

**Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019**

**Kuala Lumpur, 23 August 2019**

**1. Introduction**

Malaysia has achieved extraordinary growth over many years and has made huge strides in reducing poverty. It will soon be ranked as a high-income country.<sup>1</sup> But its official insistence that less than 25,000 households in the entire country live in poverty (a rate of 0.4 percent) would also make it the world champion for conquering poverty.<sup>2</sup> Malaysian officials consistently say that poverty has been virtually eliminated, with only “pockets” remaining. That claim, however, is based on a statistical sleight of hand which has had nefarious consequences. The use of a very low and highly unrealistic poverty line obscures the more troubling reality that millions of families scrape by on very low incomes and there is significant hardship in urban as well as rural areas. In addition, millions of non-citizens – including migrants, refugees, stateless people and unregistered Malaysians – are systematically excluded from official poverty figures. This concealment is facilitated and compounded by the refusal to collect or provide access to data and other information on poverty. As a result there has been a significant underinvestment in poverty reduction, a widespread misunderstanding of who is poor, neglect of the poor in many official plans and programs, and an inadequate social safety net.

The good news, however, is that there is now a convergence of factors which could enable the Government of Malaysia to 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. These factors include the preparation of the 12<sup>th</sup> Malaysia Plan, the adoption of Shared Prosperity and Leaving No-One Behind as key policy themes, recognition by the Government of the need for far-reaching reforms, and the intense current debates over the importance of strengthening social cohesion and national unity. As the Yang di-Pertuan Agong, Al-Sultan Abdullah Ri’ayatuddin Al-Mustafa Billah Shah, stated at his installation ceremony last month, “the cycle of the legacy of poverty should be addressed immediately because it can affect the agenda of building a developed nation.”

The advantages of adopting far-reaching reforms that not only ensure the well-being of the ‘B40’ (the bottom 40 percent of households) but also systematically address the specific needs of the B15 (the bottom 15) are immense. In economic terms, growth will be promoted, the economy will be more competitive internationally since it will rely less on the exploitation of very cheap labor and more on a healthier and better-educated workforce, productivity will be improved, and tax losses reduced. In social terms, the well-being of the least well off members of all ethnic groups will be

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<sup>1</sup> Khazanah Research Institute, “The State of Households 2018,” October 2018, [http://www.krinstitute.org/assets/contentMS/img/template/editor/FullReport\\_KRI\\_SOH\\_2018.pdf](http://www.krinstitute.org/assets/contentMS/img/template/editor/FullReport_KRI_SOH_2018.pdf) p. 152.

<sup>2</sup> Khazanah Research Institute, “The Absolute vs Relative Poverty Conundrum,” June 2019, [http://www.krinstitute.org/assets/contentMS/img/template/editor/Views\\_The%20Absolute%20VS%20Poverty%20Conundrum.pdf](http://www.krinstitute.org/assets/contentMS/img/template/editor/Views_The%20Absolute%20VS%20Poverty%20Conundrum.pdf) p. 5; World Bank, “Poverty headcount ratio at national poverty lines (% of population),” [https://data.worldbank.org/indicator/SI.POV.NAHC?end=2018&most\\_recent\\_value\\_desc=false&start=2018&view=bar](https://data.worldbank.org/indicator/SI.POV.NAHC?end=2018&most_recent_value_desc=false&start=2018&view=bar).

greatly improved, community tensions will be reduced, and some of the factors conducive to discord will be eliminated.

In the course of 11 days in Malaysia, I 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. I visited a soup kitchen, a women's shelter, informal schools, and a disability center. I met with families living in overcrowded low-cost housing in Kuala Lumpur, struggling to pay the rent and with children out of school, and with people with disabilities in Kota Bharu who are receiving no government support. I met with indigenous communities in Sarawak, Sabah, and Peninsular Malaysia whose livelihoods and way of life are under siege by authorities and corporate actors. I visited settlements of migrants and stateless people who do not have water or electricity and who risk arrest if they seek medical care. I heard from refugee and migrant communities who are systematically excluded from social services and who lack basic rights and legal status. The people I met with made it clear to me that any assertion that poverty has been eliminated flies in the face of the facts on the ground. I would like to express my deep gratitude to the organizations who welcomed me, the communities who met with me, and the families who opened their homes to me.

Malaysia, with a current population of 31 million, has officially reduced its national poverty rate from 49 percent in 1970 to 0.4 percent in 2016.<sup>3</sup> Despite the deep problems associated with using a poverty line that has remained largely unchanged as the economy has grown dramatically, it is clear that immense progress has indeed been made. Malaysia has achieved near universal access to basic utilities: 95.5 percent of households had access to piped water and 99.9 percent had access to electricity as of 2016.<sup>4</sup> 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.<sup>5</sup>

But Malaysia's extremely low poverty line is not consistent with the cost of living in the country. A poverty line of RM 980 (\$235) would see an urban family of four surviving on RM 8, or less than \$2 per person per day—a tragically low line for a country on the cusp of attaining high income status.<sup>6</sup> A range of rigorous independent analyses show that the mantra that Malaysia has all but eliminated poverty is just not true. As in other comparable countries, a sizable part of Malaysia's population struggles to get by with tenuous access to food, shelter, education, and healthcare, and limited ability to exercise civil and political rights. Yet most officials with whom I met took the national poverty rate at face value. Any real progress on poverty elimination will require a sober reassessment of who is in poverty and what the real challenges are.

The mainstream narrative that poverty in Malaysia is largely confined to small numbers in rural areas and indigenous peoples must be discarded. While those groups face dire and unique challenges, urban poverty is also readily apparent. In contrast to the official 2016 poverty rate of 0.0 percent for the capital Kuala Lumpur, a 2018 UNICEF survey of low-income apartments in the city found 7 percent of people living below the national poverty line, 85 percent in relative poverty, and 99.7

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<sup>3</sup> Economic Planning Unit, Malaysia, "Eleventh Malaysia Plan 2016-2020," May 2015, p. 21.

<sup>4</sup> Department of Statistics, Malaysia, "Household Income and Basic Amenities Survey Report 2016," October 2017, p. 36.

<sup>5</sup> UNDP, "Malaysia Human Development Report 2013," 2014, <http://hdr.undp.org/en/content/malaysia-human-development-report-2013> p. 34.

<sup>6</sup> Ministry of Economic Affairs, Malaysia, "Mid-term review of the Eleventh Malaysia Plan 2016-2020," October 2018, <https://www.me.gov.my/en/rmk/mid-term-review-eleventh-malaysia-plan-2016-2020> p. 225.

percent of children living in relative poverty.<sup>7</sup> One soup kitchen I visited said they served up to 700 people a night, and reported that more than 40 soup kitchens operate in the city. Roughly 17 percent of households in Kuala Lumpur live on less than RM 5,000 (\$1,197) per month, even though Bank Negara's estimated living wage for a family of four in Kuala Lumpur is RM 6,500 (\$1,556).<sup>8</sup> None of this points to a city that has eliminated poverty.

Unsurprisingly, making poverty magically disappear has only exacerbated the problem. It has enabled significant underinvestment in poverty reduction efforts, stymied research and analysis into the drivers of poverty, and allowed a social protection system that is fragmented, poorly targeted, and inadequately funded to limp haplessly along. Within policymaking, there appears to be a clear lack of focus on poor people across the board, and officials were often unable to explain what was being done to ensure people in poverty could access their services or programs. The programs that do exist to assist low income people often focus narrowly on people below the official poverty line, or just 0.4 percent of the population. Meanwhile, NGOs have been stepping in to fill the gap and provide much needed services to low-income people, including through soup kitchens, informal education, crisis centers, and shelters. These efforts are admirable, but are no substitute for proper official policies and action.

Just as Malaysia is a multiracial country, so too is poverty. The colonial period generated sharp inequalities along racial lines and today race still pervades how many people think and talk about policymaking and poverty. Although relative income inequality between Bumiputeras<sup>9</sup> and other groups has narrowed since the adoption of the New Economic Policy in 1970,<sup>10</sup> as of 2016, Bumiputeras still had a higher poverty rate than Chinese or Indian populations.<sup>11</sup> However, nearly six percent of Chinese households nationwide had to scrape by on less than RM 2,000 per month in 2016.<sup>12</sup> And important research shows that Indians have been left out of much development planning and many poverty eradication programs.<sup>13</sup>

The Pakatan Harapan government came to power having made important commitments to improve human rights and well-being in the country. It should be commended for its progress on a number of fronts, including pledging to meet with NGOs every six months to evaluate progress on UPR recommendations and increasing the minimum wage. I met with civil servants and officials who were clearly dedicated to making the most of a historic transition, and to ensuring that Malaysia does much more to address poverty and to fulfill the rights of marginalized people.

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<sup>7</sup> UNICEF, "Children Without," February 2018, <https://www.unicef.org/malaysia/reports/children-without>, pp. 24, 43-44. The survey included 16 low income flats in Kuala Lumpur and one in nearby Selangor.

<sup>8</sup> Malaysia, "Household Income and Basic Amenities Survey," 2016, Table 1.11, p. 57; Bank Negara, "The Living Wage: Beyond Making Ends Meet," 2018, [www.bnm.gov.my/index.php?ch=en\\_publication&pg=en\\_work\\_papers&ac=62&bb=file](http://www.bnm.gov.my/index.php?ch=en_publication&pg=en_work_papers&ac=62&bb=file) p. 5.

<sup>9</sup> A term used to describe persons of Malay origin as well as indigenous peoples.

<sup>10</sup> Martin Ravallion, "Ethnic Inequality and Poverty in Malaysia since 1969," Working Paper 25640, <http://www.nber.org/papers/w25640>, pp. 13-14.

<sup>11</sup> Malaysia, "Mid-Term Review of the Eleventh Malaysia Plan, 2016-2020," October 2018, <https://www.mea.gov.my/en/rmk/mid-term-review-eleventh-malaysia-plan-2016-2020> Appendix, A-23, Chart 1, Incidence of Absolute Poverty, by Stratum and Ethnicity, 2014 and 2016.

<sup>12</sup> Malaysia, "Household Income and Basic Amenities Survey," 2016, Table 1.10, p. 51.

<sup>13</sup> Centre for Public Policy Studies, "The Case of Low Income Malaysian Indians," <http://cpps.org.my/wp-content/uploads/2017/10/Low-Income-Malaysian-Indians-9MP-Recommendations.pdf>.

## 2. Poverty measurement

The purpose of a national poverty measurement should be to enable a sober, contextualized assessment of the level and nature of poverty in a country. But in Malaysia it has become a way for the country to declare victory over poverty without having actually achieved it.

Malaysia's national poverty line is not consistent with the cost of living or household income. It might have made sense in 1970, but real household income has increased fivefold since then, and the country has gone from a "low-income" to an "upper middle income" country in that time.<sup>14</sup> The measure is at odds with almost all independent analysis, has driven down work and research on poverty, and made it difficult to target existing resources and social support programs.

The existing poverty line also bears little resemblance to actual household need or realities on the ground. According to the Khazanah Research Institute, "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."<sup>15</sup> It found that as of 2016, households with a monthly income of RM 2,000 (\$481), more than twice the poverty line, spent 94.8 percent of their incomes on basic household consumption items.<sup>16</sup> As of 2013, 53 percent of Malaysian households had no financial assets.<sup>17</sup>

The illusion of poverty eradication has also been maintained in part by excluding vast numbers of people from Malaysia's official calculations and analyses. Official statistics only capture the situation of those with Malaysian citizenship, leaving out large numbers of migrants, refugees and asylum seekers, and stateless people.

The poverty line has drawn extensive domestic and international criticism. In October 2018, Deputy Minister of International Trade and Investment Dr Ong Kian Ming said, "As wages climbed and we 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 reach the level of a 'living wage'."<sup>18</sup> According to 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."<sup>19</sup> Even the government's mid-term review of the 11<sup>th</sup> Malaysia Plan stated that the poverty line would "be reviewed to be more reflective of the current consumption pattern as well as needs and demography of households."<sup>20</sup>

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<sup>14</sup> Martin Ravallion, "Has Malaysia Virtually Eliminated Poverty?," *Economics and Poverty*, January 21, 2019, <https://economicsandpoverty.com/2019/01/21/has-malaysia-virtually-eliminated-poverty/>.

<sup>15</sup> Khazanah Research Institute, "The Absolute vs Relative Poverty Conundrum," June 2019, [http://www.krinstitute.org/assets/contentMS/img/template/editor/Views\\_The%20Absolute%20VS%20Poverty%20Conundrum.pdf](http://www.krinstitute.org/assets/contentMS/img/template/editor/Views_The%20Absolute%20VS%20Poverty%20Conundrum.pdf) p. 3.

<sup>16</sup> Khazanah Research Institute, "The State of Households 2018," October 2018, [http://www.krinstitute.org/assets/contentMS/img/template/editor/FullReport\\_KRI\\_SOH\\_2018.pdf](http://www.krinstitute.org/assets/contentMS/img/template/editor/FullReport_KRI_SOH_2018.pdf) p. 2.

<sup>17</sup> UNDP, "Malaysia Human Development Report 2013," 2014, <http://hdr.undp.org/en/content/malaysia-human-development-report-2013> p. 49.

<sup>18</sup> "Malaysia's poverty line too low, says Kian Ming," *Star Online*, October 19, 2018, <https://www.thestar.com.my/news/nation/2018/10/19/malysias-poverty-line-too-low-says-kian-ming/>.

<sup>19</sup> UNICEF, "Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty Human Rights," June 2019, <https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/Malaysia/UNICEF.pdf> p. 1.

<sup>20</sup> Ministry of Economic Affairs, Malaysia, "Mid-term review of the Eleventh Malaysia Plan 2016-2020," October 2018, <https://www.mea.gov.my/en/rmk/mid-term-review-eleventh-malaysia-plan-2016-2020> p. 231.

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.<sup>21</sup> 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.<sup>22</sup> And UNICEF found 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.<sup>23</sup>

In terms of international criticism, a noteworthy exception is the International Monetary Fund. In its recent Article IV assessment, it praises the Government for “reducing already low poverty” with no other mention of poverty in the 100-page report. For an institution that purports to take social protection seriously and to scrutinize government figures, this comes close to a dereliction of duty.<sup>24</sup>

While Malaysia has responded to these critiques by introducing additional ways of measuring poverty, it has done so without adjusting the national poverty rate. The 9th Malaysia Plan 2001-2005 turned to using the bottom 40 percent of the population (B40) as a way to target resources. The 11<sup>th</sup> Malaysia Plan 2016-2020 introduced a multidimensional poverty index.<sup>25</sup> And the mid-term review of the 11<sup>th</sup> 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-RM 2,614, or \$235-\$628),<sup>26</sup> encompassing 15.5 percent of households.<sup>27</sup>

But even Malaysia's new multi-dimensional poverty index, touted by officials at the Ministry of Economic Affairs as the future of poverty measurement in the country,<sup>28</sup> yields figures that are so low as to beggar belief, and relies heavily on the existing income-based measure.<sup>29</sup> And while revealing that 30.51 percent of people experienced multiple forms of deprivation within a particular period in 2016, the multidimensional poverty index arrived at a figure of 0.86 percent, thus largely replicating the discredited measure but allowing Malaysia to announce and immediately cross a new finish line.<sup>30</sup> As one person told me, “We meet the targets but miss the people.”

As the government prepares the 12th Malaysia Plan 2020-2024, it should urgently reassess the national poverty line, including by measuring relative poverty, and including vulnerable groups such as non-citizens.

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<sup>21</sup> Martin Ravallion, “Has Malaysia Virtually Eliminated Poverty?,” *Economics and Poverty*, January 21, 2019, <https://economicsandpoverty.com/2019/01/21/has-malaysia-virtually-eliminated-poverty/>.

<sup>22</sup> Khazanah Research Institute, “The Absolute vs Relative Poverty Conundrum,” June 2019, [http://www.krinstitute.org/assets/contentMS/img/template/editor/Views\\_The%20Absolute%20VS%20Poverty%20Conundrum.pdf](http://www.krinstitute.org/assets/contentMS/img/template/editor/Views_The%20Absolute%20VS%20Poverty%20Conundrum.pdf) pp. 5-6.

<sup>23</sup> UNICEF, “Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty Human Rights,” June 2019, <https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/Malaysia/UNICEF.pdf> p. 1.

<sup>24</sup> IMF, “Malaysia: 2019 Article IV Consultation,” IMF Country Report No. 19/71, p. 2.

<sup>25</sup> Ministry of Economic Affairs, Malaysia, “Mid-term review of the Eleventh Malaysia Plan 2016-2020,” October 2018, <https://www.me.gov.my/en/rmk/mid-term-review-eleventh-malaysia-plan-2016-2020> p. 5.

<sup>26</sup> *Ibid.* p. 225.

<sup>27</sup> Khazanah Research Institute, “The Absolute vs Relative Poverty Conundrum,” June 2019, [http://www.krinstitute.org/assets/contentMS/img/template/editor/Views\\_The%20Absolute%20VS%20Poverty%20Conundrum.pdf](http://www.krinstitute.org/assets/contentMS/img/template/editor/Views_The%20Absolute%20VS%20Poverty%20Conundrum.pdf) p. 5.

<sup>28</sup> Meeting with Ministry of Economic Affairs and Department of Statistics Malaysia, August 20, 2019.

<sup>29</sup> UNICEF, “Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty Human Rights,” June 2019, <https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/Malaysia/UNICEF.pdf> p. 2.

<sup>30</sup> Ministry of Economic Affairs, Malaysia, “Mid-term review of the Eleventh Malaysia Plan 2016-2020,” October 2018, <https://www.me.gov.my/en/rmk/mid-term-review-eleventh-malaysia-plan-2016-2020> p. 233.

### 3. Data Collection and Transparency

Malaysia stands out in 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,<sup>31</sup> stifling both governmental and independent research and analysis on poverty and inequality. State government officials often indicated they would need to make a request to “Putrajaya” if they wanted many kinds of data. Researchers can apply to the Department of Statistics for select sets of data, but people I met with said their requests were often not granted. International organizations and even officials in state government said they too had to place specific requests for information, and that their access was essentially at the mercy of the Department of Statistics Malaysia.

In complete contrast with this message, a representative of the Department of Statistics told me that the Department “makes the data available to all,” and disputed reports that it does not share microdata. An official from the Ministry of Economic Affairs said the government provides what it can, but must be careful with data due to privacy concerns, yet clearly data can be anonymized and provided to the public without compromising privacy, as is the practice in so many other countries.<sup>32</sup>

In some cases it does not appear that important data is even being collected, or that it can be disaggregated as required in order to reach conclusions about the adequacy of measures taken in relation to vulnerable target groups. Officials with whom I met were consistently unable to provide me with key figures and the Ministry of Housing told me that there are no records kept as to the number of people evicted from public housing. There was also a striking unwillingness by the government to undertake estimates of vulnerable populations for whom it does not have exact numbers. For example, officials indicated that they could not provide me with estimates of undocumented immigrants, stateless people, or those in need of low-cost housing.

Those statistics that are available are carefully managed and presented in a way that often obscures crucial details. For example, 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. In Sabah, which is alone among the states I visited in providing this information, the overall Bumiputera poverty rate was 3.6 percent in 2016, but the rate for non-Malay (indigenous) Bumiputeras ranged from 1 to 4.2 percent, much higher than the Malay rate of 0.3 percent. The federal government did not respond to my requests for similarly disaggregated data. Poverty is also measured by household, which assumes everyone in a household below the poverty line is in poverty and vice versa, and does not allow for a per capita assessment. The per household measure obscures smaller incomes per capita in larger households, and skews ethnicity figures because the categorization is based entirely on the ethnicity of the head of the household, and does not adequately capture multi-ethnic households.

The government committed to “embrace transparency” in its midterm review of the 11<sup>th</sup> Malaysia Plan.<sup>33</sup> 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

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<sup>31</sup> Martin Ravallion, “Has Malaysia Virtually Eliminated Poverty?,” *Economics and Poverty*, January 21, 2019, <https://economicsandpoverty.com/2019/01/21/has-malaysia-virtually-eliminated-poverty/>.

<sup>32</sup> Meeting with Ministry of Economic Affairs and Department of Statistics, August 20, 2019.

<sup>33</sup> Ministry of Economic Affairs, Malaysia, “Mid-term review of the Eleventh Malaysia Plan 2016-2020,” October 2018, <https://www.me.gov.my/en/rmk/mid-term-review-eleventh-malaysia-plan-2016-2020> p. 210.

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.

#### **4. Incomes and Cost of Living**

Malaysia introduced a minimum wage in 2013, applicable to both Malaysian and foreign workers. It is estimated to have increased the wages of 3.2 million private sector workers, 30 percent of the total workforce, but enforcement has been uneven, particularly for undocumented foreign workers.<sup>34</sup> The minimum wage was raised to RM 1,100 (\$264) in 2019,<sup>35</sup> just barely above the poverty line.

Nationwide, twenty percent of households have a monthly income of less than RM 3,000 (\$718), and 8.8 percent must scrape by on less than RM 2,000 (\$479).<sup>36</sup> The situation is more dire 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.<sup>37</sup> 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 having an income of less than RM 2,000.<sup>38</sup>

#### **5. Social Protection**

As of 2017, Malaysia's expenditure on social protection was lower than in all Southeast Asian countries for which data was available. And unusually, expenditure on social protection has not risen in step with GDP.<sup>39</sup> Moreover, low government revenue limits the resources that the government can spend on social protection. According to the World Bank, Malaysia is projected to record one of the lowest levels of fiscal revenue in proportion to GDP in 2019 (18 percent), well below the average for middle-income countries (27.5 percent).<sup>40</sup> 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.<sup>41</sup>

##### **Social support**

Malaysia's social protection system appears to be fragmented, underfunded, and poorly targeted. According to the government, there are at least 110 social protection programs in Malaysia spread across more than 20 ministries and agencies.

UNICEF found that the social protection system has "virtually no redistributive or poverty reduction impact" due to inadequate investment, expenditure that has not kept pace with GDP

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<sup>34</sup> Stewart Nixon, Hidekatsu Asada, and Vincent Koen, "Fostering inclusive growth in Malaysia," OECD Working Papers, January 2017, [https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia\\_24837aed-en](https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia_24837aed-en) pp. 11-12.

<sup>35</sup> Jacqueline David, "RM1,100 minimum monthly wage comes into effect," Borneo Post Online, January 2, 2019, <https://www.theborneopost.com/2019/01/02/rm1100-minimum-monthly-wage-comes-into-effect>.

<sup>36</sup> Malaysia, Household Income and Basic Amenities Survey, 2016, Table 1.11, p. 54.

<sup>37</sup> Ibid,

<sup>38</sup> Ibid, p. 56-57.

<sup>39</sup> Stewart Nixon, Hidekatsu Asada, and Vincent Koen, "Fostering inclusive growth in Malaysia," OECD Working Papers, January 2017, [https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia\\_24837aed-en](https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia_24837aed-en) p. 18.

<sup>40</sup> World Bank, "Malaysia Economic Monitor December 2018," <https://openknowledge.worldbank.org/bitstream/handle/10986/30996/132903.pdf?sequence=1&isAllowed=y> p. 34. The government's financial position is available on page 36.

<sup>41</sup> Stewart Nixon, Hidekatsu Asada, and Vincent Koen, "Fostering inclusive growth in Malaysia," OECD Working Papers, January 2017, [https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia\\_24837aed-en](https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia_24837aed-en) p. 23.

growth, and schemes that provide only small irregular benefits.<sup>42</sup> 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.<sup>43</sup> Yet despite these criticisms, many of the officials I spoke with denied that there was anything amiss in the social support system.

The more recent focus on the B40 population means a large number of households receive cash transfers, but the payments are so small as to make little difference. Such transfers could make more of a difference if targeted to focus on poorer households or those with more children—or more importantly, if overall funding were increased.<sup>44</sup> Furthermore, it seems that many of those who most need social protection or cash transfers are unaware of the programs, or unable to access them.<sup>45</sup> Many of the low-income families I met with were receiving no support whatsoever.

The government should develop a comprehensive and integrated social protection policy that will provide for 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 efforts to monitor and protect economic and social rights.

## Healthcare

Malaysia should be 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, Malaysia has in many ways effectively provided households with protection from financial risks of high healthcare costs—where care is accessible.<sup>46</sup> According to the World Bank, only 1.4 percent of households experience catastrophic health expenditure.<sup>47</sup>

But the two-tiered public-private healthcare system has led 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, polarizing healthcare provision by socioeconomic status.<sup>48</sup> 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

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<sup>42</sup> UNICEF, "Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty Human Rights," June 2019, <https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/Malaysia/UNICEF.pdf> p. 2.

<sup>43</sup> Stewart Nixon, Hidekatsu Asada, and Vincent Koen, "Fostering inclusive growth in Malaysia," OECD Working Papers, January 2017, [https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia\\_24837aed-en](https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia_24837aed-en) pp. 10, 16.

<sup>44</sup> World Bank, "Malaysia Economic Monitor December 2018," <https://openknowledge.worldbank.org/bitstream/handle/10986/30996/132903.pdf?sequence=1&isAllowed=y> p. 65.

<sup>45</sup> UNICEF, "Children Without," February 2018, <https://www.unicef.org/malaysia/reports/children-without>, p. 24.

<sup>46</sup> Stewart Nixon, Hidekatsu Asada, and Vincent Koen, "Fostering inclusive growth in Malaysia," OECD Working Papers, January 2017, [https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia\\_24837aed-en](https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia_24837aed-en) p. 28.

<sup>47</sup> World Bank, "Malaysia Economic Monitor December 2018," <https://openknowledge.worldbank.org/bitstream/handle/10986/30996/132903.pdf?sequence=1&isAllowed=y> pp. 62-63.

<sup>48</sup> *Ibid.*, p. 61.

contributed to “rising incidences of overcrowding, long waiting times, delayed consultation and late admission for emergency cases” there.<sup>49</sup>

Access to health services and medicines and vaccines in rural areas appears to be 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.<sup>50</sup> And villagers need to go much further to a hospital for any serious medical issue. Stakeholders emphasized that healthcare is not free if you cannot afford to get to the health center or hospital. In the outskirts of Kota Bharu, I met with a family forced to forgo picking up free medicine for their child with cerebral palsy because they could not afford transportation.

Malaysia has already 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.

## **Education**

In Malaysia, 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 (\$264), compared to RM 3,400 (\$817) with a tertiary education.<sup>51</sup> Malaysia’s has made real and impressive progress in increasing enrollment rates, including universal primary education.<sup>52</sup> However, attrition from the school system is a major challenge for low-income students in particular,<sup>53</sup> and the practice of simply expelling students who fail to attend provides a blunt and ineffective response.

Poverty is still keeping 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 pay for the costs of school uniforms, books and supplies or afford the missed-opportunity cost of child labor.<sup>54</sup> Low income families repeatedly told me that fees or costs associated with education, even as low as RM 1, were enough to keep their children out of school. These low amounts could certainly be covered more comprehensively by government programs.

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 are 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.<sup>55</sup> It is common for children in rural areas to leave villages at a young age and stay in hostels far away from their families in order to attend school. And people without identification—including stateless, migrant, and indigenous peoples—are not able to attend public schools, and often depend on informal education.

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<sup>49</sup> Stewart Nixon, Hidekatsu Asada, and Vincent Koen, “Fostering inclusive growth in Malaysia,” OECD Working Papers, January 2017, [https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia\\_24837aed-en](https://www.oecd-ilibrary.org/economics/fostering-inclusive-growth-in-malaysia_24837aed-en) p. 28.

<sup>50</sup> Department of Statistics, Malaysia, “Household Income and Basic Amenities Survey Report 2016,” October 2017, p. 98.

<sup>51</sup> Department of Statistics, Malaysia, “Salaries & Wages Survey Report,” <https://bit.ly/2KnJEwn>.

<sup>52</sup> World Bank, “Malaysia Economic Monitor December 2018,”

<https://openknowledge.worldbank.org/bitstream/handle/10986/30996/132903.pdf?sequence=1&isAllowed=y> pp. 54, 57.

<sup>53</sup> UNDP, “Malaysia Human Development Report 2013,” 2014, <http://hdr.undp.org/en/content/malaysia-human-development-report-2013> p. 159

<sup>54</sup> UNICEF, “Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty Human Rights,” June 2019,

<https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/Malaysia/UNICEF.pdf> p. 2.

<sup>55</sup> Department of Statistics, Malaysia, “Household Income and Basic Amenities Survey Report 2016,” October 2017, p. 99.

A considerable proportion of schools, particularly in rural areas, suffer from a lack of basic infrastructure and facilities or deteriorating conditions.<sup>56</sup> There are many dilapidated schools in rural areas, especially in Sabah and Sarawak.<sup>57</sup> 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. In 2019, just 22 of these schools are scheduled for repair.<sup>58</sup> And the quality of education remains concerning. As of 2015, 12 years of school in Malaysia was the equivalent of just nine years when adjusted for quality, and the country's scores rank in the 25<sup>th</sup> percentile of the OECD average score for reading and mathematics.<sup>59</sup>

Malaysia should consider making secondary education compulsory. It 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 also withdraw its reservations to articles 2 and 28 of the Convention on the Rights of the Child, pertaining to nondiscrimination and to universal primary education, and which are highly problematic in terms of the object and purpose of the treaty.<sup>60</sup>

## Housing

Housing is also unaffordable for many in poverty. As of 2018, 20.9 percent of the housing stock was low cost, but it accounted for only 16.5 percent of new housing in 2016, and just 7.4 percent in 2017.<sup>61</sup> In many cases, social housing programs do not benefit the intended target groups due to the inability of people in the bottom 40 percent to qualify for loans, a shortage of affordable units, and inefficient low-cost housing distribution systems.<sup>62</sup> There are substantial concerns about living conditions for some people in Malaysia: 11 percent of houses in Kelantan, 11 percent in Sabah, and 4.4 percent in Sarawak are considered dilapidated or deteriorating.<sup>63</sup>

## 6. Civil and Political Rights of People in Poverty

While people often associate poverty with violations of economic and social rights, the reality in Malaysia as elsewhere is that poor people also suffer disproportionate violations of their civil and political rights. For example, multiple sources reported that access to legal aid is limited both formally by the scope of cases covered and by resource constraints. I spoke with prisoners who said they had never met with a lawyer or only met with 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.<sup>64</sup>

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<sup>56</sup> UNDP, "Malaysia Human Development Report 2013," 2014, <http://hdr.undp.org/en/content/malaysia-human-development-report-2013> p. 159.

<sup>57</sup> Ministry of Economic Affairs, Malaysia, "Mid-term review of the Eleventh Malaysia Plan 2016-2020," October 2018, <https://www.mea.gov.my/en/rmk/mid-term-review-eleventh-malaysia-plan-2016-2020> p. 113.

<sup>58</sup> Information provided by the Ministry of Education, 21 August 2019.

<sup>59</sup> Department of Statistics, Malaysia, "Household Income and Basic Amenities Survey Report 2016," October 2017, pp. 5, 174.

<sup>60</sup> UN Treaty Collection, "Convention on the Rights of the Child," [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&clang=\\_en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en#EndDec).

<sup>61</sup> Department of Statistics, Malaysia, "Social Statistics Bulletin," 2018, pp. 10, 32.

<sup>62</sup> Thean Lee Cheng, "PR1MA may be dissolved," *The Star*, May 2, 2019, <https://www.thestar.com.my/business/business-news/2019/05/03/pr1ma-may-be-dissolved/>.

<sup>63</sup> Department of Statistics, Malaysia, "Household Income and Basic Amenities Survey Report 2016," October 2017, p. 92.

<sup>64</sup> Malaysia, Legal Aid (Amendment) Act 2017, section 2a, [http://www.jbg.gov.my/images/doc/Akta/20171017\\_A1548\\_BI\\_Act%20A1548%20BI.pdf](http://www.jbg.gov.my/images/doc/Akta/20171017_A1548_BI_Act%20A1548%20BI.pdf).

Poverty and the criminal justice system are inextricably linked. When asked about the socioeconomic background of the people in prison, officials said they did not collect data, but “most of them are low income, with primary education.”<sup>65</sup> Poverty is, in effect, criminalized by the Destitute Persons Act, which allows authorities to take into their charge people deemed destitute and makes resistance an offense with a penalty of up to three months imprisonment.<sup>66</sup> According to civil society groups, the Act has been used to detain homeless people without trial.<sup>67</sup> Various post-conviction consequences, such as bars on educational loans and the civil service, as well as discrimination by employers against people with criminal records, mean that people who have been imprisoned have fewer education and work opportunities.<sup>68</sup>

The government should improve access to legal aid, including in civil matters. It should conduct a thorough analysis of the socioeconomic background of the people in the prison system, and 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.

## 7. Populations of Concern

### Indigenous peoples

An estimated 13 percent of Malaysia’s population are 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 a much smaller fraction in Peninsular Malaysia, about 0.7 percent of the population.<sup>69</sup> Poverty and low incomes among indigenous peoples are routinely obscured by official public statistics, which aggregate outcomes for indigenous peoples and Malays in the umbrella category of Bumiputera. Outdated figures from a decade ago reveal indigenous poverty rates that vastly exceed national averages, 31.16 percent for the Orang Asli in 2010,<sup>70</sup> as well as 22.8 percent in Sabah and 6.4 percent in Sarawak in 2009.<sup>71</sup>

Moreover, despite laudable commitments in rhetoric but also in law to the rights of indigenous peoples, their rights, way of life, and goals were still frequently misunderstood or ignored by officials I spoke with. One state official in Peninsular Malaysia explained that the main problem was that indigenous peoples needed to “adapt to modernity,” to change the character of their community, their lifestyle, and their mindsets, and that they should be “relocated” to more accessible areas.<sup>72</sup> In practice, this translated into a major initiative to move several communities from their traditional lands into concrete houses consisting of 1,800 units in an urban area. It is difficult to imagine a more destructive and inappropriate solution.

Indigenous land rights are especially important. Many indigenous peoples in Sarawak, Sabah, and Peninsular Malaysia told me about their close relationship with the land, and how their cultivation methods, diets, shelter, and traditional healthcare practices derived from and depended on access to

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<sup>65</sup> Meeting with Home Affairs August 21, 2019.

<sup>66</sup> Malaysia, Destitute Persons Act 1997, Arts. 2-3, 11.

<sup>67</sup> D. Kanyakuami, "NGOs urge for abolishment of Destitute Persons Act," The Star Online, July 8, 2014, <https://www.thestar.com.my/news/nation/2014/07/08/ngos-urge-abolish-destitute-persons-act>.

<sup>68</sup> Confidential NGO submission to the UN Special Rapporteur on extreme poverty and human rights.

<sup>69</sup> IWGIA, The Indigenous World 2019, 2019, <https://www.iwgia.org/en/resources/indigenous-world>, p. 275.

<sup>70</sup> Figure provided by authorities, August 19, 2019.

<sup>71</sup> Malaysia, Tenth Malaysian Plan, 2011-2015, 2010, [https://www.pmo.gov.my/dokumenattached/RMK/RMK10\\_Eds.pdf](https://www.pmo.gov.my/dokumenattached/RMK/RMK10_Eds.pdf), p. 162.

<sup>72</sup> Meeting with Kelantan state government, August 19, 2019.

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.<sup>73</sup> 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 told me, “We never said we were facing extreme poverty. The government is saying that, and using it to justify projects that do not benefit us.” By contrast, a civil servant in Sarawak explained that indigenous people don’t actually “use” the land, they merely “roam around.”<sup>74</sup> 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.

Indigenous peoples also report exclusion from social services including school and healthcare. I spoke with multiple indigenous people who 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. None of the government officials with whom I met could produce any assessment of educational outcomes for indigenous peoples. One state official explained that Orang Asli could never be expected to achieve the same educational outcomes as people in cities.<sup>75</sup> I met with women who described an appallingly authoritarian approach by health authorities, including several who said they were required to accept contraceptive injections or implants that they did not want and had not freely consented to. One woman explained that she had to beg the doctors to remove a painful implant that prevented her from carrying out her daily tasks, and that it cost her the equivalent of a month’s worth of household expenditure in order to remove it.

The government should follow through on its promises to indigenous peoples. Recognizing the complexity of the task, 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).<sup>76</sup> 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.

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<sup>73</sup> See e.g. Amnesty International, “The Forest is our Heartbeat: The Struggle to Defend Indigenous Land in Malaysia,” 2018; SUHAKAM, Report of the National Inquiry into the Land Rights of Indigenous Peoples, 2013.

<sup>74</sup> Meeting with Sarawak state government, August 15, 2019.

<sup>75</sup> Meeting with Kelantan state government, August 19, 2019.

<sup>76</sup> See, e.g., Submission of Joint Memorandum on Reform of Aboriginal Peoples Act 1954 and Orang Asli Policy and Administration, June 27, 2019, <https://bit.ly/2NbjQoX>.

## Migrant workers

Estimates of the number of migrant workers in Malaysia generally range between three and six million, inclusive of both documented and undocumented workers.<sup>77</sup> These workers play a significant role in the Malaysian economy, which has a labor force of about 15.66 million. According to the World Bank, migrant workers have been a key factor in Malaysia's competitiveness and economic success.<sup>78</sup> They are entirely 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 and experience low pay, wage theft, and exclusion from social support.<sup>79</sup>

Unfortunately, despite their ubiquity in the Malaysian labor force, migrant workers are set up for exploitation by a confluence of unscrupulous recruitment agents and employers, harsh immigration policy, and a lack of enforcement of labor protections. Many workers arrive in the country already in considerable debt to recruitment agents and find that the conditions of employment are considerably poorer than promised. According to reports, they are subjected to passport confiscation, low pay in violation of minimum wage laws, poor living conditions, punishment by fines, high recruitment fees and debts to recruitment agencies and employers, and salary deductions. The number and consistency of reports documenting abuses against migrant workers should be considered a scandal.<sup>80</sup>

Enforcement of labor protections is woefully inadequate and 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, because, unlike in many countries, irregular workers cannot access courts to 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."<sup>81</sup> 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.<sup>82</sup> The government has stalled on making public an anticipated report

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<sup>77</sup> See e.g., Wei San Loh, et al., World Bank, "Malaysia: Estimating the Number of Foreign Workers," March 28, 2019, p. 44 (2.96 to 3.26 million); Lee Hwok-Aun and Khor Yu Leng, Counting Migrant Workers in Malaysia: A Needlessly Persisting Conundrum, Yusof Ishak Institute, April 25, 2018, [https://www.iseas.edu.sg/images/pdf/ISEAS\\_Perspective\\_2018\\_25@50.pdf](https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2018_25@50.pdf) (3.85 to 5.5 million); ILO, Review of labour migration policy in Malaysia, 2016, p. 1 (three to four million).

<sup>78</sup> Malaysia, Department of Statistics, Key Statistics of Labour Force in Malaysia, June 2019 <https://bit.ly/2zgOKau>; World Bank, "Immigration in Malaysia: Assessment of its Economic Effects, and a Review of the Policy and System," 2013, p. 168.

<sup>79</sup> Khazanah Research Institute, The State of Households 2018, 2018, p. 124.

<sup>80</sup> See, e.g., Hannah Ellie-Petersen, "NHS rubber gloves made in Malaysian factories linked with forced labour," The Guardian, December 9, 2018, <https://www.theguardian.com/global-development/2018/dec/09/nhs-rubber-gloves-made-in-malaysian-factories-accused-of-forced-labour>; The Fair Labor Association, "Assessing Forced Labor Risks In The Palm Oil Sector In Indonesia And Malaysia," 2018, [https://www.fairlabor.org/sites/default/files/documents/palm\\_oil\\_report\\_fla-cgf\\_final.pdf](https://www.fairlabor.org/sites/default/files/documents/palm_oil_report_fla-cgf_final.pdf); ASEAN Parliamentarians for Human Rights, "Examining Human Rights in the Context of ASEAN Regional Migration, Summary Report of Findings from APHR Fact-Finding Mission to Malaysia," 2017, [https://aseanmp.org/wp-content/uploads/2017/09/APHR\\_Malaysia-Fact-Finding-Mission-Report\\_Sep-2017.pdf](https://aseanmp.org/wp-content/uploads/2017/09/APHR_Malaysia-Fact-Finding-Mission-Report_Sep-2017.pdf); Verité, "Forced Labor In The Production Of Electronic Goods In Malaysia: A Comprehensive Study of Scope and Characteristics," 2014, [verite.org/wp-content/uploads/2016/11/VeriteForcedLaborMalaysianElectronics2014.pdf](http://verite.org/wp-content/uploads/2016/11/VeriteForcedLaborMalaysianElectronics2014.pdf); Amnesty International, "Malaysia: Trapped: The Exploitation Of Migrant Workers In Malaysia," 2010, <https://www.amnesty.org/en/documents/ASA28/002/2010/en/>.

<sup>81</sup> Meeting with Ministry of Home Affairs and Ministry of Human Resources, August 21, 2019.

<sup>82</sup> United States, Department of State, "2019 Trafficking in Persons Report: Malaysia," June 20, 2019, <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/malaysia/>; United States, Department of State, "2018 Trafficking in Persons Report: Malaysia," June 28, 2018, <https://www.state.gov/reports/2018-trafficking-in-persons-report/malaysia/>.

by the Independent Committee on the Management of Foreign Workers, amidst allegations that the Cabinet does not agree with its recommendations.<sup>83</sup>

Women, who made up an estimated 20 percent of migrant workers in 2016, have been particularly abandoned.<sup>84</sup> They are often employed as domestic workers, and are vulnerable to exploitation not only because they work in isolation in private homes that are immune from regular monitoring, but also because a carve out in Malaysia's Employment Act 1955 means that domestic workers are excluded from basic protections such as leave days, medical coverage, or working hour restrictions.<sup>85</sup> 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.<sup>86</sup>

Migrant workers are also excluded from many social services. Although migrant workers with legal status can in theory access public healthcare, they must pay a much higher "foreigner" rate at public facilities, which is up to 40 times what a Malaysian citizen pays, and irregular migrant workers report avoiding public healthcare facilities altogether due to document checks and the potential involvement of immigration authorities.<sup>87</sup> The government confirmed to me that undocumented people receiving treatment would subsequently be detained and deported. The children of migrant workers, those brought across borders and those conceived in the country, face an uneasy existence and are generally not able to enroll 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.<sup>88</sup>

Non-citizen spouses in Malaysia are also in a precarious situation. They face many challenges in accessing employment, and are completely dependent on spouses to maintain their legal status and endorsement to work, often leading to decades of dependence.<sup>89</sup> I met with spouses who said that barriers to employment forced some to work in the informal sector, creating vulnerability to abuse and exploitation, and that divorced or widowed spouses are mostly given short term visas without the right to work.

The Malaysian government ought to acknowledge the existence, role, and vulnerability of migrant workers in their policymaking. This would entail, as a starting point, coming up with a definitive estimate of the total population of migrant workers and including them in poverty statistics. The government should also rapidly increase its enforcement of labor protections, ensure migrant workers can enforce their rights without fear of deportation, and extend standard employment protections to domestic workers. It must also engage more substantively with countries of origin to ensure the establishment of safe corridors and the elimination of exorbitant recruitment fees. It should reevaluate counterproductive exclusions from social services. The whole economy is better

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<sup>83</sup> "HR Ministry: No decision yet on report of Committee on Management of Foreign Workers," Malay Mail, June 14, 2019, <https://www.malaymail.com/news/malaysia/2019/06/14/hr-ministry-no-decision-yet-on-report-of-committee-on-management-of-foreign/1762281>.

<sup>84</sup> See e.g., Wei San Loh, et al., World Bank, "Malaysia: Estimating the Number of Foreign Workers," March 28, 2019, p. 20.

<sup>85</sup> S. Indramalar, "Domestic workers continue to be abused until tougher laws can protect them," Star2, April 6, 2018, <https://www.star2.com/family/2018/04/06/domestic-workers-will-continue-to-be-abused-until-there-are-tougher-laws-to-protect-them>.

<sup>86</sup> Meeting with Ministry of Home Affairs and Ministry of Human Resources, August 21, 2019.

<sup>87</sup> Loganathan T, Rui D, Ng C-W, Pocock NS, "Breaking down the barriers: Understanding migrant workers' access to healthcare in Malaysia," 2019, p. 3-10. While there is a system to provide insurance for documented migrant workers in limited circumstances, SPIKPA, it has significant gaps.

<sup>88</sup> Global Detention Project, "Malaysia Immigration Detention," <https://www.globaldetentionproject.org/countries/asia-pacific/malaysia>.

<sup>89</sup> SUHAKAM, "Annual Report 2018," 2019, <https://www.suhakam.org.my/pusat-media/sumber/laporan-tahunan/> p. 109.

off if migrant workers, both documented and undocumented, are able to access affordable healthcare without fear of deportation, and the government should build on existing efforts to enroll stateless children by expanding access to 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.<sup>90</sup>

## Children

The child poverty rate in Malaysia is three times the national poverty rate,<sup>91</sup> yet the government does not appear to have an adequate support system for addressing child poverty. UNICEF found that the Department of Social Welfare's Children's Financial Assistance scheme 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.<sup>92</sup>

One in five Malaysian children under five are stunted, a key marker of malnutrition—and higher than countries with similar GDP.<sup>93</sup> Children born into lower income families have a higher likelihood of being underweight or stunted,<sup>94</sup> and a study in Kelantan found that children in food-insecure households were three times more likely to be stunted.<sup>95</sup> 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.<sup>96</sup>

Child labor is also a problem in Malaysia, including on palm oil plantations where the system of quotas drives families to bring their children to work as unpaid laborers.<sup>97</sup> And Malaysia has registered about 15,000 marriages involving children over the past decade, with Muslim girls allowed to marry before age of 16 with permission from a Syariah court judge.<sup>98</sup> 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, including elevated risks of health problems and loss of education.<sup>99</sup>

## Gender

Women in Malaysia shoulder a disproportionate share of housework, have an exceptionally low rate of workforce participation, are disproportionality stuck in lower-level jobs, and are paid less than

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<sup>90</sup> UN Treaty Collection, "Convention on the Rights of the Child,"

[https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&clang=\\_en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en#EndDec).

<sup>91</sup> UNICEF, "Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty Human Rights," June 2019, <https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/Malaysia/UNICEF.pdf> p. 1.

<sup>92</sup> *Ibid*, p. 2.

<sup>93</sup> World Bank, "Malaysia Economic Monitor December 2018,"

<https://openknowledge.worldbank.org/bitstream/handle/10986/30996/132903.pdf?sequence=1&isAllowed=y> p. 11.

<sup>94</sup> UNICEF, "Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty Human Rights," June 2019, <https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/Malaysia/UNICEF.pdf> p. 2.

<sup>95</sup> World Bank, "Malaysia Economic Monitor December 2018,"

<https://openknowledge.worldbank.org/bitstream/handle/10986/30996/132903.pdf?sequence=1&isAllowed=y> p. 60.

<sup>96</sup> UNICEF, "Children Without," February 2018, <https://www.unicef.org/malaysia/reports/children-without>, pp. 37, 52.

<sup>97</sup> Stiftung Asienhaus, "Workers in the Palm Oil Industry," March 2016,

[https://www.asienhaus.de/archiv/user\\_upload/Palm\\_Oil\\_Workers\\_-\\_Exploitation\\_Resistance\\_and\\_Transnational\\_Solidarity.pdf](https://www.asienhaus.de/archiv/user_upload/Palm_Oil_Workers_-_Exploitation_Resistance_and_Transnational_Solidarity.pdf) p. 4.

<sup>98</sup> SUHAKAM, "Annual Report 2018," 2019, <https://www.suhakam.org.my/pusat-media/sumber/laporan-tahunan/> p. 103.

<sup>99</sup> UNICEF, "Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty Human Rights," June 2019, <https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/Malaysia/UNICEF.pdf> p. 2.

men.<sup>100</sup> As of 2017, Malaysia's working-age population comprised 9.5 million women and 9.8 million men, but only 53.5 percent of women participated in the labor force compared to 77.7 percent of men.<sup>101</sup> The Khazanah Research Institute estimates that raising women's employment level by 30 percent would increase GDP by around 7-12 percent.<sup>102</sup>

As of 2018, women constituted 22.2 percent of legislators, senior officials, and managers—and occupied just 11 percent of elected parliamentary seats and 8.6 percent of ministerial positions.<sup>103</sup> The gender pay gap was 6.2 percent in 2017, and although women make up the larger proportion of graduates, they are paid 23.3 percent lower than male counterparts.<sup>104</sup>

One women's rights organization I met with told me 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 because the only other option is homelessness. They said users of crisis shelters were not able 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.

LGBTQI people are often 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.<sup>105</sup>

## Refugees

Malaysia keeps refugees in extremely precarious conditions that all but guarantee they will fall into poverty. UNHCR registers refugees, but that does not give them legal status in the country, and they typically are unable to work, travel, or enroll in government schools.<sup>106</sup> They are thus generally obliged to resort to the informal sector for both work and education.<sup>107</sup> According to UNHCR, only 40 percent of the 33,024 school age refugees and asylum-seekers are enrolled in informal learning centers, where 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.<sup>108</sup>

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. One person

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<sup>100</sup> UNDP, "Malaysia Human Development Report 2013," 2014, <http://hdr.undp.org/en/content/malaysia-human-development-report-2013> p. xviii.

<sup>101</sup> Khazanah Research Institute, "The State of Households 2018," October 2018, [http://www.krinstitute.org/assets/contentMS/img/template/editor/FullReport\\_KRI\\_SOH\\_2018.pdf](http://www.krinstitute.org/assets/contentMS/img/template/editor/FullReport_KRI_SOH_2018.pdf) p. 77. According to the government, this had risen to 55.2 percent as of December 2018.

<sup>102</sup> Ibid, p. 3.

<sup>103</sup> Department of Statistics Malaysia, "Statistics on Women Empowerment in Selected Domains, Malaysia, 2018," [https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=444&bu\\_id=SGMzVDh0cVUwK0t6SGN6UzhwN1dmdz09&me\\_nu\\_id=L0pheU43NWJwRWVSZklWdzQ4TlhUUT09](https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=444&bu_id=SGMzVDh0cVUwK0t6SGN6UzhwN1dmdz09&me_nu_id=L0pheU43NWJwRWVSZklWdzQ4TlhUUT09).

<sup>104</sup> Department of Statistics, Malaysia, "Household Income and Basic Amenities Survey Report 2016," October 2017, pp. 108-110.

<sup>105</sup> SUHAKAM, "Annual Report 2018," 2019, <https://www.suhakam.org.my/pusat-media/sumber/laporan-tahunan/> p. 137.

<sup>106</sup> Human Rights Watch, "Malaysia: Events of 2018," <https://www.hrw.org/world-report/2019/country-chapters/malaysia>.

<sup>107</sup> UNHCR, "Education in Malaysia," [www.unhcr.org/education-in-malaysia.html](http://www.unhcr.org/education-in-malaysia.html); email from UNHCR to the UN Special Rapporteur on extreme poverty and human rights.

<sup>108</sup> Email from UNHCR to the UN Special Rapporteur on extreme poverty and human rights.

told me “I have a bachelor’s degree in engineering and am working 14 hour shifts in a restaurant.” A government official questioned how refugees could be expected to support themselves in these conditions, and I was encouraged to hear that the government is 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 (\$700 million) over a five year period, creating 4,000 new jobs for Malaysians, and bringing in RM50 (\$12) million in taxes each year by 2024. Granting education to refugees on par with Malaysians would increase their contribution to the GDP to RM 6.5 billion (\$1.5 billion) by 2040 with annual tax revenue of RM 250 million (\$60 million).<sup>109</sup>

### **Stateless people**

The Malaysian government said it does not collect data on statelessness and there are no reliable statistics on the total number of stateless persons in Malaysia. They are generally unable to access healthcare, education, and formal work.<sup>110</sup> The exclusion of undocumented and stateless families from a wide range of social services places them at elevated risk of poverty, while their absence from official datasets makes the extent of their vulnerability almost impossible to assess.<sup>111</sup>

Malaysia makes obtaining citizenship exceptionally difficult for many 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.<sup>112</sup> 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.<sup>113</sup> This has enormous consequences for the child’s lifelong ability to access work, education, healthcare, and social support. The government introduced a policy in 2009, reiterated in 2018, to allow undocumented children of Malaysian parents to access public schools, but it involves additional requirements and fees that make it difficult to take advantage of. According to UNHCR only 2,635 children have benefited from the policy in 2019.

### **People with disabilities**

People with disabilities in Malaysia face discrimination and obstacles that prevent them from being able to participate in society on an equal basis with others. According to the Ministry of Women, Family and Community Development, there were 537,000 people with disabilities registered as of 2019, or just 1.6 percent of the population. The Ministry unconvincingly attributed the low registration rates to individual’s being in “denial” of a disability, rather than insufficient outreach or registration efforts on the part of the government. According to SUHAKAM, the majority of people with disabilities do not have a fixed income to meet their daily needs, and a disability organization I met with said that people with disabilities received just RM 400 (\$95) a month if working, or RM 300 (\$71) a month if “bedridden.” Such amounts are patently inadequate. 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 an accessible environment in the workplace and negative

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<sup>109</sup> Laurence Todd, Adli Amirullah, and Wan Ya Shin, “The Economic Impact of Granting Refugees in Malaysia the Right to Work,” IDEAS, April 2019, [http://www.ideas.org.my/wp-content/uploads/2019/05/P60\\_Refugee-V6.pdf](http://www.ideas.org.my/wp-content/uploads/2019/05/P60_Refugee-V6.pdf) p. 3.

<sup>110</sup> UNHCR, “Ending Statelessness in Malaysia,” <https://www.unhcr.org/ending-statelessness-in-malaysia.html>.

<sup>111</sup> UNICEF, “Submission by UNICEF Malaysia to the UN Special Rapporteur on Extreme Poverty Human Rights,” June 2019, <https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/Malaysia/UNICEF.pdf> p. 1.

<sup>112</sup> Anthea Mulakala, “Sabah’s Stateless Children,” The Asia Foundation, December 8, 2010, <https://asiafoundation.org/2010/12/08/sabahs-stateless-children/>.

<sup>113</sup> Confidential submission to the UN Special Rapporteur on extreme poverty and human rights.

employer perceptions of people with disabilities.<sup>114</sup> And many employers in Malaysia have failed to ensure their workplace is accessible.<sup>115</sup>

### Older persons

The Malaysian population is aging, with the proportion of the population over 65 expected to reach 15 percent by 2035.<sup>116</sup> There are real concerns as to whether the pension schemes in place adequately protect people from poverty as they grow older, and I am particularly concerned about those who are outside the formal workforce and do not benefit from any of these schemes. As of 2013, nearly 70 percent of those at the age of 54 had less than RM50,000 (\$12,000) in savings.<sup>117</sup> Seventy percent of members who withdraw their Employees Provident Fund at age 55 reportedly use up their savings less than a decade after retiring.<sup>118</sup> And according to UNFPA, the current monthly RM 300 (\$72.40) assistance provided to older people in poverty is not sufficient to fulfil their basic needs.

## 8. Climate change

Climate change was largely ignored by the officials I met with. The consequences for Malaysia in the coming decade and beyond will be dramatic, and the worst hit will be those already living in poverty.<sup>119</sup> Climate change threatens to undo decades of Malaysia's development progress, especially for poor households dependent on agriculture who may be stuck in what the UN Economic and Social Commission for Asia and the Pacific calls a "vicious cycle of poverty, inequality and disasters."<sup>120</sup>

It is alarming 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. Nor did I receive any evidence that they are factoring climate change into their poverty and social protection policies.

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. 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.<sup>121</sup> Malaysia's economy and fiscal revenue will presumably be greatly affected by any meaningful global commitments to reduce carbon emissions and deforestation, with potentially severe implications for public expenditure.

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<sup>114</sup> Ministry of Economic Affairs, Malaysia, "Mid-term review of the Eleventh Malaysia Plan 2016-2020," October 2018, <https://www.mea.gov.my/en/rmk/mid-term-review-eleventh-malaysia-plan-2016-2020> p. 77.

<sup>115</sup> SUHAKAM, "Annual Report 2018," 2019, <https://www.suhakam.org.my/pusat-media/sumber/laporan-tahunan/> p. 133.

<sup>116</sup> Ministry of Economic Affairs, Malaysia, "Mid-term review of the Eleventh Malaysia Plan 2016-2020," October 2018, <https://www.mea.gov.my/en/rmk/mid-term-review-eleventh-malaysia-plan-2016-2020> p. 83.

<sup>117</sup> UNDP, "Malaysia Human Development Report 2013," 2014, <http://hdr.undp.org/en/content/malaysia-human-development-report-2013> p. 50.

<sup>118</sup> Jomo KS, "Most Malaysians cannot afford to retire," *The Star*, October 25, 2017, <https://www.thestar.com.my/business/business-news/2017/10/25/most-malaysians-cannot-afford-to-retire/>.

<sup>119</sup> UN Special Rapporteur on extreme poverty and human rights, "Climate Change and Poverty," June 25, 2019, [https://www.ohchr.org/Documents/Issues/Poverty/A\\_HRC\\_41\\_39.pdf](https://www.ohchr.org/Documents/Issues/Poverty/A_HRC_41_39.pdf).

<sup>120</sup> UN ESCAP, "The Disaster Riskscape Across Asia-Pacific," 2019, [https://reliefweb.int/sites/reliefweb.int/files/resources/Asia-Pacific%20Disaster%20Report%202019\\_full%20version.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Asia-Pacific%20Disaster%20Report%202019_full%20version.pdf) p. v.

<sup>121</sup> Ministry of Finance Malaysia, "2019 Federal Government Revenue," November 2, 2018,

[https://www.treasury.gov.my/pdf/budget/budget\\_info/2019/revenue/section2.pdf](https://www.treasury.gov.my/pdf/budget/budget_info/2019/revenue/section2.pdf); Malaysian Palm Oil Council, "Malaysian Palm Oil Industry," [mpoc.org.my/malaysian-palm-oil-industry/](http://mpoc.org.my/malaysian-palm-oil-industry/).

The proposed Climate Change Act and national adaptation and mitigation plan, expected by the end of 2019, must address the rights of people living in poverty, given their extreme vulnerability. The government should also ensure that sufficient expertise and authority is brought to bear on major issues like rapid emissions reductions and fiscal sustainability, potentially through the establishment of a climate change agency that could propose specific short, medium, and long-term policies for its consideration.

## **9. Key Recommendations**

In addition to the more detailed recommendations above, the following list recalls some of the most important steps that should be considered.

A meaningful poverty line, consistent with international standards, should be adopted urgently.

Policies in key sectors should specifically address the needs of the lowest 15-20 percent of the income distribution.

The Government should adopt a comprehensive data transparency policy.

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 ineffectual. They should be replaced by a Social Protection Floor reflecting the approach of the International Labour Organization.

Quality of education badly need to be improved.

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 health and educational services. Implementation of a comprehensive new set of policies is needed.

Migrant workers, especially but not only those who are undocumented, are often subjected to 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 and regulates working conditions more effectively, ensures real minimum wages, and treats workers and their dependents humanely.

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.

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 the Malaysian Identity Card should be launched.

A comprehensive study should be undertaken of the number and situation of persons with disabilities in Malaysia. Existing official statistics radically understate the problem and existing policies are commensurately inadequate.

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.