



Human Rights Situation in Malaysia

1. International Mechanisms and Human Rights Infrastructures
2. Equality and Non-Discrimination (Racism, Migrant Workers, Refugees & Asylum Seekers)
3. Rights of Indigenous Peoples



International Obligations and Human Rights Infrastructures

International Human Rights Instruments & Human Rights Mechanisms

- The Government of Malaysia (GoM) has *translated the nine core human rights instruments* into the international language and established an Interagency Standing Committee to study the feasibility of Malaysia acceding to the remaining six core human rights instruments. However, **limited progress** can be noted with regards to the ratification of the remaining six core international human rights instruments.
- There is a **lack of independence** in appointments **unilaterally made by the Prime Minister's Office** to key government oversight institutions, e.g., the Independent Police Conduct Commission (IPCC), the Malaysian Anti-Corruption Commission (MACC) and Human Rights Commission.



International Obligations and Human Rights Infrastructures

Proposed Recommendations

- Remove all reservations and declarations on CEDAW, CRC and CRPD, and take immediate actions to accede to the remaining six core treaties and associated optional protocols, the 1951 Convention on the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, within the next five years.
- Establish a Permanent Select Committee (PSCs) to oversee appointments for oversight institutions and commissions, especially those with oversight over human rights-related matters which is directly answerable to Parliament to democratize the appointment process.



Equality and Non-Discrimination

Racism & Xenophobia

- Several initiatives have been introduced by the GoM to foster national unity and integration such as the National Unity Policy, National Unity Advisory Council, National Unity Blueprint 2021 – 2030 and National Unity Action Plan 2021 – 2030, these documents **continue to ignore the issue of racism and racial discrimination**.
- The change in the political climate has also led to the rehash of the old narrative of “race and religion” being rehashed by political actors and social media; yet, the GoM sees **no need to introduce new laws** to address racial and religious hatred.



Equality and Non-Discrimination

Migrant Workers

- Migrant workers face various discriminatory barriers when it comes accessing legal remedies. Undocumented migrants facing wage theft **may not be given fair redress opportunities** despite the existence of case law precedence compelling the labour department to process their complaints.
- While the Working for Workers (WFW) application has enabled workers to lodge complaints remotely, there has been no audit of how many cases has been resolved with workers satisfaction.
- Domestic Employees are still **denied equal labour rights** with other employees as per Employment Act, thus denying them fixed working hours, access to minimum wage, over time rates, and other benefits.



Equality and Non-Discrimination

Refugees & Asylum Seekers

- Malaysia has no legal and/or administrative framework for the recognition and protection of refugees. Refugees and asylum seekers are **denied legal protection, subjected to arbitrary arrest, indefinite detention** or deported in breach of non refoulement. As of 15 May 2023, 11,171 people were detained in immigration depots across Malaysia, including 969 children (542 boys and 427 girls). Despite assurances by the Government that Alternatives to Detention for children in immigration detention will be implemented, to date **no child has been released into community based care** from immigration detention centers.



Equality and Non-Discrimination

Refugees & Asylum Seekers

- Refugees and asylum seekers continue to **face significant barriers in accessing basic rights, such as healthcare and livelihood**. Without the legal right to work, refugees survive by working in exploitative conditions and resorting to informal work that is ‘dirty, difficult and dangerous’. Healthcare is **inaccessible due to the prohibitively high cost and threat of arrest at healthcare facilities** due to an existing policy mandating reporting of undocumented persons to immigration authorities.



Equality and Non-Discrimination

Proposed Recommendations

- Promulgate the proposed Racial and Religious Hate Crime Bill, National Harmony and Reconciliation Bill, and National Harmony and Reconciliation Commission bill to lawmakers with the view to table said bills in Parliament
- Create a comprehensive law to govern all aspects of labour migration, with a dedicated lead agency to ensure this law is executed justly and fairly.
- Include domestic employees provisions in the First Schedule of Employment Act 1955, and ensure equal labour rights and benefits as all employees.



Equality and Non-Discrimination

Proposed Recommendations

- Develop a comprehensive legal and policy framework for the recognition and protection of all refugees and asylum seekers in Malaysia that includes the right to seek asylum, legal status, right to stay and basic rights such as work, education and healthcare
- End arrest and immigration detention of children and their families.
- Urgently implement Malaysia's third UPR cycle commitment to ensure universal access to affordable health services for vulnerable groups, such as asylum seekers and refugees, including removing prohibitively expensive fees and charges.
- Grant refugees and asylum seekers the right to decent and lawful employment.



Rights of Indigenous Peoples

Indigenous Peoples

- Even though the GoM is in the process of developing the Orang Asli Development Policy (DPOA) which adheres to Free, Prior and Informed Consent (FPIC) and its mechanisms and measures to protect and safeguard the indigenous communities' cultural identity, the **rights of indigenous communities continue to be violated** – forced conversions and alteration of their identities, no free prior consent before developmental projects.
- Customary land rights **are not recognized** by several state governments even when the courts had previously ruled in favour of customary land rights.



Rights of Indigenous Peoples

Proposed Recommendations

- Legally recognize the indigenous peoples' right to self-determination and to practice and revitalise their cultural, spiritual and religious traditions in line with UNDRIP
- Amend the Aboriginal Peoples Act 1954, the National Land Code, and all relevant laws to protect the reserve lands for the indigenous peoples, according to the standard and guidelines in UNDRIP, common law and the findings of SUHAKAM's national public inquiry into the land rights of indigenous peoples



Thank you

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