Public political discourse in contemporary Malaysia often largely ignores the crucial role of the police in national development, and understandably so, given the prevalent stereotyping of the police image as an instrument dealing with crime and violence. Even in larger democracies, such perceptions are often the norm.

2. The relationship between the role of the police and national political development has been well-documented. Indeed these seminal studies conclusively established what has already been postulated; that the police as an instrument for the maintenance of law and order reinforces national development strategies. This paper examines in brief the unique role of the Royal Malaysia Police (RMP) in terms of the balance between democratic practices and legislations on the one hand and national security on the other. In order to do that it may be instructive for the discussion to focus on the police role in defeating “security threats” to democratic rule. To put these in perspective, it first traces the significance of policing legacies inherited from the British on the organizational and functional development of the RMP.

3. To a certain extent, the history of police institution-building in Malaysia is a reflection of the social and political history of the country during the colonial and post-colonial eras. That the police institution in states with a colonial history was such a distinctive part of the social and political landscape is no accident of history. It is simply a strategic imperative of colonial administration to ensure perpetuity of its rule under the rubric of “civilizing” the local population.

4. The evolution of the modern Malaysian policing system began in 1807 when a “Charter of Justice” was granted by the colonial powers to the pioneers of British settlement on the island of Penang. This paved the way for the creation of the first legally-mandated police organization in the country. From here the police force expanded steadily, first in the Straits Settlements of Penang, Malacca and Singapore, and later to the rest of the Malay states in the peninsular. The growth of British commercial interests as well as strategic considerations of the British Empire eventually led to the expansion of British political control in Malaya until her independence in 1957. Indigenous legal systems based on Islamic fundamentals and local
customs and traditions were eventually replaced by English laws and judicial practice as British penetration and control grew. A Police Force Ordinance was enacted in 1871, to provide for the legal framework to the police establishments in the British Straits Settlements of Penang, Malacca and Singapore. By the mid-1920s, all the Peninsular Malay States eventually came under British domination with the laws being enforced by the state police formations established or placed under British control.

5. It has to be said that the control of the only legally-established instrument of power in all these states was the great enabler which ensured British domination of the Malay states. British colonial rule would have been impossible had it not been for the law enforcement mechanism, and the legal systems it had successfully instituted. Significantly, the separate police organizations in the various Malay states during this period reflected the colonial political administration of the time. After the retreat of the Japanese at the end of World War II, all the nine Malay states and the Straits Settlements were brought under a single unified political administration known as the Federation of Malaya in 1948. Likewise, the different police administrations were also unified under a single federal command called The Federation of Malaya Police Force.

6. In the Borneo territories of Sabah (formerly known as British North Borneo) and Sarawak, British penetration and eventual control came about through the romantic exploits of ‘The British White Rajah’ in Sarawak and the commercial interests of the British ‘Chartered Company’ in Sabah during the late 18th century. By the end of the Japanese occupation in Second World War, control of these territories was transferred to the British colonial government. When the Federation of Malaysia which unified the Peninsular Malay states including Penang, Malacca and Singapore, with Sabah and Sarawak came into being in 1963, the police services of the territories of Malaya, Singapore, Sabah, and Sarawak were placed under a single federal command structure responsible to the nationally-elected government. This structure, with the exclusion of the Singapore component is the foundation of the existing police service in Malaysia today.

7. The Royal Malaysia Police Force is the primary policing authority of the Malaysian government. It is empowered by law to fulfill the police mission, which is specified under sec. 3 (3) of the Police Act 1967, as follows:

“ The Force, shall subject to the provisions of this Act be employed in and throughout the Federation (including the territorial waters thereof) for the maintenance of law and order, the preservation of the peace and security of the Federation, the prevention and detection of crime, the apprehension and prosecution of offenders and the collection of security intelligence”.

With such a broad mandate to fulfill, it became necessary for the police to be organized functionally as well as territorially. Thus in terms of the functions, it is today structured into seven ‘departments’ or ‘directorates’
reflecting the various functions of the police; and territorially, it is divided into thirteen ‘formations’ or ‘contingents’ or the equivalent of one in each of the thirteen states in the Malaysian Federation.

8. When Malaysia gained her independence in 1957, it adopted a constitution based on British democracy. Under the constitution, federal and state elections are held once every five years and the elected Federal government answers to a bi-cameral Parliament. Since the last forty-eight years, political participation and the process of democratic institution-building have progressively evolved, as seen from the open electoral contests over the last eleven general elections. At the time when she achieved independence, the country was still in the throes of a stubborn but waning communist armed insurgency carried out by the Communist Party of Malaya (CPM) since 1948. This was the single largest threat to the newly-independent nation, and unless decisively defeated the new democracy would perish and possibly sucked into the communist camp. To deal with the insurgency, the former colonial government declared a state of emergency in 1948 as well as introduced tough legislative measures and placed certain curbs on political freedom. These new measures included relocating the fringe population into “new villages” or hamlets to break the food supply and information chain of the insurgents, and the introduction of dusk to dawn curfews.

9. An important façade of the war against insurgency which was to shape the police role was the British policy not to treat it as a “civil war” but merely as “insurgency”. This policy made it incumbent for the police to shoulder the bulk of the responsibility for the defeat of the insurgents as it became clear that this was more and more a “battle for the hearts and minds” of the people. To cope with these new demands on the police role, the government ordered a rapid increase in the police establishment. Thus at the height of the insurgency, the total police strength numbered more than 161,000 men, rising from just about 23,000. At the same time the police also embarked on restructuring its intelligence capability, a key element in the war against the insurgency, and this was achieved with great success.

10. Although the government introduced emergency laws, a number of which are still in force today, notably the Internal Security Act 1960 and the Emergency Ordinance, and placed other restrictions on the fundamental liberties, the over-arching imperative of all these measures was to protect the fragile democracy and defend the constitution. In order to successfully defeat a perilous threat to its existence, the government decided that political freedom, human rights and other liberties guaranteed by the constitution had to be put on the back-burner as this was key to winning the war. So successful was the civil-military measures that by the late 1950s the back of the insurgency had been broken and finally by 1960 the emergency was declared over. Throughout the emergency campaign, the security forces (police and military) suffered 4425 casualties, out of which 2947 were policemen, thus putting beyond doubt the immense role of the police during the insurgency.
11. Arguably, part of the success of the government campaign was due to the effective but judicious application of the emergency laws. To democratic purists, harsh police measures and actions in putting people behind bars without trial for example, violate the fundamental rights of citizens, and seem contradictory to the basic tenets of a democratic state. Conversely, one may also postulate that a responsible government is also one that jealously guards the fundamental rights of the majority. Democracy also means that the duly-elected government has a duty to fulfill to the majority, and that includes exhausting all means necessary to ensure that the nation is secure from all forms of threats whatsoever, including terrorism. Additionally one can argue that these measures are the obligations of government as part of its ‘social contract’ with the citizenry.

12. Against this, one may well also argue that Malaysia is not the only dissenting voice in terms of human rights. Today more and more states are “looking the other way”, and have enacted legislations that are similar to the Internal Security Act, a situation no doubt brought about by the September 11 attacks. These states include the United States of America (the Patriot Act) and the United Kingdom (the Prevention of Terrorism Act 2005). In my view, ‘preventive laws’ does not necessarily mean that the government may incarcerate people for years on the basis of flimsy evidence. There are adequate safeguards and restrictions built into these laws. One such example is the right of the detainee to file for a writ of ‘habeas corpus’ before the courts to seek redress against unlawful detention, and many have over the years succeeded in securing their freedom through this provision. Another example of the ‘safeguard’ is the right of the detainee to appear before an Advisory Board, which is headed by a High Court judge, to examine the charges or allegations of fact against him within three months of his detention.

13. The Malaysian government’s decision not to abrogate the Internal Security Act, when the Emergency ended in 1960 seemed vindicated eight years into the 1960s when the CPM launched a revival of the armed insurgency in 1968. The ISA provided the RMP with the necessary tool to effectively deal with the threat. The Second Emergency as it came to be known was to endure for another 20 years before the insurgency was finally put down in 1989.

14. By reason of the threat being from “within” the country and therefore falling within the jurisdiction of “internal security”, the RMP again bore the brunt of the communist assault. Fortunately for the RMP, the ferocity of the revived insurgency was far less intense than the first. By then the ‘jungle bashing’ or combat element of the RMP had been demobilized so that only the necessary resources would remain to focus on the core areas of policing. As a consequence of the exercise the total number of personnel was reduced from a high of more than 161,000 to just around 34,000 in 1968. Thus, when the Second Emergency came about, the police were ill-equipped and under-staffed to confront the insurgents.
15. In May 1969, before the government could address the shortcomings in the police, the country was struck with the worst racial riot in its history which almost tore the country apart. For the second time in the country’s history the national government was forced to declare a state of emergency to restore order. Parliamentary rule was suspended and for the next 18 months, rule by decree through the National Operations Council (NOC) chaired by the Prime Minister was instituted. To prevent an escalation of rioting one of the immediate measures of the NOC was to curb certain fundamental liberties deemed ‘inflammatory’ as it became clear that racial and economic factors were largely to blame. These measures included amendments to the Sedition Act 1948, which among others made it legally punishable for the offence of inciting racial fear or hatred against another race or ethnic group.

16. The incident was a political watershed in the history of the country. In terms of law enforcement in a democratic setting, it was a test of the strength of democratic principles as well as civil-military relations under vastly different conditions. Because the RMP no longer had the numerical strength to cope with the violence, as it once did (during the First Emergency), the government was forced by circumstances to bring in the military to aid the over-stretched police. This was indeed a ‘dark episode’ in the political history of the country. For the democratically-elected government, the stakes were indeed high. That the country did not slide into a dictatorship of some form or other, attested to the maturity of the political leadership of the day, the resilience of democratic institutions and the strength of mutually reinforcing institutions such as the military, the police and the civil service.

17. The May 1969 episode left several enduring legacies. Among these were several pieces of legislations that are still in place today and which are important to the maintenance of law and order, regardless of the political controversies. These include amendments to the Sedition Act 1948 and the Police Act 1967, as by then it had become abundantly clear to policy makers that among the main causal factors for the racial conflagration were the freedom and latitude given to political campaigners in the run-up to the May 1969 general elections. In a multi-ethnic and multi-religious setting public expressions and exhortations along narrow racial lines without due regard to the racial or religious sensitivities of the other can cause tragic consequences. Therefore these amendments were crucial not only to the maintenance of law and order, but more importantly to the preservation of racial, religious and social harmony.

18. Although opponents may argue that these amendments placed curbs or limitations on the freedom of speech, and the right of assembly, in my view they are a necessary evil in Malaysia’s plural society, just as certain democracies today have found it necessary to enact laws that are not in the best traditions of human rights in order to protect the majority. The law of the land recognizes the need to check the excesses of individuals and their civil liberties if the state is to survive. The irony of
democracy is that the will of the majority must prevail over the rights of the few.

19. There are valid and substantial grounds for governments everywhere today to enact laws that are seen as prohibitive to human rights. No democratic government, unless forced by the dictates and needs of the time would happily enact laws that obstruct or deny its citizens of their fundamental liberties enshrined in the constitution. The security environments in which we live in today have proven to be less predictable due to the brazen acts of terrorism, sabotage and political violence. Extremists and terrorists of various political persuasions can in a carefully planned attack obliterate or destroy the lives of hundreds of innocent people in a matter of seconds. This is not to say that extreme measures such as those provided for under tough legislations or preventive laws must prevail at all times, but the laws and guarantees of public safety must be in place to prepare the state and society against lawlessness and insecurity. The alternative would be to accept and live with the harsh dangers and therefore, the possible destruction of society itself.