

## 2b: Human Rights

### Preamble

---

Respect for human rights and the Rule of Law is regarded as the core objective in this policy area. The proposals in this section relate to concerns such as deaths in custody, torture, the death penalty and oppressive laws—all symptoms of human rights abuses within a broader institutional framework that fails to recognise the inherent dignity and the equal and inalienable rights of the People. Reforming the prison system, drug policies and legal aid, as delineated below, are some structural attempts towards creating a more just society. To safeguard human rights, and to establish accountability of government leaders wielding public power, Malaysia must function within a system of certain and foreseeable law, where everyone is treated by all decision-makers with dignity, equality and rationality in accordance with human rights standards and principles, and to have the opportunity to challenge decisions before independent and impartial courts through fair procedures.

### I: Legal Aid

---

The current legal aid system is limited and must be reformed to create a fairer and more just system for all.

#### **1. Expand the capacity of the Legal Aid Bureau to represent all aspects of social and natural justice.**

The current legal aid system is limited in scope and beneficiaries. Many working-class people cannot afford lawyers. The system must be reformed to achieve social and natural justice for all. Genuine, qualified professional lawyers must be employed and deployed for the Legal Aid Bureau.

(Uli Jon Rock, Proposal 2B-1)

## II: Custodial Torture & Deaths, Police Shooting Deaths

---

The current Section 30(3)(a) of Malaysian Anti-Corruption Commission Act 2009 is an example of the current legislation providing a window for potential abuse, as it allows for interrogations to last “from day to day”. This is mental torture and in violation of human rights, as in the case of the late Teoh Beng Hock, a political aide who died under mysterious circumstances at the Selangor Malaysian Anti-Corruption Commission (MACC) headquarters after such an interrogation. The unending cases of custodial deaths, regardless of the victims’ nationality, are a violation of the right to life (Article 5 of the Federal Constitution). From 2013 till April 2016, a reported 721 individuals had died in police custody. Failure to provide the necessary medical attention to detainees is also a concern that must be addressed.

### **2. Censure and punish all police personnel found guilty of directly or indirectly causing the death of a detainee.**

The Attorney General must also act upon any findings and recommendations from relevant bodies.

(Kenneth Cheng, SUARAM, Proposal 2B-2)

### **3. Enact an anti-torture law to penalise enforcement officers who physically or mentally torture detainees.**

(Ng Yap Hwa, Teoh Beng Hock Trust for Democracy, Proposal 2B-3)

### **4. Set up an Independent Police Complaints and Misconduct Commission (IPCMC).**

(Ng Yap Hwa, Teoh Beng Hock Trust for Democracy Proposal 2B-4; Kenneth Cheng, SUARAM, Proposal 2B-2; Rule of Law (ROL) Cluster, CSO Platform for Reform & The Tamil Foundation/EWRF, Proposal 2B-5)

### **5. Ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).**

(Ng Yap Hwa, Teoh Beng Hock Trust for Democracy, Proposal 2B-6)

## **6. Reform the Lockup Rules Act 1953 to ensure detainees' right to health.**

This includes access to medical treatment and medicine, and the presence of medical personnel in all lock-ups and places of detention.

(Ng Yap Hwa, Teoh Beng Hock Trust for Democracy, Proposal 2B-7; Kenneth Cheng, SUARAM, Proposal 2B-2)

## **7. Introduce a Coroners' Court Act to strengthen the role of coroners.**

(Kenneth Cheng, SUARAM, Proposal 2B-2)

## **8. Amend the Malaysia Anti-Corruption Commission Act to limit the period of interrogation.**

(Ng Yap Hwa, Teoh Beng Hock Trust for Democracy, Proposal 2B-8)

## **III: Human-rights-compliant Development Planning**

---

Development planning, especially involving megaprojects, should take into account the rights and interests of affected communities, such as the indigenous peoples, urban settlers, farmers and fisherfolk. There should not be any evictions, and enforcement officers involved in development planning must respect, protect and fulfil human rights in their approach. Public, private and government-linked corporations must adhere to human rights standards.

## **9. Enforcement agencies and officers involved in development planning must go through human rights training.**

(Ng Yap Hwa, Teoh Beng Hock Trust for Democracy, Proposal 2B-9)

## **10. Alongside the environmental impact assessment, to include a human rights impact assessment in all development planning projects.**

(Ng Yap Hwa, Teoh Beng Hock Trust for Democracy, Proposal 2B-10)

## **IV: Transitional Justice**

---

The government must be accountable and committed to address human rights violations of the people by providing redress to all victims who have suffered the

repercussions of arrests under the now defunct Internal Security Act, emergency laws, May 13 incidents, Sedition Act 1948, including death in custody victims.

### **11. Enact a transitional justice law as an apology from the government to all victims of human rights violations.**

The law will also provide compensation for victims and survivors of human rights violations committed by the government.

(Ng Yap Hwa, Teoh Beng Hock Trust for Democracy, Proposal 2B-11)

### **12. Establish a human rights museum.**

This is to remember the sacrifices made by those who were involved in and had contributed to the struggle for human rights in Malaysia.

(Ng Yap Hwa, Teoh Beng Hock Trust for Democracy, Proposal 2B-11)

## **V: Accountable, Just & Transparent Government**

---

There is deep-seated racism intersecting with human rights issues of indigenous land-ownership, deaths in custody, and abuse of refugees and migrants; there is hatred and violence against the LGBTIQ+ community; and the latest challenge is the pandemic, which has intensified economic inequality in the country and fuelled the divisiveness.

### **13. Elected representatives who profess the Christian faith must promote the core values of love, mercy and grace, especially as espoused in scripture.**

They should be accountable not only as tax-paying citizens but also as fellow brethren.

(Progressive Malaysian Christians, Proposal 2B-12)

## **VI: Death Penalty**

---

The death penalty was introduced to Malaya by the British colonialists as the punishment for murder and later made a discretionary penalty for drug trafficking. Under the Tun Dr. Mahathir Mohamad administration, the Malaysian

government launched an offensive against drug abuse and imposed a mandatory death sentence for drug trafficking in 1983. The reformist government that was elected to power in 2018 amended the Dangerous Drugs Act (1952) to allow judicial discretion for life imprisonment and whipping instead of the death penalty. The government also placed a moratorium on the death penalty towards fully abolishing it. Currently, 33 offences carry this punishment, including 12 for which it is the mandatory sentence.

**14. Immediately repeal current laws with a mandatory death penalty by hanging.**

**15. Abolish the death penalty in its entirety in the long term.**

(ROL Cluster (Amnesty International Malaysia), CSO Platform for Reform, Proposal 2B-13)

## VII: Oppressive laws

---

Laws that permit arbitrary detention and the abject denial of the right to fair trial have no place in a society. These include the Security Offences (Special Measures) Act 2012 (SOSMA), the Prevention of Crime Act 1959 (POCA), the Prevention of Terrorism Act 2015 (POTA), and the Dangerous Drugs (Special Preventive Measures) Act 1985.

**16. Repeal all detention-without-trial laws.**

**17. Enact alternative security laws or measures that comply with international human rights standards.**

(ROL Cluster (SUARAM), CSO Platform for Reform, Proposal 2B-14)

## VIII: National Drug Policy Reform

---

As of December 2021, there were 52,078 inmates in the 39 prisons, an overcapacity of 18.4%, according to the Prisons Department. When drug users are jailed, they lose access to employment and education. When their addiction is not fully addressed, which is difficult to do during their short prison sentences,

there is a much higher chance of recidivism, further offences and being jailed again.

**18. Set up a multi-sectoral task force to review related laws and policies such as the Drug Dependants (Treatment & Rehabilitation) Act 1983.**

The task force must include health and legal professionals, academia, the relevant agencies and NGOs.

**19. Distinguish the harms caused by different types of illicit drugs, and between drug use and trafficking.**

**20. Approach drug use as a health and social issue, and improve access to treatment, counselling, social and welfare support.**

**21. Remove punitive drug policies that pose a barrier for evidence-based drug policy.**

(ROL Cluster (Malaysian CARE), CSO Platform for Reform, Proposal 2B-15)

## **IX: Prison Policy Reform**

---

Almost 63% of inmates are in prison for drug offences, according to the Prisons Department in December 2021. The approach to drug users must be focused on rehabilitation. This would reduce the problem of overcrowding in prisons and, in turn, improve the living condition of the prisoners.

**22. Introduce alternatives to imprisonment for drug offences.**

For example, suspended sentences, home detention for remand with electronic monitoring tools, probation, restorative justice.

**23. Implement pre- and post-release programmes for each prison.**

This includes more government halfway homes and subsidised private and faith-based halfway homes.

**24. Ensure adequate mental health programmes for staff and inmates.**

This includes screening, counselling and peer-support groups.

**25. Provide equal access for prisoners living with HIV to classes, programmes, jobs, parole, and ensure there are no access gaps in medication or treatment.**

**26. Make available access to low-risk civil service jobs for former inmates.**

**27. Remove the ban on National Higher Education Fund Corporation loans for former inmates.**

**28. Ensure all prisoners who are Malaysian citizens have their MyKad upon release.**

**29. Upgrade the prison facilities.**

As of 2020, 14 out of 39 facilities were over 50 years old, according to the Prisons Department. Several of these prisons are still using the bucket system today, including those in Muar, Taiping and Penang. According to prison officials, nothing can be done to upgrade the bucket system in these “heritage” and old prisons unless they move to a new building.

(ROL Cluster (Malaysian CARE), CSO Platform for Reform, Proposal 2B-16)

## **X. Freedom of Assembly**

---

The Peaceful Assembly Act 2012 impedes the exercise of fundamental freedoms that are guaranteed in the Federal Constitution and protected by international human rights law. The law imposes overly burdensome requirements on assembly organisers that make effective freedom of assembly nearly impossible.

**30. Amend the Peaceful Assembly Act 2012 to only impose reasonable restrictions consistent with the international human rights standard governing assemblies.**

- i. Ensure restrictions are legal, reasonable, proportionate and necessary or expedient relating to such democratic rights in the interest of the security of the Federation or any part thereof or public order/health, including the protection of the rights and freedoms of other persons.

- ii. Decriminalise children and non-citizens who participate in peaceful assembly.
- iii. Shorten the notification period to submit prior notice to authorities regarding the organisation of any peaceful assembly.
- iv. Introduce and legally recognise the concept of spontaneous assembly.

(Firdaus Husni, Malaysian Centre for Constitutionalism and Human Rights (MCCHR), Proposal 2B-17)