

## **WITHER THE *BUMIPUTERA* IDENTITY OF UNIVERSITI TEKNOLOGI MARA (UiTM)?**

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*Successive Malay leaders have defended Universiti Teknologi MARA (UiTM) as a means of ensuring the survival of the Malays and the bumiputera in Malaysia. It is impossible to deny that the contributions of UiTM have been enjoyed by all sectors of society; however, as an institutional catalyst and symbol of Malay leadership in Malaysia, its constitutional existence has been called into question in light of the 2008 general elections. This article examines the constitutional existence of UiTM with a primary objective of determining whether it has a constitutionally entrenched bumiputera identity. Possible legal hurdles to its constitutional existence, such as the right to equality and the presumably enshrined bumiputera identity, are examined with reference to similar arguments in India.*

Keywords: UiTM, bumiputera, identity, article 153, constitution

### **INTRODUCTION**

On 10 August 2008, Tan Sri Abdul Khalid Ibrahim, the Menteri Besar of Selangor, proposed the establishment of a 10% non-*bumiputera* and foreign student quota at Universiti Teknologi MARA (UiTM). This proposition sparked an adverse reaction from pro-United Malays National Organisation (UMNO) quarters, particularly the then vice chancellor of UiTM, Tan Sri Dato' Seri Professor Dr. Ibrahim Abu Shah. Later, on 12 August 2008, the country witnessed a massive crowd of student protesters from UiTM Shah Alam marching to the Selangor State secretariat building in Shah Alam. This public demonstration was soon followed by similar actions in other branches of UiTM.<sup>1</sup> In keeping with the theme of "*UiTM benteng pertahanan terakhir bumiputera*",<sup>2</sup> the UiTM administration organised a series of seminars and conferences, which

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were ostensibly used to discuss the significance of such an issue in an academic setting<sup>3</sup>.

From the time of its establishment, *Dewan Latihan RIDA/Kolej MARA/Institut Teknologi MARA (ITM)/UiTM* welcomed only *bumiputera*<sup>4</sup> students. Despite some initial growing pains, it has now blossomed into a successful university. ITM/UiTM has contributed significantly to the nation's policy of restructuring society. A great many *bumiputera* professionals (including this writer) owe their gratitude to ITM/UiTM for giving them the opportunity to make a difference in their lives. In light of recent communal discussions, however, some have questioned the current setup of UiTM. Consequently, the fate of UiTM ultimately depends on whether it can be protected under the Constitution. At first glance, the Universiti Teknologi MARA Act of 1976 boldly proclaims that the institution is specifically established under Article 153.<sup>5</sup> Although it was a bold measure, the Act's bestowal of a special constitutional status on UiTM does not settle the complicated issue of whether UiTM has a *bumiputera* identity.

## **ESTABLISHMENT OF THE UNIVERSITY**

Supporters of the current setup of UiTM consistently argue that UiTM is and has always been a *bumiputera* institution. To bolster the *bumiputera* identity of UiTM, they argue that the institution was intended for the *bumiputera* and has an exclusively *bumiputera* student body.

The history of UiTM, which began as *Dewan Latihan RIDA* in 1956, and an examination of the particular sections of the Federal Legislative Council's Paper No. 10/1951 that led to its establishment reveals an interesting insight into the connection between *Dewan Latihan RIDA* and the Malay community. Section 5 of this paper clearly outlines the justification and the necessity of establishing Rural Industrial Development Authority (RIDA).<sup>6</sup> The word "kampong", which is synonymous with the Malays, is also used in Section 8 of the paper.<sup>7</sup> Thus, when the *Dewan Latihan RIDA* was established in 1956, pursuant to rural development under RIDA, it provided pre-university courses and business skills training to the Malays. After the formation of the Federation of Malaysia in 1963, *Dewan Latihan RIDA* began to admit native students from Sabah and Sarawak, and more academic programmes were offered. Enrolment continued to be limited to the Malay and natives of Sabah and Sarawak,<sup>8</sup> even after the institution changed its name to Institut Teknologi MARA (ITM) in 1970 and to Universiti Teknologi MARA (UiTM) in 1999. Looking at the illustrious personalities from the Malay community who participated in its establishment, such as Dato' Onn

Jaafar and Tun Abdul Razak, together with its historical antecedents, the argument that this institution of higher learning was established by the *bumiputera* community for the *bumiputera* community is highly persuasive.

A similarly controversial issue arose in India in response to attempts to bolster the ethnic identity of Aligarh Muslim University. Aligarh Muslim University has a long and historical connection with the Muslim community in India, and the collective efforts of this community are largely responsible for its creation. Having established the Mohammadan Anglo-Oriental College, the Muslim community strove to upgrade it to a university. This title was granted in 1920 when the British bestowed it with a statutory instrument, creating the Aligarh Muslim University. Its status as a minority institution reflecting and representing the interests of the Muslim community was disturbed when the Indian legislature passed two amending acts in 1951 and 1962. These acts, among others, extinguished the supreme body of the Court of the University and eliminated the requirement that the Court of the university must consist of only Muslims.<sup>9</sup> These amendments were challenged in *Azeez Basha v. Union of India* AIR 1968 SC 662, and the Supreme Court of India held that Aligarh Muslim University did not possess an Islamic minority identity. Unfortunately, the Indian Supreme Court refused to acknowledge the minority character of the university. The main reason for this judgement was that to establish a university whose degrees would be recognised by the state, it is not the people sponsoring the university who establish it, but rather the state. Because the university was established by the state via an Act of Parliament, the university could not claim a minority identity *vis-à-vis* a Muslim institution. This is a narrow and pedantic way of looking at the word "establish", as contained in the statutory instrument. In 1981, the Indian Parliament attempted to rectify this problem by amending the Aligarh Muslim University Act of 1920 to restore the minority status that was denied by the Supreme Court in the *Azeez Basha* case.<sup>10</sup>

The minority character of Aligarh Muslim University was again challenged by some parties who were dissatisfied with the university's policy of 50% reservation for Muslim students in its postgraduate medical courses.<sup>11</sup> Unfortunately, in two successive judgements, the Indian Court again refused to recognise the minority character of the university. Despite strong support for the university's Muslim identity from the central government of India,<sup>12</sup> the Allahabad High Court still ruled that the university was a "free" university, having no minority character whatsoever. The decision by the Allahabad High Court was met with strong objections by the Muslim community in India.<sup>13</sup> While this ruling is currently under appeal in the Supreme Court of India, the

court had made a preliminary order that Aligarh Muslim University will maintain its minority status.<sup>14</sup>

The reasons given by the Allahabad High Court and the Supreme Court in the Azeez Basha case likely result from the secular and socialist identity that India proudly proclaims in its constitution.<sup>15</sup> Hence, it is implicit that such values accord no preference to any group or caste. Furthermore, because a public university is funded by taxpayers, there is a legitimate expectation that such an educational institution should be open to all. In Malaysia, this expectation is apparent in Paragraph 5 of the First Schedule of the University and University Colleges Act of 1971 (UUCA):

...nor shall any fellowship, scholarships, exhibition, bursary, medal, prize or other distinction or award be limited to persons of any particular race, religion, nationality or class if the cost of the same is met from the general funds of the University.

This passage indicates that if any endeavour is exercised using taxpayers' money, discriminating policies are generally not allowed to be fair to taxpayers. Examining the reasons given by the Allahabad High Court in reference to UiTM, it is clear from the statutory instruments of the ITM and UiTM Acts that both institutions are established by the statutes. In the case of ITM, the title and preamble of the ITM Act of 1976 state that it is "an Act to provide for the establishment, maintenance and administration of the Institut Teknologi MARA and for other matter connected therewith."

Section 3 further states that "there is hereby established an Institute with the name and style of Institut Teknologi MARA."

Concerning UiTM, the title and preamble of the UiTM Act of 1976 states that it is "an Act to provide for the establishment, maintenance and administration of the Universiti Teknologi MARA."

Next, Section 3 states that "there is hereby established a University with the name and style of Universiti Teknologi MARA."

Employing the same reasoning used in the Indian case, it is clear that both institutions of higher learning are established by the state, as opposed to being established by the *bumiputera* community. Both statutory instruments clearly state that the institution/university was established by an Act of Parliament.

Unfortunately, Section 1A of the UiTM Act presents a difficulty in considering UiTM a free university devoid of any ethnic/religious identity.

### **BUMIPUTERA IDENTITY**

In the first draft of the proposed amendment to the UiTM Act, dated January of 1999, Section 32A was ostensibly included to confer the status of Malay/Native on the University. This section is comparable to Section 36 of the Majlis Amanah Rakyat Act 1966 (revised 1992) Act 489 that confers a similar status on Majlis Amanah Rakyat (MARA). Unfortunately, both of these provisions are only related to land tenure regarding Malay land reserves, as opposed to conferring the status of Malay identity on the university. In a later draft proposal dated September of 1999, two related provisions were proposed. First, it was proposed that the new Act must state that the university is set up pursuant to Article 153 of the Federal Constitution.

The second provision was a reiteration of the earlier proposal, with a note that the university was only requesting a Malay holding status with regard to Malay reserved property (similar to the status granted to MARA), as opposed to an all-encompassing *bumiputera* identity. When the amended bill was passed, only the first proposal was enshrined in the UiTM Act, as in Section 1A of the Act states that "the Universiti Teknologi MARA is established pursuant to and in accordance with the provisions of Article 153 of the Federal Constitution."

The following question must now be asked: Does the Act confer upon this university an absolute *bumiputera* identity? The previous ITM Act did not contain any provisions enshrining the *bumiputera* identity of ITM. Nothing in the ITM Act linked ITM to the special position imperatives of the *bumiputera* in Article 153, nor was there a provision that exclusively denied the entry of the non-Malays/non-*bumiputera*. Because it was under the jurisdiction of MARA prior to the 1976 Act, reference has to be made to the MARA Act of 1966, which did not (and still does not) contain any provisions excluding the entry of non-*bumiputera* students. In fact, Section 6 concerning the duties and powers of MARA states that MARA was set up for the economic and social development of Malaysia with a special focus on rural development. Furthermore, Section 6 is also devoid of any particular racial focus.<sup>16</sup> Section 36 of the MARA Act, as explained earlier, granted a *bumiputera* status on MARA, but only with regard to *bumiputera* reserved property.

Under the various state enactments concerning Malay reserved lands, only a Malay person can conduct dealings with regard to these lands, such as purchasing or charging them as a security for a loan. The law allows persons and companies to deal with such lands because a corporation is acknowledged as a person under the law. Hence, a corporation can own property in the same way that a person can. The rationale of bestowing a legal status onto a corporation is to allow it to exist independently from the people behind it, thereby giving rise to the expression of "separate legal personality." Historically, English common law allowed for property to be owned by the church, which was separate from the individuals holding religious positions. Because a corporation does not have an identity as a person under the law, can an artificial person have an ethnic identity? In a local case regarding Malay reserved lands, the High Court decided that a company could not be bestowed with a Malay character/identity.<sup>17</sup> Per Hishamuddin Yunus J: "In my opinion, only a natural person could be declared to be deemed a Malay, not an artificial legal person such as a company."<sup>18</sup>

In light of this decision, the assumption that UiTM has a *bumiputera* identity is riddled with difficulties. When one examines sections 2<sup>19</sup> and 19<sup>20</sup> of the Malay Reservation Enactment of Kedah, the inescapable conclusion that one would make is that the Enactment refers only to a natural person. Attributes such as "professing the Malay religion," "habitually speaking the Malay language," having at least on parent "of Malay race or Arab descent" and "any person of any race or nationality" could not be imputed to an artificial person such as a company. Furthermore, since Article 153 provides a reservation of quotas for the Malays and natives of Sabah and Sarawak. A corresponding check of the definition of Malay in Article 160,<sup>21</sup> together with the definition of "native" in Article 161A(6)<sup>22</sup>, similarly reveals attributes which could not be imputed on artificial/juristic persons.

However, there is no uniformity in the definition of a Malay in the relevant state enactments in Malaysia. For instance, the Kelantan Malay Reservations Enactment No. 18/1930 includes the Majlis Ugama Islam in the definition of Malay.<sup>23</sup> This problem is further exacerbated by the conflict between the definition of Malay in Article 160 and the one in Article 89(6).<sup>24</sup> Whereas the definition in Article 160 is a closed definition that clearly outlines the attributes of a natural person, the definition in Article 89(6) is an open definition which gives the State the discretion to bestow such recognition. It has been written that because all State Constitutions have adopted Article 160, the definition of a Malay should rest on the definition in Article 160. This is because the phrase, "under the law of the State in which he is resident," would make the State Constitution superior to the State Malay Reservation Enactment.<sup>25</sup> One is tempted

to argue that the provisions of both Articles 160 and 89(6) should be read harmoniously, such that the general rule is that "Malay" should refer to a natural person and, in special situations such as those involving land and real estate, such a definition could be extended to juristic/artificial persons. Unfortunately, this interpretation cannot be made in the absence of clear, unambiguous provisions.

Pertaining to the characteristic of "habitually speaking the Malay language," it is truly a paradox to note that English, instead of bahasa Malaysia, is used as the medium of instruction in all of the academic programmes in UiTM. For example, the law programme has been conducted in English from its inception in 1968.<sup>26</sup> This contradicts the Malay/*bumiputera* identity that UiTM has been argued to possess. Furthermore, using English as the medium of instruction goes against the national policy of having bahasa Malaysia as the language for "official purposes."<sup>27</sup> In the case of *Merdeka University v. Government of Malaysia*, [1982] 2 MLJ 243, the issue was whether using the Chinese language as a medium of instruction at the proposed university would amount to an official purpose. The majority held that it could indeed be defined as an official purpose, and thus, it would be against the national policy regarding the national language if the establishment of Merdeka University were allowed. UiTM's policy of using the English language as its medium of instruction could likely be legally justified with reference to Article 152(2) of the Federal Constitution.<sup>28</sup> However, its paradox as a so-called *bumiputera* institution that does not use bahasa Malaysia as its medium of instruction—but instead uses English, the language of the colonial oppressors—would still be undiminished.

## **RIGHT TO EQUALITY**

The most popular attack on UiTM is that it is a violation of the right to equality. However, the right to equality is not an absolute right. Although Article 8 of the Federal Constitution provides for the right to equality in Malaysia, there exist other Articles that run counter to it, such as Articles 152 and 153. Any challenge to the inconsistency of these Articles must also include the other Articles. For instance, whereas Article 5–13 provide for fundamental liberties, Article 149 (special powers to combat subversion) and Article 150 (emergency laws) allow for legal provisions that encroach upon such rights. These Articles must be read harmoniously to determine their applicability. Therefore, although everyone has an equal right to economic opportunities, pursuant to the principle of harmonious construction, the special provisions for the *bumiputera* are an exception to the general rule. Furthermore, though equality is an important value, the law allows for inequality if there is a plausible reason for it.<sup>29</sup> The inequality here could be

justified under the historical and economic considerations. Any attempts to separate the *bumiputera* heritage from the history of the country are clearly unsustainable. It must also be acknowledged that the economic disparity between this indigenous group and the "other" was very wide, hence the rationale for such discriminatory policies.

Scores of materials on the economic discrepancies between the different races in Malaysia have been produced. The most notable is the controversial report entitled *Corporate equity distribution: Past trends and future policy*, released by the Asian Strategy and Leadership Institute (ASLI). This report states that the *bumiputera* corporate equity ownership was as high as 45%, and therefore, the target under the new economic policy had been achieved. Upon publication of ASLI's report, calls were made to debunk it and to claim that the figures published by the Economic Planning Unit (EPU) of the Prime Minister's Department would present the correct picture (18.9%). The report was condemned by many politicians, and its research director, Dr. Lim Teck Ghee, later tendered his resignation.<sup>30</sup> The controversy as to which findings were justified is still unsettled until today.

An alternate approach to understanding this case involves examining the demographics of the student population in UiTM. Data from the student population at UiTM Shah Alam suggest that the university's closed-door policy is in need of serious examination. First, a great many students have cars, unlike previous generations of ITM students. Second, the policy of closing the doors to the academically gifted non-*bumiputera*—but at the same time welcoming non-Malaysian students to UiTM—cannot be swept under the rug, especially when the number of foreign students is non-negligible. If the *bumiputera* are still poor, as the findings of the EPU suggest, one needs to address the paradox of taking in foreign students and children of affluent Malay/*bumiputera* families. The enrolment of foreign students and children of affluent Malay/*bumiputera* families clearly deprives the truly poor *bumiputera* students of such opportunities. If the argument is that UiTM must be preserved for the Malay/*bumiputera*, the entrance of the foreign students is also questionable.

In the case of *TSC Education Sdn Bhd v. Kolej Yayasan Pelajaran MARA & Anor.* [2002]5 MLJ 577, which concerned a private college set up under MARA, the issue was whether to admit Chinese students from China. Per Abdul Malik Ishak J:



I am constrained to hold that the whole purpose of the said Act and the said Order being enacted was exclusively for the advancement of *bumiputera* students. It would certainly be absurd if foreign students from the People's Republic of China—the China students, were allowed entry but, on the other hand, the entry of local students who are non-Bumiputeras are disallowed.<sup>31</sup>

It could be argued that Justice Abdul Malik Ishak's reasoning is faulty since the MARA Act does not make any mention of MARA being the vehicle for the exclusive development of the Malays/*bumiputera* community. It could also be argued that the above rationale has no relevance to UiTM, as UiTM does not accept foreign students from China and the common denominator for foreign students is that they be Muslim. However, this reasoning is particularly relevant in addressing the paradox of denying the entry of non-*bumiputera* Malaysian students yet at the same time allowing non-Malaysians to study at UiTM. A further issue here is the rights of ethnic Indian and Chinese Muslims in Malaysia who are Muslim by birth. If UiTM can grant Muslim foreign students admission, it could and should also allow these ethnic Indian and Chinese Muslims to enter. One could even argue that these individuals have a stronger claim to UiTM than do foreign students. An incontrovertible fact concerning the enrolment of non-*bumiputera* students at UiTM is that it has been accepting non-*bumiputera* students at its Centre for Preparatory Studies, in which a select few non-*bumiputera* students (all of whom are exceptionally bright post-Sijil Pelajaran Malaysia or SPM students) are taken in for pre-university studies such as A-levels and the American Degree Programme.<sup>32</sup>

The new UiTM Act tries to settle the identity problem by attempting to stamp its *bumiputera* identity in Section 1A. This attempt is still plagued by a certain ambiguity, however. Section 1A does not specifically exclude non-Malays/non-*bumiputera* from the university. Furthermore, under the status quo, the policy of excluding the entire population of non-*bumiputera* students from UiTM cannot be equated to a reservation of quotas, despite a clear link to Article 153. Reservation of quotas would mean that the applicant pool is open to everyone, with a specific number of places reserved for certain groups. Unlike the reservation of quotas in India, those in Malaysian universities cannot exceed 50% of the total number of places.<sup>33</sup> As such, reservation of quotas does not mean that the entire applicant pool is only to a certain group. In the case of ITM and UiTM, this is a general exclusion of non-*bumiputera* students from the university, such that the entire student body is made up of only *bumiputera* students. This does not conform to the general rule on tertiary education in Malaysia, as expressly contained in Section 89 of the Private Higher Education Institutions Act and

Paragraph 5 of the 1st Schedule to the Universities and University Colleges Act (UUCA), in which both provisions guarantee against racial or religious discrimination in tertiary education in Malaysia. Furthermore, Article 153(2) uses the word "proportion":

153(2): Notwithstanding anything in this Constitution, but subject to the provisions of Article 40 and of this Article, the Yang di-Pertuan Agong shall exercise his functions under this Constitutions and federal law in such manner as may be necessary to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and to ensure the reservation for Malays and natives of any of the States of Sabah and Sarawak of such **proportion**<sup>34</sup> as he may deem reasonable of positions in the public service (other than the public service of a State) and of scholarships, exhibitions and other similar educational or training privileges or special facilities given or accorded by the Federal Government and, when any permit or license for the operation of any trade or business is required by federal law, then, subject to the provisions of that law and this Article, of such permits and licenses.

The necessary implication from the word "proportion", as used above, is that a number of seats may be reserved for said beneficiaries in positions of public service, placements in universities and scholarships. The use of "proportion" cannot be understood so as to allow the total exclusion of the non-*bumiputera* students. Also, when Clause 2 of Article 152 is read alongside of Clause 9<sup>35</sup> of the same article, the understanding that reservation does not mean the total expropriation by one particular group to the total exclusion of the others becomes clearer.

Many have been quick to defend the status of UiTM by pointing out the existence of the private universities and colleges, presumably owned and controlled by members of other ethnic groups. The main issue here is the suspicion as to why the spotlight should be on UiTM, given that there are scores of other educational institutions that are allegedly predominantly controlled by other groups. What many have chosen to ignore here is that, unlike UiTM, such educational institutions do not bar the entry of any person.

Pursuant to the principle of *generalia specialibus non derogant*,<sup>36</sup> it may be possible to justify this dichotomy, hence defending this state of affairs on the basis of being a special case whereby UiTM is an exception to the general rule. UiTM was not created under the UUCA umbrella. It was created by its own Act,

the Universiti Teknologi MARA Act of 1976. Furthermore, the right to equality is not an absolute right. It can be denied upon the fulfilment of two conditions. First, there must be a specific reason for the discrimination. Second, there must be a nexus between the Act and the reason for the classification. UiTM's status quo fulfils both conditions. Be that as it may, it does not change the fact that the reasons for the special classification have been compromised by the attendance of foreign students and students from affluent families. Can this special setup be protected under the principle of acquiescence? One could argue that there has been an implied acceptance because there is no legal challenge mounted against the structure of the institute/university from the time of its inception until today. This argument needs to be viewed in light of the injunctions contained in the Sedition Act, which could likely explain the refusal of any person to challenge the constitutionality of this setup. In addition, it has also been argued that while this arrangement cannot be seen as a form of quota on the micro level, it can certainly be seen as a form of quota on the macro level<sup>37</sup> when taking a holistic view of Malaysia's socio-economic reality. However, this approach is also ambiguous. More pertinently, it begs the question as to what the socio-economic reality of the country really is.

The problem with affirmative action is that it is susceptible to abuse by elite members of minority groups. In theory, minorities are supposed to be the beneficiaries of such policies, though in reality the benefits are often monopolised and squandered by the elite members of the minority group. In the case of the special treatment for the *bumiputera* in Malaysia, many have argued that the system has been abused by politically and economically powerful elites and those connected to them. Derogatory phrases such as "UMNOputra"<sup>38</sup> have been coined to condemn the unscrupulous elite for using their political connections to amass personal wealth at the expense of the genuinely poor *bumiputera*. For instance, an explanation has been demanded from the government regarding the missing RM52 billion worth of *bumiputera* shares: Out of the RM54 billion worth of shares that were allocated to them, only RM2 billion remain in the hands of the *bumiputera*.<sup>39</sup> It is clearly wrong to label the attacks on the misuses and abuses of the system as attacks on the Malays/*bumiputera*, as concern for this issue transcends the ethnic divide.<sup>40</sup>

Although affirmative action policies are also carried out in India for the benefit of the "backward classes," such policies are not carried out without first examining the true status of the beneficiaries. In the case of *Balaji v. Mysore AIR 1963 SC 649*, the Court held that the element of caste was not the sole criteria of "backwardness" in determining eligibility for the benefits of affirmative action policies. The Court was of the view that other factors should also be taken into

consideration. Also, in the case of *Indra Sawney(I) v. India AIR 1993 SC 417*, the Supreme Court of India held that the "creamy layers" of the backward classes should be excluded as recipients of such benefits. This continued the earlier decision to scrutinise the beneficiaries under the affirmative action policies so as to prevent possible abuses by elite members of the lower castes who might not be as economically backward as they were assumed to be.<sup>41</sup> An attempt was made by the state to bypass this decision by promulgating a statutory provision that proclaimed that such "creamy layers" did not exist.<sup>42</sup> This provision was challenged as unconstitutional in the subsequent case of *Indra Sawney(II) v. The Union of India AIR [2000] 1 SCC 168*, and the Supreme Court held that any attempt of excluding the "creamy layers" would violate the basic structure of the Constitution.<sup>43</sup>

The time is surely ripe for policymakers in Malaysia to structure and enforce policies designed to filter out individuals belonging to the "creamy layers" of the *bumiputera* from the truly deserving beneficiaries who are still economically and socially disadvantaged. The concept of equality can be taken as the premise in this question. Because it is one of the fundamental liberties under the Constitution, any law or policies that derogate from equality must be subject to reasonable limits.<sup>44</sup> Therefore, the phrase "reasonable" can be read into Article 153(2) to ensure that while the affirmative action policies for the *bumiputera* are valid under the Constitution, such policies cannot be carried out in total disregard of the right to equality of other citizens. This would also ensure that such policies would not enrich the political elite of the *bumiputera*, as such policies were designed to achieve equality in line with the social justice philosophy of restructuring society and eradicating poverty. It would certainly defeat the whole purpose of affirmative action in Malaysia if such policies would only benefit the *bumiputera* political and economic elite while simultaneously widening the gap between these individuals and the rest of the *bumiputera*. Such an anomaly would only lead to further unrest if the issue of marginality were to be exploited by unscrupulous politicians.

## **ISLAM**

One must also examine the question as to whether UiTM has an Islamic identity. This is likely the main gravamen in the argument for prohibiting the enrolment of non-*bumiputera* students. This issue is also apparent in UiTM's policy of accepting only Muslim students in its foreign student admission. Sentimentality certainly plays a strong role in this endeavour when one tries to enshrine UiTM's

historical past, when it was known as *Dewan Latihan RIDA*, an educational institution intended only for Malays.

A proponent of this view might refer to UiTM's motto, "*usaha, taqwa, mulia*", focusing on the word "*taqwa*" in support of UiTM's Islamic identity. It is strange to note the difference between the motto of UiTM and that of the old ITM. The old ITM's motto was "*usaha, jaya, mara*." Clearly, in an effort to emphasise its Islamic identity, the phrase "*jaya*"<sup>45</sup> was replaced with "*taqwa*."<sup>46</sup>

Although Islam does not place an emphasis on ethnic identity, Article 160 of the Federal Constitution clearly proclaims that a Malay must also be a Muslim.<sup>47</sup> It is pertinent to note that although Islam spread from Arabia, there is no controversy when an Arab identifies himself as an Arab Christian, and it is a well-known fact that both Christianity and Islam are professed and practised in the Arab community. In Malaysia, there seems to be rigid compartmentalisation where the identity of Malays is concerned. In the High Court's judgement of the Lina Joy case,<sup>48</sup> for instance, the learned judge remarked that "*a Malay under Art 160(2) remains in the Islamic faith until his or her dying days*."<sup>49</sup>

When this state of affairs is viewed in the context of UiTM, one is tempted to conclude that because UiTM is a Malay institution (because of its history and the fact that it is presently dominated by the Malays), it is also an Islamic institution. Unfortunately, this conclusion suffers from a faulty premise by which it assumes that UiTM has an ethnic Malay identity. Similar to the non-existence of prohibition on non-*bumiputera* students, the UiTM Act does not contain any provision prohibiting the enrolment of non-Muslim students. In fact, both UiTM and ITM have accepted non-Muslim students from the *bumiputera* community since their inception.

Even if UiTM could plausibly claim to be an Islamic institution of higher learning, the nature of Islam as a universal and non-elitist religion would make its policy of rejecting non-Muslim and non-*bumiputera* students a paradox. This paradox is apparent when one compares UiTM to the International Islamic University (UIA or IIU). Although clearly proclaimed an Islamic institution of tertiary education with unambiguously outlined Islam-related provisions in its philosophy, mission and vision, the UIA or IIU<sup>50</sup> accepts both non-Muslim and non-*bumiputera* students.

## **CONCLUDING REMARKS**

Although reference to comparative materials would be enlightening, one needs to be reminded that our Constitution stands on its own and that reference must be made to its actual content. As stated previously, India has taken the secular path and has even enshrined the principle of secularism as its constitutional identity. Hence, considerable differences exist in both constitutional setups. Malaysia does not have any clear provisions in its Federal Constitution declaring secularism as its identity. A thorough understanding of Malaysian history is of utmost importance when one attempts to deconstruct the, at times, convoluted social and political structure of this country. Be that as it may, one must also take note of the fact that history is only useful as guidelines rather than as something which is rigidly binding, as precedence is given to the needs and wishes of the present generation.

Regarding the nature of UiTM, one must acknowledge that there has been a dire and expedient need to establish ITM/UiTM and that such a need is far from being merely the whims and fancies of any person or group. Its establishment was—and still is—necessary to address the severe economic disparity of the *bumiputera* as compared with other racial groups. One must also acknowledge that the UiTM setup is an exception rather than the norm. In fact, as previously mentioned, both Paragraph 5 of the first schedule to the UUCA and Section 89 of the Private Higher Education Institutions Act allow free and fair educational opportunities except where Article 153 is concerned, thereby validating the special nature of UiTM.

The most important issue concerning UiTM is not about reservation of quotas, nor is it about the rights of the Malays in view of their heritage. The most important issue pertaining to UiTM is about education: How best to educate the presumably poor natives of this country and what opportunities should be given to them to allow the realisation of their goals. Per Tun Suffian L. P. in the case of Merdeka University:

"Before departing from this case, we would like to remark that it is unfortunate that there is a widespread tendency on the part not only of the Chinese to demand the establishment of this or that institution of learning as part of a campaign to win favour with the electorate. This is especially marked when a general election is looming. An unfortunate effect of this tendency is the need to appeal to racial and linguistic sentiments and the arousing of strong emotions on the part of those whose language is being championed and equally strong

reactions on the part of those whose language is thought to be threatened. It is realized that this is a legacy from pre-merdeka days when the different races were educated in separate compartments. Now that we have been in charge of our own destiny for 25 years, our people should be mature enough to realize the importance as regard sensitive issues of keeping the political temperature down rather than up, they should agree to regard universities and schools as an educational rather than a political problem, and that they are a vital instrument in nation-building."

UiTM has been politicised by both sides of the political divide. On one side, certain politicians and politicians-masquerading-as-academicians<sup>51</sup> have attempted to capitalise on this issue for political mileage in order to appear to be the sole heroes/protectors of the Malays/*bumiputera*. Meanwhile, across the political divide, a group of people appear to be ignorant of the constitutional history of Malaysia. A similar theme emerges when comparing this situation to the case concerning the minority status of Aligarh Muslim University. Education, in this case, university education, is not immune from politics in which politicians have always used and abused it for their own personal gain.<sup>52</sup> It seems that politicians habitually use education as fodder for their political campaigns. Ideally, this issue should not be used as a political tool, as the future of a country depends on the training and education that is given to its young students. What is needed and required from all politicians is a high level of statesmanship and the exercise of huge personal restraint on ethnic partisanship.

In spite of the absence of clear provisions in the MARA Act/ITM Act/UiTM Act, history would surely lend credence to the fact that RIDA/MARA/ITM/UiTM was established as an economic necessity to assist the poor *bumiputera* community. Furthermore, in reference to the Aligarh Muslim University case (although it is still under appeal), the Supreme Court of India has ordered that the status quo concerning the minority status of the university be maintained despite the earlier High Court's judgement.<sup>53</sup> The greatest hurdle to UiTM in its quest for a *bumiputera* identity is with regard to the law's non-recognition of a juristic person as a Malay/native. Professor Dr. Shad Saleem Faruqui had proposed several steps that could be taken to settle this dispute.<sup>54</sup> Eg. Firstly, affirmative action is only allowed in those areas specifically mentioned in Article 153, in public service employment, scholarships, educational and training opportunities, permits and licenses. Secondly, "special position of the Malays and the natives" have to be balanced with "the legitimate interests of other communities". Thirdly, in giving special preferences to the Malays and the natives of Sabah and Sarawak, "no person can be deprived of any public office, scholarship, educational or training

privilege, special facility or of any right, privilege, permit or license that was already held by him/her". Fourthly, business and trade cannot be restricted for the Malays/Natives (Faruqi, 2003). It can also be argued that strict rules on the non-recognition of a company as a Malay might not apply to a university, given that a university is different from a company.<sup>55</sup> Be that as it may, one needs to be continually reminded that Article 153 does not state that the Yang di-Pertuan Agong<sup>56</sup> shall only protect the interests of the Malays and the natives of Sabah and Sarawak. Instead, it states that the Yang di-Pertuan Agong also has the responsibility to safeguard "the legitimate interests of other communities." Furthermore, the rhetoric of "Malay rights" that is often used by politicians is woefully inadequate, particularly when it is divorced from the accompanying duties and responsibilities of such right-holders, such as the duty to study diligently, strive for excellence, refrain from squandering tax-payers' money or even the duty to develop this nation for the collective benefit of future generations.

The father figure of ITM/UiTM, Tan Sri Datuk Dr. Haji Arshad Ayub, could have simply turned to rabid ethnocentrism during ITM's early days and insisted on using the Malay language as the medium of instruction. Instead, having a genuine passion for the education and welfare of the poor *bumiputera* students and realising that the mastery of the English language would be a prerequisite to the greater things in life, Tan Sri Datuk Dr. Haji Arshad Ayub was adamant that English must be used as the medium of instruction at ITM.<sup>57</sup> Similarly, in a lecture entitled "*From Tun's Mind, Malay Supremacy*," delivered at UiTM Dungun on 5th October 2009, Tun Dr. Mahathir exhorted the *bumiputera* students of UiTM to enrol in open institutions of higher learning to directly compete with the non-*bumiputera* students.<sup>58</sup> Tun Dr. Mahathir did not preach for the exclusively ethnocentric view of UiTM that has been repeatedly voiced by some politicians. Instead, he recognised the need to train the *bumiputera* students to be more competitive. It is interesting to note that this view, coming from Tun Dr. Mahathir himself, was not met with derision and denunciation from the politicians and their followers. It is even more interesting to note the observation made by the eminent academician Emeritus Professor Tan Sri Dr. Khoo Kay Kim, who remarked that the Menteri Besar of Selangor's comment on UiTM should not be an issue because there had been similar attempts made in the past to open UiTM to the non-*bumiputera* students, but such attempts were unsuccessful because of the discomfort resulting from their "*being in a university that was dominated by one race*."<sup>59</sup> "Each of these incidents casts serious doubt on the motives and intentions of the various personalities who denounced Tan Sri Abdul Khalid Ibrahim as a "*pengkhianat bangsa*."<sup>60</sup> "Although this unpleasant episode in political posturing is certainly a sad lesson to be remembered by all



members of the UiTM community,<sup>61</sup> it is hoped that Malaysia will have more respectable public figures, bereft of the self-serving rhetoric of ethnicity and genuinely concerned about important matters not involving personal interests, political or otherwise.

## **POSTSCRIPT**

Although Tan Sri Datuk Sri Professor Dr. Ibrahim Abu Shah's contract as the vice chancellor was not re-extended and he was replaced on the 1 January 2010, the issue regarding the *bumiputera* identity of UiTM still lingers. Under the new vice chancellor, seminars and conferences focusing on Malay/*bumiputera* rights and Malay unity continue to be organised.<sup>62</sup>

## **NOTES**

1. *BERNAMA.COM*, "UiTM Students Hand Over Memoranda," 15 August 2008, [http://www.bernama.com.my/bernama/state\\_news/news.php?id=352947&cat=nt/](http://www.bernama.com.my/bernama/state_news/news.php?id=352947&cat=nt/).
2. Translation: "UiTM is the last bastion for the bumiputera." This slogan was coined by UiTM's administration during the controversy surrounding Tan Sri Abdul Khalid Ibrahim's proposal on the entry of non-*bumiputera* students to UiTM.
3. E.g. Y.B. Dato' Seri Ahmad Zahid Hamidi, Dato' Seri Prof Dr. Ibrahim Abu Shah and Mohamad Ezam Mohd Nor, "Wacana Artikel 153" (forum, "Menuntut Hak di Bumi Sendiri," UiTM Shah Alam, Selangor, 25 August 2008); Tun Dr. Mahathir, "Seminar Ketuanan Melayu" (seminar, "Dari Minda Tun, Ketuanan Melayu," UiTM Dungun, Terengganu, 5 October 2009).
4. Tunku Abdul Rahman, the first Prime Minister of Malaysia stated that the phrase *bumiputera* would refer to the Malays, Aborigines (*Orang Asli*) and the natives of Sabah and Sarawak. See Ramy Bulan, "Native Status under the Law," in *Public Law in Contemporary Malaysia*, ed. Wu Min Aun (Selangor: Addison Wesley Longman Malaysia Sdn Bhd, 1999), 257.
5. Article 153 of the Federal Constitution safeguards "the special position of the Malays and the natives of Sabah and Sarawak". Pursuant to this Article, the Malays and the natives of Sabah and Sarawak enjoy preferential treatment such as special quotas for scholarships, educational opportunities and job opportunities in government departments.
6. "In order to be able to utilise the resources of government and to stimulate the interest and obtain the support of the people in the kampongs, it is essential that every effort be made to bring the people closer to the government, and train them to bring their needs before the government through a systematic channel, initiating from the kampongs and

*moving progressively to RIDA as the appropriate instrument set up for the purpose.*  
"See <http://www.arkibmuzium.uitm.edu.my/sejarahUiTM.htm/>.

7. Section 8(f): "*the training of rural development officers and kampongs leaders.*"
8. E.g. Yang Amat Arif Tan Sri Datuk Seri Panglima Richard Malanjum, the Chief Judge of the High Court of Sabah & Sarawak, studied law at ITM under the London External degree programme (LLB) in 1972.
9. Section 23(1) of the 1920 Act.
10. Among the new provisions: Section 2(1): "University" means \*\* the educational institution of their choice established by the Muslims of India, which originated as the Muhammadan Anglo-Oriental College, Aligarh, and which was subsequently incorporated as the Aligarh Muslim University. Section 5(2)(c): To promote especially the educational and cultural advancement of the Muslims of India; See also Violette Graff, "Aligarh's Long Quest for 'Minority' Status: AMU (Amendment Act) 1981," *Economic & Political Weekly*, 11 August 1990.
11. Civil Misc. Writ petition No. 15504 of 2005 *Dr. Naresh Agarwal v. Union of India and others*; Connected with Civil Misc. Writ petition No. 12060 of 2005 *Manvendra Singh v. Union of India and others*; Connected with Civil Misc. Writ petition No. 24264 of 2005 *Malay Shukla and others v. Union of India and others*; Connected with Civil Misc. Writ petition No. 24271 of 2005 *Vivek Kasana and others v. Union of India and others*; Connected with Civil Misc. Writ petition No. 24274 of 2005 *Anuj Gupta and others v. Union of India and others*. See <http://www.academics-india.com/AMU-judgement.htm/>.
12. Submission by counsel Dr. Rajiv Dhawan, Senior Advocate, and Mr. Gopal Subramaniam, Senior Advocate, Supreme Court of India, on behalf of the Aligarh Muslim University and the Union of India, *ibid*.
13. E.g. *The Milli Gazette*, "All India Muslim Forum Condemns Judgement on Aligarh Muslim University," 9 October 2005, <http://www.milligazette.com/IndMusStat/2005a/014-aimf-9-oct-05.htm/>; *The Milli Gazette*, "Resolution on Restoration of Autonomy & Minority Character of AMU," Meeting of the Markazi Majlis-e-Mushawarat, 8 October 2005, <http://www.milligazette.com/IndMusStat/2005a/016-mmm-08Oct05.htm/>.
14. *The Hindu*, "Court Orders Status Quo on AMU," 25 April 2006, <http://www.hindu.com/2006/04/25/stories/2006042502621100.htm/>; *IBN Live*, "SC Retains AMU's Minority Status," 24 April 2006, <http://ibnlive.in.com/news/sc-retains-amus-minority-status/8658-3.html/>.
15. Preamble to the Indian Constitution: "WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC..." See <http://www.iiu.edu.my/about/about.shtml?id=mission/>.
16. Section 6(1): "It shall be the duty of the Majlis to promote, stimulate, facilitate and undertake economic and social development in Malaysia and more particularly in the rural areas thereof."

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17. *Sime Bank Bhd v. Tetuan Projek Kota Langkawi* [1999] 1 CLJ 307. See also Shad Saleem Faruqui, *Document of Destiny: The Constitution of the Federation of Malaysia* (Selangor: Star Publications (Malaysia) Bhd, 2008), 694–702; Fahri Azzat, "Malaysia is a Secular Country," 21 May 2009, <http://loyarburok.com/human-rights/pray-for-me-human-rights/malaysia-is-not-an-islamic-country/>.
18. Para. 23
19. "... a person professing the Muslim religion and habitually speaking the Malay language of whose parents one at least is a person of Malayan race or of Arab descent."
20. "The Ruler-in-Council may, in his discretion, notwithstanding anything in this Enactment contained, by order in writing declare that any person of any race or nationality be deemed to be a Malay for the purposes of this Enactment, and such person shall then be deemed to be included in the term 'Malay' wherever it shall occur in this Enactment or in any amendment or re-enactment thereof."
21. "Malay" means a person who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay custom and—(a) was before Merdeka Day born in the Federation or in Singapore or born of parents one of whom was born in the Federation or in Singapore, or is on that day domiciled in the Federation or in Singapore; or (b) is the issue of such a person.
22. In this Article, "native" means—(a) in relation to Sarawak, a person who is a citizen and either belongs to one of the races specified in Clause (7) as indigenous to the State or is of mixed blood deriving exclusively from those races; and (b) in relation to Sabah, a person (who is a citizen, is the child or grandchild of a person of a race indigenous to Sabah, and was born (whether on or after Malaysia Day or not) either in Sabah or to a father domiciled in Sabah at the time of the birth.
23. Section 3
24. Article 89(6): In this Article, "Malay reservation" means land reserved for alienation to Malays or to natives of the State in which it lies; and "Malay" includes any person who, under the law of the State in which he is resident, is treated as a Malay for the purposes of the reservation of land. See also Shad Saleem Faruqui, *Document of Destiny: The Constitution of the Federation of Malaysia* (Selangor: Star Publications (Malaysia) Bhd, 2008), 701.
25. *Ibid.*
26. The Dean's message, see <http://law.uitm.edu.my/>.
27. See Article 152(1): The national language shall be the Malay language and shall be in such script as Parliament may by law provide: Provided that—(a) no person shall be prohibited or prevented from using (otherwise than for official purposes), or from teaching or learning, any other language; and (b) nothing in this clause shall prejudice the right of the Federal Government or of any State Government to preserve and sustain the use and study of the language of any other community in the Federation.

28. Article 152(2): Notwithstanding the provisions of Clause (1), for a period of 10 years after Merdeka Day, and thereafter until Parliament otherwise provides, the English language may be used in both Houses of Parliament, in the Legislative Assembly of every State, and for all other official purposes.
29. Refer to *PP v. Su Liang Yu* [1976] 2 MLJ 128; *The Malaysian Bar and Another v. Government of Malaysia* [1987] 2 MLJ 165; *Beatrice a/p AT Fernandez v. Sistem Penerbangan Malaysia & Ors* [2005]3 MLJ 681; *Sivarasa Rasiah v. Badan Peguam Malaysia & Anor* [Civil Appeal No: 01-08-2006(w)].
30. Jacqueline Ann Surin, Pauline Puah, B. Suresh Ram and Maria J. Dass, "Lim Stands by Report, Quits Asli," *The Sun*, 11 October 2006.
31. *TSC Education Sdn Bhd v. Kolej Yayasan Pelajaran MARA & Anor.* [2002]5 MLJ 577, page 593.
32. *The Star*, "Consider Khalid's UiTM Proposal Objectively, Says Tee Keat," 16 August 2008, <http://thestar.com.my/news/story.asp?file=/2008/8/16/nation/22099095&sec=nation/>.
33. *Balaji v. Mysore AIR 1963 SC 649.*
34. The writer's emphasis.
35. 152(9): Nothing in this Article shall empower Parliament to restrict business or trade solely for the purpose of reservations for Malays and natives of any of the States of Sabah and Sarawak.
36. The special/specific provisions override the general/ordinary/common provisions. In the context of UiTM, while ordinarily all educational institutions are and should be opened, UiTM is a special institution that is specially created under a statute hence its special status as an institution for the *bumiputera* arguably overrides the normal consideration that educational institutions should be opened to all.
37. Discussion with Emeritus Professor Datuk Dr. Shad Saleem Faruqi.
38. "*Bumiputera*": "sons of the soil", referring to the natives of Malaysia, or its "original" people such as the Malays, the Aborigines and the natives of Sabah and Sarawak. "UMNOputra": UMNO members. Since the *New Economic Policy* work in tandem with policies under Article 153 in helping the minorities such as the *bumiputera*, it has been remarked that such benefits are more often monopolized and squandered by those connected to the ruling political party, hence the creation of the term "UMNOputra".
39. Hazlan Zakaria, "Trace the Missing RM52 Bil in Bumi Shares", *Malaysiakini*, 29 March 2010, <http://www.malaysiakini.com/news/127772/>; see also Chua See-Ann, "Guan Eng Wants Probe on Bumiputra Shares 'Leak'", *THEEDGE*, 29 March 2010, <http://www.theedgemaalaysia.com/political-news/162558-guan-eng-wants-probe-on-bumiputera-shares-leak.html/>.

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40. *New Straits Times*, 13 October 2006. Y.B. Datuk Shahrir Samad: "Everybody was upset with the leakages, Malay or non-Malay. We cannot go through another period of seeing these opportunities wasted again. If we miss the point and talk about whose statistics are correct we may miss the whole thing"; see also *Mingguan Malaysia*, 8 October 2006. Professor Datuk Dr. Ismail Md Salleh's comment: "For the RM400 billion allocated under the 8MP (2000–2005), 80% of it disappeared due to leakages. This is one aspect, which caused the failure of the Malay economy. These leakages were due to the structure of the economy, misappropriation, corruption, desire to get rich quickly and so on."
41. See also S. P. Sathe, "India: From Positivism to Structuralism," in *Interpreting Constitutions: A Comparative Study*, ed. Jeffrey Goldsworthy (New York: Oxford University Press, 2007), 237.
42. Kerala State Backward Classes (Reservation of appointments or posts in the services under the State of Kerala) Act, 1995, Section 3: ...having regard to known facts in existence in the State of Kerala, there are no socially advanced sections in any backward classes who have acquired capacity to compete with forward classes.
43. See also Sudhir Krishnaswamy, *Democracy and Constitutionalism in India: A Study of the Basic Structure Doctrine* (New Delhi: Oxford University Press, 2009), 125.
44. Per Gopal Sri Ram FCJ in para. 5, *Sivarasa Rasiah v. Badan Peguam Malaysia & Anor*, [Civil Appeal No: 01-08-2006(w)], <http://www.cljlaw.com/public/cotw-100319.htm/>.
45. "jaya": "success";
46. "jaya": "success"; 46. "taqwa": "Taqwa is a concept in Islam that is interpreted by some Islamic Scholars as God consciousness. It has many further understandings and interpretations. Taqwa may mean piousness, fear of Allah, love for Allah, and self restraint; <http://www.islamic-dictionary.com/index.php?word=taqwa>.
47. "Malay means a person who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay custom..."
48. *Lina Joy v. Majlis Agama Islam Islam Wilayah & Anor*, [2004] 2 MLJ 119.
49. *Ibid.*, para. 59.
50. <http://www.iiu.edu.my/about/about.shtml?id=mission/>.
51. Bakri Musa, review of *Saya Pun Melayu*, by Zaid Ibrahim, (Petaling Jaya: ZI Publications Sdn. Bhd. 2009), <http://www.bakrimusa.com/archives/saya-pun-melayu-me-too/>.
52. Violette Graff, "Aligarh's Long Quest for 'Minority' Status: AMU (Amendment Act) 1981," *Economic & Political Weekly*, 11 August 1990.
53. *The Hindu*, "AMU circles hail verdict," 25 April 2006, <http://www.hindu.com/2006/04/25/stories/2006042502601100.htm/>. Also, compare this case to Jamia Milia Islamia University's declaration as a minority institution by the National

Commission for Minority Educational Institutions at <http://www.thehindu.com/news/national/article1481362.ece/>.

54. Shad Saleem Faruqui, *Document of Destiny: The Constitution of the Federation of Malaysia* (Selangor: Star Publications (Malaysia) Bhd. 2008), 701–702.
55. Per Tun Suffian LP in the *Merdeka University v. Government of Malaysia*, [1982] 2 MLJ 243. "A university is quite distinct from an entity incorporated under the Companies Act. A company incorporated under the Companies Act is not created by that statute and only comes into existence in accordance with its provisions, that is by the Registrar of Companies, on the registration of its memorandum, certifying under subsection (4) of section 16 of the Companies Act No. 79 of 1965 that the company is on and from the date certified in the certificate, incorporated; and may not have any statutory or public duty imposed on it. There is a well-marked distinction between a body created by statute and one which after having come into existence is governed in accordance with the provisions of the statute in question."
56. Article 153: "It shall be the responsibility of the Yang di-Pertuan Agong to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and the legitimate interests of other communities in accordance with the provisions of this Article."
57. See Baidura Ahmad, "The Man Who Shaped ITM," *The Malay Mail*, 2 April 2006; Lee Siew Lian, "An Unconventional Man," *New Straits Times*, 23 April 2006; see also Rokiah Talib, *A Second Chance: Life and Mission of Arshad Ayub* (Yayasan Arshad Ayub Sdn Bhd, 2008).
58. *BERNAMA*, 5 October 2009. In his speech, Mahathir urged bumiputera students to be brave in competing with other races, including in pursuing higher education in private tertiary institutions that were not dominated by bumiputeras like UiTM. "They should prove their ability to compete by enrolling in institutions like Kolej Tunku Abdul Rahman," he added.
59. *BERNAMA*, "Khalid's Suggestion on UiTM Politically Motivated, Say Academics, Youth Leaders," 12 August 2008, [http://www.bernama.com/bernama/v3/news\\_lite.php?id=352321/](http://www.bernama.com/bernama/v3/news_lite.php?id=352321/).
60. Translation: traitor to the (presumably) Malay race.
61. A survey of websites during this period showed the widespread condemnation and derogatory remarks made about UiTM students and lecturers, with many businesses vowing not to employ these graduates.
62. E.g. Mohamad Ezam Mohd Nor, Dr. Ridwan Tee Abdullah and Wan Emril Nizam Wan Embong, "Forum Hak dan Perpaduan Melayu dalam Konteks 1Malaysia" (forum, UiTM Jengka, Pahang, 21 January 2010); Datuk Ibrahim Ali, Datuk Zaini Hassan and Dr. Ridwan Tee Abdullah, "Forum Perpaduan Melayu" (forum, UiTM Shah Alam, Selangor, 11 October 2010).

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