

Excellencies,

1. In the last UPR cycle, Malaysia received 19 recommendations related to the death penalty and has made significant progress towards implementing the recommendations.
2. Key among this, Malaysia abolished the mandatory death penalty in April 2023, granting the courts discretion in sentencing and bringing Malaysia closer in line with international standards of the most serious crimes. Malaysia should also be applauded for ending the regime of natural life sentences where inmates are detained indefinitely with no opportunity for parole. With this, more than 800 persons on death row and at least 140 persons on natural life sentences are now eligible for a review of their sentence.
3. This development follows Malaysia's intent towards the eventual total abolition of the death penalty. At present, there is significant momentum towards bringing Malaysia to full adherence to international law relating to the application of the death penalty. In place of this, recommendations towards institutional mechanisms that would gradually restrict the use of the death penalty for current death-eligible offences are critical and timely.
4. The review of existing sentences began weeks before, and it is pertinent to highlight the lack of compliance with the very recommendations relating to the rights of women, children, and persons with disabilities charged with capital crimes in Malaysia. It should also be noted that while many individuals are spared the death penalty, those spared are subjected to mandatory whipping.
5. As a party to CEDAW, Malaysia failed to comply with the previously supported recommendations related to combating discrimination and violence against women. Women remain likely to encounter gender stereotypes and bias in its court system. Courts are found to treat the "innocent courier" defence of vulnerable foreign nationals as a "mere afterthought". Women are also less likely to be acquitted in cases of drug trafficking compared to men on death row, and for the offence of murder, there remains no explicit protection and mitigation for victims of domestic violence and/or persons with PTSD.
6. While Malaysia supported recommendations related to Child Rights, juveniles convicted of death-eligible offences remain detained indefinitely. While there is provision for an annual review of this detention, a documented case addressed by the UNWGAD was only accorded three reviews throughout his 20 years-long detention. In another case, a juvenile was unrepresented during his trial and pleaded guilty to the charges prior to the conclusion of his trial. There are also no clear mechanisms for these juveniles to benefit from the resentencing exercise.
7. It should also be noted that provisions that provide protection to juveniles in conflict with the law, such as protection from media publications, are also poorly enforced by authorities. Malaysia has yet to submit for review to the Child's Rights Committee since its initial report in 2005.
8. Furthermore, there is limited protection for persons with mental health illnesses or disabilities facing the death penalty. There is an archaic threshold for the defence of insanity, which bears no impact on mitigation due to the past mandatory framework. It is unclear whether the present

resentencing would provide new opportunities for these rights to be protected. The physical and mental impacts of the 'death row phenomenon' are also largely unaddressed by the state.

9. In addition to matters relating to the death penalty, Malaysia also accepted recommendations relating to arbitrary detention. There has yet to be any significant progress towards addressing laws that permit undermining fair trial processes and extended detention without judicial oversight, specifically, the Security Offences (Special Measures) Act 2012, the Prevention of Crime Act 1960, the Prevention of Terrorism Act 2015 and the Dangerous Drugs (Special Preventive Measures) Act 1985.
10. Torture or cruel and unusual punishment in custody remains relatively common, with yet another video of police abuse in detention surfacing on social media in recent months. As noted before, there is also a prevalence of mandatory whipping in the Penal Code.
11. Last but not least, Malaysia has not made significant progress in relation to preventing custodial death and enforced disappearances. An independent police complaints commission was eventually introduced through a compromised Independent Police Conduct Commission, which was introduced in 2022, and this commission has yet to begin its function. Recommendations by the Human Rights Commission on enforced disappearances have yet to be addressed by Malaysia.
12. Excellencies, there are significant opportunities for targeted and specific recommendations to encourage change, and we ask that you consider providing recommendations to the Malaysian Government based on the aforementioned context. Among others, we ask that you consider highlighting these recommendations:
 - a. Enact a Sentencing Reform Act which ensures the establishment of a Sentencing Council to review sentencing practices for all offences, including capital crimes, in line with the accepted recommendations in the 2018 UPR cycle.
 - b. Publish disaggregated data of persons standing trial and convicted for offences carrying the death penalty
13. For more recommendations on other issues, please refer to the slides attached.