CEDAW Committee

Submission for the general discussion on "the rights of indigenous women and girls"

We, the undersigned organisations, would like to take this opportunity to highlight some violations faced by the indigenous or known as ‘Orang Asli’ women in Peninsular Malaysia[[1]](#footnote-1).

**Background**

The Orang Asli are the original peoples of Peninsular Malaysia and account for 0.7% or 198,000 of the Peninsular Malaysia population.[[2]](#footnote-2) They comprise of 18 distinct cultural-linguistic groups that are officially recognised within three core subgroups of indigenous peoples in Peninsular Malaysia known as Negrito, Senoi, and Proto-Malay.

While there are laws and policies in Malaysia to promote and protect the rights of indigenous peoples in Malaysia, it is not always the reality for the groups in Peninsular Malaysia. 99% of the Orang Asli population is categorised as the bottom 40 (B40) and earn below RM4,000 (USD 971) a month.[[3]](#footnote-3) It is generally known that large segments of this community live in poverty[[4]](#footnote-4). The Special Rapporteur on Poverty and Human Rights, Professor Philip Alston has reported this in his 2020 report on Malaysia.[[5]](#footnote-5) The Orang Asli way of life and their rights are frequently misunderstood and dismissed by government officials and agencies.

While the community as a whole suffers from various violations of their rights - the gendered element of these violations is often overlooked. Below are four major violations that we would like to highlight:

1. *Forced Birth Control*
* There are recorded cases of where Orang Asli women were forced to accept unwanted contraceptive injections or implants through coercion, threat and/or without being properly explained the purpose and side effects of it and not freely consented.[[6]](#footnote-6)
* In 2017, Orang Asli women from Kampung Kedled, Perak (a northern state in Peninsular Malaysia) described that they were forced to take birth-control measure without their consent and with minimal information provided to them. They have alleged that they were injected with contraceptive drugs by the nurses who came to the village as part of the Ministry of Health’s Mobile Clinic programme. Instead of providing information to the Orang Asli women, the nurses advised them by saying “You should take this treatment and take a break from taking care of children”. Some also said they were scolded by the nurses when they tried to reject the injections. Many also feared that if they did not follow the instructions provided, they would be forcibly injected with deadly medications.[[7]](#footnote-7) Although the Orang Asli women from Kampung Kedled has successfully claimed their rights to reject the unwanted birth control which the doctor has agreed and signed on the letter, however, it is still happening in some villages.[[8]](#footnote-8)
* In 2019, an Orang Asli woman activist from Gua Musang, Kelantan (a state in the north-east of Peninsular Malaysia) claimed that the women in her village were threatened by nurses and told that they must take birth control, either in the form of pills or injections, failing which their medical cards would be confiscated.[[9]](#footnote-9)
* One woman described begging the doctors to remove an unwanted and painful implant that prevented her from carrying out daily tasks and said the removal had cost her the equivalent of a month’s worth of household expenses.[[10]](#footnote-10)
* These examples show a pattern of violation of the Orang Asli women’s bodily autonomy and their sexual and reproductive rights. Activists working with these Orang Asli communities have raised concerns about violations of the Orang Asli communities’ right to quality and affordable healthcare services.[[11]](#footnote-11)
* The Ministry of Health had set up a special committee to investigate the issue of forced birth control faced by Orang Asli women after a memorandum was delivered by representatives from five Orang Asli villages to the Parliament on 10 July 2019. After the investigation, Dr Dzulkefly Ahmad, the then Health Minister, clarified that birth control medication given to Orang Asli women was meant to reduce pregnancy complications linked to anaemia.[[12]](#footnote-12) [[13]](#footnote-13) The report claimed that there was no such forced contraception happening, and attributed the cause of the controversy to lack of communication.[[14]](#footnote-14)
1. *Lack of access to education*
* Overall, the government has made some impressive progress in increasing the school enrolment rate through universal primary education and the national average of high school dropout rate is less than 4%. Students are in Malaysian high schools from ages 13 to 18 years old. However, the dropout rate for Orang Asli communities is almost 24% in 2018.[[15]](#footnote-15) This is much higher than the national average for dropouts.
* Factors such as poverty, lack of safe means of transport to school, and inaccessible roads contribute to poor school attendance and dropout problems.[[16]](#footnote-16) To attend school, most of the Orang Asli children have to stay in the residential school or boarding schools because their villages are so far from where the schools are situated.
* There is a lack of recognition for Orang Asli heritage, culture and way of life in the current Malaysian curriculum. Orang Asli children are kept away from their families and their culture for much of the school year and taught a new language, a new culture and often, introduced to a new religion.[[17]](#footnote-17) Orang Asli activists regard this as a form of ‘forced’ assimilation.
* There are also reported cases of school bullying faced by the Orang Asli that could be attributed to lack of understanding of Orang Asli culture and way of life.[[18]](#footnote-18) In December 2015, seven Orang Asli children ran away from school and hid in the jungle. Seven weeks later, only two survivors were found. The survivors claimed that they ran away to follow their older siblings who did so, to avoid being punished by the school for swimming in the river. [[19]](#footnote-19) [[20]](#footnote-20)
* Young Orang Asli women/girls are at risk of early marriage or forced to work when they drop out of schools to alleviate the financial constraint on their family.[[21]](#footnote-21)
1. *Gender insensitivity of maternity care facility*
* Orang Asli women have complained that they are often discriminated during prenatal healthcare and face violations to their right to quality healthcare and services. For example, the health-transit centres that act as Alternative Birthing Centres (ABCs) which is aimed to accommodate and allow expectant mothers or those needing medical treatment to get prompt healthcare were reported to be filthy and ill-equipped.[[22]](#footnote-22)
* In 1996, the Malaysian government turned health-transit centres to ABCs to curb the high maternal mortality rate among the Orang Asli women when the Association of Maternal and Neonatal Health revealed that 60% of the 42 mothers who died during home births in 1994 were Orang Asli.[[23]](#footnote-23)
* ABCs allows the near-term (6-8 weeks) Orang Asli women to stay in and be cared for until delivery, ensuring both the mother and infant’s safety as well as proper documentation.
* Despite the improvement in the statistic, the social cost was not included in the plan such as the effects on Orang Asli mothers separated from her family in the interior or the village, leading to a breakdown, both mentally and socially, to the Orang Asli family unit.[[24]](#footnote-24) [[25]](#footnote-25)
* Facilities and hygiene at the health-transit centres must be improved to ensure the wellbeing or pregnant mothers.
* Orang Asli mothers still prefer home delivery because institutional delivery not only creates problems for the rest of the family but is also culturally ‘unfriendly’. It may be true that by encouraging institutional deliveries, maternal death rates will decline, but a more sensitive way of implementing this policy would be to create conditions that allow Orang Asli mothers to feel more secure and comfortable, as well as mitigate the problems faced by families.[[26]](#footnote-26)
1. *Forced religious conversion*
* There have been reports of initiatives to convert members of the Orang Asli communities to Islam. Some of the Orang Asli are pressured to be converted.[[27]](#footnote-27) In 2019, the Kelantan Islamic Religious and Malay Customs Council (MAIK) said it planned to convert all Orang Asli in the Kelantan state to Islam within 30 years through working with the Federal Islamic Development Department of Malaysia (JAKIM) and Universiti Kebangsaan Malaysia (UKM).[[28]](#footnote-28) [[29]](#footnote-29)
* In a Memorandum from the Orang Asli community from Gerik, Perak to the government on 9 July 2019, they highlighted that some of them had their religion registered in their identification cards as ‘Islam’ despite not having converted in the first place. They also have claimed that their **children are being taught Islamic studies in school**and **forced to fast** without their parents’ permission. [[30]](#footnote-30) [[31]](#footnote-31) [[32]](#footnote-32)
* The government have also practised a policy of ‘positive discrimination‘, where benefits such as given preferences to Muslim Orang Asli for housing, televisions and job promotion for Muslim Orang Asli that works in the Department of Orang Asli Development (JHEOA). This has created the class divide among the communities and discriminatory enjoyment of benefits based on religion.[[33]](#footnote-33)
* The Center for Orang Asli Concerns (COAC) has received numerous cases of involuntary or forced religious conversion by government officials. For example,

- If a spouse refuses to convert to Islam to be married, when one of them is a Muslim, then the couple will opt to marry traditionally to avoid the conversion which is not legally recognised resulting in them not being issued with marriage certification from the government. When the Orang Asli women gives birth to a child without a marriage certificate, they are then not able to obtain a birth certificate for their child. To obtain the birth certificate for their child, the spouse is then forced to convert to Islam and eventually the child will be registered as Muslim.

- In situations where one spouse had been converted, unwillingly or by deceit, to Islam but they refuse to register their child as Muslim without their consent, they are also not able to obtain a birth certificate for their child which will limit important access for the child such as education and healthcare.

List of organisations:
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2. Center for Orang Asli Concerns (COAC)
3. Suara Rakyat Malaysia (SUARAM)

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1. Two different land mass make up the state of Malaysia, namely West (or peninsular) Malaysia and East Malaysia (on the isle of Borneo). These are actually about 400 miles (640 km) apart. Peninsular Malaysia is home to the capital Kuala Lumpur. It covers most of the so-called Malay peninsula. East Malaysia is made up of two states, Sabah and Sarawak. [↑](#footnote-ref-1)
2. https://www.iwgia.org/en/malaysia/3605-iw-2020-malaysia.html [↑](#footnote-ref-2)
3. https://www.freemalaysiatoday.com/category/bahasa/2019/07/02/99-orang-asli-dalam-b40-jakoa-seru-participatory-development/ [↑](#footnote-ref-3)
4. https://www.thestar.com.my/lifestyle/living/2020/08/18/malaysia039s-orang-asli-are-locked-into-poverty [↑](#footnote-ref-4)
5. https://undocs.org/en/A/HRC/44/40/Add.1 [↑](#footnote-ref-5)
6. https://www.malaymail.com/news/malaysia/2019/07/09/we-had-no-choice-orang-asli-women-claim-subjected-to-unwanted-birth-control/1769778 [↑](#footnote-ref-6)
7. https://m.facebook.com/nt/screen/?params=%7B%22note\_id%22%3A292890011674710%7D&path=%2Fnotes%2Fnote%2F&\_rdr [↑](#footnote-ref-7)
8. Ibid. [↑](#footnote-ref-8)
9. https://www.malaysiakini.com/news/483291 [↑](#footnote-ref-9)
10. Ibid. [↑](#footnote-ref-10)
11. https://codeblue.galencentre.org/2019/07/15/mma-probe-allegedly-forced-orang-asli-birth-control/ [↑](#footnote-ref-11)
12. https://www.facebook.com/notes/2696273810639898/ [↑](#footnote-ref-12)
13. https://freemalaysiatoday.net/post/special-committee-to-probe-orang-aslis-forced-birth-control-allegations [↑](#footnote-ref-13)
14. https://www.malaysiakini.com/news/483517 [↑](#footnote-ref-14)
15. https://www.ideas.org.my/publications-item/policy-paper-no-66-education-policies-in-overcoming-barriers-faced-by-orang-asli-children-education-for-all/ [↑](#footnote-ref-15)
16. http://www.suhakam.org.my/wp-content/uploads/2013/12/Orang-Asli-Rights-Problems-Solutions.pdf [↑](#footnote-ref-16)
17. https://www.malaysiakini.com/news/472558 [↑](#footnote-ref-17)
18. https://www.thestar.com.my/news/nation/2019/03/17/we-are-not-stupid-or-stinky [↑](#footnote-ref-18)
19. https://www.facebook.com/notes/808866623265181/ [↑](#footnote-ref-19)
20. https://www.bbc.com/news/magazine-35161791 [↑](#footnote-ref-20)
21. https://www.unicef.org/malaysia/media/711/file/Child%20marriage%20in%20Malaysia.pdf [↑](#footnote-ref-21)
22. https://www.thestar.com.my/News/Nation/2015/11/25/Trauma-in-the-transit-centre/ [↑](#footnote-ref-22)
23. Health care for the Orang Asli: Consequences of Paternalism and Non-Recognition. Pg128. [↑](#footnote-ref-23)
24. https://www.channelnewsasia.com/news/asia/malaysia-orang-asli-ancestral-land-rights-11848294 [↑](#footnote-ref-24)
25. https://www.malaysiakini.com/letters/126725 [↑](#footnote-ref-25)
26. Ibid. [↑](#footnote-ref-26)
27. https://cilisos.my/are-malaysias-orang-asli-being-pressured-to-convert-to-islam-we-investigate/ [↑](#footnote-ref-27)
28. https://www.malaymail.com/news/malaysia/2019/06/21/religious-conversions-stop-taking-advantage-of-orang-asli-muslim-preachers/1764386 [↑](#footnote-ref-28)
29. https://www.malaysiakini.com/news/480828 [↑](#footnote-ref-29)
30. https://www.malaymail.com/news/malaysia/2019/07/09/orang-asli-demand-to-be-left-alone-by-islamic-preachers/1769761 [↑](#footnote-ref-30)
31. https://www.themalaysianinsight.com/s/170097 [↑](#footnote-ref-31)
32. https://cilisos.my/are-malaysias-orang-asli-being-pressured-to-convert-to-islam-we-investigate/ [↑](#footnote-ref-32)
33. Ibid [↑](#footnote-ref-33)