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Access to Justice is a Fundamental Human Right

Rangkaian Solidariti Demokratik Pesakit Mental (**SIUMAN**) is perturbed by the recent news of a **Deaf e-hailing driver being allegedly assaulted** while working near KL Sentral on 28 May 2024¹. According to his account, the 46-year-old driver was punched in the face by a 'VIP bodyguard', resulting in soft tissue injury, which was diagnosed and treated at Kuala Lumpur Hospital. He was advised to file a police report, where at one point he was eventually given two options, i.e. to have his phone confiscated if he decides to proceed with the case, or to drop the case and be compensated. Under duress, the Deaf driver opted for the second option. Throughout his visit to the police station, he was also left unattended for hours, given no explanation as to why his phone was inspected for an extended period of time, and given no immediate access to a Malaysian Sign Language Interpreter to communicate and defend himself.

SIUMAN would like to draw attention to the jarring gaps in accessing justice for Persons with Disabilities (PWDs) as highlighted throughout this case. A disabled complainant's right to communicate was withheld through action (confiscation of phone as assistive technology) and omission (unavailability of a competent sign language interpreter or other sufficient reasonable accommodations). Access to justice is a fundamental human right. It enables everyone, including PWDs, to live a dignified life. **This case (and many others) points to an urgent need to address the gaps in accessing justice for PWDs.**

The gaps in protection mentioned in the Malaysian Deaf Advocacy and Wellbeing Organisation's (DAWN) statement² affect all PWDs. Even though Malaysia has enacted the Persons with Disabilities Act in 2008, universal access, reasonable accommodations³ and

¹ [Group cries foul after deaf man 'pressured to settle' assault case | Malaysia | The Vibes](#)

² [The Case of Deaf Grab Driver Being Punched - DAWN Press Statement 8pm](#)

³ Reasonable accommodations are necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to PWD the enjoyment or exercise on an equal basis with others of all human rights & fundamental freedoms.

discrimination protections are not mandated in any area of life. Section 30(3) in the PWD Act states: "The Government and the private sector shall accept and facilitate the use of Malaysia Sign Language, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official transactions."

However, Section 41 of the same Act precludes the government and state bodies from any remedial or court actions by stating: "No action, suit, prosecution or other proceedings shall lie or be brought, instituted or maintained in any court against the Government... ..in respect of any act, neglect or default done or committed by him or it..." This is further supported by Section 42 of the Act which states: "The Public Authorities Protection Act 1948 [Act 198] shall apply to any action, suit, prosecution or proceedings against the Government... ..in respect of any act, neglect or default done or committed by it..."

This clearly highlights the jarring contradiction and reluctance of the State to uphold disability rights.

Furthermore, Article 8(2) of the Federal Constitution on discrimination does not mention disability. The Federal Constitution was amended in 2001 to include gender as part of our obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). However, the same was not initiated for disability after Malaysia ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2010.

We have also arguably failed to domesticate the CRPD and its principles in Malaysian legislation. We had no reservations on Article 13 of the CRPD (Access to Justice), but it is apparent that we have not operationalised it. This all needs to change and justice must be accessible to everyone throughout the whole process. The International Principles and Guidelines on Access to Justice for Persons with Disabilities⁴ offers practical suggestions for the State to design and implement justice systems that provide equal access to justice for PWDs.

Multiple administrations have excluded PWDs from meaningful social participation in all areas of life, ignoring the promotion and protection of Disability Rights. **We call upon the State and**

⁴ [International Principles and Guidelines on Access to Justice for Persons with Disabilities](#), UN Special Rapporteur on the rights of persons with disabilities

State Actors to view this incident with urgency and proactivity to ensure the rights of PWDs in Malaysia are protected.

Pursuant to that call to action, **SIUMAN** has made several recommendations in the Universal Periodic Review (UPR) process, that we hope will lead to better discrimination protections and mandated reasonable accommodations via policies and laws. All our materials and references can be downloaded from <http://linktr.ee/KamiSIUMAN>.

Our collective stands in solidarity with DAWN, our deaf peers, and the Deaf Community.

Media enquiries can be directed to kamisiuman@gmail.com.

Endorsed by:

Organisations

1. All Women's Action Society (AWAM)
2. Architects of Diversity
3. Association of Women Lawyers
4. Autism Inclusiveness Direct Action Group (AIDA)
5. Angkatan Belia Islam Malaysia (ABIM)
6. Agora Society
7. Aliran
8. Association of Women with Disabilities Malaysia
9. Boleh Space, Disabled-led Disability Rights Advocacy Movement
10. Centre for Independent Journalism
11. CRIB Foundation (Child Rights Innovation & Betterment)
12. CYBHER Collective
13. Demokrat UKM
14. EMPOWER
15. ENGAGE
16. Family Frontiers
17. Freedom Film Network
18. Gegar
19. Gabungan Pilihan Raya Bersih dan Adil (BERSIH)
20. HAYAT



21. Ikatan Mahasiswa Demokratik Malaysia (MDM)
22. Jaringan Kampung Orang Asli Semenanjung Malaysia (JKOASM)
23. Jentayu
24. Justice for Sisters
25. Kembangan Kolektif (Intersectional Human Rights Activists)
26. KauOKTak (Community Building and Mental Health Outreach for Teenagers)
27. KRYSS Network
28. Kuala Lumpur and Selangor Chinese Assembly Hall, Youth Section (KLSCAH Youth)
29. Klima Action Malaysia - KAMY
30. Kuala Lumpur and Selangor Deaf Media and Technology Association
31. Kedah Sports Deaf Association
32. Legal Dignity
33. Mahasiswa Keadilan Malaysia
34. MAJU Foundation
35. Martabat PJ
36. Malaysian Sign Language and Deaf Studies Association
37. MUDA
38. Mental Health Association of Sarawak
39. Monsters Among Us (MAU)
40. National Organisation of Malaysian Sign Language Instructors
41. Negeri Sembilan Association of the Deaf
42. North South Initiative
43. Our Journey (Probono legal representation for migrants in labour immigration & criminal cases)
44. Pusat Pembangunan Rakyat (MANDIRI)
45. Persatuan Sahabat Wanita Selangor
46. Project Stability and Accountability for Malaysia (Projek SAMA)
47. Pemuda Sosialis PSM
48. Pertubuhan Rangkaian Pembangunan Kesenambungan Malaysia (SUSDEN Malaysia)
49. Parti Sosialis Malaysia
50. Pusat KOMAS
51. Persatuan Advokasi Diri Orang Bermasalah Pembelajaran Selangor & Kuala Lumpur (United Voice)
52. Projek Wawasan Rakyat
53. Persatuan Promosi Hak Asasi Manusia (PROHAM)
54. PurpleLily Social Association Kuching



55. Pergerakan Pemuda UMNO Bahagian Damansara
56. Persatuan Ikatan Serikat Serantau (IKRAR)
57. Saya Anak Bangsa Malaysia
58. Sisters in Islam
59. Suara Rakyat Malaysia (SUARAM)
60. Sabah Deaf Muslim Association
61. The OKU Rights Matter Project
62. The Talisman Project
63. Teater Untuk Semua
64. Teoh Beng Hock Association for Democratic Advancement
65. Women's Centre for Change (WCC)
66. Women's Aid Organisation
67. **3 June Onwards** - Development of Human Resources for Rural Areas (DHRRA)

Individuals

1. Ali Amir Razali
Political Activist
2. Amin Zuhaili Bin Mansor
Deaf Advocate
3. Adrian Pereira
Executive Director, North South Initiative, PWD Rights Advocate
4. Albert Wong Tuong Chui
Deaf Advocate
5. Beatrice Leong
Autistic Rights Advocate, Founder Autism Inclusiveness Direct Action Group (AIDA)
6. Bathmavathi Krishnan
Wheelchair user, Senator representing Persons with Disabilities in the Upper House,
Parliament of Malaysia (2013-2016; 2016-2019)
7. Calysta Tay
BIM Interpreter, PWD Ally
8. Christopher Yap
Deaf Person
9. Dr. Ikmal Hisham Md Tah
Legal Academic, Disability Law Researcher



10. Dr. Vilashini Somiah
Feminist anthropologist, PWD ally
11. Dr. Benjamin YH Loh
Digital media researcher, PWD ally
12. Dunstan SG Lim
Sarawak OKU Skills Development Association (SOSDA), Disabled Disability Advocate & Person with Lived Experience
13. Dayangku Syarizat
Person With Lived Experience
14. Dr. Lim Chee Han
Public health researcher, Manifesto Rakyat coordinator
15. Datin PH Wong
Childline Foundation
16. Durrah Sharifah Ahmad Azlan
Mental Health Advocate
17. Freida Pilus
Chairman, Cempaka Education Group
President, Persatuan Siswazah Wanita Malaysia
18. Gigi Teoh
Hearing ally, a member of JupeBIM, an employer to 4 deaf persons
19. Hasbeemasputra Abu Bakar
Disabled Disability Advocate & Person With Lived Experience
20. Ho Lee Ching
Theater Maker
21. Iskandar Khoo Kuan Yiau
Ketua badan Perhubungan Perikatan Nasional Kawasan Kepong
22. 'Izz Daenie
Disability Justice Advocate
Person With Lived Experience
23. Jonah Ong
Deaf Advocate/BIM Interpreter, Human Rights Activist
24. Jessica Mak Wei-E
Deaf Advocate
25. Joan Sim Jo Jo
Social Worker, Advocate for the Deaf, BIM Interpreter



26. Khor Ai-Na
CEO, Asia Community Service
27. Kelvin Lee
KLSCAH Youth
28. Koh Lianne
E-Hailing Driver
29. Kaveintran
Native Blind person, Independent disabled human rights activist
30. Kya Cahya
Human Rights Advocate, Activist
31. Lavinia Abirami
Deaf Person With Lived Experience Global Institute For Tomorrow
32. Leong Wai Min
Deaf Person, e-hailing driver
33. Lee Siow Hua, Declan,
RRC Grab team (Rakan Representative Community for Klang Valley Deaf drivers)
34. Leben Siddarth
Ketua Penerangan MUDA
35. Lee Nyook Loong
Deaf Person, E-hailing Driver
36. Laura Kho
Mental health policy consultant, Mind Brew, PWD ally
37. Muhammad Mustaqim bin Badrul Hisham
Person With Lived Experience
38. Muhamad Nadhir Abdul Nasir
Independent disability issues consultant & researcher
39. Murugeswaran Veerasamy
President, Damai Disabled Person Association Malaysia
40. Meera Samanther
Co-Chair of Ad Hoc Committee on Persons with Disability, Bar Council
41. Maizan Binti Mohd Salleh
President, Kuala Lumpur and Selangor Albinism Association
42. Mohd Asraf Sharafi Mohd Azhar
PWD Ally
43. Maria Chin Abdullah
Social activist



44. Mutharasapan a/l Lakshmanan
Deaf Advocate
45. Marzuki Ong bin Maliki Ong
Deaf Advocate
46. Mohamad Faezal Bin Muktar,
Chairman, Persatuan Ikatan Serikat Serantau (IKRAR)
47. Mimie Rahman
Managing Director & Registered Counsellor,
MINDAKAMI
48. Ng Lai-Thin
Dementia care partner, Project Lead of National Early Childhood Intervention Council,
Member of The OKU Rights Matter Project.
49. Nurafirah Jaharuddin
Master Student, Universiti Kebangsaan Malaysia
50. Ong Hwei Ling
Deaf Advocate
51. Nasrul Noor
Disability Advocate
52. Norman Goh
Person With Lived Experience
53. Ong Hwei Ling, Annie
President of National of Organisations Malaysia Sign Language Instructors (NowBIM)
Deaf Advocate
Co-founder DAWN
RRC Grab (Rakan Representative Community for Klang Valley Deaf drivers)
54. Prof. Wong Chin Huat
Political scientist; Member, Projek SAMA
55. Quah Jia Tian
President of Universiti Malaya Student Union, Faculty of Business and Economics.
Vice President of YouthCare Malaysia
56. Sofea Rozhan
Founder, untuksemua.my
57. Sharifah Tahir
Dementia and care partner advocate, founder of UMI, Dementia Care and Resource
Center



58. Shawn Sharif
Patient Advocate & person with lived experience
59. Srividhya Ganapathy
Co-chairperson CRIB Foundation
60. SK Lee
Deaf Person
61. Shane Capri
Human and Animal Rights Advocate
Disabled Disability Advocate
62. Sya A.
Autistic Self-Advocate & Person With Lived Experience
63. Shah Fariq Aizal Sha Ghazni
Entrepreneur
Director of Private Security Firm
Member of Generation Democracy (Malaysia Chapter)
Committee Member of Asia Pacific Security Association (Malaysia Chapter)
64. Sariah Ibrahim
Deaf Advocate
65. Tay Chia Yi
Speech-language therapist, Malaysian Association of Speech-language & Hearing (MASH)
66. Thilaga Sulathireh
Researcher
67. Tashny Sukumaran
Human Rights advocate
68. Wong Yan Ke
Human Rights Defender
69. Yana Karim
Boleh Space Co-Founder, Disabled Disability Rights Advocate
70. Yuenwah San
Disability Rights Advocate, Dementia care partner, Co-Founder Member, The OKU Rights Matter Project
71. Yeong Moh Foong
Senior Job Coach Trainer
72. **3 June Onwards**
Munira Mustaffa & Mustaffa Family Lived Experience



73. Pong Chang Khim
Deaf Advocate
74. Mohamad Burhanudin bin Mohamad Zamri
PWD Ally
75. Rafeeqa binti Ruslan
PWD Ally
76. Lim Heng Tuck
Deaf Advocate
77. Christine Lee,
Wheelchair User and Polio Survivor
78. Dr Sean Thum
Independent Public Health Advocate
79. Azad Akbar Khan
Ketua Biro Polisi MUDA Selangor