

# Institutional Reforms for Consideration by the Malaysian Government



Prepared by

**global bersih**  
MALAYSIANS ACROSS BORDERS

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The Malaysian diaspora, numbering 1.9 million<sup>1</sup>, feel a strong connection to Malaysia. They have proven this in their considerable efforts to vote in GE14, and in the sustained efforts of Global Bersih volunteers over the years to support Malaysian civil society and strengthen Malaysia's maturing democracy through outreach and advocacy activities around the world.<sup>2</sup>

There is a strong desire among Malaysians abroad to continue to engage in and contribute to the reform process initiated by the new government. Many have extensive experience in a wide range of fields, which can strengthen Malaysia socially, economically and ecologically. Malaysians who are abroad can also contribute deep knowledge of institutions and processes of other countries to better inform the institutional reform process in Malaysia.

Global Bersih has gathered from the Malaysian diaspora – through surveys and discussions, including with other diaspora organisations – the following ideas and proposals that stand out as the most compelling and urgent:

- I. Deepening democracy: improving integrity of elections and encouraging participation
- II. Participating in nation building and coming home
- III. Facilitating financial and economic inclusion of the diaspora
- IV. Developing human capital and reversing the brain drain
- V. Regional and international issues and human rights commitments

Please contact us at [contact@globalbersih.org](mailto:contact@globalbersih.org) with any questions or comments.

**Global Bersih is an international movement of overseas Malaysians created to support Malaysian civil society and strengthen Malaysia's maturing democracy through peaceful and legal means of action. We have a vision for a democratic and just Malaysian society in which the rights and dignity of all persons are respected, protected and upheld in law, and in practice.**

1. [www.migrationdataportal.org/data?cm49=458&focus=profile&i=stock\\_abs\\_&t=2017](http://www.migrationdataportal.org/data?cm49=458&focus=profile&i=stock_abs_&t=2017)

2. Indeed, political scientist Bridget Welsh cited the diaspora's efforts as a significant contributing factor to the historic GE14 results.  
<https://www.facebook.com/GlobalBersih/videos/1866292380096517/>

# I. Deepening Democracy: Improving Elections Integrity and Encouraging Participation

While the 14th General Election delivered the result that was desired by a majority of Malaysians, the process was highly flawed and lacked integrity. The diaspora in particular was massively disenfranchised.<sup>3</sup> Malaysia's future elections must be free and fair. The electoral process should not only encourage the participation of all citizens but also provide confidence in the final election results. We therefore recommend the following:

1. Improve the electoral process based on the recommendations of organisations such as the Global Commission on Elections, Democracy & Security chaired by Kofi Annan, former UN Secretary-General. Chief among our priorities are the rule of law, an independent and competent Electoral Commission (EC), mechanisms to deter election-related violence, measures to ensure inclusive participation in the voting process, as well as controls on political financing.<sup>4</sup>
2. Every Malaysian citizen should be automatically registered as a voter when they reach the age of majority.
3. The right of all Malaysians abroad to vote in Malaysian elections should be clearly set out in the Constitution or in legislation instead of being left to the discretion of the EC or government of the day. Overseas voting procedures should be stable; any substantial changes should be made in consultation with relevant stakeholders and announced well before elections. In close collaboration with Malaysian missions<sup>5</sup> abroad, the EC should actively diffuse clear information on the process in a timely manner to overseas Malaysians.
4. Campaign periods should be at least 25 days long, so that all voters have the time to take any steps necessary to vote without resorting to desperate or expensive measures.<sup>6</sup> In addition, we urge the government to consider all options for facilitating (secure) voting by overseas Malaysians including the following, inspired by successful experiences in other countries:
  - a. Using Malaysian missions as voting centers.
  - b. Allowing postal votes to be sent by the EC and/or returned by the voter to Malaysian missions.
  - c. Allowing overseas Malaysians to vote electronically. Such an endeavour might be a suitable pilot towards secure electronic voting for all Malaysians.
5. We urge the government to ensure that all Malaysians are protected from intimidation and unnecessary surveillance in the electoral context, including by the state. In particular, civil servants, government scholars and other citizens directly dependent on the state for their livelihoods should be protected from partisan pressure exerted through state institutions and/or using government resources, including Malaysian missions.
6. Overseas Malaysians should be consulted on reforms of the rules and procedures for overseas voting. Global Bersih has collected information from overseas voters on the challenges they have faced and would be happy to collaborate on such reforms.
7. We call on the government to allow independent observation of future elections by the Commonwealth and countries recognised for the integrity of their elections, as well as domestic and international electoral reform and human rights groups.

3. [www.globalbersih.org/2018/04/25/election-commission-sabotaging-overseas-postal-voting-system/](http://www.globalbersih.org/2018/04/25/election-commission-sabotaging-overseas-postal-voting-system/)  
[www.globalbersih.org/2018/04/12/election-commission-obstacles-stop-many-overseas-malaysians-from-voting/](http://www.globalbersih.org/2018/04/12/election-commission-obstacles-stop-many-overseas-malaysians-from-voting/)  
and other Global Bersih press releases.

4. [www.kofiannanfoundation.org/publications/deepening-democracy-summary/](http://www.kofiannanfoundation.org/publications/deepening-democracy-summary/)  
[www.idea.int/publications/catalogue/deepening-democracy-strategy-improving-integrity-elections-worldwide](http://www.idea.int/publications/catalogue/deepening-democracy-strategy-improving-integrity-elections-worldwide)

5. E.g. Embassies, High Commissions and Consulates

6. [www.newmandala.org/amazing-race-malaysia-across-world/](http://www.newmandala.org/amazing-race-malaysia-across-world/)



Photo courtesy of Bersih Munich

## II. Participating in Nation-Building and Coming Home

The diaspora has a strong attachment to Malaysia and is gravely concerned about the rampant corruption; heightened racial and religious segregation and tensions; as well as the erosion of basic freedoms and civil liberties; instigated, encouraged and/or implemented by previous governments. Malaysians abroad greatly desire to participate in the rebuilding of our nation, whether from abroad or by returning. They are concerned about the legal and administrative restrictions that make it difficult or impossible for them and their families to return to Malaysia.

1. The possibility for Malaysian citizens to hold dual citizenship is desired by a large number of Malaysians overseas and would facilitate the return of the diaspora. Many countries, including Thailand and South Korea, allow dual citizenships.<sup>7</sup> The government should consider this for Malaysians and, at the very least, clarify the criteria and procedures for deprivation of Malaysian citizenship.<sup>8</sup>
2. With very few exceptions, children with Malaysian fathers born outside Malaysia automatically qualify for Malaysian citizenship. However, children with Malaysian mothers can only become Malaysian citizens at the discretion of the Federal Government, via a problematic, lengthy and opaque process whose rules and procedures

should be clarified. We urge the government to facilitate the transmission of citizenship by both Malaysian men and women equally to their offspring, particularly given Malaysia's obligations under the UN Convention on All Forms of Discrimination Against Women (CEDAW) to which it is a state party.

3. Similarly, rules and procedures for obtaining working permits, permanent residency status and eventually citizenship, for foreign spouses of Malaysians are unclear, and the process slow, cumbersome and opaque. Rules and procedures should be clarified and the process facilitated.
4. The application process for Malaysia My Second Home (MM2H) is currently slow and cumbersome. The rules and procedures should be simplified, clarified and made more transparent.
5. Malaysia does not recognise marriages between Muslims and non-Muslims.<sup>9</sup> The administrative and legal challenges arising from such marriages, including those relating to children and their education, have led many to pursue employment and put down roots elsewhere.

6. Stepchildren of Malaysians from foreign spouses (i.e. both biological parents are not Malaysian citizens) should be allowed a path to citizenship.
7. Many have also left Malaysia because of the oppressive political atmosphere and the desire for greater respect of their fundamental rights and liberties, including those already guaranteed in principle under the Federal Constitution but violated in practice, such as freedom of expression, of association, of assembly and of religion. Malaysians overseas also aspire to greater national unity, and desire laws and policies which foster mutual respect, true understanding and greater equality among all Malaysians.
8. Bans on individuals travelling into and out of the country appear presently to be entirely at the discretion of the Director General of the Immigration Department.<sup>10</sup> We recommend that checks and balances be introduced, and the criteria for such bans clarified.

7. [www.dlgimmigration.com/united-states-citizenship/list-of-countries-that-allow-or-disallow-dual-citizenship/](http://www.dlgimmigration.com/united-states-citizenship/list-of-countries-that-allow-or-disallow-dual-citizenship/)

8. The Federal Constitution does not expressly prohibit Malaysians from being nationals of other countries - the power of the Federal Government to deprive Malaysians of their citizenship in such situations is discretionary.

9. As defined and often imposed by the state, and noted on national identity documents.

10. [www.suhakam.org.my/press-statement-no-17-of-2018-on-right-to-freedom-of-movement/](http://www.suhakam.org.my/press-statement-no-17-of-2018-on-right-to-freedom-of-movement/)



Photo courtesy of Bersih UK

### III. Facilitating Financial and Economic Inclusion of the Diaspora

The diaspora also desire to better engage with Malaysia's economy and development. We suggest measures which we think can be implemented with minimal transfers or subsidies to the diaspora.

1. Retirement savings are crucial both as a way of transferring useful capital to Malaysia and for ensuring that older Malaysians retire comfortably. We suggest that retirement saving schemes such as EPF be reviewed to facilitate the participation of overseas Malaysians, and their ability to contribute to and benefit from such schemes.
2. We urge the government to review requirements for entry into the civil service, to allow Malaysians who have acquired expertise abroad to serve the nation in this way.
3. Access to financing might be more difficult for Malaysians who have earned income and/or possess wealth abroad due to the difficulties local financial institutions face in assessing creditworthiness. Measures to facilitate access to competitive financing would enable those who return to quickly assimilate into the financing and economic fabric of Malaysia.



Photo courtesy of Bersih Sydney

## IV. Developing Human Capital and Reversing the Brain Drain

Malaysia has lost a great deal of talent, skills and expertise through emigration. According to the UN Department of Social and Economic Affairs' Population Division, the number of Malaysians abroad soared to 1.9 million in 2017 from less than 1.3 million in 2010.<sup>11</sup>

In 2010, the World Bank estimated that about a third of the Malaysian diaspora is tertiary educated.<sup>12</sup> As noted above, a more open political atmosphere and fewer administrative and legal hurdles will go a long way towards bringing Malaysian talent home. In addition, we suggest some specific measures to stem and reverse this brain drain, and to make Malaysia an attractive destination for international talent.

1. We suggest that Malaysia preferentially develop (new) strategic fields with relevant expertise from the diaspora. It will be cheaper and more effective to attract Malaysians home instead of trying to build up new economic and scientific ventures from scratch.
2. We suggest that the government put into place mechanisms that would allow local actors to take advantage of the skills and expertise of Malaysians overseas in various fields, including business, education, research, health and environmental protection.

This would help Malaysia's integration into key international networks and promote exchange of skills and knowledge. Malaysian missions abroad can and should play a crucial role in this process.

3. The need for local certification to practise certain professions (e.g. medicine, accountancy, engineering, law) may be a deterrent to the return of Malaysian professionals abroad. However, certification also serves to maintain standards and protect jobs. This delicate question merits review by and clear guidelines from the new government.
4. The government's large and well-funded overseas scholarship programmes have contributed greatly to brain drain: suitable postings in the public service have not been found for many scholars, who have then been released from their bonds. These programmes should be reviewed and perhaps restricted to courses not available in Malaysia, which fill an immediate public service need or represent a strategic national interest. The savings could be invested in developing our universities and/or establishing

exchange programmes, including within the ASEAN region, similar to the European Union's Erasmus programme.<sup>13</sup>

5. Particular attention should be paid to our universities, which shape the next generation and should train the future leaders of the nation. Permanent university positions should be open to all, not just Malaysian citizens,<sup>14</sup> to draw on a talent pool of more than 7 billion instead of 30 million. As academia in the developed world is in crisis, many brilliant young academics are looking for jobs elsewhere. Malaysia can tap into this talent pool by offering tenured academic jobs and guaranteeing academic freedom and university autonomy.<sup>15</sup> This will help raise standards of higher education and research, which can in turn stimulate innovation, attract investment and move the economy up the value chain.

11. [www.migrationdataportal.org/data?cm49=458&focus=profile&i=stock\\_abs\\_&t=2017](http://www.migrationdataportal.org/data?cm49=458&focus=profile&i=stock_abs_&t=2017)

12. <http://blogs.worldbank.org/eastasiapacific/whither-malaysia-s-brain-drain>

13. <http://ec.europa.eu/programmes/erasmus-plus/>

14. Research and academic positions in the developed world are generally open to all nationalities, except for sensitive areas such as military and nuclear research. In France, as an example, non-citizens can be professors and thus fully fledged civil servants.

15. [www.thestar.com.my/opinion/columnists/brave-new-world/2018/05/23/a-mustdo-list-for-dr-maslee-the-new-education-minister-should-focus-on-freedom-and-empowerment-in-t/](http://www.thestar.com.my/opinion/columnists/brave-new-world/2018/05/23/a-mustdo-list-for-dr-maslee-the-new-education-minister-should-focus-on-freedom-and-empowerment-in-t/)  
[www.selangortimes.com/index.php?section=insight&permalink=the-struggle-for-academic-freedom-and-autonomy](http://www.selangortimes.com/index.php?section=insight&permalink=the-struggle-for-academic-freedom-and-autonomy)



Photo courtesy of Bersih Canada

## V. Regional and International Issues and Human Rights Commitments

In this final section, we discuss Malaysia's international relations and their impact on Malaysians resident abroad and non-Malaysians resident in Malaysia, as well as its human rights commitments.

1. Malaysians abroad involved in pro-democracy and human rights movements, including Global Bersih, have been subject to intimidation by other states, notably within ASEAN.<sup>16</sup> We call on the Malaysian government to make human rights and democracy a priority in foreign policy towards other countries, especially within ASEAN, and to be attentive to the situation of regional human rights defenders.
2. As migrants ourselves, we are sympathetic to the situation of migrants in Malaysia, who are estimated to constitute up to 20% of the Malaysian population.<sup>17</sup> Therefore, we believe it would be desirable for the Malaysian government to ratify the UN Convention Relating to the Status of Refugees (1951), the Protocol Relating to the Status of Refugees (1967), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) as well as all eight core International Labour Organisation (ILO) conventions.<sup>18</sup>

We further urge the government to align labour laws and practices for all workers with international labour standards as well as UN human rights conventions and guidelines, and to address the serious issue of human trafficking.<sup>19</sup>

Finally, we encourage more active participation by Malaysia in the ongoing negotiations towards the Global Compact for Migration and Global Compact on Refugees.<sup>20</sup>

3. Malaysia has a long record of human rights violations and minimal implementation of the UN Human Rights Council's Universal Periodic Review (UPR) recommendations, especially those concerning civil and political rights. In addition, Malaysia has ratified only three of the nine core international human rights treaties.<sup>21</sup> These were perhaps factors in Malaysia's failed bid for a seat on the UNHRC in 2017. We therefore urge the new government during its upcoming October 2018 UPR at the United Nations to set out a National Human Rights Action Plan which includes implementation of all recommendations accepted by the BN government during the 2013 UPR, as well as ratification of all core international human rights treaties.<sup>22</sup>

4. Malaysia's linguistic, cultural and religious diversity is among our greatest strengths and riches -- this should be encouraged to flourish. A diverse and multicultural society can be a source of innovation and creativity that has a positive impact on many aspects of society, including the economy, the arts and education. We urge the government to ratify the UNESCO Universal Declaration on Cultural Diversity (2001) and the UNESCO Convention for the Protection and Promotion of the Diversity of Cultural Expressions (2005), as well as to align policies with the United Nations Declaration on the Rights of Indigenous Peoples (2007), to which Malaysia is already a signatory.<sup>23</sup>

16. See for example: [www.globalbersih.org/2018/04/10/response-to-statement-by-the-singapore-police-force-on-global-bersih/](http://www.globalbersih.org/2018/04/10/response-to-statement-by-the-singapore-police-force-on-global-bersih/)

17. See our calculation: [www.facebook.com/GlobalBersih/posts/1110861932306236](https://www.facebook.com/GlobalBersih/posts/1110861932306236)

18. [www.ilo.org/asia/WCMS\\_398777/lang-en/index.htm](http://www.ilo.org/asia/WCMS_398777/lang-en/index.htm)

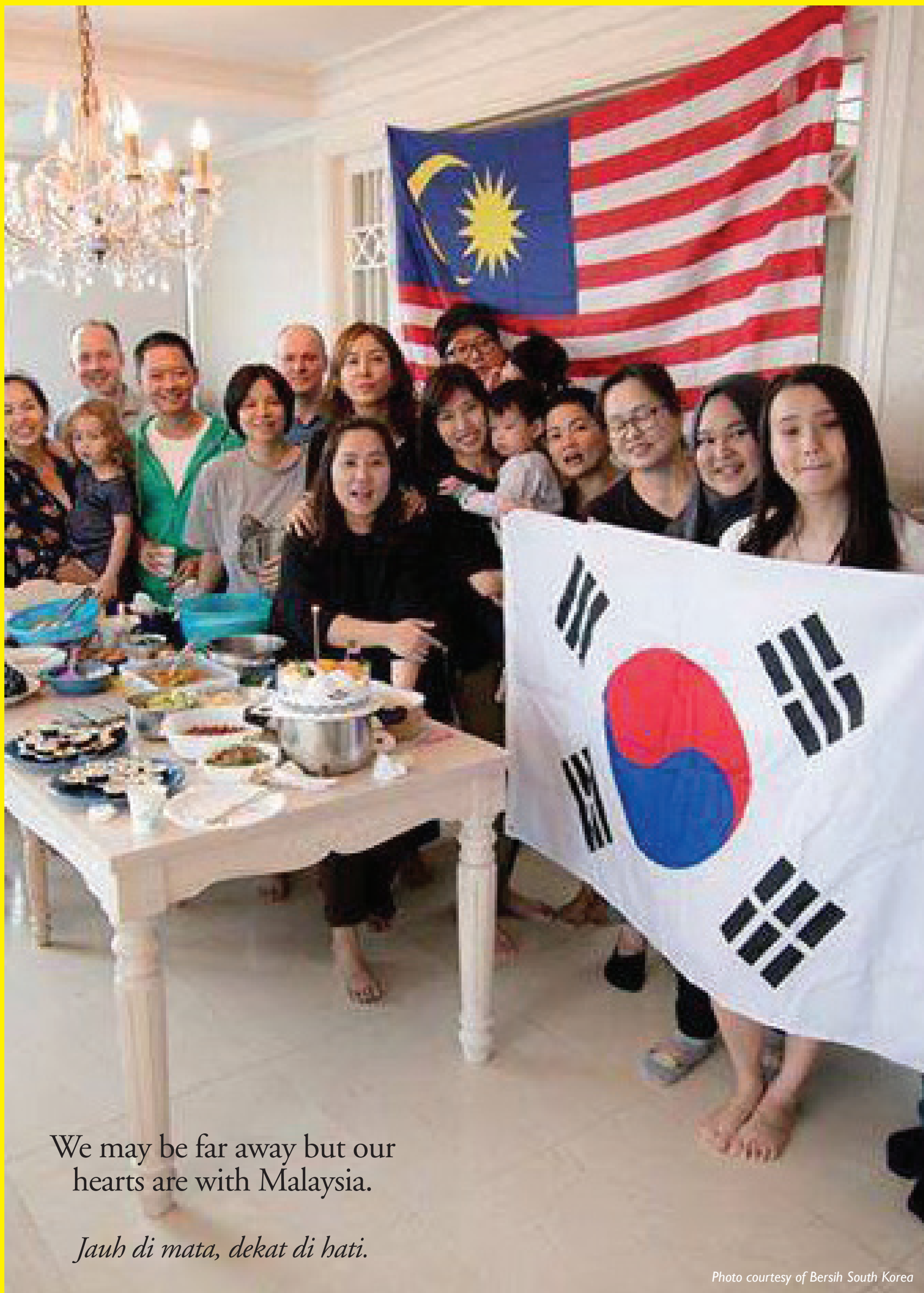
19. [www.tenaganita.net/publications/](http://www.tenaganita.net/publications/)  
[www.theguardian.com/us-news/2015/jul/09/us-to-move-malaysia-off-lowest-tier-on-list-of-worst-human-trafficking-centres](http://www.theguardian.com/us-news/2015/jul/09/us-to-move-malaysia-off-lowest-tier-on-list-of-worst-human-trafficking-centres)  
[endslaveryandtrafficking.org/tip-report-2017-press-release/](http://endslaveryandtrafficking.org/tip-report-2017-press-release/)

20. [www.refugeesmigrants.un.org/](http://www.refugeesmigrants.un.org/)

21. [www.upr-info.org/sites/default/files/document/malaysia/session\\_17\\_-\\_october\\_2013/recommendations\\_and\\_pledges\\_malaysia\\_2014.pdf](http://www.upr-info.org/sites/default/files/document/malaysia/session_17_-_october_2013/recommendations_and_pledges_malaysia_2014.pdf)

22. [www.nst.com.my/news/2016/12/195508/former-suhakam-chairman-beseches-govt-ratify-6-core-intl-human-rights-treaties](http://www.nst.com.my/news/2016/12/195508/former-suhakam-chairman-beseches-govt-ratify-6-core-intl-human-rights-treaties)

23. [www.ohchr.org/EN/Countries/AsiaRegion/Pages/MYIndex.aspx](http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/MYIndex.aspx)  
[www.thestar.com.my/news/nation/2010/11/11/some-depts-unaware-malaysia-is-signatory-to-un-indigenous-people-declaration](http://www.thestar.com.my/news/nation/2010/11/11/some-depts-unaware-malaysia-is-signatory-to-un-indigenous-people-declaration)  
[www.aippnet.org/universal-periodic-review-of-malaysia-by-indigenous-peoples-network-of-malaysia-joas-2013](http://www.aippnet.org/universal-periodic-review-of-malaysia-by-indigenous-peoples-network-of-malaysia-joas-2013)



We may be far away but our  
hearts are with Malaysia.

*Jauh di mata, dekat di hati.*

Photo courtesy of Bersih South Korea