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including the right to development**

Report of the Special Rapporteur on extreme poverty and human rights on his visit to Malaysia


Comments by the State*

* The present document is being issued without formal editing.

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I. Introduction

Paragraph 1

The Special Rapporteur on extreme poverty and human rights, Philip Alston, visited Malaysia from 13 to 23 August 2019. The purpose of the visit was to report to the Council on the extent to which the Government's policies and programmes relating to extreme poverty are consistent with its human rights obligations and to offer constructive recommendations to the Government and other stakeholders. The Special Rapporteur is grateful to the Government for inviting him, facilitating his visit, and its continuing engagement. This report is submitted in accordance with Human Rights Council resolution 35/19.

Comments from the Government of Malaysia:

- The visit which took place from 13-23 August 2019 (11 days), covers various Ministries/Agencies as well as different states and NGOs, civil society. The number of days is very limited to cover the requests from SR to meet all stakeholders including Prime Minister, Ministers and Government officials. In addition, the areas to be covered include Kuala Lumpur, Selangor, Kelantan, Sabah and Sarawak are geographically distant.
- The SR and his team only provided the softcopy of the draft media statement and End of Mission Report on the morning of 23 August 2019 within hours before the debriefing meeting. It caused the officials had no time to review the documents. Feedbacks were given to the SR and team, however, the comments were not incorporated in the advanced unedited version of the report dated 27 January 2020.

Paragraph 2

In the course of 11 days, the Special Rapporteur visited Kuala Lumpur, Selangor, Sarawak, Sabah, and Kelantan, and met with state and federal government officials, international agencies, civil society, indigenous communities, academics, and people affected by poverty in urban and rural areas. He visited a soup kitchen, a women's shelter, informal schools, and a disability center, and met with families living in overcrowded low-cost housing, people with disabilities, indigenous communities, migrants, refugees, and stateless people. The Special Rapporteur would like to express deep gratitude to the organizations, communities, and families who met with him.

Comments from the Government of Malaysia:

- Efforts have been undertaken to provide low-cost housing to the targeted group in rural and urban areas. As of 2018, a total of 1.2 million low-cost houses has been constructed. In addition, to provide a conducive living environment for the poor and low-income group, for the period of 2010-2019, a total of 114,000 houses have been repaired under Bantuan Rumah Program.
- Based on National Housing Standard for Low-Cost Housing (CIS 1: 1998), the floor area for low-cost housing has been fixed at 650 square feet (kps) with 3 bedrooms. Subsequently, the floor area of low-cost housing was raised to 700 kps during the Ninth Malaysia Plan to provide comfort to the residents. In addition, the Government has introduced the National Housing Standard (CIS 26: 2019) that emphasise on the standards to be followed for the planning of housing areas particularly the low-cost housing to create an effective, comfortable and secure site layout for the well-being of its residents.

Paragraph 3

Malaysia has achieved extraordinary economic growth over many years and has made great strides in reducing poverty. It will soon be ranked as a high-income country. But its official method of measuring poverty produces a national poverty rate of just 0.4 percent, **the lowest in the world**, suggesting that less than 25,000 households are in poverty. At the end of his mission, the Special Rapporteur observed that this would make Malaysia the unrivaled world champion in conquering poverty. But he also noted that the claim reflected a statistical sleight of hand which has had extremely harmful consequences. The Malaysian Government now

appears to have recognized this and is preparing to act on the basis of the various rigorous independent analyses showing that poverty is very far from having been eliminated.

Comments from the Government of Malaysia:

- Malaysia stands by absolute poverty rate, which currently recorded at 0.4% of total households in 2016 or 24,700 households. This poverty rate is derived from internationally-accepted standards based on the Canberra Group Handbook on Household Income Statistics, Second Edition (2011), which is published by the United Nations. As such, the assertion made by Professor Alston that there is “a statistical sleight of hand that has nefarious consequences” is wholly unacceptable and irresponsible.
- While the Government appreciates the effort by the Special Rapporteur in raising awareness on issues of poverty, certain comments are baseless and uncalled for. For instance, the assertion that a “sizable part of Malaysia’s population struggles to get by with tenuous access to food, shelter, education and healthcare...”, is both misconceived and erroneous clearly lacking empirical evidence and rigorous scientific procedures. With regards to the assertion that Malaysians have “...limited ability to exercise civil and political rights”, this is rebutted by the universal participation of 82.3% of Malaysians in the last General Election which saw for the first time a peaceful change in Federal Administration since Independence.
- The Midterm Review of Eleventh Malaysia Plan, which was tabled in Parliament in October 2018, stated that the measurement of poverty to be revised in tandem of the cost of living. Therefore, the work on PLI revision has started earlier during the Plan. As the Special Rapporteur’s visit was in August 2019, during the bilateral meeting with the Special Rapporteur and Government agencies, the SR and his team had been informed that the need of PLI revision was published in the document. The Ministry of Economic Affairs (MEA) in collaboration with other relevant Ministries/Government Agencies have been working on the revision since March 2019.
- Further, the Prime Minister in the Parliament in October 2019 stated that the Government has been working on revising new PLI and to implement Multidimensional Poverty Index (MPI) as poverty measurements from multi dimensions. Therefore, all policies, strategies and initiatives had been in place even before the visit of Special Rapporteur. While the visit of SR had sparked interests on poverty issues, however, the claim that the Government had only act on poverty reviews only following the SR visit is incorrect.
- On humanitarian grounds, the Government has always been collaborating with the United Nations High Commission for Refugees and its partners in providing access to basic needs as well as provision of skills, education, livelihood and healthcare to enable the refugees to take care of themselves in Malaysia.

Paragraph 4

Malaysia’s current poverty line is extremely low at just RM980 (US\$241) per month for a family of four. This is irreconcilable with the cost of living and would see an urban household surviving on RM 8, or less than US\$2 per person per day—a tragically low line for a country on the cusp of attaining high income status. Yet during the course of the visit, officials consistently claimed that poverty had been virtually eliminated, with only “pockets” remaining.

Comments from the Government of Malaysia:

- The Poverty Line Income (PLI) used to derive this poverty incidence is currently set at RM980 at national level and calculated based on the basic requirements for a household to live healthily and actively, which is more than the PLI targeted in the Sustainable Development Goal 1 at USD1.25 per day. This PLI is also higher for Sabah at RM1,180 and Sarawak RM1,020 to take into account additional costs, such as transportation. However at implementation level, especially when disbursing assistance, a household’s PLI takes into account its location, household size and other demographic factors. This may result in a higher household PLI than the national PLI. Hence, assistance is tailor-made according to the needs of the recipients, based on the profiling through the eKasih system which is an innovative initiative by the Government to identify the right target groups.

- As per recorded in the eKasih database, as of 29th February 2020, the number of poor HOH is 137,852 and the number of extreme poor HOH is 44,855, making a total of 182,707 HOH. As a comparison, the numbers of Head of Household (HOH) recorded in eKasih has shown a decreasing trend as follows:

Years	Extreme Poor	Poor
2015	79,607	142,958
2016	75,480	142,135
2017	59,924	140,842
2018	44,666	142,099
2019	43,055	135,172

- Therefore, Malaysia categorically disagree the statement “officials consistently claimed that poverty had been virtually eliminate with only pockets remaining”.

Paragraph 5

The use of a very low and entirely unrealistic poverty line obscures the more troubling reality that millions of people, in both urban and rural areas across the country, scrape by on very low incomes with tenuous access to food, shelter, education, and healthcare, and limited ability to exercise civil and political rights.

Comments from the Government of Malaysia:

- The Poverty Line Income (PLI) used to derive this poverty incidence is currently set at RM980 at national level and calculated based on the basic requirements for a household to live healthily and actively, which is more than the PLI targeted in the Sustainable Development Goal 1 at USD1.25 per day. This PLI is also higher for Sabah at RM1,180 and Sarawak RM1,020 to take into account additional costs, such as transportation. However at implementation level, especially when disbursing assistance, a household’s PLI takes into account its location, household size and other demographic factors. This may result in a higher household PLI than the national PLI. Hence, assistance is tailor-made according to the needs of the recipients, based on the profiling through the eKasih system which is an innovative initiative by the Government to identify the right target groups.
- With regards to the assertion that Malaysians have “...limited ability to exercise civil and political rights”, this is rebutted by the universal participation of 82.3% of Malaysians in the last General Election which saw for the first time a peaceful change in Federal Administration since Independence.

Paragraph 6

Denying the scale of poverty has exacerbated the problem by justifying significant underinvestment in poverty reduction, stymying research and analysis into the drivers of poverty, encouraging a widespread misunderstanding of who is poor, and allowing a fragmented, poorly targeted, and inadequately funded social protection system to limp haplessly along. NGOs have stepped in to fill the gap and provide much needed services to low-income people, yet these admirable efforts are no substitute for official policies and action. It is, however, promising that since the visit, economists, political leaders, academics, the national human rights commission (SUHAKAM), and the Malaysian Trades Union Congress, have all voiced support for the adoption of a new poverty measure.

Comments from the Government of Malaysia:

- The Government is committed to address the remaining pockets of poverty and deprivation across regions and communities. The Government is not oblivious to the rising cost of living faced by Malaysians, especially the bottom 40% of income group. As such, a significant proportion of Federal operating expenditure is allocated for subsidies and social assistance, cutting across energy, food, healthcare and education. In **2018**, a total of RM27.5 billion was set aside for this purpose, comprising 11.9% of total operating expenditure.

- During the Eleventh Malaysia Plan, 2016-2020, the Government had allocated sum of estimated RM121.6 billion from annual budget expenditure for social assistances.
- The Government's effort have shown its efficiency through the decline numbers of poverty recorded in the eKasih as follows:

Years	Extreme Poor	Poor
2015	79,607	142,958
2016	75,480	142,135
2017	59,924	140,842
2018	44,666	142,099
2019	43,055	135,172

Paragraph 7

It is particularly encouraging that leading politicians have now indicated their support for a poverty measure that better reflects reality. Although the Minister of Economic Affairs initially defended the poverty line, Prime Minister Tun Dr Mahathir Mohamad and his economic adviser have acknowledged that the poverty measure should be adjusted. In October, the Prime Minister said that the government is ready to review the poverty line "to provide a true picture of poverty in Malaysia." And in December, the Ministry of Federal Territories announced it would formulate an Urban Poverty Eradication Master Plan for Kuala Lumpur, including a redefinition of urban poverty. In political terms it is never easy to acknowledge that poverty is greater than previously claimed, and assuming it does so, the Government deserves great credit.

Comments from the Government of Malaysia:

- The Midterm Review of Eleventh Malaysia Plan, which was tabled in Parliament in October 2018, stated that the measurement of poverty to be revised in tandem of the cost of living. Therefore, the work on PLI revision has started during the Plan. The Special Rapporteur's visit was in August 2019. During the bilateral meeting with the Special Rapporteur and Government agencies, this Special Rapporteur and his team had been informed that the need of revision of PLI was stated in the document and work on it is ongoing since March 2019. Further, the Prime Minister in the Parliament on October 2019 stated that Malaysia has been working to revise the new PLI and to implement Multidimensional Poverty Index (MPI) as poverty measurement from multi dimensions. Therefore, formulating policies and strategies as well as initiatives had been in place before the visit of Special Rapporteur. While the visit of SR had sparked interests on poverty issues, however, the claim that the Government had only act on poverty reviews has been undertaken following the visit is incorrect.

Paragraph 9

A better understanding of poverty in Malaysia reveals the inaccuracy of the mainstream narrative that poverty is largely confined to small numbers in rural areas and indigenous peoples. While those groups face dire and unique challenges, urban poverty is significant. For example, the official 2016 poverty rate for Kuala Lumpur was zero percent, yet 27 percent of households earned less than Bank Negara's estimated living wage for the city in 2018. A 2018 survey of low-income apartments found 7 percent of people living below the national poverty line, 85 percent in relative poverty, and 99.7 percent of children in relative poverty. One soup kitchen director said she served up to 700 people a night, and that more than 40 soup kitchens operate in Kuala Lumpur. None of this points to a city that has eliminated poverty or hunger.

Comments from the Government of Malaysia:

- To further increase the effectiveness of poverty eradication initiatives, the Government is reviewing its PLI methodology to better reflect the current cost of living. In addition, a Multidimensional Poverty Index (MPI) has been established to measure a wider

scope of deprivation beyond the income dimension as currently practiced. The indicators of MPI are also being reviewed to better reflect the social mobility of households.

- Poverty rate is based on PLI while estimated living wage is based on Bank Negara Malaysia estimation. The former measures absolute poverty and the latter measures relative poverty. Both have different thresholds of income and needs depends on household consumption pattern and demography.
- The 2018 survey findings quoted is based on a survey by UNICEF “Children Without” which included 16 low income flats in Kuala Lumpur and one in nearby Selangor.

Paragraph 10

The Government should institute far-reaching reforms to the social protection system to ensure that the needs of people living in poverty are comprehensively addressed. This will in turn benefit the country as a whole. The Government should mount a serious and sustained campaign to eliminate poverty by adopting a comprehensive social protection floor for all its citizens and providing essential support for non-citizens. This would be consistent with recent moves related to the preparation of the 12th Malaysia Plan, the adoption of Shared Prosperity and Leaving No-One Behind as key policy themes, the Government’s recognition of the need for serious reforms, and the ongoing debates over the importance of strengthening social cohesion and national unity. Such reforms would make Malaysia more competitive internationally and promote economic growth that relies less on exploitation of cheap labor and more on a healthy and well-educated workforce, while improving productivity and reducing tax losses. They would also improve the well-being of the least well-off members of all racial and ethnic groups, reduce community tensions, and eliminate some of the factors conducive to national discord.

Comments from the Government of Malaysia:

- The Government has been emphasizing economic and social in its development planning since independence. Social assistances are implemented according to Ministerial and Agencies functions. In implementing the assistances, the Government realizes there are some duplication and silos. Therefore, it requires a more coordinated, integrated and holistic delivery mechanism for specific target groups for effective social protection.
- Thus, the Government has reactivated Malaysia Social Protection Council (MySPC) in 2019. MySPC is a governing body that coordinates social protection programmes as well as to strengthen the national social protection system and coordinate all social protection policies and programmes and seriously address the issue of social safety net. This council will ensure that the national social protection action plan is consistently adequate and sustainable to ensure that no Malaysians are left behind. Malaysia is leveraging and empowering the existing Malaysia Social Protection Council (MySPC) as the platform to discuss and coordinate the policy and direction of Malaysia social protection.

Paragraph 11

A new approach toward long neglected populations who face disparate rates of poverty is urgently needed. Even under the official line, indigenous peoples have much higher rates of poverty than the general population, and despite promises by politicians, continue to experience widespread violations of their rights. The government should also address the plight of the millions of non-citizens disproportionately affected by poverty—including migrants, refugees, stateless people, and unregistered Malaysians—who are systematically excluded from official poverty figures, neglected by policymakers, and often effectively barred from basic services.

Comments from the Government of Malaysia:

- On humanitarian grounds, the Government has always been collaborating with the United Nations High Commission for Refugees and its partners in providing access to basic needs as well as provision of skills, education, livelihood and healthcare to enable the refugees to take care of themselves in Malaysia.

Paragraph 12

Poverty eradication programs must also reflect the fact that poverty affects all races and ethnicities. The colonial period generated sharp inequalities along racial lines and race still pervades how many people think and talk about poverty. Relative income inequality between Bumiputeras (ethnic Malays and non-Malay indigenous people) and other groups has narrowed since the adoption of the New Economic Policy in 1970. But as of 2016, Bumiputeras still had a higher poverty rate than the Chinese or Indian populations. Nevertheless, nearly six percent of Chinese households nationwide had to scrape by on less than RM2,000 (US\$492) per month in 2016. And important research shows that Indians, who also suffered great exploitation during the colonial period, have not benefited from much development planning and many poverty eradication programs.

Comments from the Government of Malaysia:

- Based on HIES 2016, the overall incidence of poverty was 0.4% comprise of 24,700 households. Meanwhile, the incidence of poverty according ethnics are Bumiputera (0.5%), Chinese (0.11%), Indians (0.1%) and Others (1.5%). National median income in 2016 was RM5,228. In term of ethnicity, median income for Bumiputera is RM4,846, Chinese RM6,582 and Indian RM5,428 and others RM3,780.

Paragraph 13

The Government should also improve access to data and other information on poverty. Its persistent refusal to provide effective access to such information, and in some cases the complete failure to even collect important data, significantly hampers research, policymaking, and poverty alleviation.

Comments from the Government of Malaysia:

- As Malaysia has continuously collaborated with international organisations and other statistical offices in our work against international statistical standards, Malaysia acknowledges the growing demand of data amongst policymakers and researchers, in particular, granular data with high ease of access.
- In providing high-quality data, constant integrity checks are conducted at every part of the statistics released to ensure accuracy and consistency with minimum errors. To achieve this, high response rates in surveys, as well as cross-references with administrative data are important. Hence as we move forward, Malaysia had worked on many engagements with relevant agencies on data sharing and data integration.
- In the meantime, Malaysia commits to providing data as requested by users, subjected to the Statistics Act 1965 whereby personal information cannot be shared with third parties. However, DOSM has a microdata policy where 100% of household dataset can be shared with government agencies, contractors appointed by government agencies. As for researchers aside from government agencies, they can obtain 30% of microdata with 100% variables or 100% of microdata with 30% variables. These microdata provided are always statistically represented at the national level. Additionally, there is a data-dissemination sub-product StatsDW MyLab where researchers can access to 100% microdata at DOSM Headquarters consisting of economic datasets, social datasets and compilation datasets.
- Furthermore, Malaysia is working on amending the Statistics Act 1965 (Revised 1989) to ease data sharing without compromising privacy, as well as embarking on many initiatives to improve data quality to meet users' demands while educating users on data usage and limitations. Malaysia also welcomes capacity building assistance in improving statistical processes towards more open and transparent data sharing.

Paragraph 14

Overall, Malaysia has made immense progress on poverty alleviation, but the job remains incomplete. Under the flawed official poverty line, its national poverty rate fell from 49 percent in 1970 to 0.4 percent in 2016, but its accomplishments remain impressive even under more realistic measures. As of 2016, 95.5 percent of households had access to piped water and 99.9 percent had access to electricity. Average household income grew by 7.3 percent

annually from 1970 to 2012, with the bottom 40 percent of income earners enjoying the highest growth. But it remains all the more significant that despite such accomplishments, a considerable proportion of the country still lives in poverty.

Comments from the Government of Malaysia:

- Malaysia commends the SR's acknowledgement that Malaysia has made immense progress on poverty alleviation although works on it are still in progress.
- Development policies, strategies and initiatives on poverty alleviation have also increase the standard of living and wellbeing of Malaysians in term of health, education, housing and basic infrastructure and services such clean water and electricity. At the same period, household income had increased from RM264 to RM6,958 from 1970 to 2016.

Paragraph 15

The Government now has a unique opportunity to become a true champion of poverty reduction by improving the lives of many facing hardship and realizing the poverty eradication ambitions of the New Economic Policy. The Special Rapporteur met with many politicians and government officials who were clearly dedicated to improving the well-being of the poorest people and marginalized groups. The Government should capitalize on this goodwill by correcting the narrative around poverty, providing those living in poverty with the support they need, and ensuring that Malaysia's economic growth is truly inclusive and benefits the entire population.

Comments from the Government of Malaysia:

- Malaysia has continuously developed its development policies through five year development plan and long term planning. The implementation of New Economic Policy (NEP), 1970-1990 was followed by Vision 2020, 1991-2020. As a continuous development for policies, the Government in October 2019 launched Shared Prosperity Vision 2030, 2021-2030. The SPV is a blueprint for socioeconomic development with main objectives development for all, reducing inequalities and for Malaysia to become inclusive, united and prosperous nation.

II. Poverty measurement

Paragraph 16

A national poverty measure should enable a sober, contextualized assessment of the level and nature of poverty. But in Malaysia it has become a way for successive governments to declare victory over poverty without having actually achieved it. Malaysia's national poverty line bears no relationship to the cost of living, household incomes, or realities on the ground. It was meaningful in 1970, but real household income has increased fivefold since then, and Malaysia has gone from a "low-income" to an "upper middle income" country in that time. Apart from being inconsistent with almost all independent analysis, the artificially low measure has discouraged research on poverty and distorted the targeting of existing social support programs.

Comments from the Government of Malaysia:

- Malaysia practices internationally accepted poverty measurement from absolute, relative and multidimensional poverty dimensions.
- Absolute poverty measurement measures the basic needs of food and non-food requirements which is converted to monetary term which is known as Poverty Line Income (PLI). The methodology is derived from the Canberra Handbook UN Statistical Guideline. Based on this methodology, the incidence of poverty has reduced significantly from 49.3% in 1970 to 0.4% in 2016.
- Based on the World Bank International and United Nation's Sustainable Development Goals (SDG) international poverty line at USD1.90 a day, the incidence of absolute poverty in Malaysia almost eradicated. Thus, both national poverty line and the World Bank figures

are consistent. However, the World Bank recommend new PLI for Malaysia to USD3.20 per day as Malaysia is moving from low income to upper middle income country.

- As Malaysia manages to reduce its absolute poverty incidence, efforts in poverty reduction have been shifted from absolute poverty to relative poverty starting Tenth Malaysia Plan (10MP), 2011-2015). Relative poverty measures household standard of living between households. The OECD measures relative poverty as half of median income. The MTR 11MP states the threshold of low-income from B40 households which is equivalent to half of median income below RM2,614 involving around 1.08 million households (15.5%). The 15.5% for low income households close to various independent analyst figures claimed by the SR which include OECD, KRI and Martin Ravallion. During the Plan, emphasis and prioritize have been given to poor and low income households in increasing their socioeconomic status.
- It is important to note that the SR neither stated its methodology in assessing poverty nor he describes whether the poverty being discussed is absolute, relative or multidimensional poverty. He quoted based on vigorous independent analyses without properly citing its source and methodology. The SR fails and ignorantly acknowledge that Malaysia has published in MTR 11MP, which is in his knowledge, that the low income households as described is equivalent to relative poverty as a reference.
- Apart from that, the multidimensional poverty has been introduced in the MTR 11MP. MPI measures include health, education, standard of living and income dimensions.

Paragraph 18

The illusion of poverty eradication has been reinforced through the deliberate exclusion of vast numbers of people from Malaysia's calculations and analyses. Official statistics only capture the situation of those with Malaysian citizenship, leaving out millions of migrants, refugees and asylum seekers, and stateless people, all of whom are disproportionately affected by poverty.

Comments from the Government of Malaysia:

- Official statistics in Malaysia are compiled using several sources, primarily through censuses and surveys, as well as administrative data. Data collection through the former have always covered all residence status such as permanent residence, expatriate, temporary residence, foreign students, foreign visitors, foreign workers and others (including refugees and stateless). However, as in many other countries, household surveys such as the Labour Force Survey and the Household Income and Basic Amenities Survey do not cover institutional households, where many migrant workers in Malaysia reside. Currently, Malaysia is working with the assistance of International Labour Organization in measuring SDG Indicator 10.7.1 Recruitment Costs of Migrant Workers through a stand-alone survey.
- On another hand, reporting and analysis of official statistics are subject to requirements of the policies concerned.

Paragraph 20

Virtually all independent analysis has concluded that a more realistic poverty measure would yield a much higher poverty rate. The highly respected economist Martin Ravallion found that, compared to countries with a roughly similar average income, one would expect Malaysia's poverty line to include around 20 percent of the population. The Khazanah Research Institute found that a relative poverty measure of 60 percent of median income would show 22.2 percent of households in poverty as of 2016. And UNICEF said in 2019 that a relative poverty measure similar to that adopted by most OECD countries would place around 16 percent of the population in poverty.

Comments from the Government of Malaysia:

- As Malaysia manages to reduce its absolute poverty incidence, efforts in poverty reduction are done through the perspective from both absolute poverty and relative poverty starting Tenth Malaysia Plan (10MP), 2011-2015). Relative poverty measures household standard of living between households. The OECD measures relative poverty as half of

median income. The MTR 11MP states the threshold of low-income from B40 households which is equivalent to half of median income below RM2,614 involving around 1.08 million households (15.5%). The 15.5% for low income households close to various independent analyst figures claimed by the SR which include OECD, KRI and Martin Ravallion. During the Plan, emphasis and prioritize have been given to poor and low income households in increasing their socioeconomic status.

Paragraph 21

In the past, Malaysia has responded to critiques by introducing additional ways of measuring poverty, but these have avoided meaningfully adjusting the national poverty line. The 9th Malaysia Plan 2001-2005 turned to using the bottom 40 percent of the population (B40) as a way to target resources. The 11th Malaysia Plan 2016-2020 introduced a multidimensional poverty index. And the mid-term review of the 11th Malaysia Plan introduced a relative poverty measure for “low income households” earning between the national poverty line and 50 percent of the national median household income (RM 980-2,614, or US\$241-643), encompassing 15.5 percent of households.

Comments from the Government of Malaysia:

- **To delete:** “but these have avoided meaningfully adjusting the national poverty line”

Paragraph 22

But even Malaysia’s new multi-dimensional poverty index, described by officials at the Ministry of Economic Affairs as the future of poverty measurement in the country, yields figures that are so low as to beggar belief. Even though 30.51 percent of people experienced multiple forms of deprivation within a particular period in 2016, the multidimensional poverty index yields an astonishingly low rate of 0.86 percent, thus largely replicating the discredited national poverty measure while at the same time allowing Malaysia to announce and immediately cross a new finish line.

Comments from the Government of Malaysia:

- The Multidimensional Poverty Index (MPI) used to measure multidimensional poverty is derived from methodology by Prof. Sabina of Oxford Poverty and Human Development Initiative (OPHI) which is a global poverty measurement in more than 100 countries.
- The dimensions covered in this measurement are education, health, standard of living and income.

III. Data Collection and Transparency

Paragraph 23

Malaysia stands out among its peers for its lack of transparency around publicly held data and other information. Unlike the great majority of similarly situated countries, Malaysia does not provide full access to key household survey microdata, stifling both governmental and independent research and analysis on poverty and inequality. When asked for data, State government officials often indicated they would need to make a request to “Putrajaya”. Researchers can apply to the Department of Statistics for select sets of data, but several told the Special Rapporteur their requests were often not granted. International organizations and even state officials said they too had to make specific requests for information, and that their access was essentially at the mercy of the Department of Statistics.

Comments from the Government of Malaysia:

- As Malaysia has continuously collaborated with international organisations and other statistical offices in our work against international statistical standards, Malaysia acknowledges the growing demand of data amongst policymakers and researchers, in particular, granular data with high ease of access.

- In providing high-quality data, constant integrity checks are conducted at every part of the statistics released to ensure accuracy and consistency with minimum errors. To achieve this, high response rates in surveys, as well as cross-references with administrative data are important. Hence as we move forward, Malaysia had worked on many engagements with relevant agencies on data sharing and data integration.
- In the meantime, Malaysia commits to providing data as requested by users, subjected to the Statistics Act 1965 whereby personal information cannot be shared with third parties. However, Department of Statistics Malaysia (DOSM) has a microdata policy where 100% of household dataset can be shared with government agencies, contractors appointed by government agencies. As for researchers aside from government agencies, they can obtain 30% of microdata with 100% variables or 100% of microdata with 30% variables. These microdata provided are always statistically represented at the national level. Additionally, there is a data-dissemination sub-product StatsDW MyLab where researchers can access to 100% microdata at DOSM Headquarters consisting of economic datasets, social datasets and compilation datasets.
- Furthermore, Malaysia is working on amending the Statistics Act 1965 (Revised 1989) to ease data sharing without compromising privacy, as well as embarking on many initiatives to improve data quality to meet users' demands while educating users on data usage and limitations. Malaysia also welcomes capacity building assistance in improving statistical processes towards more open and transparent data sharing.

Paragraph 24

Government officials bluntly contradicted these consistent reports from a variety of sources. A representative of the Department of Statistics said that the Department “makes the data available to all,” while a Ministry of Economic Affairs official said the government provides what it can, but must be careful with data due to privacy concerns. Since many other countries provide anonymized data without compromising privacy, the policy seems more likely to be motivated by a desire to conceal from the public information that might not be favourable to the government.

Comments from the Government of Malaysia:

- As for the compilation process of official statistics, Malaysia commits to provide information as per requested by all users subject to data limitations (e.g. survey relative standard error) and data availability. In the case where data is not available, Malaysia welcomes feedback to improve data collection, as well as capacity building assistance to seek alternative sources.

Paragraph 25

In some cases, it appears that important data is not even being collected. And in others, existing data cannot be disaggregated to shed light on the situation of vulnerable target groups. Officials were consistently unable to provide key figures. The Ministry of Housing said, for example, that there are no records kept as to the number of people evicted from public housing. Officials were consistently unwilling or unable to estimate the size of vulnerable populations for which the government does not publish official figures. They could not provide estimates of undocumented immigrants, stateless people, or those in need of low-cost housing, even though other countries routinely create such estimates, which are essential to informed policymaking.

Comments from the Government of Malaysia:

- The Ministry of Housing of Malaysia does not keep the records of the number of people evicted from People's Housing Program (PHP) because the management of PHP is within the State Government's jurisdiction. For projects managed by the Ministry, the Ministry has not done any eviction so far.

Paragraph 26

Available statistics are carefully managed and presented in a way that often obscures crucial details. Existing data on poverty and inequality is not presented in a way that disaggregates by gender or that distinguishes between Malay and non-Malay Bumiputeras, thus obscuring the situation of indigenous peoples.

Comments from the Government of Malaysia:

- Based on HIES Report 2016, poverty statistics that disaggregates by ethnic group, strata, state, sex, age group and household size are available to the public. Whereas inequality statistics (Gini coefficient) that disaggregates by ethnic group, strata and state are available. In the case where additional statistics are required, users can always submit their requests for unpublished statistics, subject to data limitations and data availability. As above, Malaysia welcomes feedback to improve data collection, as well as capacity building assistance to seek alternative sources.
- The eKasih database captured data on household size and per capita which disaggregate by gender and ethnics, as well as distinguishes by state, urban or rural. Regardless of their background as long as their household income is below the PLI, they will be registered in eKasih as poor or extreme poor.

Paragraph 27

Income and poverty statistics are often presented by household rather than the more common and helpful unit of household income per capita or per adult, obscuring smaller incomes per person in larger households. This also skews ethnicity figures because the categorization is based entirely on the ethnicity of the head of household, and does not adequately capture multi-ethnic households.

Comments from the Government of Malaysia:

- Income statistics are available by household income per capita. In the case where additional statistics are required, users can always submit their requests for unpublished statistics, subject to data limitations and data availability. As above, Malaysia welcomes feedback to improve data collection, as well as capacity building assistance to seek alternative sources.

Paragraph 28

In 2018, the government committed to “embrace transparency.” If this commitment is to be honoured, it should make available online micro-data from key national surveys, such as the Household Income and Basic Amenities Survey, as well as analytical reports. It should also produce definitive estimates for vulnerable populations for which no data exists, and consider incorporating a right to information in the Freedom of Information bill currently under consideration. It should use the 2020 Census as an opportunity to collect and publish adequate data on vulnerable groups, such as persons with disabilities, for whom current data is especially inadequate.

Comments from the Government of Malaysia:

- On micro-data, see comment of Paragraph 11 and Paragraph 18.
- On 2020 Census, there have been a question designed on disabilities based on Washington Group Short Set of Disability Questions. The Census 2020 is expected to be conducted this year with reference day 7 July 2020.

IV. Incomes and Cost of Living**Paragraph 29**

Malaysia introduced a minimum wage in 2013, applicable to both Malaysian and foreign workers, which increased the wages of an estimated 3.2 million private sector workers, 30 percent of the total workforce. But enforcement has been uneven—particularly for

undocumented foreign workers. The minimum wage was raised to RM 1,100 (US\$270) in 2019, just barely above the poverty line.

Comments from the Government of Malaysia:

- To imply that enforcement has been uneven because it does not cover undocumented foreign workers would be an unfair assessment of the overall labour inspection environment. The reference made to the OECD study states that strengthening enforcement of minimum wage is essential for its effectiveness and it seems to be uneven – which was not reflected in the statement.

Paragraph 30

Nationwide, twenty percent of households have a monthly income of less than RM 3,000 (US\$738), and 8.8 percent must scrape by on less than RM 2,000 (US\$492). The situation is even worse in certain areas. In Kelantan, 48.4 percent of households have an income of less than RM 3,000, and 22.9 percent of households make less than RM 2,000 per month. East Malaysia also has a disproportionate number of low-income households, with 16.1 percent of households in Sabah and 15.5 percent in Sarawak living on less than RM 2,000.

Comments from the Government of Malaysia:

- To amend: Nationwide, 14.6 percent of households have a monthly income of less than RM 3,000 (US\$738), and 5.8 percent must scrape by on less than RM 2,000 (US\$492).

V. Social Protection

Paragraph 31

Despite Malaysia’s economic ‘miracle’, its expenditure on social protection in 2017 was lower than all Southeast Asian countries for which data was available. And unusually, its social protection spending has not risen in step with GDP. While low government revenue limits the resources available for social protection, this is because it “significantly under-collects in key revenue areas.” Thus it is projected to record one of the lowest levels of fiscal revenue in proportion to GDP in 2020 (17.9 percent), well below the average for upper middle-income countries (28 percent), and down from 25.8 percent in 2012. As of 2017, less than 10 percent of Malaysians over 15 years old were paying income tax, and the top marginal tax rate for very-high-income earners was just 28 percent.

Comments from the Government of Malaysia:

- The Malaysian Social Protection Council (MySPC) is currently mapping the social protection programmes and provisions. This exercise will be supported by four Working Committee under MySPC: Labour Market Intervention; Social Assistance; Social Insurance; and Data Management. MySPC will formulate an action plan, which will cover the rationalisation of social protection policies / programmes and empowerment of service delivery. It will also be supported by integrated and efficient data management.
- The way forward of Malaysia social protection system will be determined by the Council supported by four working committees so that the issues of many social protection programmes implemented by the Government ministries, agencies and resources will be more structured and coordinated.

Paragraph 32

Better targeted and implemented fiscal policies would readily enable the government to develop a comprehensive and integrated social protection policy that will provide for all Malaysians across the life cycle. The Malaysia Social Protection Council, under the Ministry of Economic Affairs, is well positioned to do so particularly if it draws on the expertise of the Working Group on the Social Protection Blueprint, which has drawn up an ambitious plan to fill in the gaps and reorganize the country’s social protection programs in line with the International Labour Organization’s compelling approach to Social Protection

Floors. The country's national human rights institution, SUHAKAM, should also intensify its currently insufficient efforts to monitor and protect economic and social rights.

Comments from the Government of Malaysia:

- The Malaysian Implementation and Coordination Unit, Prime Minister's Department (ICU JPM) has been tasked as the main secretariat of MySPC and supported by four (4) working committees established under MySPC are as below:
 - (i) Labour Market Intervention led by Ministry of Human Resources;
 - (ii) Social Assistance led by Ministry of Women, Family and Community Development;
 - (iii) Social Insurance led by Ministry of Finance;
 - (iv) Data Management led by Department of Statistics Malaysia.

Social Support

Paragraph 33

Malaysia's social protection system is fragmented, inadequate, underfunded, and poorly targeted. The Government acknowledges that there are at least 110 different programs spread across more than 20 ministries and agencies. Most importantly, as UNICEF has noted, the system has "virtually no redistributive or poverty reduction impact." This is because of inadequate investment, expenditure failing to keep pace with GDP growth, and schemes that provide only small irregular benefits. There is a lack of employee safety nets, and income support for disadvantaged persons—such as the unemployed, single parents, persons with disabilities, and older persons—remains ad hoc, insufficiently targeted, and incapable of ensuring basic living standards. Despite these shortcomings, many officials denied there was anything amiss in the social support system.

Comments from the Government of Malaysia:

- Malaysia is leveraging and empowering the existing Malaysia Social Protection Council (MySPC) as the platform to discuss and coordinate the policy and direction of Malaysia social protection. The council will also facilitate the implementation of social protection programmes across agencies and will ensure that the national social protection action plan is consistently adequate and sustainable to ensure that no Malaysians are left behind.
- The Department of Social Welfare (DSW) under the Ministry of Women, Family and Community Development assists individuals or families with lower income to ease their financial burden temporarily or until they improve their financial situation to become financially independent. As of August 2019 the total of Peoples With Disabilities (PWD) who have been registered and have had identity card in Kelantan were 39,733 including 10,313 from Kota Bharu. The purpose of registration is to collect data and statistics for the planning of services, rehabilitation programmes, prevention, training, education and early intervention.
- The identity card for PWD is issued in order to make communication with the relevant authorities easier. Community Based Rehabilitation Center (CBR Center) is a community development strategy for persons with disabilities to obtain rehabilitation within their family and community whereby they are given the equal opportunity for rehabilitation and interaction with society. Kelantan have 45 CBR Centres including 7 (seven) in Kota Bharu with RM 5,622,886 total operational allocation in year 2019. Government provided RM 988,563 operational allocation for CBR Centres in Kota Bharu.
- Government did provide some extent of basic needs to indigenous community in term of education, welfare, healthcare and facilities. However, most of indigenous community still resist to change their mind set and way of life due to having strong belief on maintaining their ancient traditions. Subsequently, this resistance leads to difficulty for them to utilize opportunity provided by the government toward improving their lifestyle and having equal rights as other urban community.

- The People's Housing Program (PHP) is a one of Ministry's program to meet the needs of residential homes for the low income group below RM3,000 including squatters. There are a total of 195 projects all over Malaysia. The rental price PHP's unit are as low as RM124 (USD30) per month and its selling price is RM35,000 at Peninsular Malaysia or RM42,000 at Sabah and Sarawak.
- The Ministry has taken the initiative to develop a National Affordable Housing Policy (DRMM), which is a subset of the National Housing Policy (DRN) to outline standards, specifications and guidelines for affordable housing development under the category of public and social housing developed by the Federal Government, State Government or the private developer.
- DRMM outline key aspects of sustainable housing criteria towards achieving the objectives of affordable housing such as:-
 - (i) features and design of the house encompass the size of the house, access to transportation, public and safety facilities;
 - (ii) quality of home construction;
 - (iii) house prices based on income; and
 - (iv) improvement of affordable rent rates.

Paragraph 34

The more recent focus on the B40 population means a large number of households receive cash transfers, but the payments are too small to make a real difference. Such transfers could do more if targeted to focus on poorer households or those with more children—or more importantly, if overall funding were increased. Furthermore, many of those who most need social protection or cash transfers appear unaware of the programs or unable to access them. Many of the struggling low-income families with whom the Rapporteur met were receiving no support whatsoever.

Comments from the Government of Malaysia:

- The Ministry of Finance (MoF) manages cash transfer (*Bantuan Sara Hidup*) for B40. MOF sets the income thresholds for BSH recipients which is below RM4,000 and with certain specific criteria. Moving forward, the threshold for recipients and amount shall be standardized. This will enable standard thresholds for B40 assistances by other Government/agencies to the target groups in eliminating inclusion and exclusion error.

Healthcare

Paragraph 35

Malaysia is justifiably proud of its health care services which are reasonably accessible for most of the population. Despite a relatively low level of public expenditure on health, households receive protection from the financial risks of high healthcare costs—where care is accessible. According to the World Bank, only 1.4 percent of households experience catastrophic health expenditure.

Comments from the Government of Malaysia:

- For 2018, number of health clinics are 1085, community clinics (1796) and mobile health clinics (329 teams). Health Care Provider involved directly in health facilities are doctors (57,831), Assistant Medical Officer (17,274), Nurses (106,289) and Family Medicine Specialist (309) as shown in figure 6. NHMS 2011 reported that 88.5% of the population stays within 5 km of a health facility and 81% lived within 3 km. Same study highlighted that basic health care and facilities are accessible to about 70% of the population in Sabah and Sarawak and more than 95% of the population in Peninsular Malaysia.
- These study excluded outreach services such as flying doctors, mobile health teams, dental clinics, travelling dispensaries and riverine services which as geographical challenges. Evolution of health services has undergone changes overtime significantly since 1960's

which was started with maternal and child health care and now extended to wide range of services include outpatient, Maternal and child health , point of care test , emergency care and extended scope are the adolescent health, elderly health , Disable health, and school health

- Ministry of Health of Malaysia has taken initiative to introduce Tele Primary Care (TPC) clinics in 2005 and TPCOCHIS 2018 to deliver seamless care to the clients in urban and rural area. Furthermore, ministry is also looking at digital healthcare technology such as urbanisation and virtual clinic to increase health access to the population
- According to the Fee Act 1999, the population of Malaysia able to enter to the health care system with minimal or no cost. They receive health services from ‘womb to tomb’
- Malaysia has strived towards UHC over the years. There was substantial improvement in health status and services as evidenced through the improvement of the vital statistics.
- The figure 1.4% is for Proportion of population with more than 10% household expenditures on health as a share of total household expenditure.
- While for population spending more than 25% of household expenditure on health is 0.4%.

Paragraph 36

But the two-tiered public-private healthcare system has the effect of segregating healthcare provision by socioeconomic status, leading to lower-income households predominantly seeking care at public facilities, while higher-income households account for the majority (two-thirds) of visits to private facilities. By one estimate 70 percent of specialists are now in the more costly private system, typically located in wealthier areas, where just 30 percent of complicated cases are treated. This lopsided allocation creates shortages of critical staff in an overburdened public healthcare system and has contributed to “rising incidences of overcrowding, long waiting times, delayed consultation and late admission for emergency cases.”

Comments from the Government of Malaysia:

- This is evident of a progressive health system where majority poor get highly subsidized care in the public sector while the rich who can afford goes to the private sector.
- In general, majority of the population had good perception on Malaysia’s healthcare delivery system. The population had a significant positive overall impression (reporting “good” and “excellent”) towards government clinics (77.8%) as compared to private clinics.
- The percentage of population perceiving good overall impression towards government hospitals (79.6%) was also significantly higher than private hospitals.

Paragraph 37

Access to health services, medicines, and vaccines in rural presents a real challenge. A third of rural households in Sabah and 43.6 percent in Sarawak are more than 9km from a public health center. And villagers need to travel much further to a hospital for any serious medical issue. Stakeholders emphasized that healthcare is in effect not free for those who cannot afford to get to the health center or hospital.

Comments from the Government of Malaysia:

- Medications are an integral part of treatment. Medications are accessible to patients not only in static health facilities but also through mobile health team service which caters for the health needs of population in hard to reach areas. Community members are also empowered to give basic treatment for minor illnesses and aid in early detection of disease in their community for early referral to healthcare facilities. Members of *Wakil Kesihatan Kampung* (WKK) and *Sukarelawan Perkhidmatan Kesihatan Awam* (SPKA) are provided with basic health training and medication to ensure accessibility of health services in rural areas of Sarawak and Sabah.

- NHMS 2016 reported an overall prevalence of more than 90% for complete primary vaccination in children aged 12-23months with only one fifth of those incomplete vaccinations were due to accessibility problems.
- For areas where logistics is a challenge and static facilities are not available services are provided via mobile teams either by air, boat or land.
- For 2018, number of health clinics are 1085, community clinics (1796) and mobile health clinics (329 teams). Health Care Provider involved directly in health facilities are doctors (57,831), Assistant Medical Officer (17,274), Nurses (106,289) and Family Medicine Specialist (309) as shown in figure 6. NHMS 2011 reported that 88.5% of the population stays within 5 km of a health facility and 81% lived within 3 km. Same study highlighted that basic health care and facilities are accessible to about 70% of the population in Sabah and Sarawak and more than 95% of the population in Peninsular Malaysia. These study excluded outreach services such as flying doctors, mobile health teams, dental clinics, travelling dispensaries and riverine services which as geographical challenges. Evolution of health services has undergone changes overtime significantly since 1960's which was started with maternal and child health care and now extended to wide range of services include outpatient, Maternal and child health , point of care test , emergency care and extended scope are the adolescent health, elderly health , Disable health, and school health
- Ministry of Health of Malaysia has taken initiative to introduce Tele Primary Care (TPC) clinics in 2005 and TPCOCHIS 2018 to deliver seamless care to the clients in urban and rural area. Furthermore, ministry is also looking at digital healthcare technology such as urbanisation and virtual clinic to increase health access to the population
- According to the Fee Act 1999, the population of Malaysian able to enter to the health care system with minimal or no cost. They receive health services from 'womb to tomb'.
- Aside from developing physical health facilities/centre to provide service for the people, In order to further improve access to healthcare, the Ministry of Health also has various mobile services. In 2018, there are a total of 239 mobile health teams providing service via land (187 teams), water (40) and air (12). Out of the 239 teams, 103 and 42 teams are serving Sarawak and Sabah respectively. 468, 811 people had benefitted from the mobile team service.
- Ministry of Health Hospitals has Social Service Department which provide assistance to patients in terms of monetary needs.
- Pharmaceutical Services Programme has introduced "*Perkhidmatan Ubat Melalui Pos*" since 2011. Medication Postal Service 1Malaysia (UMP 1Malaysia) is a follow-up drug delivery service to a patient's preferred location using a courier company with a pre-determined delivery charge.
- Aside from the service mentioned above, there is also *Sistem Pendispensan Ubat Bersepadu* whereby follow-up medication can be picked-up from nearby health facilities of patients' choice. This may be an isolated case. The health clinics already implement domiciliary services for disabled peoples such as child with cerebral palsy. Dedicated staff may perform home visit depending on the need and could bring along the medicine the child already on.

Paragraph 38

Malaysia has come very close to providing universal healthcare, and should strongly consider legislating a national right to healthcare to cement its commitment to ensuring every household is able to access the highest standard of physical and mental health.

Comments from the Government of Malaysia:

- Ministry of Health Malaysia provides health services to all patients without discrimination. However, the provision of health services and treatment in government facilities are subjected to fees as stipulated in the Fees Act of 1951 and Fees (Medical) (Cost of Services) Order 2014.

- For areas where logistics is a challenge and static facilities are not available services are provided via mobile teams either by air, boat or land.

Education

Paragraph 39

Education is crucial to lifting people out of poverty. As of 2017, the median monthly income for a household without formal education was RM 1,100 (US\$270), compared to RM 3,400 (US\$836) for those with a tertiary education. Malaysia has made impressive progress in increasing school enrolment rates, including universal primary education. **However, attrition from the school system is a major challenge, especially for low-income students, and simply expelling students who fail to attend is a blunt and ineffective response.**

Comments from the Government of Malaysia:

- The Ministry of Education of Malaysia (MOE) does not practice a policy of expelling students who fail to attend school. However, in response to students who do not attend school, school authorities would visit homes of students and find ways to bring them back to school (the 'Ziarah Cakna' programme). Engagement with parents and village heads is also among MOE's strategies to overcome this problem and to instil awareness on the importance of education to improve the quality of life. MOE also provide counsellors in schools to assist these students.
- Providing access to quality education as well as conducive teaching and learning environment has always been the ministry's utmost priority. With regards to this, Majlis Amanah Rakyat (MARA), an agency under Ministry of Rural Development has long established MARA Junior Science College (MRSM), a secondary school establishment that cater for children from B40 group. The selection process for MRSM is based on the household income and location.
- For 2019, the B40 intake was recorded as 65%, which consists of Form 1 and Form 4 students. While the total enrolment has accumulated to 52%.
- Children in the rural areas are given greater opportunity to pursue education particularly in Science and Mathematics subjects in MRSM. As of August 2019, there are 54 MRSM offering science based education to the target group that has over 37,000 students are currently enrolled. In addition, students are also able to access International education module such as International General Certificate of Secondary Education (IGSCE) programme.

Paragraph 40

Poverty still keeps many children out of school despite Ministry of Education programs to support very low-income students. According to UNICEF, school affordability is “consistently identified as a major cause of inadequate pre-school and upper-secondary enrolment rates.” The government subsidizes school fees, but parents may not be able to afford school uniforms, books, and supplies or the missed-opportunity cost of child labor. Low income families repeatedly said that fees or costs associated with education, even as low as RM 1 (US\$0.25), were enough to keep their children out of school. These low amounts could readily be covered by government programs.

Comments from the Government of Malaysia:

- Education in Malaysia is free. There is no fee imposed on Malaysian children going to public school. Students are also provided with free text books and no public examination fees are imposed in primary and secondary schools. Children from low income families are provided with "going to school" aid at the beginning of the school year as well as other aids. For example, priorities are given to students from low income families to stay for free at hostels. In addition, MOE has also established private public partnerships with the private sector, NGOs and other government agencies to provide assistance for the low income families.

Paragraph 41

And despite high enrolment rates, certain populations face other sizable barriers to education. Twelve percent of households in Sarawak and 7.5 percent in Sabah live more than 9km from a government primary school. For secondary school, the numbers rise to 37.4 percent in Sabah and 50.9 percent in Sarawak. Children in rural areas often leave villages at a young age and stay in hostels far away from their families in order to attend school, but this is far from an ideal situation. **And those without identification—including stateless, migrant, and indigenous peoples—are not able to attend public schools and must make do with an informal education.**

Comments from the Government of Malaysia:

- Schools built with hostels facilities are to facilitate access to schools for hard to reach children. Furthermore, this form of schools modes are cost effective. Statement on indigenous people not allowed to go to public schools are misleading as MOE set up schools for this group of children within the Orang Asli communities.
- In the Students Information System (SSM), there are only 2 indigenous students) who are without documents but they are still given the opportunity to receive formal education, one is at SK Pasir Linggi and the other one is at SK Hendrop.
- As at 25 August 2019, there are 1,461 pupils (1,013 in primary schools and 448 in secondary schools) registered in the SSM and APDM (Student Database Education) in Kelantan. All of them are housed in dormitories to avoid school dropouts and formal education like other students.
- Malaysian Government has set up 12 schools in the indigenous settlements as follows:
 - (i) Sekolah Kebangsaan Bihai, Gua Musang
 - (ii) Sekolah Kebangsaan Balar, Gua Musang
 - (iii) Sekolah Kebangsaan Hendrop, Gua Musang
 - (iv) Sekolah Kebangsaan Pos Brooke, Gua Musang
 - (v) Sekolah Kebangsaan Blau, Gua Musang
 - (vi) Sekolah Kebangsaan Kuala Lah, Gua Musang
 - (vii) Sekolah Kebangsaan Pasir Linggi, Gua Musang
 - (viii) Sekolah Kebangsaan Tohoi, Gua Musang
 - (ix) Sekolah Kebangsaan Sri Permai, Gua Musang
 - (x) Sekolah Kebangsaan Pulat, Gua Musang
 - (xi) Sekolah Kebangsaan Kuala Betis, Gua Musang
 - (xii) Sekolah Kebangsaan Sungai Rual, Jeli
- There are indigenous students in 7 secondary schools in Gua Musang and Jeli districts.
- In addition, beginning 8 April 2019, the Ministry of Education Malaysia (MOE) and Kelantan State Education Department have implemented a Special Project called (ProKHAS) to eradicate the drop out cases from schools of Bateq race in Kampong Kuala Koh and Kampong Aring 5 Gua Musang. Trained teachers were sent to the areas to teach using the MOE curriculum standard.
- Reason: The distance from their house to school is between 50km to 150km.
- Strategic Partners: JAKOA, KESEDAR, Kota Bharu Teacher Training College and NGOs.
- Periodic monitoring is conducted by school administration, District Education Department, State Education Department and the JAKOA department too.
- There are 389 schools in Sabah and 651 schools in Sarawak with low enrolment rates of fewer than 150 students in each school. MOE provides comprehensive model school called

K9 in rural area consisting of primary and lower secondary levels. K9 school provided residential education from Primary Year 1 to Secondary Form 3. The main objective is to reduce the drop-out rate between year 6 and form 1.

- For refugee children, MOE collaborates with UNHCR Malaysia to ensure refugee children have access to basic education. Education for these children are conducted at Alternative Learning Centres (ALCs). UNHCR provides the list of ALCs from registered NGOs and MOE assists in the establishment and registration of ALCs in accordance to the Education Act 1996. The Board of Governors of these ALCs are obliged to ensure education services are delivered to the children and these centres provide access to basic amenities such as water, electricity and most importantly ensure the safety of these children in ALC premises. As of June 2019, there are 13 ALCs established with enrolment of 1,274 children and the registration of these ALCs are ongoing.

- Starting 2019, MoE provides opportunity to undocumented children to receive education. However, there are certain rules and regulations to abide by, such as providing self-identification for the purpose of school registration. Undocumented children adopted by Malaysian citizens or those whose parent is a Malaysian citizen, is allowed to receive education based on the followings:

- (i) to resolve self-identification documents of these non-citizens within a period of two years starting from the date the children enter school; and

- (ii) to pay school fee fixed by the MoE

Paragraph 42

Far too many schools suffer from a lack of basic infrastructure and facilities or deteriorating conditions. There are many dilapidated schools in rural areas, especially in Sabah and Sarawak. According to the Ministry of Education, 584 of the 1,296 schools in Sabah have been classified as dilapidated by the Public Works Department. Eighty-four of these were rated unsafe, but just 22 were scheduled for repair in 2019.

Comments from the Government of Malaysia:

- Malaysia is among the countries in the world that provides the highest budget for education. 20% of the national budget was allocated to the education sector in 2019 which is equivalent to RM60.2 billion.

- Dilapidated schools are among the issues of concern identified in the list of top priorities for MOE to address. Between 2016 and 2019, MOE has allocated RM1.5 billion for the repairing and upgrading of dilapidated schools throughout the country. In additions to the allocation by the federal government, state governments also rendered cooperation in addressing the problems of dilapidated schools. For example, the Sarawak state government provided an allocation of RM1 billion to repair dilapidated schools in Sarawak.

- The government will continue the initiatives under the 12th Malaysia Plan, with the target of eliminating issues pertaining the dilapidated schools by the end of the 12th Malaysia Plan.

- The quality of education in Malaysia is showing improvement since Malaysia first took part in Trends in International Mathematics and Science Study (TIMSS) in 1999 and Programme for International Student Assessment (PISA) in 2009. Malaysia aims to further improve its education performance. However, the outcomes of all the initiatives implemented by the government can only be measured and known after a certain period of implementation. Malaysia hopes to excel in the TIMSS and PISA performance by 2025. Malaysia's performance in the most current cycle of these international studies, PISA 2018 and TIMSS 2019 will only be published in December 2019 and in November 2020. Based on various improvement initiatives in curriculum, teaching and learning, Malaysia is expected to achieve further improvement in its performance.

Paragraph 43

The quality of education is also concerning. As of 2015, 12 years of school in Malaysia was the equivalent of just nine years when adjusted for quality. The country's scores rank in the 25th percentile of the OECD average for reading and mathematics.

Comments from the Government of Malaysia:

- The quality of education is derived from harmonize test scores from major international student achievement testing programs. These are combined into a measure of expected learning-adjusted years of school, using the conversion metric proposed in the 2018 World Development Report.
- The quality of education in Malaysia is showing improvement since Malaysia first took part in Trends in International Mathematics and Science Study (TIMSS) in 1999 and Programme for International Student Assessment (PISA) in 2009. Malaysia aims to further improve its education performance. However, the outcomes of all the initiatives implemented by the government can only be measured and known after a certain period of implementation. Malaysia hopes to excel in the TIMSS and PISA performance by 2025. Malaysia's performance in the most current cycle of these international studies, PISA 2018 and TIMSS 2019 will only be published in December 2019 and in November 2020. Based on various improvement initiatives in curriculum, teaching and learning, Malaysia is expected to achieve further improvement in its performance.
- The Malaysia Education Blueprint (Blueprint) 2013-2025 has determined 11 shifts to achieve the vision of raising the level of the education system into the 21st century. Shift 1 demands that the Ministry provides access to quality education that is comparable to international standards; and subsequently made available to all students.
- Shift 1 focuses on the aspect of quality, which is directed towards the need to improve the learning standards of Mathematics and Science, the proficiency of languages in line with international standards and improve the quality of education in Science, Technology, Engineering and Mathematics (STEM).
- To achieve this, the Ministry needs to provide teachers with the ability to create a conducive learning environment and focus on the 21st century learning (PAK21). The conventional teaching methods need to be changed to allow for a more creative and dynamic teaching and learning approach that is based on the content of the subject to accommodate the developing minds of the students.
- The shift from teacher-centred teaching method to student-centred learning method in the 21st century education presents new challenges to teachers and school leaders. Some of these challenges include learning that leads to higher order thinking skills (HOTS), managing more dynamic learning space, and utilizing various teaching aids and technology-based resources to implement effective teaching and learning processes, relevant to the current needs of the students. As such, teachers have to continuously improve their level of professionalism in terms of knowledge and pedagogy in order to remain relevant to the current and future needs. Continuous training is also provided to school leaderships to ensure that the management and administration of the school are strengthened to support the needs of teachers and students.
- The Ministry also continues to encourage parents and communities to be directly involved in supporting schools to provide quality education to their children. The Ministry needs to implement major changes to ensure the country's education system is ranked among the best in the world. In order to further strengthen the quality of education, the initiatives undertaken in 2017 were as follows:
 - (i) Integrating Higher Order Thinking Skills in 21st Century Learning
 - (ii) Strengthening Science, Technology, Engineering and Mathematics Education
 - (iii) Expanding the Literacy and Numeracy Screening Programme (LINUS2.0)
 - (iv) Upholding Bahasa Melayu Education
 - (v) Implementing the English Language Programme

- (vi) Strengthening Teacher Quality
- (vii) Enhancing School Leadership Quality
- (viii) Engaging Parents and Community to Create a Learning Ecosystem
- Expanding the Involvement of the Private Sector as a Strategic Partner in Education.
- **TIMSS:**

TIMSS 2015 has shown improvements compared to TIMSS 2011:

- (i) TIMSS 2015 showed an improvement in Mathematics with an increase of 25 points that made up the 465 average score;
- (ii) Malaysia is among 18 countries which showed an increase in achievement in Mathematics (25 score points);
- (iii) TIMSS 2015 again recorded an improvement with an increase of 44 points that made up the 471 average score;
- (iv) Malaysia has shown the highest increase among 16 countries that showed increases in Science (45 score points);
- (v) In Mathematics, there were increases of 1% for advanced Level, 6% for High Level and 9% for Intermediate Level.
- (vi) In science, there were also increases of 2% for advanced Level, 10% for High Level and 18% for Intermediate Level.

- **PISA:**

- (i) Malaysia's performance in PISA 2018 has shown a significant improvement in all of the three literacies assessed which are Reading, Mathematics and Science. This is evident in the increasing number of students obtaining Proficiency Level 2 and above compared to our students' performance in PISA 2009 and PISA 2012. 54% of students attained at Level 2 proficiency or higher in reading.
- (ii) Some 63% of students in Malaysia attained Level 2 or higher in science while 1% of students were top performers in science, meaning that they were proficient at Level 5 or 6.
- (iii) Some 59% of students in Malaysia attained Level 2 or higher in mathematics while 2% of students scored at Level 5 or higher in mathematics.
- (iv) The mean mathematics and science performance in 2018 lay above the performance observed in 2009, when the country first participated in PISA, and in 2012. In reading, performance in 2018 was close to that observed in 2009 but better than that observed in 2012. Improvements were observed, in general, amongst both high- and low-achieving students; but improvements in mathematics were particularly strong amongst the country's highest-achieving students: at the 90th percentile, performance improved by about 17 score points per 3-year period.

Paragraph 44

Malaysia should increase investment in support for low-income students, improve access to education in rural areas, prioritize funding for school infrastructure maintenance and repair, and improve the overall quality of education. The government should ensure that non-citizen children can benefit from public education, and regulate and certify informal education programs for children who fall through the cracks. It should withdraw its highly problematic reservations to articles 2 and 28 of the Convention on the Rights of the Child, pertaining to non-discrimination and universal primary education. The government should make secondary education compulsory.

Comments from the Government of Malaysia:

- Malaysia has made reservations on Article 28 (a) of the Convention on the Rights of the Child (CRC) which requires the State parties to provide free primary education to all children regardless of their citizenship status. Malaysia upholds the reservation because all

policies pertaining to the rights to education for undocumented non-citizen or refugee children should be in coherent with other legislations and policies by other ministries and agencies in Malaysia.

- Currently, MOE is reviewing the policy to make secondary education compulsory.

Housing

Paragraph 45

Adequate housing is unaffordable for many and housing costs have risen 87 percent between 2010 to 2018, outpacing the 59 percent rise in wages. According to the World Bank, households with monthly incomes less than RM5,000 (US\$1,229) experience “severe housing unaffordability,” with more than half of those in Kuala Lumpur earning RM3-5,000 having “no access to housing within their capacity-to-pay.” Yet as of 2018, just 20.9 percent of the housing stock was low cost, and it accounted for only 7.4 percent of new housing in 2017.

Comments from the Government of Malaysia:

- As reported in the Household Income and Basic Amenities Survey 2016, published by Department of Statistics Malaysia, Kelantan recorded 89.0 percent household living in physically stable housing in term of its condition. Only 11.0 percent household living in the housing which its condition is deteriorating or dilapidated. Rural area recorded the higher percentage of 13.7 percent as compare to the urban, 8.3 percent only. Deteriorating/dilapidated house referred to the house which is not well maintained by the owner. There are defects which need to be repaired such as some floor are rotten, hollow walls due to weather or time factor.
- According to the report by Central Bank of Malaysia (2017), Malaysia does not have a complete database containing information on supply and demand for housing. Difficulties in obtaining information such as income, characteristics and household choices have reinforced the ability to adjust the supply of housing to meet household demands effectively and contribute to the high number of residential overhang.
- Comprehensive housing data is essential to identify the demand and supply of affordable housing in Malaysia. This comprehensive data will help the Government to avoid mismatch between supply and demand, as well as to identify the level of household capability by location, household economic situation and the lack of affordable housing in each location.
- The Ministry is currently in the midst of developing Big Data Analytics which will not only be a data collection centre for real estate information encompassing demand and supply but also provide a platform for analysis by decision makers and policy makers, as well as stakeholders to assist in the formulation of policies and the overall planning of the national housing industry. This system will involve integration with the Federal Government agencies, State Governments and private developers.
- The Government initiative to provide 1 million affordable housing within 10 years in line with the National Housing Policy which is to provide affordable and quality housing. Among the Government's plans to increase affordable housing especially for the B40 and M40 group is through the provision of 1 Million Affordable Homes (RMM) over 10 years nationwide. Among the agencies involved are the Federal Government, State Governments and private developers.

VI. Civil and Political Rights of People in Poverty

Paragraph 47

Poor people in Malaysia suffer disproportionate violations of their civil and political rights. Access to legal aid is limited both by the scope of cases covered and by resource constraints. The Rapporteur spoke with prisoners who said they had never met with a lawyer or only met a lawyer once for a few minutes on the day of a legal proceeding. Vulnerable non-citizens,

like stateless people and refugees, are not able to access legal aid provided under the Legal Aid Act. When asked about the socioeconomic background of the people in prison, Home Affairs officials said they did not collect data, but that “most of them are low income, with [only] primary education.”

Comments from the Government of Malaysia:

- The Malaysian Prison department has no jurisdiction whatsoever for matters regarding legal proceeding before a prisoner is sent to prison for the first time. After the prisoner is sent to the prison, the authority also has no power to interfere in the exclusive relationship between a lawyer and a prisoner regarding legal proceeding and other legal matters except for prison safety.
- However, prison authority has provided every prisoner the right to access/choose their legal representative if they require them:
 - (i) For appeal
 - (ii) Any Legal proceeding
- Legal Advice and Legal representation are provided by three different legal aid bodies in Malaysia. The first body is the Legal Aid Department that is funded by the government and handles certain criminal and civil cases. The second is the Bar Council and they have offices across the different states of Malaysia. The Bar Council is privately funded by members of the bar and provide legal aid for arrears of family law, employment law and criminal law. The third body is specifically for criminal cases. This is known as the National Legal Aid Foundation and it started operating in 2012 to close the gap between the Legal Aid and the Bar Council. Those who are unable to afford legal representatives will be referred to legal aid committee. However the criteria for eligibility are solely determined by the committee.
- Every request by their (prisoners) lawyers are facilitated accordingly. For prisoners who can't afford to hire a lawyer, opportunity is given to meet Malaysian Legal Aid and National Legal Aid Foundation (NLAF) who visits prison.
- Application for NLAF:

Prison	No of Application				
	2015	2016	2017	2018	2019 (Aug)
Sungai Buloh Prison	485	449	532	816	471

Paragraph 48

Poverty is, in effect, criminalized by the Destitute Persons Act, which allows authorities to take into their charge people deemed destitute and penalizes resistance with up to three months imprisonment. According to civil society groups, the Act has been used to detain homeless people without trial. Various post-conviction consequences, such as bars on educational loans and civil service jobs, as well as discrimination by employers against people with criminal records, mean that people who have been imprisoned have fewer education and work opportunities.

Comments from the Government of Malaysia:

- The spirit of Destitute Persons Act 1977 [Act 183] is not to criminalize a destitute person but to provide care and rehabilitation of destitute persons and for the control of vagrancy. In order to control the vagrancy, any person who refuses to be taken or offers any resistance will be charged under Section 11 and on conviction, will be sent to a welfare home or to imprisonment.
- However, the real situation is that the destitute person who is charged under this section will be sent to a welfare home as the main goal to provide protection to them.

- During prosecution, the destitute person is given the right to fair trial i.e. to defend him / herself or to hire lawyer.
- Data shows that in 2018 from the total of 145448 who came into the prison 60% has secondary education, 21% primary education, 18% have not been to school and 1% has tertiary level education. Please refer the chart below:-
- Prison Admission and Level of Education: Year 2018

Education Level	Total Number	Percentage (%)
Not been to school	26,222	18
Primary	30,689	21
Secondary	87,50	60
Tertiary	1,387	1
Total	145,448	100

- Prison Admission and Income Level: Year 2018

Income (RM)	Total number	Percentage (%)
No Information	38,023	26
0- 500	6,971	5
501 - 1000	45,428	31

Paragraph 49

The government should improve access to legal aid, including in civil matters. It should conduct a thorough analysis of the socioeconomic background of prisoners with a view to identifying policies that will break the close link between poverty and incarceration. It should also build on existing programs that promote access to post-release employment opportunities, including by eliminating a bar on educational loans and expunging criminal records for minor offenses.

Comments from the Government of Malaysia:

- Although the support from the employers were not so encouraging in the beginning, Prison Department through the introduction of Parole System in 2008, managed to penetrate into job market and create opportunities for inmates and at the same time encouraging and gaining the trust of employers in hiring ex-prisoners.
- No of Parolees released on Parole Order from 2008-2018

Year	No of Parolees
2008	199
2009	746
2010	1028
2011	1190
2012	1912
2013	2654
2014	2320
2015	2695
2016	3855
2017	5029
2018	6251
Total	27879

- Prison Department in enhancing its services by venturing into ‘Corporate Smart Internship’ (CSI) program for Parolees since 2017. This program is to seek job training with Corporate Bodies in manufacturing, services and agriculture sector and at the same time

secure career while they are still undergoing sentence, and continuity in employment. In 2019 this program was expanded to normal prisoners (not parolees) who are still serving their prison term.

- Corporate Smart Internship Program

Year	No Participants (Prisoners)	No of Companies/ Location/ State
2017	576	4/9/4
2018	1,237	30/48/12
2019 (August)	1,222	57/103/13
Total	3,035	

- To support this initiative, the Government in its 2019 Budget has announced tax relieve for employers who employ ex-prisoners and parolees. The Prison Department also has embarked on Resettlement Programme since 1st July 2019 for prisoners who are due to be released. This programme has successfully given employment to 120 ex-convicts till to date.

Education

- In terms of education to cater for young prisoners, Prison Department established school syllabus with the collaboration from Ministry of Education in 9 of its prison and 4 Henry Gurney Schools with a total number of 1,005 academic students (2019) with 100 teachers while another 862 undergo Technical and Vocational training.
- 37 prisoners are pursuing their education in tertiary level, whereby Prison Department is affiliated with Open University Malaysia (OUM).
- Loan application is processed without checking the student's background such as if they were ever incarcerated.
- Verification is made only on the family income or citizenship status.
- Therefore, post-conviction students are qualified to apply for the PTPTN loan subject to being offered a place to further their studies in any higher learning institution.

VII. Populations of Concern

Indigenous peoples

Paragraph 50

Some 13 percent of Malaysia's population is indigenous, including an estimated 70.5 percent of Sarawak's 2.7 million people, 58.6 percent of Sabah's roughly 3.8 million people, and about 0.7 percent in Peninsular Malaysia. Official statistics obscure poverty among indigenous peoples because they combine outcomes for indigenous peoples and Malays within the umbrella Bumiputera category. Outdated figures from a decade ago, the most recent available, reveal indigenous poverty rates that vastly exceed national averages: 31.16 percent for the Orang Asli in 2010, as well as 22.8 percent in Sabah and 6.4 percent in Sarawak in 2009.

Comments from the Government of Malaysia:

- Based on 2010 Census, indigenous population are estimated to be 161,000 persons in Malaysia.
- Officially, poverty rate among indigenous population are not published based on survey coverage.

Paragraph 51

Despite laudable political and legal commitments to promote the rights of indigenous peoples, their rights, ways of life, and goals were frequently misunderstood or dismissed by government officials with whom the Rapporteur met.

Comments from the Government of Malaysia:

- Although the reporter’s assertion that moving indigenous community to urban area has many disadvantages, this view need to be supported by details in-depth study. Meanwhile, government and related agencies will remain committed towards indigenous rights, by looking forward to create additional employment opportunities for indigenous community as effort to improve their level of life. At the same time, existing programs will be intensified to ensure their welfare, education and healthcare continuously being monitored by the government regardless wherever they were placed.

Paragraph 52

Land rights are especially important for indigenous peoples and many in Sarawak, Sabah, and Peninsular Malaysia described their close relationship with the land, and how their cultivation methods, diets, shelter, and traditional healthcare practices derived from and depended on access to land. These communities have for years raised concerns about the negative impacts that loss of land to commercial plantations and logging have on their health, well-being, housing, and food security. Yet states continue to find devious ways to deprive indigenous communities of the land they have traditionally relied upon, for example by disingenuously declaring their land a “forest reserve” while allowing corporate actors to exploit the area. One person recounted, “We never said we were facing extreme poverty. The government is saying that, and using it to justify projects that do not benefit us.” A civil servant in Sarawak tellingly claimed that indigenous people don’t actually “use” the land, they merely “roam around.” Like her, many policymakers seem to assume a hierarchy of potential land uses that ranks corporate extraction of profit above sustainable cultivation by indigenous peoples.

Comments from the Government of Malaysia:

- The forests in Peninsular Malaysia has been managed and classified under two major classifications: (1) production forests; and (2) protection forests. With regard to production forests, the states use production forests in order to ensure forest products for both domestic and international consumption into perpetuity (i.e. sustainably). Production forest areas are to be managed to maximize social, economic and environmental benefits for the nation and its people in accordance with the principles of sustainable management. Peninsular Malaysia has been practicing Sustainable Forest Management (SFM) since 1901.
- The harvesting of timber in Peninsular Malaysia based on each annual allowable cut by state which is approved by the National Land Council (NLC) and adopted by the respective states. The selective Management System (SMS) practiced has evolved to optimize an economic cut, the sustainability of the forests and minimum cost for forest development. Under the SMS system, forestry activities are categorized into three stages, namely pre-harvesting, harvesting and post-harvesting. The sequence of operations under the SMS practiced in Peninsular Malaysia, strictly for the Permanent Reserved Forests (PRF). In this context, commercial plantations and logging are not threatening or diminishing, either directly or indirectly, the resources or tenure right of the communities.
- With consent from Orang Asli Community, Department of Orang Asli Development (JAKOA) collaborate with several agencies to introduce commercial plantation program, agricultural to uplift their socioeconomic level and promotes sustainable cultivation by aborigines.

Paragraph 53

Indigenous people also reported that they are often excluded from social services including school and healthcare. Some said they dropped out of school because the instruction was not relevant or accessible to them, because of what they saw as attempted religious conversion,

or because they experienced corporal punishment and discrimination. **By contrast, no government official could produce an assessment of educational outcomes for indigenous peoples. One Kelantan state official explained that Orang Asli could never be expected to achieve the same educational outcomes as people in cities.**

Comments from the Government of Malaysia:

- A total number 2,002 of indigenous people from Orang Asli communities have completed tertiary education level as of 2019. Thus, the Government efforts to provide compulsory education to all Malaysian of all races including indigenous people was reflected on the academic achievement of Orang Asli.
- There are 142 special needs indigenous pupils (109 at primary school and 33 at secondary school) and they are given undivided support, help, and full attention to ensure none are left behind in the education.
- There are 19 Education Support Programmes provided to all students including murid Orang Asli:
 - (i) Boarding School Food Aid Program (5 meals everyday)
 - (ii) Poor Students' Trust Fund (KWAPM) RM100 for primary and RM150 for secondary
 - (iii) Allowance For Students With Special Needs (disabled) (RM150 per month /RM1,800 one
 - (iv) year)
 - (v) Food Supplement Program
 - (vi) Milk Aid Program under Food Supplement Program
 - (vii) Preschool Per capita Grant
 - (viii) Federal Scholarship
 - (ix) Form 1 to 4 : RM70 per month X 12 month
 - (x) Form 5 : RM70 per month X 11 month
 - (xi) Form 6 (lower/ upper) : RM90 per month (Art Stream) RM110 per month (Science Stream)
 - (xii) Safety Jacket Aid (RM95 per unit/person)
 - (xiii) Adult Class for Indigenous People
 - (xiv) Percapita Grant
 - (xv) Schooling Aid (RM100 per student)
 - (xvi) University Preparatory Scholarship
 - (xvii) School Fees Aid Program
 - (xviii) Additional School Fees Aid Program
 - (xix) School Sports Aid Program
 - (xx) School Co-curricular Aid Program
 - (xxi) School Textbook Loan Scheme (SPBT)
 - (xxii) Takaful Malaysia Insurance (TPSM) RM1.50 per student)
 - (xxiii) Malaysia Schools Sports Council (MSSM)
- What has been reported in this statement is inaccurate because the general education is existed in indigenous villages in Kelantan. Schools were also built in indigenous communities by providing teachers to teach and educate indigenous children using the syllabus from the Ministry of Education Malaysia. As for as we are concerned, there is no approach taken by any department or agency or individuals who forced the indigenous people to convert to Islam.

Paragraph 54

Some indigenous women described an appallingly authoritarian approach by health authorities to indigenous peoples. They were required to accept unwanted contraceptive injections or implants to which they had not freely consented. One woman described begging doctors to remove an unwanted and painful implant that prevented her from carrying out daily tasks, and said the removal cost her the equivalent of a month's worth of household expenses.

Comments from the Government of Malaysia:

- Contraception is a method of choice for family planning practice by the Ministry of Health Malaysia for women including the indigenous people or the Orang Asli. The aim of offering injections or implants to the women is to ensure good spacing and readiness for the next pregnancy. Long acting contraception is offered to women with medical illnesses such as heart problem, chronic anaemia, poor spacing and bad obstetric history; without force. Explanation and verbal consent were obtained before contraception was administered. The implants effectiveness was up to 3 years duration whereas the injections were only for 3 months. The staff will entertain the request for early removal of the implants, if the women's condition is suitable for pregnancy. If not, she will be counselled and reassured.
- The Ministry of Health has always committed and will continue to provide health services to all members of the community including the Orang Asli. The services is either provided through static facilities, for those Orang Asli community in village fringes, Mobile Health Team for Orang Asli for those localities that are reachable and Mobile Air Health Services for the remote localities in the interiors. The services provided are basic maternal and child health services including family planning, disease screening and treatment.
- There are twenty Pasukan Bergerak Orang Asli (PBOA) team and one flying doctor services team providing health services to the Orang Asli
- The choice of family planning methods for the Orang Asli women is similar to those offered to the general population. The SOP also universally expected to be practiced by all healthcare workers. Nonetheless, due to challenges faced such as whether and terrain, which will affect the frequency of services, a Long Acting Reversible Contraceptive (LARC), such as depo-injection, Intra-Uterine Device (IUCD) and Implanon, would be the best option method for the Orang Asli women. However, the choice still in the hands of the woman. An inquiry was made following the allegation “several who said they were required to accept contraceptive injections or implants that they did not want and had not freely consented to, among Orang Asli women in Hulu Perak District...” that went viral in several local on-line newspapers on the 9th-10th July recently.
- The enquiry headed by a Family Medicine Specialist, who is from the Orang Asli ethnic, was conducted the following week, i.e on the 17th-18th July 2019. Twenty eight (28) women were interviewed, including the two (2) women who appeared in the newspapers. Findings were, family planning is a generally practiced by the Orang Asli women as a means of birth spacing and majority knew the side effects of the family planning. Orang Asli community are close-knitted community, and information on family planning is pass between them and between generation. As some of the younger community Orang Asli become more educated and well informed, some even opted to limit their number of children. In fact one of the two (2) women who alleged that she was forced to / not consented for the procedure, confessed had undergone Tubal ligation – a permanent form of contraception, at her on will, even after being refused by the attending Specialist. She was advised by her mother.
- None of the women claimed that they were forced to accept family planning to control birth.
- The statement about an attempt religious conversion is due misunderstanding of the parent with the school administration. As an example, the dressing code in the school seen as to convert the female student to Islamic religion. Whereby there is an option of wearing *baju kurung* or pinafore by the female student in Malaysia.
- The Government had support the well-being of the indigenous student via numbers of initiatives and with many positive outcomes.

- Currently there are a non-formal education with 232 students in reader promotion program (3P), 140 children age of below 4 years at 11 childcare centres (TASKA), 4,931 children age of 4 to 6 years old at 279 early childhood education centres (TADIKKA).
- In 2018, 26,230 students of indigenous student in the primary school. Among those 15,652 students in the 94 special primary school dedicated to the indigenous and 4,875 students in the boarding primary school.
- Total of 13,155 indigenous secondary student with 2,665 staying at the boarding school and Vocational college in 2018. Meanwhile there is 1,090 indigenous students received assistance for study at higher education centre locally and abroad.
- This statement is very general without any facts and references for further investigation and action by either the Ministry of Health Malaysia or JAKOA.
- JAKOA welcome the rapporteur to provide us with necessary information as our aim to enhance our services.
- MOE does not discriminate any category of students in providing education. It also attempts to provide meaningful education including for the Orang Asli. Fun learning approach and 21st century learning is also introduced in Orang Asli schools. The Orang Asli's cultural background and environment are taken into consideration in the teaching and learning process.
- MOE vehemently denying the allegation that education is being used as a platform for religious conversion.

Paragraph 55

The government should follow through on its promises to indigenous peoples. It should evaluate existing law, practices, and institutions to ensure that policies are developed in line with the principles contained in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Given that many issues relating to land have been devolved to the state level, the federal government must find ways to work with state authorities to ensure the recognition of customary land rights of indigenous peoples—including through public and participatory mapping of indigenous land claims—and build on existing efforts to hold state officials to account when they have failed to protect those rights. It should ensure that laws and policies are consistent with UNDRIP, ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), and incorporate and implement the principle of free, prior, and informed consent in matters concerning the lands and livelihoods of indigenous peoples. It should also confirm without delay a visit by the UN Special Rapporteur on indigenous peoples. Finally, and critically, it should routinely publish disaggregated poverty and income data on indigenous peoples, so that their situation is not obscured, and so that policymakers can develop solutions responsive to their needs.

Comments from the Government of Malaysia:

- There was no customary land for Orang Asli in Kelantan and such a provision was not contained in the state land law. However, the authorities had gazetted under section 62 National Land Code 1965, several areas for the Orang Asli community, allowing them to carry out farming and agriculture besides the residential use. To date, the state government had gazetted 1,645 hectare area in nine villages for the Orang Asli in Gua Musang and Jeli. The state government would never allow companies to carry out logging in these areas, which have been classified as Orang Asli settlements.
- Land-related issues are under the control of the state government and the federal government is always striving to comply with the law and assist the indigenous people in the matter. The Federal Government has cooperated with the state government through JAKOA by doing a perimeter survey of Orang Asli villages and filling to state government for gazetting and the work is still ongoing as of today.
- While for other cases related to land, JAKOA continue to discuss and negotiated with State official in order to uphold Orang Asli rights while at the same time follows the land laws of Malaysia, State Land procedures, and laws related to forestry and wildlife.

- Malaysia is not a party for ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169)

Migrant workers

Paragraph 56

Estimates of the number of migrant workers in Malaysia generally range between three and six million, inclusive of both documented and undocumented workers. These workers play an outsized role in the Malaysian economy, which has a labor force of about 15.66 million, and have been a key factor in Malaysia's competitiveness and economic success. They are excluded from the official poverty figures, but their rates of poverty are safely assumed to be higher than the general population, given that they are disproportionately employed in low-skilled labor, are generally low-paid and excluded from social support, and suffer wage theft.

Comments from the Government of Malaysia:

- Malaysia previously has implemented several regularisation and amnesty programmes to illegal immigrant such as 6Ps Programme, Rehiring programme and Voluntary Deportation Programme

- (i) 6Ps 2011-2014 : 521,734
- (ii) Rehiring Programme, 2016-2017: 744,942
- (iii) Voluntary Programme (ended 31 August 2018 :840,000
- (iv) Back for Good (BFG) programme (1 August-31 December 2019): 192,260
- (v) Documented Visit Pass Temporary Employment (PLKS) (As of 29 February 2020) : 2,010,691

- Official statistics in Malaysia are compiled using several sources, primarily through censuses and surveys, as well as administrative data. Data collection through the former have always covered all residence status such as permanent residence, expatriate, temporary residence, foreign students, foreign visitors, foreign workers and others (including refugees and stateless). However, as in many other countries, household surveys such as the Labour Force Survey and the Household Income and Basic Amenities Survey do not cover institutional households, where many migrant workers in Malaysia reside. Currently, Malaysia is working with the assistance of International Labour Organization in measuring SDG Indicator 10.7.1 Recruitment Costs of Migrant Workers through a stand-alone survey.

- On another hand, reporting and analysis of official statistics are subject to requirements of the policies concerned.

Paragraph 57

Unfortunately, despite their ubiquity in the Malaysian labor force, migrant workers are set up for exploitation by a confluence of factors, including unscrupulous recruitment agents and employers, a harsh immigration policy, and a lack of enforcement of labor protections. They are reportedly subjected to passport confiscation, low pay in violation of minimum wage laws, poor living conditions, punishment by fines, high recruitment fees, debts to recruitment agencies and employers, and salary deductions. Reports documenting abuses against migrant workers are consistent and numerous.

Comments from the Government of Malaysia:

- Majority of migrant workers come to Malaysia to escape from poverty at their Country of Origin. The situation of debt bondage, which is what these migrant workers are often prone to, begins from the country of origin and made worse by unscrupulous agents at source country. These compounding facts are the reason for the migrant workers involved to be driven into poverty, and not acknowledging these facts may result in biased statement by the UN SREPHR.

- Further, "migrant workers are prevalent in Malaysian labour force", which is inaccurate because they only make up to less than 20% of the overall labour force.

Paragraph 58

Labor protections appear widely unenforced and the situation seems not to have improved under the new government. With legal status tied to employers, an exploited migrant worker faces an unenviable decision: remain in the job and continue to suffer, or quit and become an irregular worker with no recourse and few rights. Unlike in many countries, irregular workers in Malaysia cannot enforce their rights without risking detention and deportation. Officials acknowledged that workers were “scared” to report violations of minimum wage protection due to fear of deportation, and that following any proceedings to enforce their rights, “[f]or sure, we will deport the foreigners.” In 2018, the government investigated and prosecuted fewer trafficking cases than in 2017, and the country was downgraded to the next-to-worst ranking by the United States’ Trafficking in Persons Report. The government has failed to make public a report by the Independent Committee on the Management of Foreign Workers, allegedly because the Cabinet disagrees with its recommendations.

Comments from the Government of Malaysia:

- The enforcement of labour protection carried out under the purview of the Department of Labour hinges upon proactive approach and reactive approach. The former consist of inspections (periodic, surprise and with notice), whilst the latter is carried out in response to receiving complaint. Whilst the Ministry understand that there are room for improvement with regard to the whole of labour inspection environment, to imply that it seems to not have improved would be misleading. According to statistics by the Department of Labour, total number of inspection carried out in year 2018 is 33,767, which is more than the previous year at 32,122.

Paragraph 59

Women, who made up an estimated 20 percent of migrant workers in 2016, have been particularly abandoned. They are often employed as domestic workers, and are vulnerable to exploitation because they work in isolation in private homes without regular monitoring and because a carve out in Malaysia’s Employment Act 1955 excludes them from basic protections such as leave days, medical coverage, or working hour restrictions. Defending this carve out, officials pointed to voluntary guidelines, and shockingly reported that between 2014 and 2018, they had carried out only five prosecutions against employers for violations of the rights of domestic workers.

Comments from the Government of Malaysia:

- It is important to understand the principle and justification behind the exclusion of domestic worker in labour laws and the efforts that the Government has made to mitigate the negative impact. The nature of work for domestic worker is informal, and it involves private household residence. This makes inspection impossible and the determination of actual working hours remains hard to be assessed.

Paragraph 60

Migrant workers are also excluded from many social services. Although those with legal status can in theory access public healthcare, they must pay a “foreigner” rate at public facilities, up to 40 times what a Malaysian citizen pays. Irregular migrant workers avoid public healthcare facilities altogether due to document checks and the potential involvement of immigration authorities. The government confirmed that undocumented people receiving treatment would subsequently be detained and deported. The children of migrant workers, whether brought across borders or born in Malaysia, face a difficult existence and are generally unable to enrol in public schools. According to the Global Detention Project, 885 children were detained in immigration detention in 2017, out of an estimated total of 47,092 immigrant detainees.

Comments from the Government of Malaysia:

- Ministry of health Malaysia provides health services to all including migrants, refugees and stateless people as below:

(i) Currently, we are providing healthcare services to all those who seek treatment at our health facilities regardless of their citizenship status.

(ii) Referring to the MOH Circular, all patients with life-threatening conditions irrespective of their citizenship status are provided with emergency treatment without having to pay the initial deposit

(iii) MOH has reviewed the Circular that all foreigners with certain infectious diseases [Malaria, Ebola, Plague, Yellow fever, Cholera, Typhoid & Tuberculosis (first line drugs only)] who are the confirmed cases or contacts of the confirmed cases (referred / walk-in) are exempted from paying the treatment fees.

(iv) Health services are provided to all patients without discrimination. However, the provision of health services and treatment in government facilities are subjected to fees as stipulated in the Fees Act of 1951 and Fees (Medical) (Cost of Services) Order 2014.

(v) All foreign workers in Malaysia are required to have a health insurance policy hospitalization and surgical insurance scheme foreign workers (SKHPPA) a premium fee of RM120 year will cover RM20,000 hospital admission fee.

- Migrant workers are not excluded from Public Health Services. They have access to health services in any government or private health facility of their choice.
- Provision of health services in government health facilities is subject to payment rates under the Fees Act of 1951 and Fees (Medical) (Cost of Services) Order 2014.
- However, MOH Circular set out all patients with life-threatening conditions irrespective of their citizenship status are provided with emergency treatment without having to pay an initial deposit.
- Treatment of 7 infectious diseases [Cholera, Typhoid, Ebola, Malaria, Yellow fever, plague & Tuberculosis (first line drugs only)] for confirmed cases or contacts of the confirmed cases (referred) are exempted from paying the treatment fees.
- All documented foreign workers in Malaysia are required to have a health insurance policy hospitalization and surgical insurance scheme foreign workers (SKHPPA) for premium of RM120 year will cover RM20, 000 hospital fee.
- During the 11th Joint Commission for Bilateral Cooperation (JCBC) held in 2011 between Malaysia and Indonesia in Lombok, the Indonesian Prime Minister proposed to build schools and Community Learning Centres (CLCs) for children of Indonesian workers in Malaysia.
- Indonesian CLCs were set up in plantations due to the high number of foreign workers in this sector. The curriculum, text books and activity books used in the CLCs are provided by the Ministry of Education of Indonesia. The medium of instruction is in Bahasa Indonesia and teachers are provided by the Indonesian Government via the assistance of the Indonesian Embassy in Malaysia.
- The proposal was approved in 2013 and eventually the Sekolah Indonesia in Kota Kinabalu and CLCs in Sarawak and Sabah were established. Currently there are 101 CLCs registered with MOE. The CLCs have the capacity to accommodate 5186 children and are equipped with 630 qualified teachers who are selected by the Ministry of Education Indonesia.

Paragraph 61

Non-citizen spouses in Malaysia are in a precarious situation. They face many challenges in accessing employment, and are completely dependent on spouses to maintain their legal status and authorization to work, a situation that the authorities often allow to persist for decades. Spouses said that barriers to employment forced some of them to work in the informal sector, making them vulnerable to abuse and exploitation, while divorced or widowed spouses are mostly given short term visas without the right to work.

Comments from the Government of Malaysia:

- Foreign workers holding the Visit Pass Temporary Employment (PLKS) are not allowed to bring their spouses to Malaysia.
- Non-citizen spouse whom are divorced to Malaysian citizen and have children possessing Malaysian citizenship are allowed to work in a few sectors.

Paragraph 62

Migrant workers make up a sizeable part of the overall population and have been central to the country's economic success. Yet they have deliberately been left in a regulatory grey zone that facilitates sometimes scandalous abuses and generally poor conditions. The time has come for the Malaysian government to acknowledge their existence, role, and vulnerability in its policymaking. A starting point is to make a rigorous estimate of the total population of migrant workers and migrants and to reflect their presence in poverty statistics. The government should also rapidly enhance the enforcement of labor protections, ensure migrant workers can assert their rights without fear of deportation, and extend standard employment protections to domestic workers. It should engage more substantively with countries of origin to ensure the establishment of safe corridors and the elimination of exorbitant recruitment fees. And it should reverse the policy of excluding them from social services.

Comments from the Government of Malaysia:

- The migrant labour force comprise only make up to less than 20% of the overall labour force (refer para 57).

Paragraph 63

The Malaysian economy would in fact be better off if migrant workers, both documented and undocumented, were able to access affordable healthcare without fear of deportation, and if the government were to expand existing efforts to enrol stateless children in public schools regardless of immigration status. Finally, the government should adopt major international instruments pertaining to the rights of migrant workers, and withdraw its reservation to article 37 of the Convention on the Rights of the Child pertaining to deprivation of liberty.

Comments from the Government of Malaysia:

- The Ministry of Education of Malaysia (MOE) upholds the best interest of the child under all circumstances and acknowledges the need for undocumented non-citizen children to access basic education. MOE continuously contributes towards the progress of fulfilling the rights to education for all. However, Malaysia has made reservations on Article 28 (a) of the Convention on the Rights of the Child (CRC) which requires the State parties to provide free primary education to all children regardless of their citizenship status. Malaysia upholds the reservation because all policies pertaining to the rights to education for undocumented non-citizen or refugee children should be in coherent with other legislations and policies by other ministries and agencies in Malaysia (refer Para 44).

Children

Paragraph 64

The child poverty rate in Malaysia is three times the national poverty rate, yet there is no adequate support system for addressing the problem. The Department of Social Welfare's Children's Financial Assistance scheme is particularly inadequate, with coverage declining since 2013 so that by 2019 just 69,000 children were covered, out of 160,000 below the national poverty line and 1.8 million who would be considered poor under a contextually appropriate poverty line.

Comments from the Government of Malaysia:

- Financial Assistance for Children is given amounting to RM100 for each person up to a maximum of RM450 for each family with more than 4 children to assist underprivileged children so they can continue living with their family and get care and attention.

- Until June 2019, the Department of Social Welfare had allocated RM118,499,850 for 66,916 families who are below current Poverty Line Income receiving Financial Assistance for Children. Indirectly, there are almost 197,500 children receiving this beneficiary.

Paragraph 65

Stunting is a key marker of malnutrition and a problem that has dramatic consequences for those affected. Yet one in five Malaysian children under five are stunted, a higher level than in countries with a similar GDP. Children born into lower income families have a higher likelihood of being underweight or stunted, and a study in Kelantan found that children in food-insecure households were three times more likely to be stunted. A 2018 UNICEF survey of low income flats in Kuala Lumpur and Selangor found 15 percent of children under 5 were underweight and 22 percent were stunted.

Comments from the Government of Malaysia:

- According to a landscape analysis report on Double Burden of Child Malnutrition in Malaysia by the Ministry of Health and UNICEF Malaysia in 2019, there was no association between household wealth and stunting among children from poorer households. The report also showed that the predictors of stunting among children under 5 years in Malaysia were maternal characteristics, child feeding and care practices as well as maternal education level and ethnicity.
- As for the statement on the findings of a study in Kelantan, the statement cannot only be based on a single study to conclude the nutrition situation in Malaysia as there was another study conducted in Kuala Lumpur (Sharif ZM, Ang M, 2001) that reported otherwise. We appreciate if this statement can be reviewed taking into considerations of other study findings.

Paragraph 66

Child labor is also a problem in Malaysia, including on palm oil plantations where an oppressive quota system drives families to bring their children to work as unpaid laborers. And Malaysia has registered about 15,000 marriages involving children over the past decade, with Muslim girls allowed to marry before the age of 16 with permission from a Syariah court judge. Poverty is a widely recognized driver of child marriage, which is used as a coping mechanism for poor families in Malaysia and in turn has severe implications for children, including elevated risks of health problems and loss of education.

Comments from the Government of Malaysia:

- Malaysian Government has introduced national strategic plan to address issues on child marriage. This plan has identified 6 main factors contributing to child marriages issues and will be addressed by changes in relevant policies, law reform and awareness programmes.

Gender

Paragraph 69

One women's rights organization said that there were inadequate shelter alternatives and no clear financial or housing assistance for survivors of domestic violence, so the majority of women, often with their children, end up returning to abusive situations to avoid homelessness. Users of crisis shelters are generally unable to access divorce because of the cost of litigation, and because proceeding without a lawyer would require undergoing a mandatory reconciliation process alongside their abuser.

Comments from the Government of Malaysia:

- One of the key amendments to the bill is the introduction of an Emergency Protection Order (EPO) which allows social welfare officers to grant victims immediate protection against their abusers.

- The EPO can be issued within two hours after an application is heard by a welfare officer. Victims don't need a police report or a court hearing to obtain the EPO, which is valid for seven days.
- The EPO prohibits the abuser from harming the victim or inciting third parties to harass and harm the victim. It also prohibits a perpetrator from coming near the victim or in the vicinity of her safe space or shelter where she is seeking refuge.
- An EPO can be applied *before* obtaining an Interim Protection Order (IPO) or Protection Order (PO).
- The victim who need protection shall request to the Department of Social Welfare District Office for the temporary shelter at the safe place under the Department of Social Welfare and NGO.
- As for the legal aid, the Legal Aid Department (LAD) is a Government department that provides legal aid services to eligible person in accordance with the Legal Aid Act 1971. Government aims to provide legal services to the public at a lower fee as an alternative to services offered by private lawyers.
- LAD's jurisdiction extends to matters as follows:-
 - (i) Legal advice in all legal matters;
 - (ii) Legal aid in proceeding matters (litigation) as below:-
 - (iii) Criminal matters;
 - (iv) Various type of civil matters;
 - (v) Civil family matters; and
 - (vi) Syariah family matter.
 - (vii) Mediation for Syariah and Civil cases; and
 - (viii) Legal companion services

Paragraph 70

LGBTQI people are overrepresented among people in poverty as a result of persistent stigmatization and discrimination. Research in Selangor and Kuala Lumpur shows that transgender people face considerable challenges in accessing basic services like healthcare and education, and experience employment discrimination that could have long-term socioeconomic implications.

Comments from the Government of Malaysia:

- Malaysia provides access to basic free education for all and do not discriminate children from different races, religion, gender and socio-economic background.

Refugees

Paragraph 71

Malaysia ensures that refugees and asylum seekers exist in extremely precarious conditions that all but guarantee they will fall into poverty. The UN High Commissioner for Refugees (UNHCR) registers refugees, but that does not give them legal status in the country, and they are typically unable to work, travel, or enroll in government schools. They are generally obliged to resort to the informal sector for both work and education. According to UNHCR, only 40 percent of the 33,024 school age refugees and asylum-seekers are enrolled in informal learning centers, from which, in any event, they do not receive certificates. There is little opportunity for refugee children to access secondary education and only a handful of refugees gain entry to universities. The lack of status or work authorization places refugees at risk of arrest, and according to UNHCR, 3,539 persons of concern were detained in 2018, and 103 children were detained between January and June 2019.

Comments from the Government of Malaysia:

- As Malaysia is not a party to the Convention Relating to the Status of Refugees, also known as the 1951 Refugee Convention. Malaysia has no legal obligation to provide education, work and health for refugees.
- The Government has implemented a few administrative policies in managing refugees. The government also acknowledge on the argument that refugees and asylum-seekers should be allowed to work, access to education and public health. Some actions have been taken as follows :
 - In order to provide basic education to this group and to accelerate access to education for all, Malaysia offers Alternative Education Programmes (AEP) which provide access to education for children who do not qualify under the conventional measures of schooling. Through AEP, MOE has allowed other organisations / government agencies / Civil Society Organizations to implement alternative education programmes for these children while being funded and operated outside the regular education system.
 - Refugees children are allowed access to the private education including Alternative Learning Centre (ALC) provided by UNHCR, NGOs and refugees communities.
 - MOE also assists in the establishment and registration of alternative learning centre (ALC) by NGOs in accordance with the Education Act 1996. These ALCs provide basic education to refugee children. As of June 2019, there are 13 ALCs established with enrolment of 1,274 children.

Paragraph 72

Barring refugees from work or public education creates immense hardship for families that should be under Malaysia's protection, and robs the country of their economic contributions. The government is reportedly considering permitting refugees to work in certain sectors. One prominent think tank argues that granting refugees the right to work would have a positive impact on the economy and public finances, by increasing their contribution to GDP to more than RM3 billion (US\$737 million) over a five year period, creating 4,000 new jobs for Malaysians, and bringing in RM50 (US\$12) million in taxes each year by 2024. Granting education to refugees on par with Malaysians could increase their contribution to the GDP to RM 6.5 billion (US\$1.59 billion) by 2040 with annual tax revenue of RM 250 million (US\$61 million).

Comments from the Government of Malaysia:

- Based on humanity basis, the government is currently reviewing its policy to allow refugees to work in approved sectors while waiting for their resettlement to a third country or voluntarily return to their country origin.
- They are also entitled for medical treatment at any public hospitals/clinics at a 50% discount of a total bill.

Stateless people

Paragraph 73

The Malaysian government claims not to collect data on statelessness and there are no reliable statistics on the total number of stateless persons in Malaysia. Stateless people are generally unable to access healthcare, education, and formal work. The exclusion of undocumented and stateless families from a wide range of social services elevates their risk of living in poverty, while their absence from official datasets makes the extent of their vulnerability almost impossible to assess.

Comments from the Government of Malaysia:

- As Malaysia is not a party to the 1954 Convention relating to the status of the Stateless Person and 1961 Convention on The Reduction of Statelessness, Malaysia has no legal obligation to recognize stateless person.
- Ministry of health Malaysia provides health services to all including migrants, refugees and stateless people as below:

(a) Currently, we are providing healthcare services to all those who seek treatment at our health facilities regardless of their citizenship status.

(b) Referring to the MOH Circular, all patients with life-threatening conditions irrespective of their citizenship status are provided with emergency treatment without having to pay the initial deposit

(c) MOH has reviewed the Circular that all foreigners with certain infectious diseases [Malaria, Ebola, Plague, Yellow fever, Cholera, Typhoid & Tuberculosis (first line drugs only)] who are the confirmed cases or contacts of the confirmed cases (referred / walk-in) are exempted from paying the treatment fees.

(d) Health services are provided to all patients without discrimination. However, the provision of health services and treatment in government facilities are subjected to fees as stipulated in the Fees Act of 1951 and Fees (Medical) (Cost of Services) Order 2014.

(e) All foreign workers in Malaysia are required to have a health insurance policy hospitalization and surgical insurance scheme foreign workers (SKHPPA) a premium fee of RM120 year will cover RM20,000 hospital admission fee.

- Therefore, ministry suggest to revise the statement “Millions of non-citizens including migrants, refugees and stateless people are face (from word) SEVERE to SOME barriers to accessing healthcare.

- There are no records of stateless people in Malaysia as a person is recorded as either “citizen” based on evidence and valid documentation by the National Registration Department (NRD).

Birth Registration in Malaysia

- The laws governing the registration of birth in Malaysia are the Birth and Death Registration Act 1957, Registration of Births and Deaths Ordinance 1948 (Sabah Cap.123) and Registration of Births and Deaths Ordinance 1951 (Sarawak Cap.10). The laws stipulate that all children born in Malaysia, regardless of the nationality or the legal status of their parents, have access to formal birth registration procedures and birth certificates. Birth registration documents issued by NRD will be recorded with the status of either citizen or non-citizen according to the marital and citizenship status of the parents at the time of the birth.

- The Ministry of Home Affairs of Malaysia (MOHA) through National Registration Department (NRD) has also conduct outreach programs to bring its services (birth registration) to the public who lives in geographically challenged areas

- MOE upholds the best interest of the child under all circumstances and acknowledges the need for undocumented non-citizen children to access basic education. MOE continuously contributes towards the progress of fulfilling the rights to education to all. However, MOE has made reservations on Article 28 (a) of the Convention on the Rights of the Child (CRC) which requires the State parties to provide free primary education to all children regardless of their citizenship status. MOE upholds the reservation by the fact that all policies pertaining to the rights to education for undocumented non-citizen or refugee children shall be in coherent with other legislations and policies by other ministries and agencies in Malaysia.

- However, based on humanitarian grounds, to enable non-citizen children without proper documentations to get access to education, MOE has established a Policy of Alternative Education as a provision for non-citizen children to gain education in Malaysia. MOE has come up with proper guidelines for Community Learning Centre (CLC) and Alternative Learning Centre (ALC) as follows:

(i) The establishment and registration of CLC which is an educational institution established by plantation owners to meet the educational needs of children of legitimate Indonesian plantation workers in Sabah and Sarawak, aged between 7 to 12 years old; and

(ii) The establishment and registration of ALC to provide education to non-citizen children who are unable to gain access to formal schooling, whether in Government

educational institutions, Government-aided educational institutions or private educational institutions in rural and urban areas.

Paragraph 74

Malaysia makes obtaining citizenship exceptionally difficult for those in any sort of unusual situation, including even children born to Malaysian parents. A child must have a parent with a Malaysian Identity Card to confirm citizenship. And without a valid marriage certificate, parents are often reluctant to register the birth of a child, creating barriers to citizenship. It can be difficult for parents to transmit nationality to an adopted child if a Malaysian birth certificate is not available. These largely unnecessary barriers have enormous consequences for the child's lifelong ability to access work, education, healthcare, and social support, and to be a productive member of society.

Comments from the Government of Malaysia:

- Laws on citizenship in Malaysia are based on provisions under Part III of the Federal Constitution and Citizenship Rules 1964 [L.N.82/1964]. It is not awarded automatically and is subject to the application from individuals.
- MOE upholds the best interest of the child under all circumstances and acknowledges the need for undocumented non-citizen children to access basic education. MOE continuously contributes towards the progress of fulfilling the rights to education to all. However, MOE has made reservations on Article 28 (a) of the Convention on the Rights of the Child (CRC) which requires the State parties to provide free primary education to all children regardless of their citizenship status. MOE upholds the reservation by the fact that all policies pertaining to the rights to education for undocumented non-citizen or refugee children shall be in coherent with other legislations and policies by other ministries and agencies in Malaysia.

Paragraph 75

The government introduced a policy in 2009, reiterated in 2018, to allow undocumented children of Malaysian parents to access public schools, but the associated fees and additional requirements have meant that only 2,635 children benefited from the policy in 2019.

Comments from the Government of Malaysia:

- However, based on humanitarian grounds, to enable non-citizen children without proper documentations to get access to education, MOE has established a Policy of Alternative Education as a provision for non-citizen children to gain education in Malaysia. MOE has come up with proper guidelines for Community Learning Centre (CLC) and Alternative Learning Centre (ALC) as follows:
 - (i) The establishment and registration of CLC which is an educational institution established by plantation owners to meet the educational needs of children of legitimate Indonesian plantation workers in Sabah and Sarawak, aged between 7 to 12 years old; and
 - (ii) The establishment and registration of ALC to provide education to non-citizen children who are unable to gain access to formal schooling, whether in Government educational institutions, Government-aided educational institutions or private educational institutions in rural and urban areas.

People with disabilities

Paragraph 76

People with disabilities in Malaysia face widespread societal discrimination and obstacles that prevent them from participating in society on an equal basis with others. While World Health Organization estimates suggest that 15 percent of the global population experiences some form of disability, only 537,000 people with disabilities were registered in Malaysia as of 2019, or just 1.6 percent of the population. The Ministry unconvincingly blamed the low registration rates on individuals' "denial" of their own disabilities, rather than insufficient outreach or registration efforts on the part of the government.

Comments from the Government of Malaysia:

- The Ministry of Women, Family and Community Development through the Department of Social Welfare has organized state level PWDs registration campaign for 2019 as the following states:

- (i) Perak;
- (ii) Selangor;
- (iii) Terengganu;
- (iv) Johor;
- (v) Sabah;
- (vi) Sarawak; and
- (vii) Kedah.

- At district level, the Department of Social Welfare regularly conducts empowerment programmes including registration campaign for PWDs in improving our delivery of service and information to the community.

- The Ministry of Women, Family and Community Development is currently undertaking two studies on the employment opportunities for persons with disabilities, as well as the support system for caregivers of PWDs in Malaysia. One of the main output from these studies is the establishment of a database on the demand (PWDs) and supply (employers) situation on employment; and existing support or assistance available for caregivers of PWDs as well as the real needs of these caregivers. Input from these findings will be used to review existing relevant policies.

Older persons

Paragraph 78

Workforce participation among people with disabilities is low, with approximately 4,500 workers in public and private sectors as of 2018, mainly due to a lack of accessible workplace environments and negative employer perceptions of people with disabilities. Many employers in Malaysia have failed to ensure workplaces are accessible.

Comments from the Government of Malaysia:

- Negative perception of employers against disabled is beyond the control the Government. However, for those disabled that are employed, a new section in Employment Act had been added with regard to discrimination in employment which includes the disabled.

Paragraph 79

The Malaysian population is aging, with the proportion of the population over 65 expected to reach 15 percent by 2035. There are real concerns as to whether the pension schemes in place adequately protect people from poverty as they grow older. And those who are outside the formal workforce do not benefit from these schemes anyway. As of 2013, nearly 70 percent of 54 year-olds had less than RM50,000 (US\$12,297) in savings. Eighty-nine percent of the Employees Provident Fund members say their savings are insufficient for retirement and 70 percent of those who withdraw from their Fund at age 55 reportedly use up their savings less than a decade after retiring. According to the UN Population Fund, the current monthly RM 300 (US\$73) assistance provided to older people in poverty is not sufficient to fulfil their basic needs.

Comments from the Government of Malaysia:

- Financial Assistance for Older Persons amounting to RM350 (not RM 300) is provided to support the poor elderly so that they continue to live and lead a normal life with care, concern and support from their local community. The amount given exceeds the Poverty Line Income amount set by Ministry Of Economic Affairs. The financial assistance is to assist individuals or families with lower income to ease their financial burden temporarily or

until they improve their financial situation to become financially independent. The Department of Social Welfare encourages family and community support to take responsibility for the elderly.

VIII. Climate change

Paragraph 80

Surface temperatures, sea level, and extreme weather events are all increasing in Malaysia, and climate change will exact a high toll. It is all the more alarming then that officials at the state level, who are responsible for land and natural resources management, and officials at the federal level who handle social protection, rural development, and vulnerable groups, seem to be paying almost no attention to the risks facing poor people who will be particularly affected by climate change. The Special Rapporteur was provided with no evidence that they are factoring climate change into their poverty and social protection policies.

Comments from the Government of Malaysia:

- The Low Carbon Cities Framework and Assessment System (LCCF) under the Ministry of Energy, Science, Technology, Environment and Climate of Malaysia (MESTECC) and implemented by GreenTech Malaysia is a national framework and assessment system to guide and assess the development of low carbon cities throughout Malaysia. LCCF assists local authorities and developers to achieve low carbon cities status, providing a framework and tools to implement strategies that will reduce their carbon emission by phases. Among the local authorities that have received recognition under LCCF are Subang Jaya Municipal Council, Hang Tuah Jaya Municipal Council, Shah Alam City Council, Klang Municipal Council and Seberang Perai Municipal Council.
- MESTECC launched the Low Carbon Cities 2030 Challenge to create cleaner, healthier and economical cities. Under this initiative, MESTECC through Malaysia Green Technology Corporation (MGTC) works closely with Local Authorities to reduce their carbon emissions from energy and water consumption, transportation and waste generation. The Local Authorities are also encouraged to protect and increase their green areas and water bodies. This initiative based upon the Low Carbon Cities Framework (LCCF) developed by the Government and implemented since 2011.
- To further strengthen the implementation of low carbon initiatives in Malaysian cities, the Green Technology Application for the Development of Low Carbon Cities (GTALCC), a 5-year project was initiated to remove barriers to low carbon planning and development in Malaysian cities by building their institutional capacity, as well as addressing incomplete policy and regulatory framework and mobilising finance and incentives for low carbon development.

Paragraph 82

Current economic planning appears to be blithely proceeding as though climate change is a matter of community education, rather than requiring deep changes in official policies. Malaysia's economy is dangerously reliant on industries linked to high carbon emissions: in 2019, petroleum provided 30.9 percent of Malaysian's fiscal revenue, and the country reportedly accounts for 28 percent of global palm oil production. In addition to the impact of climate change itself, Malaysia's economy and fiscal revenue will presumably be greatly affected by any meaningful global actions to reduce carbon emissions and deforestation, with potentially severe implications for public expenditure.

Comments from the Government of Malaysia:

- Malaysia has put in place a national framework for the regular preparation and reporting of national communications and biennial update reports to the UNFCCC. This is based on Technical Working Groups and Sub Working Groups with inter-agency membership and the Ministry of Energy, Science, Technology, Environment and Climate Change acting as the coordinating Agency and would include membership from the Ministry of Finance, the Ministry of Economic Affairs and key Ministries involved in climate change

implementation. The Third National Communication (NC3) and Second Biennial Update Report (BUR2) have been prepared and submitted to meet Malaysia's obligations as a Party to the United Nations Framework Convention on Climate Change (UNFCCC). It details the mitigation and adaptation measures undertaken by Malaysia in meeting its Nationally Determined Contribution (NDC)

IX. Key Recommendations

Paragraph 85

The government should urgently adopt a meaningful poverty line, consistent with international standards and including vulnerable non-citizen populations. Policies in key sectors should be adjusted so as to specifically address the needs of the lowest 15-20 percent of the income distribution, those widely considered to live in poverty.

Comments from the Government of Malaysia:

- Malaysia welcomes feedback to enhance data reporting and analysis, as well as capacity building assistance to seek alternative sources to improve official statistics.

Paragraph 86

The Government should adopt a comprehensive data transparency policy and make anonymized microdata available to researchers.

Comments from the Government of Malaysia:

- Malaysia welcomes assistance in terms of capacity building or expertise in improving statistical processes towards more open and transparent data sharing.

Paragraph 87

Overall spending on social protection needs to be significantly expanded. The existing social protection programs spread over many ministries are poorly coordinated, heavily siloed, and often ineffective. They should be replaced by a Social Protection Floor reflecting the approach of the International Labour Organization.

Comments from the Government of Malaysia:

- Malaysia has reactivated Malaysia Social Protection Council (MySPC) in 2019. MySPC is a governing body that coordinates social protection programmes as well as to strengthen the national social protection system and coordinate all social protection policies and programmes and seriously address the issue of social safety net. This council will ensure that the national social protection action plan is consistently adequate and sustainable to ensure that no Malaysians are left behind. Malaysia is leveraging and empowering the existing Malaysia Social Protection Council (MySPC) as the platform to discuss and coordinate the policy and direction of Malaysia social protection.
- The Malaysian Social Protection Council (MySPC) is currently mapping the social protection programmes and provisions. This exercise will be supported by four Working Committee under MySPC: Labour Market Intervention; Social Assistance; Social Insurance; and Data Management. MySPC will formulate an action plan, which will cover the rationalisation of social protection policies / programmes and empowerment of service delivery. It will also be supported by integrated and efficient data management.

Paragraph 88

Indigenous peoples have the highest overall poverty rates in Malaysia, and are in desperate need of better protection of their customary land rights and more effective access to quality healthcare and education. Implementation of a comprehensive new set of policies is needed.

Comments from the Government of Malaysia:

- There are new policies that aligned with the issues raised, which are:

- (i) Mid-Term Review of RMK-11
- (ii) WKB 2030; and
- (iii) Pelan Pembangunan Nasional Orang Asli (PPNOA)

Paragraph 89

Migrant workers, especially but not only those who are undocumented, face serious violations of their labor and other rights. There is a need for a comprehensive new policy that acknowledges the real extent of foreign labor dependence, regulates working conditions more effectively, ensures real minimum wages, and treats workers and their dependents humanely.

Comments from the Government of Malaysia:

- The Government has introduced Employer Undertaking in 2017, a strict liability concept whereby employers of foreign workers are fully accountable to comply with the recruitment process including payment of expenses incurred such as the levy, health screening, insurance and processing fees. The initiative also include the welfare of workers such as the provision of housing and basic amenities until they return home. Severe penalties has been imposed on employers who are found guilty of employing illegal foreign workers through effective enforcement initiatives. The recruitment process of foreign workers are more organized thereby preventing them from being exposed to exploitation of forced labor. On the other hand, the Minimum Wages Order 2012 was introduced to ensure both local workers and foreign workers receive better wages. The Employment Act 1955 also been revised in 2019 to better regulate working conditions of the workers including foreign workers.

Paragraph 90

Existing refugee policies **are punitive** rather than humane, and economically counter-productive. Refugees and asylum-seekers should be permitted to work, their children admitted to public schools, and they should be eligible for public healthcare.

Comments from the Government of Malaysia:

- The government has implemented a few administrative policies in managing refugees. The government also acknowledge on the argument that refugees and asylum-seekers should be allowed to work, access to education and public health. Some actions have been taken as follows:
 - (i) Based on humanity basis, the government currently reviewing its policy to allow refugees to work in approved sectors while waiting for their resettlement to a third country or voluntarily return to their country origin;
 - (ii) Refugees children are allowed access to the private education including Alternative Learning Centre (ALC) provided by UNHCR, NGOs and refugees communities; and
 - (iii) They are also entitled for medical treatment at any public hospitals/clinics at a 50% discount of a total bill.

Paragraph 91

The extent of statelessness and its devastating consequences for those affected, as well as for the Malaysian economy, should be acknowledged. The government should produce definitive estimates of statelessness, identify drivers of statelessness, and pursue a far more concerted approach to facilitate—rather than deter—access for people eligible for Malaysian citizenship.

Comments from the Government of Malaysia:

- As Malaysia is not a party to the 1954 Convention relating to the status of the Stateless Person and 1961 Convention on The Reduction of Statelessness, Malaysia has no legal obligation to recognize stateless person