

Suara Rakyat Malaysia (SUARAM) is committed to defending and campaigning for human rights in Malaysia and other parts of the world. The organisation began in 1989 as a campaign body for the abolition of the Internal Security Act (ISA) in the aftermath of the infamous *Operasi Lalang* when 106 Malaysians were detained without trial. Since then, it has evolved into the leading human rights organisation in Malaysia, committed to protecting, preserving and promoting human rights.

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OVERVIEW



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INTRODUCTION

In 2014, the human rights record under the Najib Razak administration has hit a new low. When he first came to power in 2009, Najib Razak introduced several reforms in an attempt to win back votes after the fiasco for the ruling coalition in the 2008 general election. This attempt at reform has been reversed after yet another debacle for BN in the 2013 general election, epitomized by the about-turn decision on the promise to repeal the Sedition Act, with the Prime Minister seemingly bowing down to demands of extremist groups for his own political survival and bent on teaching dissenting voters a lesson.

Freedom of expression took a heavy toll in 2014 with 44 people being investigated, charged or convicted under the Sedition Act. Freedom of association was seriously undermined with the relentless intimidation launched by the authorities against civil society organisations such as the Coalition of Malaysian NGOs in the UPR Process (COMANGO), Negara-ku, Peronda Sukarela (PPS) Pulau Pinang, Sarawak Association for Peoples' Aspiration (SAPA) and Sisters in Islam (SIS). The infringement on the freedom of assembly was temporarily halted by the Court of Appeal judgment over the constitutionality of the Peaceful Assembly Act. Nevertheless, the police resorted to the Penal Code to arrest and charge 15 of those who protested against the Lynas rare earth plant in June.

The Malaysian police continued to operate with little oversight as the Independent Police Complaint and Misconduct Commission (IPCMC) has yet to be established and no new commissioners were appointed in the Enforcement Agency Integrity Commission (EAIC) between April and November 2014. There were 13 cases of death in police custody reported in the year.

Detention without trial is once again being employed by the Home Ministry with the increasing use of the Security Offences (Special Measures) Act 2012 (SOSMA), the Prevention of Crime (Amendment) Act 2013 (PCA) and the Dangerous Drugs (Special Preventive Measures) Act 1985 (DDA). In 2014 through November, SUARAM has recorded a total of 31 people detained under SOSMA, bringing the total to 146. On 25 April, deputy home minister Wan Junaidi Tuanku Jaafar disclosed that 116 have been arrested throughout the country in the first few weeks since the PCA came into force on 2 April 2014.¹

While two known executions were halted early in the year, no public information has been made available on the exact number of executions carried out in 2014 although the parliament disclosed that a total of 30 death sentences had been carried out between 1998 and 2014. According to Amnesty International Malaysia, there are still some 1000 people waiting on death row in Malaysia, with 56 more people sentenced to death in 2014 through October, more than half of whom were sentenced for drug offences.²

A worrying development in 2014 has been the increase in hate speech and violence that has stoked racial and religious hatred and intolerance and which has been tolerated by the authorities. Freedom of religion and ethnic relations have been under severe threat despite

¹ New Straits Times, "116 nabbed since POCA enforcement: Was Junaidi," 25 April 2014. See: <http://www2.nst.com.my/streets/central/116-nabbed-since-poca-enforcement-wan-junaidi-1.578833>

² Amnesty International Malaysia, "Abolish the death penalty in Malaysia," 14 October 2014. See: <http://aimalaysia.org/AbolishDeathPenaltyPetition>;

claims of commitment to moderation and tolerance by the prime minister at high profile international meetings.

The gap between rhetoric and the reality is further exposed by the appalling treatment of refugees, victims of trafficking and migrant workers in the country. Malaysia's ranking plunged to a record low in the US State Department's Annual "Trafficking in Persons" Report and the "Global Rights Index: The World's Worst Countries for Workers." We were placed on par with Laos, Cambodia, Qatar, North Korea and Zimbabwe in the latter report.

The year also saw the government accepting only 150 out of 232 recommendations made to Malaysia at the United Nations Human Rights Council during the universal periodic review, with most of the crucial recommendations for human rights improvements rejected. This sums up the abject performance on human rights in Malaysia in 2014.

DETENTION WITHOUT TRIAL

The enactment of the Security Offences (Special Measures) Act 2012 (SOSMA) and the amendment of the Prevention of Crime Act 1959 (PCA) allow for similar draconian detention without trial as the repealed Internal Security Act 1960 (ISA) and the Emergency (Public Order and Prevention of Crime) Ordinance 1969 (EO). Preventive detention is also permitted under the Dangerous Drugs (Special Preventive Measures) Act 1985 (DDA).

In March 2014, the Malaysian government submitted its responses to the United Nations during the second Universal Periodic Review (UPR) of Malaysia, which was conducted in Geneva on 25 October 2013. Of the 232 recommendations received, Malaysia only accepted 150. One of the rejected recommendations was to review the consistency of SOSMA and PCA with international human rights law.³

Security Offences (Special Measures) Act 2012 (SOSMA) 2012

Under SOSMA, a police officer may, without warrant, arrest and detain any person whom he has reason to believe is involved in a security offence for a period of 24 hours for purposes of investigation. The officer has the power then to extend the detention for up to 28 days. The Act broadly defines a security offence as "an act prejudicial to national security and public safety," which is similar to an earlier provision in the ISA.

The following table shows the number of people detained under SOSMA and the number of people detained under SOSMA who were eventually charged.

Table 1: Number of individuals detained and eventually charged under SOSMA 2013 - November 2014

Reasons and number detained	Year 2013	Year 2014
Promoting Terrorism in Syria	3	-
Recruiting Al-Qaeda Members	2	-
Sulu Invasion 2013	110	-
Involvement with Islamic State in Iraq and Syria (ISIS)	-	31
TOTAL	115	31
Reasons and number eventually charged	Year 2013	Year 2014
Promoting Terrorism in Syria	3	-
Recruiting Al-Qaeda Members	2	-
Sulu Invasion 2013	30	-
Involvement with Islamic State in Iraq and Syria (ISIS)	-	15
TOTAL	35	15

The abuses which occurred under SOSMA include 11 detainees who were not informed of the reasons for their arrest nor were they granted access to their family or lawyer for the first 8 days of detention,⁴ when Section 5(3) of SOSMA allows for a delay of family access for up to 48 hours only.

³ Human Rights Watch Website, "UN Human Rights Council: Adoption of the UPR Outcome of Malaysia", 20 March 2014. See: <http://www.suhakam.org.my/wp-content/uploads/2013/11/SUHAKAM-Statement-on-adoption-of-Malaysias-2nd-UPR.pdf>

⁴ MSN News, "Security Offences Act violates human rights, says Suaram", 19 May 2013. See at: <http://news.malaysia.msn.com/tmi/security-offences-act-violates-human-rights-says-suaram>

Prevention of Crime Act 1959 (PCA)

The Prevention of Crime (Amendment and Extension) Act 2013 effectively came into force on 2 April 2014.⁵ Under this law, a person can be detained for a maximum period of 38 days without trial, which can be extended to 2 years and renewed indefinitely after the expiration of the initial two-year term. Detention under PCA can only be challenged in a court of law purely on technical grounds.

On 25 April, deputy home minister Wan Junaidi Tuanku Jaafar disclosed that 116 have been arrested throughout the country in the several weeks since the PCA came into force on 2 April 2014.⁶

The purported safeguard to the Act, the Prevention of Crime Board is merely cosmetic and ineffective. The board is tasked with determining the issuance of detention orders without trial. Appointment of board members is done in by the Yang di-Pertuan Agong on the advice of the Prime Minister. The identity of appointees is also shrouded in secrecy. The Home Minister only revealed that "they were individuals of high integrity with more than 27 years of experience in the field of security."⁷

On 8 October 2014, R. Sureshwaran filed an unprecedented challenge to the constitutionality of the PCA in Kuala Lumpur High Court, claiming that it contravenes Articles 5, 8, 9 and 10 of the Federal Constitution.⁸ The Court has yet to hear his case at the time of writing of this report. Sureshwaran was arrested on 1 April 2014, and held under remand for 59 days for allegedly being involved in gang rituals at Batu Caves. He was placed under restricted residence in Parit Bakar, Muar, Johor for three years starting 29 May 2014.

The amended PCA is essentially the Emergency Ordinance in a different guise.⁹ While the PCA was originally enacted to control "criminals, members of secret societies and other undesirable persons," the amendments to the PCA represent a drastic and disproportionate overreach of law in violation of human rights.

Dangerous Drugs (Special Preventive Measures) Act 1985 (DDA)

In June 2015, the DDA will expire automatically if no renewal for another five years is made in the parliament under the sunset clause. SUARAM's call to repeal the DDA on 19 September 2014 was responded to by the Inspector-General of the Police (IGP), who claimed that drug traffickers will have a field day and that it will curb police's efforts in reducing drug-related crimes.¹⁰

⁵ The Star Online, "Amended Prevention of Crime Act coe into effect on Wednesday", 31 March 2014. See: <http://www.thestar.com.my/News/Nation/2014/03/31/Amended-Prevention-of-Crime-Act-to-come-into-effect-on-Wednesday/>

⁶ New Straits Times, "116 nabbed since POCA enforcement: Wan Junaidi", 26 April 2014. See: <http://www2.nst.com.my/streets/central/116-nabbed-since-poca-enforcement-wan-junaidi-1.578833>

⁷ DAP Malaysia website, "Media Statement: Why the total secrecy about the Prevention of Crime Act Panel and detainees", 12 June 2014. See: <http://dapmalaysia.org/statements/2014/06/12/18712/>

⁸ The Malaysian Insiders, "Driver challenges detention order under crime act", 8 October 2014. See: <http://www.themalaysianinsider.com/malaysia/article/driver-challenges-detention-order-under-crime-act>

⁹ The Malay Mail Online, "Anti-crime amendments 'draconian', like the ISA, DAP says", see at: <http://www.themalaymailonline.com/malaysia/article/anti-crime-amendments-draconian-like-the-isa-dap-says>

¹⁰ The Malaysian Insider, "IGO mocks Suaram's call to repeal Dangerous Drugs Act 1985", 19 September 2014. See: <http://www.themalaysianinsider.com/malaysia/article/igp-mocks-suarams-call-to-repeal-dangerous-drugs-act-1952>

The World Drugs Report 2014 has recorded Malaysia as one of 16 countries with the "highest prevalence of people who inject drugs"¹¹ along with Myanmar, Indonesia and Thailand. There has also been an increased inflow of heroin, trafficked via sea and air cargo, intended for both the local market and onward trafficking.¹² The National Anti-drugs Agency had shown an increase in the number of drug-related arrests in Malaysia with a total of 116,740 cases in 2012 and 129,250 cases in 2013.¹³

This shows that the existence of DDA has proven to be ineffective in preventing drug-related crimes and instead its existence has arguably facilitated corruption among the police force since the suspects are at the absolute mercy of the police under DDA. Perak police chief Datuk Acryl Sani Abdullah Sani announced drug-related arrests among Perak policemen are on the rise with 24 rank and file personnel arrested in the first half year of 2014, compared to 29 in all of 2013. Furthermore, seven police personnel were accused of involvement in drug-related corruption.¹⁴

As with SOSMA and PCA, DDA grants police officers wide powers to arrest and detain any suspect who "has been or is associated with any activity relating to or involving the trafficking in dangerous drugs" for up to 60 days without an order of detention. At the end of the 60-days detention, the Home Minister may issue a two-year detention order, which is renewable for unlimited times if he is satisfied that "it is necessary in the interest of public order that such person be detained".

POLICE ABUSES OF POWER

The Royal Malaysia Police (Polis Diraja Malaysia, PDRM) came under international scrutiny when US based Human Rights Watch (HRW) released a 102-page report titled "No Answers, No Apology: Police Abuses and Accountability" on 2 April 2014. Deputy Asia director of HRW has stated that "Malaysia's police are not accountable to anyone but themselves, and ordinary people across the country too often pay the price with broken bodies and tragically shortened lives."¹⁵

Police abuse of power has always been an alarming issue in Malaysia. Issues of deaths in custody, unjustified shootings and excessive use of force have continued unabated in the past few years. The root of these issues is much more fundamental than just representing the mistakes or misconduct of individual police officers, and emanates from the existing internal disciplinary system and structure.

Police Accountability

The only independent oversight mechanism we have for the police is the Enforcement Agency Integrity Commission (EAIC), which was effectively defunct between April and

¹¹ United Nations Office on Drugs and Crime, "World Drug Report 2014", June 2014, pg 11

¹² Ibid, pg 28

¹³ National Anti-Drugs Agency Monthly Report on Drugs, December 2013. Retrieved at: <http://www.adk.gov.my/html/laporandadah/2013/Laporan%20Dadah%20Bulan%20Disember%202013.pdf>

¹⁴ The Malay Mail Online, "Rising drug cases in force worrying, says top cop", 21 June 2014. See: <http://www.themalaymailonline.com/malaysia/article/rising-drug-cases-in-force-worrying-says-top-cop>

¹⁵ The Malay Mail Online, "End police abuses in Malaysia - Aliran", 5 April 2014. See: <http://www.themalaymailonline.com/what-you-think/article/end-policeabuses-in-malaysia-aliran#sthash.5RMrSIMT.dpuf>

November, since the three-year term for its six commissioners ceased on 31 March 2014 and replacements were not named until November.¹⁶

In March 2014, the government rejected the United Nations Human Rights Council's recommendation to establish the Independent Police Complaints and Misconduct Commission (IPCMC),¹⁷ defending EAIC as a sufficient oversight mechanism.

As a matter of fact, EAIC was set up to fail as it lacks independence and the necessary power to investigate the misconduct of the 19 government law enforcement agencies it is tasked with overseeing.

Death in Police Custody

Up through November 2014, there have been 13 reported deaths in custody. Of these, 10 were reportedly for medical reasons, 1 was blunt force, 1 was suicide, and 1 has unreported causes. This figure has remained at an alarmingly high rate despite several mechanisms being set up in 2014 to tackle deaths in police custody.

Table 2: Numbers of death in police custody 2011 - November 2014

Official Cause of Death	Year 2011	Year 2012	Year 2013	Year 2014
Medical	3	3	9	10
Suicide	2	1	1	1
Accident	1	1	-	-
Blunt force (assault)	-	-	1	1
Unknown	1	4	2	1
TOTAL	7	9	13	13

There has been no progress on the investigations for the custodial deaths which happened in 2014.¹⁸ In addition, the government pathologists' post mortem reports have been questionable, as in the case of Murugan Muniandy,¹⁹ Kamarulnizam Ismail²⁰ and S. Naidu Agin Raj.²¹ These deaths were reported as due to medical reasons, despite the apparent bruises and injuries found on their bodies and the alleged misconduct of police officers. In the case of Tee Meng Hua's custodial death, the police have again failed to investigate and explain how the deceased was able to commit suicide, allegedly jump to his death, while handcuffed and in the presence of police.

The high number of custodial deaths in Penang has also led to the establishment of a special taskforce on custodial deaths in Penang, chaired by state executive councilor Dr Afif Bahardin and Jagdeep Singh Deo, with Penang Deputy Chief Minister Prof P. Ramasamy.²²

¹⁶ The Malay Mail Online, "EAIC commissioners' terms lapse, no replacements named", 6 April 2014. See: <http://www.themalaymailonline.com/malaysia/article/paul-low-eaic-chief-transfer-not-my-call>; The Borneo Post, "Agong consents to appointment of EAIC chairman and members," 6 November 2014. See: www.theborneopost.com/2014/11/06/agong-consents-to-appointment-of-eaic-chairman-and-members/

¹⁷ Yahoo News, "No need for IPCMC, gov't tells UN", 3 April 2014. See: <https://my.news.yahoo.com/no-ipcmc-govt-tells-un-025328193.html>

¹⁸ SUARAM website, "MEMORANDUM KEPADA KETUA POLIS NEGERI PULAU PINANG", 6 July 2014. See: <http://www.suaram.net/?p=6364>

¹⁹ FZ.com, "Son who died in custody was badly bruised, says mum", 15 April 2014. See: <http://www.fz.com/content/son-who-died-custody-was-badly-bruised-says-mum>

²⁰ Malaysia Kini, "Penang cops can only assist in custodial death' probe", 20 March 2014. See: <http://www.malaysiakini.com/news/257690>

²¹ Malaysia Kini, "My son's pleas for food and water ignored", 10 June 2014. See: <http://www.malaysiakini.com/news/265257>

²² The Malay Mail Online, "Penang sets up taskforce on custodial deaths", 14 July 2014. See: <http://www.themalaymailonline.com/malaysia/article/penang-sets-up-taskforce-on-custodial-deaths>

The taskforce is assigned to monitor these cases, to investigate them and to offer legal assistant to the deceased's family.

On 3 April 2014, Minister of Law Nancy Shukri announced the setting up of a Coroner's Court, stating that the court will begin to handle inquests involving custodial death on 15 April 2014.²³ Malaysian Bar Council and civil society organisations have long advocated for the establishment of a coroner's court. However, the Coroner's Court was set up haphazardly, without fundamental structural reforms to the previously flawed process of inquest, and the effectiveness of the court is yet to be seen.

Positive Developments

On 8 August 2014, the Court of Appeal upheld a High Court ruling that the IGP Tan Sri Khalid Abu Bakar and his police officers were civilly liable for the custodial death of A. Kugan five years ago.²⁴ The Court stated that there should be "zero tolerance to any custodial death" and in the absence of an independent inquiry, the court has to take a proactive role. SUARAM has urged for the dismissal or suspension of Khalid Abu Bakar for such grave misconduct and has asked that he be prosecuted for the crime.²⁵ Not surprisingly, the Prime Minister and Attorney-General have been silent on this and no criminal action has been taken.

On 5 September 2014, the Court of Appeal set aside the open verdict by a coroner on the death of Teoh Beng Hock, which occurred five years ago while he was held by the Malaysian Anti Corruption Commission (MACC) as a witness for a probe into alleged misappropriation of state funds.²⁶ This landmark verdict by the judiciary required the police to reopen the investigation into his death though the police have continued to drag their feet.

Police Shootings

Human Rights Watch, in its report, concluded that police shootings have been consistently justified by claiming that the suspect had a *parang*, failed to stop at a roadblock, led a car chase, or was a criminal associated with ongoing police investigations.²⁷ Independent investigations into questionable police shootings are hampered by a lack of information, transparency and an absence of police narratives from the police force. To this date, the Inspector General of Police's Standing Order (IGSO) on the use of force and firearms remains an official secret under the Official Secret Act.

On 26 October 2014, two police officers shot dead a man who attempted to rob an Internet cafe in Jinjang, Selangor, using a fake gun. According to a report in The Star newspaper, the police officers followed the suspect after they spotted him riding an unregistered motorcycle. One of the officers followed the suspect as he entered an Internet cafe with a full-faced helmet on and pointed a gun at the cashier. The suspect then aimed his gun at the officer after he revealed himself, causing the officer to fire at the suspect, killing him on the spot.

²³ New Straits Times, "Nancy: Coroner's Court starts April 15", 3 April 2013. See: <http://www2.nst.com.my/nation/general/nancy-coroner-s-court-starts-april-15-1.546501>

²⁴ The Malaysian Insider, "IGP, policemen liable for Kugan's lock-up death, appeal court rules", 8 August 2014. See: <http://www.themalaysianinsider.com/malaysia/article/igp-policemen-liable-for-kugans-lock-up-death-appeal-court-rules>

²⁵ Malaysia Kini, "Suaram: Najib must sack IGP for Kugan's death", 10 August 2014. See: <http://www.malaysiakini.com/news/271103>

²⁶ The Malaysian Insider, "Court of Appeal reverses open verdict ruling in Teoh Beng Hock's death", 5 September 2014. See: <http://www.themalaysianinsider.com/malaysia/article/court-of-appeal-reverses-finding-of-open-verdict-into-teoh-beng-hocks-death>

²⁷ Human Rights Watch Report, "No Apology. No Answer.", April 2014, pg28.

The officer later discovered the suspect's gun was fake and found an Indonesian passport in the suspect's bag.²⁸

On 27 October 2014, at 2.15 am, a man, believed to be in his 40s and a cross-border criminal, was shot dead by a police officer during a shootout in the Bangau-Bangau waters near the Sabah border. Eastern Sabah Security Command (Esscom) Commander, Datuk Abdul Rashid Harun held that the man sped off as the police vessel approached and the man then fired two shots at the police chasing after him. The police officer, in self-defense, returned fire. The man was later found dead on his boat with four gunshot wounds to his body. The man's identity remains unknown.²⁹

On 26 November 2014, at Taman Melawati, Ulu Klang, a 56-year-old man from Perak who was allegedly a senior member of the notorious Mamak gang known for carjacking and armed robberies, was shot dead by Selangor police, with his accomplice, a 32-year-old from Selangor, seriously injured. Selangor Crime Investigation Department (CID) chief Datuk Mohd Adnan Abdullah held that as the police team drew closer to the suspect at an open car park, the suspects tried to ram into the police officers with their car and one of the suspects opened fire twice at the police officers. He further claimed that the police team returned fire in self-defense. A Smith & Wesson revolver, seven *parang*, facemasks and 15 fake number plates were later reportedly found in the suspects' car.³⁰

Positive Developments

The Court of Appeal on 8 October 2014 awarded a total of RM 351,000 to the three daughters of a man who was allegedly shot dead by police. The incident happened on 2 September 2008 when police opened fire on a car that was driving in a "suspicious manner." The deceased was sitting in the front passenger seat and sustained 6 gunshot wounds. Justice Hamid, in delivering his judgment, said that the "police force has not been endowed with 'executioner' powers in the pretext of self-defense."³¹

Torture and Other Forms of Degrading Treatment by Police

B. Prabakar, a 33 years old lorry driver was awarded more than RM300,000 by the Court of Appeal for ill-treatment by police on 30 April 2014.³² He had been beaten and scalded with hot water by seven police after his arrest in Sri Hartamas in December 2008.

In September 2014, the police abused the investigation system by dragging political activist Ali Abd Jalil to four different police stations across two states for investigation over allegedly seditious remarks he made on his Facebook timeline. Ali was detained for a total of 21 days and was reportedly verbally abused and physical assaulted by police while in custody.³³

²⁸ Free Malaysia Today, "Suspect with fake gun shot dead in Jinjang", 27 October 2014. See: <http://www.freemalaysiatoday.com/category/videos/2014/10/27/suspect-with-fake-gun-shot-dead-during-attempted-robbery/>

²⁹ Daily Express, "Suspected intruder shot dead", 27 October 2014. See: <http://www.dailyexpress.com.my/news.cfm?NewsID=92644>

³⁰ The Malay Mail Online, "Suspected Mamak gangster killed after shooting at cops", 26 November 2014. See: <http://www.themalaymailonline.com/malaysia/article/suspected-mamak-gangster-killed-after-shooting-at-cops>

³¹ The Malay Mail Online, "Children of police-shooting victim awarded RM351,000 in damages", 8 October 2014. See: <http://m.themalaymailonline.com/malaysia/article/children-of-police-shooting-victim-awarded-rm351000-in-damages>

³² The Star Online, "Court upholds torture victim's award", 30 April 2014. See: <http://www.thestar.com.my/News/Nation/2014/04/30/Court-upholds-torture-victims-award-Govt-and-cops-must-pay-RM300000-to-driver/>

³³ The Malaysian Insider, "Lawyer blasts 'sedition roadshow' as activist remanded 'longer than murder suspect'", 26 September 2013. See: <http://www.themalaysianinsider.com/malaysia/article/lawyer-blasts-sedition-roadshow-as-activist-remanded-longer-than-murder-sus>

Despite recent reform through the establishment of the Coroner's Court and EAIC, structural reform is needed in the police force to bring it into line with international human rights standards. In particular, the installation of an independent oversight mechanism is vital to end police abuse and misconduct.

Intimidation against the Baram community in Sarawak

Prior to the one year anniversary of the two blockades set up by the indigenous community in Baram, Sarawak to stop the construction of the Baram dam, a team of Forestry Department officers and personnel backed by over 30 armed police from the General Operation Force (GOF), used force to dismantle the Long Kesseh blockade on 21 October 2014. The villagers were swift in re-erecting a new blockade.³⁴

On 27 October 2014, the police and Forestry Department officers set up their own camp in the area to stop the villagers from entering Long Kesseh. Ever since then, there has been a constant tussle of dismantling and removal of blockades between the authorities and the Baram community.

The heavy presence of armed police officers with machine guns was clearly an act of intimidation against the indigenous people who objected to the proposed Baram hydroelectric dam. It was also evident that the police and Forestry Department were siding with the logging company instead of upholding the rights of indigenous land owners.

The 1200MW Baram Hydroelectric Project, if built, would inundate 26 villages, including Long Kesseh, flooding 400 square kilometers of land and displacing between 6000 to 20,000 people.

FREEDOM OF EXPRESSION & INFORMATION

2014 marks a serious regression in our democratic space with the government's crackdown against the slightest voice of dissent, predominantly through the use of the archaic Sedition Act 1948. At the UMNO General Assembly in November, the prime minister bowed down to the pressure of extremist groups in his party and made an about-turn on his public promises to repeal the Sedition Act. More alarming, he pledged to "strengthen" the draconian Sedition Act.

The Sedition Act 1948

Despite Najib's pledge to repeal the Sedition Act on 11 July 2012,³⁵ 44 individuals including politicians, elected representatives, lawyers, an academic, a cartoonist, a journalist, religious leaders, social activists and students have been charged or placed under investigation for sedition.

³⁴ The Malaysian Insider, "Activists condemn removal of Baram-dam blockade", 23 October 2014. See: <http://www.themalaysianinsider.com/malaysia/article/activists-condemn-removal-of-baram-dam-blockade-in-sarawak>

³⁵ The Malaysian Insider, "Najib: Sedition Act to be repealed", 11 July 2012. See: <http://www.themalaysianinsider.com/malaysia/article/najib-sedition-act-to-be-repealed>

Table 3: Number of sedition cases in Malaysia from 2012 to November 2014

	2012	2013	2014
Investigated	6	10	29
Charged	1	7	12
Convicted	-	1	3
TOTAL	7	18	44

The stark increase in the use of the Sedition Act from 2012 to 2014 is alarming and has spurred strong objections from the public, civil society organisations, the Malaysian Bar Council and SUHAKAM. International institutions including the United Nations, Amnesty International, International Federation for Human Rights (FIDH), Article 19, the US Embassy, the German Federal Bar and many more have issued public statements condemning the government's blitz to curb freedom of expression. The New York Times, in an editorial, described the use of the Sedition Act as “deplorable.”³⁶

On 15 September 2014, a total of 133 national civil society organisations led by SUARAM, Lawyers for Liberty and IKRAM came together to launch a movement called "Gerakan Hapus Akta Hasutan (GHAH)" to demand the abolition of the Sedition Act, the dropping of all charges, the release of all those incarcerated and assurance that the act will not be replaced with similar draconian legislation.³⁷

The unrelenting use of the Sedition Act led to an uncommon march by lawyers on 16 October 2014, to protest against the government's repression and to call for the repeal of the Act.³⁸ The walk, titled "Walk for Peace and Freedom" was attended by a strong crowd of over 2,000 lawyers and members of the public.

The movement has been met by resistance from conservative Malay-Muslim groups, who have defended the Sedition Act, arguing that with the ISA repealed, the Sedition Act is needed to tackle “untoward incidents.” They have claimed that repealing the law would disrupt the social order and harmony in the country and threaten the position of Malays, Islam and the monarchy.

The Sedition Act is loosely worded and vests vast powers in the authorities to criminalise speech with “seditious tendency,” which includes anything that can “bring into hatred or contempt or to excite disaffection against any Ruler or against any Government and the judiciary.” Those acts which have been deemed seditious include: Malaysiakini journalist Susan Loone reporting the statement by a politician in an interview; a student “liking” the Facebook page “I Love Israel”; state assemblyman RSN Rayer saying “celaka Umno (damn Umno.)”; lawyer and MP N.Surendran criticising the Court of Appeal's decision in his client Anwar Ibrahim's alleged sodomy case.³⁹

While statements by critics of the government are labeled as seditious, groups sympathetic to the ruling coalition have been given free rein to incite hatred and violence. This includes the controversial statement by Perkasa Chief Ibrahim Ali threatening to burn the Malay

³⁶ New York Times, “Malaysia's Deplorable Sedition Act”, 6 October 2014. See:

http://www.nytimes.com/2014/10/07/opinion/malaysias-deplorable-sedition-act.html?_r=2

³⁷ Free Malaysia Today, “GHAH goes official with three demands”, 15 September 2014. See:

<http://www.freemalaysiatoday.com/category/nation/2014/09/15/ghah-goes-official-with-three-demands/>

³⁸ The Malay Mail Online, “In rare march, lawyers press Putrajaya to show door to Sedition Act”, 16 October 2014. See:

<http://www.themalaymailonline.com/malaysia/article/in-rare-march-lawyers-press-putrajaya-to-show-door-to-sedition-act>

³⁹ Yahoo News, “Sedition Act More Effective Than ISA”, 5 September 2014. See: <https://my.news.yahoo.com/blogs/bull-bashing/sedition-act-more-effective-than-isa-014707161.html>

language bible. The Attorney-General's Chamber (AGC) has refused to charge Ibrahim Ali and even tried to justify that there was no seditious tendency in the statement and that it was made merely "to defend the sanctity of Islam."⁴⁰

The Attorney-General, on 9 September 2014, also declared that the AG's Chambers will be reviewing several cases of individuals charged under the Sedition Act.⁴¹ However, days after the announcement, student activists Safwan Anang and Adam Adli were convicted of sedition and sentenced to ten months and one year imprisonment respectively.⁴²

On 27 September 2014, Prime Minister Najib Razak not only reneged on his pledge to abolish the Sedition Act, he announced that he will "fortify" the Act to protect Islam and other religions as well as to deal with calls for secession in Sabah and Sarawak.⁴³ The announcement came as a shock as it went against the Prime Minister's electoral pledge in 2012 to repeal the colonial-era law as part of his legislative reforms to uphold civil liberties. The promise was again attested by Najib in London during a British Broadcasting Corporation (BBC) World News in July 2013.⁴⁴

This decision severely tarnishes the credibility of Najib and his pledge to repeal the Sedition Act during the last general election is now tantamount to a repugnant and distasteful gimmick to get votes and to stay in power.

Harassment of cartoonist Zunar

Since 2009, political cartoonist Zulkifli Anwar Ulhaque, better known by his pen name Zunar, has been investigated and arrested under the Sedition Act by the government for producing cartoon books that were allegedly detrimental to public order. The Government's determination to persecute Zunar was extended to his partners including the printers, vendors, online service provider and bookstore owners, whose places of business were reportedly raided by police officers.⁴⁵

On 6 November 2014, Zunar's assistants, Rizaldy Rafie, Raja Norita and Norliza Kassim, were arrested and taken to Putrajaya police station for selling two controversial cartoon books by Zunar titled "Konspirasi Memenjarakan Anwar" and "Pirate of the Carry-BN." 44 copies of Zunar's book were confiscated by the police and Zunar's assistants were probed under Section 8(2) of the Printing Presses and Publications Act 1984, Section 4(1)(c) of the Sedition Act 1948, and Section 500 of the Penal Code. On 12 November 2014, Zunar's webmaster, who has been managing his website and online bookstore, was also investigated by the police under the Sedition Act. Then on 20 November 2014, police recorded a statement from Zunar himself under Section 4(1)(c) of the Sedition Act.⁴⁶

⁴⁰ Malaysiakini, "'Burn Bible' threat not seditious, says AGC", 27 October 2014. See: <http://www.malaysiakini.com/news/278735>

⁴¹ The Star Online, "A-G to review several sedition cases including Azmi Sharom's, says this is 'normal procedure'", 9 September 2014. See: <http://www.thestar.com.my/News/Nation/2014/09/09/AGC-to-review-sedition-cases-azmi/>

⁴² The Malaysian Insider, "Activist Adam Adli found guilty of sedition, jailed a year", 19 September 2014. See: <http://www.themalaysianinsider.com/malaysia/article/activist-adam-adli-found-guilty-of-sedition>

⁴³ Malaysiakini, "PM makes U-turn, Sedition Act to stay and be fortified", 27 November 2014. See: <http://www.malaysiakini.com/news/281748>

⁴⁴ Malay Mail Online, "In London, Najib insists will repeal Sedition Act", 3 July 2013. See: <http://www.themalaymailonline.com/malaysia/article/in-london-najib-insists-will-repeal-sedition-act>

⁴⁵ Malaysiakini, "Ministry appeal against lift of ban on Zunar's books", 11 November 2014. See: <http://www.malaysiakini.com/news/280153>

⁴⁶ Yahoo News, "Cartoonist Zunar probed for sedition", 12 November 2014. See: <https://my.news.yahoo.com/cartoonist-zunar-probed-sedition-092339554.html>

Media Control and Censorship

Malaysia's press freedom index plunged from a high of 110 to a historic low of 147 out of 180 countries surveyed in the 2014 World Press Freedom Index released on 11 February 2014,⁴⁷ placing us below Thailand, Indonesia and Myanmar.

This was not unexpected as the Printing Presses and Publications Act 1984 (PPPA) has been used by the ruling coalition to block information and publications which are not in their interests. The PPPA vests vast powers in the Home Minister to reject or revoke the licenses of newspapers and other publishing companies if, at his discretion, he considers the publication a threat to national security or social order.

On 21 January 2014, the Home Minister revoked the print permits for FZ Daily.⁴⁸ Home Minister Ahmad Zahid justified the decision as "an early step towards controlling the flood of daily publications that may confuse the people."⁴⁹

Despite both the High Court and Court of Appeal twice ruling that online news portal Malaysiakini has the constitutional right to publish their paper, Putrajaya continued to deny Malaysiakini's print permit application in September 2014. The Home Ministry's Publications Control and Al-Quran Text Division head Hashimah Nik Jaafar justified the rejection on the ground that the publication "will cause shock and distress among the people."⁵⁰

Civil Lawsuits against Media

On 3 June 2014, Prime Minister Najib Razak and UMNO filed a civil suit against Malaysiakini over readers' comments published online. Malaysian Bar president Christopher Leong responded by saying that political parties should not resort to lawsuits in dealing with alleged defamatory criticism as good governance requires one to "endure the full brunt of free speech."⁵¹

On 11 August 2014, another news portal, The Malaysian Insider (TMI), was sued by the then Selangor Menteri Besar Abdul Khalid Ibrahim for defamation over a series of articles and commentaries about him.⁵² TMI's editor and chief executive officer, Jahabar, defended their action by claiming that TMI was merely covering all sides of the Selangor Menteri Besar issue.

Freedom of Information

The Communication and Multimedia Minister Ahmad Shabery revealed on 9 August 2014 that the government was studying a proposal to ban Facebook in response to the rising

⁴⁷ The Malaysian Insider, "Malaysia's press freedom ranking drops to all time low of 147", 12 February 2014. See: <http://www.themalaysianinsider.com/malaysia/article/malaysias-press-freedom-ranking-drops-to-historic-low-of-147>

⁴⁸ The Malaysian Insider, "Home Ministry makes about-turn on publishing permit for FZ Daily", 10 February 2014. See: <http://www.themalaysianinsider.com/malaysia/article/home-ministry-makes-about-turn-on-publishing-permit-for-fz-daily>

⁴⁹ Yahoo News, "Malaysiakini, FZ Daily denied print permits because they run sensational news, says Zahid", 27 March 2014. See: <https://my.news.yahoo.com/malaysiakini-fz-daily-denied-newspaper-permits-because-run-070134434.html>

⁵⁰ Malaysia Kini, "After two court victories, Mkini still denied permit", 2 October 2014. See: <http://www.malaysiakini.com/news/276359>

⁵¹ Malay Mail Online, "PM setting bad precedent with Malaysiakini suit, Bar Council says", 7 June 2014. See: <http://m.themalaymailonline.com/malaysia/article/pm-setting-bad-precedent-with-malaysiakini-suit-bar-council-says>

⁵² MalaysiaKini, "Khalid sues The Malaysian Insider for defamation", 12 August 2014. See: <http://www.malaysiakini.com/news/271292>

number of online abuses, despite admitting it being a "radical" move.⁵³ The government has reportedly set up a special task force in the police to monitor and take action against those who spread "seditious" remarks on social media.⁵⁴

The Malaysian Communication and Multimedia Commission (MCMC) shut down or blocked at least 1,400 "inappropriate" websites in 2014, as announced by the MCMC Minister Ahmad Shabery Cheek on 14 October 2014.⁵⁵

The Official Secrets Act 1972 (OSA) is another obstacle to freedom of speech, expression, information and accountable and transparent governance. The Act vests vast powers in the hands of the executive to conceal key information from public access and to decide on what constitutes "official secrets," which cannot be challenged in court on any grounds.

The ongoing resistance of the federal government to publicly disclose the Selangor water-restructuring agreement is an example of non-transparency despite this being a matter of public interest.

Pursuant to the Memorandum of Understanding (MOU) signed on 26 February 2014, the federal government (represented by Energy, Green Technology and Water Minister Maximus Ongkili) and Selangor Government (represented by the then Menteri Besar of Selangor Khalid Ibrahim) signed the "Heads of Agreement" to implement long term solutions to the issues of water supply in Selangor, Kuala Lumpur and Putrajaya on 1 August 2014.⁵⁶

In explaining why the agreement was classified under OSA, Maximus Ongkili maintained that the non-disclosure was based on the Attorney-General's advice and that it requires the consent of the water concession companies in order for the contents of the agreement to be revealed.

The OSA has also been used to conceal the details of lucrative construction projects including the proposed RM2.42 billion Kinrara-Damansara Expressway (Kidex)⁵⁷ and RM4.18 billion Damansara-Shah Alam Elevated Expressway (Dash).⁵⁸ These concession agreements between the government and private contractors were both written without proper consultation with the public and their contents remain secret under OSA.

FREEDOM OF ASSEMBLY

Peaceful Assembly Act 2012

For the first time since our independence in 1957, the Court of Appeals upheld citizen's rights to freedom of assembly as enshrined under Article 10 of the Federal Constitution. In a

⁵³ The Star Online, "Government to study if Facebook ban needed, says Shabery", 9 August 2014. See: <http://www.thestar.com.my/News/Nation/2014/08/09/Fabook-Shabery-Shut-down/>

⁵⁴ New Straits Times Online, "Cops to act on Netizens who incite hate", 12 August 2014. See: <http://www.nst.com.my/node/22449>

⁵⁵ The Malaysian Insider, "Malaysia has blocked 1,400 'inappropriate websites, says Ahmad Shabery", 14 October 2014. See: <http://www.themalaysianinsider.com/malaysia/article/malaysia-has-blocked-1400-inappropriate-websites-says-ahmad-shabery>

⁵⁶ New Straits Times Online, "Long term Selangor water supply solution agreement", 1 August 2014. See: <http://www.nst.com.my/node/19247>

⁵⁷ Malay Mail Online, "As Kidex concession nears expiry, question marks over status of highway project", 17 October 2014. See: <http://www.themalaymailonline.com/malaysia/article/as-kidex-concession-nears-expiry-question-marks-over-status-of-highway-proj>

⁵⁸ Rakyat Post, "Hot on the heels of Kidex, new group opposes another highway project", 8 June 2014. See: <http://www.therakyatpost.com/news/2014/06/08/hot-heels-kidex-another-group-opposes-another-highway-project/>

landmark decision, the three-member panel, chaired by Justice Datuk Mohamad Arif Md Yusof, unanimously ruled that the criminalization of failure to give notice to police before a public assembly under section 9(1) of the Peace Assembly Act 2012 (PAA) ran counter to the right to freedom of assembly guaranteed under the Federal Constitution and was thus unconstitutional.⁵⁹

Ever since the ruling, the Attorney-General's Chamber (AGC) has been relentless in their attempt to reinstate charges against individuals under Section 9 of the PAA, including PKR's Nik Nazmi Ahmad⁶⁰ and Johor PKR executive secretary R. Yuneswaran.⁶¹

On 25 September 2014, the AGC has again made an application to the Federal Court to decide on the constitutionality of Section 9 of the Sedition Act.⁶²

Anti-Lynas Protest

On 21 June 2014, police obtained a seven-day court injunction to prevent a blockade called by Himpunan Hijau which was to begin on 22 June 2014 at the main entrance to Lynas Corporation's rare earth refinery in Gebeng, Pahang.⁶³ The injunction prohibited anyone from getting within 20 metres of the plant.

Despite police intimidation, some 1000 individuals arrived at the refinery on 22 June 2014. While the assembly was carried out peacefully, the police still instructed the protestors to disperse within 10 minutes.

The police then resorted to forcefully pushing and beating the protestors when they refused to leave the area. A total of 16 protestors were apprehended, including the chairperson of Himpunan Hijau, Wong Tack, an activist from New Zealand, Natalie Lowrey, and Teluk Intan DAP chief Hew Kuan Yau.

On 9 July 2014, 15 of the protestors (excluding Natalie Lowrey) were charged at the Session Court under the Penal Code for unlawful protest and use of force during the protest.⁶⁴ They were then released on bail but the court ordered the accused to report to the police once every month and imposed a gag order on them, banning them from discussing their case on social media. Their lawyer Gobind Singh Deo, commented that such a ban infringes his clients' right to freedom of speech and is in the midst of appealing to strike out the bail conditions. On 3 September 2014, Natalie Lowrey was denied entry into Malaysia.⁶⁵

⁵⁹ Malay Mail Online, "Assembly law cannot criminalise public gatherings, court rules", 25 April 2014. See:

<http://www.themalaymailonline.com/malaysia/article/assembly-law-cannot-criminalise-public-gatherings-court-rules>

⁶⁰ Malay Mail Online, "Court postpones decision on third bid to charge Nik Nazmi under PAA", 9 October 2014. See:

<http://www.themalaymailonline.com/malaysia/article/court-postpones-decision-on-third-bid-to-charge-nik-nazmi-under-paa>

⁶¹ Malay Mail Online, "Lawyer: AGC applies again for Federal Court to decide assembly law's constitutionality", 25 September 2014. See: <http://www.themalaymailonline.com/malaysia/article/lawyer-agc-applies-again-for-federal-court-to-decide-assembly-laws-constitu>

⁶² The Malay Mail Online, "Lawyer: AGC applies again for Federal Court to decide assembly law's constitutionality", 25 September 2014. See: <http://www.themalaymailonline.com/malaysia/article/lawyer-agc-applies-again-for-federal-court-to-decide-assembly-laws-constitu>

⁶³ Malaysiakini, "Cops get injunction to stop anti-Lynas blockade", 21 June 2014. See:

<http://www.malaysiakini.com/news/266399>

⁶⁴ Malaysiakini, "Lynas 15 charged, court issues gag order", 8 July 2014. See: <http://www.malaysiakini.com/news/268080>

⁶⁵ Malaysiakini, "Immigration: Anti-Lynas activist not mistreated", 3 September 2014. See: <http://www.malaysiakini.com/news/273562>

GHAH Penang Assembly - Violence by pro-Barisan Nasional group

On 12 October 2014, a peaceful anti-Sedition Act rally organised by Gerakan Hapus Akta Hasutan (GHAH) Penang was disrupted by a group of men defending the Act. Armed with a hailer, the group, numbering about 30 people, used abusive language on anti-Sedition Act protesters and violently forced them to disperse. The police, who were present, allowed the harassment and violence against GHAH to carry on.

Universiti Malaya's Students

A talk by opposition leader Anwar Ibrahim titled "40 years: from UM to prison" turned into a student rally on 27 October 2014 when the Universiti Malaya administration declared the event illegal.⁶⁶

The university's security closed off all three entrances and barred entry to all vehicles, shutting down electricity within the campus and allowed its staff to clock off earlier at 4pm. Nonetheless, a strong crowd of around 2,000 students managed to push through the locked gates, and along with Anwar, they marched into the campus towards the Dewan Tunku Canselor Square and held the talk outside the hall.

Subsequent to the event, the Student Affairs Division has taken disciplinary action against 8 students under the University and College University Act 1974 (AUKU).⁶⁷ The Act vests huge discretionary power in the vice chancellors of universities to take disciplinary action against students found to have participated in political activities which, in his judgment, are "unsuitable to the interest and well-being of the students or the University."

FREEDOM OF ASSOCIATION

Harassment of COMANGO

On 8 January 2014, the Secretary General of the Home Ministry declared the Coalition of Malaysian NGOs in the UPR Process (COMANGO) an "unlawful organization." The Secretary General claimed COMANGO was promoting "sexual rights contrary to Islam" and that only 15 of its 54 group members were registered under the Societies Act.

In a reversal of their position, the section of the statement declaring the group illegal was later omitted from the statement posted on the Home Ministry's website.⁶⁸ However, no public statement was made by the Home Ministry for the omission.

Harassment of Negara-Ku

On 10 July 2014, a moderate movement named Negara-Ku, aimed at encouraging racial and religious harmony, was launched by the former Malaysian Bar Council president,

⁶⁶ The Malaysian Insider, "Despite ban, Anwar speaks to students at UM", 27 October 2014. See: <http://www.themalaysianinsider.com/malaysia/article/um-in-a-lockdown-ascrowd-starts-to-gather-at-the-gates#sthash.rCCWIZov.dpuf>

⁶⁷ The Malaysian Insider, "Students show solidarity with UM* as disciplinary hearing begins". 7 November 2014. See: <http://www.themalaysianinsider.com/malaysia/article/students-show-solidarity-with-um8-as-disciplinary-hearing-begins>

⁶⁸ Malaysiakini, "So, is Comango illegal or not?" 11 February 2014. See: <http://www.malaysiakini.com/news/254020>; Malaysiakini, "Comango: We are not for rights against Islam," 9 January 2014. See: <http://www.malaysiakini.com/news/251379>; The Malay Mail Online, "Lawyers: Comango cannot be outlawed, Putrajaya playing to gallery," 9 January 2014. See: <http://www.themalaymailonline.com/malaysia/article/lawyers-comango-cannot-be-outlawed-putrajaya-playing-to-gallery>

Ambiga Sreenevasan and national laureate, Datuk A. Samad Said. It has since received the endorsement of over 80 civil society groups.⁶⁹

On 26 July 2014, the Home Minister Ahmad Zahid Hamidi declared the group illegal, as it was not registered with the Registrar of Societies. He stated that the group would be unable to register, as its name was inappropriate due to its perceived similarity to Malaysia's national anthem.⁷⁰

Members of the steering committee of Negara-Ku have challenged the declaration, interpreting the law as declared by the Kuala Lumpur High Court in overturning a similar declaration regarding Bersih 2.0 in 2012, as stating that unregistered societies can function if they are "not a threat to national security, public order and morality."

As the steering committee of Negara-Ku is composed of only 6 individuals, it fails to reach the threshold for regulation by the Societies Act of 1966. Despite this, all 6 members of the Steering Committee of Negara-Ku were called in by the ROS under Section 66(1) of the Societies Act.⁷¹ This is harassment and intimidation with the intent of limiting the rights to association of a civil society movement led by human rights defenders advocating unity, human rights, and political moderation.

Declaration of the Illegality of PPS and Arrests of Members

The Inspector General of Police (IGP) declared Peronda Sukarela (PPS) Pulau Pinang illegal on 26 August 2014 claiming that it is not registered with the ROS. PPS was formed by the Penang state government in 2011 consisting of volunteers who assist in public functions, such as directing traffic, patrolling streets, and disaster management.⁷²

On 31 August 2014, Independence Day, 154 members of PPS were arrested after taking part in a parade, arrests which legal experts have deemed to be unlawful. Penang Chief Minister Lim Guan Eng has refuted the claim by the IGP that PPS is illegal, stating that as a state government agency PPS does not need to be registered with the ROS.⁷³

ROS Refuses to Recognize Local DAP Branches

The ROS has also refused to recognize over 120 local branches of the opposition Democratic Action Party (DAP), with a total membership of nearly 10,000 after being disenfranchised by the ROS's "freeze" of their applications. The initial freeze began on 29 May 2013 following a complaint in December 2012 about the validity of party elections.

This led to fresh elections in September 2013 that were also disputed. After the ROS refused to recognize the party's central executive committee (CEC), the party went to court for a judicial review of the ROS's decision. On 23 September, DAP withdrew its case after the

⁶⁹ The Rakyat Times, "Another two Negara-Ku committee members probed by ROS," 28 September 2014. See: <http://www.rakyattimes.com/~wolf/index.php/news/1315-another-two-negara-ku-committee-members-probed-by-ros>

⁷⁰ The Malay Mail Online, "Negara-Ku an 'illegal' society, Home Ministry says," 26 July 2014. See: <http://www.themalaymailonline.com/malaysia/article/negara-ku-an-illegal-society-home-ministry-says>

⁷¹ The Rakyat Times, "Another two Negara-Ku committee members probed by ROS," 28 September 2014. See: <http://www.rakyattimes.com/~wolf/index.php/news/1315-another-two-negara-ku-committee-members-probed-by-ros>; The Societies Act 1966, Section 66(1). See: <http://www.agc.gov.my/Akta/Vol.%207/Act%20335.pdf>

⁷² The Rakyat Post, 'Legality of Penang's Pasukan Peronda Sukarela questioned' (The Rakyat Post, 26 August 2014) <<http://www.therakyatpost.com/news/2014/08/26/legality-penangs-pasukan-peronda-sukarela-questioned/>>

⁷³ Malaysiakini, "154 PPS men arrested in Penang Merdeka swoop," 31 August 2014. See: <http://www.malaysiakini.com/news/273219>

ROS conceded that its non-recognition of the CEC was not legally enforceable saying “the ROS recognises that the DAP CEC elected on Sept 29, 2013 may carry out all its powers, functions and duties in the administration of the daily affairs of the DAP in accordance with the constitution of the DAP.”

However, in early October the ROS reversed its position and stated it did not recognize the DAP CEC, despite its statement in court. Consequently, the branches remain unrecognized and disenfranchised.⁷⁴

FREEDOM OF RELIGION

Continuing Legal Battles over the Right to Use the Term “Allah”

Over the course of 2014, there have been several ongoing court cases over the right for Christians to use the term “Allah.” On 23 June, the Federal Court affirmed the decision of the Court of Appeal to set aside a High Court ruling from 2009 which had allowed the Catholic newspaper *The Herald*, to use the word “Allah” to refer to God.⁷⁵

On 1 October, a Sabah Church won a judgment at the Court of Appeal overturning a dismissal of a case at the High Court on the seizure of children’s books containing the word “Allah.” The court decided that the Federal Court’s finding in the case of *The Herald* was non-binding and accordingly that the suit could proceed in the High Court.⁷⁶

On 21 August, the Home Minister said in an affidavit that he refused to hand over 8 Christian CDs brought in from Indonesia by a Malaysian Christian for personal use in 2008, which were confiscated as they used the word “Allah.” This was despite an 18 July High Court order demanding their return. The Home Minister chose to disobey the court order while waiting for a chance to appeal on the grounds of “public interest” as the CDs “may cause harm to public order.”⁷⁷

Confiscation of Bibles by JAIS

On 2 January 2014, two police officers, accompanied by approximately 20 officers from the Department of Islamic Development (JAIS) raided the Bible Society of Malaysia (BSM) without a warrant and despite the fact that JAIS has no jurisdiction over non-Muslims. They detained the BSM Chairman, Lee Min Choon, and Manager, Sinclair Wong at the Damansara Utama police station and confiscated 321 copies of the Bible, which were printed in Malay and Iban.

⁷⁴Malaysiakini, “DAP urges ROS to approve 120 new branches,” 24 September 2014. See: <http://www.malaysiakini.com/news/275588>; The Malaysian Insider, “DAP takes Registrar of Societies to court for not recognising executive committee,” 4 February 2014. See: <http://www.themalaysianinsider.com/malaysia/article/dap-takes-registrar-of-societies-to-court>; Malaysiakini, “ROS insists DAP’s CEC not yet recognized,” 4 October 2014. See: <http://www.malaysiakini.com/news/276609>

⁷⁵ The Malay Mail Online, “Christian paper loses battle to use ‘Allah,’” 23 June 2014. See: <http://www.themalaymailonline.com/malaysia/article/christian-paper-loses-battle-to-use-allah>

⁷⁶ The Malay Mail Online, “Sabah church gets nod to renew ‘Allah’ challenge,” 1 October 2014. See: <http://www.themalaymailonline.com/malaysia/article/sabah-church-gets-nod-to-renew-allah-challenge>

⁷⁷ The Malaysian Insider, “Minister won’t return Allah CDs to Jill Ireland, cites public interest,” 2 October 2014. See: <http://www.themalaysianinsider.com/malaysia/article/minister-wont-return-allah-cds-to-jill-ireland-cites-public-interest>; The Malay Mail Online, “No release of Christian CDs while ministry appeals Sarawakian’s ‘Allah’ ruling,” 2 October 2014. See: <http://www.themalaymailonline.com/malaysia/article/no-release-of-christian-cds-while-ministry-appeals-jill-ireland-ruling>

According to JAIS, the raid was carried out based on the Selangor Non-Islamic Religions (Control of Propagation among Muslims) Enactment 1988 that prohibits non-Muslims from using 35 Arabic words and phrases in practicing their faith including "Allah." According to Lee, BSM already had permission to import these Bibles as part of a 10-point solution made by Datuk Seri Idris Jala of the Prime Minister's Department with the Christian community.⁷⁸

After six months, on 11 June 2014, the Attorney-General Abdul Gani Patail held that JAIS had erred in their interpretation of the Selangor Non-Islamic Religions (Control of Propagation among Muslims) Enactment 1988 and in seizing the Bibles. The AG also ordered the return of the Bibles to BSM.⁷⁹ Despite such an order, JAIS initially refused to hand over the Bibles to BSM.

On 14 November 2014, almost a year after the seizure, the Pakatan Rakyat Selangor government, in the presence of the Sultan of Selangor, Selangor Menteri Besar Azmi Ali and JAIS, handed over the confiscated Bibles to the Association of Churches in Sarawak (ACS) who accepted on behalf of BSM. However, the return of these holy books was made with the strict condition that they are not to be distributed in Selangor.⁸⁰

Molotov Cocktails Thrown at Church in Penang

On 27 January 2014, molotov cocktails were thrown at a church in Penang, although only one exploded.⁸¹ This occurred the day after banners saying "Allah is Great" and "Jesus is the son of Allah" were put up by unknown people in five churches in Penang, including the one which was firebombed. Both of these incidences are thought to be related to the larger controversy surrounding the use of the term "Allah" by Malaysian Christians.⁸²

Selangor Islamic Affairs Department Stops Hindu Wedding

On 1 June 2014, JAIS interrupted a wedding at a Hindu temple and arrested the bride, 32-year-old Zarena Abdul Majid, on suspicion that she is Muslim, and therefore not legally allowed to marry a Hindu man.

The woman's identity card, and birth certificate, identified her as Muslim. According to the woman, she only discovered that her father had registered her and her siblings as Muslims on their birth certificates many years after her father had abandoned the family. She was raised as a Hindu and identifies herself as such. She stated that she had attempted to change her religious status on her ID card with the National Registration Department but that she had not been permitted to do so without her father's signature.⁸³

⁷⁸ The Malaysian Insider, "Selangor Islamic authorities raid Bible Society of Malaysia, 300 copies of Alkitab seized," 2 January 2014. See: <http://www.themalaysianinsider.com/malaysia/article/selangor-religious-authorities-raid-bible-society-of-malaysia-chairman-held> and The Malaysian Insider, "Selangor orders Jais to return Bibles," 12 June 2014. See: <http://www.themalaysianinsider.com/malaysia/article/selangor-orders-jais-to-return-bibles>

⁷⁹ The Malaysian Insiders, "A-G says Jais erred in seizing Bibles, orders case closed", 11 June 2014. See: <http://www.themalaysianinsider.com/malaysia/article/bible-seizure-case-closed-no-prosecution-says-a-g>

⁸⁰ Malaysiakini, "Bible returned, but with strict conditions". 14 November 2014. See: <http://www.malaysiakini.com/news/280507>

⁸¹ The Star Online, "Molotov cocktails thrown in church compound in Penang," 27 January 2014. See: <http://www.thestar.com.my/News/Nation/2014/01/27/Molotov-cocktail-thrown-at-Penang-church/>

⁸² The Edge Malaysia, "Update Molotov cocktails thrown in compound of Penang's Church of the Assumption," 27 January 2014. See: <http://www.theedgemaaysia.com/political-news/272831-update-molotov-cocktails-thrown-in-compound-of-penangs-church-of-the-assumption.html>

⁸³ Malaysiakini, "Jais stops Hindu wedding, suspects bride is Muslim," 2 June 2014. See: <http://www.malaysiakini.com/news/264505> and The Star Online, "Jais detains Muslim woman during her wedding ceremony" 3 June 2014. See: <http://www.thestar.com.my/News/Nation/2014/06/03/Bride-Im-a-practising-Hindu-Jais-detains-Muslim-woman-during-her-wedding-ceremony/>

Penang Islamic Department Confiscates Body at Funeral

On 9 June 2014, Penang Islamic Department (JAIPP) interrupted the Taoist funeral of 38-year-old Teoh Cheng Cheng and seized her body. Claiming that Teoh Cheng Cheng had secretly converted to Islam in 1997, JAIPP refused to return the body to her family and insisted that she had to be buried in accordance with Muslim rites.

On 12 June 2014, the Penang Shariah High Court declared her a non-Muslim after noting that she had never performed the *sya'adah*, which is necessary for conversion, that there were discrepancies in the dates of her conversion documents, and that according to her Muslim boyfriend and her daughter she routinely performed Buddhist rites and prayers. Accordingly, her body was returned to her family for burial.

The officer who had taken away her body was not punished as it was determined he had acted in "good faith," although State Islamic Religious Affairs Committee chairman Datuk Abdul Malik Abul Kassim said that they would be taking steps to ensure a similar action did not take place again.⁸⁴

Indigenous Christians Allegedly Tricked into Converting to Islam

On 1 January 2014, 64 indigenous Christians from Kampung Layung Maliau, Dowokon and Sosop in Pitas, were converted to Islam. Those converted later claimed that they were "tricked" into converting, after being promised money if they signed a card they could not read, recited "foreign words," and gave their fingerprint. On 8 January 2014, 27 of the villagers filed a police report. The villagers also acquired the assistance of several lawyers to overturn the conversions.⁸⁵

An anonymous source at Sabah State Islamic Affairs Department has denied that the conversions were done through trickery or coercion and insisted that the conversions took place after an hour long presentation. As further evidence, the source claimed that not all who attended the presentation chose to convert, and not only those who converted were paid money, but all who attended were compensated for travel expenses.⁸⁶ Investigation of the case was handed over by the police to the Sabah State Islamic Affairs Department, the same agency which witnessed and processed the conversions, and the case has not proceeded.⁸⁷

⁸⁴ The Malay Mail Online, "The family of Teoh Cheng Cheng wants daughter declared Buddhist," 12 June 2014. See: <http://www.themalaymailonline.com/malaysia/article/the-family-of-teoh-cheng-chen-wants-daughter-declared-buddhist#sthash.HyYEQPdw.0ul2gQlh.dpuf>; The Sun Daily, "Court rules Teoh not a Muslim, orders body to be returned" 12 June 2014. See: <http://www.thesundaily.my/news/1077959>; The Malaysian Insider, "Body of Muslim convert taken away during Chinese funeral ceremony," 9 June 2014. See: <http://www.themalaysianinsider.com/malaysia/article/body-of-muslim-convert-taken-away-during-chinese-funeral-ceremony#sthash.zlboVGtK.dpuf>; The Sun Daily, "Excoapologises over 'body snatching,'" 11 June 2014. See: <http://www.thesundaily.my/news/1076771>; The Sun Daily, "Taking of non-Muslim's body: No action against religious officer," 16 June 2014. See: <http://www.thesundaily.my/news/1083377>

⁸⁵ The Malaysian Insider, "We were tricked into converting to Islam, claim Christian villagers in remote Sabah district," 20 January 2014. See: <http://www.themalaysianinsider.com/malaysia/article/we-were-tricked-into-converting-to-islam-claim-christian-villagers-in-remot>; The Malaysian Insider, "Sabah Christians meet today in bid to reverse conversions to Islam," 4 February 2014. See: <http://www.themalaysianinsider.com/malaysia/article/sabah-christians-meet-today-in-bid-to-reverse-conversions-to-islam>; The Malaysian Insider, "We did not coerce or trick natives into converting, say Sabah Islamic authorities," 25 January 2014. See: <http://www.themalaysianinsider.com/malaysia/article/we-did-not-coerce-or-trick-natives-into-converting-say-sabah-islamic-author>

⁸⁶ The Malaysian Insider, "We did not coerce or trick natives into converting, say Sabah Islamic authorities," 25 January 2014. See: <http://www.themalaysianinsider.com/malaysia/article/we-did-not-coerce-or-trick-natives-into-converting-say-sabah-islamic-author>

⁸⁷ The Malay Mail Online, "Cops pass fraudulent conversion case to Sabah religious authorities," 11 January 2014. See: <http://www.themalaymailonline.com/malaysia/article/cops-pass-fraudulent-conversion-case-to-sabah-religious-authorities#sthash.TnRTnGrh.dpuf>

Custody of Children in Conversion Cases

Two cases, that of Deepa Subramaniam and Indira Gandhi, have been ongoing since April 2013 and 2009, respectively. In each case, the women's husbands converted to Islam and obtained an order from a Syariah Court giving him custody of his children, while the wife was not present and was not informed of the decision. In both cases, civil courts have, after reaching a judgment with both parents participating, given custody to the wife and ordered that the children be returned to their mothers. For Deepa Subramaniam the judgment was reached on 7 April, with a recovery order for the child issued on 21 May 2014. For Indira Gandhi, custody was granted on 11 March 2010.

However, the Inspector-General of Police obtained an order from the Court of Appeal on 10 September in the case of Deepa Subramaniam so that the police did not need to return the child to his mother until the jurisdictional conflict between the courts had been resolved. The IGP has similarly challenged the order in the case of Indira Gandhi though the court has yet to decide on the issue. In the case of Deepa Subramaniam, her two children were unilaterally converted by her ex-husband without her knowledge. The husband assaulted her and kidnapped the child after the civil court had ruled against him. Deepa Subramaniam has since gone into hiding with her daughter to prevent the child's abduction.⁸⁸

In the case of Indira Gandhi, her six-year-old daughter Prasana Diksa and her two siblings, were unilaterally converted to Islam. The conversions were later annulled by a High Court judge, but Mohammad Ridzuan, the father, still refuses to turn over the child to her mother and has accordingly been charged with contempt of court.⁸⁹

Arrests of Shia Muslims

In March 2014, 114 people including women and children alleged to be Shia Muslims were arrested in Perak and detained under Syariah Criminal Procedure (Perak) Enactment 2004 for attending an event that celebrated the birth of Siti Zainab. The operation was conducted by the Perak Islamic Religious Affairs Department (JAIP) with the assistance of police.⁹⁰

This was followed on 21 April 2014 in Selangor by the police arresting the Shia cleric Mohd Kamilzuhairi Abdul Aziz while he was giving a speech at a commemoration of the birth of Lady Fatima. The arrest was conducted by at least 10 uniformed police, in addition to officials from the Selangor State Islamic Department and the Registrar of Societies (ROS). He was then interrogated for over six hours. The arrest was based on a complaint by the ROS that he was running an unregistered association in the form of an alleged Ja'fari

⁸⁸ The Malay Mail Online, "Court allows cops to defer recovery order until interfaith custody appeal ends," 10 September 2014. See: <http://www.themalaymailonline.com/malaysia/article/court-allows-cops-to-defer-recovery-order-until-interfaith-custody-app>; The Star Online, "Father who allegedly took son has custody order too, says OCPD," 11 April 2014. See: <http://www.thestar.com.my/News/Nation/2014/04/11/Cops-No-probe-on-Izwan-Father-who-allegedly-took-son-has-custody-order-too-says-OCPD/>; The Malay Mail Online, "'Impossible' to comply with order to retrieve Indira's child, IGP's lawyer tells court," 30 October 2014. See: <http://www.themalaymailonline.com/malaysia/article/impossible-to-comply-with-order-to-retrieve-indiras-child-igps-lawyer-tells>

⁸⁹ The Star Online, "Court wants expert views in contempt case in Indira Gandhi child custody issue," 6 January 2014. See: <http://www.thestar.com.my/News/Nation/2014/01/06/child-conversion-indira-gandhi/>

⁹⁰ The Malaysian Insider, "Over 100 people arrested in latest crackdown on Shia Muslims," 9 March 2014. See: <http://www.themalaysianinsider.com/malaysia/article/over-100-people-arrested-in-latest-crackdown-on-shia-muslims>; Communities Digital News, "Malaysia arresting Shiite families, infants, instead of finding plane," 12 March 2014. See: <http://www.commdiginews.com/world-news/malaysian-government-turns-focus-away-from-missing-airplane-to-arrest-infants-12054>

movement. However, as Shia beliefs and practices have been banned since a 1996 Fatwa, such registration is not possible.⁹¹

It is uncertain whether the prosecution of Mohd Kamilzuhairi Abdul Aziz will be successful. Five other Shias were tried in two cases in 2014 and all had their cases dismissed on technical grounds.⁹²

Prime Minister's Statements Praising ISIL's Courage

On 23 June 2014, during a speech to commemorate the 20th anniversary of UMNO's Cheras branch, Prime Minister Datuk Seri Najib Razak was quoted as saying that "when someone dares to fight to his death, he can even defeat a much bigger team... Whether we agree or not is another matter, the group ISIL with the strength of just 1,300 people, can defeat an Iraqi army of 30,000 soldiers... four, five generals with three, four stars running for their lives."⁹³

He was criticized for praising "an assault to humanity and civilization" and was accused of making "a covert call for the politics of blood."⁹⁴ The Prime Minister's Office later released a statement that the comment had been taken out of context.⁹⁵ Finally, over two months later, on 27 August 2014, the Prime Minister publicly condemned the actions of ISIL.⁹⁶

Female Traders in Kelantan Fined for Not Conforming to Muslim Dress Code

In September in Kelantan, the Kota Baru Municipal Council Islamic City launched Operasi Gempur Aurat in which they have begun fining women in Supermarkets and night markets if they fail to wear a tudung, which is a headscarf that covers their chests, long sleeves, and loose pants or skirts.

At least 34 have already been cited for failure to comply with the Islamic dress code. It is unclear if the same rules apply to non-Muslims, though it is stated that they must, at the least, be "decently dressed." The group Sisters in Islam has spoken out against these actions as a misinterpretation of Islam.⁹⁷

⁹¹Projek Dialog, "Assajjad Movement Condemns the Arrest of Malaysian Shia Cleric," 22 April 2014. See: <http://www.projekdialog.com/featured/assajjad-movement-condemns-the-recent-arrest-of-malaysian-shia-cleric/>

⁹²The Wall Street Journal, "Judge in Malaysia Dismisses Charges Against Three Shia," 15 February 2014. See: <http://blogs.wsj.com/searealtime/2014/02/15/judge-in-malaysia-dismisses-charges-against-three-shia/>

⁹³The Malay Mail Online, "Be brave like ISIL fighters, Najib tells Umno," 24 June 2014. See: <http://www.themalaymailonline.com/malaysia/article/be-brave-like-isil-fighters-najib-tells-umno>; The Malaysian Insider, "Umno should get some tips from Isil militants, says Najib," 24 June 2014. See: <http://www.themalaysianinsider.com/malaysia/article/umno-should-get-some-tips-from-isil-militants-says-najib#sthash.qqQRghmv.dpuf>

⁹⁴The Malaysian Insider, "Issued by the Steering Committee of Bersih 2.0." 25 June 2014. See:

<http://www.themalaysianinsider.com/sideviews/article/najibs-praise-for-isis-an-assault-to-humanity-civilisation-bersih-2.0>

⁹⁵Malaysiakini, "Is Najib a secret admirer of the ISIS jihadists?" 27 June 2014. See: <http://www.malaysiakini.com/news/266993>

⁹⁶The Malaysian Insider, "Najib condemns Islamic State militants," 27 August 2014. See:

<http://www.themalaysianinsider.com/malaysia/article/najib-condemns-islamic-state-militants>

⁹⁷The Malay Mail Online, "In special Kelantan ops, female traders told to cover up or face RM500 fines," 28 October 2014. See:

<http://www.mmail.com.my/malaysia/article/in-special-kelantan-ops-female-traders-told-to-cover-up-or-face-rm500-fines>;

Malaysiakini, "Wrong to compel women to cover head, says SIS," 29 October 2014. See:

<http://www.malaysiakini.com/news/278951>

Selangor Islamic Religious Council declares Sisters in Islam deviant for propagating liberalism and pluralism

On 31 July 2014, without notifying or hearing from Sisters in Islam (SIS), the Selangor Islamic Religious Council (MAIS) gazetted a fatwa declaring the group and any other similar “individuals, organisations or institutions” as deviant.

It also declared any publications which contained messages of liberalism and religious pluralism as “haram” (prohibited) and subject to seizure. Finally, it asked the Malaysian Commission of Multimedia and Communications (MCMC) to block any social websites promoting values opposed to Islamic teachings and laws.

After SIS discovered the Fatwa by accident on 20 October 2014, they filed a challenge in the Kuala Lumpur High Court. Zainah Anwar and former law minister Datuk Zaid Ibrahim on 31 October 2014 challenged the Fatwa on constitutional grounds. While Selangor Menteri Besar Azmin Ali has called for the fatwa to be “respected,” SIS has continued its legal challenge.⁹⁸

SIS and others have challenged this fatwa on several grounds, stating that as SIS is a company that does not profess any religious belief, it is outside the jurisdiction of MAIS. Further, as there is no reason, justification, or explanation of terms, the fatwa has failed to abide by the rules of fatwa making. Finally, as the MCMC is a federal institution and MAIS is a state institution, it has no authority to request the MCMC to do anything.

REFUGEES, ASYLUM SEEKERS AND MIGRANT WORKERS

According to UNHCR, as of the end of September there are 148,940 refugees and asylum-seekers registered with UNHCR in Malaysia. Of these 137,770 are from Myanmar, including 40,660 Rohingya refugees, 4,300 are from Sri Lanka, 1,120 from Somalia, 1,110 from Pakistan, 960 from Syria, 830 from Iraq, 600 from Iran, 450 from Palestine, 380 from Afghanistan, and 360 from Yemen. 32,010 of them are children.⁹⁹

Trafficking of Rohingya Refugees

Taking advantage of the desperation of displaced Rohingya refugees fleeing Myanmar, human traffickers and kidnappers have increased their presence in Malaysia as authorities in Thailand crack down on their camps across the border.

Malaysian police have conducted raids in Penang and Kedah and have found Rohingya men being detained and fastened in place with metal chains. These Rohingya are often captured as they flee Myanmar on boat and are kidnapped, tortured, starved, and sometimes

⁹⁸The Star Online, “SIS: Does helping 10,000 Muslim women deviate from Islamic teachings?” 2 November 2014. See: <http://www.thestar.com.my/News/Nation/2014/11/02/SIS-fatwa/>; The Malay Mail Online, “Muslim women’s group to challenge fatwa against liberalism, pluralism,” 31 October 2014. See: <http://www.themalaymailonline.com/malaysia/article/muslim-womens-group-to-challenge-fatwa-against-liberalism-pluralism>; The Star Online, “Cut out the charade,” 2 November 2014. See: <http://www.thestar.com.my/Opinion/Columnists/Sharing-The-Nation/Profile/Articles/2014/11/02/Cut-out-the-charade/>; The Malaysian Insider, “Putrajaya to blame for fatwa against Sisters in Islam, says founder,” 2 November 2014. See: <http://www.themalaysianinsider.com/malaysia/article/putrajaya-to-blame-for-fatwa-against-sisters-in-islam-says-founder>
⁹⁹ UNHCR, “Figures at a Glance.” See: http://www.unhcr.org/my/About_Us_-@-Figures_At_A_Glance.aspx [Last accessed 28 October]

murdered by their captors as they attempt to extort money from the victim's family. Many of the estimated 30,000 Rohingya refugees have entered the country in this manner.¹⁰⁰

Deportation of Sri Lankan Refugees

On 15 May, Sangaliraj Gioshanthan, Mahadevan Kiribakaran, and Selvthurai Kiribavan, who had been in Malaysia since 2004, two of whom had UN refugee cards, with the third in the process of obtaining one, were arrested and detained under the Immigration Act. Without notice to their families, lawyers, or the UN, all three were deported to Sri Lanka between 25 and 27 of May and were detained at the Terrorist Investigation Division in Kilinochchi by the Sri Lankan government. The Malaysian Inspector-General of Police claimed that the three had been attempting to revive the Tamil Tigers (LTTE) and were raising funds and spreading propaganda in the country. The IGP also claimed to have seized LTTE propaganda material and multiple foreign currencies.

The UNHCR, Human Rights Watch, and SUARAM strongly condemned the action as a violation of the customary international legal principle of *non-refoulement*. Human Rights Watch in particular noted that they had documented at least 75 cases of rape and sexual abuse in detention centres in Sri Lanka, and that the torture of returnees is common.¹⁰¹

On 4 July 2014, four more Sri Lankan men were arrested by the Bukit Aman Special Branch Counter Terrorism Unit and were held under the Prevention of Terrorism Act, allegedly for trying to revive the LTTE. The police claimed to have recovered counterfeit passports from the men's possession. Sornalingam Puvaneswaran, had been granted refugee status in Australia and was in Malaysia visiting family when he was arrested. On 18 July, the three non-Australian residents were deported to Sri Lanka and handed over to the Terrorism Investigation Department of the Sri Lankan government.¹⁰²

Riots over Working Conditions and Detention of Foreign Workers

On 26 August, between 800 and 1000 mostly Nepalese migrant workers rioted at a hard-disk-drive plant owned by JCY International in Johor. The protestors stoned the factory and overturned and burned a factory manager's car and part of the factory.

The riots were sparked by the death of a worker, Harka Bahadur Niraula, who had complained of chest pains. The workers accused the company of negligence and complained about the low level of compensation given to the family. Workers also reported that the rioting was in response to widespread mistreatment, including salary deductions, physical abuse, uncompensated Sunday and overtime work, and a lack of transportation to

¹⁰⁰Malaysiakini, "Trafficking abuse of Rohingya spreads to Malaysia," 6 March 2014. See: <http://www.malaysiakini.com/news/256221>

¹⁰¹Yahoo News, "Malaysia slammed for deporting Sri Lanka refugees," 28 May 2014. See: <http://news.yahoo.com/malaysia-slammed-deporting-sri-lanka-refugees-045203122.html>; Al Jazeera, "Malaysia criticised for deporting Sri Lankans," 28 May 2014. See: <http://www.aljazeera.com/news/asia/2014/05/malaysia-criticised-deporting-sri-lankans-201452882227244341.html>; The Malaysian Insider, "Human rights body hits out at Malaysia for repatriating 3 suspected Tamil Tigers," 28 May 2014. See: <http://www.themalaysianinsider.com/malaysia/article/human-rights-body-hits-out-at-malaysia-for-repatriating-3-suspected-tamil-t#sthash.JRCDIdSw.dpuf>; The Malay Mail Online, "Refoulement of Sri Lankan refugees, asylum seeker condemned — Aliran," 28 June 2014. See: <http://www.themalaymailonline.com/what-you-think/article/refoulement-of-sri-lankan-refugees-asylum-seeker-condemned-aliran#sthash.V8OyZGpn.dpuf>; BBC, "UN concern at Malaysia's expulsion of Tamil Tiger suspects," 28 May 2014. See: <http://www.bbc.com/news/world-asia-27611325>

¹⁰²The Australian, "Refugee arrested as Tiger bomber," 5 July 2014. See: <http://www.theaustralian.com.au/national-affairs/immigration/refugee-arrested-as-tiger-bomber/story-fn9hm1gu-1226978440291?nk=006e637f0b0dfefe29a1e08823cd6077>; Malaysiakini, "Stop deportation of arrested Sri Lankans," 9 July 2014. See: <http://www.malaysiakini.com/letters/268143>; The Nation, "Malaysia sends home three LTTE suspects," 20 July 2014. See: <http://www.nation.lk/edition/news-online/item/31503-malaysia-sends-home-three-ltte-suspects.html>

the facility. JCY International employs predominantly migrant workers, over 1,600 of whom are Nepalese. The police arrested and detained between 42-49 workers, predominantly Nepalese, although at least 2 were Bangladeshi, and stated that they were determined to hold them for at least two weeks. The striking workers returned to work later that week after negotiations with management.¹⁰³

Malaysia Ranks in Lowest Tier for Workers

In a report published on 19 May, “Global Rights Index: The World’s Worst Countries for Workers” ranked 139 countries using 97 indicators for working conditions. Malaysia was ranked in tier 5, which is the lowest.

Malaysia shared tier five with Laos, Cambodia, Qatar, North Korea, and Zimbabwe, while Indonesia, Myanmar, and Thailand were ranked higher at tier 4. According to Irene Xavier of Selangor Friends of Women, “[t]he migrant workers will be fired if they join a union. Even locals are being threatened for joining a union.”¹⁰⁴

Survey of Foreign Workers Shows Widespread Forced Labor

A survey conducted by the international labor rights group Verite and funded by the United States Department of Labor found extreme abuse of the rights of foreign workers conducted in Malaysia’s electronics industry. In total, based on a survey sample of over 500 workers, it was estimated that 73% of Malaysia’s 350,000 electronics workers suffer “some characteristics” of forced labor, with nearly a third being found to suffer from forced labor.

Even though this practice is illegal in Malaysia, 90 percent of workers had their passports taken, with 94 percent not having their passports when interviewed, and 92 percent of workers having paid excessive or illegal recruitment fees.

The investigators also found the workers to be living in inhumane conditions and suffering from sexual abuse and excessive overtime requirements; 30 percent of workers shared a room with more than 8 people; 43 percent had nowhere safe to leave their belongings, and 27 percent could not come and go freely from their housing.

Rather than helping foreign workers whose rights had been violated, 46 percent of the respondents reported encounters with police, immigration officials, or Rela, with the majority saying that they had to pay a bribe, were detained, or were threatened with violence or detention.¹⁰⁵

¹⁰³ The Malaysian Insider, “Expect more unrest if foreign workers’ welfare neglected, warns MTUC”, 1 October 2014. See: <http://www.themalaysianinsider.com/malaysia/article/expect-more-labour-unrest-if-foreign-workers-welfare-neglected-warns-mtuc>

¹⁰⁴ The Star Online, “Malaysia among 24 ‘worst countries for workers’: 2014 survey,” 2 June 2014. See: <http://www.thestar.com.my/Lifestyle/Features/2014/06/02/Malaysia-among-24-worst-countries-for-workers-2014-survey/>; Free Malaysia Today, “ITUC study puts Malaysia to shame,” 17 September 2014. See: <http://www.freemalaysiatoday.com/category/nation/2014/09/17/ituc-studies-puts-malaysia-to-shame/>

¹⁰⁵ The Malay Mail Online, “Survey shows modern day slavery rife in Malaysian factories,” 17 September 2014. See: <http://www.themalaymailonline.com/malaysia/article/survey-shows-modern-day-slavery-rife-in-malaysian-factories>; The Guardian, “Modern-day slavery rife in Malaysia’s electronics industry,” 17 September 2014. See: <http://www.theguardian.com/global-development/2014/sep/17/modern-day-slavery-malaysia-electronics-industry>

Malaysia's Trafficking Ranking Drops

Malaysia's ranking was decreased to Tier Three, the lowest possible ranking, on the US State Department's Annual "Trafficking in Persons" Report of 2014 which was released on 20 June 2014. It is estimated that a large majority of Malaysia's two million illegal workers have been victims of trafficking.

The report also found that 32 percent of foreign workers in Malaysia were in situations of forced labor. The change in rating is said to reflect Malaysia's failure to comply with the necessary international requirements to prevent trafficking, widespread forced labor, and the lack of enforcement and protection of the victims of trafficking, with fewer trafficking victims being identified, and traffickers prosecuted, than in 2012.

Prosecutions have further been impeded by the poor treatment of trafficking victims and the tendency to treat victims as perpetrators of immigration violations. The change in ranking could risk development aid to Malaysia, and result in the imposition of sanctions.¹⁰⁶

US Labor Department Finds Child Labour, Forced Labour in Malaysia

On 1 December 2014, the United States Department of Labor released its sixth edition of "List of Goods Produced by Child Labor or Forced Labor." The report included the production of palm oil in Malaysia as among the goods produced with child labor, which is defined as work done by those under 15 which is "slavery or practices similar to slavery" or else likely to "harm the health, safety or morals of children." It additionally listed palm oil, electronics, and garments as goods produced in Malaysia by forced labor, which is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."¹⁰⁷

Unfortunately, rather than taking this issue seriously, the Plantation Industries and Commodities Ministry defended the use of child labor in the production of palm oil stating that "the study shows children of foreign workers accompanying their parents to the work area due to lack of supervision at home and assisting in simple tasks such as loose fruit collection... However, this is only allowed after school hours, weekends and holidays."¹⁰⁸

The report also held that the U.S. Government is currently involved in "productive high-level discussions with the Government of Malaysia to address forced labour- and child labour-related concerns."

¹⁰⁶ The Guardian, "US penalises Malaysia for shameful human trafficking record," 20 June 2014. See: <http://www.theguardian.com/global-development/2014/jun/20/malaysia-us-human-trafficking-persons-report>; Reuters, "Malaysia police arrest 42 foreigners after riot at export factory," 27 August 2014. See: <http://uk.reuters.com/article/2014/08/27/malaysia-workers-idUKL3N0QX2M520140827>; The Malay Mail Online, "Survey shows modern day slavery rife in Malaysian factories," 17 September 2014. See: <http://www.themalaymailonline.com/malaysia/article/survey-shows-modern-day-slavery-rife-in-malaysian-factories>

¹⁰⁷ United States Department of Labor, "US Labor Department announces updated lists of goods produced by child labor, forced labor," 1 December 2014. See: <http://www.dol.gov/opa/media/press/ilab/ILAB20142116.htm>; United States Department of Labor, "What are Child Labor and Forced Labor?" See: <http://www.dol.gov/ilab/child-forced-labor/What-are-Child-Labor-and-Forced-Labor.htm>

¹⁰⁸ The Malaysian Insider, "Citing study, ministry denies US claims of child labour in palm oil sector" 3 December 2014. See: <http://www.themalaysianinsider.com/malaysia/article/citing-study-ministry-denies-us-claims-of-child-labour-in-palm-oil-sector>

DEATH PENALTY

On 19 March 2014, Parliament disclosed that a total of 30 death sentences had been carried out between 1998 and March 2014, with 25 Malaysians, three Nigerians and two Singaporeans being executed.

While there have been no official statistics on death sentences carried out in Malaysia in 2014, the Malaysian government continues to be secretive about executions.¹⁰⁹ As of the beginning of 2014, there were nearly a thousand people on death row, including over 600 sentenced for drug trafficking.¹¹⁰ According to Amnesty International Malaysia's monitoring, in 2014, through to the end of October, there had been 56 impositions of the death sentence, more than half of which were for drug trafficking offenses.

On 7 February 2014, P. Chandran was scheduled to be executed, with only four days advance notice. Several hours before the scheduled execution, the Sultan of Johor granted him a reprieve in response to his family's appeal for clemency.¹¹¹ On 14 March 2014, Osiariakhi Earnest Obayangbo a Nigerian was scheduled to be hanged. Obayangbo, who has been diagnosed as schizophrenic, was able to get a last minute reprieve after a friend of Obayangbo's in Canada contacted Amnesty International, who in turn contacted a minister, the Attorney-General's Chambers, the Bar Council and SUARAM.¹¹²

On 22 July, the Human Rights Commission of Malaysia (SUHAKAM) came out in favor of abolishing the mandatory death penalty, especially for drug offences. After input and pressure from Civil Society, SUHAKAM, and UNHRC's Universal Periodic Review, the Attorney General's Chambers has begun conducting a study on abolishing the mandatory death penalty, the report of which is expected to come out at the end of the year.¹¹³

FREE AND FAIR ELECTIONS

Kajang By-election

The Kajang by-election was an engineered by-election by Pakatan Keadilan Rakyat (PKR) with its de facto leader Anwar Ibrahim as the would-be candidate following the sudden resignation of PKR assemblyman Lee Chin Cheh on 27 January 2014, just 8 months after the GE13.¹¹⁴ It is widely believed that this political move, code named *Kajang Move*, was to replace the then Selangor Menteri Besar Khalid Ibrahim. Nevertheless, the imposition of an unnecessary by-election on the voters of Kajang was in fact taking advantage of the political process for partisan interests.

Anwar's move was foiled when the Court of Appeal found him guilty of sodomising his former aide Mohd Saiful, a decision which many regard as politically motivated. Following the

¹⁰⁹ Amnesty International Malaysia, "Press Conference: Global Death Sentences & Executions Report 2013," 30 April 2014. See: <http://aimalaysia.org/content/press-conference-global-death-sentences-executions-report-2013>

¹¹⁰ Amnesty International Malaysia, "Abolish the death penalty in Malaysia," 14 October 2014.

See: <http://aimalaysia.org/AbolishDeathPenaltyPetition>

¹¹¹ Hands Off Cain, "Malaysia." See: <http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=23&nome=malaysia>

¹¹² The Malaysian Insider, "Last-minute reprieve delays date with the hangman," 26 March 2014. See:

<http://www.themalaysianinsider.com/malaysia/article/last-minute-reprieve-delays-date-with-the-hangman>

¹¹³ The Sun Daily, "Suhakam hopeful Malaysia will abolish mandatory death penalty," 22 July 2014. See:

<http://www.thesundaily.my/news/1120984>

¹¹⁴ Free Malaysia Today, "Kajang Move: Anwar fails to tell all", 4 February 2014. See:

<http://www.freemalaysiatoday.com/category/nation/2014/02/04/kajang-move-anwar-fails-to-tell-all/>

court's ruling, Anwar's wife, Dr Wan Azizah replaced Anwar as the candidate and won the election on 23 March 2014.¹¹⁵

Selangor Menteri Besar Crisis

The crisis surrounding the Selangor Menteri Besar (MB) was an extension to the *Kajang Move* and was exacerbated when then Menteri Besar Khalid refused to resign to make way for Dr. Wan Azizah after he was sacked from the ruling party in Selangor Pakatan Keadilan Rakyat (PKR) for misconduct on 9 August 2014.¹¹⁶ The situation deteriorated when the Sultan of Selangor consented to the retention of Khalid as a party-less Menteri Besar and subsequently the sacking of six Executive Councilors (EXCOs), going against the fundamental principles of a parliamentary system.

The crisis continued when the Sultan of Selangor insisted PKR and Democratic Action Party (DAP) nominated more than two names as candidates for the MB post instead of submitting only Wan Azizah's name. PKR and DAP refused to oblige, claiming that Wan Azizah had received majority support from the 29 state assemblymen. On 23 September 2014, a new precedent was set when the Sultan of Selangor appointed the then PKR deputy president Azmin Ali as Selangor's 15th Menteri Besar despite Azmin not having been nominated by any parties.¹¹⁷

Teluk Intan By-election

The unfortunate death of incumbent Teluk Intan MP Seah Leong Peng on 1 May 2014 triggered another by-election.¹¹⁸ It was a close race between Barisan Nasional's Datuk Mah Siew Keong and DAP's Dyana, but BN emerged victorious in the end by a mere 238 votes.¹¹⁹

This 10-day Teluk Intan by-election campaign was one of the dirtiest elections in Malaysia with sexist attacks on the young DAP candidate by the ruling coalition. Dyana faced harassment by Barisan Nasional's thugs on motorbikes during her campaign in Teluk Intan¹²⁰ and personal attacks based on race, religion and sex.¹²¹ Furthermore, the day before polling opened, bundles of anonymous leaflets in different languages defaming Dyana and DAP were strewn in different areas of the constituency, including accusations of DAP's secret agenda to eliminate the Malay's special privileges.¹²²

¹¹⁵ The Star Online, "Kajang by-election: PKR retains seat", 23 March 2014. See: <http://www.themalaysianinsider.com/malaysia/article/wan-azizah-unperturbed-by-majority-says-a-win-is-a-win-in-tomorrows-kajang>

¹¹⁶ Malay Mail Online, "Selangor MB crisis: Chronology of events", 13 August 2014. See: <http://www.themalaymailonline.com/malaysia/article/selangor-mb-crisis-chronology-of-events>

¹¹⁷ Malaysia Kini, 'Azmin Ali sworn in as 15th Selangor MB', 23 September 2014. See: <http://www.malaysiakini.com/news/275449>

¹¹⁸ Malay Mail Online, "DAP's Teluk Intan MP dies from cancer aged 48", 1 May 2014. See: <http://www.themalaymailonline.com/malaysia/article/daps-teluk-intan-mp-dies-from-cancer-aged-48>

¹¹⁹ The Star Online, "Teluk Intan by-election: Barisan Nasional wins by 238 votes", 31 May 2014. See: <http://www.thestar.com.my/News/Nation/2014/05/31/Teluk-Intan-Mah-wins/>

¹²⁰ The Malaysian Insider, "Barisan 'thugs' try to disrupt Dyana's campaign", 21 May 2014. See: <http://www.themalaysianinsider.com/malaysia/article/barisan-thugs-try-to-disrupt-dyanas-campaign>

¹²¹ The Malaysian Insider, "Stop attacking Dyana Sofya and focus on important issues, Guan Eng tells Umno", 18 May 2014. See: <http://www.themalaysianinsider.com/malaysia/article/stop-attacking-dyana-sofya-and-focus-on-important-issues-guan-eng-tells-umn>

¹²² Malay Mail Online, "On final day of campaign, 'Balik Cina' pamphlets found in Teluk Intan", 30 May 2014. See: <http://www.themalaymailonline.com/malaysia/article/on-final-day-of-campaign-balik-cina-pamphlets-found-in-teluk-intan>

These abuses went unchecked by the Election Commission (EC) and police, once again showing that fair and clean elections remain a false hope in Malaysia.

Bukit Gelugor By-election

The Bukit Gelugor by-election was one of the few peaceful elections which took place in Malaysia with no serious incidents reported. According to the IGP, fewer than 15 complaints and 4 investigation papers were opened during the by-election, and these were minor cases.¹²³

Ramkarpal Singh, son to the late Karpal Singh, won the constituency seat with a large majority on 25 May 2014 over Parti Cinta Malaysia and 2 other independent candidates.¹²⁴

Pengkalan Kubor By-election

The death of incumbent three-term assemblyman Noor Zahidi Omar from cancer necessitated a by-election in Pengkalan Kubor, Kelantan on 20 August 2014.¹²⁵ The seat was won by Barisan Nasional's candidate Mat Razi Mat Ail with a large majority over Pan-Malaysian Islamic Party (PAS) and an independent candidate.

The win came with serious allegations of vote-buying. In one such brazen display three days before the election, Deputy Prime Minister Tan Sri Muhyiddin Yassin announced that he was allocating RM300,000 to help businessmen in Pengkalan Kubor by setting up Amanah Ikhtiar microcredit loan known as Sahabat.¹²⁶ Regarding the money, he stated that, "I am not asking for anything in return. I am just asking that you vote for Ustaz Mat Razi."¹²⁷

Increase of Sarawak Assembly Seats

On 11 November 2014, the Sarawak state assembly passed the State Legislative Assembly (Composition of Membership) Bill 2014, effectively increases the number of state constituencies from the present 71 to 82. The State Housing and Tourism Minister Datuk Amar Abang Johari Tun Openg held that the increase was principally due to the growing voting population.¹²⁸ The new ordinance would be enforced in time for the next state election which is predicted to happen in 2016.

The increase of 11 seats in Sarawak state assembly is widely criticised as a political ploy by the ruling Barisan Nasional (BN) to accommodate a clutch of elected representatives who recently formed the breakaway Parti Tenaga Rakyat Sarawak (Teras). Teras was formed in May 2014 by 11 lawmakers who quit state BN components' Sarawak Progressive

¹²³ Astro Awani, "Bukit Gelugo by-election among most peaceful - IGP", 24 May 2014. See: <http://english.astroawani.com/news/show/bukit-gelugor-by-election-among-most-peaceful-igp-36433>

¹²⁴ The Star Online, "Bukit Gelugor by-election: Ramkarpal Singh wins", 25 May 2014. See: <http://www.thestar.com.my/News/Nation/2014/05/25/Bukit-Gelugor-byelection-Ramkarpal-wins/>

¹²⁵ Free Malaysia Today, "BN wins big in Pengkalan Kubor", 25 September 2014. See: <http://www.freemalaysiatoday.com/category/nation/2014/09/25/bns-mat-razi-buries-pas-in-pengkalan-kubor-by-elections/>

¹²⁶ The Malaysian Insider, "Muhyiddin allocates RM300,000 to Pengkalan Kubor businessmen, says to vote Barisan", 22 September 2014. See: <http://www.themalaysianinsider.com/malaysia/article/muhyiddin-donates-rm300000-to-pengkalan-kubor-businessmen-says-to-vote-bn>

¹²⁷ The Malaysian Insider, "Muhyiddin allocates RM300,000 to Pengkalan Kubor businessmen, says to vote Barisan", 22 September 2014. See: <http://www.themalaysianinsider.com/malaysia/article/muhyiddin-donates-rm300000-to-pengkalan-kubor-businessmen-says-to-vote-bn>

¹²⁸ MySinChew.com, "Bill to increase number of Sarawak assembly seats passed", 11 November 2014. See: <http://www.mysinchev.com/node/103269?tid=4>

Democratic Party (SPDP) and Sarawak United People's Party (SUPP).¹²⁹ This will effectively reinforce BN's position as the ruling party in Sarawak.

CORRUPTION AND ACCOUNTABILITY

Malaysia ranks 50 in Corruption Perception Index 2014

Malaysia moved up three spots on the latest Transparency International corruption index, ranked at number 50 among the 175 countries which participated in the 2014 Corruption Perception Index (CPI) by Transparency International.¹³⁰ While this is a slight improvement compared to last year, incidents of corruption, leakages and wastage continued to plague Najib's administration. There was no action taken against major politicians suspected of corruption.

Table 4: Overview of Malaysia's CPI 2004 - 2014

Year	Rank	Score*
2014	50 out of 175 countries	52
2013	53 out of 175 countries	50
2012	54 out of 176 countries	49
2011	60 out of 183 countries	4.3
2010	56 out of 178 countries	4.4
2009	56 out of 180 countries	4.5
2008	47 out of 180 countries	5.1
2007	43 out of 179 countries	5.1
2006	44 out of 163 countries	5.0
2005	39 out of 158 countries	5.1
2004	39 out of 145 countries	5.0

*A country's score indicates the perceived level of public sector corruption

- 2012 - 2014 presented on a scale of 0 (highly corrupt) to 100 (very clean).
- 2004 - 2011 presented on a scale of 0 (highly corrupt) to 10 (very clean).

KPMG 'Fraud, Bribery and Corruption Survey Report 2013'

On 13 January 2014, KPMG released the results of a survey covering 100 chief executive officers and chief financial officers from publicly listed companies in Malaysia. The results showed that 71 percent of respondents thought that bribery and corruption are "an inevitable cost of doing business." Further, 64 percent believed that businesses cannot function in Malaysia without paying bribes. Additionally, 89 percent felt that fraud had increased in the last three years and 90 percent thought bribery and corruption were a serious problem for businesses in Malaysia.¹³¹

¹²⁹ The Star Online, "Chief Minister admits Teras causing instability to state Barisan Nasional", 7 June 2014. See: <http://www.thestar.com.my/News/Community/2014/06/07/New-party-a-major-cause-of-concern-Chief-Minister-admits-Teras-causing-instability-to-state-Barisan/>

¹³⁰ The Malaysian Insider, "Malaysia moves up 3 spots to be less corrupt in global graft index", 3 December 2014. See: <http://www.themalaysianinsider.com/malaysia/article/malaysia-moves-up-3-spots-to-be-less-corrupt-in-global-index>

¹³¹ The Malay Mail Online, "Guan Eng: Malaysia flagging in corruption fight with PKFZ prosecution foul-up," 14 January 2014. See: <http://www.themalaymailonline.com/malaysia/article/guan-eng-malaysia-flagging-in-corruption-fight-with-pkfz-prosecution-foul-u>; The Star Online, "Most firms see bribery as part and parcel of doing business," 14 January 2014. See: <http://www.thestar.com.my/Business/Business-News/2014/01/14/Alarming-mindset-Survey-shows-most-firms-see-bribery-as-part-and-parcel-of-doing-business/?style=biz>; KPMG, "Fraud, Bribery and Corruption Survey Report 2013," January 2014. See: <https://www.kpmg.com/MY/en/IssuesAndInsights/ArticlesPublications/Documents/2013/fraud-survey-report.pdf>

Multi-billion Ringgit Smuggling Operation at Port Klang Free Zone

On 3 September 2014, the Malaysian Anti-Corruption Commission (MACC) detained 22 people as part of an investigation targeting a cigarette and liquor smuggling operation, run from Port Klang Free Zone. Those detained included a Royal Malaysian Customs Department State Director and 11 other customs personnel. The arrests followed a year of surveillance involving approximately 200 officers from seven different law enforcement agencies. It required scrutinizing over two hundred bank accounts. It is estimated that the smuggling operation had cost the Malaysian government approximately RM 2.5 billion over three years.¹³²

UPSR Exam Leaks

A total of 473,175 year six students were forced to re-sit their Primary School Achievement Test (UPSR) examination because some papers had leaked in September 2014. The papers, which had to be cancelled and re-administered after being administered in early September, included the English 014/1 and 014/2 papers, the 015/1, 025/1, 035/1 Mathematics papers, and the 036 and 037 Tamil language papers. Furthermore, the UPSR Science 018, 028 and 038 papers had to be rescheduled because of the leaks.

Immediately after the leaks were discovered the Examinations Syndicate chief Dr. Na'imah Ishak, and deputy director of operations, Dr. Wan Ilias Wan Salle were both reassigned away from the examination's syndicate. In the ensuing investigation, 14 people were detained, at least 10 of whom were Tamil school teachers. This led to claims of a "racial witch hunt" and "cover up" by the group Hindraf. The police also recorded the statements of 30 people, including 19 teachers, a member of the Education Ministry, an engineer, and a journalist.

On 4 November 2014, it was stated that two male teachers were to be charged under Section 28(3) of the Malaysian Examinations Council Act 1980 for their roles in the examination leak. If convicted they face up to a RM10,000 fine and/or a prison sentence of up to three years.¹³³

Auditor General's Report

The Auditor General's Report is divided into three separate parts which are published at intervals. In the first part of the 2013 report, introduced on 7 April 2014, the Auditor General (AG) made 109 recommendations and highlighted cases of waste and corruption. One

¹³²The Malay Mail Online, "MACC nabs state customs director, cripples alcohol, cigarettes smuggling syndicate," 3 September 2014. See: <http://www.themalaymailonline.com/malaysia/article/macc-nabs-state-customs-director-cripples-alcohol-cigarettes-smuggling-synd>; The Malay Mail Online, "Long road ahead for MACC after smuggling bust," 6 September 2014. See: <http://www.themalaymailonline.com/malaysia/article/long-road-ahead-for-macc-after-smuggling-bust>;

¹³³The Malaysian Insider, "Two senior examinations syndicate officers suspended over UPSR leaks," 12 September 2014. See: <http://www.themalaysianinsider.com/malaysia/article/government-suspends-examinations-syndicate-senior-officers-over-upsr-leaks>; Free Malaysia Today, "UPSR leaks: Two released, two still detained," 15 September 2014. See: <http://www.freemalaysiatoday.com/category/nation/2014/09/15/upsr-leaks-two-released-two-still-detained/>; Yahoo News, "Latest report in UPSR leaks made to justify arrest of Tamil teachers, says Hindraf," 22 September 2014. See: <https://my.news.yahoo.com/latest-report-upsr-leaks-made-justify-arrest-tamil-050940831.html>; The Star Online, "UPSR leak: Candidates to resit Maths and Tamil papers Oct 9," 22 September 2014. See: <http://www.thestar.com.my/News/Nation/2014/09/22/UPSR-leak-Math-Tamil-Resit/>; The Star Online, "UPSR: Probe over alleged leak in Tamil, Maths papers," 21 September 2014. See: <http://www.thestar.com.my/News/Nation/2014/09/21/UPSR-leak-Tamil-Maths/>; New Straits Times Online, "Teachers to be charged for leaking UPSR papers," 4 November 2014. See: <http://www.nst.com.my/node/49423>; The Malaysian Insider, "Pupils have to resit UPSR Maths, Tamil papers on October 9," 22 September 2014. See: <http://www.themalaysianinsider.com/malaysia/article/pupils-have-to-resit-upsr-maths-tamil-papers>.

notable example was the RM342.55 million Paya Peda Dam, in which the contract to build the dam was awarded through direct negotiation to JAKS Resources Bhd and Pembinaan Sujaman Sdn Bhd. According to the report, these contractors lacked the experience needed for dam construction, have failed to follow international guidelines, and have made numerous errors in calculation. They were also nearly 20 percent behind schedule.

Another example was the Kuantan Court Complex in which construction had been delayed by 560 days, resulting in RM19.56 million in cost overruns. The terms of the contract have also been breached as the building is being built differently from the design. The report also mentioned the misdirection of funds meant for malnourished children and hospital meals.¹³⁴ In the second installment of the Auditor General's Report 2013, a total of 230 suggestions were made.¹³⁵

Of the 121 cases of corruption, abuse of power and negligence identified in the AG's 2012 Report, action has been taken in 99 of the cases with disciplinary procedures started against 165 people. So far 25 reprimands have been given based on the 2013 report.¹³⁶

LAW AND JUDICIARY

In a recent survey by Merdeka Center released on 30 October 2014, 48 percent of Malaysians were found to have no confidence in the Malaysian judicial system compared to 38 percent who responded positively.¹³⁷

There has been a mixed result of positive and negative judgments on human rights from the judiciary in 2014. Nevertheless, the cases involving Anwar Ibrahim and Adam Adli have strengthened public perception of the lack of judicial independence in Malaysia.

Anwar's Second Sodomy Charge

Court of Appeal

The Court of Appeal's decision on 7 March 2014 to overturn the High Court's acquittal of Anwar on sodomy charges under Section 377 of the Penal Code marked a new low for Malaysia's justice system.¹³⁸ The appellate court found Anwar guilty of sodomising his former aide, Mohd Saiful Bukhari Azlan on 26 June 2008 and sentenced Anwar to five years' imprisonment.

The trial was brought forward abruptly and conducted in a hasty manner, as a result of which Anwar was convicted and sentenced in mere two days, and consequently disqualified him from taking part in the Kajang by-election held on 23 March 2014. During the trial, serious questions that impinged on fair trial standards were raised including: the complainant's

¹³⁴ FZ, "AG's Report 2013: Lost millions," 11 April 2014. See: <http://www.fz.com/content/ags-report-2013-lost-millions>; Free Malaysia Today, "A-G report shows M'sia 'bleeding itself to death,'" 15 April 2014. See: <http://www.freemalaysiatoday.com/category/nation/2014/04/15/a-g-report-shows-msia-bleeding-itself-to-death/>;

¹³⁵ AstroAwani, "Highlights of Auditor-General's Report 2013 series 2," 17 June 2014. See: <http://english.astroawani.com/news/show/highlights-of-auditor-generals-report-2013-series-2-37880?cp>

¹³⁶ Wew Straits Times, "Drop in punitive recommendations raised in Auditor General's Report 2013," 17 June 2014. See: <http://www.nst.com.my/node/3697>

¹³⁷ Merdeka Center, "Public Opinion Survey 2014", 30 October 2014. Retrieve from: <http://www.merdeka.org/>

¹³⁸ The Wall Street Journal, "Malaysia Court Overturns Anwar's Sodomy Acquittal", 7 March 2014. See: <http://online.wsj.com/articles/SB10001424052702303824204579424650838293392>

meeting with the Prime Minister and senior officials before the alleged incident; tampering of evidence including planting of DNA evidence; ignoring the medical report of the complainant that showed no penetration etc.¹³⁹

Federal Court

Anwar's sodomy II appeal at the Federal Court, which was initially scheduled for 28 and 29 October 2014, lasted for 8 days and was one of the longest criminal appeals in Malaysian history.¹⁴⁰ This was Anwar's final opportunity to set aside his conviction or else he would be required to serve a five-year term of imprisonment. The trial was well attended by family members and friends, national and international media, politicians, international observers including the Inter-Parliamentary Union, International Federation of Human Rights (FIDH) and LawAsia. The 8-day trial heard submissions from both sides. Chief Justice Arifin Zakaria, with a five-member bench, stated that the verdict will be announced at a later, unspecified date.¹⁴¹

Death in Custody

A. Kugan

On 8 August 2014, in a unanimous decision by the Court of Appeals, the court upheld a ruling by High Court Judge V.T. Singham that the IGP, Tan Sri Khalid Abu Bakar, and his police officers, were liable for the custodial death of A. Kugan five years ago, and awarded RM701,700 in damages to Kugan's mother, who was the plaintiff in the negligence suit.¹⁴²

On 26 June 2013, the High Court judge, in the civil suit filed by Kugan's mother against the then Selangor police chief Khalid Abu Bakar, his police officers, and the Government, held that the injuries found on Kugan could not have been committed by one person and that the senior officers could not plead ignorance. A. Kugan, who died in police custody in 2009 at Taipan Police Stations, Subang Jaya, was 22 years old when he died. He was detained as a suspect in a luxury car theft case.¹⁴³

Teoh Beng Hock

On 5 September 2014, the Court of Appeal set aside the open verdict decision by a coroner on the death of Teoh Beng Hock five years earlier, which occurred while he was under the custody of the Malaysian Anti-Corruption Commission. The Court of Appeal ruled that "a person or persons were responsible for his death."¹⁴⁴ This important verdict by the judiciary necessitated the police to reopen the investigations, vindicating the victim's previously

¹³⁹ The Sun Daily, "It's safe to convict Anwar, says Court of Appeal", 18 April 2014. See: <http://www.thesundaily.my/news/1021226>

¹⁴⁰ ABC News, "Malaysia Judges Delay Verdict in Anwar Sodomy Case", 7 November 2014. See: <http://abcnews.go.com/International/wireStory/malaysia-judges-delay-verdict-anwar-sodomy-case-26751996>

¹⁴¹ The Star Online, "Chief Justice: Court still preparing Anwar's judgement", 4 December 2014. See: <http://www.thestar.com.my/News/Nation/2014/12/04/Court-Chief-Justice-Anwar/>

¹⁴² The Malaysian Insider, "IGP, policemen liable for Kugan's lock-up death, appeal court rules", 8 August 2014. See: <http://www.themalaysianinsider.com/malaysia/article/igp-policemen-liable-for-kugans-lock-up-death-appeal-court-rules>

¹⁴³ The Malay Mail Online, "Appellate court upholds landmark ruling in Kugan case, says custodial death unacceptable", 8 August 2014. See: <http://www.themalaymailonline.com/malaysia/article/appellate-court-preserves-award-for-kugans-family-says-custodial-death-intol>

¹⁴⁴ The Malaysian Insider, "Court of Appeal reverses open verdict ruling in Teoh Beng Hock's death", 5 September 2014. See: <http://www.themalaysianinsider.com/malaysia/article/court-of-appeal-reverses-finding-of-open-verdict-into-teoh-beng-hocks-death>

denied right to justice. The police have since set up a special task force to focus solely on Teoh's custodial death.¹⁴⁵

Coroner Azmil Muntapha had, on 5 January 2011, returned a verdict that Teoh's death was neither a suicide nor homicide and this decision was upheld by the High Court on 1 December 2011. Teoh, then 30 years old, was found dead on the fifth floor balcony of Plaza Masalam on 16 July 2009 after falling from the office of the Malaysian Anti-corruption Commission (MACC). He was held by MACC as a witness in an investigation of alleged misappropriation of state funds.

Freedom of Expression and Speech

The judiciary has failed to uphold the constitutional right to freedom of expression with the conviction of the late Karpal Singh, Safwan Anang, Adam Adli¹⁴⁶ under the Sedition Act 1948 and Chow Mun Fai under the Communications and Multimedia Act 1998.¹⁴⁷

Table 5: Individuals convicted for an allegedly offensive statement in 2014

No	Individual	Offence	Sentence	Date
1	Late Karpal Singh	Sedition Act 1948	RM 4000 fine	21 February 14
2	Safwan Anang	Sedition Act 1948	10-month imprisonment	5 September 14
3	Adam Adli	Sedition Act 1948	12-month imprisonment	20 September 14
4	Chow Mun Fai	Communications and Multimedia Act 1998	12-month imprisonment	9 September 14

The disproportionality of the sentences given by the Sessions Court in the cases of Safwan Anang, Adam Adli, and Chow Mun Fai was incongruous given that no actual harm was caused and none of the accused had attempted to incite violence or instigate disorder. The AG-C in the three sedition cases has appealed for a heavier sentence to be imposed on the defendants.

Court lifted ban on Zunar's cartoon books

On 9 October 2014, the Court of Appeal lifted a ban on two of Zunar's cartoon books titled "Perak Darul Kartun" and "1 Funny Malaysia" on the grounds that they were not a threat to national security or detrimental to public order. The three-man bench unanimously ordered the Home Ministry to return copies of the books and held that the law of sedition should not be used as a "convenient peg to control freedom of expression."¹⁴⁸

Azmi Sharom's Constitutionality Challenge against the Sedition Act

The High Court on 6 November 2014 referred Azmi's submission challenging the constitutionality of the Sedition Act straight to the Federal Court. The High Court judge, Justice Kamardin Hashim, stated that the highest court in the land should be given the opportunity to decide once and for all the constitutionality of the Sedition Act.

¹⁴⁵ The Sun Daily, "Task force to look into Teoh Beng Hock's death", 23 October 2014. See: <http://www.thesundaily.my/news/1207077>

¹⁴⁶ The Malay Mail Online, "Activist Adam Adli gets one year jail after convicted of sedition", 19 September 2014. See: <http://www.themalaymailonline.com/malaysia/article/activist-adam-adli-gets-one-year-jail-after-convicted-of-sedition>

¹⁴⁷ The Star Online, "Site supervisor sentenced to a year over Facebook comments", 10 September 2014. See: <http://www.thestar.com.my/News/Nation/2014/09/10/Jailed-for-insulting-Muslims-Site-supervisor-sentenced-to-a-year-over-Facebook-comments/>

¹⁴⁸ The Malaysian Insider, "Court lifts ban on Zunar's cartoon books", 9 October 2014. See: <http://www.themalaysianinsider.com/malaysia/article/court-lifts-ban-on-zunars-cartoon-books>

In Azmi's submission, he contended that the Sedition Act is unconstitutional. His argument is that Article 4 of the Federal Constitution provides that the constitution is the supreme law of the land, and the Sedition Act, a law that was never enacted by Parliament, contravenes Article 10 of the constitution and therefore should be declared void.¹⁴⁹

Freedom of Assembly

On 7 November 2014, the judiciary acquitted PKR's Nik Nazmi Nik Ahmad for the fourth time of the same offence under the Peaceful Assembly Act 2012.¹⁵⁰

The first acquittal came on 25 April 2014 when the three-member panel in Court of Appeal, chaired by Justice Datuk Mohamad Arif Md Yusof, unanimously ruled that the criminalisation of failure in giving notice to the police prior to a public assembly under section 9(1) of the Peace Assembly Act 2012 (PAA) ran counter to the constitution and must be struck out. This landmark ruling upholds the citizen's right to freedom of assembly as enshrined under Article 10 of the Federal Constitution. In his judgment, Justice Mah Weng Kwai stated that "the right to peaceful assembly should only be restricted reasonably and not prohibited."¹⁵¹

Despite the acquittal, the AG has attempted to charge Nik Nazmi under the same law in the Petaling Jaya Sessions Court and Shah Alam High Court, but these were all struck out by the court on grounds of binding precedent.

The ruling has major repercussions for many cases under the PAA and would acquit and discharge many of those similarly charged under Section 9 of the Act.

Rights of Transgender People

For the first time in history, the judiciary has recognised the rights of transgender people who choose to dress and identify as women. On 7 November 2014, a three-judge panel of the Putrajaya Court of Appeal held that Section 66 of the Syariah Criminal (Negeri Sembilan) Enactment 1992, which prohibits and penalises Muslim males "who in any public place wears a woman's attire or poses as a woman" is inconsistent with the Federal Constitution. As such, the court declared Section 66 of the Enactment void.¹⁵²

The state law has long been used by Islamic authorities to arrest transgender women, including the recent mass arrest of 16 transgender women at a wedding dinner on 8 June 2014.¹⁵³ This landmark ruling, recognizing the dignity and rights of transgender people in the country sets a laudable precedent to be followed by the lower courts.

¹⁴⁹ The Malaysia Insider, "Azmi Sharom's Sedition Act challenge referred to Federal Court", 5 November 2014. See: <http://www.themalaysianinsider.com/malaysia/article/azmi-sharoms-case-referred-to-federal-court>

¹⁵⁰ The Malay Mail Online, "For the fourth time, court acquits PKR's Nik Nazmi of same assembly law charge", 7 November 2014. See: <http://www.themalaymailonline.com/malaysia/article/for-the-fourth-time-court-acquits-pkrs-nik-nazmi-of-same-assembly-law-charge>

¹⁵¹ The Malays Mail Online, "Assembly law cannot criminalise public gatherings, court rules", 25 April 2014. See: <http://www.themalaymailonline.com/malaysia/article/assembly-law-cannot-criminalise-public-gatherings-court-rules>

¹⁵² Rakyat Post, "Court of Appeal recognises Muslim transgender rights in landmark ruling", 7 November 2014. See: <http://www.therakyatpost.com/news/2014/11/07/court-appeal-recognises-muslim-transgender-rights-landmark-ruling/>

¹⁵³ Human Rights Watch News, "Malaysia: End Arrests of Transgender Women", 23 June 2014. See: <http://www.hrw.org/news/2014/06/23/malaysia-end-arrests-transgender-women>

NATIONAL HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)

The effectiveness and impartiality of the National Human Rights Commission of Malaysia (SUHAKAM) has improved in recent years although there is still room for improvement.

Universal Periodic Review (UPR)

In March 2014, SUHAKAM expressed their disappointment with the Malaysian Government for not accepting UPR's recommendation relating to accession to core human rights treaties, national law reform, the abolition of the death penalty, and six significant proposals concerning rights of Indigenous Peoples.¹⁵⁴

Sarawak Murum Dam Visit

The plight of the Penans who were displaced by the Murum Dam project in Sarawak was finally heard by SUHAKAM during its visit in June 2014. Although the visit was facilitated by Sarawak Energy Berhad (SEB), SUHAKAM was able to make a hands-on evaluation of the actual conditions in the resettlement areas.¹⁵⁵

SUHAKAM reported several horrendous situations the Penans face and the “empty promises” made by the state government and Sarawak Energy Berhad (SEB), including deplorable road condition, lack of schooling facilities, inadequate infrastructure, pathetic living conditions and lack of a proper access road at the resettlement areas.

The construction of the RM3.5 billion Murum Hydroelectric Power Dam project in Belaga was completed last September, displacing a total of 353 families.

Prison Reform

In response to Uthayakumar's allegations of horrendous prison conditions in Kajang Prison, and a memorandum received from the Advisers Association of Malaysian Consumers on 5 August 2014, SUHAKAM has called for prison reform to meet acceptable health and safety standards for both inmates and staff.¹⁵⁶ This was after SUHAKAM's meeting with the Prison Department and a thematic study based on first hand data collected from 13 prisons nationwide. The outcome report will contain findings and recommendations on the improvement of health standards in prisons across the country.

Public Advocacy by SUHAKAM

SUHAKAM has also expressed their grave concern about the continued invocation of the Sedition Act 1948 and the selective persecution by the government against dissent in three press statements.¹⁵⁷ The Commission has also publicly advocated combating human trafficking and the smuggling of migrants¹⁵⁸; called for the protection of the freedom of

¹⁵⁴ The Malaysian Insider, "Suhakam seru pelaksanaan efektif hasil UPR Malaysia kali kedua", 22 March 2014. See: <http://www.themalaysianinsider.com/bahasa/article/suhakam-seru-pelaksanaan-efektif-hasil-upr-malaysia-kali-kedua>

¹⁵⁵ FZ.com, "Suhakam to help Murum Penans seek the unfulfilled promises", 18 June 2014. See: <http://www.fz.com/content/suhakam-help-murum-penans-seek-unfulfilled-promises>

¹⁵⁶ Free Malaysia Today, 'Suhakam sees need for prison reform', 28 October 2014. See:

<http://www.freemalaysiatoday.com/category/nation/2014/10/28/suhakam-sees-need-for-prison-reform/>

¹⁵⁷ SUHAKAM official website, "Press Statement". See: <http://www.suhakam.org.my/pusat-media/kenyataan-media/>

¹⁵⁸ The Star Online, "Suhakam: Significant improvement needed after Malaysia sinks to lowest ever ranking in human trafficking report", 22 June 2014. See: <http://www.thestar.com.my/News/Nation/2014/06/22/Suhakam-anti-trafficking-report/>

religion in relation to the government's justification that the call to burn Malay-language Bibles was done to defend Islam¹⁵⁹, and called also for the abolishment of detention without trial provisions under the Prevention of Crime Act 2013.¹⁶⁰

¹⁵⁹ Malaysiakini, "Suhakam: Gov't defence of Bible burning alarming", 11 October 2014. See: <http://www.malaysiakini.com/news/277270>

¹⁶⁰ The Malaysian Insider, "Pindaan PCA tanpa perbincangan, Suhakam bimbang cabul hak asasi", 3 April 2014. See: <http://www.themalaysianinsider.com/bahasa/article/pindaan-pca-tanpa-perbincangan-suhakam-bimbang-cabul-hak-asasi>