

MALAYSIA: 8-POINT HUMAN RIGHTS AGENDA FOR THE NEW GOVERNMENT

On 19 November 2022, Malaysia will hold its 15th general elections. Amnesty International is publishing a human rights agenda for election candidates to highlight which issues the organization considers should be top of government leaders' priorities should they be elected.

Amnesty International calls on the new government to make progress in the following eight areas:

1. RESPECT AND PROTECT FREEDOM OF EXPRESSION

The right to freedom of expression remains under threat in Malaysia, while all proposed reforms have stalled in the past few years. Restrictive laws such as the Sedition Act of 1948, the Communication and Multimedia Act 1998 (CMA), the Printing Press and Publications Act 1984 (PPPA), and the Film Censorship Act 2002 continue to be used to intimidate, harass, investigate, detain, prosecute and persecute individuals, leading many to exercise self-censorship that results in a chilling effect on freedom of expression in the country. According to the government, at least 692 people were investigated under the CMA from 2020 to June 2022.¹ Many investigations were against speech critical of the government or touching on issues it deems sensitive, especially race, religion and royalty.

Amnesty International's recommendations:

- Repeal the 1948 Sedition Act and repeal or amend other laws which arbitrarily restrict the right to freedom of expression, including the Communication and Multimedia Act and the Printing Press and Publications Act, to ensure that they are in line with international human rights standards;
- Immediately and unconditionally release those who have been imprisoned solely for the peaceful exercise of their right to freedom of expression; and drop charges under these laws against individuals who are facing trial for the peaceful exercise of their right to freedom of expression.
- Pending the repeal of these laws, ensure that no one else is arrested, investigated, charged or imprisoned under these law for the peaceful exercise of their human rights.

2. ENSURE FREEDOM OF PEACEFUL ASSEMBLY

In 2019, the government amended the Peaceful Assembly Act 2012 (PAA) to relax restrictions on processions, marches and other forms of peaceful demonstrations and also to shorten the notification period required for assemblies from ten to five days. The PAA also does not require a permit for demonstrations. However, despite these legislative reforms, individuals participating in protests continue to face legal action and police investigations under the law.

In August 2022, several [activists were charged](#) under the law for participating in demonstrations against a corruption scandal and inflation, which raised concerns about declining respect for the right to freedom of peaceful assembly. In June 2022, [police blocked lawyers](#) from marching to Parliament to protest against

¹ Government response to a parliamentary question, 2nd meeting of the 14th Parliament, 2022.

interference in the judiciary. As is the case for many other public demonstrations, organisers were later investigated by police.

Amnesty International's recommendations:

- Review or amend the Peaceful Assembly Act, Penal Code, and other laws to allow for peaceful protests without arbitrary restrictions;
- Drop charges under these laws against individuals who are facing trial solely for the exercise of their right to freedom of peaceful assembly.
- Pending repeal of these laws, ensure no one else is arrested, investigated, charged or imprisoned under these laws for exercising their right to peaceful assembly;
- Facilitate the exercise of the right to peaceful assembly for all people in Malaysia, without discrimination.

3. ABOLISH THE DEATH PENALTY

Amnesty International opposes the death penalty unconditionally and for all crimes, and calls for its total abolition. The organisation considers the death penalty a violation of the right to life and the ultimate cruel, inhuman or degrading punishment.

In October 2022, the [government tabled amendments](#) in Parliament to abolish the mandatory death penalty. However, the bills sparked concerns when alternative punishments such as whipping were proposed, which are not in line with international human rights standards. Elections were called before the amendments could be passed.

Amnesty International's recommendations:

- Abolish the death penalty unconditionally and for all crimes; pending this, abolish the mandatory death penalty and abolish the use of the death penalty for any crimes that do not meet the threshold of the "most serious crimes" under international standards;
- Re-table an improved version of the bills to abolish the mandatory death penalty and ensure that alternative punishments adhere to international human rights law;
- Individually review, with the intention to commute, the sentences of the over 1,300 individuals already on death row;
- Maintain the official moratorium on all executions until the death penalty is fully abolished and all death sentences are commuted.

4. PREVENT DEATHS IN CUSTODY, TORTURE AND OTHER ILL-TREATMENT BY STATE SECURITY FORCES

Deaths in custody continue to occur with alarming frequency, with Amnesty International recording at least 20 deaths in police custody from January to November 2022. Despite this, the government has failed to take meaningful action to prevent these deaths. At the end of 2021, the police [established a special unit](#) to investigate deaths in custody, but its work is opaque and no one is known to have been held accountable for an unlawful death.

In July, the government [passed the Independent Police Conduct Commission \(IPCC\) bill](#) in the lower house of Parliament, which is weaker than existing oversight mechanisms. The findings of a 2019 government-established task force to investigate cases of the enforced disappearances of Raymond Koh and Amri Che Mat,

which the National Human Rights Commission, Suhakam, [has linked to the police](#), have not been revealed to the public, fuelling suspicions of a cover-up, and have not resulted in any prosecutions or reforms. The new government must urgently address police brutality and abuse of power within the police.

Amnesty International's recommendations:

- Withdraw the IPCC bill that is currently awaiting approval by the Senate and table a new bill that provides the necessary independence, investigative powers and disciplinary authority needed to hold the police accountable. Pending this, strengthen the Independent Police Conduct Commission to ensure proper oversight of the police;
- Ensure prompt, thorough, transparent and effective investigations by independent and impartial bodies into all complaints and reports of torture and other ill-treatment by police and any other officials; and ensure that those suspected to be responsible are prosecuted in proceedings which meet international standards of fairness;
- Make public the findings of the government task force on enforced disappearances of Raymond Koh and Amri Che Mat, and hold responsible anyone suspected of human rights violations.

5. END ATTACKS ON REFUGEES AND MIGRANTS

Malaysia has continued to violate the principle of non-refoulement by forcibly returning refugees and asylum-seekers to countries where they face serious human rights violations. Refugees and asylum-seekers have been subjected to arbitrary arrest, detained in appalling conditions, caned, extorted, and deported back to the persecution that they fled. During the height of the Covid-19 pandemic, migrants were rounded up into overcrowded detention centres, leading to outbreaks of the virus.

Since 2021, the government has [deported people to Myanmar](#) despite widespread violence in the country following a coup, in violation of the principle of non-refoulement. In immigration detention centres across the country, refugees and migrants are being held in unsanitary, overcrowded facilities with little medical assistance or healthcare, including stateless Rohingya. Since August 2019, the government has denied the United Nations High Commissioner for Refugees (UNHCR) access to immigration detention centres, leading to the indefinite detention of refugees. Reports claim 149 Indonesians [died](#) in 18 months in immigration detention centres in Sabah. Despite the continued failure to protect migrants, refugees and asylum seekers, and a lack of any existing laws to protect refugees in Malaysia, the government recently expressed its desire to shut down the UNHCR office in the country and take over its role. The government's poor track record raises concerns about the further erosion of respect for the rights of refugee communities in the country.

Amnesty International's recommendations:

- End the indefinite detention of undocumented migrants, trafficked persons, asylum seekers and refugees;
- Respect the international legal principle of non-refoulement; and ensure legal pathways including asylum for all people whose safety is at risk
- Allow and facilitate the safe disembarkation of Myanmar refugees on boats and dispatch search and rescue boats to those that are at sea;
- Grant the UNHCR immediate access to temporary and permanent immigration detention centres.

6. PROTECT THE RIGHTS OF LGBTI INDIVIDUALS

Discrimination against LGBTI (lesbian, gay, bisexual, transgender and intersex) people in Malaysia continues in both law and practice. Consensual same-sex relations are criminalised, while members of the transgender

community in particular continue to face serious risks through discriminatory laws and policies, targeted raids on private gatherings, arrests, and ill-treatment by the authorities.

In August 2022, the government [defended](#) its policy of censoring LGBTI content in films and on social media. The policy has resulted in films such as Disney's *Lightyear* and Marvel's *Thor: Love and Thunder* being pulled from local cinemas, while books like popular graphics novel *Heartstopper* were banned in the country. In October, police and religious authorities raided a Halloween party in Kuala Lumpur that featured performers in drag and harassed and detained 20 individuals for alleged indecency.

As new laws in the state of Kelantan are being enacted to further criminalise LGBTI people, with Terengganu [planning to follow suit](#), activists continue to face harassment and intimidation from authorities and the public, with little protection under the law.

Amnesty International's recommendations:

- Abolish laws criminalizing consensual same-sex sexual conduct and laws criminalizing specific gender identities and expressions, including laws against cross-dressing;
- Ensure the authorities do not violate the rights of LGBTI people through arbitrary arrests, detention, violence, ill-treatment, violations of privacy, and discrimination;
- Cease distributing information to the public that denigrates or discriminates against LGBTI people or perpetuates harmful gender stereotypes;
- End the practice of conversion therapy for LGBTI people.

7. RECOGNIZE INDIGENOUS PEOPLES' RIGHTS

Disputes over land rights have resulted in a human rights violations against the Orang Asli and other Indigenous peoples of Malaysia. As a result, confrontations between the government and Indigenous communities have continued to increase. In July 2022, over 200 Orang Asli [attended the Perak legislative assembly](#) to protest logging activities that have resulted in environmental devastation. In Kelantan, despite protests and legal action, 300 Orang Asli villagers were [forcibly relocated](#) from land they claim as ancestral in October 2022 to make way for the Nenggiri dam.

In its 2013 [report](#) that has largely been ignored by the government, Suhakam highlighted the systemic denial of rights to Indigenous peoples in Malaysia, resulting in the community becoming the most marginalised and disadvantaged in the country. It made 18 key recommendations to the government, especially with regards to recognition of customary land rights. The next government must implement these long overdue reforms.

Amnesty International's recommendations:

- Recognise, respect, protect and fulfil the human rights of Indigenous peoples, including the right to territory, as well as other economic, social and cultural rights including their rights to a healthy environment and to peaceful protest without being arbitrarily detained;
- Ensure full implementation of the 18 recommendations adopted by the Taskforce on Indigenous Peoples following the 2013 Suhakam National Inquiry on Indigenous Land Rights, including the recognition of Indigenous Peoples' customary rights to land, and the right to free, prior, and informed consent, in line with international human rights standards.

8. RATIFY INTERNATIONAL HUMAN RIGHTS TREATIES AND STRENGTHEN THE NATIONAL HUMAN RIGHTS INSTITUTION (SUHAKAM)

Malaysia was elected to the UN Human Rights Council for the 2022-2024 term, the third time the country has been on the 47-member intergovernmental body that is responsible for the promotion and protection of human rights around the world.

Despite this, the country has yet to ratify six out of the nine core international human rights treaties. In 2018, the government pledged to move toward ratification of the remaining six treaties; however there has been no tangible progress since then. The lack of transparency in the appointment of new Commissioners to the National Human Rights Institution of Malaysia, Suhakam, also [sparked concern](#). The institution was only recently re-accredited A status early in 2022, signifying its compliance with the Paris Principles on International Human Rights Institutions, but this may now be at risk.

Amnesty International's recommendations:

- Ratify core human rights treaties, including the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of all Forms of Racial Discrimination and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Ratify the UN Convention Related to the Status of Refugees and the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- Withdraw reservations to the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the Convention on the Elimination of Discrimination against Women which unduly limit the application of the treaties;
- Strengthen and ensure the independence of the National Human Rights Commission (Suhakam) so that it can effectively perform its functions and maintain its A grade status in line with the Paris Principles.