

MALAYSIAN CHARTER ON HUMAN RIGHTS

"Human
Rights are
your right.

Seize them.

Defend
them.

Promote
them.

Understand
them and
insist on
them.

Nourish
and enrich
them...

They are
the best in
us. Give
them life."

Kofi Annan

*Human Rights
Day 1997*



**BY MALAYSIAN NON-GOVERNMENTAL
ORGANIZATIONS**

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MALAYSIAN CHARTER ON HUMAN RIGHTS

By Malaysian Non-Governmental Organizations

BACKGROUND

The Malaysian Human Rights Charter was enunciated in 1993 by the Non-Governmental Organizations (NGOs) and the Charter was decided on consensus by all the participants who attended the first consultation in 1993.

After almost six years, on 9th May 1999, the Malaysian NGOs again gathered, in line with changes taking place in the country especially issues concerning human rights. Current human rights development in the country, which involved abuses and violations of human rights, which has become more frequent, indicated that the first Charter had to be amended.

The Second Consultation Process was jointly organized by ERA Consumer and SUARAM. 49 Malaysian NGOs have endorsed the Charter. The publication of this Charter will be widely circulated to the masses to raise awareness on their rights. The Charter will be used as a lobbying tool with the government to ensure these Malaysian rights are provided and protected

September 1999

PREAMBLE

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

Article 1 – Universality

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

Article 2 – Indivisibility

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

Article 3 – Women's Rights as Human Rights

1. Women's rights are human rights. Women's rights must be addressed in both the public and private spheres of society, in particular the family.
2. The patriarchal system is manifest in all institutions, attitudes, social norms and values in our society. It takes many forms and cuts across class, culture, caste and ethnicity. It must be eradicated.
3. All forms of discrimination against women are to be eliminated.
4. Violence against women is one of the main instrument by which patriarchy perpetuates itself, and thereby the subjugation, oppression and exploitation of women. Violence against women is a violation of women's basic human rights and must be eradicated if there is to be social justice and equity.

Violations of women's human rights are not simply individual acts of violence. Within all areas of human rights – whether civil, political, economic or social – human rights violations against women take specific forms. Entrenched structures and practices such as caste, customary law, the family, and religion continue to discriminate against women. Economic and social institutions which are exploitative oppress women, and legal institution which claim to dispense equal justice are in fact gender biased.

5. To provide women a life with dignity and self-determination, women must be guaranteed inalienable and equal economic, social, political and religious rights.

Article 4 – Development

1. The right to holistic development is a basic human right. In order to attain socially equitable and environmentally sustainable development, there must be respect for civil and political rights as well as social, cultural and economic self-determination of all people. People's participation in the development process is essential to ensure that development is socially just and culturally appropriate.

Human development is dependent on resources provided by our natural environment. The protection and the sustainable use of these resources is integral to the well-being and survival of all peoples, in particular those communities that live in close harmony with their environment, and for future generations.

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

Article 5 – Democracy

1. True democracy cannot be separated from holistic development. Each is essential for the attainment of the other.
2. Democracy is more than the ritual casting of a ballot once every few years. True democracy involves ongoing participation by the people at all levels so that the people can determine their political status and freely pursue their economic, social, cultural and spiritual development.

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

Article 6 – Development and the world order

1. The present world order allows the arbitrary control and domination of development by the powerful in the North, abetted by elites in the South. This gross injustice perpetrates vast social and economic disparities both globally and nationally and denies individuals and communities the right to political, social, cultural and economic self-determination.
2. The development process at the international level must also be guided by the same principle of participatory democracy, equity and justice.
3. The United Nations must be democratised through the abolition of the veto and permanent membership of the Security Council, and an enhancement of the powers of the General Assembly.
4. The external debt of the chronically poor nations of the South aggravates poverty and thus violates the human rights of their peoples. These debts should be written off. Other debtor nations of the South should be allowed to reschedule their debts and not be further burdened by structural adjustment policies.
5. The present policies of the Group of Seven and North-dominated institutions such as the International Monetary Fund, the World Bank, and the General Agreement on Tariffs and Trade inflict gross human rights violations on the poor of the South. This must be stopped.
6. Every person and community has the right to have direct access to international institutions to seek redress.

Article 7 – Environment

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

Article 8 – Equality and Non-Discrimination

1. All persons are born free and equal in dignity and rights.

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

Article 9 - Equal Access to Basic Needs

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

No forced eviction of persons shall be conducted by the authorities unless adequate compensation and suitable alternative sites are made available after process of negotiations with all affected parties.

Article 10 – Employment

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

Article 11 – Education, Language and Culture

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

Article 12 – Rights to Personal Security

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

Article 13 – Freedom of Association and Assembly

1. Everyone is entitled to organize or participate in meetings, forums, gatherings, discussions, and other peaceful activities without having to obtain the prior permission of any state body.

2. Everyone has the right to join or form any organisation including political organisations of their choice and conduct peaceful activities.

Article 14 – Freedom of Expression and Access to Information

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

Article 15 – Children

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

Article 16 – Indigenous People

1. Indigenous peoples are entitled to self-determination. By this is meant their natural and inalienable rights to retain and control the land and all

resources found on their traditional territories, and the right to choose their own way of life.

2. They have right to practice and develop their culture and indigenous religion and maintain their culture identity. They shall also be provided with ample opportunities for material progress.

Article 17 – People with Disabilities

1. People with disabilities shall be recognized as members of society and have the right to adequate care in their daily lives.
2. They shall have the right to equal opportunity in education and employment and to be given adequate access to all basic public and social amenities.
3. They shall have the right to participate in the planning of the services for the people with disabilities.

Article 18 – Senior Citizens

1. Medical, transport, housing facilities and information technology (IT) should be provided free or at half the cost to senior citizens in recognition of their contribution to society.
2. In realising that senior citizens have vast knowledge, experience and talent that could still be utilised productively in counseling the young and inexperienced in many fields, therefore training in IT especially in the use of computers and e-mail should be provided free to senior citizen.

Article 19 – Refugees and Foreign Workers

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

Article 20 – Human Rights Education and Training

1. Human rights education and training empower people to prevent human rights violations and nurture for the human rights others.

2. Human Rights education and training are central to the promotion and protection of human rights.
3. Comprehensive human rights education and training programmes both in and out of school shall be developed by the government and non - government sector.

Article 21 – National Emergencies, Derogations and Judicial Independence

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

We Call For:

- The repeal of the Internal Security Act (ISA) and other laws providing for detention without trial, the Official Secrets Act, the Printing Presses and Publications Act and the amending of all our national laws to bring them in line with the human rights standards stated in this declaration.
- The government to ratify immediately the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; Convention Against Torture and All Forms of Cruel, Inhuman, Degrading Punishment and the Convention on Protection of the Rights of All Migrant Workers and Members of Their Families.

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ERA for a socially-just and equitable society.

ERA CONSUMER adalah sebuah organisasi sukarela demokratik bukan bersifat politik dan tidak mendapat keuntungan. ERA memberi tumpuan kepada isu-isu yang merangkumi jaminan makanan, hak asasi manusia, alam sekitar, hak-hak pengguna serta hak wanita untuk membina suatu masyarakat yang adil dan saksama.

ERA CONSUMER is a voluntary, non-political and non-profit organisation. ERA focuses on issues ranging from food security, human rights, environment, consumer rights to women's rights for a socially just and equitable society.