



PENGGERAK MALAYSIA 4TH MALAYSIAN UNIVERSAL PERIODIC REVIEW (UPR) REPORT

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A. INTRODUCTION

1. *Pertubuhan Penggerak Masyarakat Malaysia* or commonly known as *Penggerak Malaysia* is a Malaysia national human rights civil society organization formally registered with the Malaysian Registrar of Society (ROS) with registration number PPM-004-14-2013.
2. Penggerak Malaysia's vision is to defend the human rights by developing a united, prosperous and advanced society based on the National Philosophy of *Rukun Negara* and the Malaysian - Eastern cultures.ⁱ
3. Penggerak Malaysia is the 48th member of MACSA,ⁱⁱ and works closely with SUHAKAM,ⁱⁱⁱ the Malaysian Government and other CSOs in defending Malaysian human rights at the national, state, local government and community levels.
4. Together with our activists, volunteers and associate-organizations all over the country, Penggerak Malaysia works hard and continuously as Malaysia's human rights defenders to ensure that one day, everyone in this nation will enjoy all their rights as human beings.
5. Mainly, Penggerak Malaysia has dealt with various refugee communities, especially the Rohingya refugees who have settled within the Peninsular Malaysia.



B. NATIONAL PHILOSOPHY (*rukun Negara*) AS THE BASIS OF HUMAN RIGHTS IN MALAYSIA

6. *Rukun Negara* is the Malaysian declaration of national philosophy adopted thru the National Consultative Council (MKN) in 1970. The *Rukun Negara* aspires to establish unity within the nation and serves as an integrative key to a harmonious and unified Malaysian society to ensure the nation's success and stability.
7. To realize the aspiration above, five (5) principles are presented, namely the "Belief in God"; "Loyalty to the King and Country"; "Supremacy of the Constitution"; "Rules of Law"; and "Courtesy and Morality."
8. In promoting solidarity and harmony, *Rukun Negara* also calls against abusive or offensive behaviors that may jeopardize social cohesion, peace, and democracy. It forbids questioning the loyalty of any citizen based on race and belief and dedicates itself to building a just society, in which there is an equitable distribution of the nation's wealth among its citizens.^{iv}
9. Yet, its importance was not duly reflected in any of Malaysia's human rights policies, be it in the Human Rights Commission of Malaysia Act 1999,^v or in the National Human Rights Action Plan (NHRAP) 2018 introduced by the Malaysian government.^{vi}
10. Due to this, Penggerak Malaysia sees that there is a disjointed effort in ensuring that the fight to ensure human rights is respected in Malaysia based on the principles of *Rukun Negara* and is thereby a fight that is adopted by all Malaysians.



RECOMMENDATIONS

- B1. Include, describe and emphasize the importance of the National Philosophy (*Rukun Negara*) in the NHRAP 2018.**
- B2. Amend the Human Rights Commission of Malaysia Act 1999 to emphasize on the importance of *Rukun Negara* as its guiding principles.**

C. THE RIGHTS OF MALAYSIA HUMAN RIGHTS DEFENDERS

- 11. Penggerak Malaysia Defenders does not receive good cooperation from the Municipal Council Enforcement Department. One of our defenders was charged in court under Section 186 of the Penal Code for purportedly obstructing the duties of civil servants while she was in fact exercising her duty as our defender in one of the Rohingya Refugees Settlement in Selangor.
- 12. She spent at least 10 hours of being detained at the Police Station for investigation purposes, another 3 hours in jail while waiting for bailing procedures to be completed and battled through 2-years long legal procedures with 5 sessions in court.
- 13. The legal processes cost our organization more than RM10,000.00 in legal and administration fees. The case against her was finally closed as NFA (Non-Further Action).



14. From this incident, we learned that the enforcement officer of our Local Government lacks respect towards human rights defenders and CSOs. Their S.O.Ps are rigid and this is clearly against the 5th Principles Of Rukun Negara; Courtesy and Morality. While the government officer, the MPs, the Senator and the Councilor of local government are protected by law in exercising their duties, human rights defender are exposed to any action by them including those taken purely to harass and intimidate human rights defenders.
15. There is no law in Malaysia recognizing and protecting Human Rights Defenders while performing their duties and responsibilities.

RECOMMENDATIONS

- C1. Enact Social Workers Act to legalize a proper definition of Human Rights Defenders, their duties and responsibilities, code of conduct, and protection by law based on Rukun Negara.**
- C2. Introduce a clear and precise policy to harmonies the relationship between Local Governments, CSOs and Human Rights Defenders in Malaysia.**
- C3. Conduct human rights trainings for all Local Government enforcement officers.**

D. THE RIGHTS OF REFUGEES



BACKGROUND

16. Refugees in Malaysia suffer from the absence of civil, social and economic rights including freedom of movement and residence, freedom of speech and assembly, fair trial, property rights, the right to engage in wage labor, self-employment, and the conclusion of valid contracts, access to school education, access to credit, protection against physical and sexual abuse, harassment, unlawful detention, and deportation.
17. Since Malaysia does not have any specific law relating to refugees, the Government of Malaysia is managing the issues of refugee's livelihood in Malaysia according to the National Security Council's Directive Number 23.^{vii}
18. Refugee's livelihood in Malaysia is at stake because they are considered as Illegal Immigrants. They are allowed for a temporary stay on a humanitarian basis with very limited rights. This temporary stay has become a long-term stay because the difficulties of the resettlement process.
19. In Penggerak Malaysia's works at the community level, either with the Member of Parliament, State Assemblyman or Local Government Councilors, it is found that there was no clear policy on how the government, business entities and CSOs should handle their works related to refugees.

RECOMMENDATIONS



- D1. Enact Refugees Act for better guideline on refugees management in Malaysia.**

D1. Enact Refugees Act for better guideline on refugees management in Malaysia.

INADEQUATE DATA ON REFUGEES INFORMATION

20. Even though there are databases established under relevant governmental agencies,^{viii} however these databases are not integrated into a single system and are not available for public access. The lack of access to adequate data on Refugees has hampered the works of humanitarian activists in formulating a proper strategic action plans to defend the rights of the Refugees in each locality.^{ix}

RECOMMENDATIONS

D2. Establish and maintain an integrated Digital Management System for the registration of refugees

SUPPORTING PROPER HOUSE FOR THE REFUGEES

21. Unlike immigrants who live in Malaysia, most refugees lack proper self-identification documents.
22. Even though refugees in Malaysia normally have arranged for their accommodation and housing for themselves and their families, however, often times the refugees face difficulties in securing tenancy.



23. In instances where they managed to secure a tenancy, they will have to pay a higher rent, which is entered into verbally without a written tenancy agreement. In turn, the home-owners have absolute control over the tenancy and may end the tenancy without proper notice and evict the refugees from their rented houses without just cause.

RECOMMENDATIONS

- D3. To amend NSC Directive Number 23 to allow refugees temporary allowance to enter into legal contracts.**

ACCESS TO LAWFUL EMPLOYMENT

24. At present, most refugees do not have access to lawful employment because without proper self-identification documents, they are considered as illegal immigrants. As such, often times, refugees work in dangerous, dirty and difficult odd jobs illegally.
25. There are instances where refugees also face discrimination, abuses and harassment by their employers especially where the safety of the refugees are in question.

XENOPHOBIA AGAINST REFUGEES

26. There is a strong distrust and dislike against the refugees by the local communities due to lack of integration. The xenophobia felt by local communities is caused by the refugees' style of living that is perceived as unhygienic, undisciplined and disruptive. This has caused conflict



whereby the local communities either ostracize or outright harass the refugees.

RECOMMENDATIONS

D4. Establish a designated area for refugee communities to live temporarily whilst waiting for the host countries.

D5. Training programmes targeting refugees to integrate within local communities

ⁱ Ministry of National Unity Malaysia. 2021. National Unity Policy.

ⁱⁱ Malaysian Alliance Of Civil Society Organisations In The UPR Process (MACSA) is a group of Malaysian civil society organisations that produces human rights reports in the UPR Process.

ⁱⁱⁱ SUHAKAM refers to Malaysia's National Human Rights Institution that is named *Suruhanjaya Hak Asasi Manusia Malaysia*.

^{iv} Hamid, Noor & Zawawi, Hussain & Disa, Mahamad & Tahir, Ahmad. (2021). Rukun Negara as a Preamble to Malaysian Constitution. *Pertanika Journal of Social Sciences and Humanities* (29)

^v Human Rights Commission of Malaysia Act 1999 [Act 97] is a law statute that is formally passed by Malaysian parliament in

^{vi} <https://www.nst.com.my/news/nation/2018/03/340200/pm-proudly-unveils-nations-first-national-human-rights-action-plan-nsttv>

^{vii} NSC refers to National Security Council or Majlis Keselamatan Negara (MKN).

^{viii} <https://www.thestar.com.my/news/nation/2022/07/23/govt-approves-tracking-system-on-unhcr-refugees>

^{ix} <https://www.aljazeera.com/news/2022/8/11/refugees-in-malaysia-worry-refugee-tracking-system-a-trap>

