



Human Rights Council
Working Group on the Universal Periodic Review
Forty-fifth session
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Malaysia

Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.¹ It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with human rights mechanisms

2. The United Nations country team recommended that Malaysia outline clear steps within a reasonable time frame to ratify the six core international human rights treaties that it had yet to ratify.²

3. The United Nations country team stated that attempts to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, in 2018, and the Rome Statute of the International Criminal Court, in 2019, had been unsuccessful, following strong public and political opposition.³

4. The Special Rapporteur in the field of cultural rights, the Special Rapporteur on the human rights to safe drinking water and sanitation and the Special Rapporteur on extreme poverty and human rights recommended that Malaysia ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization (ILO).⁴

5. The Special Rapporteur on water and sanitation recommended that Malaysia ratify the Convention relating to the Status of Refugees and Protocol thereto, the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.⁵

6. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that Malaysia ratify the Convention against Discrimination in Education.⁶

7. Malaysia made annual financial contributions to the Office of the United Nations High Commissioner for Human Rights (OHCHR).⁷



III. National human rights framework

1. Constitutional and legislative framework

8. The United Nations country team recommended that Malaysia take effective measures to adopt a comprehensive anti-discrimination law.⁸

9. The Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, recommended that Malaysia undertake comprehensive reform of the syariah, customary and civil legal systems to eliminate disparities and inconsistencies among the three legal systems and ensure that the best interests of the child was the primary consideration, including by aligning the definition of the child with the definition provided by the Convention on the Rights of the Child and ensuring that the minimum age of marriage was 18 years for all in all legal frameworks, without exception.⁹

2. Institutional infrastructure and policy measures

10. The United Nations country team stated that the annual reports of the Human Rights Commission of Malaysia had been debated in Parliament in 2019 and in 2023.¹⁰

IV. Promotion and protection of human rights

A. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

11. The United Nations country team stated that the undocumented population was particularly sizeable in the State of Sabah (some estimates suggested about 25 per cent of the total population), given that it had been subject to waves of migration from neighbouring countries and was host to many Indigenous and often marginalized groups. Undocumented status resulted in the absence of legal recognition and lack of access to basic public services, including schooling and health care, and limited employment opportunities to informal sector work. As a result, undocumented persons suffered high levels of poverty and multiple deprivations.¹¹

2. Right to life, liberty and security of person, and freedom from torture

12. The United Nations country team stated that, on 16 June 2023, Malaysia had published in the official gazette two laws to remove the mandatory death penalty and establish a resentencing process for those on death row and imprisonment for natural life. The death sentence for drug-related offences was retained under the Dangerous Drugs Act 1952.¹²

13. The United Nations country team also stated that reports of allegations of torture, ill-treatment and deaths in custody remained a recurrent problem in Malaysia, as did a lack of accountability for such offences.¹³

14. The United Nations country team recommended that Malaysia ensure that all deaths in custody were fully investigated.¹⁴

15. The United Nations country team stated that overcrowding in prisons and immigration detention centres remained a concern.¹⁵

16. The Office of the United Nations High Commissioner for Refugees (UNHCR) stated that immigration detention centres were chronically overcrowded and that conditions in those centres reportedly fell short of international and national standards. Some of the centres were not suitable for children, babies and nursing mothers, due to the lack of facilities to cater for their needs.¹⁶

17. The United Nations country team stated that prisons were more than 30 per cent over capacity. It stated that, while steps were being taken to address prison overcrowding, urgent

measures were needed to review the operation of the criminal justice system and address prison management challenges, including by investing in non-custodial alternatives to detention in both the pretrial and the post-sentencing phases.¹⁷

18. The United Nations country team also stated that caning and other forms of corporal punishment remained a serious issue and continued to be used as a disciplinary measure in penal institutions, as well as in schools and alternative care settings. Corporal punishment in the family home was believed to be widespread.¹⁸

19. UNESCO recommended that Malaysia explicitly prohibit all forms of corporal punishment in schools.¹⁹

3. Administration of justice, including impunity, and the rule of law

20. The United Nations country team expressed serious concern regarding issues of police accountability and due process of law, in particular the continued use of security laws that violated international standards relating to the right to a fair trial and allowed for preventive detention without effective judicial oversight, including the Security Offences (Special Measures) Act 2012, the Prevention of Crime Act 1959, the Prevention of Terrorism Act 2015 and the Dangerous Drugs (Special Preventive Measures) Act 1985. The Security Offences (Special Measures) Act allowed for preventive detention of up to 28 days without judicial review, while both the Prevention of Crime Act and the Prevention of Terrorism Act allowed the police and government-appointed boards to order detention without trial for up to 60 days and up to two years, respectively. In July 2022, the Parliament had voted to extend for another five years the provision of preventive detention in the Security Offences (Special Measures) Act, after the extension was originally voted down in March 2022.²⁰

21. The United Nations country team recommended that Malaysia fully repeal the Security Offences (Special Measures) Act and other laws on preventive detention.²¹

22. The United Nations country team stated that, on 26 July 2022, the Parliament had passed the Independent Police Conduct Commission Act 2020, establishing an independent body to provide oversight of and accountability for the Royal Malaysia Police. It stated that grave concerns remained with regard to the independence, transparency and impartiality of the oversight mechanism, including its ability to conduct meaningful and effective investigations into police misconduct, with the Commission exempt from investigating actions outlined in the Inspector-General Standing Orders. Concerns had also been raised regarding the mechanism's limited powers to compel cooperation from government agencies, subpoena documents and provide for prosecution.²²

4. Fundamental freedoms

23. The United Nations country team noted with concern the continued use of restrictive laws such as the Communications and Multimedia Act 1998, often used in conjunction with the Sedition Act 1948 and the Peaceful Assembly Act 2012, to deter legitimate speech, silence public debate and criticism of government policies and suppress freedom of expression and peaceful assembly.²³

24. The United Nations country team recommended that Malaysia urgently review, amend and/or repeal, within a clear time frame, laws that were used to violate the right to freedom of expression and opinion.²⁴

25. UNESCO recommended that Malaysia ensure that its laws that limited the right to freedom of expression were in accordance with international standards, in particular the Sedition Act 1948, the Printing Presses and Publication Act 1984, the Security Offences (Special Measures) Act 2012 and section 505 (b) of the Penal Code.²⁵

26. UNESCO also recommended that Malaysia introduce a freedom of information law that was in accordance with international standards.²⁶

27. The United Nations country team recommended that Malaysia decriminalize defamation and subsequently incorporate it into the Civil Code, in accordance with international standards.²⁷

5. Right to marriage and family life

28. The United Nations country team reiterated concerns raised previously by the Committee on the Elimination of Discrimination against Women regarding the dual legal system of civil law and multiple versions of syariah law, which had not been harmonized in accordance with the Convention on the Elimination of All Forms of Discrimination against Women and which resulted in continuing discrimination against women, in particular in marriage and family relations.²⁸

29. The Special Rapporteur on the sale and sexual exploitation of children stated that the existence of a parallel legal system of civil law and syariah enactments and the lack of legal clarity in family and religious matters and in relation to different definitions of the child led to legal loopholes in the protection of children, including on the basis of their religion.²⁹

6. Prohibition of all forms of slavery, including trafficking in persons

30. The Special Rapporteur on the sale and sexual exploitation of children stated that Malaysia remained a destination and, to a lesser extent, a transit and source country for trafficking in persons, forced marriage and sexual exploitation. Refugee and asylum-seeking, undocumented, street and migrant children were particularly exposed to sexual exploitation, forced begging and child labour.³⁰

31. The ILO Committee of Experts on the Application of Conventions and Recommendations requested Malaysia to continue its efforts to prevent, suppress and combat trafficking in persons and to take the measures necessary to ensure that all persons who engaged in trafficking and related offences, including complicit law enforcement officials, were subject to thorough investigation and robust prosecutions.³¹

32. The same Committee urged Malaysia to take the measures necessary to ensure that, in practice, thorough investigations and prosecutions were carried out for persons who engaged in trafficking in children, and that sufficiently effective and dissuasive sanctions were imposed.³²

33. The Special Rapporteur on the sale and sexual exploitation of children recommended that Malaysia strengthen efforts to detect, investigate, prosecute and sanction the crimes of sale and sexual exploitation of children.³³

34. The same Special Rapporteur also recommended that Malaysia strengthen existing victim screening and referral mechanisms by ensuring effective and timely coordination among law enforcement, social workers and service providers, and ensure that children who were victims of sale or sexual exploitation were neither detained nor deported and that they were provided with adequate recovery and rehabilitation services.³⁴

35. The ILO Committee of Experts requested Malaysia to take measures to strengthen the capacities of law enforcement bodies to ensure that they were provided with appropriate training to improve the identification of victims of trafficking and related support, as well as measures to ensure greater coordination among those bodies.³⁵

36. The same Committee also requested Malaysia to continue to take the measures necessary to strengthen the labour inspection system to effectively monitor the implementation of labour laws so as to receive, investigate and address complaints of alleged violations of the worst forms of child labour.³⁶

37. The same Committee encouraged Malaysia to strengthen its measures, within the framework of the National Action Plan to Combat Trafficking in Persons for the period 2021–2025, to prevent trafficking in children and provide for their removal from such situations and subsequent rehabilitation and social integration.³⁷

7. Right to work and to just and favourable conditions of work

38. The United Nations country team stated that employment laws continued to exclude domestic workers from several forms of protection, including maximum working hours and the minimum wage.³⁸

39. The Special Rapporteur on extreme poverty stated that migrant workers were set up for exploitation by a confluence of factors, including unscrupulous recruitment agents and employers, a harsh immigration policy and a lack of enforcement of labour protections. They were reportedly subjected to passport confiscation, low pay in violation of minimum wage laws, poor living conditions, punishment by fines, high recruitment fees, debts to recruitment agencies and employers, and salary deductions. Reports documenting abuses against migrant workers were consistent and numerous.³⁹

40. The same Special Rapporteur also stated that Malaysia should rapidly enhance the enforcement of labour protections, ensure that migrant workers could assert their rights without fear of deportation and extend standard employment protections to domestic workers.⁴⁰

41. The ILO Committee of Experts urged Malaysia to continue to strengthen its efforts to ensure that migrant workers were fully protected from abusive practices and conditions that amounted to the exaction of forced labour.⁴¹

42. The same Committee also urged Malaysia to take the measures necessary to ensure that workers who were victims of anti-union discrimination had the right to lodge a complaint directly before the courts and that such proceedings were rapid and effective and to ensure an effective protection through reinstatement, adequate compensation and the imposition of sufficiently dissuasive sanctions.⁴²

8. Right to social security

43. The Special Rapporteur on extreme poverty stated that Malaysia should institute far-reaching reforms of the social protection system to ensure that the needs of people living in poverty were comprehensively addressed. It should adopt a comprehensive social protection floor for all its citizens and provide essential support for non-citizens.⁴³

44. The same Special Rapporteur also stated that there was a lack of employee safety nets and that income support for disadvantaged persons, such as the unemployed, single parents, persons with disabilities and older persons, remained ad hoc, insufficiently targeted and incapable of ensuring basic living standards.⁴⁴

9. Right to an adequate standard of living

45. The Special Rapporteur on extreme poverty stated that the absolute poverty line in Malaysia was extremely low, at just 980 ringgit (\$241) per month for a family of four, and that it bore no relation to the cost of living. The use of a very low and entirely unrealistic poverty line obscured the more troubling reality that millions of people, in both urban and rural areas across the country, scraped by on very low incomes with tenuous access to food, shelter, education and health care, and limited ability to exercise civil and political rights.⁴⁵

46. The same Special Rapporteur recommended that Malaysia urgently adopt a meaningful poverty line, consistent with international standards and including vulnerable non-citizen populations.⁴⁶

47. The same Special Rapporteur stated that Indigenous Peoples had much higher rates of poverty than the general population and continued to experience widespread violations of their rights.⁴⁷

48. The same Special Rapporteur also stated that Malaysia should address the plight of the millions of non-citizens disproportionately affected by poverty, including migrants, refugees, stateless persons and unregistered Malaysians, who were systematically excluded from official poverty figures, neglected by policymakers and often effectively barred from access to basic services.⁴⁸

49. UNHCR stated that the majority of refugees lived in deep poverty, with the average household income falling below the Malaysian poverty line. Lack of legal status and employment prevented most refugees from accessing financial services. UNHCR documentation was not recognized for the purposes of registering for SIM cards, further excluding refugees from the economy and basic services.⁴⁹

50. The United Nations country team stated that many non-citizen families were unable to afford schooling expenses and that children of such families faced financial pressure to enter the informal workforce prematurely.⁵⁰

51. The Special Rapporteur on water and sanitation expressed great concern that some groups still did not enjoy their human rights to water and sanitation as they collected water from surface sources that were often compromised in terms of quality and used inadequate sanitation services.⁵¹

52. The same Special Rapporteur stressed that a targeted policy was needed to ensure that Orang Asli had proper access to water and sanitation services.⁵²

53. The same Special Rapporteur stated that access to drinking water and sanitation services were fragmented for the rural population, including those living in rural areas in Sabah and Sarawak.⁵³

10. Right to health

54. The United Nations country team stated that, while health services had improved, in particular for children in urban areas, gaps remained in terms of accessibility, availability and affordability of quality health and medical care for children in rural and remote areas.⁵⁴

55. UNHCR recommended that Malaysia waive the foreigner rates charged to refugees at government health facilities, including for all vaccines on the childhood immunization schedule, and repeal Ministry of Health Circular 10/2001 establishing that undocumented asylum-seekers and migrants who sought medical attention must be referred to the Immigration Department.⁵⁵

56. The Special Rapporteur on extreme poverty stated that irregular migrant workers avoided public health-care facilities altogether because of document checks and the potential involvement of the immigration authorities.⁵⁶

57. The Special Rapporteur on the sale and sexual exploitation of children recommended that Malaysia train teachers on sexual and reproductive health education in school and ensure that age-appropriate, comprehensive sexual and reproductive health education was taught in primary school and was accessible to out-of-school children, including in remote areas of the country.⁵⁷

11. Right to education

58. The Special Rapporteur on extreme poverty stated that poverty still kept many children out of school.⁵⁸

59. The same Special Rapporteur also stated that children in rural areas often left villages at a young age and stayed in hostels far from their families in order to attend school.⁵⁹

60. The same Special Rapporteur further stated that persons without identification, including stateless persons, migrants and some Indigenous Peoples, were not able to attend public schools and had to make do with an informal education.⁶⁰

61. The United Nations country team stated that refugee children could not access formal education; only 30 per cent of such children received informal education through civil society organization-led alternative learning centres or community-run schools, putting many at risk of child labour, child marriage and other forms of exploitation.⁶¹

62. The Special Rapporteur on extreme poverty stated that far too many schools suffered from a lack of basic infrastructure and facilities or deteriorating conditions.⁶²

63. The United Nations country team stated that, as enrolment in public schools required legal or identity documents, accessing education remained a challenge for a significant number of children, including those from Indigenous and minority communities, undocumented, stateless, refugee and asylum-seeking children, children of migrant workers, children born to non-citizens and children from the rural and urban poor communities.⁶³

64. UNESCO recommended that Malaysia consider enshrining the right to education in the Constitution and in the law, and guarantee in the legislation 12 years of free primary and secondary education, of which at least 9 were compulsory.⁶⁴

65. The Special Rapporteur on extreme poverty stated that Malaysia should increase investment in support for low-income students, improve access to education in rural areas, prioritize funding for school infrastructure maintenance and repair and improve the overall quality of education. He stated that Malaysia should ensure that non-citizen children could benefit from public education and regulate and certify informal education programmes for children who fell through the cracks.⁶⁵

66. UNHCR recommended that Malaysia remove its reservation to article 28 (a) of the Convention on the Rights of the Child, pertaining to universal access to education, and allow refugee children to enrol in government schools and sit for national examinations, such as the Malaysian Certificate of Education.⁶⁶

67. The Special Rapporteur on cultural rights recommended that Malaysia take concrete measures to prevent children from becoming stateless and guarantee universal access to free primary education, irrespective of citizenship and immigration status.⁶⁷

68. The ILO Committee of Experts requested Malaysia to continue taking effective measures to ensure access to free basic education for all children, in particular boys from the ethnic community in Sabah.⁶⁸

12. Cultural rights

69. The Special Rapporteur on cultural rights recommended that Malaysia guarantee that in practice all persons – including Muslims, Muslim minorities such as Shia and Ahmadis, religious minorities and non-religious persons – were able to take part in cultural life without discrimination, to have equal access to cultural and religious sites and to take part in cultural and religious practices, in accordance with international standards.⁶⁹

13. Development, the environment, and business and human rights

70. The United Nations country team stated that serious concerns remained about heightened attacks on and surveillance, targeting and criminalization of human rights defenders, environmental human rights defenders, lawyers defending their cases and representatives of local communities resisting and/or critical of business operations linked to the protection of their environment and land.⁷⁰

71. The United Nations country team recommended that Malaysia take systematic action to address human rights violations, loss of means of livelihood and environmental degradation caused by development and extractive projects, including by enacting necessary regulations and investigating systematically and thoroughly each complaint in a fair, credible, independent, open and transparent manner.⁷¹

72. The Special Rapporteur on water and sanitation recommended that Malaysia carry out human rights impact assessments at each stage of a megaproject, with the meaningful participation of those affected in a transparent manner, facilitating easy access to information.⁷²

73. The Special Rapporteur on the sale and sexual exploitation of children recommended that Malaysia enhance corporate social responsibility involving Internet service providers, telecommunications, financial services companies, the travel and tourism industries and the media in order to strengthen child safety online and to prevent child sexual exploitation in travel and tourism.⁷³

B. Rights of specific persons or groups

1. Women

74. The Special Rapporteur on extreme poverty reported that there were inadequate shelter alternatives and no clear financial or housing assistance for survivors of domestic

violence, so the majority of women, often with their children, ended up returning to abusive situations to avoid homelessness.⁷⁴

75. The Special Rapporteur on cultural rights recommended that Malaysia prohibit all forms of female genital mutilation and abrogate the fatwa on female genital mutilation issued by the Malaysian National Council of Islamic Religious Affairs in April 2009.⁷⁵

76. The same Special Rapporteur shared the concerns of the Committee on the Elimination of Discrimination against Women about the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society.⁷⁶

77. The same Special Rapporteur expressed concern about the impact of a particular form of Islamization on the cultural rights of women through the imposition of a de facto dress code for Malaysian Muslim women in many contexts.⁷⁷

2. Children

78. The United Nations country team expressed concern at the persistence of child marriage in Malaysia, which continued to be practised largely due to the lack of a standardized minimum age of marriage, and laws that allowed and facilitated child marriage. While a minimum age of marriage was stated in Islamic and civil laws, exceptions to those provisions had facilitated the practice of child marriage. The syariah court could grant permission to marry for girls under the age of 16 and boys under the age of 18.⁷⁸

79. The United Nations country team stated that it was imperative that legislative and other measures were taken to prohibit child and/or forced marriage, without exceptions.⁷⁹

80. The United Nations country team also stated that the causes of child marriage in Malaysia included poor and/or lack of access to sexual and reproductive health information and services, social and cultural norms that allowed and perpetuated traditional practices of child marriage, and a lack of parental knowledge and skills to communicate effectively with children on sexual and reproductive health issues.⁸⁰

81. The United Nations country team recommended that Malaysia amend all provisions in laws that allowed or facilitated child marriage and that it set the minimum age of marriage at 18 without exceptions, in all legal jurisdictions, including customary laws.⁸¹

82. The Special Rapporteur on extreme poverty stated that child labour was a problem in Malaysia, including on palm oil plantations where an oppressive quota system drove families to bring their children to work as unpaid labourers.⁸²

83. The ILO Committee of Experts requested Malaysia to continue its efforts to strengthen the capacity of the labour inspectorate to better monitor child labour, in particular in the oil palm plantations in Sabah and Sarawak.⁸³

84. The Special Rapporteur on the sale and sexual exploitation of children recommended that Malaysia ensure access to education and health-care services for all children, including non-Malaysian and undocumented children, without discrimination.⁸⁴

85. The United Nations country team stated that children living with HIV/AIDS faced stigmatization and difficulties in accessing education and effective care and support services that met their needs.⁸⁵

3. Older persons

86. The Special Rapporteur on extreme poverty stated that there were real concerns as to whether the pension schemes in place adequately protected people from poverty.⁸⁶

4. Persons with disabilities

87. The Special Rapporteur on extreme poverty stated that persons with disabilities in Malaysia faced widespread societal discrimination and obstacles that prevented them from participating in society on an equal basis with others.⁸⁷

88. The same Special Rapporteur stated that workforce participation among persons with disabilities was low, mainly due to a lack of accessible workplace environments and negative employer perceptions of persons with disabilities. Many employers in Malaysia had failed to ensure that workplaces were accessible.⁸⁸

89. The Special Rapporteur on cultural rights recommended that Malaysia allocate more funds for the promotion and protection of the rights of persons with disabilities, including accessibility, in particular in the areas of employment, education and housing, and provide those persons with the training necessary to improve their employability and independence.⁸⁹

5. Indigenous Peoples

90. The United Nations country team stated that the lack of effective recognition of native or Indigenous land title based on the principle of self-identification restricted Indigenous Peoples (Orang Asli and the natives of Sabah and Sarawak) from registering and/or proving formal ownership of land. The lack of oversight mechanisms had made it easier for State and private actors to appropriate lands, territories and natural resources, or gazette land as forest reserve, without the free, prior and informed consent of Indigenous Peoples.⁹⁰

91. The United Nations country team also stated that large extractive business activities and megaprojects on land deemed as ancestral or customary, coupled with widespread corruption and weak land and resource governance and weak environmental impact assessment mechanisms, continued to adversely affect livelihoods and the right to the meaningful participation of affected communities in policy formulation, exacerbating land and/or forest-related conflicts between communities, private companies and State-owned enterprises.⁹¹

92. The Special Rapporteur on extreme poverty stated that Malaysia should incorporate and implement the principle of free, prior and informed consent in matters concerning the lands and livelihoods of Indigenous Peoples.⁹²

93. The United Nations country team recommended that Malaysia expedite efforts to protect Indigenous Peoples' right to access and use natural resources, including by strengthening policies and laws to ensure their meaningful inclusion, participation and cooperation in all decision-making that might affect their interests, including in the adoption, assessment and implementation of actions and strategies, and, if necessary, correct those actions.⁹³

94. The Special Rapporteur on extreme poverty stated that the federal Government must find ways to work with State authorities to ensure recognition of the customary land rights of Indigenous Peoples, including through public and participatory mapping of Indigenous land claims, and build on existing efforts to hold State officials to account when they failed to protect those rights.⁹⁴

95. The same Special Rapporteur also stated that Indigenous Peoples had the highest overall poverty rates in Malaysia and were in desperate need of better protection of their customary land rights and more effective access to quality health care and education.⁹⁵

6. Lesbian, gay, bisexual, transgender and intersex persons

96. The United Nations country team stated that the Penal Code criminalized consensual same-sex relations, imposing a sentence of 20 years in prison and mandatory whipping.⁹⁶

97. The Special Rapporteur on cultural rights recommended that Malaysia repeal all laws that directly and indirectly criminalized same-sex sexual activities and cross-dressing.⁹⁷

98. The United Nations country team stated that hateful rhetoric and discriminatory laws had led to a rising tide of incitement to discrimination, hostility and/or violence towards LGBTIQ+ persons.⁹⁸

99. The United Nations country team also stated that LGBTIQ+ persons continued to face various forms of bullying and intimidation that hindered their access to medical and health care.⁹⁹

100. The Special Rapporteur on cultural rights recommended that Malaysia take immediate and effective measures to end hostility and intolerance on the basis of sexual orientation and gender identity and provide meaningful protection to lesbian, gay, bisexual, transgender and intersex persons against all forms of stigmatization, violence and discrimination.¹⁰⁰

7. Migrants, refugees and asylum-seekers

101. UNHCR stated that there was presently no comprehensive domestic legal or policy framework to identify and protect asylum-seekers and refugees in Malaysia. As a result, asylum-seekers and refugees remained in a precarious protection environment. The current legal and policy framework did not distinguish asylum-seekers and refugees from undocumented migrants, thus placing them at risk of arrest, prosecution, detention, deportation and refoulement. It also further limited their ability to access lawful work, health and education opportunities and exposed them to abuse, exploitation and other rights violations.¹⁰¹

102. UNHCR also stated that, despite ongoing advocacy, it had not been granted access to immigration detention centres to assess international protection needs and register asylum-seekers since August 2019. The release of detained asylum-seekers and refugees remained limited. The situation had undermined the Office's ability to fully exercise its mandate and had resulted in lack of access to asylum procedures for persons seeking international protection.¹⁰²

103. The United Nations country team stated that refugees and asylum-seekers continued to be at risk of arrest, detention and/or prosecution upon entry into Malaysia under the Immigration Act 1959, as well as refoulement.¹⁰³

104. UNHCR recommended that Malaysia fully respect the principle of non-refoulement in accordance with international human rights instruments and customary international law.¹⁰⁴

105. The United Nations country team recommended that Malaysia, in cooperation with UNHCR, adopt and enact a legislative and administrative framework for the management, reception, registration, processing and documentation of refugees and asylum-seekers and the provision of basic services and legal work in line with international refugee protection standards.¹⁰⁵

106. UNHCR recommended that Malaysia put in place measures to regularize all refugees and asylum-seekers, permitting their legal temporary stay in Malaysia and enabling access to legal employment as well as to formal education, health and other public services.¹⁰⁶

107. UNHCR stated that persons seeking international protection, including children, were frequently detained upon entry, without having access to asylum procedures.¹⁰⁷

108. The United Nations country team expressed concern at the absence of specific standard operating procedures for the protection and care of children in immigration detention centres. It stated that, as of April 2023, there were 1,030 children in immigration detention.¹⁰⁸

109. UNHCR recommended that Malaysia end the use of immigration detention for children and ensure that families were not separated as a result of immigration detention.¹⁰⁹

110. The United Nations country team recommended that Malaysia ensure that alternatives to detention were pursued and reinstate the access of UNHCR to immigration detention centres.¹¹⁰

8. Stateless persons

111. UNHCR stated that challenges remained in ensuring that the births of all children were registered in accordance with the law and that legal identification documentation was properly issued. Without regular status and proper documentation, stateless and undocumented individuals were at risk of arrest and detention and had limited access to employment, public education and government-supported health care.¹¹¹

112. The United Nations country team stated that no official statistics were available on the total number of stateless persons in Malaysia. Stateless people were unable to access a wide range of public services, including health care, education and formal work, which placed them at elevated risk of poverty. Their absence from official data made the extent of their vulnerability almost impossible to assess.¹¹²

113. The United Nations country team also stated that non-Malaysian children born in Malaysia, children of single mothers and children born in remote areas of the country were at risk of not being registered at birth given the difficulties in accessing the registration office.¹¹³

114. UNHCR recommended that Malaysia ensure that all persons, including asylum-seekers and refugees, were able to register the births of their children in a timely and accessible manner.¹¹⁴

115. UNHCR also recommended that Malaysia amend the provision of the federal Constitution that did not allow women to confer citizenship to their children on an equal basis with men.¹¹⁵

Notes

- ¹ [A/HRC/40/11](#), [A/HRC/40/11/Add.1](#) and [A/HRC/40/2](#).
- ² United Nations country team submission for the universal periodic review of Malaysia, p. 10. See also [A/HRC/40/51/Add.3](#), para. 61 (a); [A/HRC/40/53/Add.1](#), para. 90 (a); and [A/HRC/42/47/Add.2](#), para. 75 (a).
- ³ United Nations country team submission, p. 1.
- ⁴ [A/HRC/40/53/Add.1](#), para. 90 (a); [A/HRC/42/47/Add.2](#), para. 75 (a); and [A/HRC/44/40/Add.1](#), para. 57.
- ⁵ [A/HRC/42/47/Add.2](#), para. 75 (a). See also the Office of the United Nations High Commissioner for Refugees (UNHCR) submission for the universal periodic review of Malaysia, p. 1; [A/HRC/40/51/Add.3](#), para. 61 (a); and [A/HRC/40/53/Add.1](#), para. 90 (d).
- ⁶ UNESCO submission for the universal periodic review of Malaysia, para. 18 (i). See also [A/HRC/40/53/Add.1](#), para. 90 (a).
- ⁷ OHCHR, *United Nations Human Rights Report 2018*, p. 77; OHCHR, *United Nations Human Rights Report 2019*, p. 91; OHCHR, *United Nations Human Rights Report 2020*, p. 109; OHCHR, *United Nations Human Rights Report 2021*, p. 115; and OHCHR, *United Nations Human Rights Report 2022*, p. 99.
- ⁸ United Nations country team submission, p. 11.
- ⁹ [A/HRC/40/51/Add.3](#), para. 61 (b).
- ¹⁰ United Nations country team submission, p. 1.
- ¹¹ *Ibid.*, p. 9.
- ¹² *Ibid.*, p. 1.
- ¹³ *Ibid.*, p. 3.
- ¹⁴ *Ibid.*, p. 11.
- ¹⁵ *Ibid.*, p. 3.
- ¹⁶ UNHCR submission, p. 5.
- ¹⁷ United Nations country team submission, p. 3.
- ¹⁸ *Ibid.*, p. 10.
- ¹⁹ UNESCO submission, para. 18 (vi).
- ²⁰ United Nations country team submission, pp. 2 and 3.
- ²¹ *Ibid.*, p. 10.
- ²² *Ibid.*, p. 3.
- ²³ *Ibid.*
- ²⁴ *Ibid.*, p. 11.
- ²⁵ UNESCO submission, para. 19.
- ²⁶ *Ibid.*, para. 21.
- ²⁷ United Nations country team submission, p. 11. See also the UNESCO submission, para. 20.
- ²⁸ United Nations country team submission, p. 4.
- ²⁹ [A/HRC/40/51/Add.3](#), para. 31.
- ³⁰ *Ibid.*, para. 10.
- ³¹ See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:3954142,102960.

- ³² See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:4303895,102960.
- ³³ [A/HRC/40/51/Add.3](#), para. 62 (a).
- ³⁴ *Ibid.*, para. 63 (f).
- ³⁵ See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:3954142,102960.
- ³⁶ See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:4303895,102960.
- ³⁷ *Ibid.*
- ³⁸ United Nations country team submission, p. 9.
- ³⁹ [A/HRC/44/40/Add.1](#), para. 59.
- ⁴⁰ *Ibid.*, para. 64.
- ⁴¹ See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:4320737,102960.
- ⁴² See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:4321163,102960.
- ⁴³ [A/HRC/44/40/Add.1](#), para. 12.
- ⁴⁴ *Ibid.*, para. 35.
- ⁴⁵ *Ibid.*, paras. 6 and 7.
- ⁴⁶ *Ibid.*, para. 88.
- ⁴⁷ *Ibid.*, para. 13.
- ⁴⁸ *Ibid.*
- ⁴⁹ UNHCR submission, p. 2.
- ⁵⁰ United Nations country team submission, p. 10.
- ⁵¹ [A/HRC/42/47/Add.2](#), para. 24.
- ⁵² *Ibid.*, para. 33.
- ⁵³ *Ibid.*, para. 35.
- ⁵⁴ United Nations country team submission, p. 10.
- ⁵⁵ UNHCR submission, p. 4.
- ⁵⁶ [A/HRC/44/40/Add.1](#), para. 62.
- ⁵⁷ [A/HRC/40/51/Add.3](#), para. 63 (p).
- ⁵⁸ [A/HRC/44/40/Add.1](#), para. 42.
- ⁵⁹ *Ibid.*, para. 43.
- ⁶⁰ *Ibid.*
- ⁶¹ United Nations country team submission, p. 10.
- ⁶² [A/HRC/44/40/Add.1](#), para. 44.
- ⁶³ United Nations country team submission, p. 9.
- ⁶⁴ UNESCO submission, para. 18 (ii) and (iii).
- ⁶⁵ [A/HRC/44/40/Add.1](#), para. 46.
- ⁶⁶ UNHCR submission, p. 4.
- ⁶⁷ [A/HRC/40/53/Add.1](#), para. 94 (b).
- ⁶⁸ See https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:4303892,102960.
- ⁶⁹ [A/HRC/40/53/Add.1](#), para. 91 (d).
- ⁷⁰ United Nations country team submission, p. 7.
- ⁷¹ *Ibid.*, p. 11.
- ⁷² [A/HRC/42/47/Add.2](#), para. 80 (c).
- ⁷³ [A/HRC/40/51/Add.3](#), para. 65 (d).
- ⁷⁴ [A/HRC/44/40/Add.1](#), para. 72.
- ⁷⁵ [A/HRC/40/53/Add.1](#), para. 95 (c).
- ⁷⁶ *Ibid.*, para. 46.
- ⁷⁷ *Ibid.*, para. 76.
- ⁷⁸ United Nations country team submission, p. 6.
- ⁷⁹ *Ibid.*
- ⁸⁰ *Ibid.*
- ⁸¹ *Ibid.*, p. 11.
- ⁸² [A/HRC/44/40/Add.1](#), para. 68.
- ⁸³ See https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4303898,102960:NO.
- ⁸⁴ [A/HRC/40/51/Add.3](#), para. 63 (i).
- ⁸⁵ United Nations country team submission, p. 10.
- ⁸⁶ [A/HRC/44/40/Add.1](#), para. 82.
- ⁸⁷ *Ibid.*, para. 79.

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- 88 Ibid., para. 81.
89 [A/HRC/40/53/Add.1](#), para. 92.
90 United Nations country team submission, pp. 6 and 7.
91 Ibid., p. 7.
92 [A/HRC/44/40/Add.1](#), para. 57.
93 United Nations country team submission, p. 11.
94 [A/HRC/44/40/Add.1](#), para. 57.
95 Ibid., para. 91.
96 United Nations country team submission, p. 5.
97 [A/HRC/40/53/Add.1](#), para. 93 (a).
98 United Nations country team submission, p. 5.
99 Ibid.
100 [A/HRC/40/53/Add.1](#), para. 93 (b).
101 UNHCR submission, p. 1.
102 Ibid., p. 5.
103 United Nations country team submission, p. 8.
104 UNHCR submission, p. 3.
105 United Nations country team submission, p. 11.
106 UNHCR submission, p. 3.
107 Ibid., p. 5.
108 United Nations country team submission, p. 8.
109 UNHCR submission, p. 6.
110 United Nations country team submission, p. 11.
111 UNHCR submission, p. 1.
112 United Nations country team submission, p. 8.
113 Ibid.
114 UNHCR submission, p. 4.
115 Ibid.
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