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Совет по правам человека
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Пункт 3 повестки дня
Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие

Посещение Малайзии

Доклад Специального докладчика по вопросу о крайней нищете и правах человека*

Резюме

Малайзия утверждает, что в стране самый низкий в мире национальный уровень бедности – 0,4%, однако это утверждение основано на манипулировании статистическими данными, в результате которого черта бедности установлена на абсолютно нереальном уровне. Как показывают строгие независимые исследования, утверждение о том, что бедность практически искоренена, попросту не соответствует действительности. Хотя за последние десятилетия Малайзия проделала впечатляющую работу по сокращению масштабов нищеты, миллионы людей по-прежнему вынуждены довольствоваться крайне низкими доходами при стесненном доступе к продовольствию, жилью, образованию и здравоохранению и ограниченными возможностями для осуществления гражданских и политических прав. Отрицание существования бедности сдерживает движение вперед, приводит к значительному недофинансированию деятельности по сокращению масштабов нищеты, вызывает повсеместное непонимание того, кто относится к категории бедных, и не позволяет выбрать верный политический курс.

После поездки Специального докладчика тогдашний премьер-министр и другие должностные лица указали, что правительство готово пересмотреть черту бедности для получения более точной картины. К сожалению, недавние события в рамках нового правительства вызывают серьезную озабоченность по поводу перспектив реализации этой инициативы.

* Резюме доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на английском.

Корректировка черты бедности должна рассматриваться в качестве неотложной приоритетной задачи. Она должна быть также лишь первым шагом на пути, который включает в себя пересмотр политического нарратива по вопросам бедности, признание того, что это не просто изолированная проблема, затрагивающая коренные народы или сельских жителей, а гораздо более распространенное явление, зачастую присутствующее в городах. Правительству следует провести далеко идущие реформы фрагментированной и недофинансируемой системы социальной защиты, выполнить обещания, данные коренным народам, и улучшить бедственное положение миллионов неграждан, включая мигрантов, беженцев, лиц без гражданства и незарегистрированных малайзийцев, которые систематически исключаются из официальной статистики бедности и игнорируются властью.

Annex

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

I. Introduction

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 Human Rights 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 and facilitating his visit, and for its continuing engagement. The present report is submitted in accordance with Human Rights Council resolution 35/19.[1]

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, representatives of international agencies, civil society and 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 centre, and met with families living in overcrowded low-cost housing, people with disabilities, indigenous communities, migrants, refugees and stateless people. He would like to express deep gratitude to the organizations, communities and families who met with him.

3. Malaysia has achieved extraordinary economic growth over many years and 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 per cent, the lowest in the world, suggesting that less than 25,000 households are in poverty.[2]

4. At the end of his mission, the Special Rapporteur observed that this would make Malaysia the unrivalled world champion in conquering poverty. But he also noted that the claim reflected a statistical sleight of hand that has had extremely harmful consequences. The Government recognized this at the time and appeared prepared to act on the basis of the various rigorous independent analyses showing that poverty is very far from having been eliminated.

5. However, the new Government's formal response to the Special Rapporteur's report throws that commitment into doubt, stating that it "stands by [the] absolute poverty rate". That is deeply concerning. The current line is inadequate and almost universally considered to be misleading. The Government's protestation that it is "derived from internationally accepted standards" is a smokescreen and ignores the blatant mismatch between reality and statistics.

6. The absolute poverty line in Malaysia is extremely low at just RM 980 (US$ 241) per month for a family of four.[3] That bears no relation to 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

[1] The Special Rapporteur is grateful for the excellent research and analysis undertaken by Bassam Khawaja, Rebecca Riddell, and staff of the Office of the United Nations High Commissioner for Human Rights.

[2] Khazanah Research Institute, "The absolute vs relative poverty conundrum" (June 2019), p. 5; World Bank, "Poverty headcount ratio at national poverty lines (% of population)", available from https://data.worldbank.org/indicator/SI.POV.NAHC?end=2018&most_recent_value_desc=false&start=2018&view=bar.

[3] Currency conversions as of 20 January 2019.

low line for a country on the cusp of attaining high-income status.[4] However, during the course of the visit officials consistently claimed that poverty had been virtually eliminated, with only "pockets" remaining.

7. 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 health care, and limited ability to exercise civil and political rights.

8. Denying the scale of poverty has exacerbated the problem by justifying significant underinvestment in poverty reduction, stymying research into and analysis of 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. Non-governmental organizations have stepped in to fill the gap and provide much needed services to low-income people, but these admirable efforts are no substitute for official policies and action. Since the visit, economists,[5] political leaders,[6] academics,[7] the National Human Rights Commission of Malaysia[8] and the Malaysian Trades Union Congress,[9] have all voiced support for the adoption of a new poverty measure.

9. Following the release of the Special Rapporteur's preliminary findings, leading politicians indicated their support for a poverty measure that better reflects reality. Although the Minister of Economic Affairs initially defended the poverty line,[10] then Prime Minister Tun Dr. Mahathir Mohamad and his economic adviser acknowledged that the poverty measure should be adjusted,[11] while the President of the People's Justice Party, Datuk Seri Anwar Ibrahim, called the current poverty rate "inaccurate" and said the Special Rapporteur's findings were "only shocking to those who have a clear disconnect".[12] In October, the Prime Minister said that the Government was ready to review the poverty line "to provide a true picture of poverty in Malaysia"[13] 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.[14] That consensus makes the new Government's response all the more shocking.

10. While revising the poverty line is an essential step forward, additional reforms are necessary.

11. 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 0 per cent, yet 27 per cent of households earned less than the Central Bank (Bank Negara) estimate of the

[4] Ministry of Economic Affairs, *Mid-Term Review of the Eleventh Malaysia Plan 2016–2020* (October 2018), ch. 11, p. 2.

[5] Kenneth Simmler, "An idea whose time has come – raising Malaysia's poverty line", *The Star Online,* 1 September 2019; Martin Ravallion, "Is the gov't hiding millions of Malaysia's poor?", *Malaysiakini*, 3 September 2019.

[6] Maria Chin Abdullah, "Thinking about poverty in real terms", *Malaysiakini,* 25 August 2019.

[7] "UN fact-finding mission on Malaysia's poverty rate a wake up call for govt, says academic", *Star TV,* 23 August 2019.

[8] "Use different index when measuring poverty, Suhakam tells govt", *FMT News,* 1 September 2019.

[9] Jerry Choong, "MTUC demands Putrajaya reveal actual figures on poverty after UN study", *Malay Mail,* 25 August 2019.

[10] "UN envoy challenges Malaysia's claim to near zero poverty", *Associated Press,* 24 August 2019.

[11] Kow Gah Chie and Wong Kai Hui, "Dr M concedes need to adjust poverty line", *Malaysiakini,* 29 August 2019; Danial Dzulkifly, "Malaysia must face reality of its poverty level, says PM's economics adviser", *Malay Mail,* 27 August 2019.

[12] Bernama, "Anwar: reform caucus to hold seminar on Malaysia's poverty rate", *New Straits Times,* 24 September 2019; Allison Lai, "Anwar: we must acknowledge govt shortcomings", *The Star Online,* 9 September 2019.

[13] Martin Carvalho and others, "Dr M: Govt ready to review national poverty line definition", *The Star Online*, 7 October 2019.

[14] "FT Ministry to formulate master plan on poverty issues in Kuala Lumpur", *Malay Mail,* 5 December 2019.

living wage for the city in 2018.[15] A survey of people living in low-income apartments, carried out in 2018, found 7 per cent of people living below the national poverty line, 85 per cent in relative poverty and 99.7 per cent of children in relative poverty.[16] One soup kitchen director said she served up to 700 people a night, and that more than 40 soup kitchens operated in Kuala Lumpur. None of this points to a city that has eliminated poverty.

12. The Government should institute far-reaching reforms of the social protection system to ensure that the needs of people living in poverty are comprehensively addressed. That will in turn benefit the country as a whole. The Government should adopt a comprehensive social protection floor for all its citizens and provide essential support for non-citizens. That would be consistent with recent moves related to the preparation of the Twelfth 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 the exploitation of cheap labour 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.

13. A new approach towards 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 access to basic services.

14. Poverty eradication programmes 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,[17] but as of 2016, Bumiputeras still had a higher poverty rate than the Chinese or Indian populations.[18] Nevertheless, nearly six per cent of Chinese households nationwide had to scrape by on less than RM 2,000 (US$ 492) per month in 2016[19] 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 programmes.[20]

15. 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.

16. 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

[15] World Bank, *Malaysia Economic Monitor, December 2019: Making Ends Meet*, p. 71.

[16] UNICEF Malaysia, "Children without: a study of urban child poverty and deprivation in low-cost flats in Kuala Lumpur" (February 2018), pp. 24 and 43–44. The survey included data from 966 heads of household and over 2,000 children in 16 low-income locations in Kuala Lumpur and 1 in nearby Selangor.

[17] Martin Ravallion, "Ethnic inequality and poverty in Malaysia since 1969, *National Bureau of Economic Research*, working paper No. 25640 (March 2019), pp. 13–14.

[18] Ministry of Economic Affairs, *Mid-Term Review of the Eleventh Malaysia Plan, 2016–2020*, appendix, p. A-23.

[19] Department of Statistics, *Household Income and Basic Amenities Survey Report 2016*, table 1.10, p. 51.

[20] Centre for Public Policy Studies, "The case of low income Malaysian Indians" (2017).

49 per cent in 1970 to 0.4 per cent in 2016,[21] but its accomplishments remain impressive even under more realistic measures.[22] As of 2016, 95.5 per cent of households had access to piped water and 99.9 per cent had access to electricity.[23] Average household income grew by 7.3 per cent annually from 1970 to 2012, with the bottom 40 per cent of income earners enjoying the highest growth.[24] It remains all the more significant that despite such accomplishments, a considerable proportion of the country still lives in poverty.

17. The Government has a real 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 the country's economic growth is truly inclusive and benefits the entire population.

II. Poverty measurement

18. 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. The 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 being a low-income to an upper-middle- income country in that time.[25] 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 programmes.

19. The result is that "Malaysians feel a sense of disconnect with official poverty statistics. They feel that their incomes are barely enough to make ends meet and yet, by official count, we have almost no poverty in the country."[26] In 2018, nearly 30 per cent of Malaysians felt that they did not have enough money for food (double the number in 2012) and 23 per cent reported having inadequate money for shelter.[27] Roughly half of all households did not have sufficient savings to cope with an unforeseen financial shock in 2019[28] and as of 2013, 53 per cent of Malaysian households had no financial assets.[29]

20. The illusion of poverty eradication has been reinforced through the deliberate exclusion of vast numbers of people from statistics and analysis in Malaysia. 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.

21. The poverty line has drawn extensive domestic and international criticism. In October 2018, a senior government official acknowledged that as Malaysia "became a middle-income nation, we didn't increase the standard for what is considered decent living above the poverty line. So now it's a very low bar that we have. We need to increase the poverty line index to

[21] Economic Planning Unit, Prime Minister's Department, *Eleventh Malaysia Plan 2016–2020: Anchoring Growth on People* (May 2015), p. 21.

[22] For example, an alternative measure proposed by Martin Ravallion, which is tied to mean income, shows a decline from just over 40 per cent to about 20 per cent between the early 1980s and 2015: Martin Ravallion, "Is the govt hiding millions of Malaysia's poor?"

[23] Department of Statistics, *Household Income and Basic Amenities Survey Report 2016*, p. 36.

[24] United Nations Development Programme (UNDP), *Malaysia Human Development Report 2013: Redesigning an Inclusive Future* (2014), p. 34.

[25] Martin Ravallion, "Has Malaysia virtually eliminated poverty?" Economics and Poverty, 21 January 2019.

[26] Khazanah Research Institute, "The absolute vs relative poverty conundrum," p. 3.

[27] World Bank, *Malaysia Economic Monitor, December 2019: Making Ends Meet*, p. 63.

[28] Ibid., p. 81.

[29] UNDP, *Malaysia Human Development Report 2013: Redesigning an Inclusive Future*, p. 49.

reach the level of a living wage".[30] According to the United Nations Children's Fund (UNICEF), the current poverty measure is "inappropriately low for an upper-middle-income country and does not capture the true extent of deprivation in the population".[31]

22. 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 the poverty line in Malaysia to include around 20 per cent of the population.[32] The Khazanah Research Institute found that a relative poverty measure of 60 per cent of median income would show 22.2 per cent of households in poverty as of 2016.[33] In a submission to the Special Rapporteur in 2019, UNICEF said that a relative poverty measure, similar to that adopted by most countries in the Organization for Economic Cooperation and Development (OECD), would place around 16 per cent of the population in poverty.[34]

23. In the past, Malaysia has responded to critiques by introducing additional ways of measuring poverty, but has avoided meaningfully adjusting the national poverty line. In the Ninth Malaysia Plan 2006–2010 the bottom 40 per cent of the population (B40) was prioritized. In the Eleventh Malaysia Plan 2016–2020 a multidimensional poverty index was introduced.[35] The mid-term review of the Eleventh Plan introduced a relative poverty measure for "low income households" earning between the national poverty line and 50 per cent of the national median household income (RM 980–2,614, or US$ 2 41–643),[36] encompassing 15.5 per cent of households.[37]

24. But even the new multi-dimensional poverty index, described by officials at the Ministry of Economic Affairs as the future of poverty measurement in the country,[38] yields figures that are so low as to beggar belief.[39] Even though 30.51 per cent 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 per cent, thus largely replicating the discredited national poverty measure, while at the same time allowing Malaysia to announce and immediately cross a new finish line.[40]

III. Data collection and transparency

25. 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,[41] stifling both governmental and independent research and analysis on poverty and inequality. When

[30] "Malaysia's poverty line too low, says Kian Ming", *The Star Online*, 19 October 2018.
[31] Submission by UNICEF Malaysia, available from www.ohchr.org/Documents/Issues/Poverty/Visits Contributions/Malaysia/UNICEF.pdf, p. 1.
[32] Martin Ravallion, "Has Malaysia virtually eliminated poverty?"
[33] Khazanah Research Institute, "The absolute vs relative poverty conundrum," pp. 5–6.
[34] Submission by UNICEF Malaysia, p. 1.
[35] Ministry of Economic Affairs, *Mid-term Review of the Eleventh Malaysia Plan 2016–2020*, ch. 11, pp. 9–10.
[36] Ibid., ch. 11, p. 2.
[37] Khazanah Research Institute, "The absolute vs relative poverty conundrum", p. 5.
[38] Information provided at a meeting at the Ministry of Economic Affairs and Department of Statistics on 20 August 2019.
[39] Submission by UNICEF Malaysia, p. 2.
[40] Ministry of Economic Affairs, *Mid-term Review of the Eleventh Malaysia Plan 2016–2020*, ch. 11, p. 10.
[41] Martin Ravallion, "Has Malaysia Virtually Eliminated Poverty?

asked for data, State government officials often indicated they would need to make a request to the central Government. Researchers can apply to the Department of Statistics for select sets of data, but several said 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.

26. 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 an official of the Ministry of Economic Affairs said the Government provides what it can, but must be careful with data owing 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.

27. 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 there were 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.[42]

28. The statistics that are available 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, obscuring the situation of indigenous peoples.

29. 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. That 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.

30. In 2018, the Government committed to "embrace transparency."[43] If that commitment is to be honoured, it should make available online microdata 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 and the Special Rapporteur is encouraged to learn that it will include a question on disabilities.

IV. Incomes and cost of living

31. 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 per cent of the total workforce. But enforcement has been uneven, particularly

[42] For example, the United States of America publishes annual estimates of the number of individuals with irregular status: Department of Homeland Security, "Population estimates – illegal alien population residing in the United States: January 2015" (December 2018).

[43] Ministry of Economic Affairs, *Mid-term review of the Eleventh Malaysia Plan 2016–2020*, ch. 10, p. 9.

for undocumented foreign workers.[44] The minimum wage was raised to RM 1,100 (US$ 270) in 2019, just barely above the poverty line.[45]

32. Nationwide, 20 per cent of households have a monthly income of less than RM 3,000 (US$ 738) and 8.8 per cent must scrape by on less than RM 2,000 (US$ 492). The situation is even worse in certain areas. In Kelantan, 48.4 per cent of households have an income of less than RM 3,000 and 22.9 per cent of households make less than RM 2,000 per month. East Malaysia also has a disproportionate number of low-income households, with 16.1 per cent of households in Sabah and 15.5 per cent in Sarawak living on less than RM 2,000.[46]

V. Social protection

33. Despite the Malaysian economic "miracle", its expenditure on social protection in 2017 was lower than all South-East Asian countries for which data was available and, unusually, its social protection spending has not risen in step with gross domestic product (GDP).[47] While low government revenues limit the resources available for social protection, this is because it "significantly under-collects in key revenue areas".[48] It is projected to record one of the lowest levels of fiscal revenue in proportion to GDP in 2020 (17.9 per cent), well below the average for upper-middle-income countries (28 per cent) and down from 25.8 per cent in 2012.[49] As of 2017, less than 10 per cent of Malaysians over 15 years old were paying income tax and the top marginal tax rate for very-high-income earners was just 28 per cent.[50]

34. 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 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 in line with the compelling approach of the International Labour Organization (ILO) to social protection floors. The National Human Rights Commission of Malaysia should also intensify its currently insufficient efforts to monitor and protect economic and social rights.

Social support

35. The social protection system is fragmented, inadequate, underfunded and poorly targeted. According to the Government, there are at least 110 different programmes spread across more than 20 ministries and agencies. Most importantly, as UNICEF has noted, the system has "virtually no redistributive or poverty reduction impact".[51] That is because of inadequate investment, expenditure failing to keep pace with GDP growth and schemes that provide only small irregular benefits.[52] 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

[44] Stewart Nixon, Hidekatsu Asada and Vincent Koen, "Fostering inclusive growth in Malaysia" OECD working papers No. 1371 (January 2017), pp. 11–12.

[45] Jacqueline David, "RM 1,100 minimum monthly wage comes into effect", *Borneo Post Online*, 2 January 2019.

[46] Department of Statistics, *Household Income and Basic Amenities Survey Report 2016*, table 1.11, pp. 54–57.

[47] Stewart Nixon, Hidekatsu Asada and Vincent Koen, "Fostering inclusive growth in Malaysia", p. 18.

[48] World Bank, *Malaysia Economic Monitor, December 2019: Making Ends Meet*, p. 48.

[49] World Bank, *Malaysia Economic Monitor, December 2018: Realizing Human Potential*, pp. 34 and 36, and *Malaysia Economic Monitor, December 2019: Making Ends Meet*, pp. 42 and 50.

[50] Stewart Nixon, Hidekatsu Asada and Vincent Koen, "Fostering inclusive growth in Malaysia", p. 23.

[51] Submission by UNICEF Malaysia, p.2.

[52] Ibid.

ensuring basic living standards.[53] Despite these shortcomings, many officials denied there was anything amiss in the social support system.

36. The more recent focus on the bottom 40 per cent of the population (B40) 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 at poorer households or those with more children, or if overall funding were increased.[54] Many of those who most need social protection or cash transfers appear unaware of the programmes or unable to access them[55] and the Special Rapporteur met many struggling low-income families receiving no support whatsoever.

Health care

37. 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 health-care costs where care is accessible.[56] According to the World Bank, only 1.4 per cent of households experience catastrophic health expenditure.[57]

38. The two-tiered public-private health-care system has the effect of segregating health-care 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.[58] In its response to the Special Rapporteur, the Government incomprehensibly characterized this as evidence of a "progressive health system". By one estimate, 70 per cent of specialists are now in the more costly private system, typically located in wealthier areas, where just 30 per cent of complicated cases are treated. This lopsided allocation creates shortages of critical staff in an overburdened public health-care system and has contributed to "rising incidences of overcrowding, long waiting times, delayed consultation and late admission for emergency cases".[59]

39. Access to health services, medicines and vaccines in rural areas presents a real challenge. One third of rural households in Sabah and 43.6 per cent in Sarawak are more than 9 km from a public health centre[60] and villagers need to travel much further to a hospital for any serious medical issue. Stakeholders emphasized that health care is in effect not free for those who cannot afford to get to a health centre or a hospital.

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

Education

41. 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.[61] Malaysia has made impressive progress in increasing school enrolment rates, including universal primary education.[62] However, attrition from the school system is a major challenge, especially for low-income

[53] Stewart Nixon, Hidekatsu Asada and Vincent Koen, "Fostering inclusive growth in Malaysia", pp. 10 and 16.
[54] World Bank, *Malaysia Economic Monitor, December 2018: Realizing Human Potential*, p. 65.
[55] UNICEF Malaysia, "Children without: a study of urban child poverty and deprivation in low-cost flats in Kuala Lumpur", p. 24.
[56] Stewart Nixon, Hidekatsu Asada and Vincent Koen, "Fostering inclusive growth in Malaysia," p. 28.
[57] World Bank, *Malaysia Economic Monitor, December 2018: Realizing Human Potential*, pp. 62–63.
[58] Ibid, p. 61.
[59] Stewart Nixon, Hidekatsu Asada and Vincent Koen, "Fostering inclusive growth in Malaysia," p. 28.
[60] Department of Statistics, *Household Income and Basic Amenities Survey Report 2016*, p. 98.
[61] Ibid., "Salaries and wages survey report 2017", available from https://bit.ly/2KnJEwn.
[62] World Bank, *Malaysia Economic Monitor, December 2018: Realizing Human Potential*, pp. 54 and 57.

students,[63] and the reported expulsion of students who fail to attend is a blunt and ineffective response.

42. Poverty still keeps many children out of school, despite programmes to support very low-income students run by the Ministry of Education. According to UNICEF, school affordability is "consistently identified as a major cause of inadequate preschool and upper-secondary enrolment rates".[64] 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 labour.[65] 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 programmes.

43. Despite high enrolment rates, certain populations face other sizeable barriers to education. Twelve per cent of households in Sarawak and 7.5 per cent in Sabah live more than 9 km from a government primary school. For secondary school, the numbers rise to 37.4 per cent in Sabah and 50.9 per cent in Sarawak.[66] Children in rural areas often leave villages at a young age and stay in hostels far from their families in order to attend school, but this is far from an ideal situation. Those without identification, including stateless persons, migrants and some indigenous peoples, are not able to attend public schools and must make do with an informal education.

44. Far too many schools suffer from a lack of basic infrastructure and facilities or deteriorating conditions.[67] There are many dilapidated schools in rural areas, especially in Sabah and Sarawak.[68] 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 them were rated unsafe, but just 22 were scheduled for repair in 2019.[69]

45. The quality of education is also concerning. As of 2015, 12 years of school in Malaysia was the equivalent of just 9 years when adjusted for quality. The country's scores rank in the 25th percentile of the OECD average for reading and mathematics.[70]

46. 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 programmes 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 Special Rapporteur is encouraged to learn that the Government is considering a policy of compulsory secondary education.

Housing

47. Adequate housing is unaffordable for many and housing costs rose 87 per cent between 2010 and 2018, outpacing the 59 per cent rise in wages.[71] According to the World Bank, households with monthly incomes of less than RM 5,000 (US$ 1,229) experience "severe housing unaffordability", with more than half of those in Kuala Lumpur earning RM 3,000–5,000 having "no access to housing within their capacity-to-pay".[72] As of 2018, just

[63] UNDP, *Malaysia Human Development Report 2013: Redesigning an Inclusive Future*, p. 159.
[64] Submission by UNICEF Malaysia, p.2
[65] Ibid.
[66] Department of Statistics, *Household Income and Basic Amenities Survey Report 2016*, p. 99.
[67] UNDP, *Malaysia Human Development Report 2013: Redesigning an Inclusive Future*, p. 159.
[68] Ministry of Economic Affairs, *Mid-term Review of the Eleventh Malaysia Plan 2016–2020*, ch. 4, p. 12.
[69] Information provided by the Ministry of Education, 21 August 2019.
[70] Khazanah Research Institute, *The State of Households 2018*, pp. 5 and 174.
[71] World Bank, *Malaysia Economic Monitor, December 2019: Making Ends Meet*, p. 81.
[72] Ibid., p. 86.

20.9 per cent of the housing stock was low cost and it accounted for only 7.4 per cent of new housing in 2017.[73]

48. Social housing programmes often do not benefit the intended target groups owing to the inability of people in the bottom 40 per cent to qualify for loans, a shortage of affordable units and inefficient low-cost housing distribution systems.[74] Living conditions are poor for many, with 11 per cent of houses in Kelantan and in Sabah and 4.4 per cent in Sarawak classified as dilapidated or deteriorating.[75]

VI. Civil and political rights of people in poverty

49. 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 Special Rapporteur spoke with prisoners who said they had never met with a lawyer or only met one for a few minutes on the day of a legal proceeding. Vulnerable non-citizens, including stateless people and refugees, are not able to access the legal aid provided under the Legal Aid Act.[76] 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".

50. 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.[77] According to civil society groups, the Act has been used to detain homeless people without trial.[78] The Government stated in its reply to the present report that "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". Various post-conviction consequences, such as barriers to 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.[79]

51. 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 link between poverty and incarceration. It should also build on existing programmes that promote access to post-release employment opportunities, including by expunging criminal records for minor offences.

VII. Populations of concern

Indigenous peoples

52. Some 13 per cent of the population is indigenous, including an estimated 70.5 per cent of the 2.7 million population of Sarawak, 58.6 per cent of the roughly 3.8 million population of Sabah and about 0.7 per cent in Peninsular Malaysia.[80] Official statistics obscure poverty among indigenous peoples by combining 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

[73] Department of Statistics, "Social statistics bulletin" (2018), pp. 10 and 32.
[74] Thean Lee Cheng, "PR1MA may be dissolved," *The Star*, 3 May 2019.
[75] Department of Statistics, *Household Income and Basic Amenities Survey Report 2016*, p. 92.
[76] Malaysia, Legal Aid (Amendment) Act 2017, section 2a.
[77] Destitute Persons Act 1977, arts. 2–3 and 11.
[78] D. Kanyakumari, "NGOs urge for abolishment of Destitute Persons Act", *The Star Online*, 8 July 2014.
[79] Confidential NGO submission to the Special Rapporteur.
[80] International Work Group for Indigenous Affairs, *The Indigenous World 2019*, p. 275.

per cent for the Orang Asli in 2010,[81] 22.8 per cent in Sabah and 6.4 per cent in Sarawak in 2009.[82]

53. 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 Special Rapporteur met. In responding to the Special Rapporteur's draft report, the Government illustrated this complete failure by stating that "most of [the] indigenous community still resist to change their mind set and way of life due to having strong belief on maintaining their ancient traditions". That would suggest that the Government's longstanding rhetorical commitments are meaningless in practice.

54. Land rights are especially important for indigenous peoples and many described their indispensable relationship with the land, and how their cultivation methods, diet, shelter and traditional health-care 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.[83] However, 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 said, "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 do not 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. In the face of powerful evidence to the contrary, the Government asserted that "commercial plantations and logging are not threatening or diminishing, either directly or indirectly, the resources or tenure right of the communities".

55. Indigenous people also reported that they were often excluded from social services including school and health care. Some said they had 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.

56. Some indigenous women described an appallingly authoritarian approach by health authorities to indigenous peoples. They said 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 had cost her the equivalent of a month's worth of household expenses.

57. 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 United Nations Declaration on the Rights of Indigenous Peoples.[84] 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 recognition of the 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 the Declaration, ratify the ILO Indigenous and Tribal Peoples

[81] Figure provided by the Malaysian authorities, 19 August 2019.

[82] Economic Planning Unit, Prime Minister's Department, *Tenth Malaysian Plan, 2011–2015* (2010), p. 162.

[83] See, for example, Amnesty International, "The forest is our heartbeat: the struggle to defend indigenous land in Malaysia" (2018); National Human Rights Commission of Malaysia, *Report of the National Inquiry into the Land Rights of Indigenous Peoples* (April 2013).

[84] See, for example, Bar Council Malaysia and Pusat Komas, submission of joint memorandum on reform of Aboriginal Peoples Act 1954 and Orang Asli policy and administration to the Minister in charge of National Unity and Social Wellbeing (27 June 2019).

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 Special Rapporteur on the rights of 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 policymakers can develop solutions responsive to their needs.

Migrant workers

58. Estimates of the number of migrant workers in Malaysia generally range between 3 and 6 million, inclusive of both documented and undocumented workers.[85] These workers play an outsized role in the Malaysian economy, which has a labour force of about 15.66 million, and have been a key factor in the competitiveness and economic success of Malaysia.[86] They are excluded from 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 labour, are generally low-paid, excluded from social support and suffer wage theft.[87]

59. 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 labour 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.[88]

60. Labour protections appear widely unenforced and the situation seems not to have improved in recent years. With legal status tied to employers, an exploited migrant worker faces an unenviable decision: remain on 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 owing to fear of deportation and that following any proceedings to enforce their rights, "for sure, we will deport the foreigners".[89] 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 of America in its trafficking in persons report in 2018 and 2019.[90] 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.[91]

[85] See, for example, Wei San Loh and others, "Malaysia: estimating the number of foreign workers", World Bank (March 2019), p. 44; Lee Hwok-Aun and Khor Yu Leng, "Counting migrant workers in Malaysia: a needlessly persisting conundrum", Yusof Ishak Institute (April 2018); ILO, "Review of labour migration policy in Malaysia" (2016), p. 1.

[86] Department of Statistics, "Key statistics of labour force in Malaysia, June 2019"; World Bank, *Immigration in Malaysia: Assessment of its Economic Effects, and a Review of the Policy and System*, (2013), p. 168.

[87] Khazanah Research Institute, *The State of Households 2018: Different Realities*, p. 124.

[88] See, for example, Hannah Ellis-Petersen, "NHS rubber gloves made in Malaysian factories linked with forced labour", *The Guardian*, 9 December 9, 2018; Fair Labor Association, "Assessing forced labor risks in the palm oil sector in Indonesia And Malaysia" (2018); Verité, *Forced Labor in the Production of Electronic Goods in Malaysia: a Comprehensive Study of Scope and Characteristics* (September 2014).

[89] Statement from a meeting with representatives of the Ministry of Home Affairs and Ministry of Human Resources, 21 August 2019.

[90] Department of State, *Trafficking in Persons Reports, June 2018*, p. 286, and *June 2019*, p. 306.

[91] "HR Ministry: no decision yet on report of Committee on Management of Foreign Workers", *Malay Mail*, 14 June 2019.

61. Women, who made up an estimated 20 per cent of migrant workers in 2016, have been particularly abandoned.[92] 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 the Employment Act 1955 excludes them from basic protections, such as leave days, medical coverage or restrictions on their working hours.[93] 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.[94] In its response to the Special Rapporteur, the Government inexplicably asserted that inspection of the labour conditions of domestic workers was "impossible".

62. Migrant workers are also excluded from many social services. Although those with legal status can in theory access public health care, they must pay a "foreigner" rate at public facilities, up to 40 times what a Malaysian citizen pays. Irregular migrant workers avoid public health-care facilities altogether because of document checks and the potential involvement of the immigration authorities.[95] The Government confirmed that undocumented people receiving treatment would subsequently be detained and deported. The children of migrant workers 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.[96]

63. Non-citizen spouses in Malaysia are in a precarious situation. They face many challenges in accessing employment and are completely dependent on their spouses to maintain their legal status and authorization to work, a situation that the authorities often allow to persist for decades.[97] 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.

64. 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 Government to acknowledge their existence, role and vulnerability in its policymaking. It should start with a rigorous estimate of the total population of migrant workers and migrants and include them in poverty statistics. The Government should also rapidly enhance the enforcement of labour 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 migrant workers from social services.

65. The Malaysian economy would in fact be better off if migrant workers, both documented and undocumented, were able to access affordable health care 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.

[92] See, for example, Wei San Loh and others, "Malaysia: estimating the number of foreign workers", p. 20.

[93] S. Indramalar, "Domestic workers continue to be abused until tougher laws can protect them", *The Star*, 6 April 2018.

[94] Information from a meeting with representatives of the Ministry of Home Affairs and Ministry of Human Resources, 21 August 2019.

[95] Tharani Loganathan and others, "Breaking down the barriers: understanding migrant workers' access to healthcare in Malaysia", Public Library of Science One (July 2019), pp. 3–10. While there is a system to provide insurance for documented migrant workers in limited circumstances, SPIKPA, it has significant gaps.

[96] Global Detention Project, "Malaysia immigration detention", quick facts.

[97] National Human Rights Commission of Malaysia, *Annual Report 2018*, p. 109.

Children

66. The child poverty rate in Malaysia is three times the national poverty rate,[98] yet there is no adequate support system for addressing the problem. The children's financial assistance scheme run by the Department of Social Welfare is particularly inadequate, with coverage declining since 2013 to just 69,000 children in 2019 out of 160,000 below the national poverty line and 1.8 million who would be considered poor under a contextually appropriate poverty line.[99]

67. Stunting is a key marker of malnutrition and a problem that has dramatic consequences, yet one in five Malaysian children under the age of five are stunted, a higher level than in countries with a similar GDP.[100] Children born into lower-income families appear to have a higher likelihood of being underweight or stunted.[101] A study in Kelantan found that children in food-insecure households were three times more likely to be stunted[102] and a UNICEF survey of low-income flats in Kuala Lumpur and Selangor, carried out in 2018, found 15 per cent of children under 5 were underweight and 22 per cent were stunted.[103]

68. Child labour 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 labourers.[104]

69. 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 (sharia) court judge.[105] Poverty is a widely recognized driver of child marriage, which is used as a coping mechanism for poor families and in turn has severe implications for children, including elevated risks of health problems and loss of education.[106]

Gender

70. Women in Malaysia shoulder a disproportionate share of housework, have an exceptionally low rate of workforce participation, are disproportionally stuck in lower-level jobs and are paid less than men.[107] In 2017, only 53.5 per cent of women participated in the labour force compared to 77.7 per cent of men[108] and as of 2018, 60.2 per cent of women outside the labour force cited housework as the main reason, compared to 3.6 per cent of men.[109] The Khazanah Research Institute estimates that raising women's employment level by 30 per cent could increase GDP by up to 12 per cent.[110]

71. As of 2018, women constituted just 22.2 per cent of legislators, senior officials and managers, and occupied just 11 per cent of elected parliamentary seats and 8.6 per cent of ministerial positions.[111] The gender pay gap was 6.2 per cent in 2017 and although women

[98] Submission by UNICEF Malaysia, p. 1.
[99] Ibid., p. 2.
[100] World Bank, *Malaysia Economic Monitor, December 2018: Realizing Human Potential*, p. 11.
[101] Submission by UNICEF Malaysia, p. 2.
[102] World Bank, *Malaysia Economic Monitor, December 2018: Realizing Human Potential*, p. 60.
[103] UNICEF Malaysia, "Children without: a study of urban child poverty and deprivation in low-cost flats in Kuala Lumpur", p. 52.
[104] Oliver Pye and others, "Workers in the palm oil industry: exploitation, resistance and transnational solidarity", Stiftung Asienhaus (March 2016), p. 4.
[105] National Human Rights Commission of Malaysia, *Annual Report 2018*, p. 103.
[106] Submission by UNICEF Malaysia, p. 2.
[107] UNDP, *Malaysia Human Development Report 2013: Redesigning an Inclusive Future*, p. xviii.
[108] Khazanah Research Institute, *The State of Households 2018: Different Realities*, p. 78. According to the Government, 55.2 per cent of women participated in the labour force as of December 2018.
[109] World Bank, *Malaysia Economic Monitor, December 2019: Making Ends Meet*, p. 51.
[110] Khazanah Research Institute, *The State of Households 2018: Different Realities*, p. 3.
[111] Department of Statistics, "Statistics on women empowerment in selected domains, Malaysia, 2018".

make up the majority of graduates, they are paid 23.3 per cent lower than their male counterparts.[112]

72. 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, while proceeding without a lawyer would require undergoing a mandatory reconciliation process alongside their abuser.

73. Lesbian, gay, bisexual, transgender, queer and intersex 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 such as health care and education, and experience employment discrimination that could have long-term socioeconomic implications.[113]

Refugees

74. Malaysia ensures that refugees and asylum seekers exist in extremely precarious conditions that all but guarantee they will fall into poverty. The Office of the United Nations 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 enrol in government schools.[114] They must generally resort to the informal sector for both work and education.[115] According to UNHCR, only 40 per cent of school-age refugees and asylum seekers are enrolled in informal learning centres, 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.

75. Barring refugees from work or public education creates immense hardship for families that should be under the country's protection and robs the country of their economic contribution. The Special Rapporteur is encouraged that the Government is considering permitting refugees to work in certain sectors. One think tank found 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 RM 3 billion (US$ 737 million) over five years, creating 4,000 new jobs for Malaysians and bringing in RM 50 million (US$ 12 million) in taxes each year by 2024. Granting education to refugees on a par with Malaysians could increase their contribution to GDP to RM 6.5 billion (US$ 1.59 billion) by 2040, with annual tax revenues of RM 250 million (US$ 61 million).[116]

Stateless people

76. The 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 health care, education or formal work.[117] 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 data sets makes the extent of their vulnerability almost impossible to assess.[118]

77. 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

[112] Khazanah Research Institute, *The State of Households* 2018, pp. 108–110.
[113] National Human Rights Commission of Malaysia, *Annual Report 2018*, p. 137.
[114] Human Rights Watch, *World Report 2019*, p. 368.
[115] UNHCR, "Education in Malaysia"; email from UNHCR to the Special Rapporteur.
[116] Laurence Todd, Adli Amirullah, and Wan Ya Shin, "The economic impact of granting refugees in Malaysia the right to work," Institute for Democracy and Economic Affairs (April 2019), p. 3.
[117] UNHCR, "Ending statelessness in Malaysia".
[118] Submission by UNICEF Malaysia, p. 1.

parent with a Malaysian identity card to confirm citizenship.[119] 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.[120] These largely unnecessary barriers have enormous consequences for the child's lifelong ability to access work, education, health care and social support, and to be a productive member of society.

78. 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.

People with disabilities

79. 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 (WHO) estimates suggest that 15 per cent of the global population experiences some form of disability,[121] only 537,000 people with disabilities were registered in Malaysia as of 2019, or just 1.6 per cent of the population. The Ministry of Women, Family and Community Development unconvincingly blamed the low registration rates on individuals' "denial" of their own disabilities, rather than insufficient outreach or registration efforts by the Government.

80. According to the National Human Rights Commission, the majority of people with disabilities do not have a fixed income that meets their daily needs and one disability organization said that people with disabilities received just RM 400 (US$ 98) a month if working, or RM 300 (US$ 73) a month if "bedridden". Such amounts are patently inadequate and appear to penalize those in the most vulnerable situations in the name of incentivizing work.

81. 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.[122] Many employers in Malaysia have failed to ensure workplaces are accessible.[123]

Older persons

82. The Malaysian population is ageing, with the proportion of the population over 60 expected to reach 15 per cent by 2035.[124] 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 per cent of 54 year-olds had less than RM 50,000 (US$ 12,297) in savings.[125] Of the members of the Employees Provident Fund, 98 per cent say their savings are insufficient for retirement[126] and 70 per cent of those who withdraw from their Fund at age 55 reportedly use up their savings less than a decade after retiring.[127] According to the United Nations Population Fund, the current monthly assistance provided to older people in poverty is not sufficient to fulfil their basic needs.

[119] Anthea Mulakala, "Sabah's stateless children", The Asia Foundation, 8 December 2010.
[120] Confidential submission to the UN Special Rapporteur on extreme poverty and human rights.
[121] WHO and the World Bank, *World Report on Disability* (2011).
[122] Ministry of Economic Affairs, *Mid-term review of the Eleventh Malaysia Plan 2016–2020*, ch. 2, p. 10.
[123] National Human Rights Commission of Malaysia, *Annual Report 2018*, p. 133.
[124] Ministry of Economic Affairs, *Mid-term review of the Eleventh Malaysia Plan 2016–2020*, ch. 2, p. 16.
[125] UNDP, *Malaysia Human Development Report 2013*, 2014, http://hdr.undp.org/en/content/malaysia-human-development-report-2013 p. 50.
[126] World Bank, *Malaysia Economic Monitor, December 2019: Making Ends Meet*, p. 78.
[127] Jomo KS, "Most Malaysians cannot afford to retire," *The Star Online*, 25 October 2017.

VIII. Climate change

83. Surface temperatures, sea level and extreme weather events are all increasing in Malaysia and climate change will exact a high toll.[128] 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. The Special Rapporteur was provided with no evidence that they are factoring climate change into their poverty and social protection policies.

84. The consequences for Malaysia in the coming decade and beyond will be dramatic, and the worst hit will be those already living in poverty (see A/HRC/41/39). Climate change threatens to undo decades of development progress in Malaysia, especially for poor households dependent on agriculture who may be stuck in a "vicious cycle of poverty, inequality and disasters".[129]

85. Current economic planning appears to be blithely proceeding as though climate change is a matter of community education, rather than requiring deep changes in government policies. The Malaysian economy is dangerously reliant on industries linked to high carbon emissions: in 2019, petroleum provided 30.9 per cent of fiscal revenues and the country reportedly accounts for 28 per cent of global palm oil production.[130] In addition to the impact of climate change itself, the economy and fiscal revenues will presumably be greatly affected by any meaningful global actions to reduce carbon emissions and deforestation, with potentially severe implications for public expenditure.

86. The proposed climate change act, national adaptation and mitigation plan and new National Council of Climate Change Action must address the rights of people living in poverty, given their extreme vulnerability to the effects of climate change. The Government should also ensure sufficient expertise and authority is brought to bear on major issues such as rapid reductions in emissions and fiscal sustainability.

IX. Key recommendations

87. **In addition to the more detailed recommendations above, the following list recalls some of the most important steps the Government can take to improve the situation of those living in poverty**.

88. **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 to specifically address the needs of the lowest 15–20 per cent of the income distribution, who are widely considered to live in poverty.**

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

90. **Overall spending on social protection needs to be significantly expanded. The existing social protection programmes spread over many ministries are poorly coordinated, heavily siloed and often ineffective. They should be replaced by a social protection floor reflecting the ILO approach.**

91. **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**

[128] Daniel Tang Kuok Ho, "Climate change in Malaysia: trends, contributors, impacts, mitigation and adaptations", *Science of the Total Environment*, vol. 650, part 2, (February 2019).

[129] Economic and Social Commission for Asia and the Pacific, *The Disaster Riskscape across Asia-Pacific. Pathways for Resilience, Inclusion and Empowerment*, (2019), p. v.

[130] Ministry of Finance, "Fiscal outlook and Federal Government revenue estimates 2019" (2 November 2018), section 2, available from www1.treasur y.gov.my/pdf/budget/budget_info/2019/revenue/section2.pdf; Malaysian Palm Oil Council, "Malaysian palm oil industry", available from mpoc.org.my/malaysian-palm-oil-industry/; Union of Concerned Scientists, "Palm oil and global warming" (December 2013).

access to quality health care and education. Implementation of a comprehensive new set of policies is needed.

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

93. **Existing refugee policies are punitive rather than humane and economically counterproductive. Refugees and asylum seekers should be permitted to work, their children should be admitted to public schools and they should be eligible for public health care.**

94. **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 the drivers of statelessness and pursue a far more concerted approach to facilitate, rather than deter, access for people eligible for Malaysian citizenship.**

95. **The Government should undertake a comprehensive study of the number and situation of persons with disabilities in Malaysia. Existing official statistics radically understate the population and existing policies are commensurately inadequate.**

96. **The Government must ensure that the climate crisis and its impact on poverty, inequality and human rights is urgently prioritized in its policymaking, including in the areas of social protection, poverty alleviation and fiscal planning.**