



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Malaysia and welcome the constructive engagement of your Government during the 31<sup>st</sup> session of the UPR Working Group in November 2018.

As the final outcome report on the review of Malaysia has been recently adopted by the Human Rights Council at its 40<sup>th</sup> session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Malaysia – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying those areas, I have also considered the statements and/or recommendations made by 111 delegations, the presentation and responses made by the delegation of Malaysia and the actions taken by your Government to implement the 150 recommendations it had accepted during the second cycle of the UPR. The aforementioned areas cover a range of issues and appear in the Annex to this letter.

I am encouraged by the commitment of Malaysia to ratify all remaining core international human rights instruments, as mentioned by the head of delegation during the UPR Working Group, and welcome Malaysia's accession to the Rome Statute of the International Criminal Court on 4 March 2019. I also welcome Malaysia's decision to abolish the death penalty for 11 criminal offences. I am encouraged by Malaysia's decision after having communicated its position on the UPR recommendations to also support the recommendation for Malaysia to issue a standing invitation to all Special Procedures of the Human Rights Council. I welcome the amendment of the Private Employment Agencies Act 2017 to better regulate the recruitment and placement activities of private employment agencies. I furthermore welcome the Malaysia Education Blueprint 2013-2025, which is aligned to the Sustainable Development Goals and the 11<sup>th</sup> Malaysia Plan.

I welcome the launching of Malaysia's National Human Rights Action Plan in March 2018. I encourage Malaysia to strengthen further the national action plan and to effectively implement it in order to ensure the achievement of concrete results in the areas highlighted in the Annex to this letter and to facilitate the preparations for Malaysia's fourth cycle of the UPR. My advice to Member States is to develop and implement national action plans in close consultation and cooperation with all stakeholders, in particular the Human Rights Commission of Malaysia and civil society organizations, and, where necessary, the support of international organizations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

H.E. Mr. Dato' Saifuddin Abdullah  
Minister of Foreign Affairs  
Malaysia

I encourage Malaysia to make further efforts to strengthen its national mechanism for comprehensive reporting and follow-up in relation to recommendations received from all international and regional human rights mechanisms and treaty obligations, and linking this to the Sustainable Development Goals. I strongly recommend the use of the practical guide that my Office released on this topic, which is available at:

[http://www.ohchr.org/Documents/Publications/HR\\_PUB\\_16\\_1\\_NMRF\\_PracticalGuide.pdf](http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf).

Please kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can contribute positively to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage Malaysia to consider submitting a mid-term report on follow-up to the third cycle of the review, by 2021.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist Malaysia in relation to the areas identified in this letter and its Annex.

Please, accept, Excellency, the assurances of my highest consideration.



Michelle Bachelet  
High Commissioner for Human Rights

cc: H.E. Mr. Dato' Seri Remlan Ibrahim  
Secretary-General of the Ministry of Foreign Affairs  
Malaysia



## Annex

### **Scope of international obligations and cooperation with international human rights mechanisms and bodies**

- Accession to the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the International Convention for the Protection of All Persons from Enforced Disappearance, as well as all Optional Protocols to the core international human rights treaties.
- Withdrawal of its reservations to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of Persons with Disabilities.
- Accession to the International Labour Organization Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Abolition of Forced Labour Convention, 1957 (No. 105); Discrimination (Employment and Occupation) Convention, 1958 (No.111); Indigenous and Tribal Peoples Convention, 1989 (No.169); and Domestic Workers Convention, 2011 (No.189).
- Accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.
- Accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
- Ratification of the UNESCO Convention against Discrimination in Education.
- Extension of a standing invitation to the Special Procedures mandate holders.

### **Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **A. Cross-cutting issues**

##### *Equality and non-discrimination*

- Adoption of a comprehensive anti-discrimination law.
- Addressing discrimination against migrants, as well as LGBTI persons.

##### *Development, the environment, and business and human rights*

- Ensuring that indigenous communities are not displaced for infrastructure or large-scale development projects, and that such activities always take place based on free, prior and informed consent of the communities.



## **B. Civil and political rights**

### *Right to life, liberty and security of person*

- Prompt and full abolition of the death penalty.
- Ensuring that the amendments to the Dangerous Drugs Act also benefit those who were sentenced to death before the change in that law.
- Abolition of corporal punishment in schools and in the legal system, including whipping and caning.
- Urgent improvement of conditions in prison and detention centres, including in immigration detention centres.

### *Administration of justice, including impunity, and the rule of law*

- Ensuring the independence of the judiciary.
- Ensuring that persons detained under the Prevention of Crime Act and the Prevention of Terrorism Act have access to legal representation and family.
- Establishment of an independent police complaints and misconduct commission.
- Amendment of the Penal Code to decriminalize consensual same-sex conduct.
- Repealing laws criminalizing transgender persons based on gender expression and gender identity.

### *Fundamental freedoms*

- Fully guaranteeing the right to freedom of religion and belief, including the freedom to have or to adopt a religion or belief of his or her choice.
- Ensuring the right to freedom of expression and opinion, including through repealing the Anti-Fake News Act and the Sedition Act, and reinstating a moratorium pending the repeal, amending the Communications and Multimedia Act, as well as decriminalizing defamation.
- Ensuring a free and independent media.
- Ensuring the protection of human rights defenders, in particular those that fight corruption, advocate for free and fair elections, and promote the rights of LGBTI persons and the rights of indigenous peoples.

### *Prohibition of all forms of slavery*

- Combating trafficking in persons, in particular of women and girls, including through investigations, prosecutions of perpetrators, identification and protection of victims and awareness raising of law enforcement officials.

## **C. Economic, social and cultural rights**

### *Right to work and to just and favourable conditions of work*

- Ensuring the rights of workers, including migrant workers, to organize and to negotiate through collective bargaining.
- Periodically revising the minimum wage, ensuring that it guarantees a decent living.

### *Right to social security*

- Ensuring that domestic workers enjoy the same benefits as other migrant workers, including regarding minimum wages, rest and leave, and social security coverage.

### *Right to an adequate standard of living*

- Addressing poverty in urban areas and ensuring that people living in urban areas have access to adequate food.
- Intensification of efforts to ensure adequate affordable housing for low and middle-income households.

### *Right to health*

- Ensuring universal access to health care and addressing out-of-pocket expenditures for health care services.
- Ensuring that non-citizens do not have to pay a deposit for admission to public hospitals and that they are not charged higher fees compared to Malaysian citizens.
- Ensuring access to sexual and reproductive health services, in particular for girls and women, and adequate sexuality education and information.

### *Right to education*

- Amendment of the Education Act to make lower secondary education compulsory.
- Continuing efforts to ensure school enrolment of children from rural and remote areas.
- Ensuring access to formal education at all levels for all children, including refugee, migrant, and undocumented and stateless children.
- Ensuring that school curricula integrate human rights education and that teaching materials are free of gender stereotypes.
- Prevention and combat of bullying in schools, in particular of Orang Asli children.
- Continuing to improve the literacy rate, in particular for women.

## **D. Rights of specific persons or groups**

### *Women*

- Finalizing the elaboration of and adopting the gender equality bill.



- Amendment of the Criminal Code to prohibit female genital mutilation and to criminalize marital rape.
- Ensuring that Muslim women have equal rights to men in family, marriage, custody, and inheritance matters.
- Introduction of legislative amendments to outlaw polygamy.
- Addressing the pay gap and the low representation of women in decision-making positions.

#### *Children*

- Ensuring that the legal age for marriage is set at 18 years of age, without exceptions, and undertaking efforts to eradicate and prevent child marriage.
- Ensuring that all children in detention are held in separate facilities from adult detainees.
- Combatting child labour, including on plantations, and strengthening the labour inspection system.

#### *Persons with disabilities*

- Intensification of efforts to ensure inclusive education for children with disabilities.
- Ensuring that employment quotas in the civil service for persons with disabilities are met.

#### *Indigenous peoples*

- Ensuring that indigenous communities have access to health information, including in a culturally appropriate manner, and to health-care services that are affordable, adequate and of good quality.
- Speeding up the process of gazetting indigenous land.

#### *Migrants, refugees and asylum seekers*

- Adoption of a legislative and administrative framework for the management, processing, treatment and protection of refugees and asylum seekers.
- Ensuring that all UNHCR cardholders have access to employment, formal education and health services.
- Ensuring that unregistered asylum seekers and migrants are not arrested when seeking medical care in public hospitals.

#### *Stateless persons*

- Ensuring that Malaysian women married to foreigners can transmit their nationality to their children born abroad.
- Urgently stepping up efforts to prevent statelessness of children, including through ensuring universal birth registration.