

Malaysia's National Human Rights Action Plan: a 'deeply problematic document'

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LETTER | The Coalition of Malaysian NGOs in the UPR Process (Comango) commends the government of Malaysia for finally launching the National Human Rights Action Plan (NHRAP).

The NHRAP includes 294 action plans in 83 priority areas categorised under five pillars - civil and political rights, economic, social and cultural rights, rights of the vulnerable people, rights of the indigenous peoples and Malaysia's international human rights responsibilities.

While Comango found many parts of the NHRAP comprehensive and well-explored, particularly the action plan items for the welfare of elderly persons, we found glaring reasons for concern in many others.

The NHRAP as a whole falls short of addressing systemic human rights issues, root causes of inequality and the enjoyment of human rights for all in the country, and lacks a gender perspective.

Some of the actions points proposed also do not adequately address the issues at hand. For example, on the issue of underage marriages, the action item offered is to update the standard operating procedure (SOP) for child marriages, which only serves to fortify the act instead of to safeguard the rights of the child.

While it is commendable that the NHRAP highlighted the misuse of racial and religious themes in politics, the corresponding action item to increase voter awareness does not reflect how this objective will be achieved as those who politicise racial and religious issues in Malaysia are often those connected to political power.

The NHRAP while acknowledging the urgency to address discrimination towards LGBTIQ+ persons from a human rights-based approach, provided no specific action items in the scheduled issues or action items to address this.

It is also difficult to assess the added value of the NHRAP to the long-term promotion and protection of human rights, as some of the proposed action items lack indicators, are already on-going efforts or are existing strategic plans and policies such as the National Policy on Biological Diversity 2015 - 2025, the National Strategic Plan on Ending AIDS 2016-2030 among others.

Comango also found efforts towards human rights education to be severely lacking in the NHRAP. There was also little effort towards integrating many overlapping interests together, resulting in many of its action items operating in silos instead of optimally.

The NHRAP references the federal constitution, the Universal Declaration of Human Rights (UDHR), the Cairo Declaration and political and sociocultural aspects (or national/cultural particularities) as its core frameworks.

The NHRAP fails to show how it will reconcile existing tensions and conflicting frameworks on human rights, between the UDHR and the Cairo Declaration in relation to the political and sociocultural context of Malaysia.

The Cairo Declaration views human rights as restricted explicitly to the limits set by the syariah law. Syariah laws vary tremendously between countries and even within them, such as in the case of Malaysia.

Women and people of other religions do not have the same rights as Muslim men under many interpretations of syariah law, nor do they have the same access to create, debate, and amend these laws.

This contradicts greatly with the standards set by the UDHR, wherein everyone has the right to equality under the law.

Additionally, freedom of religion is narrowly interpreted and pluralism within Islam is strongly discouraged and minority Muslim sects are persecuted.

The contradictions between the Cairo Declaration and UDHR in this document reflect the long-standing and rising tensions between Malaysia's civil and syariah legal systems. The NHRAP offers no rights-based solutions to these tensions, but may indeed add fuel to the fire.

Embracing frameworks that do not address structural discrimination and guarantee substantive equality makes the NHRAP a deeply problematic document as Malaysia's current socio-cultural setup is predominantly patriarchal in nature.

It will only serve to reinforce existing inequalities. Adding a political dimension to the document, a political Islam will result in action plans which favour benefiting certain institutions rather than the rakyat.

Some of the action items in the NHRAP do not respond to the critical and urgent human rights needs in Malaysia, and to some extent sets back years of work to advance human rights in the country for all peoples.

Highly questionable in integrity are action items:

- to re-explore the need for Orang Asli to be involved in the decision-making process under the 1954 Orang Asli Act (Act 134);
- to re-evaluate the need for laws mandating equal pay between genders,
- to re-evaluate the need for specific laws with regards to sexual harassment at the workplace, and;
- to continue studying the ratification of international human rights conventions.

The need for all of these has already been established through numerous research, case studies, and reports; a number of which were commissioned by the government itself.

For example, the Malaysian government had been conducting studies to ratify the International Convention on the Elimination of Racial Discrimination (Icerd) since 2009.

Despite studies claiming that the country is ready to ratify the Icerd, no actions were taken. Also questionable in integrity is the action item to establish a 'women-friendly' bank as it is not a priority

for women's human rights in Malaysia.

Even more concerning, critical issues such as those relating to the rights of foreign spouses and migrant workers were not even addressed in the NHRAP.

Investing in a rights-based development model that can integrate issues of human rights, environmental, good governance, wealth redistribution and economics will result in a more integrated and holistic impact for the peoples of Malaysia and contribute towards achieving the UN Sustainable Development Goals (SDG) and the TN50 aspirations.

Continuous and consistent engagement the people, civil society and NHRI is vital in developing government policies. While members of Comango were consulted in the early stages of the drafting of the NHRAP in 2016, the coalition was not engaged at all throughout 2017.

Comango was unpleasantly surprised to see the completed document launched on March 1 without any form of notification to any of the well reputed human rights civil society organisations.

It is regretful that the coalitions' experience and work on the ground were not taken into consideration in the drafting of this document. Comango strongly urges the government to reconsider the action plans in the NHRAP to reflect the diversity of all Malaysians and to re-establish engagements with the coalition.

Note: The NHRAP is an outcome of the Universal Periodic Review (UPR) recommendations in 2009 by Jordan - "Continue to develop the institutional framework with respect to the promotion and protection of human rights" - and in 2013 by Kazakhstan - "Continue efforts on adopting the National Human Rights Action Plan."

The Universal Periodic Review (UPR) is a process which involves a review of the human rights records of all UN Member States. Civil society actors, NHRIs and regional mechanisms can submit written information for the report containing a summary of information submitted by other stakeholders, which is considered during the review.

The Coalition of Malaysian NGOs in the UPR Process (Comango) was formed by civil society organisations in 2008 to engage in the Universal Periodic Review (UPR). It is the biggest civil society coalition of its kind in the UPR process, comprising of over 50 organisations. Empower and Suara Rakyat Malaysia (Suaram) are the co-secretariats for Comango.

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