

Malaysian Charter On Human Rights

By Malaysian Non-Governmental Organisations

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MALAYSIAN CHARTER ON HUMAN RIGHTS

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Background

On 10 December 1992, some of the Non-Governmental Organisations (NGOS) that attended the book launch of 'Agi Idup Agi Ngelaban', a book on the struggle of the Indigenous Peoples of Sarawak for their land rights, decided to initiate a Malaysian human rights consultation.

An organising committee comprised of five persons from different Malaysian NGOs was formed and given the task of working towards the consultation, which was ultimately held on 17-18 April 1993 at the APDC Building, Jalan Duta, Kuala Lumpur.

The first task undertaken by this committee was the preparation of a Human Rights Questionnaire which was then sent to a large number of Malaysian NGOS.

Working on the feedback to the questionnaire, a draft charter was formulated. This was used as the starting point for the discussion at the Consultation. After much discussion and debate, the Malaysian Charter on Human Rights was finalised.

80 persons representing 50 Malaysian NGOS, which included human rights organisations, trade unions, consumer associations, womens' groups, environmental organisations, academic bodies, organisations representing people with disabilities and many other groups participated in the consultation.

After the consultation, the Malaysian Charter on Human Rights was sent to Malaysian NGOs for their written endorsement of the Charter. At the time of printing, 50 Malaysian NGOs have endorsed this Charter. The Charter marks the emergence of a consensus amongst a substantial number of diverse Malaysian NGOs on key human rights principles and standards.

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PREAMBLE

1. Acknowledging the impact of changing geopolitical realities in the present global order on a multi-cultural country like Malaysia and recognising the diversity of situations, experiences and perceptions in our context, we believe that there is a common basis for the protection of human rights.
2. Human rights are the foundation of the holistic well-being of all humans in all spiritual, moral, mental, physical and social aspects. With these rights come the responsibility to protect and respect the well-being of other individuals and communities in society, as well as to ensure a harmonious relationship between humankind and the natural environment.
3. In a developing country like Malaysia, recognition and respect of the right to political, social, cultural and economic self-determination of all peoples are fundamental to the protection of our dignity and equality; and to justice, peace and freedom in our country.
4. The promotion of human rights is indivisible to the pursuit of a holistic and just development. We believe that all forms of expression and choices about the processes of economic development in this country must be respected.
5. We note that the Malaysian government has not ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. In addition, other United Nations Conventions such as the Convention Against Torture, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, and the United Nations Convention on the Rights of the Child, have not been ratified as well. We strongly believe that the ratification, and effective implementation, of these standards is vital to the promotion of human rights in Malaysia, and urge the Government to do so immediately.

Article 1 - Universality

1. Human rights are universal. Universal human rights standards are rooted in our many and rich cultures. Human rights are universal in value and are of universal concern.
2. Human rights afford protection to all of humanity, including special groups such as children, minorities and indigenous peoples, workers, refugees and displaced persons, people with disabilities and the elderly.
3. Whilst we recognise and advocate cultural pluralism, those cultural practices which derogate from universally accepted human rights must not be tolerated.

Article 2 - Indivisibility

1. Human rights, be they economic, social, cultural, civil and political rights, are indivisible and interdependent. The protection of economic, social and cultural rights requires full respect by governments for the exercise by peoples of their civil and political rights.
2. Poverty denies people much of their basic economic and social rights. However, the poor must never be denied their right to speak, to organize, and to exercise their right to participate in decision-making in the development process on the grounds that they must first be fed, housed and educated.
3. We affirm that one set of rights can never be used to bargain for another set of rights.

Article 3 - Women's Rights as Human Rights

1. Women's rights are human rights. Women's rights must be addressed in both the public and private spheres of society, in particular the family.
2. The patriarchal system is manifest in all institutions, attitudes, social norms and values in our society. It takes many forms and cuts across class, culture, caste and ethnicity. It must be eradicated.
3. All forms of discrimination against women are to be eliminated.
4. Violence against women is one of the main instruments by which patriarchy perpetuates itself, and thereby the subjugation, oppression and exploitation of women. Violence against women is a violation of women's basic human rights and must be eradicated if there is to be social justice and equity.
Violations of women's human rights are not simply individual acts of violence. Within all areas of human rights - whether civil, political, economic or social - human rights violations against women take specific forms. Entrenched structures and practices such as caste, customary law, the family, and religion continue to discriminate against women. Economic and social institutions which are exploitative oppress women, and legal institutions which claim to dispense equal justice are in fact gender biased.
5. To provide women a life with dignity and self-determination, women must be guaranteed inalienable equal economic, social, political and religious rights.

Article 4 - Development

1. The right to holistic development is a basic human right. In order to attain socially equitable and environmentally sustainable development, there must be respect for civil and political rights as well as social, cultural and economic self-determination of all people. People's participation in the development process is essential to ensure that development is socially just and culturally appropriate.
2. Human development is dependent on resources provided by our natural environment. The protection and the sustainable use of these resources is integral to the well-being and

survival of all peoples, in particular those communities that live in close harmony with their environment, and for future generations.

3. Our models of economic development need to be recast in recognition of the fragility of the present ecological crisis and the growing inequities of the present economic systems. Alternative development frameworks need to be constructed using culturally and socially appropriate models, drawing from, in particular, the experiences of the indigenous communities of our country.

Article 5 - Democracy

1. True democracy cannot be separated from holistic development. Each is essential for the attainment of the other.

2. Democracy is more than the ritual casting of a ballot once every few' years. True democracy involves ongoing participation by the people at all levels so that the people can determine their political status and freely pursue their economic, social, cultural and spiritual development.

3. Participatory democracy must permeate all levels of human living the home, the workplace, the local community and the nation.

Article 6 - Development and the world order

1. The present world order allows the arbitrary control and domination of development by the powerful in the North, abetted by elites in the South. This gross injustice perpetrates vast social and economic disparities both globally and nationally and denies individuals and communities the right to social, cultural and economic self-determination.

2. The development process at the international level must also be guided by the same principles of participatory democracy, equity and justice.

3. The United Nations must be democratised through the abolition of the veto and permanent membership of the Security Council, and an enhancement of the powers of the General Assembly.

4. The external debt of the chronically poor nations of the South aggravates poverty and thus violates the human rights of their peoples. These debts should be written off. Other debtor nations of the South should be allowed to reschedule their debts and not be further burdened by structural adjustment policies.

5. The present policies of the Group of Seven and North-dominated institutions such as the International Monetary Fund, the World Bank, and the General Agreement on Tariffs and Trade inflict gross human rights violations on the poor of the South. This must be stopped.

6. Every person and community has the right to have direct access to international institutions to seek redress.

Article 7 - Environment

1. Everyone is entitled to live in a clean, healthy, safe, and sustainable environment free from agricultural and industrial pollution.
2. All peoples and nations have a right to participate in decisions regarding local, regional, and global environmental issues such as nuclear arsenals, storage, transportation, and dumping of toxic wastes, pollution, and location of hazardous industries.

Article 8 - Equality and Non-Discrimination

1. All persons are born free and equal in dignity and rights.
2. There shall be no discrimination in the rights and privileges of persons based on their ethnic origin, class, social status, age, sex, mental and physical being, language, religious belief, sexual identity or political conviction.
3. There shall be a more just distribution of wealth, power and opportunities without distinctions based on ethnic origin, age, sex, mental and physical being, language, religious belief, sexual identity or political conviction., The government and private sector should formulate and implement policies to achieve this end.

Article 9 - Equal access to basic needs

1. All persons. are entitled, irrespective of ethnic origin, age, sex, mental and physical being, language, religious belief, sexual identity or political conviction to sufficient food, clothing, shelter, education, energy, water, medical care, social services, information, public amenities and a clean and safe environment to maintain a standard of living adequate for the dignity, health and well-being of the person, the family and the community.
2. Everyone has the right to live and die with dignity and to social protection against unemployment, sickness, disability, old age, death or abandonment in circumstances beyond the person's control.

Article 10 - Employment

1. Everyone has the right to full employment with fair working conditions, a safe working environment and with a humane and democratic management.
2. All workers must receive equal pay for the same job done irrespective of gender and ethnicity.
3. All workers must receive a fair and just wage that allows the person and family to maintain an adequate standard of living.
4. All workers are entitled to job security, the right to organize and join a union of the person's choice, and exercise the right to take all forms of industrial action in a peaceful manner.

Article 11 - Education, language and culture

1. Everyone has the right to free primary and secondary education which shall be compulsory. The state shall provide the social, economic and legal mechanisms to ensure the above right. Higher education which includes technical and vocational education should be made available within the resources of the country to all, irrespective of gender, ethnicity and socioeconomic background.
2. All persons have the right to choose and practise their own religion, beliefs and traditions.
3. All persons have the right to use and learn their own languages and maintain their cultural traditions and identity.
4. National minorities have the right to carry on their own educational activities, including the maintenance of schools and higher educational institutions and the use and teaching of their own language; provided that this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities in order to attain national unity and integration.

Article 12 - Rights to person security

1. Everyone has the right to live in peace and be free from fear of arbitrary arrest and detention without fair and public trial.
2. No person shall be tortured or subjected to cruel or degrading treatment or punishment by individuals, police, military or any other state agency.
3. Everyone has the right to legal counsel forthwith upon arrest, to be presumed innocent until proven guilty, to be equally protected by the law and to be given a fair and public trial.
4. Everyone has the right to freedom from persecution and to obtain asylum in other countries.
5. Everyone shall have the right to move freely in and out of the country.

Article 13 - Freedom of association and assembly

1. Everyone is entitled to organize or participate in meetings, forums, gatherings, discussions, and other peaceful activities without having to obtain the prior permission of any state body.
2. Everyone has the right to join or form any Organisation including political organisations of their choice and conduct peaceful activities.

Article 14 - Freedom of expression and access to Information

1. Everyone has the right to freedom of opinions and responsible exercise of the freedom of expression without interference and persecution.
2. Everyone is entitled to seek, receive and impart information and ideas through an independent and responsible mass media free of political censorship and monopoly.
3. The media of mass communications shall not be subject to licensing at the discretion of government.
4. Mass communication media owned by the state must be governed and run by an autonomous impartial board made up representatives appointed by the state, the non-governmental sector and opposition political parties.

Article 15 - Children

1. Every child is entitled to
 - a) adequate food, clothing, shelter and medical care for healthy physical growth.
 - b) a stable environment to encourage healthy mental and emotional growth.
 - c) proper supervision and education in basic moral values and social ethics.
 - d) live in a clean, healthy, and peaceful environment.
2. Children should not be deprived of a childhood which has adequate education, recreation, and social interaction with other children.
3. Children shall not be forced into child labour, prostitution and other forms of abuses.
4. All governments shall ratify and implement the rights of children to survival, protection and development and participation as embodied in the Convention on the Rights of Children.

Article 16 - Indigenous peoples

1. Indigenous peoples are entitled to self-determination. By this is meant their natural and inalienable rights to retain and control the land and all resources found on their traditional territories, and the right to choose their own way of life.
2. They have the right to practise and develop their culture and indigenous religion and to maintain their cultural identity. They shall also be provided with ample opportunity for material progress.

Article 17 - People with disabilities

1. People with disabilities shall be recognized as members of society and have the right to adequate care in their daily lives.

2. They shall have the right to equal opportunity in education and employment and to be given adequate access to all basic public and social amenities.
3. They shall have the right to participate in the planning of the services for people with disabilities.

Article 18 - Refugees and Foreign Workers

1. All refugees should have access to the United Nations High Commissioner for Refugees, other possible form of assistance and to recognition as refugees. They should not be forcibly returned to their home country especially at the risk of persecution.
2. Foreign workers should have access to all basic amenities, fair working conditions, a just and equal wage, a safe working environment, and also a channel to redress discrimination and exploitation.

Article 19 - Human Rights Education and Training

1. Human rights education and training empower people to prevent human rights violations and nurture respect for the human rights of others.
2. Human rights education and training are central to the promotion and protection of human rights.
3. Comprehensive human rights education and training programmes both in and out of school shall be developed by the government and non-government sector.

Article 20 - National emergencies, derogations and judicial independence

1. No government shall declare a state of emergency except when a real danger exists to the very existence and life of the nation; and all declarations of state of emergency shall be abrogated immediately when the need for their perpetration no longer exists.
2. Even under a validly declared emergency, governments shall not deny nor violate the following rights and freedoms: right to life, right to recognition of personal dignity and legal personality, freedom of conscience and of religion, freedom from torture, retroactive penal measures, and cruel punishment, the right to leave from and return to one's own country, the right to habeas corpus, the right of access to civil courts and to fair, public and speedy trial.
3. The protection of human rights requires an independent and socially responsible judiciary.
4. We call for the establishment of international, regional, and national mechanisms for the promotion and protection of human rights with guarantees of independence, impartiality and accessibility.

WE CALL FOR:

- The repeal of the Internal Security Act (ISA) and other laws providing for detention without trial, the Official Secrets Act, the Printing Presses and Publications Act and the amending of all our national laws to bring them in line with the human rights standards stated in this declaration.
- The government to ratify immediately the International Covenant on Civil and Political Rights ; the International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of all forms of Discrimination Against Women; Convention Against Torture and the United Nations Convention on the Rights of the Child.

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Malaysian NGOs that have endorsed the Malaysian charter on Human Rights are as follows:-

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| 1. Alaigal | 27. National Union of Malaysian Muslim Students (PKPIM) |
| 2. Aliran Kesedaran Negara (ALIRAN) | 28. Pahang Association of Consumers (PAC) |
| 3. All Malaysian Estate Staff Union (AMESU) | 29. Parti Melayu Semangat 46 Malaysia |
| 4. All Women's Action Society (AWAM) | 30. Parti Rakyat Malaysia [Selangor/Kuala Lumpur Division] (PRM) |
| 5. Amnesty Malaysia | 31. Partners of Community Organisations, Sabah (PACOS) |
| 6. Centre for Community Studies (Pusat Kajian Masyarakat) | 32. Penang Organic Farm Club |
| 7. Congress of Unions of Employees in the Public and Civil Services (CUEPACS) | 33. People Service Organisation (PSO) |
| 8. Consumer Association of Sabah (CASH) | 34. Persatuan Sahabat Wanita Selangor [Friends of Women] (PSW) |
| 9. Center for Orang Asli Concerns (COAC) | 35. Sabah NGOs Development Network (SNC) |
| 10. Consumer Association of Taiping (CAT) | 36. Sabah Women Action Resource Group (SAWO) |
| 11. Democratic Action Party (DAP) Malaysia | 37. Selangor Chinese Assembly Hall (Youth Section) |
| 12. Dignity and Services | 38. Selangor Graduates Society (SGS) |
| 13. Environmental Protection Society of Malaysia (EPSM) | 39. Sisters of Islam |
| 14. ERA Consumer | 40. Society for Christian Reflections (SCR) |
| 15. Federation of Malaysian Consumer Association (FOMCA) | 41. Suara Rakyat Malaysia (SUARAM) |
| 16. Federation of Textile-Garment Workers Union | 42. Tholilaliyin Tholar (Sahabat Pekerja/Friends of Workers) |
| 17. Harris Solid-State (M) Sdn. Bhd. Workers Union | 43. Tenaganita |
| 18. Institute for Community Education, Sarawak (IPK) | 44. Transport Workers Union (TWU) |
| 19. Electrical Industries Workers Union (EIWU) | 45. United Chinese School Committees' Association of Malaysia |
| 20. Malaysian Trade Union Congress (MTUC) | 46. United Chinese School Teachers' Association of Malaysia |
| 21. Metal Industry Employees Union (MIEU) | 47. Women's Development Collective (WDC) |
| 22. Muslim Youth Movement of Malaysia (ABIM) | 48. Workers Organisation Malaysia (WOM) |
| 23. National Civil Rights Committee | |
| 24. National Human Rights Society of Malaysia (Persatuan HAKAM) | |
| 25. National Union of Bank Employees (NUBE) | |
| 26. National Union of Employees in Companies Manufacturing Rubber Products (NUECMRP) | |