

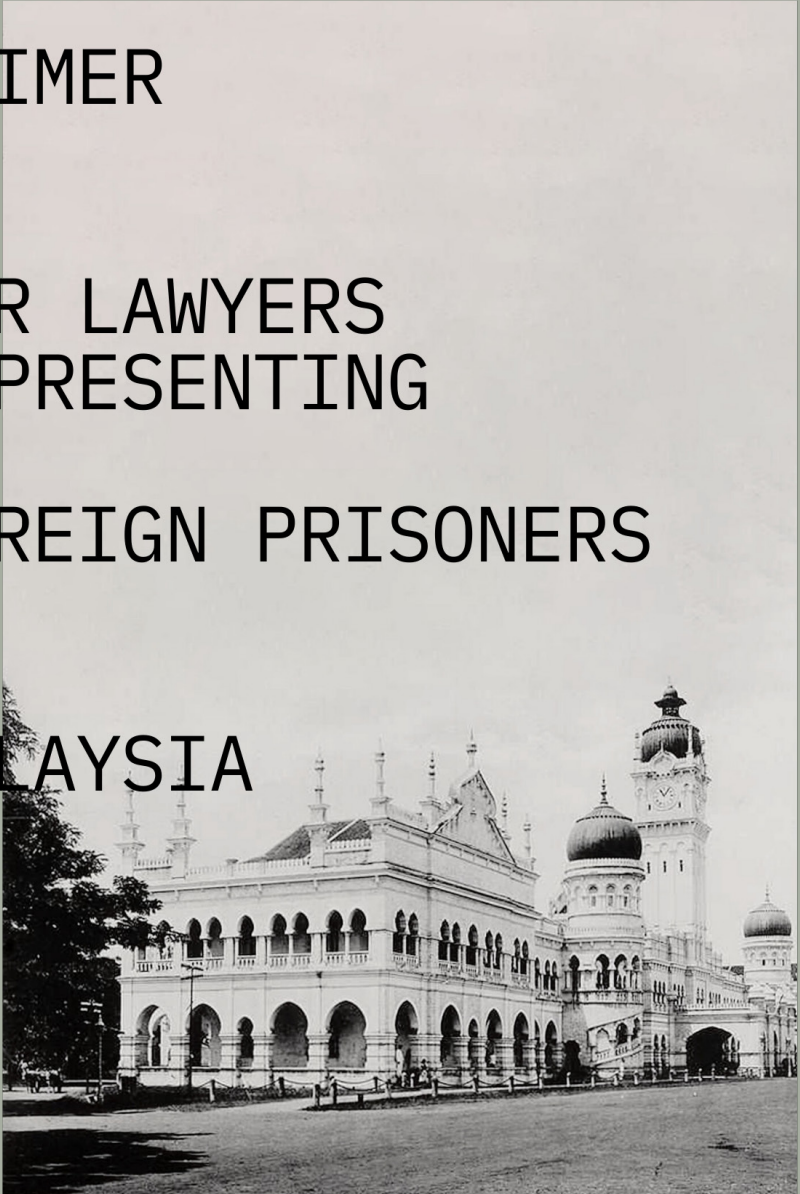
JUSTICE PROJECT PAKISTAN

PRIMER

FOR LAWYERS  
REPRESENTING

FOREIGN PRISONERS

IN  
MALAYSIA



# TABLE OF CONTENTS

Primer for Lawyers representing Foreign Prisoners in Malaysia	
Chapter 1: Introduction	4
How to use this primer?	4
What is international law?	5
Application of international law in Malaysia	6
Duties of Lawyers representing Foreign Nationals	11
Obligations of Sending States: Consular Assistance	14
Chapter 2: Overview	19
Foreign Nationals under the criminal justice system in Malaysia	19
Key Needs and Challenges in Accessing Justice	20
Chapter 3: Representing Foreign Nationals	22
Establishing a Relationship of Trust with your Client	22
Arrest, Pre-trial Detention and Bail	24
Trial Strategy	27
Sentencing and Post-Conviction	29
Chapter 4: Using Domestic and International Advocacy	33
Template A: Intake Questionnaire for Foreign National Client	40
Template B: Intake Questionnaire for Client in Immigration Detention	43
Template C: Sample Press Release	47
Appendix A : List of Legal Aid Centers	50
Appendix B: List of Translators	53
Appendix C: List of Organisations providing legal assistance to nationals detained abroad	55
Appendix D: Countries with Bilateral Agreements containing provisions on Consular Notification and Access	5
9	
Appendix E: Countries with Bilateral Treaties pertaining to Prisoner Transfer	61
Appendix F: List of Resources	6

To the lawyers who advocate for those forgotten and imprisoned far from home. Your unwavering dedication to justice, fairness, and dignity is a true credit to our profession. This work stands as a testament to your tireless efforts in ensuring that even the most vulnerable are not left without a voice or support.

\*

# Chapter 1: Introduction

Like most countries in the world, foreign nationals are disproportionately represented under Malaysia's criminal justice system. The challenges faced by foreign nationals coming into contact with the criminal justice system are different and often more severe - language barriers, limited family contact, discrimination and bias, degrading treatment, and a lack of understanding of laws and procedures. They may also be subject to immigration procedures - such as deportation. At the same time, foreign nationals are entitled to special rights such as access to consular support and assistance from their respective missions or embassies, access to legal representation, and right to be informed of the charges against them in language they understand.

## How to use this primer?

Navigating the criminal justice system in Malaysia, while offering the best possible representation to a foreign national can be particularly challenging for lawyers. This primer is intended for lawyers in Malaysia who are currently representing foreign nationals or are interested in representing foreign nationals who come into contact with the criminal justice system. It is also designed as a resource for diplomatic missions and embassies in Malaysia providing consular assistance to their nationals. The primer can also be used by human rights activists, civil society organizations or government officials interested in understanding the rights and standards that may apply to foreign nationals under the criminal justice system of Malaysia.

The primer is not intended to be used as a legal treatise or bench book. It provides legal arguments and strategic guidance that can be used to plan and provide the best possible representation to a foreign national. It is structured to be user-friendly, allowing lawyers to quickly find the information they need. Practitioners are encouraged to use this manual as both a reference tool and a step-by-step guide, ensuring that they can provide the highest standard of legal representation to foreign nationals.

Whether you are preparing for an initial consultation, navigating complex procedural issues, or seeking guidance on ethical dilemmas, this manual is an indispensable resource designed to support you every step of the way.

## What is international law?

This manual relies on international law. International law comprises the rules, principles, agreements and treaties that govern the relationship between states. The body of international law that governs the relationship of states with people is known as international human rights law. Human rights are obligations that states are bound to protect, respect and fulfill against certain people and groups.

The primary source of international law is treaties. Treaties are agreements that states agree to be bound by. Treaties may be bilateral (between two states) or multilateral (between many states). Only states that ratify a treaty are bound by its provisions.

Non-treaty standards include Declarations, Resolutions, Principles, Rules, and so on. While non-treaty standards do not technically have the legal power of treaties, they have the persuasive force of having been negotiated by States and adopted by political bodies such as the UN General Assembly, usually by consensus. Because of this political force, they are considered authoritative and are cited and relied upon in rulings of regional human rights courts and national courts. Examples include, Universal Declaration on Human Rights (UDHR), United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), and the Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment, 1988.

## Application of international law in Malaysia

The Malaysian legal system requires that international treaties and conventions must be enacted into domestic law through legislation by Parliament before they become enforceable domestically. This principle reflects the dualist nature of the Malaysian legal system, similar to the United Kingdom.

Despite the formal dualist approach, Malaysian courts have increasingly engaged with international law principles, particularly in interpreting constitutional guarantees and human rights provisions. This trend indicates a more nuanced application of international norms in domestic jurisprudence. For example, in *Suzana bt Mad Aris v. DSP Ishak Husin & Ors* [2011] 1 MLJ 107, the court highlighted the principle of the right to life and liberty under the Universal Declaration of Human Rights (UDHR) as part of Malaysian jurisprudence. This case involved a situation where the police deprived a detainee, Ahmad Sarbani Mohamed, of medical attention, leading to his death. Similarly, in *Noorfadilla Ahmad Saikin v Chayed Basirun & Ors* [2012] 1 MLJ 832, the High Court applied Articles 1 and 11 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) to its interpretation of Article 8(2) of the Federal Constitution. The Court stated “... in interpreting article 8(2) of the Federal Constitution, it is the court’s duty to take into account the government commitment and obligation at international level especially under an international convention, like CEDAW, to which Malaysia is a party...”

\*

<b>International standard</b>	<b>Source</b>	<b>Overview</b>
Vienna Convention on Consular Relations, 1963	Treaty	The Vienna Convention on Consular Relations (VCCR) provides that foreign prisoners have the right to consular notification and access, ensuring they are informed without delay of their right to communicate with their consulate when detained. This communication allows consular officers to visit, converse, correspond with, and assist their nationals, including arranging legal representation. The host state is obligated to inform the detained person of these rights and notify the consulate if requested by the detainee.
Body of Principles for all Persons under any Form of Detention or Imprisonment	Non-treaty	The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment ensures that foreign prisoners are afforded specific rights and protections. Principle 16 states that detained or imprisoned foreign nationals have the right to communicate with consular officials from their home country. Additionally, Principle 36 emphasizes the right to be informed promptly of these rights upon detention. Foreign prisoners must be allowed to correspond and receive visits from consular representatives, and their consulate must be notified of their detention without delay. These principles ensure that foreign nationals have access to consular assistance, which is crucial for safeguarding their legal and human rights while under detention or imprisonment in a foreign country.

International standard	Source	Overview
United Nations Standard Minimum Rules for the Treatment of Prisoners (or The Nelson Mandela Rules)	Non-treaty	The Nelson Mandela Rules emphasize the importance of non-discrimination, access to consular assistance, and the right to maintain communication with the outside world, including in their own language. They also safeguard the cultural and religious practices of foreign prisoners, ensuring they can observe their customs and meet with religious representatives. Additionally, the rules guarantee access to adequate healthcare, including culturally appropriate services, to support the well-being of foreign prisoners
Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners	Non-treaty	The Model Agreement on the Transfer of Foreign Prisoners and related recommendations stress that foreign prisoners should have the opportunity to be transferred to their home country to serve their sentence, which can aid in their social reintegration. They also emphasize non-discriminatory treatment, access to consular assistance, legal representation, healthcare, and the right to understand prison rules in their language.

## Rights of Foreign Nationals under International and National Law

The Government of Malaysia has duties and obligations with respect to foreign nationals that come into contact with the criminal justice system.

### I. Right to Consular Notification and Access

When a Foreign National is arrested or detained, the Government of Malaysia must take measures to ensure that the foreign nationals government can offer them appropriate consular assistance. In all instances, the foreign national should be informed of the right of consular notification and



access. These rights originate from customary law and are codified under the Vienna Convention on Consular Relations, 1963 (VCCR), which was ratified by the Government of Malaysia in 1991. The Convention was given domestic effect in Malaysia through the Consular Relations (Vienna Convention) Act, 1999. Under the relevant legal frameworks, all foreign nationals have a right to consular notification and access, regardless of their *immigration status*. In practice, this means that:

- ◇ Upon arrest and/or detention, the local authorities must without any delay inform the foreign national of their right to have their consulate informed of their detention and to communicate with their consular representatives. [Article 36(1)(b), VCCR]
- ◇ In case there is a bilateral treaty providing for mandatory notification, the relevant consulates can be notified of the arrest and detention of their nationals without delay regardless of whether or not consent has been obtained. However, in such cases the foreign nationals must be informed that such notification is being made.
- ◇ If the foreign national requests, the local authorities must inform the respective consulate without any delay. The local authorities must also forward any communication between the foreign national and their consulate without delay.
- ◇ Foreign consular officers must be given access by the local authorities to their nationals and be permitted to communicate with them. Such officers must be allowed to visit their nationals, to converse or correspond with them, and arrange for their legal representation. Consular officers cannot act as legal counsels or attorneys on behalf of their nationals. They must not act on behalf of the foreign national if opposed by him/her.

The rights to consular notification and access may be subject to local laws and rules such as only being allowed to visit during established timings. However, such laws and rules must not be so restrictive so as to defeat the purpose of consular access and notification.

Failing to respect the right to consular notification and access is a serious violation of international law. Cases in which consular notification has not

been made, preventing consular assistance, have led to high-profile litigation before international and regional courts, including the International Court of Justice (ICJ), which has jurisdiction to settle disputes between states that have ratified the VCCR. For example, in *LaGrand (Germany v. United States of America)* two brothers, German nationals living in the U.S., had been convicted of murder and sentenced to death in Arizona in 1984. The authorities failed to notify the defendants of their rights to consular notification, and German officials only learned of the case in 1992 after being contacted by the defendants themselves. Both individuals were executed in 1999. The ICJ determined that by failing to inform the defendants without delay of their rights to consular notification, and preventing Germany from providing assistance, the U.S. had breached its obligations under Article 36, VCCR.

## **II. Right to Legal Representation**

In Malaysia, the right to legal representation for foreign nationals, just like Malaysians, is upheld by both domestic laws and international commitments. The Federal Constitution of Malaysia, under Article 5(3), guarantees that any arrested individual, including foreign nationals, must be informed of the reasons for their arrest and be allowed to consult and be defended by a legal practitioner of their choice. This is reinforced by the Criminal Procedure Code (CPC), specifically Section 28A, which ensures the right to consult a legal practitioner upon arrest, and Section 259, which guarantees the right to legal defense during trial.

Additionally, the Universal Declaration of Human Rights (UDHR) underscores the right to a fair trial, which implicitly includes the right to legal representation. Although the UDHR is not legally binding, Malaysia, as a UN member state, is expected to adhere to its principles. In fact, The Human Rights Commission of Malaysia Act, 1999 made reference to the UDHR as part of its mandate, giving further recognition to its principles.

## **III. Right to Fair Trial**

Under the Malaysian criminal justice system, the right to a fair trial for foreign nationals encompasses several essential protections. This includes the presumption of innocence until proven guilty, the right to legal representation and, if necessary, legal aid. Foreign nationals are entitled to a fair and public hearing before an impartial tribunal, and they must be informed of the charges against them in detail. They also have the right to adequate time and facilities to prepare their defense, cross-examine witnesses, and access an interpreter if needed. Additionally, they can appeal convictions or sentences, ensuring that their trial adheres to principles of justice and due process, in line with both domestic laws and international human rights standards.

#### **IV. Right to Health and Medical Care**

Foreign prisoners are entitled to receive adequate medical care and treatment while in detention, which encompasses timely access to healthcare services, including medical examinations, treatment for existing conditions, and emergency medical attention. The Prisons Act 1995 and its regulations mandate that all prisoners, including foreign nationals, be provided with medical care that meets acceptable health standards. This right also includes access to necessary medications and treatment for chronic or serious health conditions. Additionally, if a foreign prisoner's health condition is severe, they may have the right to be referred to external medical facilities for specialized care.

### Duties of Lawyers representing Foreign Nationals

In Malaysia, relationship between lawyers and clients are governed by two frameworks:

- (1) written rules, including but not limited to the Legal Profession Act, 1976 ("the LPA"), Legal Profession (Practice and Etiquette) Rules 1978 ("the P&E Rules"), Solicitors' Accounts Rules 1990 and Bar Council Rules

ings. (2) unconventional rules, such as unwritten standards of common decency and fairness.

### **Providing Effective Representation**

Article 5(3) of the Federal Constitution of Malaysia guarantees the right of a person to be allowed to consult and be defended by a legal practitioner of their choice as soon as possible after arrest. This right extends to both citizens and foreign nationals. Section 255 of the Criminal Procedure Code (CrPC) also provides that “every person accused before any criminal court may of right be defended by an advocate.” As a defense lawyer, you have a duty to provide high-quality legal representation. The duties of legal aid lawyers to provide effective representation are no different from those of private lawyers.

This means, in general:

- You must be independent and free to advocate zealously on behalf of your clients.
- You must have “experience and competence commensurate with the nature of the offense.”
- You should limit caseloads to a level at which you are able to provide high-quality representation.
- You must ensure that you have sufficient time and resources to prepare a defense
- You should receive adequate resources to enable you to provide a competent defense.

With regards to foreign nationals, this includes:

- With your client’s consent, contacting their respective embassy and mission for consular assistance.
- Getting in touch with their friends and family, including in their home country, to conduct a thorough investigation of the facts and circumstances

## What does it mean to have “adequate time and facilities” to prepare a defense?

Section 28A of the Code of Criminal Procedure similarly provides that reasonable time and facilities must also be given for the legal practitioner to be present to meet the person arrested and for the consultation to take place. Your client’s right to sufficient time to prepare a defence also applies to you, as capital defence counsel. In other words, you, as your client’s advocate, have a right to sufficient time and resources to defend your client, not only during the trial but also during pretrial hearings, plea negotiations, post-trial appeals and sentencing hearings. It is your duty to vigorously assert these rights. Having “adequate time and facilities” to prepare a defense means that a lawyer must be given sufficient time and access to resources to effectively represent their client.

This includes:

1. **Access to all case materials:** Lawyers must be provided with all relevant documents, evidence, and witness statements related to the case in a timely manner. This allows them to review and analyze the evidence and formulate a defense strategy.
2. **Opportunity for Consultation:** The lawyer should have adequate time to meet and consult with their client to discuss the case, develop a defense strategy, and address any concerns or questions the client may have. In some cases, lawyers do not meet clients until the day of the trial. The UN Human Rights Committee has found that this violates the clients right to adequate time and facilities.
3. **Preparation Time:** Lawyers need enough time before trial to prepare their case, including conducting investigations, gathering evidence, and preparing legal arguments and witness testimonies. If you are appointed to defend a client only days before their trial is scheduled to begin, you will likely need to request that the trial be postponed so that you can interview your client, investigate any defense he may have, and prepare for trial.
4. **Access to Experts:** If needed, lawyers should be able to obtain the services of expert witnesses or consultants to support their case. This includes mental health experts, forensic experts, and handwriting ex-

perts, as needed.

- 5. Court Access:** Lawyers must have reasonable access to the court for filing motions, attending hearings, and presenting their case.

It is important to remember that the right to sufficient time to prepare a defense also applies to the appeals process.

### **Obtaining Your Client's Consent to Contact the Consulate**

It is critical that you obtain your client's consent before you contact their consulate. There are a number of different situations in which a client may prefer not to contact their consulate. If the client is a political dissident, for instance, it is possible that informing the consulate may only have adverse consequences for them or their family.

## Obligations of Sending States: Consular Assistance

Just as the Government of Malaysia has an obligation to protect the rights of foreign nationals that come into contact with their criminal justice system, Sending States (or countries of origin) also owe duties to their nationals abroad. In a UN Resolution on the protection of migrants (2000), the need for protection of the rights of all migrants was reiterated, including the right to receive consular assistance from their country of origin. Moreover, in a report of the Special Rapporteur on the Human Rights of Migrants, the Special Rapporteur urged countries of origin to "offer proper consular protection" when the rights of their citizens abroad were infringed upon, including in cases of detention.

Foreign in detention can face difficulties, such as proceedings in a foreign language, a different legal system, lack of familiarity with resources for legal defense, fear of deportation, and isolation from their family and community, among others. Consuls are uniquely positioned to address the needs of migrants and provide them with information to allow them to exercise their rights. As a result, States of origin should take the necessary measures to ensure that their consulates effectively address the needs of their nationals when facing situations of detention in a foreign State.

While there is no agreed standard for what constitutes an adequate level of consular assistance, best practice examples provide a guiding framework for consulates in Malaysia to follow to respect the rights of their nationals. These may include:

- **Consular Notification and Access:**

- ◇ When notified of the arrest or detention of your national, aim to contact them as soon as possible and assess how help can be provided according to individual circumstances and local conditions.
- ◇ Inform the police or prison doctor, with the permission of the detained citizen, about any medical or dental problems including medication
- ◇ Visit the detained citizen regularly and provide reading materials and/or vitamin supplements, where appropriate.
- ◇ If consular access is delayed or denied, strongly raise concerns with the local authorities and/or relevant diplomatic channels.
- ◇ With the consent of the detained, inform their family and friends of their arrest or detention. These can be facilitated either directly or through charities and other support groups for families of prisoners detained abroad. e.g. Prisoners abroad - a charity based in the UK - supports families of British nationals that are detained overseas.
- ◇ Upon request, ensure that prison officials permit visits with a member of the clergy of the religion of the detainee's choice

- **Arrange legal representation/assistance:**

- ◇ Provide the detained citizen a general overview of the local criminal justice process, constitutional and legal rights in the foreign national's local language and in a manner which they understand.
- ◇ Provide a list of local attorneys and interpreters who speak the detainee's language of origin. While consular officers cannot provide legal representation themselves, they can help detainees find appro-

priate legal assistance. See Appendix A for a list of qualified lawyers in Malaysia

Attend court hearings to ensure that the detainee’s trial is conducted fairly and in accordance with international standards and local laws.

- **Assistance in preparing a defense:**

Consular agents may assist in the preparation, coordination and supervision of the defense, play a decisive role in obtaining, in the State of which the accused is a national, evidence that attests to mitigating circumstances and help make the circumstances of the accused and his relatives “more humane”.

In cooperation with legal counsel/representatives, identify any signs of mental illness.

- **Documentation and Financial Assistance**

Assist with the provision of necessary documents, such as birth certificates or passports, which might be required for legal processes.

Support detainees access financial support sent by their families.

Some countries offer to pay blood-money or diya in order to secure clemency for their nationals facing the death penalty.

- **Transfer:**

Consular officers may facilitate transfer of their nationals to their country of origin to serve out their sentences. The transfer of prisoners is regulated by the International Transfer of Prisoner Act, 2012 and bilateral prisoner transfer treaties. For a list of bilateral treaties pertaining to transfer, see Appendix

- **Advocacy and Diplomatic Intervention**

In some cases, consular officers may engage in diplomatic negotiations to secure the detainee’s release, transfer to their home country or clemency, especially in situations involving humanitarian



grounds, including mental illness or wrongful detention.

- **Post-release**

- ◆ Consular officers can help arrange for the return of the released national to their home country, including assisting with travel documents, booking flights, and, in some cases, providing financial assistance for travel if necessary.

**DUAL NATIONALS MAY ALSO BE PROVIDED CONSULAR ASSISTANCE:** The Vienna Convention does not preclude the provision of consular access and notification to dual nationals. In absence of any agreement to the contrary with the Government of Malaysia, you should aim to provide to the fullest extent possible. If consular access is denied as a policy, then you should attempt to seek it on a courtesy basis.

**YOU SHOULD BE AWARE THAT SOME OFFERS OF ASSISTANCE MIGHT NOT BE WELCOMED:** Nevertheless, it is important to offer assistance to detainees, under most circumstances. The choice to decline assistance offered is a personal decision. The person may not be in a position psychologically to accept assistance. Assistance, by its nature, can be disorienting and the person detained may, due to trauma suffered or past experience dealing with people of authority, not have the capacity to make clear decisions. Remember that you are there to help not to force help upon the person. Establishing trust is crucial.

**INTERVIEWING A DETAINED FOREIGN NATIONAL IS NOT AN INTERROGATION. DO NO HARM** should be your guiding principle. It is not your job to determine guilt or culpability. Always fully respect the foreign nationals' concerns, agency and wishes and obtain their informed consent. This is non-negotiable. If the presumed victim is a child, always consider consulting or include a stakeholder trained in interviewing children. The purpose of hearing the child is to detect potential exploitation and harm, by asking a minimum set of questions.

### **Best Practice Examples**

In 2018, ASEAN Member states adopted the Guidelines on Consular Assistance By ASEAN Member States in Third Countries to Nationals of other ASEAN Member States. To facilitate cooperation among ASEAN

nations in providing support to each other's nationals detained abroad in third countries where their home country lacks consular representation. The guidelines encourage mutual assistance, including notification of the detainee's home country, conducting consular visits, facilitating access to legal and humanitarian aid, and coordinating efforts to ensure the detainee's rights are upheld. They also support diplomatic advocacy if a detainee's rights are at risk, reflecting ASEAN's commitment to protecting its citizens through collective consular efforts.

**Mexico** operates an assistance scheme for its nationals facing the death penalty abroad, the Mexican Capital Legal Assistance Program (MCLAP), which has shown success in preventing executions. Based on data from MCLAP's 2012-13 report, the rate of imposition of the death penalty in cases where individuals faced capital charges was just 0.8% for Mexican nationals, whereas the estimated rate for U.S. nationals was 8-14%. That effective assistance can make such a difference to individuals' fates underlines the fact that in its absence, the risk of arbitrariness is increased.

The Government of **Indonesia** set up a taskforce to protect Indonesian migrant workers facing the death penalty abroad. The Task Force on Migrant Worker Protection negotiated clemency on behalf of 110 Indonesian citizens in 2012. The Indonesian Ministry of Foreign Affairs also established the Legal Aid and Protection of Indonesians Overseas Unit, which has intervened in 247 cases of Indonesians under sentence of death abroad. The Unit has claimed to have been successful in removing 110 of the 200 or so Indonesians on death row abroad and in April 2014 paid a substantial portion of blood money to save the life of an Indonesian maid in Saudi Arabia

The **Australian** Government operates a 24-hour consular emergency help-line that can be accessed overseas and in Australia..

**The United States** Department of State allows US citizens to transfer money to family members detained abroad. In certain cases, the the Department of State's Office of Overseas Citizens Services (OCS) can establish a Trust account in the citizen's name in order to forward funds. Upon receipt of funds, OCS will transfer the money to the appropriate U.S. Embassy or Consulate for disbursement to the recipient.

## Chapter 2: Overview

### Foreign Nationals under the criminal justice system in Malaysia

Malaysia attracts foreign nationals from all parts of the world. These include those coming to the country as labor migrants, highly skilled and professional migrants (or expatriates), illegal migrants, refugees, asylum-seekers, forced migrants (human trafficking victims), students and tourists. The Dewan Rakyat estimates that around 6.9% of the total population in Malaysia constitutes as foreign nationals working legally. Malaysia continues to be an important destination for migrants and asylum seekers from across Southeast and South Asia. UNHCR data indicates that in 2022, Malaysia hosted 134,554 refugees, 47,433 asylum seekers, and 115,169 stateless persons. The Migration Data Portal indicates that as of 2020, Malaysia had approximately 3.5 million international migrants, representing nearly 11 percent of the country's total population.

Therefore, it is of little surprise that foreign nationals regularly come into contact with the criminal justice system. According to the Prison Department (Kompleks Penjara Kajang) around 18.3% of the general prison population in Malaysia comprises of foreign nationals. Amnesty International estimates that almost half of the death-row populations are foreign nationals. However, the biggest numbers of foreign nationals are found in immigration detention. Illegal entry and stay is criminalized and migrants often serve prison sentences before being transferred to one of 13 to 17 dedicated immigration centers dubbed "immigration depots" while awaiting deportation. According to statistics from the Malaysian government's Enforcement Agency Integrity Commission (EAIC), 86,795 people

were placed in immigration detention in 2016, mainly from South East Asia.

## **Key Needs and Challenges in Accessing Justice**

Foreign nationals are especially vulnerable to violations of access to justice and therefore, have certain unique needs as they make their way through the criminal justice system. There are also likely to face a range of unique barriers.

**Language:** Foreign nationals may not have the necessary language skills to fully comprehend the complex vocabulary used in the legal system. Therefore, it is crucial to offer an interpreter to your client, regardless of their apparent linguistic ability. If the client agrees to have an interpreter, it is important to ensure that the interpreter is present at all legal proceedings and meetings. Additionally, you should take extra care to clearly explain your client's rights and the legal procedures they will be subjected to, ensuring they fully understand every aspect of their case.

**Legal representation:** Securing legal representation as soon as possible following arrest is key to ensuring a fair trial. However, foreign nationals are unaware of their right to legal representation and are, therefore, unable to demand it from police/detention authorities. Other barriers include lack of awareness of qualified lawyers, lack of resources, and lack of support networks. Foreign nationals over the age of 18 years are no longer eligible for State-funded Legal Aid provided under the Legal Aid Department by virtue of Legal Aid (Amendment) Act, 2017. The Malaysian Bar Council provides legal aid to foreign nationals through its Legal Aid Center, funded by its members. Another state supported aid called the National Legal Aid Foundation covers Malaysian and non-citizens under the age of 18. In addition to the above, there is also a court assigned counsel scheme for individuals facing the death penalty when charged by the High Court. This covers both nationals and foreign nationals.

**Knowledge of Legal System and Rights:** Foreign nationals may be ignorant of their rights and even about their sentence, simply because they do not speak the language of their jailors. The Death Penalty Project (DPP) has examined the cases of some of the roughly 400 foreigners on death row in Malaysia. They are, it has found, imprisoned in a strange jurisdic-

tion with little understanding of its legal system, and they lack the support of friends or family. Even those in a more privileged position, who may have access to resources and international campaigns to attract attention to their plight, can be disadvantaged by inadequate due process protections.

**Sentencing:** Anti-migrant narratives and bias, may mean that foreign nationals may be subject to harsher sentences than Malaysian nationals. Vulnerable women charged with capital offenses, particularly foreign nationals, face gender bias and stereotypes in court processes. This is reflected in significantly higher average women on death row (10%) with the majority being foreign nationals in Malaysia. Moreover, foreign nationals may be unable to invoke mitigating factors owing to lack of knowledge about procedure, lack of investigative resources and missing documentary records (for example, to prove juvenility or intellectual disabilities).

**Torture and Inhuman Treatment:** Foreign nationals under the Malaysian criminal justice system may be especially vulnerable to torture and inhuman treatment. Isolation from support networks, and a lack of legal representation and resources means that foreign nationals are more vulnerable to providing forced confessions.

**Prolonged and/or indefinite Detention:** Detention is the rule for irregular migrants ordered to be deported. While awaiting deportation, it is practically impossible for migrants to challenge their detention, no matter how long it lasts. Severe delays in obtaining travel documents considerably contribute to prolonged, at times indefinite detention of migrants in Malaysia. A number of detainees said that they wanted to return home but were expected to pay for their own flights. Since most detainees cannot afford to pay for air tickets, they become stuck in detention with no idea of what will happen to them.

**Conditions of Detention:** According to SUHAKAM, the Human Rights Commission of Malaysia, more than 100 people died in immigration detention in 2015 and 2016. SUHAKAM's chairman commented, "Many deaths in immigration detention centres were due to chronic health conditions such as tuberculosis, pneumonia and septicaemia. There are no family detention units within immigration detention centres and at times families are separated and detained in different immigration depots in the country.

## Chapter 3:

# Representing Foreign Nationals

### **Establishing a Relationship of Trust with your Client**

Maintaining an effective lawyer-client relationship is essential to providing a good defense. In order for your client to be able to provide you with all possible information necessary to provide an effective defense, they must trust you. For example, your client will not disclose personal and painful facts that are necessary to craft an effective defense for the trial (such as their role in the crime) if they do not feel comfortable confiding in you. Establishing such a relationship with any client is challenging. However, with foreign nationals there are additional cultural, linguistic and psychological barriers that need to be overcome.

- Lawyers like talking. However, if you want to build a relationship with your client, you have to listen to them. Get to know them and show you are interested in them as people. Look out for signs of mental illness or trauma.
- Be consistent in your communications and to keep your client informed of the substantive developments and procedural developments of the case.
- Many foreign nationals in prison may be victims of human trafficking. You must reassure them that their information will be dealt with in a safe and confidential manner. Remind them that what happened is not their fault and you are there to help. Do not interrogate them, if they do not want to share their experience. If possible, try to be accompanied by a social worker or

- For children, try to be accompanied by someone trained in the special needs and rights of children. If possible, child victims of trafficking should only be interviewed in the presence of an adult they trust and by a member of the same sex. It is important to note that the Child Act, 2001 set out a parallel criminal justice regime for juvenile offenders. [Refer to interview guidelines contained in UNICEF Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe. ]
- It's important to be honest with your clients and not over-promise on results you know you can't deliver. If a client's case simply isn't strong, it's critical to manage their expectations and not get their hopes up. This not only avoids dissatisfaction and disputes down the road, it also can lead to increased trust if you achieve results that are better than expected.
- Most foreign nationals may have a history of unpleasant experiences with law enforcement and other people in authority and will therefore, view any association with them with suspicion. Do not show over-familiarity with prison officials, police or prosecutors, in front of your client.
- Be mindful of cultural norms and expectations. Your client may not be comfortable engaging with a member of the opposite sex. They might expect to be addressed with a certain salutation, depending on their age. In some cultures, direct eye-contact may be perceived as impolite whereas in others lack of eye contact has a different attribution.



## Arrest, Pre-trial Detention and Bail

### **Arrest**

The right to legal representation is a critical safeguard that extends well beyond the trial, ensuring that foreign nationals in Malaysia are protected from the earliest stages of detention. As Malaysian lawyers representing foreign clients, it is crucial to recognize that these individuals may not be familiar with their legal rights or the procedures of the Malaysian legal system. This unfamiliarity makes them particularly vulnerable to forced confessions, inhumane treatment, and violations of their right to health. Your presence from the outset can help prevent such abuses and ensure that your client's right to consular access and assistance is upheld.

Article 5(3) of the Federal Constitution guarantees every person the right to consult and be defended by a legal practitioner as soon as possible after arrest. Although the Constitution does not specify an exact timeline for when this consultation should occur, Section 28(A) of the Criminal Procedure Code provides that your client has the right to consult with you before any police questioning or recording of their statement. However, section 28A (8) - (10) deals with the narrow exception that allows this right to be temporarily postponed by the police if the lead investigator has the reasonable belief that immediate consultation could lead to an accomplice evading capture, evidence being tampered with, or the safety of others being compromised.

Police commonly rely upon this exception to delay the right to counsel. However, it is important to note that, based on judicial pronouncements, the reasonable belief must be based on credible evidence and the onus is on police to prove that the right to counsel, if exercised, will impede an investigation.



Despite these exceptions, it is essential to assert your client's right to early legal representation to protect their due process rights and to ensure that their case is handled fairly and justly from the very beginning. If this right has been denied to your client, it's important to raise it before the applicable courts.

## **Police Remand**

As a general rule, police may hold a suspect in custody without a warrant for 24 hours to complete the investigation. This remand phase can be extended to 7 days, renewable once for offenses with a sentence of over 14 years or more, including in cases of capital punishment. Special legislation may allow longer periods of detention.

This period of time is critical for police investigation but also for your client. They will experience mental and physical distress on account of being imprisoned. They might face undue pressure or coercion from police into giving a 112 statement or providing evidence that might be ultimately detrimental to their trial. You must advocate for your client. Make sure they are provided with a qualified interpreter and are only questioned in your presence. Explain to them the reasons for their arrest and their rights. With their permission, make sure their consulate has been contacted and has access to them. If you are being denied access to your client, you must raise this forcefully before the appropriate tribunal. You may also flag this to your client's consulate and ask them to raise this through the appropriate diplomatic channels.

## **Right to Bail**

Foreign nationals have the same rights to bail as Malaysian nationals. However, they may be subject to different conditions by the court. Many offenses falling under the Immigration Act such as overstaying a visa or entry permit (S. 15 (1)(c)), Unauthorized entry (S. 6 (1)(c)), and Failure to produce documents (S. 39 (b)) are bailable. However, the court still retains the discretion to determine whether or not bail will be granted depending upon factors such as risk of absconding, previous offenses, and cooperation with the authorities. Courts may be inclined to believe that foreign nationals have a higher risk of absconding than Malaysian nation-

als. However, you can convince the court raising factors such as stable employment, any family connections (including a Malaysian spouse), valid residency status, voluntary surrender, voluntary forgoing of passport, and any willingness to cooperate with local authorities. For foreign nationals, the bailor is required to be a Malaysian citizen.

There are non-bailable offenses that are harder to get a bail for. These include serious offenses such as human trafficking(under Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007), Forgery or possession of false documents and reentry after deportation.

Your client is also entitled to bail during their appeal. If your client was found guilty during trial, they will still be considered as guilty during the appeal process. As a result, the bail can be granted only under exceptional circumstances (as provided under S. 311, CPC). If, on the other hand, the prosecution wants to appeal against your client's innocence, the burden is on them to prove that exceptional circumstances exist wherein bail should be denied (under S. 315, CPC).

### **Torture or cruel, inhuman or degrading treatment**

If your client is being subjected to inhumane treatment or torture you must raise this forcefully. Typically, you will first complain to the police or prison authorities, but you must carefully weigh whether this places your client at even greater risk of mistreatment. Apply for an injunction or a court order to prevent further abuse. This can include orders to transfer the client to a different facility or to ensure they receive proper medical treatment. Seek a court order for an independent medical examination by a doctor not affiliated with the police or prison authorities. Medical reports can serve as crucial evidence of torture. If the client has not been granted bail, you may file a fresh bail application or appeal a previous denial, citing the risk to their life and health due to torture.

It may be helpful to file a complaint with SUHAKAM, the National Human Rights Commission, which has the mandate to receive and investigate complaints on alleged violations of human rights. SUHAKAM also conducts periodical visits to places of detention and works closely with the Prisons Department to improve the conditions for prisoners. Inform your client's embassy or consulate about the torture. The embassy can provide diplomatic support, intervene with local authorities, and ensure the

client's safety. Request that consular officers visit your client in detention. Regular consular visits can help deter further abuse and ensure that any mistreatment is documented.

## Trial Strategy

When representing foreign nationals in Malaysian courts, developing an effective trial strategy is paramount to advocating successfully on your client's behalf. Central to this is the formulation of a theory of the case—a coherent narrative that frames your defense and shapes every aspect of your trial presentation. Your theory of the case should serve as the foundation for all the evidence you plan to introduce, guiding your choices in selecting witnesses, exhibits, and key arguments.

A well-developed theory will not only inform how you present evidence but also ensure consistency throughout the trial, from witness examination to opening and closing arguments. It helps you to clearly articulate why the facts, law, and circumstances support your client's innocence or reduce their culpability.

For foreign national clients, it's especially important that your theory considers potential cultural, linguistic, or procedural challenges they may face. Tailoring your strategy to address these unique factors can make a significant difference in how the evidence is perceived by the court. In summary, by anchoring your trial strategy in a strong and clear theory of the case, you can provide a focused, persuasive defense that effectively advocates for your client's rights and interests.

### **Investigation**

One of your most fundamental obligations as counsel is to investigate the facts of the alleged crime and the background of the accused. Lawyers who fail to conduct a thorough investigation are more likely to lose at trial. Investigation is also critical when you are seeking to avoid harsher sentences including the death sentence, as you will need to gather mitigating evidence well before trial that will help you persuade the judge.

Investigation and presentation of mitigating evidence is a crucial component of criminal defense work. It offers defense lawyers an opportunity to provide the court with evidence that may be weighed against aggravating factors. Mitigating evidence normally includes any information about a defendant's character and record that may be helpful in persuading a court that the accused is worthy of a lighter sentence, including ineligibility for the death penalty for capital offenses. This can include evidence of a "defendant's impulsivity, impaired judgment, youth and impressionability, mental and developmental impairment or retardation, history of childhood sexual and physical abuse, substance addiction, and manageability in prison."

### Sources of information

- **Your client:** Your client will likely be the starting point in your investigation and may help you identify additional witnesses and sources of exculpatory or mitigating evidence. Be careful not to rely solely on information provided by your client. Instead, investigate all facts independently of what the defendant tells you.
- **Clients Family and Friends:** A proper investigation will usually involve multiple interviews with the family of the accused. The family may also be an important source of mitigating evidence. You may have to pay multiple visits to family members to convince them that the private family history they reveal will not shift blame to them, but rather may help to save the defendant's life. If the family is situated in another country you may consider enlisting the help of a law firm or legal defense NGO based in the country offering these services. See Appendix C for a List of Organisation representing the interests of prisoners detained abroad
- **Professionals and Experts:** You should also interview friends, neighbors, traditional leaders, teachers, clergy, sports coaches, employers, co-workers, physicians, social workers and therapists. They will be able to provide details that family may be unwilling to share.
- **Documentary Evidence:** You should always seek documents that corroborate mitigation themes such as limited mental capacity and good character. These include school records, medical records, let-

ters of references, records of military service etc. If your client is a juvenile, a documentary record is crucial for proving their age. Be sure, to reach out to the family of the client to access any mental health records that might support your defense.

- **Psychiatric Evaluations:** In all cases, consider retaining a mental health expert to assess your client's mental health through testing and a clinical interview. This will be crucial for determining their mental capacity, fitness to stand trial, and ineligibility for the death penalty. You must obtain mental health records from the prison in order to allow the mental health expert to conduct an evaluation. In case, the prison authorities refuse, consider filing a petition before the relevant fora.

## Sentencing and Post-Conviction

### Mitigating Evidence

For Malaysian lawyers representing foreign nationals in prison, it is crucial to seize every opportunity to advocate for a lighter sentence for your client throughout the entire legal process. In Malaysia, where the sentencing phase is distinct from the trial phase, presenting mitigating evidence becomes a key strategy in reducing the severity of the sentence. To effectively utilize this strategy, it is essential to begin investigating and preparing your case for mitigation from the earliest stages of your representation. This preparation involves gathering evidence that highlights your client's personal circumstances, background, and any factors that could justify a more lenient sentence. Importantly, your mitigation theory should be developed in tandem with your overall defense strategy, ensuring that it aligns with the arguments you present during the culpability phase of the trial. By integrating your mitigation efforts with the broader defense approach, you can enhance the chances of achieving a favorable outcome for your client.

Below are some forms of mitigating evidence to argue for lighter sentences:

- **Circumstances of the Crime:** Evidence showing lack of intent, du-

- **Personal and Social History:** Background information on the defendant, such as difficult life circumstances, trauma, or socio-economic challenges that may have influenced their behavior.
- **Moral Character:** Testimonials from family, friends, employers, or community members attesting to the defendant's positive attributes, such as honesty, kindness, or previous law-abiding behavior.
- **Mental Health and Medical Issues:** Evidence of mental health conditions, cognitive impairments, or physical illnesses that might have contributed to the offense or that could be exacerbated by imprisonment.
- **Remorse and Cooperation:** Demonstrations of genuine remorse for the crime and evidence that the defendant has cooperated with authorities during the investigation or trial.
- **Impact on the Defendant's Family:** Information about the negative impact of a harsh sentence on the defendant's family, particularly if they are dependents who rely on the defendant for support.
- **Cultural and Linguistic Barriers:** Evidence of the defendant's struggle with language or cultural differences that may have affected their understanding of the legal process or contributed to the offense.
- **Potential for Rehabilitation:** Evidence that the defendant has shown potential for rehabilitation, such as participation in educational programs, vocational training, or other positive activities while in detention.
- **Consular Support:** Statements or interventions from the defendant's embassy or consulate, emphasizing their commitment to supporting the defendant's rehabilitation and reintegration.
- **Impact of Conviction and Sentence:** Arguments regarding the disproportionate impact a severe sentence, such as the death penalty, would have on the defendant and their family, possibly violating principles of justice and fairness.

## Immigration Detention

Once your client has completed their sentence, they may be transferred to immigration detention to await deportation. If you are representing a foreign national in immigration detention for the first time, it's crucial to navigate the unique legal, cultural, and procedural challenges involved. Start by determining whether your client's detention is administrative (e.g., overstaying a visa) or criminal (e.g., offenses like human trafficking), as this will impact your legal strategies.

While this manual does not delve into the specifics of immigration laws and procedures, several key strategies can be pursued. If you believe the detention is unlawful or unjustified, consider filing a writ of habeas corpus to challenge its legality. This legal tool can be effective in arguing that the detention violates legal or constitutional rights. For cases involving administrative decisions, such as visa extension denials or deportation orders, you may apply for judicial review to contest these decisions, especially if there are procedural irregularities or breaches of natural justice.

Notify your client's embassy or consulate of their detention as stipulated by the Vienna Convention on Consular Relations. Consular officials can offer support, including legal assistance, and may intervene diplomatically. Collaborate with them to apply diplomatic pressure or negotiate favorable outcomes, particularly in cases of prolonged or unjustified detention.

Ensure that your client is held in humane conditions, with access to adequate medical care, food, and sanitary facilities. Document any concerns about inhumane treatment and address them with the relevant authorities or human rights organizations. If your client is subjected to torture or other violations, report these issues to national human rights bodies, international organizations, or relevant UN bodies, such as the Special Rapporteur on Torture.

If your client is seeking asylum or refugee status, assist them in filing applications with the United Nations High Commissioner for Refugees (UNHCR) or the appropriate Malaysian authorities. Ensure their right to apply for asylum is upheld and that they are not deported before their claim is fully reviewed. Advocate against deportation if there is a risk of persecution, torture, or inhumane treatment in their home country, emphasizing Malaysia's international legal obligations.

## **Post-Release Assistance**

If your client is released, assist with their reintegration, including securing temporary legal status, housing, and access to social services. You can do this by partnering with organizations in their home countries and the National Human Rights Institutions. See Appendix C for a list of such organizations. If deportation is inevitable, ensure that it is conducted humanely, and that your client's rights are respected throughout the process.





# Chapter 4:

## Using Domestic and International Advocacy

### Court of Public Opinion

When representing foreign prisoners, particularly in high-profile cases, it is essential to carefully evaluate the potential impact of media coverage on your client's situation. Media coverage and international publicity can sometimes be double-edged swords. While they may raise awareness and generate support, they can also lead to unintended consequences. For instance, judges or decision-makers who might otherwise be inclined to show leniency could feel pressured by public scrutiny to maintain the current stance. Additionally, engaging with the media can present risks for human rights defenders, potentially complicating the defense strategy. Therefore, it is crucial to weigh the benefits and risks of media involvement carefully. Advances in technology, including social and traditional media, have made it easier to garner public attention, but this increased visibility should be managed with caution to avoid adverse effects on your client's case.

For Malaysian lawyers representing foreign prisoners, particularly in high-profile cases, it is vital to carefully manage media coverage. Historically, media attention for such cases has come from local, national, or international newspapers and magazines, which often report on the underlying crime, the investigation, and the trial process. Before seeking additional media coverage, thoroughly review any existing reports and articles about your client's case.

One strategy to secure favorable media coverage is to educate journalists by granting them access to court filings and relevant case documents. However, be cautious with allowing interviews with your client. Foreign

prisoners may not fully understand the implications of their statements and could inadvertently harm their case. They may also be more susceptible to manipulation due to language barriers and unfamiliarity with legal procedures. Therefore, carefully evaluate the potential risks before agreeing to any media interactions, and ensure that any public statements made do not negatively impact your client's chances of commutation or release.

Leveraging social media can be an effective tool to raise awareness about your client's situation. Consider utilizing platforms like Facebook, X, Instagram or Tiktok to highlight your client's legal, moral, and compassionate grounds for relief. You can post updates about their case, share petitions, and provide written arguments or commentary on the situation.

Additionally, reach out to national and international anti-death penalty organizations for support. These groups can help amplify your client's case through their own networks and websites, increasing visibility and potentially mobilizing support. Encourage supporters to engage by directing them to platforms where they can express their concerns or protests about your client's treatment by the courts or the government. However, ensure that all information shared is carefully vetted to avoid any negative repercussions or misunderstandings that could adversely affect your client's case. See Template C for an example of a press release

Consider collaborating with CSOs in your client's country of origin to coordinate a public campaign in that country. Campaigns run in the client's country of origin are more likely to elicit more sympathy. They may also motivate politicians or civil servants to intercede on behalf of your client before Malaysian authorities.

Zulfiqar Ali was a Pakistani citizen on death row in Batu Prison in Indonesia. He was arrested in 2004 and sentenced to death on drug charges, following a forced confession and an unfair trial. On account of these violations, the former president of Indonesia commissioned an inquiry in 2010 which found Ali to be innocent. Nonetheless, in July 2016, warrants for his execution by firing squad were issued. With just 72 hours to live, a domestic advocacy campaign led by Justice Project Pakistan in coordination with Zulfiqar's lawyers in Indonesia urged former prime minister Nawaz Sharif to step in and Ali's execution was stayed. In 2018, when President Jokowi of Indonesia visited Pakistan on an official state visit, another press campaign was kicked off urging the Government of Pakistan

to seek Zulfiqar's repatriation to Pakistan. This led to President Jokowi agreeing to reconsider Zulfiqar's sentence.

## **International Advocacy**

As a Malaysian lawyer representing foreign nationals, it is essential to recognize the growing role of international human rights advocacy in protecting your clients' interests. Leveraging international advocacy can be a powerful tool for drawing attention to violations suffered by your clients and for advocating for legislative reforms, such as a fairer immigration regime and enhancing protections for prisoners. Engaging with international human rights organizations, submitting cases to international bodies, and utilizing global media can amplify your client's plight and exert pressure on the government for change.

However, it is crucial to remember that international advocacy should complement, not replace, domestic legal remedies. While international attention can support your case, effective representation often requires a strategic approach that includes robust use of domestic legal avenues and procedures. Balancing both international and domestic efforts can provide a comprehensive defense strategy and enhance the protection of your client's rights

## United Nations

### **Universal Periodic Review (UPR)**

**The Universal Periodic Review (UPR)** is a unique process established by the **United Nations Human Rights Council** that involves a periodic review of the human rights records of all 193 UN Member States. The UPR is a state-driven process, where UN Member States review one another's human rights practices. Every country undergoes a review once every four to five years. The government of the country under review submits a national report outlining its human rights framework, policies, and progress, as well as challenges and commitments to improving human rights. In addition to the national report, civil society organizations, non-governmental organizations (NGOs), and other stakeholders (including the

national human rights institutions) submit their own reports, offering a broader perspective on the country's human rights situation. Following the review, the country under review receives recommendations from other states. The government can accept or note these recommendations, but it is expected to work toward implementing the accepted recommendations before the next review.

Malaysian lawyers can leverage the Universal Periodic Review (UPR) process to advocate for the protection of foreign nationals in prison by following these key steps:

- **Submit Stakeholder Reports:** Lawyers can collaborate with civil society organizations to submit stakeholder reports to the UPR Working Group, highlighting concerns about the treatment of foreign nationals in Malaysian prisons. These reports can detail human rights violations, such as overcrowding, lack of legal representation, inadequate healthcare, or unfair trials for foreign prisoners.
- **Engage with International Partners:** Lawyers can partner with international human rights organizations and foreign embassies to gather evidence and present it during the UPR process.
- **Participate in a pre-session in Geneva.** Pre-sessions are organized one month before UPR Working Group sessions to provide NGOs and NHRIs a singular international platform to address Permanent Missions in Geneva. This allows Permanent Missions to save time by engaging both local and international NGOs in one forum and not having to read through several long submissions and reports.
- **Advocate for Specific Recommendations:** During the UPR, other UN Member States can recommend that Malaysia improve the treatment of foreign nationals in its prisons. Lawyers can advocate for targeted recommendations, such as better access to legal representation, language interpretation services, healthcare, and more humane detention conditions. Identify Member States who are most likely to support recommendations pertaining to the death penalty and get in touch with their representations in Kuala Lumpur.

- **Monitor and Follow Up on Implementation:** Lawyers can track Malaysia's progress in implementing UPR recommendations concerning prison conditions for foreign nationals. They can use periodic follow-up reports to ensure the government is meeting its international obligations and make these findings public to maintain pressure.
- **Public Awareness and Campaigns:** Lawyers can use the UPR as a platform to raise public awareness about the plight of foreign nationals in Malaysian prisons. They can organize public forums, media campaigns, and engage policymakers to push for legal reforms that align with the UPR recommendations.

## Special Procedures

Special procedures are established by the Human Rights Council to address issues specific to certain areas or thematic issues felt across the globe. They are handled either by an individual, such as a Special Rapporteur, or a working group. Working groups are typically composed of five individuals (one from each region). Special Procedures do not have any legally binding powers to compel governments to take action, but they can raise individual complaints with governments and raise publicity.

**Communications** are letters sent by the Special Procedures to Governments and others, such as intergovernmental organizations. In these letters, the experts report on allegations of human rights violations they have received, regarding: (1) past human rights violations; (2) on-going or potential human rights violation; and (3) concerns relating to bills, legislation, policies or practices. The expert(s) will in the letter present the allegations and request clarifications on them. Where necessary, the experts request that the concerned authorities take action to prevent or stop the violation, investigate it, bring to justice those responsible and make sure that remedies are available to the victim(s) or their families.

Here are some steps to take to effectively utilize UN Special Procedures:

### 1. Identify relevant UN Special Procedures Mandates

The UN Special Procedures consist of independent human rights experts who monitor specific thematic or country-based human rights concerns.

Malaysian lawyers can use these mechanisms to advocate for the rights of foreign nationals - clients in prison by submitting complaints or urgent appeals. Here are some relevant mandates:

- The **Working Group on Arbitrary Detention** is a UN-mandated entity of independent human rights experts that investigates certain types of criminal and administrative detention that may violate international human rights laws, including laws related to fair-trial rights.
- The **Special Rapporteur on the human rights of migrants** works to overcome the obstacles existing towards the effective protection of migrants' human rights. Relying on the 1990 **International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families** for guidance, the Special Rapporteur promotes the application of international standards on the rights of migrants and makes recommendations on ways to end violations against migrants.
- **The Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions** is a UN expert tasked with investigating and reporting on executions that are conducted without legal procedures or with insufficient legal procedures.
- **The Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment** is a UN expert responsible for investigating and reporting on punishments that constitute torture or otherwise violate applicable international law.

## 2. File an Individual Complaint

You can submit individual complaints on behalf of detained foreign nationals to the relevant UN Special Procedures. Your complaint should provide detailed information about the case, including the identity of the foreign national, details of their detention, legal status, and any evidence of human rights violations. Describe how the foreign national's rights under international human rights law have been violated and what domestic remedies have already been exhausted. You should also include evidence

of the steps they have taken to exhaust domestic remedies, showing why international intervention is necessary.

You can access the complaint form [here](#) or directly from the UN OHCHR website under the Special Procedures section.

### **3. Request Urgent Appeals**

If there is an immediate threat to the well-being or life of a foreign national in prison, Malaysian lawyers can request an urgent appeal from the relevant Special Procedure. This process allows UN experts to intervene rapidly by contacting the Malaysian government to address urgent human rights violations.

If the foreign national is facing torture, inhumane treatment, or immediate threats to their safety, lawyers can request an urgent appeal from the Special Rapporteur on Torture or WGAD. The UN expert will communicate with the Malaysian government to stop the violation and demand action.

\*

# Template A: Intake Questionnaire for Foreign National Client

## A. Client Background

### Personal Information

- What is your full name, nationality, and date of birth?
- What languages do you speak, and which language are you most comfortable using for legal discussions?
- Do you have any dependents or family members in Malaysia or back in your home country?
- Can we contact your next of kin? If yes, what are their contact details?

### 1. Immigration Status

- What is your current immigration status in Malaysia? (e.g., valid visa, overstayed, refugee, asylum seeker)
- How long have you been in Malaysia, and what was the purpose of your stay?

### 2. Consular Contact

- Have you been informed of your right to consular assistance? When were you informed of this right?
- Have you been in contact with your country's embassy or consulate since your arrest?
- Have consular officials visited you in prison? If so, how often, and what support have they provided?

## B. Case Details



### **3. Nature of Charges**

- Can you explain the charges brought against you?
- Do you understand the charges and the potential consequences? (If not, offer to explain)

### **4. Arrest and Detention**

- Can you describe the circumstances of your arrest?
- Were you informed of your rights at the time of arrest? Were you provided with an interpreter?
- How long have you been in detention, and have you been informed of your right to legal representation?
- Previous Legal Assistance
- Have you had any legal representation before? If so, what was your experience?
- Are you aware of any court dates, hearings, or deadlines that you need to prepare for?

## **C. Conditions of Detention**

### **5. Living Conditions**

- How would you describe the conditions in the prison? (e.g., overcrowding, hygiene, food quality)
- Have you faced any difficulties accessing basic necessities, such as food, water, and medical care?

### **6. Treatment in Prison**

- Have you experienced or witnessed any physical or psychological abuse while in detention?
- Are you able to communicate regularly with your family or consular officials?

### **7. Medical and Mental Health**

- Do you have any medical conditions or require any medication? Are you receiving appropriate care?
- How are you coping mentally with your detention? Have you been offered any psychological support?

## **D. Legal Rights and Defense Preparation**

### **8. Understanding of Legal Rights**

- Are you aware of your legal rights in Malaysia, including the right to a fair trial, legal representation, and the right to remain

silent?

- Do you require further explanation of your rights and the legal process?

#### **9. Interpreter Needs**

- Do you need an interpreter for legal discussions, court hearings, or communication with prison staff?
- Have you had access to an interpreter during your arrest, police interrogations, and court appearances?

#### **10. Defense Strategy**

- What is your version of events leading to the charges? (Take detailed notes)
- Are there any witnesses, documents, or evidence that could support your defense?
- Have you or your family been approached with any offers, bribes, or threats related to your case?

### **E. Next Steps and Support**

#### **11. Legal Representation**

- How would you prefer to stay informed about your case (e.g., regular visits, letters, through the consulate)?
- Are there any specific concerns or requests you have regarding your legal defense?

#### **12. Consular and Family Support**

- Would you like assistance in contacting your consulate or informing them of your situation?
- Do you need help communicating with your family or arranging visits from them?

#### **13. Additional Information**

- Is there anything else you would like to share or any other concerns you have that we haven't discussed?
- Do you have any questions about the legal process or the charges against you?

\*

# Template B:

## Intake Questionnaire for Client in Immigration Detention

### A. Client Identification and Background

#### 1. Personal Information

- What is your full name, nationality, and date of birth?
- What languages do you speak, and which language would you prefer to use during our discussions?
- What is your current immigration status in Malaysia? (e.g., valid visa, overstayed, refugee, asylum seeker)

#### 2. Contact Information

- Do you have any family members, friends, or contacts in Malaysia or your home country? If so, please provide their contact details.
- How can I contact you or your family in case of updates? (Phone numbers, email, etc.)

#### 3. Immigration and Travel History

- When did you arrive in Malaysia, and what was the purpose of your visit? (e.g., work, tourism, seeking asylum)
- Have you traveled to or stayed in any other countries before coming to Malaysia?

#### 4. Documentation

- What travel documents or identification papers do you currently have? (e.g., passport, visa, refugee card)
- Have any of your documents been confiscated, lost, or expired?

### B. Detention Details

## **5. Circumstances of Detention**

- When and where were you detained by immigration authorities?
- Can you describe the circumstances of your detention? Were you informed of the reason for your detention?
- Were you provided with an interpreter at the time of your arrest or during any interviews with immigration officials?

## **6. Current Detention Conditions**

- How long have you been in detention, and where are you currently being held?
- How would you describe the conditions in the detention center? (e.g., overcrowding, sanitation, access to food and water)

## **7. Previous Legal Assistance**

- Have you received any legal assistance since your detention? If so, what was the outcome?
- Are you aware of any upcoming hearings or interviews related to your immigration status?

•

## **C. Health and Well-being**

### **8. Medical Needs**

- Do you have any medical conditions, allergies, or require medication? Are you receiving proper medical care in detention?
- Have you experienced any illness or injury since being detained? If so, what treatment, if any, have you received?

### **9. Mental Health**

- How are you coping with your detention? Have you experienced any mental health issues, such as anxiety or depression, since being detained?
- Have you been offered or do you need any psychological support or counseling?

### **10. Vulnerabilities**

- Are you facing any specific risks or vulnerabilities in detention? (e.g., physical safety, discrimination, lack of access to basic needs)
- Do you have any dependents or family members who are particularly vulnerable, either in Malaysia or your home country?

## **D. Legal Rights and Immigration Status**

### **11. Understanding of Rights**

- Are you aware of your legal rights in Malaysia, including the right to legal representation and the right to remain silent?
- Have you been informed about the legal procedures you will face, such as deportation hearings or asylum interviews?

### **12. Interpreter Needs**

- Do you need an interpreter for any legal proceedings, interviews, or discussions with immigration authorities? Have you been provided with one so far?

### **13. Previous Legal Encounters**

- Have you been involved in any legal issues in Malaysia or another country before this detention? If so, please provide details.
- Have you applied for asylum, refugee status, or any other form of protection in Malaysia or another country?

## **E. Consular and Family Support**

### **14. Consular Contact**

- Have you been in contact with your country's embassy or consulate since your detention? If so, what assistance have they provided?
- Would you like assistance in contacting your consulate or informing them of your situation?

### **15. Family Communication**

- Are you in contact with your family? Do they know about your current situation?
- Do you need help facilitating communication with your family or arranging visits?

## **F. Goals and Expectations**

### **16. Immediate Needs**

- What are your immediate concerns or needs while in detention? (e.g., legal advice, health care, safety)
- Are there any urgent matters that need to be addressed immediately?

### **17. Long-term Goals**

- What outcome are you hoping to achieve in your case? (e.g., release from detention, legal residency, voluntary return)
- Are you interested in applying for any form of legal protection,

such as asylum or refugee status?

**18. Additional Information**

- Is there anything else you think I should know about your situation that hasn't been covered?
- Do you have any questions about the legal process or the steps we will take moving forward?

\*

# Template C: Sample Press Release

## PRESS RELEASE

Headline]: [Foreign National's Name], Detained in Malaysia, Seeks Justice Amid Allegations of Rights Violations

[Date]

Location – The legal team and family of [Foreign National's Name], a [Nationality] national currently imprisoned in Malaysia, are calling for urgent attention to [his/her/their] case, citing serious concerns over [allegations of wrongful detention, inadequate legal representation, rights violations, or inhumane prison conditions]. [Foreign National's Name] was detained on [date of arrest], and has been incarcerated since [duration], under charges of [mention the charges briefly, e.g., drug trafficking, theft, etc.].

[Foreign National's Name]'s case has attracted international concern due to claims that [he/she/they] [were not provided with an interpreter during trial, did not have access to legal aid, were subject to cruel treatment while in custody, etc.]. According to [Name of Lawyer/Organization], who is representing [Foreign National's Name], “the legal proceedings have been marred by significant procedural errors and a lack of regard for basic human rights. [He/she/they] deserve a fair trial that respects both Malaysian law and international human rights standards.”

[Lawyer's Name] and a coalition of legal aid groups and human rights organizations are calling for a thorough review of [Foreign National's Name]'s case, noting that [he/she/they] have consistently maintained their innocence.

## **Case Background:**

- Name: [Foreign National's Name]
- Nationality: [Nationality]
- Date of Arrest: [Date of Arrest]
- Charges: [List Charges]
- Current Status: Incarcerated in [Prison Name], Malaysia

## **Legal and Human Rights Concerns:**

**1. Fair Trial Issues:** [Foreign National's Name] has repeatedly reported [language barriers, lack of proper legal representation, being denied access to evidence, etc.], raising concerns that [he/she/they] did not receive a fair trial.

**2. Prison Conditions:** Reports have surfaced that [Foreign National's Name] has been subjected to [inhumane conditions, lack of access to medical care, overcrowding, etc.], which may constitute a violation of international human rights standards.

**3. Calls for Diplomatic Intervention:** [Country of Nationality]'s Embassy has been actively involved in providing consular assistance but has raised concerns about [specific issues, e.g., due process, conditions, etc.]. [Diplomat's Name], a representative of [Country], stated, "We are working closely with Malaysian authorities and international bodies to ensure that [Foreign National's Name] is treated in accordance with both domestic and international legal frameworks."

## **Urgent Action Needed:**

[Human rights groups/NGOs] have called on the Malaysian government to:

- Ensure that [Foreign National's Name] receives a fair retrial or reconsideration of the case based on [new evidence, procedural failings, etc.].
- Improve prison conditions in line with international human rights obligations.
- Provide access to [Foreign National's Name]'s legal counsel and consular representatives.



“We urge the international community to take a stand and help ensure that justice is served for [Foreign National’s Name]. No one should face prolonged detention without due process or adequate legal representation,” said [Human Rights Advocate/NGO Representative].

**Contact Information:**

For media inquiries or further information on [Foreign National’s Name]’s case, please contact:

- **\*\*Name\*\***: [Lawyer/NGO Representative Name]
- **\*\*Position\*\***: [Title]
- **\*\*Email\*\***: [Email Address]
- **\*\*Phone\*\***: [Phone Number]
- **\*\*Organization\*\***: [Organization Name]

This press release template provides an overview of the foreign national’s case, detailing the legal and human rights concerns, while calling for immediate action from Malaysian authorities and international bodies.



# Appendix A :

## List of Legal Aid Centers

Here's a list of Legal Aid Centres (LAC) run by the Malaysian Bar Council across different states in Malaysia. These centers provide free or low-cost legal assistance to those who cannot afford legal representation:

### 1. Kuala Lumpur Legal Aid Centre (LAC)

- **Location:** Kuala Lumpur
- **Services:** Criminal, civil, family law, labor disputes, and human rights cases.
- **Website:** Kuala Lumpur Legal Aid

### 2. Selangor Legal Aid Centre

- **Location:** Selangor
- **Services:** Criminal defense, family law (divorce, child custody), employment law, and consumer rights.
- **Contact:** Selangor Legal Aid

### 3. Penang Legal Aid Centre

- **Location:** Penang
- **Services:** Provides legal assistance in civil and criminal cases, family law disputes, and employment law.
- **Contact:** Penang Bar

### 4. Johor Legal Aid Centre

- **Location:** Johor Bahru, Johor
- **Services:** Assistance in criminal cases, civil matters, labor issues, family law disputes.
- **Contact:** Johor Bar

## 5. Perak Legal Aid Centre

- **Location:** Ipoh, Perak
- **Services:** Criminal, civil, family law, labor disputes, and other legal advice.
- **Contact:** Perak Bar

## 6. Kedah Legal Aid Centre

- **Location:** Alor Setar, Kedah
- **Services:** Legal representation and advice in criminal and civil matters, including family disputes and labor law.
- **Contact:** Kedah Bar

## 7. Malacca Legal Aid Centre

- **Location:** Malacca
- **Services:** Legal aid in civil and criminal cases, family matters, and human rights cases.
- **Contact:** Malacca Bar

## 8. Pahang Legal Aid Centre

- **Location:** Kuantan, Pahang
- **Services:** Provides legal assistance for civil and criminal matters, family disputes, and employment issues.
- **Contact:** Pahang Bar

## 9. Negeri Sembilan Legal Aid Centre

- **Location:** Seremban, Negeri Sembilan
- **Services:** Criminal defense, civil disputes, family law, and employment law.
- **Contact:** Negeri Sembilan Bar

## 10. Sarawak Legal Aid Centre

- **Location:** Kuching, Sarawak
- **Services:** Legal aid in criminal and civil cases, family disputes, and indigenous rights issues.
- **Contact:** Sarawak Bar

## 11. Sabah Legal Aid Centre

- **Location:** Kota Kinabalu, Sabah
- **Services:** Provides legal services for criminal, civil, family law, and labor issues.

- **Contact:** Sabah Bar

#### 12. Kelantan Legal Aid Centre

- **Location:** Kota Bharu, Kelantan
- **Services:** Criminal, civil, family, and labor law representation and advice.
- **Contact:** Kelantan Bar

#### 13. Terengganu Legal Aid Centre

- **Location:** Kuala Terengganu, Terengganu
- **Services:** Criminal defense, family law, labor disputes, and general legal advice.
- **Contact:** Terengganu Bar

#### 14. Perlis Legal Aid Centre

- **Location:** Kangar, Perlis
- **Services:** Offers legal aid for civil and criminal matters, family disputes, and labor law issues.
- **Contact:** Perlis Bar

#### 15. Labuan Legal Aid Centre

- **Location:** Labuan
- **Services:** Legal representation and advice on civil and criminal cases, family law, and labor issues.
- **Contact:** Labuan Bar

These Legal Aid Centres (LAC) are managed by the respective State Bar Committees under the Malaysian Bar Council, and they offer free or subsidized legal assistance to individuals who cannot afford legal services.



# Appendix B:

## List of Translators

### Language Interpretation and Translation Services in Malaysia:

#### 1. KL Translations

- **Services:** Offers legal translation and interpretation services in various languages, including Malay, English, Chinese, Tamil, and others.
- **Location:** Kuala Lumpur, Malaysia
- **Website:** KL Translations

#### 2. Lingua Asia

- **Services:** Provides professional legal translation and interpretation services in multiple languages, specializing in Asian languages.
- **Location:** Kuala Lumpur, Malaysia
- **Website:** Lingua Asia

#### 3. Chambers Translation Services

- **Services:** Specializes in legal translation and interpretation services for court proceedings, legal documents, and client meetings in languages such as Malay, English, Mandarin, Tamil, and more.
- **Location:** Kuala Lumpur, Malaysia
- **Website:** Chambers Translation Services

#### 4. Lyric Labs Malaysia

- **Services:** Offers certified legal translation and interpretation services in over 100 languages, including Malay, Chinese, Hindi, and others.
- **Location:** Johor Bahru, Kuala Lumpur, Malaysia

- **Website:** Lyric Labs Malaysia
5. **Transtec Translation Services**
    - **Services:** Provides legal interpretation and translation services, specializing in Malay, English, Chinese, Japanese, and more.
    - **Location:** Kuala Lumpur, Malaysia
    - **Website:** Transtec Translation Services
  6. **Elite Translations Asia**
    - **Services:** Offers a wide range of legal translation and interpretation services, covering languages such as Malay, English, Japanese, Korean, and other regional languages.
    - **Location:** Kuala Lumpur, Malaysia
    - **Website:** Elite Translations Asia
  7. **Translation Malaysia**
    - **Services:** Specializes in legal translation services and offers interpretation services in multiple languages, including Malay, English, Chinese, Tamil, and others.
    - **Location:** Kuala Lumpur, Malaysia
    - **Website:** Translation Malaysia
  8. **ITC Global Translations**
    - **Services:** Provides legal translation and interpretation services in a wide range of languages, including European and Asian languages.
    - **Location:** Kuala Lumpur, Malaysia
    - **Website:** ITC Global Translations
  9. **Asia Translate**
    - **Services:** Offers legal translation and interpretation services with a focus on Asian languages, including Malay, Chinese, and Japanese.
    - **Location:** Kuala Lumpur, Malaysia
    - **Website:** Asia Translate
  10. **Amperor Professional Translation Services**
    - **Services:** Provides professional legal translation and interpretation services in various languages, with a focus on accuracy and confidentiality.
    - **Location:** Kuala Lumpur, Malaysia
    - **Website:** Amperor Professional Translation Services



## **Appendix C:**

# **Countries with Bilateral Agreements containing provisions on Consular Notification and Access**

1. **Malaysia-Singapore Agreement on Consular Relations**
  - **Overview:** This agreement facilitates consular relations between Malaysia and Singapore, including provisions for consular access and assistance to nationals detained in each other's countries.
  - **Date:** Signed on 24 August 1998.
2. **Malaysia-Thailand Treaty on Consular Relations:**
  - **Overview:** Provides for consular access and assistance, including for nationals detained in each other's countries, enhancing cooperation in consular matters
  - **Date:** Signed on 20 May 2003.
3. **Malaysia-Indonesian Agreement on Consular Relations**
  - **Overview:** Provides for consular access and assistance, including for nationals detained in each other's countries, enhancing cooperation in consular matters.
  - **Date:** Signed on 20 May 2003.
4. **Malaysia-Australia Treaty on Consular Relations**
  - **Overview:** This treaty covers the rights and duties related to consular assistance, including access to nationals detained in either country.
  - **Date:** Signed on 15 July 1980.
5. **Malaysia-New Zealand Treaty on Consular Relations**
  - **Overview:** Ensures consular access and assistance to nationals, including provisions for handling cases of detention and legal assistance.

- **Date:** Signed on 25 October 1995
6. **Malaysia-Philippines Agreement on Consular Relations**
    - **Overview:** Provides for the consular assistance and access to nationals detained in either Malaysia or the Philippines, focusing on protecting the rights of detainees.
    - **Date:** Signed on 28 September 2005.
  7. **Malaysia-United Kingdom Consular Agreement**
    - **Overview:** Outlines provisions for consular access and assistance to nationals detained in Malaysia and the UK, promoting cooperation in legal and consular matters.
    - **Date:** Signed on 25 July 1995.
  8. **Malaysia-Japan Agreement on Consular Relations**
    - **Overview:** Facilitates consular access and assistance, including for detained nationals, ensuring both countries adhere to their consular obligations.
    - **Date:** Signed on 15 June 2005.
  9. **Malaysia-South Korea Treaty on Consular Relations**
    - **Overview:** Includes provisions for consular assistance and access to nationals detained in South Korea and Malaysia, focusing on legal rights and consular support.
    - **Date:** Signed on 23 July 2007.
  10. **Malaysia-China Consular Agreement**
    - **Overview:** This agreement addresses consular access and assistance, including handling of detained nationals, and aims to protect the rights of detainees.
    - **Date:** Signed on 23 April 2010.



## Appendix D:

# Countries with Bilateral Agreements containing provisions on Consular Notification and Access

### 1. Malaysia-Singapore Agreement on Consular Relations

- **Overview:** This agreement facilitates consular relations between Malaysia and Singapore, including provisions for consular access and assistance to nationals detained in each other's countries.
- **Date:** Signed on 24 August 1998.

### 2. Malaysia-Thailand Treaty on Consular Relations

- **Overview:** This treaty outlines the framework for consular assistance, including access to nationals detained in Thailand and Malaysia, ensuring their rights are protected.
- **Date:** Signed on 24 March 1968.

### 3. Malaysia-Indonesian Agreement on Consular Relations

- **Overview:** Provides for consular access and assistance, including for nationals detained in each other's countries, enhancing cooperation in consular matters.
- **Date:** Signed on 20 May 2003.

### 4. Malaysia-Australia Treaty on Consular Relations

- **Overview:** This treaty covers the rights and duties related to consular assistance, including access to nationals detained in either country.
- **Date:** Signed on 15 July 1980.

5. **Malaysia-New Zealand Treaty on Consular Relations**
  - **Overview:** Ensures consular access and assistance to nationals, including provisions for handling cases of detention and legal assistance.
  - **Date:** Signed on 25 October 1995.
  
6. **Malaysia-Philippines Agreement on Consular Relations**
  - **Overview:** Provides for the consular assistance and access to nationals detained in either Malaysia or the Philippines, focusing on protecting the rights of detainees.
  - **Date:** Signed on 28 September 2005.
  
7. **Malaysia-United Kingdom Consular Agreement**
  - **Overview:** Outlines provisions for consular access and assistance to nationals detained in Malaysia and the UK, promoting cooperation in legal and consular matters.
  - **Date:** Signed on 25 July 1995.
  
8. **Malaysia-Japan Agreement on Consular Relations**
  - **Overview:** Facilitates consular access and assistance, including for detained nationals, ensuring both countries adhere to their consular obligations.
  - **Date:** Signed on 15 June 2005.
  
9. **Malaysia-South Korea Treaty on Consular Relations**
  - **Overview:** Includes provisions for consular assistance and access to nationals detained in South Korea and Malaysia, focusing on legal rights and consular support.
  - **Date:** Signed on 23 July 2007.
  
10. **Malaysia-China Consular Agreement**
  - **Overview:** This agreement addresses consular access and assistance, including handling of detained nationals, and aims to protect the rights of detainees.
  - **Date:** Signed on 23 April 2010.

\*

## **Appendix E: Countries with Bilateral Treaties pertaining to Prisoner Transfer**

- 1. Malaysia-Singapore Agreement on the Transfer of Sentenced Persons**
  - Overview: Allows for the transfer of prisoners between Malaysia and Singapore, providing for the enforcement of sentences in the transferring country.
  - Date: Signed on 24 August 1998.
  
- 2. Malaysia-Thailand Agreement on the Transfer of Sentenced Persons**
  - Overview: Facilitates the transfer of sentenced individuals between Malaysia and Thailand, enabling the enforcement of sentences in their home country.
  - Date: Signed on 11 December 1999.
  
- 3. Malaysia-Indonesia Treaty on the Transfer of Sentenced Persons**
  - Overview: Provides for the transfer of prisoners between Malaysia and Indonesia, ensuring that sentenced individuals can serve their sentences in their home country.
  - Date: Signed on 29 March 2002.
  
- 4. Malaysia-Australia Treaty on the Transfer of Sentenced Persons**
  - Overview: Enables the transfer of prisoners between Malaysia and Australia, allowing for the enforcement of sentences in the detainee's home country.
  - Date: Signed on 22 November 1999.

**5. Malaysia-New Zealand Agreement on the Transfer of Sentenced Persons**

- Overview: Facilitates the transfer of prisoners between Malaysia and New Zealand, providing a framework for serving sentences in the country of nationality.
- Date: Signed on 17 June 1999.

**6. Malaysia-Philippines Treaty on the Transfer of Sentenced Persons**

- Overview: Allows for the transfer of sentenced individuals between Malaysia and the Philippines, supporting the enforcement of sentences in the home country.
- Date: Signed on 28 September 2005.

**7. Malaysia-South Korea Agreement on the Transfer of Sentenced Persons**

- Overview: Provides for the transfer of prisoners between Malaysia and South Korea, enabling the enforcement of sentences in the transferring country.
- Date: Signed on 7 June 2007.

**8. Malaysia-China Treaty on the Transfer of Sentenced Persons**

- Overview: Facilitates the transfer of sentenced individuals between Malaysia and China, allowing for the enforcement of sentences in the detainee's home country.
- Date: Signed on 19 May 2009.

**9. Malaysia-United Arab Emirates (UAE) Agreement on the Transfer of Sentenced Persons**

- Overview: Provides for the transfer of prisoners between Malaysia and the UAE, supporting the enforcement of sentences in the home country.
- Date: Signed on 22 June 2015.

**10. Malaysia-Japan Treaty on the Transfer of Sentenced Persons**

- Overview: Facilitates the transfer of sentenced individuals between Malaysia and Japan, allowing for the enforcement of sentences in the detainee's home country.
- Date: Signed on 21 September 2005.

## Appendix F: List of Resources

1. **ECPM, Representing Prisoners Facing the Death Penalty in Malaysia: A Best Practice Manual (2023)**
2. **United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)**
  - **Link:** [Nelson Mandela Rules]([https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E.pdf))
3. **UN Handbook on Prisoners with Special Needs**
  - **Link:** UN Handbook on Prisoners with Special Needs
4. **International Prisoner Transfer Handbook**
  - **Website:** International Centre for Prison Studies
5. **Legal Handbook for Foreign Nationals in Prison**
  - **Website:** European Prison Litigation Network
6. **The International Bar Association's (IBA) Guidelines on the Role of Lawyers**
  - **Website:** IBA Guidelines
7. **Amnesty International's Guide on Prisoner Rights**
8. **The Commonwealth's Guidelines on the Treatment of Prisoners**
9. **International Commission of Jurists (ICJ) Handbook on Legal Aid and Human Rights**

- **Website:** ICJ Handbook

**10. Prison and Pre-Trial Detention: A Guide for Practitioners**

- **Website:** Penal Reform International

\*

## CONTACT US:

For any inquiries or further information, please reach out to the following organizations:

---

### **Justice Project Pakistan (JPP)**

Address: 410, Imperial Garden Block, Paragon City, Barki Road, Lahore, Pakistan

Phone: +92 42 111 257 737

Email: [info@jpp.org.pk](mailto:info@jpp.org.pk)

Website: [www.jpp.org.pk](http://www.jpp.org.pk)

---

### **Malaysian Centre for Constitutionalism and Human Rights (MCCHR)**

Address: B-G-7, Block B, Jalan 5/85B, Off Jalan Taman Seputeh, 58000 Kuala Lumpur, Malaysia

Phone: +60 3 2201 1454

Email: [info@mcchr.org](mailto:info@mcchr.org)

Website: [www.mcchr.org](http://www.mcchr.org)

---

### **Kuala Lumpur Legal Aid Centre (KLLAC)**

Address: 3rd Floor, Wisma Kraftangan, No. 9, Jalan Tun Perak, 50050 Kuala Lumpur, Malaysia

Phone: +60 3 2691 1121

Email: [klac@klbar.org.my](mailto:klac@klbar.org.my)

Website: [www.klbar.org.my](http://www.klbar.org.my)

## **Acknowledgments**

This manual and the accompanying training program have been made possible through the collaborative efforts of Justice Project Pakistan (JPP), The Malaysian Centre for Constitutionalism and Human Rights (MCCHR)\*\*, and The Kuala Lumpur Legal Aid Centre (KLLAC).

We are deeply grateful for their contributions and expertise of Zainab Malik

We would also like to extend our appreciation to the European Union (EU) for their generous funding and support, which has enabled the development of this critical resource.

\*





JUSTICE  
PROJECT  
PAKISTAN



THE MALAYSIAN CENTRE FOR CONSTITUTIONALISM AND HUMAN RIGHTS (MCCHR)  
JUSTICE PROJECT PAKISTAN (JPP)  
THE KUALA LUMPUR LEGAL AID CENTRE (KLLAC)