

Human Rights, its Scope and Application: An Empirical Analysis of Future Human Rights Advocates in Malaysia

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ABSTRACT

Human rights is an important subject in legal education. Human rights knowledge relates to awareness of the scope and content of human rights and the relationship of these rights to human dignity and survival. The principal elements of human rights are universality and equality and avenues to seek redress in the event of violation of human rights. Articles 1(5) and 1(10) of the ASEAN Charter state that the purposes of ASEAN are to generate a distinct market and invention base which is steady, affluent, highly competitive and improve human resources through closer collaboration in education and life-long learning. Since Malaysia is a member of ASEAN, this study was deemed important to assess the knowledge of future human rights advocates in Malaysia on human rights principles and mechanism for the protection and enforcement of human rights. It is also important considering the fact that Malaysia is a State Party to three international human rights treaties and some aspects of human rights are enshrined in its Federal Constitution. The study employs qualitative research design in achieving its objectives.

Keywords: Education, future advocates, human rights, knowledge, Malaysia, public university

INTRODUCTION

The Association of Southeast Asian Nations (ASEAN) Charter came into force in

December 2008 after being fully ratified by all 10 ASEAN Member States. The ASEAN Charter is in essence its Constitution and among others, contains the Articles of Association on how ASEAN will conduct its affairs, confers legal personality on ASEAN as a legal entity, establishes the organs through which ASEAN will act, and provides a formal structure for decision-making.

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One of the immediate implications of the ASEAN Charter is movement of business people, professionals, talents and labour within this regional bloc. Thus, it is important these groups of people had knowledge of the various legal systems in other ASEAN Member States. At the same time, human rights has become an important subject in legal education. Knowledge of human rights relates to the scope and content of human rights and the relationship of these rights to human dignity and survival. The principal elements of human rights are universality and equality and avenues to seek redress in the event of its violation (Hornberg, 2002, p.190).

This research was inspired by the fact Malaysia is a Member State of ASEAN and it is important to assess knowledge of future human rights advocates in Malaysia on human rights principles and mechanism for the protection and enforcement of human rights. Befitting current times and situation, it needs to be assessed how future Malaysian human rights advocates view the issue of human rights in Malaysia, considering the fact that Malaysia is a State Party to three international human rights treaties: Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979, Convention on the Rights of Children (CRC) 1989 and Convention on the Rights of Person with Disabilities (CRPD) 2006. Additionally, Malaysians are guaranteed some rights under the “Fundamental Liberties” Article of the Federal Constitution.

OBJECTIVES OF THE STUDY

Human rights education seeks to impart knowledge, values and related behaviour (Shapiee, Mohd, Hassim, Nordin, Basir & Mohamed, 2012, p.314). This study empirically assesses the objective of human rights education, raising the level of human rights knowledge among future human rights advocates. For the purposes of this study, human rights knowledge refers to knowledge of the scope and application of human rights as follows:

- (i) Ability to perceive what constitutes human rights and that every individual has human rights irrespective of differences in colour, religion, language and social background;
- (ii) Ability to determine various aspects of human rights as they are important for human survival and dignity;
- (iii) Ability to know the mechanism that exists domestically, regionally and internationally to address human rights violation and to enhance promotion of human rights.

Thus, the overall objective of the study is to assess empirically the scope and knowledge of human rights among future human rights advocates in Malaysia.

Respondents of the Study

While there is no established definition for “future human rights advocates”, we are of the view that law students are the future advocates of human rights. This is because

majority of them will practise as advocates and solicitors in all areas of law, including human rights. Law students are exposed to human rights issues throughout their studies. Thus, to achieve this study's objectives, we conducted a survey among Final Year Law students at seven public universities in Malaysia: Universiti Kebangsaan Malaysia; Universiti Malaya; Universiti Sains Islam Malaysia; Universiti Teknologi Mara; Universiti Islam Antarabangsa; Universiti Utara Malaysia; and Universiti Sultan Zainal Abidin (Participating Universities). Altogether, 573 respondents participated in this study.

Research Instrument

A set of questionnaires was developed to gather data. The questionnaires were divided into six parts. Part A consists of questions on the personal information of the Respondent; Part B on the Respondent's knowledge on various aspects of human rights; Part C contains 11 questions on the knowledge of human rights principles; Part D assesses the Respondent's knowledge of human rights protection and mechanism while Part E assesses the Respondent's knowledge about Human Rights Commission of Malaysia (SUHAKAM) and their perception of its role. The last part contains 2 questions on the Respondent's perception of the human rights profession. Some questions are open-ended for the Respondents to express their views freely.

LITERATURE REVIEW ON HUMAN RIGHTS EDUCATION

Human Rights Education (HRE) in General

The Human Rights Education (HRE) is an integral part of general education in some countries. Hornberg (2002) argues that it is good to make learners alert of global interdependencies. Without human rights, education lacks a primary component and substance since human rights is considered the essence and arbiter of peace (Reardon, 2009, p. 3). The main objective of effective HRE is to educate people about their rights in accordance with the law so that they will become responsible citizens in an open society that values human rights (Claude, 2000, p.4). Thus, HRE could be seen as an essential apparatus in the preservation of social unity and should be taught in law faculties in Malaysian universities (Nordin, Shapiee, Suhor, Yusof, & Muhamad 2012, p. 721). The HRE originated from the United Nations Decade for Human Rights Education 1995 - 2004, proclaimed by the General Assembly in its Resolution 49/184 of December 1994, where the Plan of Action of the United Nations Decade for Human Rights Education emphasised that:

States should develop specific programs and strategies for ensuring the widest human rights education and the dissemination of public information through promoting, encouraging and focusing on the human rights education activities.
(UNESCO, 2005)

In cooperation with United Nations, Educational Scientific and Cultural Organization (UNESCO), the Office of the Human Commission for Human Rights (OHCHR) had developed Guidelines for National Plans of Action for Human Rights Education (UN, 1998). It has made the World Programme for Human Rights Education (2005-ongoing) possible (UNESCO, 2006). Furthermore, HRE is included in UNESCO's proposed educational programme under the concept of 'learning to live together.' The concept focuses on the development of understanding and respect for others, their beliefs, values and cultures that would eventually lead to the avoidance of conflicts, non-violent resolution and peaceful coexistence (Tibbits, 2005). Human rights should be incorporated into university courses or programmes of study to interpret societal and global problems through the human rights "lens" (Tibbits, 2006, p. 11).

UNESCO advocates three models that could be adapted when formulating a curriculum for higher education: the objective model; the process model; and the situation analysis model (UNESCO, 2005). However, Okebukola recommends the hybrid model that features elements of all three models (UNESCO, 2005). Irrespective of which model is adopted, there has to be a thorough evaluation of the educational programme and a clear, logical, and constant effort to infuse the teaching of higher-order thinking skills into the curricula of higher education (Nagappan, 2010, p.12, and Sing

& Abdul Samad, 2013, p. 1256) including human rights.

Nordin et al. (2012, p.721) in their study stressed that a good curriculum meets the mandate of the learners as well as the needs of society at large. Thus, in the framework of HRE at the Faculty of Law, Universiti Kebangsaan Malaysia, the objective is in satisfying the demands of the multi-ethnic learners as well as the multi-ethnic Malaysian society at large, in the interest of preserving of social unity (Nordin et al., 2012).

It is interesting to see that in some States, HRE has been promoted as an integral part of general education. Sabine Hornberg (2002) argues that this is due to the fact that HRE, by its very nature, has the potential to help students transcend national, social, cultural and economic and other boundaries. It helps them to be aware of global interdependencies (for example, regarding environmental matters or processes of migration) without neglecting their personal situation, but rather, taking it as a starting point (Hornberg, 2002).

Human Rights Education at the Participating Universities

In the participating universities, HRE is inserted in a specific course of Human Rights. Universiti Malaya, for example, offers International Human Rights and Humanitarian Law as a subject. In Universiti Kebangsaan Malaysia, the HRE is forms part of an introduction of the Constitutional Law and Public International Law subject. Based

on the analysis, majority of the respondents learned human rights in subjects such as Constitutional Law, Public International Law and Malaysian Legal System. In these participating universities, the human rights R knowledge is imparted via lectures, tutorials, assignments, Problem Based Learning (PBL) and assessed in examinations.

ethnically: Malays, Chinese and Indians. The largest number of respondents were Malays, 455, accounting for 79% of the sample. There were 84 Chinese respondents accounting for 15% of the total population surveyed. The Indians were the smallest group with 21 respondents accounting for 4% of the sample size.

DESCRIPTIVE ANALYSIS (DEMOGRAPHIC INFORMATION)

Ethnic Background

As seen in Table 1 and Figure 1, the respondents were well represented

Table 1
Ethnic background

		Number	Percent	Valid Percent	Cumulative Percent
Valid	Malay	455	79.4	81.3	81.3
	Chinese	84	14.7	15.0	96.3
	Indian	21	3.7	3.8	100.0
	Total	560	97.7	100.0	
Missing		13	2.3		
Total		573	100.0		

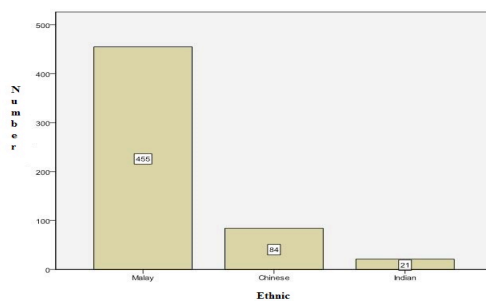


Figure 1. Ethnic Background

Religion

In terms of religion, Muslims constituted 82% of the sample followed by Buddhists at 10%, Christians, 5% and Hindus at 3% percent; other religions accounted for less than one per cent, as shown in Table 2 and Figure 2.

Table 2
Religion

		Number	Percent	Valid Percent	Cumulative Percent
Valid	Islam	465	81.2	81.7	81.7
	Buddhism	58	10.1	10.2	91.9
	Hinduism	17	3.0	3.0	94.9
	Christianity	29	5.1	5.1	100.0
	Total	569	99.3	100.0	
Missing	System	4	.7		
	Total	573	100.0		

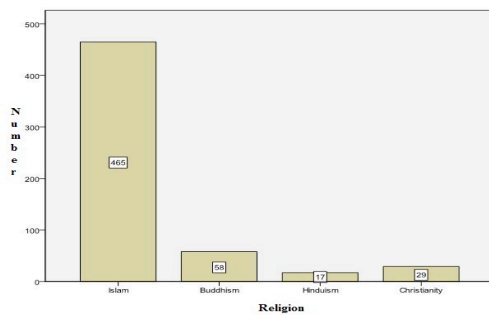


Figure 2. Religion

Gender

Table 3 shows the gender of respondents that participated in this study. About 72% of respondents are females (414) and almost 28% (159) are males, as shown in Figure 3.

Table 3
Gender

		Number	Percent	Valid Percent	Cumulative Percent
Valid	Male	159	27.7	27.7	27.7
	Female	414	72.3	72.3	100.0
Total		573	100.0	100.0	

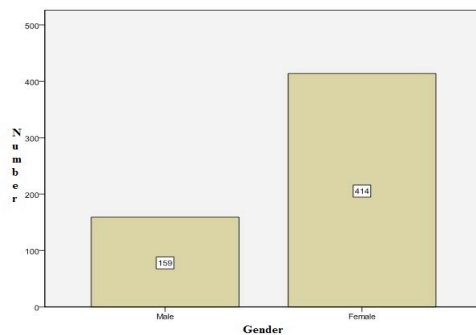


Figure 3. Gender

Education Level

The educational level of respondents is STPM, Matriculation, Law Matriculation and A Level. Among all the respondents, more than 51% are enrolled in Law Matriculation while 6% of them are other matriculation programmes. Respondents with A Level qualification form the smallest number (less than one per cent of the sample). Respondents with STPM

Table 4
Education Level

		Number	Percent	Valid Percent	Cumulative Percent
Valid	STPM	140	24.4	29.7	29.7
	Matriculation	34	5.9	7.2	36.9
	Law Matriculation	295	51.5	62.6	99.6
	A Level	2	.3	.4	100.0
	Total	471	82.2	100.0	
Missing		102	17.8		
Total		573	100.0		

qualification account for almost 25% of the sample. The results are shown in Table 4 and Figure 4.

Qualitative Analysis

Human rights is concerned with equality and fairness as provided for by Article 7 of the Universal Declaration of Human Rights and Article 14 of the International Covenant on Civil and Political Rights 1966. It recognises the freedom to make choices. The UN Declaration also guarantees a life free from fear, harassment or discrimination. There is a list of basic rights that people from around the world have agreed on, such as the right to life, freedom from torture and other cruel and inhumane treatment, rights to a fair trial, free speech and freedom of religion, rights to health, education and access to a decent standard of living. In many situations though rights exist, they are not provided for by law. These rights are usually referred to as moral rights and are based on people's sense of what is fair or just. Hence, it is important to gauge the knowledge on

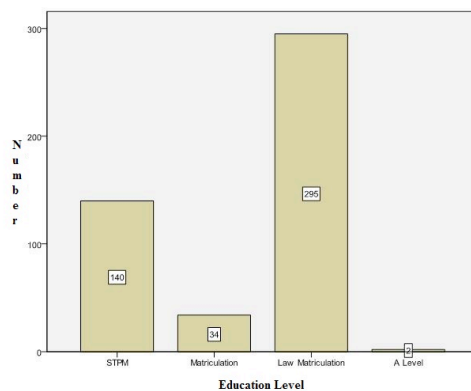


Figure 4. Education Level

human rights among our future human rights advocates specifically on: the scope and content of certain human rights and the relationship of these rights to human survival and dignity; the principal elements of human rights, namely universality and equality; and related issues concerning the Asian perspective on human rights; and the existing international, regional and domestic mechanisms to provide redress for human rights violations.

This study posted five open-ended questions to understand respondents'

perspective of the above said aspects of human rights. The five questions are:

- i. The abolishment of capital punishment in accordance with the right to life
- ii. Duty to ensure own access to food and clean drinking water
- iii. Promotion of a common culture such as the Malaysia culture
- iv. Entitlement of Malays to greater protections and privileges
- v. Approachability of SUHAKAM on the issue of violation of human rights

The following section provides qualitative analysis based on the respondents' feedback.

THE ABOLISHMENT OF CAPITAL PUNISHMENT IN ACCORDANCE WITH THE RIGHT TO LIFE

Question 9: Capital Punishment should be Abolished in Accordance with the Right to Life

Introduction

Malaysia is a country that still practises the death penalty. However, according to the Prime Minister's Department, there are positive signs that the death penalty legislation in Malaysia may be revisited (The Star, 2016). Statistics provided by the official agencies on exact number of people sentenced to death in this country is not sufficient. According to Datuk Seri Nazri Aziz, the Minister in the Prime Minister's Department, as at 2010, there were 114 death sentences with another 744 persons on

death row while one execution was reported (SUHAKAM Annual Report, 2010).

Article 5 (1) in Federal Constitution as well as Malaysian Penal Code (Act 574) legalise capital punishment in Malaysia. Capital punishment in Malaysia applies to murder under section 300 of Penal Code; discharging a firearm in the commission of a scheduled offence under Section 3, Firearms (Increased Penalties) Act 1971; trafficking in dangerous drugs under Section 39B(1) of Dangerous Drugs Act 1952; and treason and waging war against *Yang di-Pertuan Agong* under Section 121 and 121A Penal Code. As there is an increasing attention paid to the right to life as an inherent liberty under Universal Declaration of Human Rights (UDHR) 1948, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984, International Covenant on Civil and Political Rights (ICCPR) 1966, there have been movements to abolish the death penalty in Malaysia. The Malaysian Bar Council and SUHAKAM are championing against the death penalty. A forum was conducted in May 2011 as part of a long-term campaign for the abolishment of the death penalty by NGOs in Malaysia. Despite their efforts to abolish capital punishment, SUHAKAM recognises that there are still strong views that capital punishment should remain, especially in murder cases. In 2011, SUHAKAM conducted a public survey led by a team from Universiti Malaya, to gather the public's opinion on the death penalty (SUHAKAM Annual Report, 2010).

Analysis

A staggering 74% of the respondents do not support abolishing capital punishment (381 respondents from a total of 511). There are five main reasons for this. First, capital punishment is a preventive measure. A Respondent said “*A necessity for the prevention of crime.*”

As many as 173 respondents (33.36%) think that this punishment acts as a deterrent to prevent serious crimes such as drug trafficking and murder. Another 73 respondents are of the opinion that there is a place for capital punishment but it needs to be applied based on the principle of proportionality. Hence, only crimes that involve the taking of one’s life deserve death penalty. Drugs trafficker should not be punished with the same penalty as murderers. On the other hand, 62 respondents advocate for capital punishment as they believe that one should be responsible and accept this punishment as a consequence of one’s actions. In the words of one respondent: “*Your right stop when you encroached on someone else’s right.*”

Religion also justifies capital punishment. According to 20 respondents, it is an “*eye for an eye*” as contained in *Sūrat al-Māidah*, 5:45 of the Holy Qur’an, also in Exodus 21:24 of the Bible, hence, it should not be abolished. Additionally, 50 respondents believe justice is served for the families of the victims through the execution of murderers .

A total of 130 respondents, 26%, support the abolishment of capital punishment. Sixty of them believe that this punishment

encroaches the fundamental liberty of a person which is the right to life. One respondent opined, “*No one has the right to take someone else’s life.*” Another wrote, “*Right to life is intrinsic, inalienable right which no one, not even State can take it away.*”

Another 32 respondents believe criminals should be given a second chance in life instead of robbing them of an opportunity to repent. A total of 21 respondents believe that there are other alternatives to punish these criminals such as life imprisonment. Religion, on the other hand, is the reason why 15 Respondents are supportive of the idea of doing away with capital punishment as God is the ultimate arbiter and punisher. The remaining two respondents suggest education to rehabilitate the criminals and return them to society.

Thus, it can be concluded that most of the respondents are not ready for the abolishment of capital punishment in accordance with the right to life. They strongly believe in the principles of retribution and deterrence. Despite the recognition of right to life by international law, majority of the respondents perceived

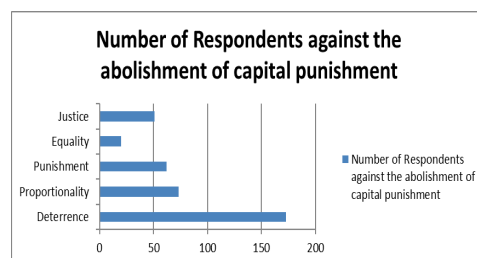


Figure 5. Bar chart of the number of respondents against the Abolishment of Capital Punishment

right to life as non-absolute as provided for by Article 5 of the Federal Constitution of Malaysia.

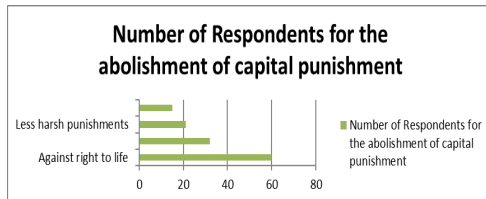


Figure 6. Bar chart of number of respondents for the abolishment of Capital Punishment

DUTY TO ENSURE OWN ACCESS TO FOOD AND CLEAN DRINKING WATER

Question 15: Everyone has a Duty to Ensure Their Own Access to Food and Clean Drinking Water

Introduction

While the right to food is recognised under Article 25 of the UDHR 1948 and Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, it is also recognised in specific international treaties such as the CRC under Article 24(2) (c) and 27(3), CEDAW under Article 12(2), and CRPD under Article 25(f) and 28(1) and clean drinking water under Article 25(f) and 28(1) of CRPD, Article 24 and 27(3) of CRC, and Article 14(2) of CEDAW which are distinct, but are also closely linked. These two rights are recognised under the international law which protects the rights of human beings to feed themselves in dignity, either by producing their own food or by purchasing it. Where water is scarce, and demand for it exceeds supply, individuals

will find it difficult to realise both rights to food and clean drinking water. However, the responsibility to ensure one's own access to food and clean drinking water is being debated. The international human rights law imposes duty on State Parties to realise these rights (Art. 11(2) of ICESCR). The right to food requires States to provide an enabling environment that will allow people to use their potential and resources to produce adequate food for themselves and for their families (Centre for Equity Studies, 2015).

The section below provides an analysis of respondents' feedback based on the questionnaire.

Analysis

A staggering 89.6% of the respondents, 278 are of the opinion that everyone has a duty to ensure his or her own access to food and clean drinking water. It is deemed as one's responsibility to ensure survival. In the words of one respondent: *"It is the basic right so everybody has the duty to ensure that their own access to food and clean drinking water."*

On the same note, another 120 Respondents which is 33.1% of the sample think that it is the duty to the individual to ensure he or she has access to food and clean drinking water as these are basic necessities of life. According to them it is the "State's duty to provide" but it is "our own duty to ensure" that we have access to food and clean drinking water since these are basic necessities. One respondent opine: *"It is a combined effort, not fair to just demand from State and without effort on one own effort."*

Conversely, 7.7% or 38 respondents do not think that this is an individual duty. The justification is that it is State’s duty to ensure one’s access to food and clean drinking water. According to one respondent: “*State should discharge its duty accordingly in order for the citizens to get their rights.*”

A total of 13 respondents comprising 2.2% of surveyed population size opine this is an inherent fundamental liberty that must be protected.

Thus, majority of respondents acknowledge that it is everyone’s duty to ensure he or she has access to food and clean drinking water as a matter of survival.

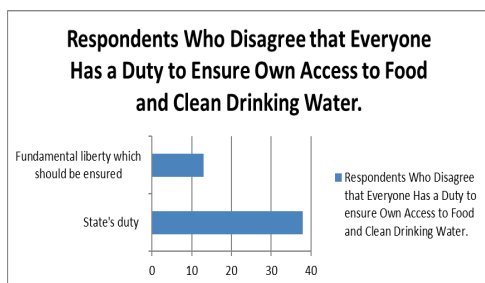


Figure 7. Chart on the number of respondents who disagree that everyone has a duty to ensure own access to food and clean drinking water

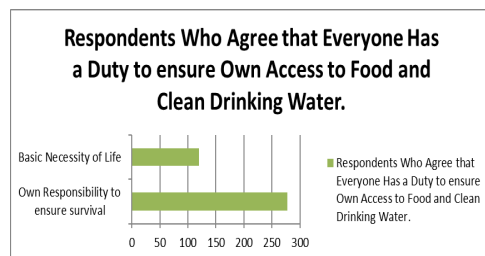


Figure 8. Chart on the number of respondents who agree that everyone has a duty to ensure own access to food and clean drinking water

PROMOTION OF A COMMON CULTURE SUCH AS THE 1 MALAYSIA CULTURE

Question 37: Promotion of a Common Malaysian Culture such as 1Malaysia Culture, for all Ethnicities should be Encouraged

Introduction

The 1Malaysia concept is an on-going programme designed by the Malaysian Prime Minister, Dato Seri Najib Tun Razak, and introduced in 2009. It calls on the cabinet, government agencies, and civil servants to emphasise ethnic harmony, national unity and efficient governance. The concept emphasises a culture of excellence, perseverance, acceptance, education, integrity, meritocracy, humility and loyalty (Booklet 1Malaysia, 2011) manifested through the establishment of, among others, 1Malaysia Clinics, 1Malaysia Email, *Kedai Rakyat 1Malaysia*, *Saham Amanah Rakyat 1Malaysia* (SARA 1Malaysia), Program *Perumahan Rakyat 1Malaysia* (PR1MA), Program *Penjaja 1Malaysia* (PP1M), Program *Kebajikan Rakyat 1Malaysia* (KARISMA), *Baucar Buku 1Malaysia* (BB1M), *Bantuan Rakyat 1Malaysia* (BR1M). The National Civics Bureau organises courses and seminars to educate civil servants and community leaders about this concept and also to promote it. The courses and seminars on 1Malaysia with its slogan “People First; Performance Now,” are held at the “*Bina Negara*” (nation-building) camps nationwide (GTP Roadmap, 2011).

The question on promoting a common Malaysian culture through 1Malaysia concept for all ethnicities should be encouraged was in line with the right to practice one's culture as recognised by international human rights law.

Analysis

On the 1Malaysia concept, 394 respondents agree with its implementation. A total of 93 respondents feel it is important to ensure communal harmony while 199 respondents opine that it is essential to promote racial unity in a country with such diverse cultures:

"It will promote togetherness, understanding and unity. With this (1Malaysia concept), peace and tolerance can be achieved."

"It breeds unity among citizens, although have different ethnics but unite under one nation so called 1Malaysian nation."

Seventeen respondents believe that the concept is required to enhance unity and increase growth while 56 respondents said it gives a new identity to the country which can promote Malaysia in the global arena. A total of 16 respondents believe the concept is needed to achieve the constitutional guarantees of equality, which in this context means equality among every race in Malaysia. Seven respondents opine that it can increase patriotism among Malaysians

and eradicate the feeling of being different. Six respondents believe it can improve a sense of belonging to the nation among the races.

On the contrary, 99 respondents disagreed with the implementation of the concept. A total of 53 respondents concluded that it could harm the preservation of one's culture as it combines the different cultures in Malaysia, and in the words of one respondent: *"We forget our own culture and adopt others."*

Fifteen respondents declared that it was useless as it was not implemented properly to the citizens. On a similar note, 13 respondents perceived it as a political agenda to improve the citizens' impression towards the ruling coalition which is *Barisan Nasional*. One respondent shared his opinion: *"1Malaysia is a slogan of one political party."*

A total of 10 respondents feel it is disadvantages to ethnic Malays as they have special rights under the Federal Constitution. Six respondents suggested that it could cause confusion as Malaysia is already multiracial. Two Respondents opined that it could be prejudicial to the minorities, such as the *Orang Asli*, as the concept only includes the three main races.

Thus, the government has tried very hard to ensure the success of 1Malaysia concept, but reality is that it has been hardly felt. Race-based policies, such as the New Economic Policy, contradict such a concept. In short, the concept is a good idea, but its implementation has been questioned.

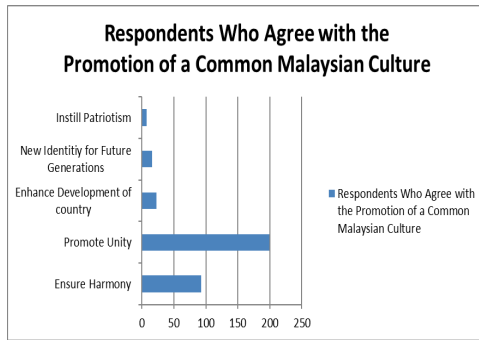


Figure 9. Chart on the number of respondents who agree with the promotion on a common Malaysian culture

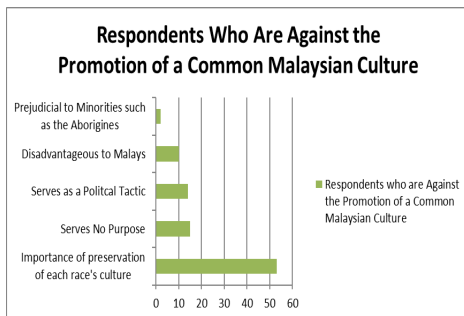


Figure 10. Chart on the number of respondents who are against the promotion of a common Malaysian culture

ENTITLEMENT OF MALAYS IN MALAYSIA TO GREATER PROTECTIONS AND PRIVILEGES

Question 39: In Malaysia, Malays are Indigenous and are therefore Entitled to Greater Protections and Privileges

Introduction

The special position of the Malays is guaranteed under Article 153 of the Federal Constitution which grants the *Yang di-Pertuan Agong* responsibility for safeguarding the special position of the Malays and the natives of Sabah and

Sarawak, and the legitimate interests of all the other communities. It also specifies the ways to do this, which includes establishing quotas for entry into the civil service, public scholarships and public education. It is primarily a continuance of previous laws made by the British to protect the indigenous peoples from being overwhelmed by the presence of Chinese and Indian migrant workers in Malaysia. The scope of Article 153 is limited by Article 136, which requires that civil servants be treated impartially regardless of race. Clause 5 of Article 153 specifically reaffirms Article 136 of the Constitution which states:

“All persons of whatever race in the same grade in the service of the Federation shall, subject to the terms and conditions of their employment, be treated impartially.”

Article 153 is one of the most controversial articles in the Constitution, and has been a subject of heated debate among Malaysians. The Chairman of the National Evangelical Christian Fellowship, Dr. Eu Hong Seng, said that Article 153 is akin to “bullying” if it only protects the rights of one group (The Malaysian Insider, 2011). The Deputy Prime Minister, Tan Sri Muhyiddin Yassin (2011) rejected the allegation and warned against continuous debate on the issues as it could incite racial tensions. He emphasised that what is already enshrined in the Constitution should not be questioned.

Principle of equality is a fundamental principle and affirmed in national and international legislations. Article 1 of UDHR proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out in it. This principle of equality is also affirmed in Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination 1966.

Analysis

A total of 355 respondents agree that the Malays are entitled to special rights; 130 of them opine that since Malays are the “original residents” of the land and the other races migrated at a later stage, Malays must be entitled to special rights. One respondent stated, “*Malay is Bumiputera. Malays have ‘hak ketuanan’ (Malay supremacy).*” Another Respondent wrote, “*The original community who resides in Malaysia are Malays. Thus, their rights should be greater. They must be protected of their rights as the respect for being indigenous race.*”

A total of 120 respondents felt since a social contract was entered into between all races and the British, special rights must be given to the Malays. Similarly, 105 respondents said that it is provided for in the Federal Constitution which is the supreme law of the country.

However, 156 respondents disagreed that Malays are entitled to such rights. A total of 146 respondents declared that it contradicts the principle of equality, which is a fundamental human right under Article 8 of the Federal Constitution. The rest of

the respondents felt it promotes laziness among the Malays as they do not have to compete with other ethnic groups for access to education and jobs.

Thus, Malays are entitled to such privileges as provided for in the Federal Constitution. Although the respondents are aware of the history and legal position of the Malays, 156 respondents disagreed that Malays are entitled to such special privileges. The reality is that the strategies adopted to help uplift the Malay condition have backfired whereby their poor implementation had led to only small groups of Malays benefitting. This is consistent with Jomo’s proposition when he alleges that the rule of law has been used over the years to legalise and legitimise the advance of authoritarianism in Malaysia, noting that it has often been invoked to justify the violation of human rights and the reduction of civil liberties of the Malaysian peoples (Jomo, 1990, 2004, p.11.). Had the provision and related policies been based on socio economic status of the recipients rather than race-based, Malaysia may have avoided many of its current challenges and criticisms (Chin, 2016).

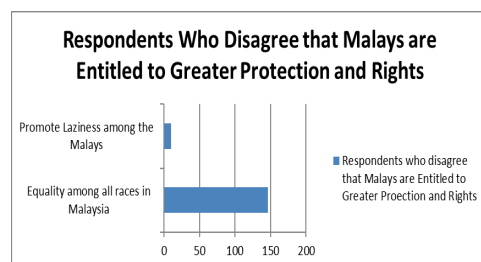


Figure 11. Chart on the number of respondents who disagree that Malays are entitled to greater protection and rights

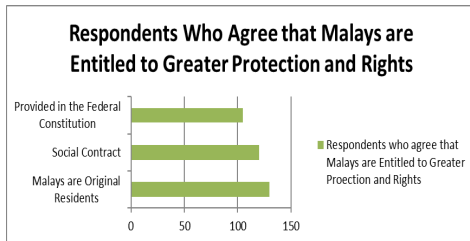


Figure 12. Chart on the number of respondents who agree that Malays are entitled to greater protection and rights

APPROACHABILITY OF SUHAKAM ON THE ISSUE OF VIOLATION OF HUMAN RIGHTS

Question 99: Would you Lodge a Report with SUHAKAM if you were a Victim of Human Rights Violations?

Introduction

The Human Rights Commission of Malaysia (SUHAKAM) was established via a Parliament Act under the Human Rights Commission of Malaysia Act 1999 (Act 597). Since its inception in 2000, it has been internationally recognised for promoting and protecting human rights. SUHAKAM has been unanimously elected to sit on the International Coordinating Committee (ICC) of Human Rights Institutions for the Promotion and Protection of Human Rights (The Nut Graph, 2010) during the Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions held in Amman, Jordan on 2nd August 2009. Being the National Human Rights Institution in Malaysia, its mandates are to promote human rights education, advise the government on legislation and policy, and conduct investigations (Section 4(1), Human Rights Commission of Malaysia Act

1999). The Commission emphasises that it has and will continue to carry out its duties under the Act independently, impartially and with utmost professionalism (SUHAKAM, 2015).

Respondents were asked on their perception of SUHAKAM, i.e. if they were to be a victim of human rights violation, will they have confidence or trust on accountability and competency of SUHAKAM in providing redress?

Analysis

Majority of the 502 respondents (274) said they would report to SUHAKAM if they were to be a victim of human rights violations because they opine that SUHAKAM is the most appropriate medium to channel their complaints. Most comments lean toward SUHAKAM as a reliable and well known body that strives to uphold human rights by conducting investigations and relaying this information to the government. This was concluded based on the following opinions from respondents:

“SUHAKAM is a well-known NGO. If one lodges a report to them, they will respond adequately.”

“This is one of the places to go as SUHAKAM is really determined in protecting human rights.”

“I can count on SUHAKAM as one of the strongest NGO to take further actions.”

A total of 123 respondents would also report to SUHAKAM because they believe that they have a right to do so. Another 13 respondents said they would report to SUHAKAM to ensure that they get the necessary protection and advice needed. As many as 31 respondents responded in the positives that justice will be served as SUHAKAM will be able to ensure that others will not have their rights violated the same way. Eight respondents said they would report to SUHAKAM but it would depend on the nature of the violation. They would seek the assistance of other non-governmental organisations such as Suara Rakyat Malaysia (SUARAM) and All Women’s Action Society Malaysia (AWAM) for domestic violence cases.

The remaining 53 respondents would not report to SUHAKAM if they were to be a victim of human rights violation because: they do not know the exact procedures to lodge a report, according to 14 respondents; and it is complicated and time consuming according to another three respondents. Most of them, 36 respondents, strongly believe that SUHAKAM is not efficient and is under the government’s influence, hence, it is not an entirely independent body to uphold justice. One respondent regards SUHAKAM as a “toothless tiger.” Another says:

“But, I have doubt in getting prompt and effective response. Although SUHAKAM is a human rights body, part of it is still dependant on the government and I will seek alternative solution or assistance.”

Furthermore, they are also of the opinion that SUHAKAM only manages investigations but not enforceability of laws that would help the citizens, hence, SUHAKAM is not the correct medium for them to channel complaints.

Thus, it is clear that the views of SUHAKAM among the respondents are quite positive due to the level of awareness and education in in human rights. The negative views toward SUHAKAM are mainly based on the mandates that SUHAKAM has, according to Act 597, are ‘limited.’

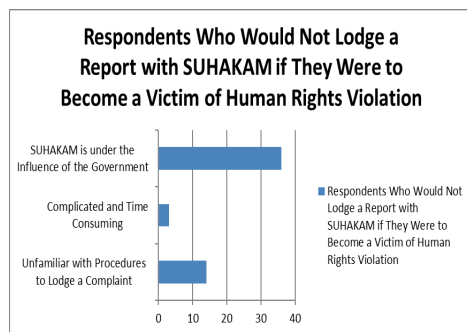


Figure 13. Chart on the number of respondents who would not lodge report with SUHAKAM if they were to become a victim of human rights violation

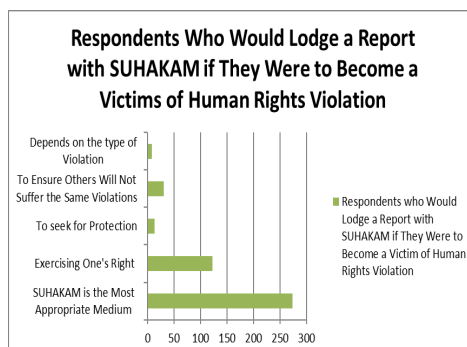


Figure 14. Chart on the number of respondents who would lodge report with SUHAKAM if they were to become a victim of human rights violation

CONCLUSION

Human rights is an important subject in legal education as it exposes students to principles of human rights and how to seek redress in the event of infringement of their constitutionally guaranteed rights. Thus, this study succeeded in assessing the knowledge and understanding of future human rights advocates (final year students) from the participating universities in relation to human rights principles, mechanism and enforcement procedures.

Teaching and incorporating human rights subjects in courses offered by the selected universities in this study truly enhances the contextual understanding of the students on human rights principles, mechanism and enforcement procedures. However, much needs to be done in enhancing their understanding and acceptance of the principle of universality of human rights and equality. Despite what they have learned, some respondents perceived human rights from cultural relativism approach. The cultural relativism approach is demonstrated through the responses of some respondents who believe no moral values are universal, meaning human rights varies from place to place, time to time and traditions limit the scope of human rights against the universality approach. The universality approach is founded on the premise that all human beings are born free and have equal rights.

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