act has failed to do so as it emphasizes accessibility to public facilities rather than protecting the confidentiality of the vote.

One study investigated Malaysians’ attitudes towards persons with disabilities,⁷³ and found that participants sampled in the city of Johor Bahru did exhibit some negative attitudes towards persons with disabilities. Those with low levels of contact with persons with disabilities, older individuals and those with lower levels of education were less accepting of persons with disabilities.

A survey on the political consciousness of almost 100 Malaysian persons with disabilities was done and results showed that most respondents did not know that each political coalition’s manifesto addressed persons with disabilities issues, did not feel confident that they would keep those promises, and agreed

that persons with disabilities should run as election candidates.⁷⁴ The sample, which was skewed towards physical and visual disabilities, found that news and social media were the primary sources of political information, above political campaigns, public events, and family and friends.

A regional analysis of civil society and state discourse on disability rights shows that, despite nearly all ASEAN member states ratifying the CRPD, implementation progress has been limited.⁷⁵ For the case of Malaysia, the analysis showed a disjuncture where the state’s focus was on “protection” and “access/overcoming barriers” while civil society’s was on “anti-discrimination” and “participation”. Another related study investigated the inclusiveness of International Electoral Observation Missions (IEOMs) to persons with disabilities and found it lacking. It recommended recruiting 15% of observers with a disability to reflect the proportion of people with disabilities in society.⁷⁶

FOCUS GROUP DISCUSSION RESULTS

The line of inquiry for our discussion with persons with disabilities was generally centred on physical and communicative barriers as these areas are where we had expected most concerns to come from. From the aspect of physical barriers to voting, there were many concerns raised.

Chief among them was the facilities for persons with disabilities at polling stations, most commonly schools. The lack of access ramps, disability-friendly toilets, the location of schools on hills and presence of drains in the schools make access difficult. Current schools do not follow the universal design method, specifically Universal Design Standard 1184 (UD). One participant, however, noted that the situation is changing with the Ministry of Education implementing a zero-rejects policy towards children with disabilities.

Participants stressed the need for a number of measures to ensure persons with disabilities vote as quickly and as comfortably as possible. Measures included the integration of the databases of the EC and national register of persons with disabilities, the creation of special registration counters and voting streams for persons with disabilities and the elderly, and digital displays of names and numbers rather than just calling them out (primarily for the deaf and those with multiple disabilities).

Compounding these issues are the low levels of awareness and training of the polling staff on duty, with participants citing examples of polling staff that were not clear in giving instructions. The DET (Disability Equality Training) and DRST (Disability Related Service Training) for EC personnel were suggested for staff and volunteers so they can assist in a safe and respectful manner. One participant noted that carrying persons with disabilities should be avoided, as it is unnecessary and even dangerous, stressing it is better to respect that individual voter and facilitate voting by using voting locations, vans or buses that have ramps.

Communication barriers were primarily addressed by the deaf participant, indicating that there was little access to information about candidates and election results for the deaf community. Only one TV station (TV2) was cited as having a sign language interpreter; individual parties cannot deliver the content of their manifesto to the deaf due to lack of interpreters; subtitles or friends and family are the main means to get information.

The deaf prefer not to have to rely on anyone as their family members or guardians may project their own preferences onto the interpretation. It was suggested that the EC staff should be taught sufficient basic sign language to avoid confusion in directing persons with disabilities to their polling stations. Appointing persons with disabilities as election observers was brought up to more effectively address their concerns.

On the issue of legal or institutional barriers, there were none raised. When asked about extending the right to vote to all persons with mental or learning disabilities, participants felt that everyone deserved the right to vote, even if the person is not of sound mind. One participant felt that this decision to register as a voter should be left to the family or guardians to decide and a doctor or medical expert to verify.

When it came to cultural and attitudinal issues around persons with disabilities' political participation, education and representation was emphasized. One participant felt that education of persons with disabilities about the importance of their vote is lacking and felt this was necessary for them to overcome the existing obstacles to voting. If there was a mass media effort targeted at persons with disabilities and the infrastructure for them to vote was in place, the awareness and willingness to vote would increase.

However, it was noted that a majority of persons with disabilities do make the effort to vote. Participants lamented the lack of political representation from the disability community, with a quota system being suggested for election candidates. One participant indicated there may be discrimination in putting up a person with disability as a candidate. They also noted that there were no EC staff with a disability that they knew of.

In terms of the intersectionality of this subject, women and those in low income groups who have disabilities, did face obstacles and discrimination when voting and participating politically. The sole female participant indicated that women did face a degree of double discrimination.

CONCLUSION

The focus group discussion and literature review confirm that progress to include persons with disabilities in Malaysian electoral and political processes has been slow and lacking. Infrastructural needs top the list of concerns, with buildings that need to be upgraded to be more inclusive. The flow of information to persons with disabilities also need to be enhanced, be it before polling day or during. The competence of EC staff and volunteers is also paramount to ensuring persons with disabilities are able to vote with maximum ease. Women with disabilities face double discrimination and danger from sexual harassment.

RECOMMENDATIONS

The Government of Malaysia needs to review and amend the Persons with Disabilities Act 2008 to make it a sufficiently comprehensive and inclusive framework to promote the rights of persons with disabilities. The Election Commission needs to improve selection of facilities provided at polling locations and voting procedures so that voting is accessible to all eligible persons with disabilities. Training in relation to persons with disabilities and basic sign language needs to be initiated by the EC for all staff involved in the electoral process.

Targeted electoral and political information materials need to be developed for the disability community, including in accessible formats so that persons with hearing or visual impairments or learning difficulties have equal access to this information. Encouraging and facilitating persons with disabilities to become election staff, election observers and party candidates is a crucial next step to ensuring the community's concerns are addressed in the most effective and respectful manner. Education of the population at large to promote total acceptance of persons with disabilities may also be useful.

“I feel everyone has a right to vote but there needs to be a support system. But if someone cannot vote and has a doctor’s note saying so, that should be left to the family to decide what to do.” —a participant

CON- CLUSION

CONCLUDING RECOMMENDATIONS FOR THE EC AND THE ERC

From our research and focus group discussions, exploring four types of barriers across the four different social groups, a series of recommendations have been extracted that address the various stakeholders involved in advancing political and electoral inclusion.



RECOMMENDATIONS: ELECTORAL REFORM COMMITTEE

A LEGAL MECHANISM for complaints or suits to be filed against the Election Commission if there are cases of discrimination on the grounds of gender, race, class or disabilities needs to be created. Ratifying UNDRIP, and the optional protocols in CEDAW and CRPD would serve as an important next step in terms of accountability of state institutions to international bodies. In line with the outcry from civil society, a comprehensive review of the Persons with Disabilities Act 2008 is needed to adequately protect their rights as citizens. The perception of vote buying amongst low income groups can be reduced through provisions that better enforce anti-bribery measures and outlaw the abuse of state resources for electoral purposes.

A NATIONWIDE MANDATE TO EMPLOYERS, at the risk of financial or legal penalty, to allow for workers sufficient time to cast their votes needs to be in place. In the same vein, legally requiring voting day to be a weekend (preferably Sunday) will allow for time for voters to travel back to their constituency.

If schools continue to be used as polling stations, they must be **UPGRADED TO THE UNIVERSAL DESIGN STANDARD 1184 (UD)** in order to better serve persons with disabilities, pregnant women and the elderly. Any financial assistance for those who can least afford to travel back to their constituency to vote would expand electoral access across various sections of the low-incomed. Provision of transportation to polling stations, with safeguards to ensure this is provided impartially and with no intimidation of voters with priority given to those least mobile, would also potentially increase turnout.

Though not the immediate focus of the study's research, **THE ISSUE OF REPRESENTATION CAME UP MULTIPLE TIMES**. The aspiration to achieve 30% female representation in Parliament needs attention in law but the Orang Asli and persons with disabilities communities also need their voices heard at a national level. More respectful portrayals of women leaders in the media need to be encouraged if this is to be achieved in any meaningful way. Education of the public at large would also be needed if Malaysians are to accept persons with disabilities as political leaders. The election system, its rules and provision need to be thoroughly reviewed to understand what incentivises political parties to field candidates from marginalised groups. Financial barriers to candidacy should also be reviewed.

RECOMMENDATIONS: ELECTION COMMISSION

REDUCING THE QUEUES and average wait time, making the entire voting process – from registration to casting the ballot – faster would remove a great perceived obstacle in the mind of many voters. Allowing for some form of absentee voting or advance voting would help extend the range of options for workers in the service sector and mothers of young children to decide what time to cast their ballot. Special counters, voting streams and parking spots can be setup for pregnant women, persons with disabilities and the elderly.

BETTER TRAINING OF ELECTION STAFF AND VOLUNTEERS

will help make the voting process for persons with disabilities faster and avoid any confusion surrounding which stream to use. Some trainings suggested were: Disability Equality Training (DET), Disability Related Service Training (DRST), modules on basic sign language and handling sexual harassment. Having persons with disabilities as EC staff or election observers would further help with the identification of any barrier blind spots. Disability-friendly toilets and digital displays would ease the minds of voters with disabilities at the polling stations. Integration of the EC and national persons with disabilities database will help the EC staff to make the necessary preparations.

EDUCATION IS PARTICULARLY NEEDED WITH ORANG ASLI COMMUNITIES

to ensure they understand why their vote is important and how to mark their ballots correctly. These efforts should be done in collaboration with JAKOA wherever possible. This can be done through mass media efforts or training workshops. More inclusive forms of electoral information are needed to include those with sight, hearing and speech disabilities. The Election Commission could initiate a women-targeted voter motivation campaign that emphasises the duty to vote without overburdening women. It could also collaborate with political parties and civil society in the provision of forums for women leaders to help develop other women leaders.

APPENDIX ON METHODOLOGY

FOCUS GROUP DISCUSSIONS were held with participants selected based on sampling of convenience. Women were invited primarily from the Klang Valley and the discussion held in a university campus. Discussion with the Orang Asli was held in a village in the state of Pahang with individuals from two separate villages in proximity with each other. The social housing project of Desa Mentari in Petaling Jaya was chosen for the low-income focus group due to its close proximity and participants were brought together by local community organisers. Invitations were sent to organisations working with persons with disabilities in the Klang Valley to send individuals who could speak on their experience with voting.

Using focus group discussions as a data gathering tool poses some inherent risks to the findings. A domineering individual may dominate the discussion and influence the opinion of other participants. Participants may defer more to persons in the room who are perceived to have authority over them. Facilitators themselves may influence the responses given, intentionally or not. The incentives for participation may become an undue influence. Steps were taken by the facilitators to mitigate these risks and ensure all participants had time to give their opinion in the most open manner possible.

Four types of barriers were identified and used to frame the questions for the focus group discussions. These four barriers are: physical barriers, communicative barriers, legal or institutional barriers, and cultural and attitudinal barriers. This ensured that efforts to identify the obstacles to voting were maximised. The questions used were framed in a manner to verify several hypotheses about the electoral access of the poor and low-income groups.

WOMEN

Participants were invited from the various women NGOs from within the Klang Valley, a total of six of them. Age range of participants was between 24 and 55 with a majority in the 30 to 35 bracket (three participants). Five women and one man took part, and of them five were Malay and one Indian. Income brackets (starting at 0, with 1000-ringggit intervals) was more balanced with at least one person from all but one income bracket (2000 - 3000). Four worked in the private sector, one part-time and one was self-employed. All six participants were single and without children.

INDIGENOUS PEOPLES

Participants for the Orang Asli session were brought together from two neighbouring villages in Pahang. The age group skewed older with all being above 30, and eight of the eleven aged 42 and above. All participants identified as Jahut under the category of ethnicity, except for one who was Che Wong. Seven were male and four were female; nine were married, one single and one preferring not to say; ten had children and one did not. All earned under 3000 ringgits, with a majority (seven out of eleven) earning under 1000. Most were self-employed (eight out of eleven), the remaining were publicly employed, unemployed and did not say.

LOW-INCOME GROUPS

Due to the short timeframe to complete this study, convenient sampling was used to receive the maximum number of viewpoints in the most expedient manner. Participants who took part in the discussion were residents of a social housing project in Bandar Sunway called Desa Mentari. A community hall within the housing complex was used for the comfort of participants. A total of eleven participants joined the discussion, of which all were ethnically Malay and a large majority female (ten out of the eleven). As might be anticipated, their income brackets were concentrated in the two segments below RM2000, with the rest not specifying, likely due to unemployment or being a homemaker. Four were employed privately, four self-employed and three did not specify. Nine out of the eleven participants had children of their own, indicating an increased financial need in these households. Two participants had not voted because of one being under 18 years of age and the other for not being 21 at the time of the registration deadline for the last election. One more thing to note about the participants is that they reside in an urban area and hence were unable to directly address the concerns and obstacles faced in rural constituencies.

PERSONS WITH DISABILITIES

Due to circumstances outside our control, the sample for this group was very small, three individuals and one interpreter. Age range of the participants skewed older, with one between 36 and 41, and two others above 48. Racial composition was more balanced, with Chinese, Indian and Malay each represented. The same cannot be said for other metrics: 2 men and one woman; 2 earning between 1000 and 2000 ringgit a month and the other 3001 to 4000; 2 working for a private employer and one self-employed; 2 married 1 single; 2 with children and 1 without; 2 with physical disabilities and 1 with a hearing disability.

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ACKNOWLEDGEMENTS

The authors of this report would like to express their deepest appreciation to all those who have helped us in completing this report, especially to the German Federal Foreign Office for providing funding for this project. A special thanks to Alan Wall of the International Foundation for Electoral Systems (IFES) and Prof Wong Chin Huat of the Jeffrey Sachs Center on Sustainable Development, who gave us the opportunity to work on this important topic.

We would also like to thank Admira Salim of IFES Indonesia, who advised us on the focus group discussions. This report would not have been completed without the help of Ainina Sofia Adnan, our project coordinator who helped with the logistics, translation and copy-editing work. Yap Shokekui, who came through with the designs, despite the short timeframe, also has our deepest gratitude.

INCLUSIVE ELECTORAL REFORMS IN MALAYSIA

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FIRST EDITION, JANUARY 2020.

COVER & LAYOUT: YAP SHOKELUI & HO YI JIAN

PUBLISHED BY: BERSIH 2.0 WITH THE SUPPORT OF
THE GERMAN FEDERAL FOREIGN OFFICE

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