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Subject: Joint Submission on the Zero Draft of Malaysia's National Action Plan on Business and Human Rights (2025–2030)

SAVE Rivers, Keruan Organisation and The Borneo Project appreciate the opportunity to provide feedback on the Zero Draft of the National Action Plan on Business and Human Rights (NAPBHR) 2025–2030. All three of our organizations work closely on Indigenous human rights in Sarawak and appreciate inclusion in this important step for Malaysia.

We believe that while the draft is a step forward in integrating human rights into business practices, there remain critical gaps, particularly in the area of environmental protections and Indigenous rights. The following concerns should be addressed to ensure the plan is comprehensive, effective, and enforceable.

1. Environmental Protections Must Be Legally Binding

Implementation and enforcement will continue to be a critical issue without robust and uniform laws in place protecting environmental rights. The plan must include legislated, enforceable, and watertight environmental laws. Corporate commitments, while useful, are not substitutes for strong legal mandates. There must be clarity on which agencies will hold businesses accountable, and these agencies should have the power to prosecute environmental violations, whether committed by private or government-owned businesses.

To this end we recommend that:

1. Malaysia needs a strong, independent commission or tribunal with the power to oversee corporate accountability and issue penalties. While a tribunal is mentioned in the Zero Draft, how and by whom this will operate is not specified.
2. SUHAKAM should be strengthened and supported to carry out inquiries of human rights violations by businesses, but should not take the place of a tribunal with punitive powers.

3. Greenwashing laws need legal mechanisms, clear definitions, penalties, and enforcement measures.
4. Environmental Impact Assessments (EIAs) must be publicly available before project approvals and must be legislated as mandatory, not left as voluntary due diligence.
5. SLAPP (Strategic Litigation Against Public Participation) protections must be appropriately defined and must go beyond *limiting* SLAPP suits—they must *prohibit* them entirely and impose mandatory penalties on frivolous plaintiffs to deter future abuses.
6. Environmental and Human Rights Defenders (EHRDs) similarly require legal protections, not just policies.
7. The right to a safe, clean, healthy, and sustainable environment should be constitutionally protected.

2. Indigenous Rights Must Be a Standalone Thematic Area

Currently, Indigenous rights are treated as a subsection under the environment. However, Indigenous rights are cross-cutting issues that intersect with governance, labour, and land rights. The NAPBHR should recognize Indigenous rights as a separate thematic area to ensure adequate attention, funding and protections.

We strongly recommend that:

- UNDRIP must be codified into domestic law, and treated as binding. Other countries have successfully incorporated UNDRIP into their legal systems, and Malaysia should follow suit, ideally through its Constitution.
- ILO Convention 169 should be ratified without delay, rather than subjected to a prolonged study.
- Federal FPIC legislation will be ineffective if Sarawak and Sabah do not adopt it. There must be mechanisms to ensure state compliance.
- The draft proposes a voluntary community protocol. For the purpose of efficacy and accuracy, we propose it is known as a “Community **Engagement** Protocol,” because “Community Protocol” is the globally-accepted term by which Indigenous Peoples themselves articulate or document their **own** community-determined values and procedures based on their customary values and practices (i.e. *Adat Orang Asal* in Malaysia).
- Community Engagement Protocols or FPIC Protocols must be compulsory for businesses whose work impacts Indigenous Peoples and their territories.
- The Community Engagement Protocol and the federal legislated FPIC framework must be uniform, as states will likely choose the weaker voluntary option, rendering FPIC protections ineffective.
- Inclusion of conflict-of-interest policies that will eliminate personal incentives given to members of the communities, especially community leaders. Businesses should be held accountable if they systematically sow divisions within Indigenous communities using divide and conquer tactics.

3. Strengthening Civil Society and Public Participation

A strong civil society is crucial to a functioning human rights framework, yet the draft does not address the need to strengthen Malaysia's civil society sector.

Thus, we recommend that:

- Laws should be introduced to make it easier to establish and operate human rights-focused non-governmental organisations (NGOs), nonprofits, and charitable organizations.
- Government departments overseeing these policies cannot be in charge of their own checks and balances; only a healthy civil society can hold human rights provisions up to public scrutiny.
- Public participation must be standardized and legislated across environmental, governance, and business practices.
- There is no clear process for civil society involvement in reviewing and updating the NAPBHR; this must be rectified to ensure ongoing input from affected communities and experts.
- Sarawak must implement requirements for public participation in its social and environmental impact assessment (SEIA) guidelines. Sarawak currently has no public participation element in its SEIAs processes; hence, it is more susceptible to a unilateral interpretation of the impacts and lacks the vital public scrutiny phase.
- The NAPBHR has engaged CSOs within the central zone but must proactively make room for the inputs from the East Malaysians counterparts as it is a National Action Plan.

4. Business and Human Rights Oversight Mechanism

A key concern is who will oversee and enforce the NAPBHR. To ensure proper oversight and legitimate enforcement, we recommend the following clarifications:

- There is no mention of an independent commission or institutional mechanism to oversee implementation. The NAPBHR must specify which body will review, enforce, and update policies.
- Government-linked companies (GLCs) are not clearly defined or implicated in the plan, despite their significant role in the Malaysian economy. The plan must outline specific accountability mechanisms for state-owned businesses.
- The plan should require a five-year review process, with meaningful engagement from civil society organizations (CSOs) and Indigenous representatives.

5. The Consultation Process is Rushed

The timeline for finalizing the NAPBHR has been too short for meaningful feedback and stakeholder engagement. This leaves little time to address substantive concerns raised by civil society organizations and affected communities. A more inclusive and extended consultation period is necessary to ensure a robust, well-informed final policy.

Conclusion

The Zero Draft of the NAPBHR contains important commitments, but as experts in grassroots implementation, we believe that many provisions remain too weak, voluntary, or ambiguous to be effective or impactful on the ground. To ensure businesses uphold human rights, Malaysia must:

1. Make environmental protections enforceable;
2. Recognize Indigenous rights as a separate thematic area;
3. Strengthen civil society and public participation mechanisms;
4. Establish an independent commission to oversee business and human rights compliance; and
5. Extend the consultation period for more meaningful engagement.

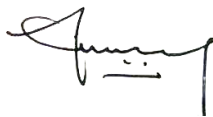
We urge the government to take these recommendations seriously and make the necessary legal reforms to ensure Malaysia's NAPBHR is a strong, enforceable framework that genuinely protects human rights.

Thank you for your time and consideration. We look forward to your response and continued engagement in strengthening Malaysia's human rights commitments.

Sincerely,



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