**Request for inputs for the analytical study by the OHCHR on the impact of loss and damage from the adverse effects of climate change on the full enjoyment of human rights**

**“Questionnaire in relation to Human Rights Council resolution 53/6**

**on human rights and climate change”**

Member States have been invited to submit inputs on the following aspects:

| **NO.** | **KEY QUESTIONS AND INPUTS SOUGHT** | **INPUTS BY MALAYSIA** |
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|  | Please describe through concrete examples and stories the impacts of loss and damage from the adverse effects of climate change on the full enjoyment of human rights in your country. Please indicate whether the impact was exceptional or whether an example of many similarly situated cases. Please estimate the number of cases that may be similar in your country. | The Human Rights Commission of Malaysia (SUHAKAM), through the Roundtable Discussion on Transboundary Haze in 2022 and the Judicial Colloquium 2023, had gathered lived realities examples on the impact of loss and damage from the adverse effects of climate change that affected human rights. It can be divided into:   1. Rights to Water and Sanitation; 2. Rights to Health; 3. Rights to Live; 4. Rights to Education; 5. Rights to Housing; 6. Rights to Healthy Environment; 7. Rights to Children; 8. Rights to Food; and 9. Rights to Self-Determination.   All this (non-exhaustive) infringement of rights can be seen in the case of Tan Lay Pheng of Kuala Langat and the indigenous land acquisition of Nenggiri. |
| 2. | Please describe any relevant quantitative and qualitative data as well as mechanisms and tools to measure, monitor, report on, and evaluate the impacts of loss and damage, including from extreme weather and slow-onset events, on the full enjoyment of human rights. Please take into account, inter alia, the disproportionate effects on women and girls, children, youth, older persons, persons with disabilities, Indigenous Peoples, migrants, persons living in poverty and others in vulnerable situations. | As an NHRI, SUHAKAM is not privy to certain qualitative data as most climate issue data is classified under the Official Secrets Act 1972 [*Act 88*]. However, due to the climate-related disclosure initiative by the Malaysian Government to corporate entities, such disclosures provide the raw data for analysis, modelling, and monitoring by the stakeholders. Climate-related reporting frameworks such as the Task Force on Climate-Related Financial Disclosures (TCFD) were established to facilitate more consistent and comparable climate-related disclosure amongst corporations. For instance, Bursa Malaysia (Malaysian Stock Exchange) enhanced its Sustainability Reporting Framework in September 2022, intending to elevate the sustainability practices and disclosures by listed issuers. Amongst others, Main Market-listed issuers must provide TCFD-aligned disclosures by 2025, while ACE Market-listed corporations must provide a basic plan to transition towards a low-carbon economy by 2026.  Ministry of International Trade and Industry (MITI) in 2023 introduced i-ESG to ensure compliance among the SMEs in Malaysia; this includes proper reporting and human rights due diligence.  Unfortunately, all the data before us for the time being do not consider the intersectionality of gender, especially women and minorities, indigenous and persons with disabilities. |
| 3. | Please describe any specific measures, including public policies, legislation, practices, strategies, or institutional arrangements that your Government has undertaken or plans to undertake at a national, sectoral or sub-national level, in compliance with applicable international human rights law, to avert, minimise and address loss and damage, including equity-based approaches and solutions. Please also identify any relevant mechanisms for ensuring accountability, including means of implementation. | The Government is in the midst of developing the National Action Plan on Business and Human Rights (NAPBHR), where one of the thematic issues focused on the development is environmental issues. The National Baseline Assessment (NBA) was completed by a consultant appointed by the United Nations Development Programme (UNDP), and a report was submitted to the Government. The Government is expected to launch the National Action Plan by the end of 2024.  Also, the Government is currently reviewing the draft of Legally Binding Instruments (LBI) on Business and Human Rights, specifically focusing on transnational corporations and other business enterprises under the United Nations Human Rights Council (UN HRC).  There are many reporting frameworks and standards identified in the United Nations (UN) Sustainable Stock Exchange Initiative’s ESG Guidance Database, such as TCFD, Global Reporting Initiative (GRI), Climate Disclosure Standards Board (CDSB), and Sustainability Accounting Standards Board (SASB). While the Government has started to enact legislation such as the Climate Change Bill and formulate climate-friendly policies, this reporting mechanism is uncertain. |
| 4. | Please identify and share examples of promising practices and critical challenges in the promotion, protection, and fulfilment of the full enjoyment of human rights in the context of loss and damage, including examples that highlight multilateral cooperation and approaches, at global and regional levels, including equity-based approaches and solutions. | The NAPBHR comprised of 3 pillars:   1. The State’s duty to protect; 2. The Corporate responsibility to respect; and 3. The access to remedy.   Pillar 3, which emphasises the access to remedy, allows affected individuals/ organisations to fight for their rights in the context of losses and damages, whether judicial or non-judicial.  Pillar 3 stipulates that when a right is violated, victims must have access to effective remedies that are legitimate, accessible, predictable, equitable, transparent, and rights-compatible. |
| 5. | Please provide specific recommendations, if possible, on how to address the critical challenges that have been identified, including actions to be taken at country, regional, and global levels, as well as by different groups of stakeholders, Governments, development agencies, financing institutions, and others. | Various federal ministries and public sector agencies are currently compiling climate-related data. At the same time, the compilation of some data regarding land use and forestry falls within the purview of State Governments. Each data owner has established practices and governance regarding data compilation, methodologies, and publication. This contributed to a lack of uniformity in publication practices, thus creating considerable friction for data users to access quality climate data in a timely manner.  Some climate-related data owned by public and private sector agencies are subjected to sharing restrictions; for instance, a forward-looking national flood risk map is not readily available due to sensitivity issues and potential legal implications.  Ministry of Natural Resources and Environmental Sustainability is formulating the National Adaptation Plan for Malaysia (MyNAP) developed with foreign and local agencies with funding from Global Climate Fund (GCF) under UNFCCC.  The goal of MyNAP is to mainstream formulation, implementation and monitoring of adaptation process into national and sectoral developments under five (5) prioritised areas:   1. Water and Coastal resources 2. Agriculture and Food Security 3. Infrastructure and Cities (Including Energy) 4. Public Health 5. Forestry and Biodiversity   MyNAP is scheduled to commence in 2024 and is expected to be completed by 2026. |
| 6. | Please provide any additional information you believe would be useful to support climate action and justice that promotes the full enjoyment of human rights in the context of loss and damage. | It is suggested that the Malaysian Government explore the inclusion of the Human Rights Impact Assessment (HRIA) in the relevant monitoring/ assessment mechanism. |

**Prepared by:**

**The Government of Malaysia**