

COVID-19 and Malaysia's Democratic Resilience

Halmie Azrie | Faiz Zaidi | Marisha Ubrani | Iman Amran





Halmie Azrie Abdul Halim is a Researcher for the Democracy and Governance Unit at IDEAS. He studied Political Science at International Islamic University Malaysia (IIUM). He graduated with a Bachelors degree in International Relations (Honours) from Asia Pacific University (APU), awarded by Staffordshire University, United Kingdom. Halmie has been involved in intellectual activism with PKPIM-ABIM since 2006. Prior to joining IDEAS, he was briefly affiliated with IMAN Research as an interim volunteer.



Faiz Zaidi is a Researcher in Democracy and Governance at IDEAS. He received his Bachelors Degree in Politics and Government from the University of Malaysia Sarawak (UNIMAS) and a Master of Social Science (Strategy and Diplomacy) from the National University of Malaysia (UKM). Faiz was previously a Perdana Fellow, a program under the Ministry of Youth and Sports, where he was attached to the Minister of Primary Industries.



Marisha Barth Ubrani is currently a Research Intern in the Democracy and Governance Unit at IDEAS. She is a Chancellor Scholar, graduating with first-class honours in Psychology from Lancaster University (UK) and Sunway University (Malaysia), and has previously written papers on education, psychology and human rights.



Iman Amran was a Research Intern under the Democracy and Governance Unit, reading Economics and Philosophy at the University of Sheffield. She takes an interest in politics, education & socioeconomic development.

** We would like to extend our gratitude to Laurence Todd, Tricia Yeoh and Aira Azhari for their contributions in editing this policy paper*

Introduction



Much of the discussion on the COVID-19 pandemic focuses on the difficult trade-offs that policy makers face between protecting lives and saving the economy. While indeed health and economic well-being are facing serious strain during this crisis, we should also consider the impact the virus is having on our democracy. COVID-19 not only endangers the physical health, job security and social lifestyle of an individual but it also potentially has far reaching consequences for democracy. As more exposed segments of the community fall victim to the serious damage of the pandemic, established systems of democracy can also suffer from the disruption. The response to the crisis has in some cases involved adjustment or even suspension of the core principles of democracy such as accountability, free and fair elections, transparency, prison reforms, media freedom, and protection of minorities.

While tackling the problem, an increasing number of democratic governments have chosen to assume

urgent but necessary additional powers to flatten the curve during this unprecedented state of emergency.

Likewise, existing autocratic leaders have also seized the same opportunity to accumulate more powers for themselves and for their regime to sustain influence as shown by Victor Orban in Hungary and several neighbouring states like Myanmar, Cambodia, Philippines, and Thailand. There is a growing concern with regards to the ability of several major liberal democracies namely the United States and the United Kingdom that have struggled to successfully contain the outbreak effectively as opposed to more authoritarian regimes that have acted swiftly with extra measures of control, some even opting to utilise their military assets for public relief and imposing curfew purposes.

The checks and balances provided by existing institutions like Parliament are temporarily set aside in some countries, meanwhile in other countries critical voices towards those in seats of power like the opposition and the press face harassment and unfair prosecution. The main casualty from this situation would be the public whose civil liberties and human rights are compromised in exchange for measures taken to protect health and the economy.

In this policy paper we consider the impact of COVID-19 on democracy in Malaysia, with a focus on i) the conduct of elections; ii) the use of government power for political or personal gain; iii) an agenda for prison reforms; and finally iv) freedom of the media.

- It is welcome that Malaysia has proceeded with both by-elections and state elections. However, there are some lessons to be learned from the experience. Compliance with Standard Operating Procedure (SOP) is essential to ensure that elections do not have an adverse impact on the health situation. Furthermore, efforts should be made to ensure that participation by vulnerable groups is enabled during a pandemic.

- The government took many necessary actions to respond to the unprecedented crisis, but existing institutional weaknesses raise concerns about whether some measures could be abused for political gain. In the future, improved governance of welfare distribution, GLC appointments and emergency procurement can mitigate these concerns.
- Overcrowded prisons were found to be the biggest risk factor to inmates' health, both before and during the pandemic. The inability for prisoners to social distance due to this congestion made prisons COVID-19 hotbeds. To combat the expedited spread, the government has implemented several measures, with some backfiring and others yet to show positive development. The core issue of prison congestion and the deprivation of their right to health, given the restrictions to their physical space and autonomy to social distance, has yet to be resolved. Recommendations to address these concerns were thus provided. A similar overcrowding issue on the health of undocumented migrants in Malaysian Immigrant Detention Centres (IDC) was also explored.
- The government has been transparent and shared information rapidly during the crisis. However, the delay in the Parliamentary sitting reduced oversight of government decision making and the transparency of government spending in response to the crisis could be further improved.
- The media has generally been able to report on the crisis in an unrestricted manner, but isolated actions by the government have had a potentially chilling effect on honest reporting.



Contextual Background

In the aftermath of the 1Malaysia Development Berhad (1MDB) sovereign fund scandal and unpopular Goods and Services Tax (GST) policy, the long ruling *Barisan Nasional* coalition had for the first time lost its federal power in the 14th General Election on 9th of May 2020. The successor government *Pakatan Harapan* struggled with political instability because of their internal coalition issues and conflicts, leading to a collapse after just 22 months in public office and replaced by the loosely held *Perikatan Nasional* coalition that maneuvered the political crisis via the infamous 'Sheraton Move' in the final few weeks of February. Coinciding with this abrupt change in domestic political tussle was the start of COVID-19 pandemic spreading rapidly across the globe and causing serious public health and unprecedented economic concerns.

Elections during COVID-19

COVID-19 has put a significant strain on the conduct of free and fair elections. Aside from the economic impact and public health crisis, COVID-19 also contributes to the disruption of democratic norms as shown through the decision taken by many countries to postpone their elections indefinitely until further notice. According to The International Foundation for Electoral System (IFES) (2020), about 65 countries have done so as of 25th August 2020.

Despite legitimate health concerns, it is possible to hold elections during the pandemic. Despite it being very burdensome and expensive to execute with more personnel and equipment needed to facilitate the elections, other successful examples across Asia give no excuse for governments to obstruct elections.

Malaysia has continued to hold elections despite the pandemic. As for Malaysia, there have been two by-elections due to the passing of the state assemblymen of Chini (Pahang) and Slim (Perak), as well as a state election in Sabah. A sum of eligible voters (20,816 for Chini, 22,749 for Slim and 1,088,711 for Sabah) had been registered to participate in casting their votes on 4th of July 2020 for Chini, 29th of August 2020 for Slim, and 26th of September 2020 for Sabah under the government's SOP restrictions. For the Sabah state elections, 73 seats were contested by over 400 different candidates vying to be state assemblymen, and witnessed a change in state government.

The Election Commission (EC) took a strong stance in advocating for elections to go ahead. Besides the ramifications to democratic norms, elections are also obligatory because it is a constitutional right of Malaysians that if violated by the government, may bring about judicial proceedings by aggrieved citizens.

To enable elections to take place, strict SOPs were enforced. Malaysian authorities have been quite vigilant in handling the situation and this allows for elections to still take place. One such method is to have health screenings for government agencies and staff on duty. Furthermore, with strict SOPs implemented by health officials to firmly curb the spread of COVID-19, it directly led to an increase of safety checks to adhere to the new procedures while conducting an election with the proper guidelines and permitted measures of campaigning.

The Electoral Commission played a key role in facilitating elections during COVID-19. The unavoidable protocols are inclusive of several preventive methods adopted by the EC, namely the use of hand sanitizers for all voters, the practice of regular temperature checks, mandatory usage of face masks, and enforcement of physical distancing between the voters. These protocols further complement the improvements made by the EC to make elections during COVID-19 more convenient with the introduction of additional voting stations with more channels, public canvassing for votes to be replaced by virtual campaigning, and the removal of party supporter booths on nomination day. Another positive initiative by the EC is on public education whereby a simple online document was published as a guide for electoral conduct during COVID-19. Regular public announcements were also made by the health officials to remind the public of the hazards while they fulfil their rights.

Overall, COVID-19 did not have an adverse effect upon Malaysia's electoral process and any obvious irregularities in terms of directly restricting freedom to vote were not present. However, several concerns need to be addressed to ensure that lessons are learned from the elections so far.

Compliance with SOPs is essential, to ensure the virus is contained. The by-elections were completed without any untoward incidents, but the most recent Sabah state election saw a surge in COVID-19 cases across the country as the party-campaigners and political leaders' broke protocols by disregarding social distancing. They also failed to do the mandatory 14-day quarantine and received backlash from the public.

The availability of fake news also presents a concern. Another reason for concern relates to how fake news spreads across various social media platforms that creates confusion among the masses. This was visible hours before the official result announcement with rumours spreading that Warisan had clinched a huge electoral victory during the Sabah state election.

Turnout was generally high but should be monitored carefully to ensure maximum participation. A gradual drop in voter turnout was a very likely outcome as only certain groups were eager to participate, which in turn raised questions of legitimacy and accurate representation of the people's mandate. The Chini by-election saw nearly 73% voter turnout that voted for the incumbent party, then voter turnout dropped in the Slim by-election to about 68% that also voted to keep the incumbent party, and the voter turnout further declined for Sabah state election to a mere 66% which saw a change in government to the newly formed Gabungan Rakyat Sabah (GRS) coalition.

In the future, efforts should be made to ensure the participation of vulnerable groups. Another angle that is not highlighted would be the effects upon underprivileged and vulnerable communities that are affected more than others due to COVID-19. Amongst those categorised in this segment include disabled people, lower income groups unable to have medical protection, those with sickness, the elderly as well as those found to be positive for COVID-19. For the three by-elections during COVID-19, Malaysia's existing infrastructure and human resources did not accommodate these groups well enough to cast their votes under the new SOPs and reflected in the voter turnout of Sabah as tracked by the EC's dashboard.

Sufficient support needs to be provided to staff who enable the elections to take place. Additionally, the electoral staff and volunteers are also at high risk of contracting the virus during duty as front liners and may have to perform their duties for extra hours not only to count the votes which would now take longer due to physical distancing, but to also ensure that all the SOPs in place are adhered to by the candidates, their party machineries and the voters. Hence, their exposure is far more severe to the COVID-19 virus.

Full participation of all media outlets should be facilitated in the future. Journalists covering the elections were advised to conduct their electoral observations via online monitoring from the designated press headquarters, while limiting the number of attendees to polling stations and counting centres for only government-linked media outlets as a measure to reduce potential risk of spreading the infection. Alternative options to ensure SOP compliance can be maintained alongside broadening media participation and observation.

On the basis that disruption could continue over the medium term, efforts should be made to prepare for future elections under social distancing and to manage the associated public expenditure. The parliamentary seat of Batu Sapi will be contested following the sudden demise of YB Liew Vui Keong and the Sarawak state election that is due before September 2021. Besides that, there is rife speculation that GE15 might take place soon.

On the 11th of August 2020, Minister in the Prime Minister's Department in charge of Law and Parliamentary affairs YB Takiyuddin Hassan, during a debate in Parliament cited estimates made by the EC that if a snap general election were to be conducted during COVID-19, it would cost the government around RM1.2 billion to comply with the necessary SOP regulations. This is significantly more than the initial estimates by former EC chairman and now speaker for the House of Representatives Azhar Harun who had earlier placed it at RM750 - RM800 million in total. This estimation took into account the overall planning for elections, the addition of more polling stations, extension of voting hours that is split into several segments of time slots, introduction of more voting lines to better accommodate certain groups and also to have more health enforcers to monitor the campaigning restrictions. An idea was also mooted to suggest having remote voting to avoid risking the lives of the voters.

After the recent rise in COVID-19 cases especially in Lembah Klang, post-Sabah state election that did not adhere to the same level of discipline as the two prior by-elections, the Ministry of Health has urged to hold off any potential elections until the situation improves. The Director General of Health, Tan Sri Noor Hisham Abdullah did not dismiss elections in its entirety, but warned that if it was absolutely necessary hence it will be conducted under even stricter SOPs and scrutiny to avoid repeating the same mistakes. This is in line with the legal provisions within the Constitution and echoes the democratic spirit in which Malaysia's foundations and systems are established.

Despite the COVID-19 situation, there still is a demand for democracy and its institutions in Malaysia as shown by the amount of registrations as new voters. The Election Commission (EC) has just recently announced that more than 300,000 applicants were received for the third quarter of year 2020 which points to a rather positive development in the long run. A contributing factor for this would be the noble efforts done by civil society organizations such as the well-established BERSIH2.0 and the trendy Undi18 momentum to create more well-informed citizens.

The birth of a new youth-centric movement, the Malaysian United Democratic Alliance (MUDA) is a positive development that signals the opening of democratic space in the country. At the time of writing, MUDA is awaiting to be formally registered and has already created waves when its co-founder, former Minister of Youth and Sports, YB Syed Saddiq Syed Abdul Rahman, openly called for cross-party cooperation between MPs in battling COVID-19.



Use of government positions for political gain

The unprecedented circumstances of COVID-19 may risk exacerbating existing inequalities. In response to the pandemic, governments may need to take urgent or extraordinary measures with the absence of usual accountability and scrutiny. Intentionally or not, this can result in the government entrenching or abusing its political power in ways which are not consistent with democratic norms. During the crisis, dependency on the government might not provide for any check and balances for decisions made by the government.

During the MCO, many communities were increasingly dependent on external aid, including from the government. The Movement Control Order (MCO) resulted in people struggling to get necessities such as food, health services and financial aid. Therefore, during this time there was increased reliance on formal sources of aid, such as government agencies in addition to less formal sources including politicians themselves and non-governmental organisations (NGOs). As a result, there were also a lot of donations flowing in and out of the affected communities that were hit hard by the MCO by different contributors.

Additional aid was provided directly by the government. The Department of Social Welfare which is under the Ministry of Women, Family and Community Development was given the responsibility to manage the preparation of food aid for those who are affected. The food aid distribution was provided to help those who are greatly affected by the pandemic outbreak, especially to those who have lost their monthly income because of the economic slowdown and those who are struggling in getting food supply. The distribution was made based on individual application directly to the District Community Welfare Office (PKMD), listed by respective Parliament constituencies and ADUNs or to the Department of Social Welfare. It was also an emergency aid that was distributed to those who qualified over a short period of time.

Concerns were raised over the uneven distribution of government aid. The respective parliament constituencies were given an allocation of RM100 worth of food aid pack for each person that is eligible. A total of 1,000 eligible recipients were targeted especially those who are from the lower income group (B40). However, there were allegations that this food aid allocation was not fairly distributed for some of the constituencies. Some of the allocations were also moved from the management of each of the parliament constituencies to the Department of Social Welfare that has caused a delay of at least two weeks from being distributed. The Opposition MPs claimed that only one constituency has received the full quota of 1,000 packs which is Langkawi. These allegations should be investigated and addressed by the government to ensure democratic accountability.

The ruling government offered public financial commitments as part of the election campaign in Sabah. Prime Minister Muhyiddin Yassin made election promises to sway Sabahans to vote for his coalition and in return, they will receive more allocations and infrastructure support from the federal government. This sort of propaganda to entice voters before election day is even more prevalent during the COVID-19 situation as voters look for increased assistance and security. Certain candidates gain an advantage over their rivals when the crisis is heavily politicised through the offering of additional support during such dire circumstances, or by highlighting the mistakes that expose the severe shortcomings of the welfare chain by responsible agencies.

Multiple GLC appointments during the height of the pandemic. Although not directly related to the pandemic, the government did make a series of political appointments to Government Linked Companies (GLCs) during the same period. These appointments attracted criticism on the basis that they were used to entrench the political position of the government. The appointments were arguably subject to less scrutiny

than might otherwise have been the case, given the pandemic, which had resulted – for example – in delaying the Parliamentary sitting.

The government undertook emergency procurement as part of its response to the pandemic.

Countries around the world faced shortages in necessary materials to combat the pandemic. The Malaysian government, particularly the Ministry of Health (MOH) procured a large amount of personal protective equipment (PPE) for healthcare workers and COVID-19 testing kits to make sure that they are ready in combating the COVID-19 outbreak. The Ministry has also carried out an emergency procurement by using the guidelines and procedures under the Treasury Plan 3.3, which is the Emergency Expenditure Guidelines (AP55) and Emergency Procurement (173.2). There were 182 supplier companies that were appointed by the government for that purpose and the MOH claimed that it had managed to provide sufficient supply for the use of their healthcare workers.

Certain procurement contracts are now under investigation for suspected corruption.

During emergency procurement, when normal processes are suspended, the risk of corruption can be heightened. In a recent case, several companies that were directly appointed by MOH to supply the mass testing laboratory systems are being probed by the Malaysian Anti-Corruption Commission (MACC) in an investigation involving contracts believed to be worth RM30 million in total. The contract was given at the time when MOH was running low on PPE and looking for the potential of conducting more COVID-19 tests. Under the guidelines of the emergency procurement, a ministry or government agency can appoint provider companies to carry out the task without going through the normal procedures. Public procurement for service and work supplies in general should be carried out in a transparent, fair, economical, and profitable manner for the government according to the existing financial law and procedures. The Ministry should have already identified and listed out all the items that are required and choose the most suitable provider company to make sure that they are qualified to supply the goods.

Transparency and accountability during COVID-19

Maintaining transparency and accountability during a crisis is of vital importance. During emergency time, transfer of latest information and official announcement are very crucial, especially if it involves the livelihood of the vulnerable groups that were affected by the COVID-19 pandemic. To some extent, the government has received praise for their handling of COVID-19.

Information on cases was consistently made public in a timely manner. The MOH has managed to provide a daily update on the number of cases. The daily update is available through various sources such as news articles, social media posts from different news agencies and government agencies. MOH is able to release this update daily because they had developed all plans and prepared their facility especially the testing laboratories across the country for the COVID-19 tests to be conducted daily. The transparency in publishing the real count of number of cases should be applauded in which the people are kept informed of the current statistics of COVID-19 cases and they are more aware of the current situation.

However, information on SOPs has in some cases been confusing or conflicting. The government was faced with the challenge of updating complicated SOPs on the nature and extent of movement restrictions in response to a constantly evolving situation. This resulted in some cases where the implications of certain SOPs were not clearly defined, leading to confusing reports of what restrictions were and were not in place. The public was also confused over the SOP during the MCO as the government did not provide clear guidelines – showing the state's failure in disseminating information properly to the public.

The Malaysian government limited Parliament oversight during the early stages of the COVID-19 outbreak. The first parliamentary sitting was originally scheduled for 9 March 2020 until 16 April 2020, but it was postponed to avoid any potential COVID-19 spread in Parliament. A 1-day parliament sitting was then convened on 18 May 2020 with only one morning session, which is the customary opening address by the Yang di-Pertuan Agong Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah. The second parliament sitting was held on 13 July 2020 until 27 August 2020.

The absence of Parliamentary scrutiny undermines efforts to hold the government accountable. The parliament in principle should serve as the main platform for decision makers to debate and argue on different issues at the national level that will directly give an impact to the people. It should be a place where issues are clarified with acknowledgement from both sides of the political divide. A normal democratic process which is through the parliament is crucial to maintain proper supervision and control over important decisions that will affect people's livelihood in the long run especially during critical situations. The COVID-19 outbreak in Malaysia ought to have had an immediate parliament sitting to discuss on the ways for Malaysia to combat the impact of the pandemic. Measures could have been taken to enable members of parliament to convene digitally. The first parliamentary session that took place on 18 May 2020 only convened for less than half a day and did not include any debate on the Yang di-Pertuan Agong's speech.

The government introduced a significant economic stimulus package to mitigate the economic impact of the crisis. The government introduced several packages of measures to counter the economic impact of COVID-19. From February to June 2020, the government has announced a series of stimulus packages that aimed to assist various groups in facing the challenges caused by the pandemic.

However, the deployment of additional resources initially lacked transparency. Article 11(3) of the Financial Procedure Act 1957 states the minister of finance may make advances from the Contingencies Fund to meet an 'urgent and unforeseen need for expenditure for federal purposes for which no other provision exists', which presumably this would fall under. However, the available balance in the Contingencies Fund as at end-2018 was only RM250 million. While Budget 2020 allocated RM2 billion to the Contingencies Fund, this is nowhere close to the RM25 billion that was intended to be spent, and even so it is meant for development and not operating expenditure.

Transparency of fiscal measures was improved, following the tabling of the COVID-19 Bill, but further improvements are still needed. The Temporary Measures for Government Financing (COVID-19) bill was tabled to Dewan Rakyat on 6 August 2020. It is the right step to maintain parliamentary oversight on government finances. The bill allows the government to increase the debt limit from 55% to 60% of GDP until the end of 2022 to provide the government with adequate fiscal space to deal with the current public health crisis. The bill will also pave the way to set up a COVID-19 Fund which will allow discretionary spending for COVID-19 related purposes. However, the government should also table to Parliament and publish the total estimates of borrowing that will be raised for the purpose, their interest rates, and sources of the borrowing, whether domestic or foreign. The total estimates of outstanding debt because of this new borrowing should also be tabled. This information will be useful to allow MPs to judge whether the increase in the debt limit is necessary or even adequate to tackle the crisis. Additionally, this will allow MPs and the public to assess the risks of these borrowings on government finances.

Federal-state relationship during crisis

Some of the states were unable to exercise their democratic and constitutional rights. The state government was not fully consulted by the federal government in many decisions made and it may have impacted the preparedness of the state government in combating the COVID-19 pandemic. The lack of consultation in the decision of the federal government to open the economy after months of imposed MCO has made nine states namely Kedah, Sabah, Pahang, Penang, Kelantan and Sarawak to not follow the move in May 2020. While three other states, which are Negeri Sembilan, Selangor and Perak have put a limit on the number of businesses that were allowed to resume operations. The move to ease conditions and let businesses to resume with a set of guidelines under the CMCO in May was necessary to maintain the economy but the state governments were also being cautious to avoid a rise in the number of COVID-19 cases in their respective states. Since these states have chosen not to comply with the move by the federal government, a question can be raised of whether the states were being consulted before the decision was made or not.

Furthermore, announcements on changes to SOPs were made without consultation, including with state and local government.

The decision by the federal government to relax the MCO conditions and to reopen the economy on 1 May 2020 was done without meaningful consultation with the states, and as a result, nine out of 13 states refused to comply initially, including states that were aligned with the ruling coalition. In September, when the federal government announced a CMCO in the state of Selangor and Kuala Lumpur, the Selangor state government was not consulted beforehand. The Federal Constitution 1957 places public health and sanitation under the Concurrent List, where the federal and state government have joint jurisdiction, but this is complicated by Act 342 (Prevention and Control of Infectious Diseases Act 1988), which is a federal Act. Nevertheless, states ought to have been consulted in respecting the spirit of federalism which the nation is founded upon. Further, the Local Government Act 1974 also permits local governments to have control over public health and sanitation, where local councils fall under the purview of state governments.



In October 2020, the Selangor state government was not consulted in the federal government's decision to enforce the CMCO from 14 October until 9 November for Selangor, Kuala Lumpur and Putrajaya (New Straits Times, 2020). A number of zones in Selangor were still under control despite the rising number of positive COVID-19 cases in some parts of Petaling. The state government was also not consulted for the CMCO that was imposed early October only for Klang and one of the state executive councillors claimed that it has disrupted the state government's plan to list all the possible problems that might arise as a result of the CMCO implementation (FMT, 2020).

No discrimination or biasness should be allowed in an important decision-making process and state governments should be given the space to implement their own decision as long as it is not contradicting too much with the national level decision. One of the reasons behind why the Selangor government was not properly engaged is because it is currently ruled by the PH coalition. This biasness has always been the nature in Malaysia's federal-state relationship, and it applies to both political divides. Since Malaysia is politically centralised in administrative and fiscal decision-making, any political change at the federal government level will directly impact the top-down decision to both opposition states and federal government affiliated states (Tricia Yeoh, New Mandala., 2020).

There should be a proper consultation with all the state governments before any decision is to be made to ensure a transparent communication between the federal and state government. An effective communication with all the parties involved will result in a decision that will lead to an efficient implementation at the state level especially during emergency times.

Impact on minority groups

Protection of minority groups is an important pillar of democracy. Ensuring that minority rights are respected is a vital component of democratic societies. Minorities can be particularly negatively impacted during a crisis and how societies respond to this is an important test of democracy. The pandemic outbreak and the MCO has put a risk to both those who are unable to work during the MCO and those who continue working in essential services. They are exposed to the risk of unemployment and might not be able to continue their daily life with sufficient necessities such as food, health service and place to live.

The COVID-19 pandemic has also resulted in several impacts to the minority groups in Malaysia including migrant workers, refugees, and asylum seekers. At the beginning of the COVID-19 outbreak, the Malaysian government has announced that all these migrants would be provided with free testing and treatment for COVID-19 and would not be arrested nor requested to provide documents as a part of the testing process. However, the policy was changed by the Defence Minister that all undocumented migrants would be placed in detention centres gazetted by the Home Ministry. The fear of arrest and detention by the authorities might cause these migrant workers to run away into hiding and avoiding them from getting sufficient treatment. It will also increase the risk to their own health and possible spread of COVID-19 to others in the local community.

The approach from the government may have contributed to an increased negative perception of these communities. The prejudice against the migrant workers and refugees was especially proliferated during the start of COVID-19 in March 2020. False claims on social media platforms were made regarding the Rohingya refugees demanding full citizenship rights and receiving tax-payers' healthcare benefits. This contributed to the pre-existing xenophobia within Malaysia, as some were also stipulating that the refugees should return home as they were disease carriers.

Other vulnerable groups that are being affected by the pandemic are the essential service workers such as cleaners in hospitals as they are required to continue working despite the risk of getting infected by the virus in hospitals that accommodate COVID-19 patients. They are risking their life in making sure that the patients and medical staff are in a safe and clean environment. Despite working in a high-risk working environment, they are still receiving a very minimal benefit and workers' rights. In June 2020, the National Union of Workers in

Hospital Support and Allied Services (NUWHSAS) members gathered in front of the Hospital Raja Permaisuri Bainun in Ipoh to protest against the claimed constant harassment, victimisation and union-busting activities after making multiple police reports and complaints to the Human Resources Ministry. The protest was also raised to get the attention of the lack of protective gear to carry out their duties during the COVID-19 pandemic outbreak. Sufficient protective gear, especially during a high-risk pandemic situation should not be taken lightly as it will expose the workers to the infection.

Prisoner's right to health and prison reform

Malaysia is responsible for the welfare of all individuals within its borders, convicted criminals or not. Though not without certain limits, prisoners in Malaysia are still entitled to life and liberty under Article 3 of the Universal Declaration of Human Rights and Article 5 of the nation's Federal Constitution, for which the right to health is implied. The right to the highest attainable health is also specifically stipulated in the World Health Organization (WHO) Constitution that Malaysia accepted in 1958.

However, **Malaysian prisons have the unfortunate reputation of violating prisoners' rights to health, even before COVID-19**. In 2018, there were 74,000 prisoners across Malaysian prisons despite their maximum total capacity of 52,850. YB V. Sivakumar said that at least 25 out of these 38 prisons were overcrowded. These congested prisons compromise the health of both inmates and prison staff alike, with the latter affecting the former. The Human Rights Commission of Malaysia (SUHAKAM) 2017 report found the ratio of medical personnel to the number of prisoners to be particularly disproportionate. Medical staff are also not independent, treating the patients while subordinating the prison director. To add insult to injury, these doctors are not qualified to treat beyond primary health care, especially the distinctive health problems prisoners face, such as communicable diseases, drug abuse and mental health problems. For instance, multiple studies have found undiagnosed tuberculosis highly prevalent and infectious in Malaysia's largest prison (Kajang prison) alone.

In short, Malaysian prisons compromise what is supposedly prisoners' inalienable human rights. In 2019, the current Prime Minister, then Home Minister Tan Sri Muhyiddin Yassin, was gunning for prison management reform prepared by the Prisons Department. The reform includes measures to improve prison congestion, health facilities and infrastructure, as well as staff training. He also emphasized that it would follow the lead of various prison management systems from other nations. However, there have been no updates on this reform to date and as we see in 2020, his administration combated the spread of coronavirus in prisons by implementing some of these measures by trial and error.

Without proper measures taken to overcome prison congestion, it was only a matter of time until COVID-19 infections had escalated exponentially nationwide. According to Department director-general Datuk Seri Zulkifli Omar, without resolving the prison congestion issue, preventative measures against coronavirus, such as social distancing, are difficult to implement, making it easier for the infectious disease to spread in these confined spaces. To date, Table 1 below shows that the percentage of over-capacity in prisons remained relatively unchanged from 2018 to 2020, despite the need for social distance during the pandemic. As of 7 October 2020, there are 1,126 active COVID-19 cases in prisons nationwide, infecting both prisoners and prison staff. Many prisoners are additionally at risk due to their existing and/or unknown health conditions as previously mentioned.

Table 1

Date (Month, Year)	Dec 2018	Feb 2020	May 2020	Oct 2020
Number of Prisoners	74,000	71,000	72,000	73,000
Maximum Capacity of Prisons	52,850	52,000	n/a	52,000
Percentage over-capacity	140.2%	136.5%	121- 200%*	140.3%

* News article reported a total number of prisoners but a range of percentages over-capacity varying individual prisons

Table 2

Prison	Total Number of Positive COVID-19 Cases
Tawau Prison, Sabah	At least 1,050 cases
Alor Setar Prison, Kedah	1,137 prisoners and prison staff
Penang Remand Prison	399 prisoners and 20 prison staff

Note: The total number COVID-19 prison cases in Malaysia comprises both active and non-active cases.

How exactly did this pandemic come to affect prisoners' health? **A lack of forethought and oversight.** In the beginning, prisons were generally isolated places, with few people entering and exiting, apart from the prison staff, families, and NGOs. However, when the first wave of COVID-19 struck Malaysia in March 2020, authorities arrested and sentenced those transgressing upon the MCO to these highly infectious prisons, congesting them even more. It was only at the behest of multiple international and national organizations as well as influential individuals like Datuk Seri Zulkifli Omar for the government to penalize violators with fines instead. By April 2020, prisoners from the Sungai Buloh prison began showing coronavirus symptoms. One of these prisoners tested positive despite never leaving the facility nor interacting with the members of the public since 2016. He was in court, however, three months before testing positive for COVID-19. To date, the government can neither pin down patient zero nor how this infection occurred.

Malaysia managed to contain the spread by the first half of 2020, but the following months of September and October saw an even more pervasive spread of the virus, at 800s to 1000s cases per day instead of the 100s to 200s in March and April. This time, prisoners in the Tawau Prison in Sabah, Alor Setar Prison in Kedah, and Penang Remand Prison comprised the bulk of these cases (See Table 2 for the number of positive cases in each prison). In the Tawau Prison for instance, the coronavirus came from the Lahad Datu district police, wherein the two undocumented immigrants detained there tested positive for COVID-19. Again, and again, the coronavirus would infiltrate from the outside, making prisons nationwide COVID-19 hotbeds.

In October 2020, the government adopted several prison reforms measures to protect prisoners from COVID-19 exposure, mainly the implementation of SOPs, the release on license (ROL), and additional treatment centres for prisoners. The SOP denotes mandatory health and temperature screening, provision of COVID-19 swab test for new prisoners, online court sessions, restriction of visitors and other measures related to prisoner admissions, inmate management, court attendance and prisons transfer. After multiple pleas

from international and national organizations, 'Datuk Seri Zulkifli Omar also announced the implementation of the ROL, also known as release with conditions, to reduce congestion in prisons. This allows the early release of current minor offenders, who were sentenced to less than a year of imprisonment and have less than three months left to serve. Based on statistics, there are currently 11,018 of them eligible for this ROL. They will have to pass strict criteria and health screenings to receive it. Third, the government has prepared a Makeshift Treatment Centre (MTC) in Pokok Sena Prison and has transferred all COVID-19-positive inmates there for further treatment. Senior Minister of Defence Datuk Seri Ismail Sabri Yaakob said that another MTC is scheduled for operation in Sabah as well.

Nevertheless, more still needs to be done for prison reform from a health and human rights perspective. For one, **the root of the problem, prison congestion, has yet to be resolved.** Coordinator for Lawyers for Liberty Zaid Malek stated that the SOP effectiveness will continue to be insignificant, so long Malaysian prisons remain overcrowded. The ROL itself has also yet to yield any positive development, and the government has omitted its statistics. Besides, by having such stringent criteria for the ROL, a large change in prison population should not be expected nor should be the sole solution to prison congestion.

Second, prisoners have the right to life and liberty just like any other ordinary citizen. We need to stop depriving them of their privilege to healthcare. Unlike the public, they have little to no agency in social distancing, for there is too little space and simply too many of them sharing it. Distance is not an option for these inmates, until they are tested positive for COVID-19 anyway, by which it would already be far too late. Legally speaking, such restrictions are completely indefensible, and constitutes reckless endangerment. It is unrelated to their offences and is compromising their quality of life and right to livelihood. In addition, there have been no explicit measures on increasing the number of medical staff and protecting the health of prisoners most vulnerable to the disease, such as the elderly and those with pre-existing medical conditions. These basic health and human rights concerns must be addressed in upcoming prison reforms to curb the coronavirus and future health risks within them.

We recommend several steps to address these concerns. In accord with other civil society organizations, the government should also provide, in addition, the following: expedited paroles, community service punishments and other alternative sentences for those serving short sentences, nearing the end of their sentences as well as imprisoned for non-serious and non-violent offences. Prisoners who have higher health risks and caretaking responsibilities should be especially considered. Besides, persons suspected of committing non-serious and non-violent crimes should be penalized with similar arrangements, never stepping foot in these prison sites. Prisoners unable to proceed with the measures should at least be provided with contingencies to best practice social distancing in, such as arranging temporary accommodations for some and/or two meters of partition between them and their fellow inmates. It is too late if it is only provided when prisoners are suspected positive for COVID-19. These steps have shown successful implementation in other countries like Indonesia and are the advice of medical experts.

Besides, more medical staff with sufficient training should be stationed at these prisons and treatment centres. As an umbrella to all these measures, statistics on the number of prisoners and staff currently infected with COVID-19, prisoners released on ROL, over-capacity of prisons, medical staff currently available should be provided and consistently updated to the public.

Prisoners are still very much a part of our society. These inmates' health are compromised by the very same vein of complacency that jeopardized the hundreds of innocent spectators and football players in Sabah, where a prison officer also working as a referee at the local stadium tested positive for COVID-19.

Two Sides of the Same Coin: Immigrant Detention Centres (IDC) in Malaysia

IDC in Malaysia are just as, if not more crowded, than prisons. They are unsanitary, poorly maintained, and lacking in basic necessities such as clean water and food. 151 immigrants died in these IDC from the 2016 to 2019. In 2020, the average death per month in 2020 is now higher than ever before with the pandemic. During the MCO, the government initially promised immigrants, documented or not, safety to come forward for testing as there were clusters identified among migrant housing areas. However, things took a turn for the worse. Starting 1st of May 2020, immigration officials and police conducted three large scale raids against undocumented migrants and refugees, suddenly emphasizing the rule of law of their illegal stay. Children as young as 1 year old were arrested and detained at these IDC alongside their parents and some 2000 others. Despite forewarnings from international and local civil societies, overcrowding these centres caused a disproportionate spike in COVID-19 cases among migrants. In June 2020, 270 new cases came from just one Bukit Jalil Immigration Detention Depot alone. In May 2020, Director-General of Health Dr. Noor Hisham Abdullah acknowledged the IDC as “high-risk areas” for the spread of COVID-19. By August 2020, over 23 migrants died in these centres. Two of them were children.

The treatment of these migrants encroaches on their rights to health, life, and liberty, one that they have regardless of their undocumented status. If it was truly the government’s intention to reduce infection rates among foreigners similar to the initial arresting of violators during the MCO, it backfired. Just like prisons, IDC did not allow for social distancing and endangered the lives of migrant adults and children alike. Note that the Malaysian government was supposed to protect these children from violence and abuse and provide access to healthcare with the ratification of the international Convention on the Rights of the Child (CRC). Instead they did the very opposite. So, whistle-blowers and investigative journalists began reporting the government’s doings. Al-Jazeera’s documentary on the treatment of undocumented migrants in Malaysia became so controversial amongst the public, NGOs, and the government such that the police began investigating these journalists, instead of those responsible for the ill-treatment and deaths of these migrants. Escalating hate speech and misconceptions against migrants also spurred online among the everyday Malaysians, with threatening comments made by some of them as well as individuals affiliated with the government, political parties and public officials.

These minority undocumented migrants face much more than congested centres and lack of health measure alone. The actions of the government and public reflect the wide-held prejudices and discriminations Malaysia hold against them. The pandemic merely forced this disregard for migrants’ lives and health to come to a head.

Recommendations to improve the quality of life of these undocumented migrants in IDC are similar to the ones for prisoners. First, provide them the resources and accommodation needed to practice social distancing. Detaining them in these centres should not be the primary method of managing them. They should be released immediately with alternative measures in place to reduce the number of detainees and resolve the overcrowding issue. Other countries like the United Kingdom have already released their inmates, for health and human rights concerns should take precedence during times of crisis. In addition, the deaths of the migrants must be investigated, with findings open for public knowledge. Finally, the Malaysian government must address the issue of undocumented migrants with care, maturity, and humanity, because they represent and set the standard for how the rest of the country addresses difficult times. As we have seen in the prison situation, forethought and oversight is needed to get through this pandemic, not migrant fear, and rumour mongering.

Media freedom

During a pandemic, the government and media play a crucial role in disseminating the right information to the public to avoid an infodemic¹. During a time of crisis, there are a few reasons why the dissemination of information is important; to raise public awareness, update new discoveries or updates of the situation, minimising the risk of misinformation², allow public dissent against the government's decision-making and last but not least, to avoid public stigmatisation or discrimination towards vulnerable groups.

However, a freer media also enables the spread of unverified information and it has become more sporadic through the advent of social media platforms. There is potential for members of the public to be deceived and believe false information, especially if the information was relayed by a public figure or someone "influential". Additionally, there is potential for irresponsible parties to capitalise on public fear and their lack of knowledge. In March 2020, a rampant marketing of fake COVID-19 home-testing kits through WhatsApp and Facebook caused public commotion as it claimed to rapidly deliver test results within 15-minutes. Claims of homemade cures and "miracle cures" such as consuming turmeric water and drinking bleach travelled around social media platforms, and it is potentially harmful if it reaches less-informed groups who are not media literate.



Malaysia's media environment has become more free in recent years. In the 2020 World Press Freedom Index compiled by Reporters Without Borders, Malaysia ranked 101st globally. This climb was due to the 14th General Election (GE14) in 2018, as the press had the opportunity to air news freely throughout the entire nation.

Several steps have been taken by the government to combat the risks of disinformation whilst still upholding a "free" media. The Communications and Multimedia Ministry (MCMC) prepared a rapid response team to clarify any issues or queries. MCMC has also created a portal that allows anyone to fact-check any news or information regarding COVID-19. Additionally, initiatives were done by the MOH to help combat misinformation and misinterpretation of any news by diligently updating their social media platforms and the official MOH website. Text message notifications (SMS) are also sent daily to reach the more rural and less-digitally advanced areas that might not have access to social media platforms. Another initiative that the state should take into account is to improve media literacy within Malaysians from an early age by assimilating it into our current education curriculum. As we move into a generation that heavily relies on technology to disseminate information, it becomes crucial for us to possess the proper skills and tools as early as possible.

However, during the pandemic, the government took action which could inhibit media freedom. In a report made by Al-Jazeera, more than 700 migrants (including women and children) were taken into custody. This was criticised by the Asia Pacific Refugee Rights Network (APRRN) because the Malaysian government had pledged earlier on not to arrest or detain any undocumented migrants (refugees).

¹The WHO defines 'infodemic' as the "excessive amount of information which consists of some inaccuracies that could cause difficulties for the public to obtain reliable and dependable information".

²The spread of false facts/news unknowingly and unintentionally

Case Study: Personal Data

In this section, we will explore into personal data protection and collection in Malaysia and whether any impediment was made throughout the outbreak. This section is split into three sub-sections; observations, challenges and recommendations. We will then aim to conclude whether there is any importance in personal data collection and how states should treat data privacy.

The nature of the pandemic has also put pressure on systems for protecting personal data.

Prior to the Recovery Movement Control Order (RMCO), the Malaysian government introduced a standard operating procedure (SOP) for all operating businesses should they decide to re-open. Contact-tracing applications such as MySejahtera, SELangkah, MyTrace, GerakMalaysia 12 are widely used in Malaysia to ease the process of data collection. Manual note taking of personal details is also a viable option for those who do not own a smartphone. Personal details collected include the person's full name, contact number and body temperature.

The importance of this data collection is to facilitate the contact tracing process and to monitor potentially infected persons or high-risk individuals. There are two concerns regarding the applications used; firstly, is it possible to integrate the data collected from all the apps available and secondly, how can data collection be controlled if there are multiple apps used by different business owners? We observe an impediment in data protection if the government is unable to monitor the businesses' process of data collection.

There are several challenges with personal data sharing. Firstly, consent and purpose. Any data collection regarding physical and mental health is considered personal data. The collection of such information is only allowed should the firm be subjected to legal obligations to protect its employees (i.e. during a crisis such as a pandemic).

Another concern regarding the purpose of data collection is that the PDPA6 does not apply to Federal and State Governments – notice and consent are not required for the MOH to either collect or disclose any personal data. However, the Department of Personal Data Protection (JPDP) has prepared and distributed advisory on personal data collection, possession, and processing by business operators. Businesses are only allowed to collect minimal information – name, contact number, date and time of visit and body temperature. They are also required to prepare a notice to notify visitors that the information requested is compulsory to clarify the purpose of data collection.

Secondly, security of data and devices. For manual data collection, the public is concerned over the potential of information disclosure. Therefore, measures must be taken to properly secure the forms or applications; a specific document or book must be prepared and used instead of a single paper which can be easily destroyed or shared. For businesses that opt for government-developed applications or privately developed ones, malware threats are also a huge concern. Data security is crucial as developers need to monitor their systems to ensure that any cyber-security breach is avoided. The government has also stressed that any data collected must be permanently deleted within six months and not retained any longer.

Thirdly, the social risks around personal data sharing. We have observed cases of patient-blaming and privacy infringement at the start of the outbreak. This is due to the sharing of personal information regarding the patients of COVID-19. Patient 16 had his name and profile picture circulated on social media platforms, causing the public to openly name and shame him openly; falsely claiming him to be the carrier of the virus and for being the cause of the spread when it was in fact not true.

Patient 26 and Patient 136 had similar cases where they were alleged to be super-spreaders of the virus – this was circulated in WhatsApp groups and Facebook. When they defended themselves on social media, it only resulted in further criticism from the public. These instances of patient-blaming are concerning as public commotion is only harmful during a period of crisis. Moreover, it exacerbates public fear over data collection should their personal information be disclosed and openly dispersed on social media platforms.

We recommend several steps to mitigate the risks around personal data collection. Firstly, a revision of the PDPA. Currently, any non-compliance toward the PDPA is a punishable offence – a fine of no more than RM300,000 or imprisonment of no more than two years (or both) against data users. The proposed revision includes:

- An appointment of data protection officer to guide the essential knowledge and information on data protection
- A report of any breach of data. Currently, there is no provision that requires data breach to be reported.
- Application to non-commercial activity as the current PDPA is limited to personal data collected within commercial transactions only. A blanket application should be considered now that data collection is widely made.

The usage of the MySejahtera application could also be more efficient. Instead of relying on several applications, businesses nationwide should only use one platform to ease the process of data collection and processing. Under the Medical Act 1971 and the Prevention and Control of Infectious Diseases 1988, any personal data stored by the government must be treated as confidential patient information. In the MySejahtera application, some personal details are required upon registration – full name, contact number, email address, identification number (IC), age, gender, and ethnicity. This information is used to help MOH with any clinical and epidemiological analysis for COVID-19.

According to a performance report done on the app, it has helped MOH detect 251 cases of COVID-19, which comprises 3% of cases nationwide. As of 10 August 2020, over 13 million Malaysians have downloaded the application. The MySejahtera National Crisis Preparedness and Response Centre (CPRC) has a 2-hour window to identify close contacts (determined from timestamp of check ins) within the app once a COVID-19 case is confirmed. The state must consider a uniform platform for all business-owners and non-commercial businesses to utilise for the process of data-collection. This uniformity may help any disabilities in personal data sharing as there could be better control of the information. The public fear over data collection is mainly regarding the management of the data. There must be full transparency over the utilisation of the information and where the information goes.

Conclusion



This paper has shown that the fundamentals of Malaysian democracy have been tested in various ways. Government transparency, minority rights, media freedom and institutions such as Parliament were all compromised to some extent. In times where Malaysians suffer from disrupted livelihoods and increasing uncertainty, it is more important than ever that institutions of the state function for their interests and not for the select few.



It is indeed challenging and difficult to strike a balance between preserving values enshrined in a democracy such as good governance, transparency, accessibility and freedom with that of public health interests and to mitigate the risks involved during Covid-19. Nevertheless, the current crisis that is affecting everyone globally cannot be a justification for governments to undermine democratic values. Any breakdown in democratic institutions might not be recoverable in the long term if its foundations are systematically weakened and purposely degraded today.



The topics and themes highlighted in this paper are some of the institutional reforms that are long-overdue in Malaysia. Elections are crucial in terms of establishing legitimacy and can be operated under the right circumstances. Transparency and accountability especially in procurement must be adhered by the government as well as demanded by the elected representatives despite the crisis to ensure no abuses or transgression occur. COVID-19 cannot be an excuse for any political actor to accumulate additional power or wealth.



Federal and state government relationships also deserve to be refined so as to provide a better delivery of public goods to all Malaysians and even more so during crisis situations. The treatment of minorities and other vulnerable groups must be drastically improved for the long term benefits of the nation as well instead of being politicised. Another key area in need of urgent review are the prison systems that were severely tested during the COVID-19. The freedom of the media ought to be enhanced as a form of check and balance that can serve to better inform and educate the public.

References

Introduction and Elections

Aman, A. (2020, August 5). Elections in a Pandemic: Lessons from Asia. *The Diplomat*. Retrieved from <https://thediplomat.com/2020/08/elections-in-a-pandemic-lessons-from-asia/>

Azrie, H. (2020). Project Youth: Departing from Malaysia's status quo. Institute for Democracy and Economic Affairs (IDEAS). Retrieved from <https://www.ideas.org.my/project-youth-departing-from-malaysias-status-quo/>

Azrie, H. (2020). Reconfiguring Malaysia's Democracy: Looking Beyond 2020. Institute for Democracy and Economic Affairs (IDEAS). Retrieved from <https://www.ideas.org.my/reconfiguring-malaysias-democracy-looking-beyond-2020/>

Bernama (2020, October 27). Over 300,000 new voters in Q3 of 2020, says EC. *Free Malaysia Today (FMT)*. Retrieved from <https://www.freemalaysiatoday.com/category/nation/2020/10/27/over-300000-new-voters-in-q3-of-2020-says-ec/>

Bernama (2020, September 26). Sabah election: Communications Ministry staff on duty required to undergo Covid-19 screening, says minister. *Malay Mail*. Retrieved from <https://www.malaymail.com/news/malaysia/2020/09/26/sabah-election-communications-ministry-staff-on-duty-required-to-undergo-co/1906987>

Bernama (2020, August 19). Slim by-election: EC enforces tight Covid-19 preventive measures. *Malay Mail*. Retrieved from <https://www.malaymail.com/news/malaysia/2020/08/14/slim-by-election-ec-enforces-tight-covid-19-preventive-measures/1893906>

Bernama (2020, August 12). Snap general election will cost about RM1.2b — Takiyuddin. *The Edge Markets*. Retrieved from <https://www.theedgemarkets.com/article/snap-general-election-will-cost-about-rm12b-%E2%80%94-takiyuddin>

BERSIH2.0 (n.d.) Voter Registration: Overview. Retrieved from <http://www.bersih.org/voterregistration/>

Channel News Asia (2020, 25 June). Growing calls for Malaysia PM Muhyiddin to call snap polls. Retrieved from <https://www.channelnewsasia.com/news/asia/malaysia-general-election-muhyiddin-yassin-snap-polls-12869606>

Choong, J. (2020, 16 August). Group urges EC to allow 'remote voting' in Sabah poll to cut Covid-19 risks. *Malay Mail*. Retrieved from <https://www.malaymail.com/news/malaysia/2020/08/16/group-urges-ec-to-allow-remote-voting-in-sabah-poll-to-cut-covid-19-risks/1894389>

Election Commission of Malaysia (2020). *Garis Panduan Pencegahan Covid-19 Bagi Pelaksanaan Pilihan Raya*. Retrieved from https://www.spr.gov.my/sites/default/files/GP%20PENEGAHAN%20COVID-19%20PELAKSANAAN%20PILIHAN%20RAYA_kemaskini%20pada%2011%20September%202020.pdf

Election Commission of Malaysia (2020). Keputusan Penuh Pengundian Pilihan Raya Umum Dewan Undangan Negeri Sabah Ke-16. Election Commission of Malaysia Media Statement Bill 64/2020. Retrieved from <https://www.spr.gov.my/sites/default/files/KM%20BIL%2064%202020%20KENYATAAN%20MEDIA%20KEPUTUSAN%20PENUH%20PENGUNDIAN%20PRU%20DUN%20SABAH%20KE%2016.pdf>

Election Commission of Malaysia (n.d). Keputusan Rasmi Pilihan Raya Kecil DUN N.23, Chini, Pahang. Retrieved from <https://www.spr.gov.my/sites/default/files/Rasmi.PNG>

Election Commission of Malaysia (n.d). Keputusan Rasmi Pilihan Raya Kecil DUN N.58, Slim, Perak. Retrieved from <https://www.spr.gov.my/sites/default/files/WhatsApp%20Image%202020-08-29%20at%208.58.13%20PM.jpeg>

Election Commission of Malaysia (n.d.). Pilihan Raya Umum DUN Sabah Ke-16. Retrieved from <https://dashboard.spr.gov.my/#/home>

Fong, D. R. (2020, September 12). EC says Health SOP Caused Restrictions on Media. Free Malaysia Today (FMT). Retrieved from <https://www.freemalaysiatoday.com/category/nation/2020/09/12/ec-says-health-sop-caused-restrictions-on-media/>

Gomez, J & Ramcharan, R (2020, April 1). Coronavirus and democracy in Southeast Asia. Bangkok Post. Retrieved from <https://www.bangkokpost.com/opinion/opinion/1890655/coronavirus-and-democracy-in-southeast-asia>

International Foundation for Electoral Systems (2020). Elections Postponed Due to COVID-19 - As of October 7, 2020. Retrieved from https://www.ifes.org/sites/default/files/elections_postponed_due_to_covid-19.pdf

Kwan, F. (2020, October 27). Don't hold any election, health ministry advises. Free Malaysia Today (FMT). Retrieved from <https://www.freemalaysiatoday.com/category/nation/2020/10/27/dont-hold-any-election-health-ministry-advises/>

Latiff, R. (2020, October 2). Malaysian leaders draw flak after post-election virus jump. The Edge Markets. Retrieve from <https://www.theedgemarkets.com/article/malaysian-leaders-draw-flak-after-postelection-virus-jump>

Loheswar, R. (2020, September 23). Election Commission liable for lawsuits if Covid-19 patients can't vote in Sabah polls, says Bersih 2.0. Malay Mail. Retrieved from <https://www.malaymail.com/news/malaysia/2020/09/23/election-commission-liable-for-lawsuits-if-covid-19-patients-cant-vote-in-s/1905858>

Syed Saddiq Syed Abdul Rahman (2020, October 24). Tidak perlu isytihar darurat, panggil semua duduk semeja untuk luluskan belanjawan 2020, tanpa ada Pilihanraya. [Image attached][Status update]. Retrieved from <https://www.facebook.com/syedsaddiqofficial/posts/3388841331194869>

Undi18 (n.d.). Homepage. Retrieved from <https://undi18.org/>

Transparency and Accountability

Aziz, A. (2020, May 5). MoH describes 'five officials held by MACC' statements as slander, lodges police report. The Edge Markets. Retrieved from <https://www.theedgemarkets.com/article/moh-describes-five-officials-held-macc-statements-slander-lodges-police-report>

Bernama (2020, September 16). PM Muhyiddin launches Gabungan Rakyat Sabah Pledges. The Edge Markets. Retrieved from <https://www.theedgemarkets.com/article/pm-muhyiddin-launches-gabungan-rakyat-sabah-pledges>

Bernama (2020, July 28). MOH gets supplies through emergency procurement during COVID-19 pandemic. Astro Awani. Retrieved from <https://www.astroawani.com/berita-malaysia/moh-gets-supplies-through-emergency-procurement-during-covid-19-pandemic-253053>

Bernama (2020, July 22). Malaysia is transparent in revealing Covid-19 numbers, says former deputy D-G. Malay Mail. Retrieved from <https://www.malaymail.com/news/malaysia/2020/07/22/malaysia-is-transparent-in-revealing-covid-19-numbers-says-former-deputy-d/1887051>

Ishak, M. (2020, April 23). COVID-19: 1.25 juta isi rumah dapat manfaat bantuan makanan. Berita Harian. Retrieved from <https://www.bharian.com.my/berita/nasional/2020/04/680788/covid-19-125-juta-isi-rumah-dapat-manfaatbantuan-makanan>

Jaafar, S. S. (2020, March 30). Think tank fellows call for fiscal transparency of govt's RM250b economic stimulus package. The Edge Markets. Retrieved from <https://www.theedgemarkets.com/article/think-tank-fellows-call-fiscal-transparency-govts-rm250b-economic-stimulus-package>

Yap, F & Ng, X.Y. (2020, April 23). Each pack of food aid given to Rasah costs only RM35, MP claims. Malaysiakini. Retrieved from <https://www.malaysiakini.com/news/522085>

Federal State Relations

Povera, A. (2020, October 19). Government mulling stricter MCO for KL, Putrajaya, Selangor. New Straits Times (NST). Retrieved from <https://www.nst.com.my/news/nation/2020/10/633587/government-mulling-stricter-mco-kl-putrajaya-selangor>

Putrajaya did not consult state govt over Klang CMCO, claims Selangor exco (2020, October 8). Free Malaysia Today (FMT). Retrieved from <https://www.freemalaysiatoday.com/category/nation/2020/10/08/putrajaya-did-not-consult-state-govt-over-klang-cmco-claims-selangor-exco/>

Seven states won't adopt conditional MCO, to maintain status quo (updated) (2020, May 3) The Star. Retrieved from <https://www.thestar.com.my/news/nation/2020/05/03/conditional-mco-won039t-be-uniformly-adopted-by-state-governments>

Yeoh, T. (2020, August 12). Federal-state friction amid Malaysia's dual political and pandemic plight. New Mandala. Retrieved from <https://www.newmandala.org/federal-state-friction-amid-malaysias-dual-political-and-pandemic-plight/>

Yeoh, T. (2020). Federalism and the COVID-19 Crisis: State-Federal Tensions Arise in Malaysia. Forum of Federations. Retrieved from https://www.triciayeoh.com/wp-content/uploads/2020/06/MalaysiaCOVID_TYMay2020.pdf

Impact On Minority Groups

Sandanasamy, F., Paavilainen, M., & Baruah, N. (2020). COVID-19: Impact on migrant workers and country response in Malaysia. Regional Office for Asia and the Pacific. International Labour Organization. Retrieved from https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_741512.pdf

Prison Reform

Act urgently to stop COVID-19 surge in detention centres (2020, June 5). Amnesty International Malaysia. Retrieved from <https://www.amnesty.my/2020/06/05/act-urgently-to-stop-covid-19-surge-in-detention-centres/>

Al-Darraji, H. A. A., Altice, F. L., & Kamarulzaman, A. (2016). Undiagnosed pulmonary tuberculosis among prisoners in Malaysia: An overlooked risk for tuberculosis in the community. *Tropical Medicine & International Health*, 21(8), 1049-1058.

Al-Darraji, H. A. A., Kamarulzaman, A., & Altice, F. L. (2014). Latent tuberculosis infection in a Malaysian prison: Implications for a comprehensive integrated control program in prisons. *BMC public health*, 14(22), 1-9.

Bernama (2020, October 12). Covid-19: Penang Remand Prison implements administrative EMCO. *The Edge Markets*. Retrieved from <https://www.theedgemarkets.com/article/covid19-penang-remand-prison-implements-administrative-emco>

Bernama (2020, October 8). More stringent SOP to curb COVID-19 in prison – PM Muhyiddin. Prime Minister's Office. Retrieved from <https://www.pmo.gov.my/2020/10/more-stringent-sop-to-curb-covid-19-in-prison-pm-muhyiddin/>

Bernama (2019, April 22). Prison reform in the pipeline, says Muhyiddin. *New Straits Times (NST)*. Retrieved from <https://www.nst.com.my/news/nation/2019/04/481811/prison-reform-pipeline-says-muhyiddin>

Calls to address prison overcrowding (2020, May 18). *The Star*. Retrieved from <https://www.thestar.com.my/news/nation/2020/05/18/calls-to-address-prison-overcrowding>

Carvalho, M., Sivanandam, H. & Rahim, R. (2020, August 17). Some 3,000 prisoners eligible for conditional release from September. *The Star*. Retrieved from <https://www.thestar.com.my/news/nation/2020/08/17/some-3000-prisoners-eligible-for-conditional-release-from-september>

Choong, J (2020, April 5). Overcrowded prison: Govt to look into dept director's proposal to not jail MCO violators. *Malay Mail*. Retrieved from <https://www.malaymail.com/news/malaysia/2020/04/05/overcrowded-prison-govt-to-look-into-dept-directors-proposal-to-not-jail-mc/1853764>

Choong, J. (2020, May 23). Malaysian human rights group warns against overcrowding in detention centres, says stricter Covid-19 SOPs needed. *Malay Mail*. Retrieved from <https://www.malaymail.com/news/malaysia/2020/05/23/malaysian-human-rights-group-warns-against-overcrowding-in-detention-centre/1868870>

COVID-19: Screening test first before prison for detainees, convicts (2020, June 5). *Bernama*. Retrieved from https://www.bernama.com/en/general/news_covid-19.php?id=1848462

Dermawan, A., (2020, October 19). Dire situation at Penang remand prison with PPE stock running out. New Straits Times. Retrieved from <https://www.nst.com.my/news/nation/2020/10/633566/dire-situation-penang-remand-prison-ppe-stock-running-out>

Ding, E. (2020, June 18). Malaysia's Coronavirus Scapegoats. Foreign Policy. Retrieved from <https://foreignpolicy.com/2020/06/19/malysias-coronavirus-scapegoats/>

Federal Constitution of Malaysia (Reprint 2010). Attorney General's Office. Retrieved from [http://www.agc.gov.my/agcportal/uploads/files/Publications/FC/Federal%20Consti%20\(BI%20text\).pdf](http://www.agc.gov.my/agcportal/uploads/files/Publications/FC/Federal%20Consti%20(BI%20text).pdf)

Free Non-Violent Offenders to Prevent Covid-19 Prison Outbreak: Experts (2020, May 8). Code Blue. Retrieved from <https://codeblue.galencentre.org/2020/05/08/free-non-violent-offenders-to-prevent-covid-19-prison-outbreak-experts/>

Global Detention Project (n.d.) Malaysia: Overview and COVID-19 Updates. Retrieved from <https://www.globaldetentionproject.org/countries/asia-pacific/malaysia>

Government must be accountable for deaths in detention centres (2020, August 7). Amnesty International Malaysia. Retrieved from <https://www.amnesty.my/2020/08/07/government-must-be-accountable-for-deaths-in-detention-centres/>

Human Rights Commissioner of Malaysia (2017). The Right to Health in Prison Results of a Nationwide Survey and Report. Retrieved from <https://drive.google.com/file/d/0B6FQ7SONa3PRZXNaejlsZktQWTg/view>

Idrus, P.G. (2020, October 7). Malaysian prisons report 1,126 COVID-19 cases. Anadolu Agency (AA). Retrieved from <https://www.aa.com.tr/en/asia-pacific/malaysian-prisons-report-1-126-covid-19-cases/1998624>

Krishnan, D. B. (2020, October 19). Overcrowding behind rapid spread of Covid-19 in Malaysian prisons. New Straits Times (NST). Retrieved from <https://www.nst.com.my/news/nation/2020/10/633447/overcrowding-behind-rapid-spread-covid-19-malaysian-prisons>

Lahad Datu Lockup Cluster Racks Up 50 New Covid-19 Cases (2020, September 7). Code Blue. Retrieved from <https://codeblue.galencentre.org/2020/09/07/lahad-datu-lockup-cluster-racks-up-50-new-covid-19-cases/>

Malaysia: End Immigration Raids and Detention, Support Migrants and Refugees Amid COVID-19 (2020, June 23). Fortify Rights. Retrieved from <https://www.fortifyrights.org/mly-inv-2020-06-23/>

Malaysia: Inadequate health care for prisoners (2017, May 31). Medical Human Rights Network. Retrieved from <https://www.ifhhro.org/news/malaysia-inadequate-health-care-for-prisoners/>

Malaysia: Stop Jailing Covid-19 Lockdown Violators. (2020, April 26). Human Rights Watch. Retrieved from <https://www.hrw.org/news/2020/04/26/malaysia-stop-jailing-covid-19-lockdown-violators>

Malaysia 'detains migrants, refugees' amid coronavirus lockdown (2020, May 1). Al Jazeera Media Network. Retrieved from <https://www.aljazeera.com/news/2020/5/1/malaysia-detains-migrants-refugees-amid-coronavirus-lockdown>

McLennan, S. (2020, July 17). Malaysia Shouldn't Persecute Outspoken Migrant Worker. Human Rights Watch. Retrieved from <https://www.hrw.org/news/2020/07/17/malaysia-shouldnt-persecute-outspoken-migrant-worker>

Ministry of Health (2020). Situasi (COVID-19) Terkini 09 November 2020. Retrieved from <http://covid-19.moh.gov.my/terkini>

Mok, O. (2020, October 12). Penang prison staff to undergo second round of Covid-19 testing after 20 found positive. Yahoo News Malaysia. Retrieved from <https://malaysia.news.yahoo.com/penang-prison-staff-undergo-second-072444403.html>

My Constitution: Fundamental liberties and citizenship (2011, February 17). Malaysian Bar. Retrieved from <https://www.malaysianbar.org.my/article/about-us/committees/constitutional-law-committee/my-constitution-fundamental-liberties-and-citizenship>

Nortajuddin, A. (2020, October 9). Prisons: COVID-19 Tinderboxes? The ASEAN Post. Retrieved from <https://theaseanpost.com/article/prisons-covid-19-tinderboxes>

Oorjitham, S. (2020, March 8). A new start for both prisons and prisoners. The Star. Retrieved from <https://www.thestar.com.my/news/focus/2020/03/08/a-new-start-for-both-prisons-and-prisoners>

Prisoners' access to healthcare and quality of care is bad, says Suhakam (2017, May 30). Free Malaysia Today (FMT). Retrieved from <https://www.freemalaysiatoday.com/category/nation/2017/05/30/prisoners-access-to-healthcare-and-quality-of-care-is-bad-says-suhakam/>

Prisoners Potential Exposure to Covid-19 Risk Further Outbreaks (2020, April 2). Suara Rakyat Malaysia (SUARA). Retrieved from <https://www.suaram.net/2020/04/02/prisoners-potential-exposure-to-covid-19-risk-further-outbreaks/>

Rahim, R. (2020, May 12). Covid-19: We're clean, says Prisons Department in Malaysia. AsiaOne. Retrieved from <https://www.asiaone.com/malaysia/covid-19-were-clean-says-prisons-department-malaysia>

Rahman, N. A. (2020, October 19). Ganggu petugas wanita, banduan positif Covid-19 dipindahkan. Harian Metro. Retrieved from <https://www.hmetro.com.my/mutakhir/2020/10/632427/ganggu-petugas-wanita-banduan-positif-covid-19-dipindahkan>

Reduce prison population as a mitigation strategy (2020, October 8). The Star. Retrieved from <https://www.thestar.com.my/opinion/letters/2020/10/08/reduce-prison-population-as-a-mitigation-strategy>

Rodzi N. H. & Hassan, H. (2020, October 19). Concerns as Malaysia set to free some inmates amid prison coronavirus outbreak. The Straits Times. Retrieved from <https://www.straitstimes.com/asia/se-asia/concerns-as-malaysia-set-to-free-some-inmates-amid-prison-virus-outbreak>

Rodzi N. H. & Hassan, H. (2020, October 17). Malaysia to implement early release of inmates amid Covid-19 outbreaks behind bars. The Straits Times. Retrieved from <https://www.Straitsimes.com/asia/se-asia/malaysia-to-implement-early-release-of-inmates-amid-covid-19-outbreaks-behind-bars>

Rufinaldo, R. C. (2020, September 7). Malaysia fears new COVID-19 cluster. Anadolu Agency (AA). Retrieved from <https://www.aa.com.tr/en/asia-pacific/malaysia-fears-new-covid-19-cluster/1965122>

Sheralyn (2020, October 20). Female Frontliner Treating Covid-19 Patients in Alor Setar Prison Gets Sexually Harassed. World of Buzz. Retrieved from <https://worldofbuzz.com/female-frontliner-treating-covid-19-patients-in-alor-setar-prison-gets-sexually-harassed/>

United Nations Treaties Series (n.d.). Constitution of the World Health Organization New York, 22 July 1946. Retrieved from https://treaties.un.org/Pages/ShowMTDSGDetails.aspx?src=UNTSO&tabid=2&mtdsg_no=IX-1&chapter=9&lang=en

United Nations Human Rights Office of the High Commission (n.d.). 30 Articles on the 30 Articles - Article 3: Right to Life. Retrieved from <https://www.standup4humanrights.org/layout/files/30on30/UDHR70-30on30-article3-eng.pdf>

United Nations Human Rights Office of the High Commission (2020, May 21). Malaysia / COVID-19: "Stop crackdown on migrants, journalists and civil society" – UN rights experts. Retrieved from <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25900&LangID=E>

United Nations Human Rights Office of the High Commission (2020, May 21). Conventions on the Right of the Child. Retrieved from <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

Media Freedom and Personal Data

Alsaafin, L., Regencia, T. & Siddiqui, U. (2020, September 7). WHO says world must be better prepared for next pandemic: Live. Al Jazeera Media Network. Retrieved from <https://www.aljazeera.com/news/2020/09/200-staff-syria-diagnosed-coronavirus-live-news-200906231715906.html>

Canlas, E. (2020, July 10). Malaysia: Authorities Crackdown on Journalists over Documentary on Undocumented Workers. Asia Pacific Refugee Rights Network (APRRN). Retrieved from <http://aprrn.org/malaysia-authorities-crackdown-on-journalists-over-documentary-on-undocumented-workers/>

Health ministry calls Covid-19 test kit 'fake news' (2020, March 18). Free Malaysia Today (FMT). Retrieved from <https://www.freemalaysiatoday.com/category/nation/2020/03/18/health-ministry-calls-covid-19-test-kit-fake-news/>

Regencia, T., Siddiqui, U., & Alsaafin, L. (2020, May). Malaysia detains migrants, refugees amid lockdown. Al Jazeera Media Network. Retrieved from <https://www.aljazeera.com/news/2020/5/1/malaysia-detains-migrants-refugees-amid-coronavirus-lockdown>

Sebenarnya.my Homepage (n.d.) Retrieved from <https://sebenarnya.my/>

Wong, N. (2020, April 10). 7 'miracle' cures for Covid-19 that are complete nonsense. Free Malaysia Today (FMT). Retrieved from <https://www.freemalaysiatoday.com/category/leisure/2020/04/10/7-miracle-cures-for-covid-19-that-are-complete-nonsense/>

Yeoh, T. (2020, August 5). IDEAS criticises increasing restrictions on media freedom. Institute for Democracy and Economic Affairs (IDEAS). Retrieved from <https://www.ideas.org.my/ideas-criticises-increasing-restrictions-on-media-freedom/>

Conclusion

Maizland, L. (2020, September 17). How Countries Are Holding Elections During the COVID-19 Pandemic. Council on Foreign Relations. Retrieved from <https://www.cfr.org/backgrounder/how-countries-are-holding-elections-during-covid-19-pandemic>



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