

**Statement on the UPR Pre-session on Malaysia
of the Coalition of Malaysian NGOs for the UPR Process (COMANGO)**

27 November 2023, Geneva

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This statement is delivered on behalf of the Coalition of Malaysian NGOs for the UPR Process (COMANGO), a coalition of 46 rights-based non-governmental organisations formed to engage in the Universal Periodic Review (UPR).

This submission focuses on addressing issues related to international obligations and human rights infrastructures, equality and non-discrimination, and rights of indigenous peoples.

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ISSUE 1: INTERNATIONAL OBLIGATIONS AND HUMAN RIGHTS INFRASTRUCTURES

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 human rights instruments.

There is also a lack of independence in appointments unilaterally made by the Prime Minister's Office to key government oversight institutions such as the Independent Police Commission and the Malaysian Anti-Corruption Commission.

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Therefore, we recommended that the Malaysian government:

1. 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 within the next five years.
2. Establish a Permanent Select Committee (PSCs) to oversee appointments for oversight institutions and commissions which is directly answerable to Parliament to democratize the appointment process.

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ISSUE 2: EQUALITY & NON-DISCRIMINATION

On racism and xenophobia, the GoM has introduced several initiatives to foster national unity and integration, but these initiatives continue to ignore the issue of racism and racial discrimination. "Race and religion" continue to be rehashed by political actors and social

media; yet, the GoM sees **no need to introduce new laws** to address racial and religious hatred.

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Migrant workers continue to face various discriminatory barriers when it comes accessing legal remedies. Undocumented migrants **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.

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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.**

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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. Healthcare is **inaccessible due to the prohibitively high cost** and **threat of arrest at healthcare facilities.**

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Therefore, we recommended that the Malaysian government:

1. Promulgate the proposed Racial and Religious Hate Crime Bill, National Harmony and Reconciliation Bill, and National Harmony and Reconciliation Commission bill.
2. 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.
3. Include domestic employees' provisions in the First Schedule of Employment Act 1955, and ensure equal labour rights and benefits as all employees.

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4. Develop a comprehensive legal and policy framework for the recognition and protection of all refugees and asylum seekers in Malaysia.

5. End arrest and immigration detention of children and their families.
6. Urgently implement Malaysia's third UPR cycle commitment to ensure universal access to affordable health services for vulnerable groups.
7. Grant refugees and asylum seekers the right to decent and lawful employment.

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ISSUE 3: RIGHTS OF INDIGENOUS PEOPLES

Even though the GoM is in the process of developing the Orang Asli Development Policy (DPOA) to protect and safeguard the indigenous communities' cultural identity, the **rights of indigenous communities continue to be violated**.

Customary land rights **are not recognized** by several state governments even when the courts had previously ruled in favour of customary land rights.

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Considering the above situation, we recommended the Malaysian government to:

1. Legally recognize the indigenous peoples' right to self-determination and to practice and revitalise their cultural, spiritual and religious traditions in line with UNDRIP
2. 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 people.

We hope that this statement provides a glimpse of the human rights situation in Malaysia, and the recommendations proposed would accurately reflect the reality of Malaysia.

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