

2f: Persons with Disabilities

Preamble

Persons with Disabilities (PWD) comprise 15% of the Malaysian population, but the wider PWD community includes family members, allies, volunteers and professionals in disability services. Altogether, the PWD community comprises over 30% of the total population. This is a sizeable population that cannot be ignored. They face obstacles and difficulties in daily life as a largely forgotten or ignored community in policy and law.

I: Legal rights

Malaysia ratified the CRPD in 2010 but has yet to submit the initial report that was due two years after ratification. Ratification of the CPRD is important as it expresses a clear moral and political commitment by the State to improve the lives of people with disabilities. This includes harmonising the existing Persons With Disabilities Act 2008 with the CRPD, as there are glaring weaknesses and gaps in the law.

1. Harmonise the Persons with Disabilities Act 2008 with the CRPD to rectify any existing discrepancies in the Act.

(Harapan OKU Law Reform Group & Association of Women Lawyers (AWL), Proposal 2F-1)

- i. Set up a task force to look into this and include CSOs working on law reform. The PWD Act needs to be reformed, specifically by way of expanding definitions, establishing remedies and introducing relevant penalties. All ouster clauses also must be repealed, including and not limited to Sections 41 and 42 that prevent and protect government and public servants from being sued when they claim to have acted in good faith.
- ii. Amend Article 8(2) of the Federal Constitution to prohibit discrimination against PWDs.
- iii. Ratify the Optional Protocol on CRPD.

2. Establish an independent Disability Commission.

(Harapan OKU Law Reform Group & AWL, Proposal 2F-1)

The commission shall have powers to:

- i. mainstream disability issues;
- ii. investigate disability issues on behalf of, and provide legal advice to PWDs;
- iii. initiate a formal inquiry into disability-related cases, and compel any person to appear before it and to produce any document of nature pertaining to the investigation;
- iv. initiate independent action relating to non-compliance with the Act, and intervene where necessary in legal suits concerning disability issues;
- v. submit an annual report to Parliament for review and debate. The report may also serve as an advocacy tool for raising issues concerning PWDs;
- vi. establish a tribunal to handle infringement of the rights of PWDs;
- vii. examine means of strengthening multi-sectoral, multi-ministerial and multi-level coordination to mainstream disability inclusion; and
- viii. mobilise human (and other forms of) resources to advocate, on a continuous basis, for public, civil service and private sector understanding of the rights of PWDs.

II. Employment

Systematic efforts are needed to ensure PWDs enjoy equality of opportunity and to prevent and reduce all forms of discrimination in employment matters.

3. Give more PWDs job training for on-demand skills that meet evolving labour market needs.

(Harapan OKU Law Reform Group & AWL, Proposal 2F-2)

This includes job coaching, with ongoing mentoring to help PWDs utilise their acquired skills to full effect and maximise their potential in the workplace.

4. Raise awareness, with incentives, for the heads of departments in the civil service to hire and retain employees with disabilities.

(Harapan OKU Law Reform Group & AWL, Proposal 2F-2; Rapelson Richard Hamit, Persatuan Anak Istimewa Sarawak (PERAIS), Proposal 2F-3)

This includes making reasonable accommodation for PWD needs such that suitably qualified candidates may enjoy equal employment opportunities during the application and hiring process, and, if successful in their job application, apply themselves to the fullest of their abilities in the workplace.

5. Introduce a comprehensive policy on disability inclusion awareness raising, as well as financial and taxation initiatives for the private sector.

(Harapan OKU Law Reform Group & AWL, Proposal 2F-2)

This is to support remunerative work opportunities for PWDs, and for them to succeed as entrepreneurs or in gig employment.