HUMAN RIGHTS COMMISSION OF MALAYSIA

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

(SUHAKAM)

PUBLIC INQUIRY INTO THE ALLEGED HUMAN RIGHTS VIOLATIONS DURING AND AFTER THE INCIDENT ON 17TH JANUARY 2025 AT TAIPING PRISON, PERAK

****

WRITTEN SUBMISSIONS

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May it please this Honourable Panel,

1. This is the family counsel's written submissions with relation to the public inquiry by Human Rights Commission of Malaysia ('SUHAKAM') into the alleged human rights violations in connection with the incident at Taiping Prison which occurred on 17.01.2025, resulting in the death of an inmate, Gan Chin Eng and serious injuries to other prison inmates.

2. SUHAKAM called for a public inquiry which was held from 09.06.2025 to 22.09.2025, a total of 28 sessions. The SUHAKAM panel inquiry consisted of Dato' Seri Hishamudin Yunus as Chairperson of the Panel (the 'Chairman'), Dr Farah Nini Dusuki as one of the SUHAKAM Commissioners, and Datuk Mariati Robert as one of the SUHAKAM Commissioners from 09.06.2025 until the end of her term on 22.06.2025 (collectively 'the Panel members'). SUHAKAM had invited the Bar Council, the lawyers representing the family members of the prison inmates and Gan Chin Eng who were involed in the incident on 17.01.2025, as well as representatives from the Malaysian Prisons Department, the National Public Works Department and the National Heritage Department as observers to attend this public inquiry.

3. The family counsel consisted of lawyers Shashi Devan A/L Thalmalingam, Teh See Khoon, Yoges M Verasuntharam, Purshotaman A/L Puvanendran, Muhammad Nazreen Jaafar bin Abdullah, and Erica Sam Wai Ping (Pupil-in-Chambers).

4. The Bar Council observers consisted of lawyers Andrew Khoo Chin Hock, Kavitha A/P Sitartha Raja Kumaran, Mohamad Naim Kamaruddin, Cindy Lee Nian Cie, Goh Cia Yee, Tan Chuan Yi, Nizam Bashir Bin Abdul Kariem Bashir and Balakrishna Balaravi Pillai.

5. The Malaysian Prisons Department observers consisted of Zulkifli bin Abdul Manah, Mazlan bin Dollah, Amirah binti Abdul Razak and Vinodh a/l Elamkovam and Dr Hayat.

TERMS OF REFERENCE

The SUHAKAM public inquiry relied on the following terms of reference during the course of these proceedings :

(a) To verify whether any human rights violations occurred during and after the incident on 17.01.2025 involving inmates and personnels at Taiping Prison.

(b) If (a) has been established at the inquiry, then to identify :

(i) The nature of the human rights violations which occurred at Taiping Prison;
(ii) The manner in which these human rights violations occurred;
(iii) The underlying causes for these human rights violations; and
(iv) The parties responsible for such human rights violations.

To provide recommendations to prevent recurrence of similar violations.

LIST OF WITNESSES

6. 50 witnesses were called to give their statements during this public inquiry. The following witnesses were called :

(a)	Nazri bin Mohamad [Then-director of Taiping Prison]	(IW1)
(b)	Muhammad Faris bin Zahari [Prison inmate]	(IW2)
(c)	Arumugam A/L Kandasamy [Prison inmate]	(IW3)
(d)	Leong Wai Kong [Prison inmate]	(IW4)
(e)	Ahmad Kamal bin Abdul Rahman [Prison inmate]	(IW5)
(f)	Kumaran A/L Shamugam [Prison inmate]	(IW6)
(g)	Santosh Raj A/L Durairaju [Prison inmate]	(IW7)
(h)	Aaron Armin Holden [Prison inmate]	(IW8)
(i)	Jeyenthiran A/L Suppiah [Prison inmate]	(IW9)
(j)	Visvamurthy A/L Apparassamy [Prison inmate]	(IW10)
(k)	Leong Hoi Aw [Prison inmate]	(IW11)
(l)	Naveen Kumar A/L Veerapan [Prison inmate]	(IW12)
(m)	Sukheswaran A/L Thulathihangan [Prison inmate]	(IW13)
(n)	Jason Immanuel A/L Puvanesvaran [Prison inmate]	(IW14)
(o)	Mohammad Shukrye Zulkifli [Prison inmate]	(IW15)
(p)	Harjit Singh A/L Terlok Singh [Prison inmate]	(IW16)
(q)	Adam Fong bin Abdullah [Prison inmate]	(IW17)
(r)	Hew Wei Leong [Prison inmate]	(IW18)
(s)	Ahmad Shaiful bin Rafie [Chief Prison Inspector of Taiping Prison]	(IW19)
(t)	Shafril Azmir bin Mohd Shafie [Prison Inspector]	(IW20)
(u)	Teuku Mohd Hasbi bin Tarmizi [Deputy Prison Superintendent]	(IW21)
(v)	Karmegam A/L Kamachi Pillay [Prison Seargeant / Warder].	(IW22)
(w)	Khairul Esmail bin Mohd Zawawi [Deputy Prison Superintendent]	(IW23)
(x)	Raja Masrul Azam bin Raja Mansor [Prison Warder]	(IW24)
(y)	Muhamad Mustakhim bin Abdul Rahim [Prison Inspector]	(IW25)

(z)	Saiful Azman bin Mohamad Ibrahim [Prison Officer]	(IW26)
(aa)	Ahmad Rizal bin Razali [Prison Inspector]	(IW27)
(bb)	Dzulizwar bin Mohd Bakir [Prison Sergeant]	(IW28)
(cc)	Mohd Hairie Jumri [Chief Prison Inspector]	(IW29)
(dd)	Zairulazly bin Mohd [General Duty Officer]	(IW30)
(ee)	Fazdrul Rosaiman bin Dalves [Prison Warder]	(IW31)
(ff)	Azwan bin Mohammed [Prison Sergeant]	(IW32)
(gg)	Zaiful Mashadi bin Zainal Abidin [Prison Sergeant]	(IW33)
(hh)	Mohd Azhari bin Edris [General Duty Officer]	(IW34)
(ii)	Khairol Azmeer bin Ibrahim [Prison Sergeant]	(IW35)
(jj)	Mohd Anuar bin Othman [Prison Sergeant]	(IW36)
(kk)	Shahrul Izzat bin Hamid [Deputy Director of Taiping Prison]	(IW37)
(ll)	Fadhil bin Mohd Yusoff [Assistant Medical Officer]	(IW38)
(mm)	Dr Navin Esavik A/L Vikrama [Doctor of Taiping Prison]	(IW39)
(nn)	Mat Nasir bin Ramli [Assistant Duty Officer]	(IW40)
(oo)	Dr Tan Lii Jye [Forensic Pathologist, Hospital Raja Permaisuri Bainun]	(IW41)
(pp)	Siti Nor Rasyidah bin M. Nadzri [former Investigating Officers]	(IW42)
(qq)	Sr. Azlan bin Abdul Aziz [Malaysian Public Works Department]	(IW43)
(rr)	Ruzairy bin Arbi [National Heritage Department]	(IW44)
(ss)	Hafidz bin Othman [Deputy Commissioner General of Prisons]	(IW45)
(tt)	Fayrouz bin Ahmad Zawawi [Director of Prisons, Perak]	(IW46)
(uu)	Luqman bin Abdul Rahman	(IW47)
(vv)	Nor Shah bin Mohamed	(IW48)
(ww)	Muhammad Zaki bin Abdul Kudos	(IW49)
(xx)	Abdul Aziz bin Abdul Razak [Commissioner General of Prisons]	(IW50)

LIST OF EXHIBITS

7. The family counsel respectfully craves leave and invites the Honourable Panel to refer to the following exhibits :

(1) **Exhibit 1** (Sketch Plan for Taiping Prison) which was tendered on 10.06.2025;

(2) **Exhibit 2** (Photos of *Dewan B*) which was tendered on 10.06.2025;

(3) **Exhibit 3** (Maheswary A/P Raman's Police Report dated 25.01.2025, Report No.: TAIPING/000741/25) which was tendered on 10.06.2025;

(4) **Exhibit 4** (Photos of Block E) which was tendered on 10.06.2025;

(5) **Exhibit 5A** (Kumaran A/L Shamugam (IW6) Medical Notes, pages 1–3) which was tendered on 11.06.2025;

(6) **Exhibit 5B** (Kumaran A/L Shamugam (IW6) Medical Notes, page 4) which was tendered on 11.06.2025;

(7) **Exhibit 6A** (Thresa A/P Lourdesamy's Police Report dated 21.01.2025, Report No.: MENGLEMBU/000336/25) which was tendered on 11.06.2025;

(8) **Exhibit 6B** (Thresa A/P Lourdesamy's Police Report dated 05.02.2025, Report No.: TAIPING/001011/25) which was tendered on 11.06.2025;

(9) **Exhibit 7A** (Pictures of Santosh Raj A/L Durairaju's (IW7) injuries) which was tendered on 12.06.2025;

(10) **Exhibit 7B** (Pictures of Santosh Raj A/L Durairaju's (IW7) injuries) which was tendered on 12.06.2025;

(11) **Exhibit 7C** (Pictures of Santosh Raj A/L Durairaju's (IW7) injuries) which was tendered on 12.06.2025;

(12) **Exhibit 7D** (Pictures of Santosh Raj A/L Durairaju's (IW7) injuries) which was tendered on 12.06.2025;

(13) **Exhibit 8** (Santosh Raj A/L Durairaju's (IW7) injuries Medical Notes) which was tendered on 12.06.2025;

(14) **Exhibit 9** (Santosh Raj A/L Durairaju's (IW7) injuries Referral Letter to Klinik Hospital dated 17.01.2025) which was tendered on 12.06.2025;

(15) **Exhibit 10** (Taiping Hospital Confirmation Letter dated 02.05.2025) which was tendered on 12.06.2025;

(16) **Exhibit 11A** (Durairaju A/L Rathnam's Police Report dated 25.01.2025, Report No.: MENGLEMBU/000408/25) which was tendered on 12.06.2025;

(17) **Exhibit 11B** (Durairaju A/L Rathnam's Police Report dated 05.02.2025, Report No.: Unclear) which was tendered on 12.06.2025;

(18) **Exhibit 12** (Aaron Armin Holden's Medical Notes) which was tendered on 12.06.2025;

(19) **Exhibit 13A** (Photos of Jeyenthiran A/L Suppiah (IW9), x4) which was tendered on 12.06.2025;

(20) **Exhibit 13B** (Photos of Jeyenthiran A/L Suppiah (IW9), x4) which was tendered on 12.06.2025;

(21) **Exhibit 13C** (Photos of Jeyenthiran A/L Suppiah (IW9), x4) which was tendered on 12.06.2025;

(22) **Exhibit 13D** (Photos of Jeyenthiran A/L Suppiah (IW9), x4) which was tendered on 12.06.2025;

(23) **Exhibit 14** (Jeyenthiran A/L Suppiah's (IW9) Medical Notes) which was tendered on 12.06.2025;

(24) **Exhibit 15** (Jeyenthiran A/L Suppiah's (IW9) Referral Letter to Klinik Hospital) which was tendered on 12.06.2025;

(25) **Exhibit 16A** (Photos of Visvamurthy A/L Apparassamy (IW10), x3) which was tendered on 12.06.2025;

(26) **Exhibit 16B** (Photos of Visvamurthy A/L Apparassamy (IW10), x3) which was tendered on 12.06.2025;

(27) **Exhibit 16C** (Photos of Visvamurthy A/L Apparassamy (IW10), x3) which was tendered on 12.06.2025;

(28) **Exhibit 17** (Visvamurthy A/L Apparassamy's (IW10) Medical Notes) which was tendered on 12.06.2025;

(29) **Exhibit 18** (Visvamurthy A/L Apparassamy (IW10) Radiologist Report) which was tendered on 12.06.2025;

(30) **Exhibit 19** (Visvamurthy A/L Apparassamy's (IW10) Referral Letter from Klinik Hospital Taiping) which was tendered on 12.06.2025;

(31) **Exhibit 20** (Visvamurthy A/L Apparassamy's (IW10) Medical Notes) which was tendered on 12.06.2025;

(32) **Exhibit 21** (Visvamurthy A/L Apparassamy's (IW10) Physiotherapy Report) which was tendered on 12.06.2025;

(33) **Exhibit 22** (Kanga A/P Apparassamy's Police Report dated 28.01.2025, Report No.: BIDOR/000318/25) which was tendered on 12.06.2025;

(34) **Exhibit 23** (Leong Hoi Aw's (IW11)Referral Letter from Prison Clinic to Klinik Kesihatan dated 28.02.2025) which was tendered on 12.06.2025;

(35) **Exhibit 24A** (CCTV Footages of *Dataran Kedamaian* on 16.01.2025) which was tendered on 24.06.2025;

(36) **Exhibit 24B** (CCTV Footages inside *Dewan* Block B) which was tendered on 24.06.2025;

(37) **Exhibit 24C** (CCTV Footages in front of Block B) which was tendered on 24.06.2025;

(38) **Exhibit 24D** (CCTV Footages) which was tendered on 24.06.2025;

(39) **Exhibit 24E** (CCTV Footage inside Block E) which was tendered on 24.06.2025;

(40) **Exhibit 24F** (CCTV Footages in front of Block E) which was tendered on 24.06.2025;

(41) **Exhibit 25A** (Naveen Kumar A/L Veerapan's (IW12) Medical Notes, x2 pages) which was tendered on 24.06.2025;

(42) **Exhibit 25B** (Naveen Kumar A/L Veerapan's (IW12) Medical Notes, x2 pages) which was tendered on 24.06.2025;

(43) **Exhibit 25C** (Naveen Kumar A/L Veerapan's (IW12) Medical Notes, x2 pages) which was tendered on 24.06.2025;

(44) **Exhibit 26A** (Sukhesawaran A/L Thulathihangan's (IW13) Medical Notes, pages 1–2) which was tendered on 24.06.2025;

(45) **Exhibit 26B** (Sukhesawaran A/L Thulathihangan's (IW13) Medical Notes) which was tendered on 24.06.2025;

(46) **Exhibit 26C** (Sukhesawaran A/L Thulathihangan's (IW13) Appointment Card dated 31.01.2025 and Referral Letter to Hospital Taiping) which was tendered on 24.06.2025;

(47) **Exhibit 27** (Thulaththangan A/L Ramasamy's Police Report dated 05.02.2025, Report No.: TAIPING/001009/25) which was tendered on 24.06.2025;

(48) **Exhibit 28A** (Photos of injuries of Jason Immanuel A/L Puvanesvaran (IW14) taken by SUHAKAM officer Encik Zaidi on 27.02.2025 at Dewan Maharaja Lela, Taiping Prison) which was tendered on 24.06.2025;

(49) **Exhibit 28B** (Photos of injuries of Jason Immanuel A/L Puvanesvaran (IW14) taken by SUHAKAM officer Encik Zaidi on 27.02.2025 at Dewan Maharaja Lela, Taiping Prison) which was tendered on 24.06.2025;

(50) **Exhibit 29** (Jason Immanuel A/L Puvanesvaran's (IW14) Medical Notes) which was tendered on 24.06.2025;

(51) **Exhibit 30A** (Puvanesvaran A/L Sandaran's Police Report dated 21.01.2025, Report No.: Unclear) which was tendered on 24.06.2025;

(52) **Exhibit 30B** (Puvanesvaran A/L Sandaran's Police Report dated 05.02.2025, Report No.: TAIPING/001010/25) which was tendered on 24.06.2025;

(53) **Exhibit 31** (Mohammad Shukrye Zulkifli (IW15) Medical Notes) which was tendered on 25.06.2025;

(54) **Exhibit 32** (Harjit Singh A/L Terlok Singh's (IW16) Medical Notes) which was tendered on 25.06.2025;

(55) **Exhibit 33A** (Ravinjeet Kaur A/P Terlok Singh's Police Report dated 25.01.2025, Report No.: TAIPING/000737/25) which was tendered on 25.06.2025;

(56) **Exhibit 33B** (Kihssen Singh A/L Terlok Singh's Police Report dated 05.02.2025, Report No.: TAIPING/001018/25) which was tendered on 25.06.2025;

(57) **Exhibit 34A** (Gan Chin Eng's Medical Notes, x2 pages) which was tendered on 25.06.2025;

(58) **Exhibit 34B** (Gan Chin Eng's Medical Notes, x2 pages) which was tendered on 25.06.2025;

(59) **Exhibit 35** (Leong Hoi Aw's (IW11) Medical Records from Klinik Kesihatan Taiping Jalan Tupai) which was tendered on 26.06.2025;

(60) **Exhibit 36** (List of prison inmates transferred from Batu Gajah Correctional Centre to Taiping Prison on 16.01.2025) which was tendered on 08.07.2025;

(61) **Exhibit 37** (List of eight prison inmates returned to Batu Gajah Correctional Centre for safety/security reasons) which was tendered on 08.07.2025;

(62) **Exhibit 38** (Excerpts from the diary of Ahmad Shaiful bin Rafie (IW19)) which was tendered on 08.07.2025;

(63) **Exhibit 39** (Taiping Prison Panel Visit Slides, paginated) which was tendered on 08.07.2025;

(64) **Exhibit 40** (Schedule of Security Equipment used during the 17 January incident at Taiping Prison) which was tendered on 08.07.2025;

(65) **Exhibit 41A** (Photo of Pepper Spray) which was tendered on 08.07.2025;

(66) **Exhibit 41B** (Photo of *Chota Kayu*) which was tendered on 08.07.2025;

(67) **Exhibit 41C** (Photo of *Chota T*) which was tendered on 08.07.2025;

(68) **Exhibit 41D** (Photo of Officer's Cane) which was tendered on 08.07.2025;

(69) **Exhibit 41E** (Photo of Body Armour) which was tendered on 08.07.2025;

(70) **Exhibit 41F** (Photo of Riot Shield) which was tendered on 08.07.2025;

(71) **Exhibit 42** (Copy of Pocket Diary – Shafril Azmir bin Mohd Shafie (IW20)) which was tendered on 08.07.2025;

(72) **Exhibit 43, pages 1–5** (Copy of Pocket Diary – Karmegam A/L Kamachi Pillay (IW22)) which were tendered on 09.07.2025;

(73) **Exhibit 44** (Copy of Pocket Diary – Khairul Esmail bin Mohd Zawawi (IW23)) which was tendered on 10.07.2025;

(74) **Exhibit 45** (Khairul Esmail bin Mohd Zawawi's Police Report dated 17.01.2025, Report No.: TAIPING/000490/25) which was tendered on 10.07.2025;

(75) **Exhibit 46 pages 1–4** (Copy of Pocket Diary – Raja Masrul Azam bin Raja Mansor (IW24)) which were tendered on 10.07.2025;

(76) **Exhibit 47 pages 1–2** (Copy of Pocket Diary – Saiful Azman bin Mohamad Ibrahim (IW26)) which was tendered on 24.07.2025;

(77) **Exhibit 48** (Ahmad Rizal bin Razali (IW27)'s Police Report dated 17.01.2025, Report No.: TAIPING/000498/25) which was tendered on 24.07.2025;

(78) **Exhibit 49** (Letter from Hospital *Kluster* Perak Utara to Ahmad Rizal bin Razali (IW27) dated 10.06.2025) which was tendered on 24.07.2025;

(79) **Exhibit 50** (Ahmad Rizal bin Razali (IW27)'s Medical Report) which was tendered on 24.07.2025;

(80) **Exhibit 51** (Ahmad Rizal bin Razali's (IW27) Police Report dated 17.01.2025, Report No.: TAIPING/0004999/25) which was tendered on 24.07.2025;

(81) **Exhibit 52 pages 1–3** (Copy of Pocket Diary – Dzulizwar bin Mohd Bakir (IW28)) which was tendered on 25.07.2025;

(82) **Exhibit 53 pages 1–8** (Chronology of Report of Damages in Block B and Block E) which was tendered on 25.07.2025;

(83) **Exhibit 54** (JKR Building Damage Inspection Report – Block E, Taiping Prison, Taiping, Perak, dated 21.10.2022) which was tendered on 25.07.2025;

(84) **Exhibit 55 pages 1–4** (Copy of Pocket Diary – Mohd Hairie Jumri (IW29)) which was tendered on 25.07.2025;

(85) **Exhibit 56** (Jeyenthiran A/L Suppiah's (IW9) Police Report dated 18.06.2025, Report No.: TAIPING/004504/25) which was tendered on 25.07.2025;

(86) **Exhibit 57** (Letter from the Commissioner General of Prisons dated 20.06.2025, in reply to SUHAKAM's letter dated 17.06.2025) which was tendered on 06.08.2025;

(87) **Exhibit 58** (Standing Order Memo on Pepper Spray & Cota) which was tendered on 07.08.2025;

(88) **Exhibit 59** (*Perintah Tetap Ketua Pengarah Penjara Bil. 104* on Pocket Diary) which was tendered on 07.08.2025;

(89) **Exhibit 60** (Khairol Azmeer bin Ibrahim (IW35)'s Police Report dated 17.01.2025, Report No.: TAIPING/000489/25) which was tendered on 07.08.2025;

(90) **Exhibit 61, pages 1–3** (Copy of Pocket Diary – Mohd Anuar bin Othman (IW36)) which was tendered on 07.08.2025;

(91) **Exhibit 62. pages 1–2** (Gan Chin Eng's Medical Report from Taiping Hospital, dated 07.02.2025) which was tendered on 07.08.2025;

(92) **Exhibit 63, pages 1–6** (Approval Letter to Transfer 108 Remand Inmates (TMT) from Batu Gajah Correctional Centre, Perak to Taiping Prison, Perak, dated 15.01.2025) which was tendered on 11.08.2025;

(93) **Exhibit 64, pages 1–5** (Copy of Pocket Diary – Shahrul Izzat bin Hamid (IW37)) which was tendered on 11.08.2025;

(94) **Exhibit 65** (*Perintah Tetap Commissioner General Penjara Bil. E334* – Procedures for Preventing and Responding to Prisoner Attacks on Prison Staff) which was tendered on 12.08.2025;

(95) **Exhibit 66** (Letter from the Malaysian Prisons Department to the State Chief Engineer of Perak dated 18.11.2024, RE: *Kecacatan Perkakasan serta Latihan Pengurus dan Operator Sistem – Projek SKEB Penjara Taiping*) which was tendered on 12.08.2025;

(96) **Exhibit 67** (Letter from the Malaysian Prisons Department to SUHAKAM dated 28.07.2025, RE: Tindakan Susulan Selepas Pendengaran Inkuiri Awam 8–10 Julai 2025) which was tendered on 12.08.2025;

(97) **Exhibit 68** (*Memo Bahagian Keselamatan dan Inteligent Ibu Pejabat Penjara Malaysia* dated 01.09.2022, RE: Edaran Pindaan Perintah Tetap PTKJP E-406 – Pengurusan Kejadian Luar Biasa) which was tendered on 12.08.2025;

(98) **Exhibit 69** (*Surat dari Jabatan Warisan Negara kepada Mohd Faiz bin Ab. Rahman* dated 29.02.2020, RE: Permohonan Semakan Status Daftar Bangunan Warisan) which was tendered on 12.08.2025;

(99) **Exhibit 70** (*Lampiran GPPKP 2 – Tugas dan Tanggungjawab Penolong Pegawai Perubatan*) which was tendered on 18.08.2025;

(100) **Exhibit 71 pages 1–11** (*Laporan Bulanan Ujian Air Kencing Banduan Tahanan/Penghuni Penjara Taiping* dated 17.02.2025) which was tendered on 18.08.2025;

(101) **Exhibit 72 pages 1–6** (Visvamurthy A/L Apparassamy's (IW10) Medical Notes – Reprinted) which was tendered on 18.08.2025;

(102) **Exhibit 73 pages 1–3** (Leong Hoi Aw's (IW4) Medical Notes) which was tendered on 18.08.2025;

(103) **Exhibit 74** (Leong Hoi Aw's (IW4) Referral Letter to *Klinik* Hospital dated 10.02.2025) which was tendered on 18.08.2025;

(104) **Exhibit 75** (*Garis Panduan Pengurusan Klinik*) which was tendered on 19.08.2025;

(105) **Exhibit 76** (Page 10 of the Garis Panduan – Carta Alir Pemeriksaan Kesihatan Penghuni) which was tendered on 19.08.2025;

(106) **Exhibit 77** (Managing Multiple Patients Slides) which was tendered on 19.08.2025;

(107) **Exhibit 78** (Declaration of Geneva Oath) which was tendered on 20.08.2025;

(108) **Exhibit 79** (Gan Chin Eng's post-mortem report from the Forensic Department of Hospital Raja Permaisuri Bainun dated 19.01.2025) which was tendered on 02.09.2025;

(109) **Exhibit 80** (13 Photos of Gan Chin Eng's Post-Mortem) which was tendered on 02.09.2025;

(110) **Exhibit 81** (Photos of Gan Chin Eng with Inspector Anbalagan, Gan Wei Hao, and Dr Tan Lii Jye, 79 pages) which was tendered on 02.09.2025;

(111) **Exhibit 82** (Toxicology Report on Gan Chin Eng) which was tendered on 02.09.2025;

(112) **Exhibit 83** (Referral Letter from Hospital Taiping to Dr Tan Lii Jye) which was tendered on 02.09.2025;

(113) **Exhibit 84A** (Criminal Procedure Code Sections 328–342) which was tendered on 02.09.2025;

(114) **Exhibit 84B** (*Arahan Amalan Bil. 2 Tahun 2019: Pengendalian Laporan Mati Mengejut dan Siasatan Kematian oleh Mahkamah Sesyen Koroner*) which was tendered on 02.09.2025;

(115) **Exhibit 85** (Reply Letter from IPD Taiping to SUHAKAM dated 16.04.2025) which was tendered on 02.09.2025;

(116) **Exhibit 86** (*Garis Panduan Pemeriksaan dan Penilaian Keadaan Bangunan Sedia Ada*) which was tendered on 03.09.2025;

(117) **Exhibit 87A** and **87B** (Photos of Bucket and Septic Tank) which were tendered on 03.09.2025;

(118) **Exhibit 88** (Federal Government Gazette Notice of Site Designation as a Heritage Site (P.U.(B) 299)) which was tendered on 03.09.2025;

(119) **Exhibit 89A** and **89B** (Letters from the Department of National Heritage regarding Taiping Prison's Status under the National Heritage Act 2005 dated 10.01.2019 and 24.01.2019) which were tendered on 03.09.2025;

(120) **Exhibit 90 pages 1–2** (Map of Taiping Prison) which was tendered on 03.09.2025;

(121) **Exhibit 91** (*Perintah Tetap Ketua Pengarah Penjara Bil. F3/002* bertarikh 21.11.1998 on Urine Testing Guidelines) which was tendered on 04.09.2025;

(122) **Exhibit 92** (Letter from the Prison Department to the State Heritage Commissioner of Pulau Pinang dated 12.09.2025) which was tendered on 22.09.2025;

(123) **Exhibit 93** (Press Statement from the Malaysian Prisons Department regarding the Prospect Provocation Incident at Taiping Prison, dated 27.01.2025) which was tendered on 22.09.2025; and

(124) **Exhibit 94, pages 1 – 8** (Reply Letter from the Malaysian Prisons Department on *Tindakan Susulan Selepas Pendengaran Inkuiri Awam* SUHAKAM dated 17.09.2025) which was tendered on 22.09.2025.

FACTS LEADING UP TO THE INCIDENT ON 17TH JANUARY 2025

8. On 16.01.2025, 89 prison inmates were transferred from Batu Gajah Correctional Facility ('Batu Gajah') to Taiping Prison. The initial statistic was 104 inmates (**Exhibit 36**) however 1 prison inmate was sent directly to Hospital Raja Permaisuri Bainun, 8 prison inmates were transferred back to Batu Gajah (**Exhibit 37**), 4 prison inmates were placed in Block C of Taiping Prison, and 2 prison inmates were sent to the prison's clinic. Among the prison inmates were those who were previously transferred from Taiping Prison to Batu Gajah and then transferred back. The prison inmates arrived in Taiping Prison in the afternoon on the same day.

   *[Please refer to **Exhibit 36**, List of inmates transferred from Batu Gajah Correctional Facility to Taiping Prison on 16.01.2025]; and*

   *[Please refer to **Exhibit 37**, List of 8 prison inmates returned to Batu Gajah Correctional Facility (for security reasons)]*

9. Thereafter, prison inmates were made to go through a check in which some of their personal belongings brought from Batu Gajah such as clothing deemed unsuitable under Taiping prison rules, soap, toothbrushes, and soap containers were confiscated by the prison staff. An altercation occurred between prison inmates and a prison staff known as Ahmad Rizal bin Razali (IW27) over the prison inmate's clothing. The prison inmates were then transferred to an outdoor square known as *Dataran Kedamaian*. Because of the sheer number of prison inmates which were transferred in that day, Taiping Prison's usual standard operating procedures were not adhered to whereby these prison inmates were not registered nor were health screenings done. Thereafter, the prison inmates were temporarily placed in Hall B also referred to as *Dewan* B.

10. The next day on 17.01.2025, these prison inmates were reportedly assaulted by some 60-armed prison officers of various ranks and positions in and outside Hall B, also referred to as *Dewan B*. The incident occurred after the inmates expressed their discontent over being transferred from *Dewan B* to Block E, which was known for its dilapidated and unsafe conditions, poor structural building integrity, and lack of basic facilities such as toilets. Taiping Prison is one of the 2 prisons left in Malaysia still practising the bucket system

(**Exhibit 87A**) wherein prison inmates must empty it themselves into a septic tank (**Exhibit 87B**). Despite four initial negotiations between prison inmate appointed representatives and prison officers, the situation escalated when a group of prison officers stormed into *Dewan B* and subjected the inmates to physical violence and assault, including beatings with excessive force using various prison equipment.

*[Please refer to **Exhibit 87A**, Photo of Bucket]; and*

*[Please refer to **Exhibit87B**, Photos of Septic Tank]*

11. The inmates were subjected to, among others, beatings and abuse by wooden batons ("*cota kayu*"), t-batons ("*cota-t*"), officer's canes ("*tongkat pegawai*"), riot shields, broken chair legs, pepper sprayed, dragged, kicked and stomped on, beaten and verbally insulted.

*[Please refer to **Exhibit 41A**, Photo of Pepper Spray dated 08.07.2025];*

*[Please refer to **Exhibit 41B**, Photo of Chota Kayu dated 08.07.2025];*

*[Please refer to **Exhibit 41C**, Photo of Chota T dated 08.07.2025];*

*[Please refer to **Exhibit 41D**, Photo of Officer's Cane dated 08.07.2025];*

*[Please refer to **Exhibit 41E**, Photo of Body Armour dated 08.07.2025] and*

*[Please refer to **Exhibit 41F**, Photo of Riot Shield dated 08.07.2025]*

12. Unfortunately, this mass-assault resulted in the death of an inmate, Mr Gan Chin Eng ("Mr Gan"), on the evening of 17.01.2025 when he was pronounced dead on arrival by doctors in Taiping Hospital at 7:00PM and various serious injuries to prison inmates. A police report was lodged by Khairul Esmail bin Mohd Zawawi (IW23) (**Exhibit 45**) at Taiping District Police Headquarters.

*[Please refer to **Exhibit 45**, Khairul Esmail bin Mohd Zawawi's police report dated 17.01.2025 (Report no. TAIPING/000490/25)]*

FACTS POST 17TH JANUARY 2025

13. A post-mortem was conducted on Mr Gan on 19.01.2025 at Hospital Raja Permaisuri Bainun, Ipoh and it was concluded that his official cause of death was abdominal injury due to blunt force trauma" (**Exhibit 79**). Mr Gan's family members lodged a police report 5 days after his post-mortem results.

*[Please refer to **Exhibit 79**, Gan Chin Eng's post-mortem report from the Forensic Department of Hospital Raja Permaisuri Bainun dated 19.01.2025]*

14. Numerous police reports were lodged either by the family members or the prison inmates themselves detailing the violence and abuse the prison inmates faced during and after the incident on 17.10.2025. Family members had also lodged complaints with SUHAKAM.

*[Please refer to **Exhibit 3**, Maheswary A/P Raman's Police Report dated 25.01.2025, Report No.: TAIPING/000741/25];*

*[Please refer to **Exhibit 6A** and **Exhibit 6B**, Thresa A/P Lourdesamy's Police Report dated 21.01.2025, Report No.: MENGLEMBU/000336/25) and dated 05.02.2025, Report No.: TAIPING/001011/25];*

*[Please refer to **Exhibit 11A** and **Exhibit 11B**, Durairaju A/L Rathnam's Police Report dated 25.01.2025, Report No.: MENGLEMBU/000408/25) and dated 05.02.2025, Report No.: Unclear];*

*[Please refer to **Exhibit 22**, Kanga A/P Apparassamy's Police Report dated 28.01.2025, Report No.: BIDOR/000318/25];*

*[Please refer to **Exhibit 27**, Thulaththangan A/L Ramasamy's Police Report dated 05.02.2025, Report No.: TAIPING/001009/25];*

*[Please refer to **Exhibit 30A** and **Exhibit 30B**, Puvanesvaran A/L Sandaran's Police Report dated 21.01.2025, Report No.: Unclear) and dated 05.02.2025, Report No.: TAIPING/001010/25];*

*[Please refer to **Exhibit 33A**, Ravinjeet Kaur A/P Terlok Singh's Police Report dated 25.01.2025, Report No.: TAIPING/000737/25];*

*[Please refer to **Exhibit 33B**, Kihssen Singh A/L Terlok Singh's Police Report dated 05.02.2025, Report No.: TAIPING/001018/25]; and*

*[Please refer to **Exhibit 56**, Jeyenthiran A/L Suppiah's (IW9) Police Report dated 18.06.2025, Report No.: TAIPING/004504/25]*

15. Mr Gan's death drew widespread criticism across Malaysia and prompted the Human Rights Commission of Malaysia ("SUHAKAM") to initiate a public inquiry which spanned 3 months from June to September 2025 held at Kamunting Correctional Facility ('KEMTA') in Taiping and at SUHAKAM's headquarters in Kuala Lumpur.

16. Over the course of 3 months, 50 witnesses including prison inmates and Taiping prison staff involved in the 17th January incident, representatives from the Malaysian Prison Department Headquarters, representatives from the Public Works Department ("*Jabatan Kerja Raya*"), the forensic pathologist and the investigating police involved were questioned on their involvement and what transpired before, during, and after the 17th January incident.

SUMMARY OF VIOLATIONS

17. The family counsel respectfully submits this written submission on the following main points:

    a) **Conduct of Taiping Staff;**

    b) **Poor management from Taiping Prison;**

    c) **Material discrepancies in prison staff evidence;**

d) Poor infrastructure;

e) Gaps in police and prison investigation;

CONDUCT OF TAIPING STAFF

The transfer of inmates on 16th January 2025

18. IW2 to IW18 had explained in their witness testimonies that they were part of a group of inmates that were transferred from Batu Gajah Correctional Facility to Taiping Prison on 16.01.2025. At approximately 12:00 PM the same day, the inmates were made to undergo standard prison admission procedures, including a full-body scan in the "*Bilik Scanner*". The inmates further explained that some of their personal belongings brought from the correctional facility such as clothing deemed unsuitable under Taiping prison rules, soap, toothbrushes, and soap containers were confiscated by the prison staff. The inmates were then brought to an open square known as "*Dataran Kedamaian*". There, several inmates such as Naveen Kumar A/L Veerapan (IW12) had testified that an officer Inspector Ahmad Rizal bin Razali (IW27) had lost his temper and shouted profanities at them before storming off from the *Dataran*. Their accounts were corroborated by Karmegam A/L Kamachi Pillay (IW22), testifying that IW27 had shouted at the inmates and walked away from the *Dataran* while raising both middle fingers. It was further corroborated by Ahmad Shaiful bin Rafie (IW19) during his witness testimony on 08.07.2025, when he explained that he had ordered IW27 to leave the area immediately as the situation was becoming increasingly tense, and Shafril Azmir Bin Mohd Shafie (IW20) who had also testified the same stating that IW19 had ordered IW27 to leave the area. This was supported by CCTV footage (**Exhibit 24A**), showing IW27 doing exactly as testified by IW12, IW19, IW20 and IW22.

[Please refer to the NOP at page 67, IW12's witness testimony dated 24.06.2025];

[Please refer to the NOP at pages 21 and 22, IW19's witness testimony dated 08.07.2025];

[Please refer to the NOP at page 123, IW20's witness testimony dated 08.07.2025]; and

*[Please refer to **Exhibit 24A**, CCTV Footage infront of Dataran Kedamaian]*

19. Prison inmates, Arumugam A/L Kandasamy (IW3), Aaron Armin Holden (IW8), Jason Immanuel A/L Puvanesvaran (IW14), and Adam Fong Bin Abdullah (IW17) and several others had also expressed that they preferred Batu Gajah Correctional Facility because the overall treatment by prison staff was better and more "relaxed", and its facilities were better compared to Taiping Prison.

20. Prison inmates such as Muhammad Farris Bin Zahari (IW2) had also explained that a day before the incident on 17.01.2025, Ahmad Rizal Bin Razali (IW27) had informed the prison inmates that there was a possibility that they would be transferred to Block E. IW2 then testified that IW27 had asked him and Leong Wai Kong (IW4) to standby for the transfer because Block E was vacant and IW27 needed their assistance to handle it.

[Please refer to the NOP at page 33, IW2's witness testimony dated 10.06.2025]

21. Another prison inmate, Arumugam A/L Kandasamy (IW3) had also explained that of the 104 inmates that arrived from Batu Gajah Correctional Facility (**Exhibit 36**), 8 of them were transferred back for various safety and security reasons (**Exhibit 37**). He then testified that one *Tuan* Shafrizal (who was not called as a witness during this inquiry) who was accompanied by two other prison officers had informed them that after initial checks towards the prison inmates were carried out, they would then be placed in *Dewan* B temporarily for a day before being transferred to Remand Block A or Remand Block B. However, this transfer never happened. IW3 testified that on the morning of 17.01.2025, an officer, one Sergeant Akmal (who was not called as a witness during this inquiry) had informed another prison inmate, one Yugarajan (who was not called as a witness during this inquiry) that the prison inmates were going to be transferred to Block E instead which made the prison inmates upset because they did not want to be transferred to Block E.

*[Please refer to **Exhibit 36**, List of inmates transferred from Batu Gajah Correctional Facility to Taiping Prison on 16.01.2025];*

*[Please refer to **Exhibit 37**, List of 8 prison inmates returned to Batu Gajah Correctional Facility (for security reasons)]; and*

[Please refer to the NOP at pages 158 – 159, 166 – 168, and 173 – 174, IW3's witness testimony dated 10.06.2025]

The negotiation stage / The incident on 17.01.2025

22. At approximately 10:00AM, 6 representatives which comprised of 2 Indians (one of them being IW3), 2 Chinese (one of them being IW4) and 2 Malays (one of them being IW2) ('the representatives') were chosen by the prison officers to collectively express their needs and refusal to move to Block E through 4 discussions with the prison officers, namely Teuku Mohd Hasbi bin Tarmizi (IW21), Shafril Azmir bin Mohd Shafie (IW20) and Karmegam A/L Kamachi Pillay (IW22). Among the primary issues raised by the representatives were their objection to being moved to Block E due to the block's dilapidated and unsafe conditions, the block's flood risk after rainfall, their request to discontinue the *"mandi kira gayung"* practice which was described as bathing with a regulated number of water ladle scoops, their request to reduce the number of inmates confined within a single cell, religious classes, and the use of *"wartel"*, which were public telephone facilities within prison. They had also requested to be placed in Remand Blocks A and B instead because these buildings were newer and had basic facilities such as toilets. At the end of each of the negotations the prison officers had informed them that they would revert back to them.

[Please refer to the NOP at page 178, IW3's witness testimony dated 10.06.2025];

[Please refer to the NOP at page 54, IW7's witness testimony dated 12.06.2025];

[Please refer to the NOP at page 150, IW13's witness testimony dated 24.06.2025];and

[Please refer to the NOP at page 300, IW10's witness testimony dated 12.06.2025]

23. At approximately 3:20PM, around 60 or so armed prison staff stormed the perimeters of *Dewan B*, banging the metal grills with batons while throwing stones into the hall hitting some of the inmates. They were given an ultimatum, a minute to gather their belongings, and agree to being transferred to Block E, or face consequences. However, within seconds the prison officers, some of which were fully equipped with riot gear and shields (**Exhibit**

41E and **Exhibit 41F**), had stormed into *Dewan B* demanding that they all sat down in the "muster" position. In an instant these inmates were assaulted, beaten and abused by prison officers. CCTV footage (**Exhibit 24B**) revealed that the inmates were surrounded, beaten and kicked by groups of officers at various parts in *Dewan B*. At one point during one of the prison officer's witness testimonies, Dzulizwar bin Mohd Bakir (IW28), when questioned on **Exhibit 24B**, it was revealed that there was an inmate who had been violently beaten by several prison officers until he had passed out. Even then, the officers did not stop and forcefully pulled the unconscious inmate up in an attempt to wake him. Concerningly, IW28 had even suggested to the inquiry that he had pretended to faint.

*[Please refer to **Exhibit 41E**, Photo of Body Armour];*

*[Please refer to **Exhibit 41F**, Photo of Riot Shield];*

*[Please refer to **Exhibit 24B**, the CCTV Footage inside Dewan B]; and*

[Please refer to the NOP at page 55, IW28's witness testimony dated 25.07.2025]

24. As the inmates were being escorted out of *Dewan B*, they were each subjected to further beatings by a line of officers, none spared from their relentless assault. Outside *Dewan B*, CCTV footage (**Exhibit 24C**) revealed that some of the prison inmates were made to sit in the "muster" position outside of Block B and thereafter were subjected to more beatings and abuse again. Most notably, Ahmad Rizal Bin Razali (IW27) is seen walking while stepping on the bodies and heads of several inmates sat down which was corroborated not only by the witnesses testimonies of prison inmates such as Naveen Kumar A/L Veerapan (IW12) but also CCTV footage seen in **Exhibit 24C**. Moreover, CCTV footage (**Exhibit 24C**) revealed that IW12 was forcefully pulled and dragged by Ahmad Rizal Bin Razali (IW27) and another officer across the square from Block B to Block C some several meters on rough tarmac until the skin on his buttocks had torn open (**Exhibit 25B**). Moreover, before IW12 was even dragged across the square, he had also testified on 24.06.2025 that he was violently beaten and kicked by multiple prison officers and was pepper sprayed in the eyes so as to not identify them. IW12 then testified that his head had been split open and was bleeding profusely from the beatings he sustained. Shockingly, he had also

explained that a prison officer had asked him where his head had split open and when IW12 pointed it out, this officer had directly applied pepper spray into his open wound.

*[Please refer to **Exhibit 24C**, the CCTV Footage infront of Block B];*

*[Please refer to **Exhibit 25B**, IW12's medical card dated 05.02.2025]; and*

[Please refer to the NOP at pages 23 - 27, IW12's witness testimony dated 24.06.2025]

25. Prison inmates not directly involved in the incident at *Dewan B* were not spared from the assaults either. Harjit Singh A/L Terlok Singh (IW16), who was locked in a cell in Block B at the material time had testified on 25.06.2025 that while the mass-assault was ongoing in *Dewan B*, 20 or so prison officers had entered Block B specifically looking for him while wielding wooden and iron batons (**Exhibit 41B** and **Exhibit 41C**). IW16 then testified that he was ordered to leave his cell and bend his head, upon which he was beaten, pepper sprayed (**Exhibit 41A**) and shouted insults at by the officers. IW16 was only able to recall some of the officers who had assaulted him, one Sergeant Azril, one *Cikgu* Afdal, and one *Cikgu* Shahrul (all three of whom were not called as witnesses during this inquiry). He was then brought out to be sat outside Block C to which he had fainted. Moreover, IW16 had testified that he had only received medical treatment some 2 to 4 days after he was assaulted on 17.01.2025. However, his medical card (**Exhibit 32**) showed otherwise, as the card was altered to be dated on 17.01.2025, the same day IW16 sustained his injuries which he vehemently denied.

[Please refer to the NOP at pages 119 – 120, 125 – 130, 139 – 140, IW16's witness testimony dated 25.06.2025];

*[Please refer to **Exhibit 41B**, Photo of Chota Kayu];*

*[Please refer to **Exhibit 41C**, Photo of Chota T];*

*[Please refer to **Exhibit 41A**, Photo of Pepper Spray];and*

*[Please refer to **Exhibit 32**, IW16's medical card dated17.01.2025]*

26. Moreover, through the CCTV footages (**Exhibit 24B** and **Exhibit 24C**), Ahmad Rizal Bin Razali (IW27) was identified as one of the individuals seen committing some of the more severe brutalities committed by prison officers. He was seen in **Exhibit 24B** and **Exhibit 24C** beating, punching, stepping and kicking the prison inmates not out of a duty to discipline, but out of sadistic enjoyment. Even before the incident on 17.01.2025, the prison inmates were already subjected to his degrading verbal insults. Visvamurthy A/L Apparassamy (IW10) during his testimony on 12.06.2025, had testified that while the prison inmates were gathered outside *Dataran Kedamaian* on 16.01.2025, IW27, known to the inmates as "*Tuan Rizal*", had called them all "*anak babi*" and proceeded to display the middle finger at them. This was corroborated by IW27's own work colleagues such as Karmegam A/L Kamachi Pillay (IW22) and Ahmad Shaiful bin Rafie (IW19) during their respective witness testimonies. IW27 eventually admitted that he had lost control of his emotions and also admitted that he had stepped on the backs of several inmates. Shockingly, he had also admitted to the public inquiry that he had emotional issues and struggled to control his emotions yet conceded that he had not sought professional help at all apart from going to the general clinic for basic flu medication to help with his alleged lack of sleep. IW27 had also self-diagnosed himself with depression yet also conceded that he had not sought treatment for that.

*[Please refer to **Exhibit 24B**, the CCTV Footage inside Dewan B];*

*[Please refer to **Exhibit 24C**, CCTV footage outside Block B];*

[Please refer to the NOP at page 79, IW27's witness testimony dated 24.07.2025];

[Please refer to the NOP at pages 298 - 299, IW10's witness testimony dated 12.06.2025];

[Please refer to the NOP at page 21 and 22 , IW19's witness testimony dated 08.07.2025];

[Please refer to the NOP at page 123 , IW20's witness testimony dated 08.07.2025]; and

[Please refer to the NOP at pages 113 – 115 and 193 - 194, IW27's witness testimony dated 24.07.2025]

Name	NOP of Ahmad Rizal Bin Razali (IW27) dated 24.07.2025 at pages 113 - 115
RIZAL	Kalau perbuatan saya tadi pun, saya rasa dengan cara tangan saya naik pun, Tuan dah... Encik dah nampak sendiri kan, macam mana kan? Saya sedang argue. Saya cuba pertahankan diri saya daripada dicemuh, dihina oleh banduan yang ada ugutan yang cakap nak bunuh. **Saya lost masa tu.**
SK	Ok. Kita teruskan. Sekarang Tuan... stop, ya. Sekarang Tuan sudah mula beredar. Adakah keadaan emosi Tuan dah... belum lagi?
RIZAL	Tidak. Kejadian tersebut, **saya terus spark. Maksud saya spark. Emosi saya out.** Saya ingatkan anak isteri saya di rumah. Kenapa saya kena hadap kejadian macam ni? Dan saya menyesal. Kenapa perlu aku pindah di Taiping? Lebih baik aku stay di Kajang. Kenapa perlu hidup macam ni?
SK	All right. Teruskan. Ok. Apakah yang Tuan sedang lakukan sekarang?
RIZAL	**Hanya ada Tuhan yang satu. Itu saja. Hanya Tuhan yang akan bantu aku.**
SK	Ataupun Tuan sedang menunjukkan jari tengah?
RIZAL	Boleh zoom tak? Saya nak tengok jari mana yang naik. Saya cakap, **'Seperti fighter Khabib, only God akan tolong saya'. Saya dah lost dah masa itu.**
CHM	**Tuan adakah masalah untuk mengawal emosi? Adakah Tuan mengalami –**
RIZAL	**Ya.**
CHM	**Masalah mengalami emosi?**
RIZAL	**Ya, Dato'. Ya, Dato' Seri.**
CHM	**Ada?**
RIZAL	**Ada.** Saya sebenarnya... untuk maklumat Dato' Seri, saya pulang ke kampung... saya cerita secara peribadi sikit. Saya minta pindah ke kampung ada sebab. Sebab adik saya mengalami penagihan dadah. Dan ibu mentua saya pula ada masalah ketumbuhan hidung. Saya pernah cakap dekat pegawai, saya tak mampu nak duduk dalam unit macam ni yang penuh dengan risiko. Saya minta untuk duduk GD. Tapi saya tidak diendahkan. Dia kata, 'Kalau tak boleh, buat surat, keluar'. Saya dah mengalami dah benda tu. Saya pun tak cukup tidur

Name	NOP of Ahmad Rizal Bin Razali (IW27) dated 24.07.2025 at pages 113 - 115
	malam. Saya memikirkan kenapa aku pindah, kenapa macam ni nasib saya dekat Taiping? **Saya lebih dah jadi emosi.** Sebenarnya, saya dah lama tak tidur malam, insomnia, memikirkan hal-hal penjara ni.
CHM	**Jadi, kamu ada mengalami masalah mengawal emosi? Ada mengalami masalah?**
RIZAL	**Ya.**
CHM	Ada biasa pergi jumpa doktor untuk rawatan?
RIZAL	Pada permulaan, saya hanya bertahan. Saya hanya... untuk makluman Dato' Seri, saya tidur hanya dalam tiga, dua jam sehari. Sebab, macam saya katakan, saya berusaha sedaya upaya untuk membantu Penjara Taiping. Penjara Taiping dah terlalu teruk. Banduan menguasai anggota dengan cara-cara provokasi. Saya –
CHM	**Jadi, pendeknya kamu tidak pergi berjumpa doktor untuk mendapatkan rawatan?**
RIZAL	Masa itu, **saya belum lagi. Saya cuma hanya makan ubat Piriton saja untuk paksa saya tidur.**
PM2	That's antihistamine.
CHM	Hmm?
PM2	That's antihistamine for flu.
RIZAL	Ubat Piriton ni dia ada –
PM2	[12:10:48PM inaudible] efek untuk tidur.
RIZAL	Efek untuk tidur yang kuat. **Saya makan tiga biji untuk tidur.** Itu lah saya lakukan. Saya tak dapat nasihat daripada kawan-kawan macam mana cara nak mengubati depression apa semua ni.
CHM	Ok. Ya.
SK	**Bermaksud Tuan, pada masa itu Tuan tengah mengalami depression?**
RIZAL	**Ya, saya.**
SK	**Kemurungan? Dan Tuan pada masa tu belum dapatkan rawatan secara –**

Name	NOP of Ahmad Rizal Bin Razali (IW27) dated 24.07.2025 at pages 113 - 115
RIZAL	**Belum ada.**
SK	**Belum mendapatkan rawatan lagi?**
RIZAL	**Belum lagi.**

27. Another prison officer seen beating and abusing prison inmates seemingly "for sport" was identified as Saiful Azman Bin Mohamad Ibrahim (IW26). As seen in **Exhibit 24B** and **Exhibit 24C** he was seen striking inmates on sight even while they were being escorted out of *Dewan B*. When questioned by the Chairman about his violent behaviour, he hesitated but ultimately admitted that he had gone overboard with his behaviour and had no justification for his actions. He also admitted to beating an inmate who was helpless and seated. Interestingly, when asked to identify a colleague who had also been beating and abusing inmates, he suddenly asserted that he wished to write the name of his colleague down instead of stating it aloud. This request was denied by the panel members, and he was ordered to state his name. He then identified Ahmad Rizal Bin Razali (IW27), who was scheduled to testify immediately after him that day.

*[Please refer to **Exhibit 24B**, the CCTV Footage inside Dewan B];*

*[Please refer to **Exhibit 24C**, CCTV footage outside Block B]; and*

[Please refer to the NOP at page 18 - 20, IW26's witness testimony dated 24.07.2025]

28. Moreover, it has become evident that a lot of these prison officers such as Ahmad Rizal bin Razali (IW27) have multiple unresolved and underlying mental health issues which needs to be addressed. The incident on 17.01.2025 merely served as a trigger for these men to unleash their pent-up frustrations and anger, to the extent that someone had died. The family counsel submits that prison officers such as Ahmad Rizal bin Razali (IW27), Saiful Azman Bin Mohamad Ibrahim (IW26), Muhamad Mustakhim bin Abdul Rahim (IW25) and many others in Taiping Prison directly involved in the incident on 17.01.2025 should not be given any position of authority and power to safeguard the wellbeing of individuals in prison. The family counsel further submits that these prison officers have failed their duties and strict

disciplinary and legal action should be taken against these men for their violation of human rights. These men should not be continuing their duties working with the Malaysian Prisons Department. It is further submitted that should an individual wish to work as an officer at a Prison anywhere in Malaysia, strict pre-assessments both mental and physical should be conducted as well as multiple realistic roleplays such as riots, fights and protests should be done to evaluate potential candidates. It is also recommended that mandatory training be done for prison officers and staff multiple times per year to maintain a proper standard.

Failure to Comply with Rules and Standard Operating Procedures

29. With that being said, while many of the Taiping Prison officers were diligent in citing specific standing orders to their advantage, they still neglected their duties in other aspects, such as maintaining thorough written records in their pocket diaries as required under the Prison Standing Order governing pocket diaries, specifically with regards to noting down any incidents in prison (**Exhibit 59, page 2, point 3.2.3**). Teuku Mohd Hasbi bin Tarmizi (IW21) in his witness testimony on 09.07.2025 had challenged the inquiry referring to the Commissioner General's Prison Standing Order No. 118, which requires prior written approval from the Officer-in-Charge to view prison department documents. However, he then tells the inquiry that he had "forgotten" to bring his pocket diary and was unable to answer the inquiry what his intentions were when citing the standing order.

*[Please refer to **Exhibit 59**, Prison standing order governing pocket diaries dated 17.10.1995];*

[Please refer to the NOP at page 38 - 41, IW21's witness testimony dated 09.07.2025];

30. Further, prison officers such as Khairul Esmail bin Mohd Zawawi (IW23) had testified that officers would only write brief notes in their diaries (**Exhibit 45**), or as Saiful Azman bin Mohamad Ibrahim (IW26) admitted, not write in them at all **(Exhibit 47**), or as IW29 admitted, log them into their diary days later (**Exhibit 55**).

[Please refer to the NOP at pages 74 - 75, IW23's witness testimony dated 10.07.2025];

[Please refer to the NOP at page 31, IW26's witness testimony dated 24.07.2025];

[Please refer to the NOP at pages 202 - 203, IW29's witness testimony dated 25.07.2025];

*[Please refer to **Exhibit 45**, IW23's pocket diary];*

*[Please refer to **Exhibit 47**, IW26's pocket diary]; and*

*[Please refer to **Exhibit 55**, IW29's pocket diary]*

Use of "minimal force"

31. When asked about the level of force used to hit the inmates, the prison officers' reply were simple, as long as the inmates did not die, it was considered by the prison staff to be "minimal force". Shockingly, even the prison doctor, Dr Navin Esavik a/l Vikrama (IW39), held the same view, testifying that "minimal force" meant that no fatal injury was caused toward the inmate causing his death.

[Please refer to the NOP at pages 160 - 161, IW39's witness testimony dated 19.08.2025]

Name	**NOP of Navin Esavik a/l Vikrama (IW39) dated 20.08.2025 at pages 160 - 161**
CHM	There are inmates, they're currently bleeding on their head. **And still, in your opinion, they were beating in minimum force, not so hard?**
NAVIN	**Not to cause death, Sir, fatal injury.**
SA	So, is it still ok if it's not causing death, Dr?
NAVIN	I mean, beating anyone on the head is not ok, Sir.
CHM	Again? Can you say it loudly?
NAVIN	Beating anyone on the head is wrong.
CHM	Is wrong?
NAVIN	Yes, Sir.

32. Shockingly, Mohd Hairie Jumri (IW29) had testified during the inquiry that the use of minimum force was through a so-called subjective scale of 1 to 10 and stated that minimum force was to an extent to if the inmate were still alive.

[Please refer to the NOP at pages 186 - 187, IW39's witness testimony dated 19.08.2025]

Name	NOP of Mohd Hairie Jumri (IW29) dated 25.07.2025 at pages 186 - 187
AK	Came from inside? Ok. Ok. Tuan, bila kamu melihat video ini, kamu dah beberapa kali mengatakan bahawa kamu menggunakan kekerasan minima. **Tetapi bila kita melihat aksi-aksi kamu, kamu seakan memukul bertubi-tubi ke atas banduan, adakah itu boleh dikatakan kekerasan minima?**
HAIRIE	**Kekerasan minima ini, yang itu subjektif. Sebab –**
AK	Ok. Tolong terangkan apakah subjektifnya?
HAIRIE	Ok. Dia… **boleh ke kita ukur kekerasan minima macam mana, 1 hingga 10? Macam mana Tuan nak meletakkan 1 hingga 10 kekerasan minima? Kekerasan maksimum macam mana?**
HAIRIE	Jadi, kalau kata saya pukul –
AK	Kita lihat –
HAIRIE	**Dia masih hidup lagi –**

33. Moreover, during Shafril Azmir bin Mohd Shafie's (IW20) witness testimony on 08.07.2025, he had agreed that the actions committed by his colleagues did not follow the prison standard operating procedures (SOP) and that they were inappropriate. However, despite agreeing, IW20 had failed to intervene or stop his junior officers and instead chose to turn a blind eye to the situation unfolding and participated in assaulting some of the prison inmates.

    [Please refer to the NOP at pages 166 - 172, IW20's witness testimony dated 08.07.2025]

34. In the High Court (KL) case of **SELVI A/P NARAYAN & ANOR (JOINT ADMINISTRATOR FOR THE ESTATE AND DEPENDANT OF CHANDRAN A/L PERUMAL, DECEASED) V KOPERAL ZAINAL BIN MOHD ALI & ORS, [2017] 9 MLJ 300**, it was held as follows :

[125] The following passage in Halsbury's Laws of England para 1140 is also relevant on the topic of duty of care of prison or detaining authorities. It reads as follows:

> ***1140. Duty of care. The duty on those responsible for one of Her Majesty's prisons is to take reasonable care for the safety of those who are within, including the prisoners.*** *Actions will lie, for example, where a prisoner sustains injury at the hands of another prisoner in consequence of the negligent supervision of the prison authorities, with greater care and supervision, to the extent that is reasonable and practicable, being required of a prisoner known to be potentially at greater risk than other prisoners, or if negligently put to work in conditions damaging to health; or if inadequately instructed in the use of machinery; or if injured as a result of defective premises.*

[128] In my view, both under common law and under statute, there is a duty of care to ensure that the detainee is not harmed by the police or by other detainees or that they do not harm themselves. In so far as the common law is concerned, the principle is well established by the cases referred to above and it is trite that detaining authorities do owe a duty of care to ensure that the detainees/prisoners are healthy and are given proper medical care during the period of incarceration. ***There is also a duty to ensure that the detainees are not harmed by the detaining authorities*** *or by other inmates or even self-harm or suicide. In this regard, it is relevant to refer to the judgment of Lord Bingham of Cornhill in R (on the application of Amin) v Secretary of State for the Home Department [2003] 4 All ER 1264; [2003] UKHL 51; [2004] 1 AC 653; [2003] 3 WLR 1169; (2004) 76 BMLR 143; 15 BHRC 362; [2004] HRLR 3; [2004] UKHRR 75 which lucidly illustrates the general duty of care that is imposed on the police or prison authorities. In this context, it is necessary to acknowledge that the late Lord Bingham has been one of the greatest proponents of the rule of law in recent times. He drew inspiration from Indian jurisprudence and said:*

> *A profound respect for the sanctity of human life underpins the common law as it underpins the jurisprudence under articles 1 and 2 of the Convention.* ***This means that a state must not unlawfully take life and must take appropriate legislative and administrative steps to protect it.*** *But the duty does not stop there.* ***The state owes a particular duty to those involuntarily in its custody.*** *As*

Anand J succinctly put it in Nilabati Behera v State of Orissa (1993) 2 SCC 746 at 767:

There is a great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life.

*Such persons must be protected against violence or abuse at the hands of state agents**.** They must be protected against self-harm: Reeves v Commissioner of Police of the Metropolis [2000] 1 AC 360. Reasonable care must be taken to safeguard their lives and persons against the risk of avoidable harm.*

35. Then in the recent High Court (Ipoh) case of **MUNIAMAH RAMAN v. MOHD SABRI LADISMA & ORS [2025] MLRHU 2176**, the learned Judge held as follows :

[15] Similarly, in New South Wales v. Bujdoso [2005] HCA 76, the court recognised that:

"A prison authority is under no greater duty than to take reasonable care, but the content of that duty in relation to a prison is obviously different... the authority is charged with the custody and care of persons involuntarily held."

...

[24]... Referring to R (Amin) v. Secretary of State for the Home Department [2003] UKHL 51, the learned judge endorsed Lord Bingham's pronouncement:

"The state owes a particular duty to those involuntarily in its custody. As Anand J succinctly put it in Nilabati Behera v. State of Orissa [1993] 2 SCC 746 at 767:

There is a great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life.

Such persons must be protected against violence or abuse at the hands of state agents. They must be protected against self-harm: Reeves v. Commissioner of Police of the Metropolis [2000] 1 AC 360. Reasonable care must be taken to safeguard their lives and persons against the risk of avoidable harm

...

[51] The Plaintiff correctly referred to this duty, further supported by Suzana Md Aris v. DSP Ishak Hussain (supra) and Selvi Narayan &Anor v. Koperal Zainal Mohd Ali &Ors (supra) which affirms that prison authorities must take reasonable care for the safety of those who are within and that actions will lie when and where a prisoner sustains injury as a result of the negligence of prison staff".

[52] Here, it is undisputed that the deceased was under the custody of the defendants throughout. Therefore, the defendants undeniably owed a legal duty of care to ensure his health and safety during detention.

36. In light of the facts explained above and the evidence produced before this inquiry, the family counsel submits that the prison officers have failed their duties and abused their position of power by assaulting the prison inmates. As seen in the case laws cited above, the law imposes a clear obligation on prison authorities to take reasonable measures to ensure the safety, health, and welfare of inmates, and to protect them from harm whether by officers, other inmates, or any other form of violence. The incident on 17.01.2025 reflects a complete disregard for this duty. These prison officers, who were responsible for maintaining safety and order, instead participated in a collective act of violence against inmates who were entirely under their control. Each inmate was subjected to unnecessary and excessive force inside *Dewan B*, while they were escorted out of *Dewan B*, inside and outside Block B, and even at the *Dataran Kedamaian*, reflecting a deliberate abuse of power and authority and wilful neglect of the standards expected of custodial officers.

37. The family counsel further submits that such conduct represents a serious breach of prison obligations and duties to ensure humane and lawful treatment of those in custody. The actions of the officers on 17.01.2025 cannot be justified as discipline and/or restraint but constitute an unwarranted and unlawful assault. Such failure to uphold the duty of care in

these circumstances resulted in the loss of a life that the prison authorities was bound to protect.

38. Moreover, the family counsel also submits that the prison officers themselves have breached the very standing orders they had sought to rely upon, through their use of batons and pepper sprays (**Exhibit 58**), and by failing to maintain proper records in their pocket diaries (**Exhibit 59**). Their actions not only amount to a breach of procedure but also to an abuse of power and a wilful neglect of their duties as officers entrusted with the care and safety of inmates.

*[Please refer to **Exhibit 58**, Standing Order Memo on Pepper Spray & Cota]; and*

*[Please refer to **Exhibit 59**, Perintah Tetap Ketua Pengarah Penjara Bil. 104 on Pocket Diary]*

Negligence of prison officers in responding to Mr Gan's condition

39. Two key witnesses gave their testimonies on 25.06.2025, Adam Fong bin Abdullah (IW17) and Hew Wei Leong (IW18). These two men had carried Mr Gan on a stretcher from Block E all the way to the main entrance of Taiping prison (**Exhibit 1**) and were briefly with him in his last moments before he was brought to Taiping Hospital. During IW17's witness testimony, he had explained that whilst he was made to duck-walk from Block E from Block B, he had seen that Mr Gan was also made to duck-walk and noted that he had looked rather weak.

[Please refer to the NOP at pages 232 - 233, IW17's witness testimony dated 25.06.2025]

40. Inside Block E, shortly after IW17 was ordered to enter into his cell, he was called back out by a prison officer and ordered to be a worker ("*orang kerja dalam blok*"). At the hallway, he saw Mr Gan in a severely weakened state, sitting on the floor and leaning against the wall, struggling to breathe. IW17 expressed his concern to one of the staff officers on duty at the time, Sergeant Saiful (IW26), but was merely instructed to assist by fanning him. Shortly after, it was observed that Mr Gan had tried to stagger into to his cell, leaning against the walls, but he did not make it very far collapsing again into the nearest cell which was used for Muslim prayers. Mr Gan was ordered to exit that cell and shortly

after he had collapsed onto the floor again. This entire scene was captured on CCTV as seen in **Exhibit 24E**.

*[Please refer to **Exhibit 24E**, CCTV footage inside Block E]; and*

[Please refer to the NOP at pages 242 - 248, IW17's witness testimony dated 25.06.2025]

41. Some 20 or so minutes later when Mr Gan's condition was rapidly deteriorating, IW17 was then ordered by another prison officer by the rank of Sergeant along with IW18 to carry Mr Gan out to the main gate of Taiping Prison. IW17 had testified that there were no stretchers in Block E and that they had to borrow a stretcher from Block D. IW17 and IW18 then carried Mr Gan to the prison's main gate and throughout this, they were only escorted by a prison officer who casually strolled not far behind. No medical staff was seen during the entire transit from Block E to the main gate. This scene was also captured in **Exhibit 24C**. When they had reached the holding area near the prison's main gate, IW17 explained that Mr Gan had told him that he was beaten and when asked where he pointed to his ribs area on the right side. He told IW18 that he was in pain.

[Please refer to the NOP at pages 282 - 283, IW17's witness testimony dated 25.06.2025]

*[Please refer to **Exhibit 24C**, CCTV footage outside Block B]*

[Please refer to the NOP at page 301s - 302, IW17's witness testimony dated 25.06.2025]

42. However, what is most concerning is the conduct and attitude of the prison officers present in Block E during Mr Gan's apparent struggle which warrants serious concern. During the witness testimony of Sergeant Zaiful Mashadi bin Zainal Abidin (IW33) on 07.08.2025, he was identified as one of the officers stationed on duty in Block E following the incident in *Dewan* B. He admitted to the inquiry that he had neither given any instruction to secure immediate medical assistance for Mr Gan nor did he make any attempt to approach Mr Gan to assess his condition. Shockingly, IW33 had even agreed with the SUHAKAM officer that he, along with all the other officers in Block E did not care about Mr Gan, nor did they care about his deteriorating condition at the time.

*[Please refer to **Exhibit 24E**, CCTV footage inside Block E]; and*

[Please refer to the NOP at pages 44 - 48, IW33's witness testimony dated 07.08.2025]

Name	NOP of Zaiful Mashadi bin Zainal Abidin (IW33) dated 07.08.2025 at pages 44 - 48
CHM	**Kalau dalam keadaan ini, kita tengok ramai anggota UKP dalam Blok E ini kan? Ramai, ya? Kalau kamu nak, sebagai seorang Sarjan, kamu boleh mengarahkan dua orang anggota UKP untuk membawa Mr Gan dengan segera ke klinik. Setuju tak?**
ZAIFUL	**Ya.**
CHM	**Ok. Tapi kamu tak lakukan, ya?**
ZAIFUL	**Ya.**
SAA	Mengapa kamu tak berbuat demikian memandangkan kamu seorang Sarjan dan mengetuai operasi ini, kan kamu boleh mengarahkan bila-bila saja dua orang anggota untuk membawa Mr Gan ke klinik untuk mendapatkan rawatan doktor?
ZAIFUL	Saya cuba mencari tahanan lain yang ada mendapat cedera dan boleh pergi bersama dengan Uncle Gan.
CHM	Mengapa? Sila ulangi jawapan.
ZAIFUL	Semasa saya masukkan orang ke dalam sel, saya cuba cari selain daripada Uncle Gan untuk bawa sekali pergi rawat
CHM	Apa yang kamu sedang mencari?
ZAIFUL	Di dalam sel Blok E, ada satu orang tahanan India, saya mengarahkan dia pergi buat rawatan juga. Dan dia… baru Uncle Gan pergi. Maksudnya, saya mengarahkan satu orang India tahanan pergi buat rawatan, kemudian Uncle Gan menyusul ikut dia.
CHM	**Tapi mengikutkan keadaan Mr Gan yang nampak macam dalam keadaan tenat dan tak bermaya, bukankah keutamaan patut diberikan kepada Mr Gan?**
ZAIFUL	**Betul.**

Name	NOP of Zaiful Mashadi bin Zainal Abidin (IW33) dated 07.08.2025 at pages 44 - 48
CHM	**Dan kalau kamu mahu pada hari itu, kamu boleh mengarahkan dua orang pegawai anggota UKP untuk segera membawa Mr Gan ke klinik?**
ZAIFUL	**Ya.**
…	
CHM	Bila kamu mengimbas sekali tentang kejadian itu dan tindakan kamu yang berkurangan pada petang itu kan tindakan kamu tak mengambil serius, adakah kamu pada sekarang ini bila tengok tayangan ini berasa menyesal dan kamu tak ambil tindakan yang lebih tegas dan segera pada petang itu?
ZAIFUL	Ya.
CHM	Ok.
SAA	Setuju kalau saya katakan **semua anggota termasuk Tuan yang berada di dalam Blok E pada ketika itu <u>tidak langsung ambil peduli dengan keadaan En Gan, tak kisah pun dengan keadaan En Gan pada Ketika itu?</u>**
ZAIFUL	**Ya.**

43. During the witness testimony of Sergeant Mohd Azhari bin Edris (IW34) on 07.08.2025, he was also identified as being one of the prison officers stationed in Block E following the incident in Dewan B. When shown the CCTV footage from inside Block E and questioned as to why he was seen walking past Mr Gan several times without offering assistance, he explained that he was conducting inspections of the other cells. Furthermore, as seen in Exhibit 24E, IW34 was seated at a table with three other prison officers, all holding the rank of Sergeant, approximately seven to eight feet from where Mr Gan was lying. The CCTV footage also showed the officers conversing casually amongst themselves and with several inmates, while Mr Gan remained unattended nearby.

*[Please refer to **Exhibit 24E**, CCTV footage inside Block E]; and*

[Please refer to the NOP at pages 105 - 106 and 135, IW34's witness testimony dated 07.08.2025]

44. During the witness testimony on 02.09.2025 of Dr Tan Lii Jye (IW41), the forensic pathologist from Hospital Raja Permaisuri Bainun, Ipoh who had carried out Mr Gan's post-mortem examination, it was revealed that Mr Gan had sustained fatal injuries to his internal organs which were caused by, among others, broken ribs and tearing to his liver which caused him to internally bleed losing 1.4 litres of blood. IW41 then stated that Mr Gan lost 37% of his blood inside his abdominal region. IW41 further explained that his broken ribs were not the main factor in penetrating and tearing his liver, and that it was the sheer external force i.e. blunt force trauma which caused his liver to tear (**Exhibit 80** and **Exhibit 81**). His direct cause of death was officially cited as "abdominal injury due to blunt force trauma" (**Exhibit 79**).

*[Please refer to **Exhibit 80** and **Exhibit 81**, Gan Chin Eng's post-mortem photos dated 19.01.2025 conducted at the Forensic Department of Hospital Raja Permaisuri Bainun];*

*[Please refer to **Exhibit 79**, Gan Chin Eng's post-mortem report from the Forensic Department of Hospital Raja Permaisuri Bainun dated 19.01.2025];*

[Please refer to the NOP at pages 23 and 38, IW41's witness testimony dated 02.09.2025];

[Please refer to the NOP at page 51, IW41's witness testimony dated 02.09.2025]

45. In the Federal Court case of **KOPERAL ZAINAL BIN MOHD ALI & ORS v SELVI A/P NARAYAN (JOINT ADMINISTRATOR AND DEPENDANT OF CHANDRAN A/L PERUMAL, DECEASED) & ANOR**, Nallini Pathmanathan FCJ held as follows :

> *[1] Custodial deaths are one of the most reprehensible of wrongs in a civilized society governed by the rule of law. All the more so, when those conferred with the responsibility of protection and care on behalf of the State, like the Appellants here, are themselves the perpetrators of inhumane acts and omissions of neglect or violence, resulting in the detainee's death.*
>
> *[2] The sanctity of human life is the most cherished value of an evolved society. Accordingly, most legal systems identify, acknowledge and protect the right to life as the most basic of human rights. Malaysia is no exception. Such protection takes its form*

in Art 5(1) of Part II of the Federal Constitution ('FC'). It provides that no one shall be deprived of his life or personal liberty save in accordance with law.

[3] ***This precious right of life is available to all and cannot be denied to persons in custody, prisoners or persons awaiting trial.*** *On the contrary,* ***there is a great responsibility on the police and prison authorities to ensure that citizens held in custody are not deprived of this fundamental right, save for such restrictions as are permitted by law.*** *Unfortunately, Chandran a/l Perumal was deprived of his fundamental right to life while being held in custody.*

48. Then in the (**MY) Lock-Up Rules 1953** :

STAFF 34. Officer in Charge

34 (2) *The Officer in Charge shall maintain or cause to be maintained a Journal (in these Rules referred to as "the Journal") in which shall be recorded all matters and occurrences of importance, including the number of prisoners in custody after each meal, and these entries shall be dated and signed daily.*

36. Notification of illness, injury or mental disorder

A police officer shall without delay report to the Officer in Charge or Deputy Officer in Charge any case of apparent illness, injury or mental disorder of any prisoner, which the Officer in Charge or Deputy Officer in Charge shall then report to the Medical Officer.

46. Furthermore, in the Court of Appeal case of **RAHAYA SALLEH v. NIK MOHD GHAZALI NIK ZUL AZHAR & ORS AND ANOTHER APPEAL [2022] 5 MLRA [TAB D]**, it was held as follows :

[48] ...There is a duty on the part of the detaining authority to ensure that the detained person be given decent meals and medicines and be given medical treatment by competent medical personnel and medical aid at the earliest opportunity when required...

...

The fact that a person is being detained either in prison (serving a sentence) or in lock up (pursuant to a remand order) does not and cannot be construed as giving the detaining authority to trifle with the said persons due and constitutional right to life, in particular, of the right to be treated with dignity.

...

We must say in no uncertain terms that ***brutality is not acceptable and has no part in any criminal investigation and death in custody is an anathema or antithetical to humanity. There is a general duty on the part of the detaining authority to protect and ensure that no violence or abuse is visited upon by the detained person by anyone including the detaining authority itself, as the gaoler is not to be oppressor for that I the story of the pagans and not the accomplished story of humanity.***

47. In the High Court (KL) case of **JANAGI NADARAJAH & ANOR v. SJN RAZALI BUDIN & ORS [2021] MLRHU 1557**, it was held as follows :

[15] The duty of care owed to detainees stems from the fact that they have been deprived of their liberty and taken into custody by the authorities. This includes a duty take reasonable care for the safety of the person in custody be it through negligence of police officers, through acts of other detainees or even in situations where the persons in custody harm themselves. Halsbury's Laws of England Vol 37 (4th Ed) reads:

> *"The duty on those responsible for one of Her Majesty's prisons is to take reasonable care for the safety of those who are within, including the prisoners. Actions will lie, for example, where a prisoner sustains injury as a result of the negligence of prison staff; or at the hands of another prisoner in consequence of the negligent supervision of the prison authorities, with greater care and supervision, to the extent that is reasonable and practicable, being required of a prisoner known to be potentially at greater risk than other prisoners; or if negligently put to work in conditions damaging to health; or if inadequately instructed in the use of machinery; or if injured as a result of defective premises."*

...

[128] ... ***<u>There is also a duty to ensure that the detainees are not harmed by the detaining authorities</u>*** *...*

> *A profound respect for the sanctity of human life underpins the common law as it underpins the jurisprudence under arts 1 and 2 of the Convention. This means that a state must not unlawfully take life and must take appropriate legislative and administrative steps to protect it. But the duty does not stop there. The state owes a particular duty to those involuntarily in its custody. As Anand J succinctly put it in Nilabati Behera v. State of Orissa [1993] 2 SCC 746 at 767:*
>
> > ***<u>There is a great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life.</u>***

48. In a different jurisdiction, guidance can also be drawn from the European Convention on Human Rights ('ECHR'). Under **Article 3 of the ECHR** :

> ***ARTICLE 3***
> ***Prohibition of torture***
> ***No one shall be subjected to torture or to inhuman or degrading treatment or punishment.***

49. In the European Court of Human Right's case of **BOUYID v. BELGIUM GOVERNMENT (Application no. 23380/09),** the Grand Chamber held as follows :

> *78. ... Furthermore, the Court had specified that where the absence of such strict necessity had been established,* ***there was no need to assess the severity of the suffering caused in order to find a violation of Article 3*** *(it referred to Keenan v. the United Kingdom, no. 27229/95, § 113, ECHR 2001 III);* ***where such necessity had been established, all the decisive factors were taken into account, including the duration of the treatment, its physical and/or mental effects and, in some cases, the sex, age and state of health of the victim, as well as his or her particular vulnerability; and detained persons were vulnerable because they were under the absolute control of the police or prison staff.***

50. The family counsel submits that the prison officers' conduct in Block E represents a complete failure to uphold their fundamental duty of care towards Mr Gan. As officers entrusted with the safety and welfare of persons in custody, they were under an obligation to ensure that those under their care were treated with dignity and given timely medical attention when required. The evidence before this inquiry, particularly the testimonies of Adam Fong bin Abdullah (IW17) and Hew Wei Leong (IW18), as well as the corresponding CCTV footages, clearly show that Mr Gan was showing all signs of serious distress and was rapidly declining in condition. Despite these unmistakable signs of someone actively dying, the prison officers took no immediate action to seek medical help. Instead, they merely instructed another prison inmate to fan him, displaying a shocking level of indifference to his condition.

51. The family counsel also submits that such inaction cannot be characterised as a mere lapse in judgment but rather a pure disregard for someone's life. Persons in custody are entirely dependent on the authorities for their safety and medical needs, and the prison officers' failure to act with urgency stripped Mr Gan of that protection. By ignoring the obvious signs of Mr Gan's deteriorating health, the officers had breached this duty and allowed preventable suffering to occur. Had they acted sooner Mr Gan could have been saved. Their conduct reflects a culture of neglect incompatible with the principles of humane treatment and the basic respect for someone's life.

Failure to meet basic medical standards

52. Throughout this inquiry, prison inmates such as IW7, IW9, IW11, and IW12 testified that they had sustained various injuries inflicted by the prison officers. Notably, during IW11's witness testimony on 26.06.2025, he testified that he was directly pepper sprayed in his eyes which caused him to sustain partial blindness in his left eye. Since the incident on 17.01.2025 he was only given subpar medical treatment on 28.02.2025 (**Exhibit 23**), some 1 month and 11 days after he sustained his injuries. He subsequently underwent surgery for his left eye on 28.04.2025. Moreover, he had testified that after his surgery, there were times that the medical assistants at Taiping Prison would not give him his prescribed medication, nor did any of the prison medical staff conduct any follow-ups during his recovery process. Shockingly, it was revealed at the inquiry that IW11 sustained two broken ribs as a result of being kicked by IW25, which was not known to him at the time, or the SUHAKAM

officers during their initial investigations, until after he was referred externally to the hospital clinic on 10.02.2025 (**Exhibit 74**).

*[Please refer to **Exhibit 23**, IW11's referral letter to the government clinic dated 28.02.2025];*

*[Please refer to **Exhibit 74**, IW11's referral letter to the hospital clinic dated 10.02.2025];*

[Please refer to the NOP at pages 21, 27, IW11's witness testimony dated 26.06.2025]; and

[Please refer to the NOP at pages 16 - 18, IW11's witness testimony dated 26.06.2025]

53. During the witness testimony of IW7 on 12.06.2025, he explained that he sustained injuries to his arms, body, and head (**Exhibit 7A - D**). He also testified that he had not gone to the prison clinic to receive immediate medical treatment, and that his wounds were ultimately cleaned by his cell mate, not by any of the prison medical staff or doctor.

*[Please refer to **Exhibit 7A – D**, Pictures of Santosh Raj A/L Durairaju's (IW7) injuries]; and*

[Please refer to the NOP at page 32, IW7's witness testimony dated 12.06.2025]

54. Moreover, IW9 in his witness testimony dated 12.06.2025 had explained that he sustained a broken little finger while attempting to protect his head when one *Cikgu* Fazrul (who was not called as a witness during this inquiry) used a wooden chair leg to beat him. As a result, he further testified that a metal rod had to be inserted into his little finger to correct its posture. Moreover, he testified that he was also made to *"jalan itik"* (duck-walk) along with the other prison inmates and was further beaten in the process by one *Cikgu* Afdal (who was not called as a witness during this inquiry). IW9 explained that he received external treatment on the same day of the incident on 17.01.2025. However, when questioned by the prison doctor (IW39) as to how he had sustained his injuries, IW9 was allegedly threatened to tell the hospital that he had fallen down a flight of stairs instead.

*[Please refer to **Exhibit 13A - D**, photos of IW9's injuries];s*

[Please refer to the NOP at pages 238 - 240 , IW9's witness testimony dated 12.06.2025]; and

[Please refer to the NOP at pages 242 - 243, and 247 – 248, IW9's witness testimony dated 12.06.2025]

Failure to carry out duties as a doctor

55. On 19.08.2025 and 20.08.2025, the inquiry heard the testimony of Dr. Navin Esavik a/l Vikrama (IW39), the prison doctor at Taiping Prison. He was responsible for ensuring that injured inmates received appropriate medical treatment. Notably, during his testimony, reference was made to **Exhibit 25B**, where it was observed that IW39 had recorded in the medical card that IW12 "was pulled by to corner," with the word "by" in that sentence struck out. When questioned about this alteration, IW39 was unable to provide any satisfactory explanation.

*[Please refer to **Exhibit 25B**, IW12's medical card dated 05.02.2025]*

Name	NOP of Navin Esavik a/l Vikrama (IW39) dated 20.08.2025 at pages 81 - 83
CHM	The question is, did he say that he was uncooperative? Or where do we get those words, uncooperative?
NAVIN	Usually, he told me he was uncooperative. That's why he got dragged lah. And a warden apparently dragged him. That's what he said.
SA	Did he say why he is uncooperative to you?
NAVIN	No.
SA	Meaning to say that this information is from the inmate itself, not from other people or other officer?
NAVIN	No.
SA	Doctor, why is the information necessary for you to write down in this card?
NAVIN	To tally what really happened lah Sir, to know the events, when it happened, why it happened. Usually if the inmate says that he was… claimed that he was beaten or anything like that, I will write it down lah. Injured by warden or something, I will probably write it down lah. I never ask them to lie or anything like this lah.
CHM	You wrote there, was pulled? Was pulled to?
NAVIN	The corner. Side corner.

Name	NOP of Navin Esavik a/l Vikrama (IW39) dated 20.08.2025 at pages 81 - 83
CHM	Corner?
NAVIN	Dragged to a corner.
CHM	And you wanted to use the word by, by then suddenly you delete it. What made you decide to delete the word by?
NAVIN	I didn't... I just... I didn't.
CHM	Did he say that he was pulled by warden? By officers? Did he say that to you? Because you wrote the word by then, then you decide to delete it?
NAVIN	Pulled to the corner by… is this the right thing Sir? I just pull –
CHM	Why you decide to delete the word by?
NAVIN	No, I didn't put... I didn't want to mention… it's not that by the warden, I just pulled to the corner, maybe it's the word I didn't want to mention. I mean, what I'm trying to say is that.
CHM	What is it that you don't want to mention?
NAVIN	No Sir, like what I'm saying is that inmate was pulled and dragged lah. That's what I'm saying.
CHM	To corner?
NAVIN	Around corner, yes. I didn't… I just.
SA	**Do you think it is important for you to write down who pulled this inmate to the corner?**
NAVIN	**Yes, yes. I should have.**
CHM	**You should have? Mentioned?**
NAVIN	**I should have.**
CHM	**Mention.**
NAVIN	**Mention… the inmate was allegedly pulled by this warden.**

56. The family counsel also refers to the **United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),** particularly Rule 26:

> ***Health-care services***
>
> ***Rule 26***
>
> ***1. The health-care service shall prepare and maintain accurate, up-todate and confidential individual medical files on all prisoners****, and all prisoners should be granted access to their files upon request. A prisoner may appoint a third party to access his or her medical file…*

57. Moreover, when questioned about Mr Gan, IW39's explanations were alarming. He told the inquiry that despite knowing Mr Gan's oxygen levels were fluctuating and was at low levels reading at around 90, no CPR was administered, nor were any efforts made to provide the necessary respiratory assistance to him even though such equipment, such as the oxygen tank and Ambu bag, were readily available at the prison clinic. His only justification being that the medical equipment was heavy and difficult to wheel around on the medical trolley and was located some distance away from where Mr. Gan was located, and it would have been time consuming to retrieve the equipment.

[Please refer to the NOP at pages 83, IW39's witness testimony dated 20.08.2025]

58. He then testified and repeatedly emphasised that Mr Gan required urgent medical attention and asserted that the use of an Ambu bag or oxygen tank would have made little difference if Mr Gan had not been transported to the hospital without delay. When questioned as to whether he was implying that Mr Gan would have died regardless, IW39 refused to give a direct answer. When questioned as to whether IW39 conducted any form of physical examination on Mr Gan to assess his condition, IW39 stated that apart from checking his breathing and vital signs, he merely examined the lung area with a stethoscope. He did not conduct any further examination, explaining that Mr Gan was in pain and that he "didn't want to manipulate further", adding that his priority was to send Mr Gan out quickly for treatment at the hospital.

[Please refer to the NOP at pages 83 - 85, IW39's witness testimony dated 20.08.2025]

59. IW39 also admitted during his testimony that he had activated a "contingency plan." When questioned as to why such a plan was in place and his reason for doing so, IW39 explained that it was because he had "prepared for the worst". He further stated that he feared more inmates might be in critical condition and was concerned that some could die as a result of the assault.

[Please refer to the NOP at pages 73 - 74, IW39's witness testimony dated 20.08.2025]

60. When IW39 was questioned about the length of time Mr Gan was left waiting at the main prison gate before being transported to the prison van, he responded that it was

approximately 15 minutes. He emphasised that he was trying to get Mr Gan to the hospital as quickly as possible. However, the CCTV footage and deft questioning by the inquiry members revealed that Mr Gan had been left waiting for much longer, spanning approximately more than 30 minutes. The CCTV footage also revealed that IW39 had left Mr Gan alone to meet the then Taiping Prison director, Nazri bin Mohamad (IW1) in the prison cafeteria to supposedly brief him on the situation, leaving Mr Gan unattended.

[Please refer to the NOP at page 83, IW39's witness testimony dated 20.08.2025]

61. Through Khairol Azmeer bin Ibrahim's (IW35) witness testimony on 07.08.2025, when Mr Gan was eventually transported in the prison van to which IW35 and another officer, one Sergeant Anwar (who was not called as a witness during this inquiry) were escorting, IW35 alleged that the journey from Taiping prison to Taiping Hospital took 15 approximately minutes. Throughout his witness testimony, IW35 was unable to give a clear answer as to what Mr Gan's condition was like while in the prison van, apart from that his eyes were still "open". He then testified that by 7:00PM on 17.01.2025, one Dr Amir Mustaqim from Taiping Hospital had announced that Mr Gan had already passed away after efforts to resuscitate him had failed.

[Please refer to the NOP at pages 146 – 147 and 153, IW35's witness testimony dated 07.08.2025]

62. The delay to transport Mr Gan to Taiping Hospital contravenes Rule 27 in the **United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)** :

> ***Rule 27***
> ***1. All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals...***

63. In the recent High Court (Ipoh) case of **KARTIK PUROSOTHMEN v. MOHAMAD FERDAUS MOHAMAD ASRI & ORS [2025] MLRHU 647**, the High Court judge held as follows :

[31] The Plaintiff, being a prisoner under the care of the prison authorities, was owed a duty of care by the Defendants to provide reasonable and appropriate medical treatment. The duty to ensure the health and safety of prisoners, including access to adequate medical care, is well- established as highlighted in the recent Court of Appeal decision in Rahaya Salleh v. Nik Mohd Ghazali Nik Zul Azhar & Ors and Another Appeal [2022] 5 MLRA 280; [2022] 5 MLJ 337; [2022] 8 CLJ 591 where it was held as follows:

> *"[48] We must say at once that there is duty of care on the part of the detaining authority to ensure the welfare and well-being of the person under detention, in the physical as well as the mental aspects. That must, in our considered view,* ***include the duty to ensure that medical treatment or care is available and to be provided readily to the detained person in a given circumstances****. This would necessarily mean that* ***the detaining authority must be sensitive or not take an attitude of careless to the needs of the detained person.*** *Every cry of pain cannot be brushed aside as being a silly cry for attention. It could well be an actual cry of pain.* ***The fact that a person is being detained either in prison (serving a sentence) or in lock up (pursuant to a remand order) does not and cannot be construed as giving the detaining authority to trifle with the said persons due and constitutional right to life, in particular, of the right to be treated with dignity****. There is a duty on the part of the detaining authority to ensure that the detained person be given a decent meals and medicines and* ***be given medical treatment by competent medical personnel and medical aid at the earliest opportunity when required****. He must also not be denied of his medicines.* ***The other facet of duty of the detaining authority and its personnel is to ensure that no physical harm is inflicted upon the person detained. Such action of assault or battery cannot be legitimised under any name or guise.*** *Any such action, if committed will tantamount to the strangulation of the rule of law and an insult to the very essence of human dignity and the very office that the perpetrators occupy.* ***We must say in no uncertain terms that brutality is not acceptable and has no part in any criminal investigation and death in custody is an anathema or antithetical to humanity. There is a general duty on the part of the detaining authority to protect and ensure that no violence***

or abuse is visited upon by the detained person by any one including the detaining authority itself, as the gaoler is not to be oppressor for that is the story of the pagans and not the accomplished story of humanity."

64. Then in the Court of Appeal case of **RAHAYA SALLEH v. NIK MOHD GHAZALI NIK ZUL AZHAR & ORS AND ANOTHER APPEAL [2022] 5 MLRA**, it was held as follows :

*[48] ...**There is a duty on the part of the detaining authority to ensure that the detained person be given** decent meals and **medicines and be given medical treatment by competent medical personnel and medical aid at the earliest opportunity when required…***

...

The fact that a person is being detained either in prison (serving a sentence) or in lock up (pursuant to a remand order) does not and cannot be construed as giving the detaining authority to trifle with the said persons due and constitutional right to life, in particular, of the right to be treated with dignity.

...

We must say in no uncertain terms that brutality is not acceptable and has no part in any criminal investigation and death in custody is an anathema or antithetical to humanity. There is a general duty on the part of the detaining authority to protect and ensure that no violence or abuse is visited upon by the detained person by anyone including the detaining authority itself, as the gaoler is not to be oppressor for that I the story of the pagans and not the accomplished story of humanity.

65. The family counsel submits that the apparent failures by IW39 amount to a serious negligence of his duty as both a doctor and a prison staff member entrusted with the welfare of inmates. As the prison doctor, IW39 was expected to exercise sound medical judgment and ensure that Mr Gan, as well as all the other injured inmates, received timely and adequate treatment. Instead, his actions reflected a concerning lack of urgency and care. Despite observing that Mr Gan was in critical condition, IW39 limited his examination to less-than basic checks and failed to undertake any thorough assessment expected of a doctor to determine the extent of his internal injuries or trauma. His explanation that he refrained from further examination because Mr Gan was “in pain” reflects a plain disregard of his

duty to identify and alleviate that very pain and is an attempt to shift his responsibilities to another person. The family counsel also submits that the significant delay before transporting Mr Gan to the hospital, despite his critical condition, further underscores the failure to act promptly in circumstances demanding immediate medical intervention. These repeated failures displayed by IW39 demonstrate not just an error in judgment but a complete neglect of the duty to preserve life and uphold the basic standards of medical and humane treatment owed to those under prison custody. The family counsel finally submits on this issue that Dr Navin Esavik (IW39) has failed to uphold the Hippocratic Oath (**Exhibit 78**) in discharging his duties as a doctor and failed to honour the pledge not to violate human rights.

*[Please refer to **Exhibit 78**, (Declaration of Geneva Oath)]*

POOR MANAGEMENT FROM TAIPING PRISON

Lack of Responsibility and Accountability by the then-Director of Taiping Prison

66. The inquiry heard the witness testimonies of the prison officers in charge of Taiping Prison at the material time of the incident on 17.01.2025, namely, Nazri bin Mohamad (IW1), the then-director of Taiping Prison on 09.05.2025 and 11.05.2025, and Shahrul Izzat bin Hamid (IW37), the deputy director of Taiping Prison on 11.08.2025, 12.08.2025 and 21.08.2025.

67. IW1 maintained that at the time of the incident, he was away from Taiping Prison on business matters during the mass assault and alleged that none of his junior officers had reported the matter to him until his return, after the incident was over. Therefore, his justification was that he was not involved because he had no knowledge of this. Although IW1 conceded before the inquiry that the actions of his officers were excessive, the only measure taken on his part was a mere briefing ("*taklimat*") conducted three days after the incident on 17.01.2025.

[Please refer to the NOP at pages 33 and 35-38, IW1's witness testimony dated 11.06.2025]

68. Moreover, IW1 appeared to have shifted his responsibilities to his second-in-command, the deputy director of Taiping Prison, Shahrul Izzat bin Hamid (IW37), alleging that the final decision to transfer the prison inmates on 17.01.2025 to Block E was made by IW37, and

he had merely informed him that a transfer of inmates to Block E was being carried out. IW1 had also alleged that there were some discussions carried out in the prisons record office between the higher-ups to place them in *Dewan* B and subsequently transfer the inmates to Block E.

[Please refer to the NOP at pages 12 – 14 and 48, IW1's witness testimony dated 11.06.2025]

69. However, in Shahrul Izzat bin Hamid's (IW37) witness testimony, he testified that what was discussed instead was to place the prison inmates into Block E, not *Dewan B* or Block B, a decision which was collectively made by Nazri bin Mohamad (IW1) and Shafril Azmir bin Mohd Shafie (IW20).

Forged police reports

70. Moreover, during the witness testimony of Khairul Esmail bin Mohd Zawawi (IW23) on 10.07.2025, it was revealed by his own admission that the police report he had lodged on 17.01.2025 (**Exhibit 45**) contained false information regarding the incident on 17.01.2025. When questioned by the Chairman whether he was aware that lodging a false police report was an offence in law, he confirmed that he was aware. IW23 then explained that he was ordered by the deputy director Shahrul Izzat bin Hamid (IW37) to lodge the police report and stated that he had gotten input from IW37, Teuku Mohd Hasbi bin Tarmizi (IW21), Shafril Azmir bin Mohd Shafie (IW20) and Saiful Azman bin Mohamad Ibrahim (IW26).

*[Please refer to **Exhibit 45**, Khairul Esmail bin Mohd Zawawi's police report dated 17.01.2025 (Report no. TAIPING/000490/25)];*

[Please refer to the NOP at page 83, IW23's witness testimony dated 10.07.2025]; and

[Please refer to the NOP at pages 84 – 87 and 89, IW23's witness testimony dated 10.07.2025]

71. Then in Khairol Azmeer bin Ibrahim's (IW35) witness testimony on 07.08.2025, he had testified that he was ordered to lodge a police report (**Exhibit 60**) by one Puan Renuga (who was not called as a witness during this inquiry). He initially alleged he had gone to

Taiping District Police Headquarters alone but it was revealed later that he had in fact not gone alone because Khairul Esmail bin Mohd Zawawi (IW23) was there to lodge a police report (**Exhibit 45**) at around the same time IW35 did. IW35 eventually admitted that he had "bumped" into IW23 and several other senior prison officers such as Shafril Azmir bin Mohd Shafie (IW20) at Taiping District Police Headquarters.

*[Please refer to **Exhibit 60**, Khairol Azmeer Bin Ibrahim's police report dated 17.01.2025 (Report no. TAIPING/000489/25)];*

*[Please refer to **Exhibit 45**, Khairul Esmail bin Mohd Zawawi's police report dated 17.01.2025 (Report no. TAIPING/000490/25)]; and*

[Please refer to the NOP at pages 154, 233 - 235 IW35's witness testimony dated 07.08.2025

72. Dr. Navin Esavik a/l Vikrama (IW39) in his witness testimony on 20.08.2025 had also explained that the 2 computers used in the prison clinic were "low-end" computers and were of a "very old model", being the Intel Celeron model at approximately more than 8 years old. He also explained that he had requested for new computers but no one from the Prisons Department had gotten back to him and he had since been waiting for about 3 years since his last application. When subsequently asked about the challenges he faced working at the prison clinic he explained that he wanted new and updated computers and software to carry out his job.

[Please refer to the NOP at pages 13 - 15, IW39's witness testimony dated 19.08.2025]; and

[Please refer to the NOP at page 34, IW39's witness testimony dated 20.08.2025]

MATERIAL DISCREPANCIES IN PRISON STAFF EVIDENCE

Lies by the prison officers

73. It immediately became evident that as the inquiry progressed, the prison officers, particularly those who were called toward the later stages of the inquiry were deliberately

lying and/or refusing to answer questions under oath despite evidence showing otherwise. Even when the CCTV footage stood in direct contradiction to their personal accounts, these prison officers continued denying involvement or feigned ignorance despite numerous cautions and warnings from inquiry members, including the Chairman. The prison officers stood firm, even going so far as to denying their own identities when confronted with CCTV footages showing themselves outright beating, kicking and abusing the inmates. On one occasion during the inquiry on 10.07.2025, Raja Masrul Azam bin Raja Mansor (IW24), who was seen in **Exhibit 24B** holding a mobile telephone recording the incident inside and outside *Dewan B*, vehemently denied having done so despite CCTV footage clearly showing otherwise. IW24 had repeatedly and deliberately lied under testimony even after he was warned by the inquiry.

*[Please refer to **Exhibit 24B**, the CCTV Footage inside Dewan B]; and*

[Please refer to the NOP at pages 141 - 148, IW24's witness testimony dated 10.07.2025]

Name	**NOP of Raja Masrul Azam bin Raja Mansor (IW24) dated 10.07.2025 at pages 141 - 145**
ASH	Dewan B. Boleh Tuan sahkan pegawai yang memegang telefon itu adalah Tuan di hujung sana?
MASRUL	Betul.
ASH	Betul? Itu adalah Tuan?
MASRUL	Ya.
ASH	Jadi, Tuan memegang telefon itu, merakam atau mengambil gambar?
MASRUL	Ambil gambar.
ASH	Mengambil gambar?
MASRUL	Betul.
ASH	Next. 34513. Ini masih Tuan?
MASRUL	Ya, betul.
ASH	Betul, ya? Ok. So Tuan masih mengambil gambar ataupun merakam?
MASRUL	Saya tak pasti yang saya tekan apa masa itu. Tapi, yang pasti bukan mengambil video.

Name	NOP of Raja Masrul Azam bin Raja Mansor (IW24) dated 10.07.2025 at pages 141 - 145
ASH	**Bukan mengambil video?**
MASRUL	**Bukan.**
ASH	**Tapi, cara Tuan tu macam mengambil video.**
MASRUL	**Betul.**
ASH	Keadaan –
MASRUL	Faham.
ASH	34905. Ok, stop. Tuan, Tuan tengok.
MASRUL	Betul, betul.
ASH	Betul, ya?
MASRUL	Aah.
ASH	**Tuan merakam video.**
MASRUL	**Bukan merakam.**
ASH	**Bukan merakam video?**
MASRUL	**Bukan.**
ASH	Jadi, sekarang ni bila Tuan berada di dalam Dewan B, Tuan nampak semua yang berlaku, ya?
MASRUL	Yang ni yang dah tengah-tengah, kan?
ASH	Betul. Semasa proses mengeluarkan banduan.
MASRUL	A'ah, betul. Ini lah proses.
ASH	Jadi, Tuan nampak kekerasan digunakan ke atas tahanan?
MASRUL	Sekejap.
ASH	**Boleh saya cakapkan Tuan merekod kejadian tersebut?**
MASRUL	**Bukan saya merekod. Saya hanya mengambil gambar.**
ASH	**Mengambil gambar. Jadi, Tuan nampak apa yang berlaku di dalam Dewan B. Betul?**
MASRUL	**Betul.**
…	

Name	NOP of Raja Masrul Azam bin Raja Mansor (IW24) dated 10.07.2025 at pages 141 - 145
ASH	**Ok. Tuan juga telah memukul tahanan tersebut?**
MASRUL	**Saya tak pasti.**
ASH	Tak pasti? Kita rewind sekali lagi. Tuan memegang cota. Betul?
MASRUL	Ya, betul.
ASH	Sambil membawa handphone.
MASRUL	Betul.
ASH	**Tuan nampak Tuan telah memukul tahanan?**
MASRUL	**Saya tak pasti apa yang saya pukul, tapi saya rasa tak kena dia.**
ASH	Oh, tak kena. Ok, baik. 34634. Itu Tuan, betul kan?
MASRUL	Betul.
ASH	**Nampak? Tuan telah memukul tahanan tersebut. Betul?**
MASRUL	**Kena ke tak kena?**
ASH	**Tapi Tuan telah mengangkat cota untuk memukul dia. Betul?**
MASRUL	**Kejap.**
CHM	**Betul?**
MASRUL	**Tak kena.**
PM2	**Tak kena apa?**
MASRUL	**Tak kena cota.**
CHM	Tapi Tuan memang memukul, tak kena, tak kena tapi memukul kan? Cuba nak memukul, ya?
MASRUL	**Saya bukan cuba, saya tak pasti.**
CHM	Baru nampak tadi, macam mana tak pasti.
ASH	Bermaksud Tuan ada niat untuk memukul tahanan tersebut pada ketika itu?
MASRUL	**Saya tak ada niat.**
…	
ASH	Jadi tujuan Tuan mengangkat cota itu, apa niat Tuan?

Name	NOP of Raja Masrul Azam bin Raja Mansor (IW24) dated 10.07.2025 at pages 141 - 145
MASRUL	**Saya dah tak ingat yang itu, Puan.**

74. There was also an instance where SUHAKAM officers confronted Khairul Esmail bin Mohd Zawawi (IW23) with CCTV footage showing him kicking an inmate. When questioned, IW23 suddenly appeared uncertain as to whether the individual in the footage was indeed himself, despite having earlier positively identifying himself. He further claimed that he had merely been holding onto a fellow officer after 'losing his footing'. This pattern of sudden uncertainty or professed forgetfulness was consistently observed among the prison officers when confronted with evidence of their actions.

[Please refer to the NOP at pages 55 - 57, IW23's witness testimony dated 10.07.2025]

Name	NOP of Khairul Esmail bin Mohd Zawawi (IW23) dated 10.07.2025 at pages 55 - 57
MFA	Nanti dia akan pusing. Stop. Baik Tuan. Boleh Tuan jelaskan? Boleh, boleh. Sila Tuan. Sila. Boleh kita sambung Tuan? Ok. Baik. **Tuan tadi dah sahkan Tuan memang memakai beret dan berada di hadapan Dewan B.** Tuan boleh sahkan itu adalah Tuan?
KHAIRUL	Tak.
MFA	Tuan nampak?
KHAIRUL	Tak.
CHM	**Itu kamu ya? Sah ya?**
MFA	**Ulang balik. Slow. Boleh Tuan sahkan?**
KHAIRUL	**Ya.**
MFA	**Baik. Memang Tuan berada di situ ya?**
KHAIRUL	**Ya.**
MFA	**Jawab Tuan.**
KHAIRUL	**Ya.**
MFA	Jelaskan tindakan Tuan. Apa yang Tuan buat?
KHAIRUL	Saya tak ingat.

Name	NOP of Khairul Esmail bin Mohd Zawawi (IW23) dated 10.07.2025 at pages 55 - 57
MFA	Tuan tak ingat Tuan bertindak sedemikian?
KHAIRUL	Saya tak ingat.
MFA	**Dalam video Tuan dilihat menendang banduan tersebut. Tuan setuju?**
KHAIRUL	**Tak. Lebih pada macam saya terjatuh ada jugak. Bahaya –**
MFA	**Tuan terjatuh? Nampak seperti Tuan tak terjatuh Tuan? Boleh Tuan sahkan semula?**
KHAIRUL	**Sebab saya ada pegang.**
MFA	**Tuan berpaut?**
KHAIRUL	**Ya.**
MFA	Ulang balik. Ok. Play. Tuan lihat ya?
KHAIRUL	Ya.
MFA	**Ok. Boleh Tuan jelaskan? Rakaman CCTV tunjuk Tuan cuba menendang lah. Tuan dah tendang dah pun.**
KHAIRUL	**Ya.**
MFA	**Tuan setuju?**
KHAIRUL	**Ya.**
MFA	Adakah Tuan diserang pada ketika itu?
KHAIRUL	Tidak.
MFA	Adakah Tuan cuba mempertahankan diri?
KHAIRUL	Tidak.
CHM	Apa yang mendorong Tuan berbuat perbuatan itu? Apa yang mendorong kan? Walhal pada awalnya Tuan tak terlibat pun apa yang berlaku dalam dewan. Di sini pun awal tak terlibat pun. Tapi di saat-saat ini mengambil bahagian. Apa yang mendorong Tuan mengambil bahagian?
KHAIRUL	Saya tak pasti yang itu.
CHM KHAIRUL	Tak pasti? Mengapa yang mendorong Tuan mengambil bahagian? Membuat sedemikian? Saya tak pasti. Sama ada provokasi ke apa, saya tak pasti.

75. This selective memory became increasingly obvious towards prison officers called to testify at the later stages of the inquiry, initially acknowledging their presence at the outset of the CCTV footage, only to claim mistaken identity or deny involvement altogether when seen assaulting inmates. Yet, their memories appeared remarkably precise when recalling specific prison standing orders such as those governing the use of batons and pepper sprays (**Exhibit 58**) or when recounting the alleged insults purportedly hurled at them by the inmates. Notably, some of these prison officers such as Muhamad Mustakhim Bin Abdul Rahim (IW25), Ahmad Rizal Bin Razali (IW27), Dzulizwar Bin Mohd Bakir (IW28), Saiful Azman bin Mohamad Ibrahim (IW26), and Mohd Hairie Jumri (IW29) had watched the CCTV footages before attending the public inquiry by orders of Taiping prison management to refresh their memory.

*[Please refer to **Exhibit 58**, Prison Standing Order on the use of pepper sprays and batons];*

[Please refer to the NOP at page 86, IW25's witness testimony dated 23.07.2025];

[Please refer to the NOP at pages 161 - 162, IW27's witness testimony dated 24.07.2025];

[Please refer to the NOP at page 28, IW26's witness testimony dated 24.07.2025]; and

[Please refer to the NOP at pages 46 - 47, IW28's witness testimony dated 24.07.2025];

76. During the witness testimonies of Muhamad Mustakhim Bin Abdul Rahim (IW25), Ahmad Rizal Bin Razali (IW27), Dzulizwar Bin Mohd Bakir (IW28), Mohd Hairie Jumri (IW29), Zairulazly Bin Mohd (IW30), and Mat Nasir Bin Ramli (IW40), all of them gave rather detailed accounts of the insults and threats thrown at them such as *"Pukimak", "Anjing", "Anjing Kerajaan", "Babi", "Lancau", "Kepala butuh"*, *"Kat luar nanti, kita rogol bini punya staf lah semua, sama anak kita kasi ini punya. Baru dia orang tahu"* alleging that they heard these insults clearly and that these insults and threats made them "lose their cool" or "lose their emotions". IW27 had on several occasions even stated that he "spark" and "lost" it when he heard these threats. Oddly, he had even compared his reaction to that of former Russian mixed martial artist, Khabib Nurmagomedov stating that *"only God akan tolong saya*" during one of his temper tantrums prior to the peak of the incident on

17.01.2025. These prison officers went on to justify their actions before the inquiry members, boldly asking whether anyone would have reacted the same way if such insults and threats were directed at their own loved ones. This was their simple logic and justification in assaulting the prison inmates on 17.01.2025.

[Please refer to the NOP at pages 49 and 56, IW25's witness testimony dated 23.07.2025];

[Please refer to the NOP at pages 79, 93, 99, 113, 148 and 218, IW27's witness testimony dated 24.07.2025];

[Please refer to the NOP at pages 37, 58, and 103, IW28's witness testimony dated 25.07.2025];

[Please refer to the NOP at pages 171-172, and 225, IW29's witness testimony dated 25.07.2025]; and

[Please refer to the NOP at page 39, IW30's witness testimony dated 06.08.2025]

POOR INFRASTRUCTURE

77. Taiping Prison, which was built in 1879 and currently stands at 146 years old, remains the second-oldest prison in Malaysia and one of the oldest prisons still in operation. The building was officially recognised as a heritage site on 21.09.2012 (**Exhibit 88**). However, due to this designation, any form of structural renovation or alteration could not be carried out without approval from various governmental authorities, including the National Heritage Department.

*[Please refer to **Exhibit 88**, Federal Government Gazette Notice of Site Designation as a Heritage Site (P.U.(B) 299) at page 5, Item 34]*

78. Throughout the inquiry, numerous witness testimonies from prison inmates revealed that Taiping Prison was in a severely dilapidated condition, particularly its cells, where the situation was worsened by the fact that between three and six inmates were sometimes

crammed into a single, tiny cell. This was made worse when the prison inmates were made to transfer to Block E on 17.01.2025.

79. Several prison inmates had testified that they saw a signboard outside Block E stating that the building was unsafe for inhabitants. Witnesses such as Kumaran A/L Shamugam (IW6) testified that he saw the signboard and asserted that this board was posted on the Malaysian and Rescue Department's orders. He even specifically recalled that the signboard wrote *"Awas. Penghuni tidak dibenarkan ditempatkan dalam bangunan ini untuk keselamatan. Arahan Bomba"*. Another witness such as Aaron Armin Holden (IW8) testified that he had seen a signboard outside Block E prior to the incident on 17.01.2025 and it was subsequently removed from site on the day of the incident.

[Please refer to the NOP at pages 263 and 300 - 301, IW6's witness testimony dated 11.06.2025];

[Please refer to the NOP at pages 156 - 158, IW8's witness testimony dated 12.06.2025];

80. Throughout the inquiry, prison officers and staff from the Malaysian Public Works Department ('JKR') were questioned on Taiping Prison, specifically on why no improvements had been made to the site and why prison inmates were still made to use the bucket system, among others. JKR had produced a report on 21.10.2022 (**Exhibit 54**) stating that there was damage to its prison blocks which were serious such as structural deterioration and component damage primarily due to the building's old age, exposure to weather, humidity, and poor maintenance, and that long-term ground settlement had affected the foundation, causing cracks in load-bearing walls and floor slabs, among others.

*[Please refer to **Exhibit 54**, JKR Building Damage Inspection Report – Block E, Taiping Prison, Taiping, Perak, dated 21.10.2022]*

81. When questioned on this, various excuses were given by the prison officers on why there were substantial delays and no efforts made to renovate Taiping Prison and/or why the building itself had been left to such disrepair. Mohd Hairie Jumri (IW29), who was in charge of building developments works under the Development Unit of Taiping Prison had explained that Taiping Prison had written to JKR to inspect Block E at Taiping Prison.

When asked if this was because of the damages the building had sustained, he did not give a direct answer but instead answered that he was not even working in Taiping Prison at that material time based on the chronology of events and was quick to shift his responsibilities to another officer who prepared it, one Sergeant Fairuz bin Abdullah (who was not called as a witness during this inquiry).

[Please refer to the NOP at pages 117 - 118, IW29's witness testimony dated 25.07.2025]

82. It was also pointed out in the JKR report dated 21.10.2022 (**Exhibit 54**) that even though the report was meant to address the structural damages and defects in Block E, a substantial portion of the report focused on other areas of Taiping Prison such as Block B and one of its guard posts along the perimeters of Taiping Prison. When IW29 was asked whether it was suitable to place inmates into Block E, he simplistically justified that because not a single screw had broken off from that building, the building was deemed suitable for inmates stay in. Despite this, IW29 then continued to explain that the ground structure of the 1st and 2nd Floor of Block E was unusable and that there were numerous issues on the ground floor, including shaft walls that had been damaged by water to the point where it would collapse if one struck it with a hard object.

[Please refer to the NOP at pages 122 - 123, IW29's witness testimony dated 25.07.2025]

Name	**NOP of Mohd Hairie Jumri (IW29) dated 25.07.2025 at page 122 - 123**
ASH	Ok, Tuan. Bagaimana boleh... sebab dia dah dimaklumkan oleh JKR untuk membuat penyelenggaraan terlebih dahulu sebelum menggunakan blok tersebut, kan? Jadi, adakah Tuan rasa sesuai tahanan ditempatkan di blok tersebut walaupun struktur bangunan tu tidak kukuh dan boleh menyebabkan keruntuhan pada masa itu?
HAIRIE	Kalau kata kita nak ambil kira sebagai keruntuhan pada masa tu, saya ambil kira daripada laporan JKR pada 21.10.2022. Sampai ke saat ni pun tak ada satu skru pun yang putus daripada bangunan itu. **Jadi, pada penilaian saya, saya tidak bercakap bagi pihak perusahaan, saya cakap pada penilaian saya, boleh guna lah. Tapi yang JKR maklum, Aras 1, Aras 2 sebab dia**

Name	NOP of Mohd Hairie Jumri (IW29) dated 25.07.2025 at page 122 - 123
	melibatkan struktur yang apa, lantai tu, dia memang tak boleh guna langsung.
ASH	**Aras 1 dan 2 lantai tidak boleh digunakan.**
HAIRIE	**Ya.**
ASH	Ok.
HAIRIE	Dalam masa yang sama juga, Dato' Seri, bangunan yang apa, Blok E, aras bawah tu, macam saya maklum, dia ada poros dinding, sebenarnya. Dia ada pasir bata tu, dia dah poros. **Jadi, kita kalau kita force dengan satu barang yang keras ini, kita boleh tebuk dinding tu.** Then, bila benda tu memang berlaku, kan? Jadi, bila yang dari segi pembaikan kecil yang kita buat di Unit Pembangunan buat, Dato' Seri, kita memang ada buat pembaikan dari segi pembaikan piping, plumber, dari segi apa, pembaikan dinding. Jadi, benda-benda pembaikan kecil memang kita ada buat, laksanakan sendiri. Sebab staf saya ada yang berkemahiran untuk laksanakan kerja-kerja pembaikan kecil.

83. However, despite the JKR official report dated 21.10.2022 (**Exhibit 54**) confirming that the cell blocks in Taiping Prison were in a dilapidated condition, and despite the funding of RM40,000 - RM50,000 allocated by the Malaysian Prison Headquarters as alleged by IW29, this funding was ultimately used to repair the prison staff quarters because some trees had fallen near the staff quarters and because some of them were considered *dilapidated* by IW29's standards, even when he allegedly requested twice from the Malaysian Prison Headquarters that this funding be used to repair Block B, Remand B, and other rooms within the prison compounds.

[Please refer to the NOP at pages 125 - 126, 228 - 229 IW29's witness testimony dated 25.07.2025]

84. When asked if the prison officers themselves agreed with the state and condition of Taiping Prison, a few of them expressed reservations. Khairul Esmail bin Mohd Zawawi (IW23) admitted that it was a challenge working at Taiping Prison. During his witness testimony on 10.07.2025 he testified that Taiping Prison was old and dilapidated and it was a culture

shock to him because a lot of the furniture used by prison officers themselves were in really bad condition. Another officer, Saiful Azman bin Mohamad Ibrahim (IW26) had also conceded that the bucket system that Taiping Prison still practiced was unsuitable and that there should have been toilets built in, but JKR had deemed it unsuitable to build anything because of how old the building was. Zaiful Mashadi bin Zainal Abidin (IW33) also conceded that the building was about 146 years old and that the building should not be functioning anymore and be used for something else.

[Please refer to the NOP at page 101, IW23's witness testimony dated 10.07.2025];

[Please refer to the NOP at page 40, IW26's witness testimony dated 24.07.2025]; and

[Please refer to the NOP at page 76, IW33's witness testimony dated 07.08.2025]

85. When representatives from JKR were called in to testify, particularly its surveyor Sr. Azlan Bin Abdul Aziz (IW43), he had stated that the integrity of the building of Taiping Prison was unsafe and that all three floors in Block E had been recommended to be remain vacant since 2022, long before to the incident on 17.01.2025. IW43 had also noted that the building lacked support structures due to its colonial design, placing its safety at risk. Then, Ruzairy bin Arbi (IW44) from the National Heritage Department had also pointed out that there were two letters sent on 10.01.2019 (**Exhibit 89A**) and on 24.01.2019 (**Exhibit 89B**) by the Department of National Heritage stating that there were recommendations and plans, among others, to demolish a building in Taiping Prison to make way for a new one to tackle overcrowding and the lack of toilet facilities. However, this plan never seemed to materialise.

*[Please refer to **Exhibit 89A** and **89B**, (Letters from the Department of National Heritage regarding Taiping Prison's Status under the National Heritage Act 2005 dated 10.01.2019 and 24.01.2019];*

[Please refer to the NOP at page 22, IW43's witness testimony dated 03.09.2025]; and

[Please refer to the NOP at page 80, IW44's witness testimony dated 03.09.2025]

86. The family counsel submits that despite being well aware that Taiping Prison was in a severely dilapidated state owing to its age and protected heritage status, no efforts were made by the prison authorities at Taiping Prison to repair the damages or conserve the buildings. Instead, funds which were allocated by the Malaysian Prisons Headquarters were directed to repair other less prioritised matters such as the prison staff quarters. Due to years of neglect, even after JKR had deemed most of its cell blocks unsafe to inhabit, prison inmates continue to be placed in any remaining cells or buildings that have yet to collapse, which has led to severe overcrowding. Moreover, because of its colonial status, Taiping Prison lacks the most basic amenities in this day and age such as clean water, clean air, and toilets in its original cell blocks, among others. The family counsel submits that this should amount to a human rights violation for lack of basic rights regardless of a person's status. The deprivation of fundamental amenities such as a toilet, a shower, a bed, and clean air solely because the building itself cannot sustain or maintain such amenities should itself warrant SUHAKAM's criticism.

GAPS IN POLICE AND PRISON INVESTIGATIONS

Insufficient follow-up by the Royal Malaysian Police

87. The Inquiry heard the testimony of ASP Siti Nor Rasyidah Bin M. Nadzri (IW42), one of the former Investigating Officers ('IO') handling the investigation into the events of 17.01.2025 ('the investigation') on 02.09.2025. She explained that she was assigned to the investigation on 19.01.2025 after being informed by a colleague that a 61-year-old Chinese man (Mr Gan) had died. She then explained that investigations were initially open under one Inspector Anbalagan (who was not called as witness during this inquiry) as part of a Sudden Death Report [SDR 5/25] and it was classified as murder under Section 302 of the Penal Code, the matter was taken over by IW42. She then explained that on 19.01.2025, at about 6:00PM, she and 20 or so officers from the Forensics Team of the Perak Contingent Police Headquarters ("*Ibu Pejabat Polis Kontinjen Perak*") went to Taiping Prison to conduct investigations.

[Please refer to the NOP at pages 78 - 80, IW42's witness testimony dated 02.09.2025]

88. When asked why the investigation was classified under Section 302 of the Penal Code, she explained that she had received instructions from her Head of Department, one Syed Lukman (who was not called as a witness during this inquiry). She stated that his instructions were to conduct an initial investigation under Section 302 because there had been a death in prison, before receiving further instructions on gathering evidence or considering whether to reduce the offence Section.

[Please refer to the NOP at page 82, IW42's witness testimony dated 02.09.2025]

89. She then explained in her witness testimony that 214 statements were recorded, and was somehow able to recall the breakdown, which included 80 inmates from Taiping Prison, 19 Taiping Prison officers, 37 Taiping Prison general staff, 22 officers from the Taiping Prison Security Unit, 2 Taiping Prison clinic staff, 3 Hospital Taiping staff/officers, 1 forensic officer from Hospital Permaisuri Bainun, 35 family members/relatives of inmates from Taiping Prison, 1 lawyer representing 9 family members, 3 people from the general public and 3 police officers.

[Please refer to the NOP at page 84, IW42's witness testimony dated 02.09.2025]

90. IW42 further alleged that she had obtained the CCTV footages back in 24.01.2025 but was unable to immediately view it because the device was supposedly broken. When the police then requested to view the footages, they were asked to submit a written request and were subsequently provided a copy on CD. When questioned about its contents, IW42 confirmed that she was aware that she saw one of prison officer (Raja Masrul Azam bin Raja Mansor (IW24)) using his phone to record the incident in *Dewan B*. However, IW42 admitted that no action was taken, nor were any attempts made to retrieve the phone itself or record IW24's statement. Moreover, IW42 admitted that she did not take the initiative to conduct an identification parade for prison officers in identifying their own colleagues involved in the incident on 17.01.2025 nor did she call these potential suspects in to record their statements, all of which could have been important evidence as part of the ongoing criminal investigations to which IW42 had agreed that it was important.

[Please refer to the NOP at page 87, IW42's witness testimony dated 02.09.2025];

[Please refer to the NOP at page 109 - 110, IW42's witness testimony dated 02.09.2025]; and

[Please refer to the NOP at page 111 - 112, IW42's witness testimony dated 02.09.2025]

Name	**NOP of ASP Siti Nor Rasyidah Bin M. Nadzri (IW42) dated 02.09.2025 at page 111 - 112**
AR	Puan ada buat kawad cam?
SITI	Ada buat kawad cam.
AR	Ada kawad cam?
SITI	Ada.
AR	Bila Puan buat kawad cam tu adalah membabitkan pegawai, anggota dengan anggota ataupun membabitkan tahanan terhadap anggota?
SITI	Membabitkan tahanan terhadap anggota.
AR	**Tahanan terhadap anggota. Daripada anggota kepada anggota tidak dibuat?**
SITI	**Anggota kepada anggota tidak dibuat.**
AR	Ok, dalam situasi ini, Puan, Puan dengan jelasnya Puan memberitahu Puan tak cam, tak kenal pasti. Kenapa bila Puan sebagai pegawai penyiasat, Puan tidak kenal pasti tapi Puan tidak mengambil inisiatif untuk memanggil untuk sesi rekod keterangan, sesi kawad cam bagi mengenal pasti individu terbabit?
SITI	Waktu itu kita fokus kepada siasatan kita berkenaan dengan kematian dan juga kecederaan yang dialami oleh tahanan. **Jadi, waktu itu mungkin... itu lah tinggalan saya lah, kalau saya tak ambil statement dia berkenaan dengan dia rekod tu lah.**
AR	**Tapi bukankah Puan... adakah Puan tak merasakan rakaman itu adalah juga sebagai bahan bukti yang boleh membantu Puan bagi siasatan kes terbabit?**
SITI	**Ya, betul. Saya rasa itu adalah salah satu lah yang boleh dijadikan sebagai bahan bukti.**

91. Interestingly, IW42 explained that as of 02.09.2025, no arrests were made. Her excuse was that there were no instructions from the *"pucuk pimpinan"* or top leadership even when she had the power to make these arrests. When SUHAKAM wrote to the Taiping District Police Headquarters ("*Ibu Pejabat Polis Daerah Taiping*") on 09.04.2025, they received a somewhat vague response on 16.04.2025. The reply letter (**Exhibit 85**) merely stated the matter had been classified under Section 302 of the Penal Code, that the IO at the time was IW42, and that they had received 46 police reports (including from family members) and that the matter had been referred to the Perak State Prosecution Office ("*Pejabat Pendakwaan Negeri Perak*") for further action.

[Please refer to the NOP at pages 87 - 89, IW42's witness testimony dated 02.09.2025];and

*[Please refer to **Exhibit 85**, Reply Letter from IPD Taiping to SUHAKAM dated 16.04.2025]*

92. As of 02.09.2025, 7 months and 16 days since the incident on 17.01.2025. IW42 stated that the investigations had not been completed yet. Oddly, some 7 months since investigations commenced, IW42 alleged that she had not received Mr Gan's post-mortem reports yet even after she allegedly made requests, when all members of the Inquiry were already in possession of said reports and photos (**Exhibit 79**, **Exhibit 80**, **Exhibit 81** and **Exhibit 82**). She further alleged that she requested for the reports back in February 2025 but never heard back from them, nor did she take any efforts to follow-up to obtain these reports which were crucial for the investigation. Even though IW42 hesitantly admitted that she had not done a thorough overall investigation , her excuse was that it was time consuming and that she and her team had not slept conducting this.

[Please refer to the NOP at pages 93, 155 and 156 IW42's witness testimony dated 02.09.2025];

93. Ultimately, IW42 failed to take any reasonable steps in conducting the investigation and her only excuse was that she received no instructions from her seniors or from the Attorney General Chambers, therefore giving her no initiative to act on her own. When further questioned about the CCTV footage, she admitted that she was not even sure whether the

footages she received from Taiping Prison were its full recordings or whether it had been altered or tampered with in any way.

94. The family counsel refers to **Section 120 (1) of the Criminal Procedure Code** ('CPC') :

Section 120 (1) CPC:

Report of police officer

120 (1) Every police investigation under this Chapter shall be completed without unnecessary delay, and the officer making the investigation shall, unless the offence is of a character which the Public Prosecutor has directed need not be reported to him, submit to the Public Prosecutor a report of his investigation together with the investigation papers in respect of such investigation within one week of the expiry of the period of three months from the date of the information given under section 107.

95. The family counsel also refers to **Exhibit 84A** which lays down the provisions of **Sections 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341,** and **342 of the CPC** which governs inquiries of deaths, particularly :

Section 329 CPC :

Duty of police officer to investigate death

329. (1) Every officer in charge of a police station on receiving information—

(a) that a person has committed suicide;

(b) that a person has been killed by another, or by an animal, or by machinery, or by an accident;

(c) that a person has died under circumstances raising a reasonable suspicion that some other person has committed an offence;

(d) that the body of a dead person has been found, and it is not known how he came by his death; or

(e) that a person has died a sudden death,

shall with the least practical delay transmit such information to the Officer in charge of the Police District.

*[Please refer to **Exhibit 84A**, Criminal Procedure Code Sections 328–342]*

96. The family counsel also refers to the Court of Appeal case of **DATUK SERI KHALID BIN ABU BAKAR & ORS V N INDRA A/P P NALLATHAMBY (THE ADMINISTRATOR OF THE ESTATE AND DEPENDENT OF KUGAN A/L ANANTHAN, DECEASED) AND ANOTHER APPEAL [2015] 1 MLJ 353 [TAB N],** where it was held that :

[46] With the release of the second autopsy report, the first defendant instead of calling for an independent inquiry to find out what had happened during the seven days detention conducted an internal investigation. The learned judge's view on the need to call for an independent inquiry is this:

Departmental enquiry or an inquest was necessary so as to ensure that all relevant facts are 'fully, fairly and fearlessly' investigated and all the relevant facts discovered are exposed to public scrutiny.

Failure on the part of the superior police officers in the present case, be it, D1 and D3 to recommend departmental enquiry or an inquest is not open to rationality in terms of responsibility and public duty. A Coroner's inquest is conducted in a transparent fashion to ascertains and ensure that the controversial death, as in the present case, were independently and fully investigated in a public forum and it would be a flexible process.

In a cases of a custodial death and where the deceased is found to have died as a result of the injuries inflicted on him voluntarily and as a deliberate act, it calls for a full departmental enquiry or at the very least an inquest provided under the Criminal Procedure Code and nothing less or short of that will eliminate the distrust and confidence in the police officers that 'something was rotten'** at Taipan Police Station between 15 January 2009 until the time of the deceased's death on 20 January 2009 and **to assert and testify in court that

there was no cover up is another attempt to ask this court to cover up the evidence in court which has to be rejected outright as it is against the weight of the evidence.

[47] The learned SFC submits that the learned judge's view of the need for an independent inquiry was erroneous as there is no written law requiring that such inquiry be held for custodial deaths. With respect, we are unable to agree. ***The police force is a public professional body and as in other professional bodies there exist duties of care in their discharge of their powers.*** *In the context of the police force, it is their standard operating procedure ('SOP') and* ***that should be subject to scrutiny by the court of law.*** *As to what that duty of care and standard of care are depend on the circumstances of each individual case and it is for the courts to determine what that duty and standard of care are as was done in the Federal Court case of Foo Fio Na v Dr Soo Fook Mun & Anor [2007] 1 MLJ 593.*

97. The family counsel submits the Royal Malaysian Police have failed in their statutory duty to thoroughly investigate the incident on 17.01.2025 in accordance with Sections 328 to 342 of the CPC (**Exhibit 84A**). Their omission to carry out even the most basic investigative steps under these provisions raises serious concerns about the integrity, completeness, and good faith of the Royal Malaysian Police and its investigation into the death of Mr Gan and the incident on 17.01.2025.

98. The family counsel further submits that this lack of thorough and dedicated investigation which was displayed during this inquiry along with the cumulative failures by both the investigating officers and senior officials suggest not merely negligence, but a deliberate cover-up by various levels of top management, undertaken to shield themselves from scrutiny and to conceal the truth of what really happened.

99. The family counsel also submits that this inaction and cumulative failure by the Royal Malaysian Police deserve strong and public criticism. The fact that even after multiple individuals were identified by name as having committed the acts of violence and cruelty towards the prison inmates, none of these individuals had been arrested and charged under the provisions of Section 323 of the Penal Code (Punishment for voluntarily causing hurt), Section 324 of the Penal Code (Voluntarily causing hurt by dangerous weapons or means),

Section 325 of the Penal Code (Punishment for voluntarily causing grievous hurt), and/or Section 326 of the Penal code (Voluntarily causing grievous hurt by dangerous weapons or means). This is not only alarming but wholly indefensible and raises serious concerns towards the integrity of the Malaysian police force. Such inaction from the police represents a glaring failure of the criminal justice process and should invite severe criticism.

Failure by the Malaysian Prisons Department to conduct internal investigations

100. It was made known during the inquiry that no thorough internal investigations or inquiries were conducted by Taiping Prison or by the Malaysian Prisons Headquarters into the incident on 17.01.2025. Even though some of the prison officers such as Teuku Mohd Hasbi bin Tarmizi (IW21) and Khairul Esmail bin Mohd Zawawi (IW23) had stated that internal investigations were carried out by the respective bodies, there were never any follow-ups or action taken. IW23 even alleged that the internal investigations only took a mere 3 days and since then no follow-ups were made. When Nazri bin Mohamad (IW1), the then-director of Taiping Prison was asked about this, his answer seemed trivial in light of the gravity of the situation, in that he could not immediately punish someone because there were proper channels to them and that the people in charge would check where these gaps were. IW1 then explained that he did not take any disciplinary action towards his officers because there are ongoing criminal investigations at that material time. IW1 stated that taking action at the time would have caused an overlap or conflict with the police investigation process. IW1 simply justified his inaction by stating that it was appropriate to wait for the criminal investigations to proceed before taking any action.

[Please refer to the NOP at pages 48 - 49 , IW21's witness testimony dated 09.07.2025];

[Please refer to the NOP at pages 95, 97 – 99, 109, and 167 , IW23's witness testimony dated 10.07.2025];

[Please refer to the NOP at page 104 , IW1's witness testimony dated 09.06.2025]; and

[Please refer to the NOP at page 55 , IW1's witness testimony dated 11.06.2025]

101. When the Commissioner General of Prisons Malaysia, Abdul Aziz bin Abdul Razak (IW50) was questioned on whether any disciplinary action was taken by the prison's internal investigating committee towards Taiping Prison's officers, his response was akin to Nazri bin Mohamad's (IW1) answer on 09.05.2025 and 11.05.2025. IW50 stated that the Prisons Department would hand over this issue to the police for further action. He then referred to the "double jeopardy" rule stating that both criminal and disciplinary investigations could not be held at the same time and further stated that he would rely on police investigations first before acting if the matter was referred back to them. However, the Chairman then responded that a prosecutorial action and a disciplinary action were two different processes and not dependant on each other to proceed, further stating that there were case laws to support this. The Chairman then went on to state that there were very different standards of proof between the two actions wherein a disciplinary action was on the balance of probabilities and for this inquiry it was beyond reasonable doubt therefore the rule of double jeopardy would not apply in this case. However, IW50 stood firm in his beliefs and analogised that drug or *khalwat* cases (An offence of close proximity under Syariah law) would render immediate disciplinary action but not for assault cases because the Prisons Department would need to determine if it was a criminal matter or not. His response was then followed up by Amirah binti Abdul Razak, a legal officer from the Malaysian Prisons Department who had cited that the Prisons Departments current practice at the disciplinary board was that criminal charges may only trigger a suspension while uncharged matters would typically warrant a transfer pending a formal charge at Court.

[Please refer to the NOP at pages 48 and 54 IW50's witness testimony dated 22.09.2025];

[Please refer to the NOP at pages 54 – 55, the Honourable Chairman's statement dated 22.09.2025];

[Please refer to the NOP at page 55, IW50's witness testimony dated 22.09.2025]; and

[Please refer to the NOP at page 56, Amirah binti Abdul Razak statement dated 22.09.2025]

102. The family counsel refers to the **Prison Act 1995 (Act 537)** ('Prison Act') :

Section 63 (1) Prison Act :

Prison officers subject to disciplinary regulations

(1) All prison officers shall be subject to regulations relating to discipline as may from time to time be made by the Yang di-Pertuan Agong under Article 132(2) of the Federal Constitution.

103. The family counsel submit that neither **Section 63 of the Prisons Act** nor the Act as a whole provides that a criminal conviction is a prerequisite for initiating internal disciplinary proceedings. Likewise, there are no requirements for criminal investigations to take precedence before a disciplinary body may commence its own internal inquiry.

104. In the High court (KL) case of **ROSLAN BIN HUSSAIN V SURUHANJAYA SYARIKAT MALAYSIA & ORS [2017] MLJU 1719,** it was held as follows :

[19] The case before the Disciplinary Authority was not a criminal proceeding but a disciplinary matter regulated by SBA. As long as the Show Cause Letter had sufficiently provided the facts leading to the alleged misconduct, a reasonable time frame is given to the Applicant to answer the charges against him and the relevant provision of SBA had been cited, that would be in accord with the right to be heard envisaged in the SBA. In deciding a judicial review matter against the decision of disciplinary authority, the court should not treat the proceeding as a criminal matter and introduce the technicalities of court of law in the said proceedings. This principle had been re-emphasized in the case of Rokiah Mhd Noor v Menteri Perdagangan Dalam Negeri, Koperasi & Kepenggunaan Malaysia & Ors [2016] 1 LNS 498 where the Court of Appeal held as follows:

> *"[12] As to the correct approach to be adopted by the court in dealing with cases of this nature, the decision of the Federal Court in Kerajaan Malaysia v Tay Chai Huat [2012] 3 CLJ 149;; [2012] 3 MLJ 149 provides a useful guidance, where Mohd Ghazali Yusoff FCJ said:*
>
> > *".... From my reading of the judgments of the trial judge and the Court of Appeal, the approach taken, with respect, was as if the matter was a*

criminal case wherein the provisions of the Criminal Procedure Code and the Evidence Act 1950 would seem to apply. This approach is erroneous. ***It must be stressed that the courts cannot introduce technicalities of a court of law to the disciplinary authority. Further, courts do not normally regard it as their function to interfere with the findings of fact by the disciplinary authority****. ……*

[14] It is important to appreciate that ***a disciplinary proceeding before a disciplinary authority is not bound to follow the adversarial procedures of a court of law****: See Lembaga Jurutera Malaysia v. Leong Pui Kun [2008] 6 CLJ 93;; [2009] 2 MLJ 36 where Nik Hashim FCJ in disagreeing with the High Court that the respondent had a right to cross- examine the complainant said:*

"The above legal propositions of the learned judge are flawed. They are in direct contrast with a long line of established Supreme Court, Federal Court and Court of Appeal authorities that hold that ***every administrative body is the master of its own procedure and need not assume the trappings of a court.*** *The rules of natural justice do not contain any inalienable fundamental right to cross-examination of a witness, including the complainant (see Disciplinary Tribunals by JRS Forbes 1990 -- 115-121; University of Ceylon v. EFW Fernando [1960] 1 WLR (PC) p. 235). The rules of natural justice are variable and do not mean adversarial procedures of a court of law or analogous to a court of law".*

…

[21] The court also referred to the Federal Court case of Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang v Utra Badi A/L K Perumal [2001] 2 CLJ 525 where the Court held that:

"As submitted by the learned leading senior federal counsel, the letter to the respondent to show cause dated 31 January 1991 conveyed with sufficient

clarity and certainty the contemplated punishment namely dismissal or reduction in rank.

The grounds were fully spelt out in the letter and the charge was well drafted as it laid down all the important and relevant particulars. ***Any reasonable person would have had no difficulty in responding to the allegations made. The opportunity, reasonable and sufficient, was given to the respondent to make a representation to rebut the charge…***

...

[24] The court also referred to the case of Kerajaan Malaysia v Tay Chai Huat [2012] 3 CLJ 577 where the Federal Court held that:

"Following Utra Badi and Vickneswary, I am of the view that in the instant appeal, the disciplinary authority did observe the rules of natural justice and did give the plaintiff an opportunity to be heard.According to Osborn's Concise Law Dictionary (7th edn.), the words "natural justice" mean "the rules and procedure to be followed by any person or body charged with the duty of adjudicating upon disputes between, or the rights of other, eg, a government department." ***An opportunity to be heard simply means an opportunity to present one's side of the story. The result cannot be faulted or characterised as bad or defective when the proceedings were properly and regularly conducted. The plaintiff in the instant appeal was informed of the charges against him and was given ample opportunity of denying or explaining the alleged misconduct. He in fact did give his written representation dated 19 October 1993 to the Inspector-General of Police (the third defendant).***

105. In light of all the brutalities and cruelty committed by the prison officers at Taiping Prison, one should ask themselves, *"Why shouldn't these prison officers be punished twice?"*. These prison officers showed no hesitation or remorse in committing their crimes on 17.01.2025, going so far as to killing a man in their care through acts driven by sheer sadistic pleasure and a complete lack of emotional intelligence, all while continuing to make up various excuses and lies, and coordinating among themselves to give rehearsed

answers throughout the inquiry. Their conduct clearly goes beyond mere misconduct. This was months of premeditation, carefully planned actions and rehearsed answers among themselves, from the top management to its junior staff in order to avoid any responsibility and punishment.

106. The family counsel submits that SUHAKAM should not accept the abysmal explanations of the prison officers of Taiping Prison to justify their crimes. Moreover, the family counsel further submit that the excuses by Taiping Prison authorities and the Malaysian Prisons Department in that a disciplinary proceeding cannot be held at the same time as an ongoing criminal investigation is wholly unsubstantiated and merely a ploy to delay proceedings and to conceal the truth.

107. Moreover, the family counsel submits that the Malaysian Prisons Department had failed to uphold the very practices they sought to rely on and assert during witness testimonies. In particular, Amirah binti Abdul Razak had asserted that the Prisons Department's current practice at the disciplinary board was that criminal charges may only trigger a suspension, while uncharged matters would typically warrant a transfer pending a formal charge at Court. Yet these practices never followed through. Mohd Hairie Jumri (IW29), who was questioned on 25.07.2025, had stated that he was still working at Taiping Prison's Development Unit to date. Zaiful Mashadi bin Zainal Abidin (IW33), who was questioned on 07.08.2025 and one of the prison officers in Block E when Mr Gan was seen struggling in **Exhibit 24E** had also confirmed that he was still posted at Taiping Prison to date. Similarly, Mohd Azhari bin Edris (IW34), who was questioned on 07.08.2025 and another officer present in Block E during the same incident, also continued to serve at Taiping Prison under its Safety and Order Division ("*Bahagian Keselamatan & Ketenteraman Penjara*") since 17.01.2025. It is clear that none of these prison officers were transferred and/or suspended from duty at Taiping Prison as asserted by the Malaysian Prisons Department.

*[Please refer to **Exhibit 24E**, CCTV footage inside Block E]*

[Please refer to the NOP at page 110, IW20's witness testimony dated 25.07.2025];

[Please refer to the NOP at page 9, IW33's witness testimony dated 07.08.2025];

[Please refer to the NOP at page 93, IW34's witness testimony dated 07.08.2025]; and

[Please refer to the NOP at page 119, Amirah binti Abdul Razak's statement dated 09.06.2025]

108. In light of the above, the Malaysian Prisons Departments inaction contravenes Rule 71.3 of the **United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)** :

> *Investigations*
> *Rule 71*
> *3. Whenever there are reasonable grounds to believe that an act referred to in paragraph 2 of this rule has been committed,* ***steps shall be taken immediately to ensure that all potentially implicated persons have no involvement in the investigation and no contact with the witnesses, the victim or the victim's family****.*

109. When the testimonies of various Taiping Prison officers were read out to Abdul Aziz bin Abdul Razak (IW50) concerning the various excuses given by them to justify their actions, IW50 then vehemently denied the statement stating that he had never ordered his officers to beat people and alleged that the Prisons Department had introduced the Nelson Mandela Rules and alleged that no prison officer was ordered to beat anyone ever. The United Nations Standard Minimum Rules for the Treatment of Prisoners ('the Mandela Rules').

[Please refer to the NOP at page 75, IW50's witness testimony dated 22.09.2025]

110. When IW50 was then asked whether the Malaysian Prisons Department had adopted the Bangkok Rules (United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders) and the Mandela Rules, he responded that they were trained by the United Nations Office on Drugs and Crime ('UNODC'). He further responded that whatever which was stated in the Mandela Rules had been incorporated into Malaysia's prison rules as well. When asked about whether the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('UNCAT') should be rectified by Malaysia, IW50 refused to answer and

instead shifted his responsibility to the Home Ministry instead and refused to answer because this was a public inquiry.

[Please refer to the NOP at page 97 and 99, IW50's witness testimony dated 22.09.2025]

Violations of international standards

111. The family counsel then refers to the **United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('UNCAT')** :

> *Article 1*
>
> *1.For the purposes of this Convention, the term "torture" means **any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person** for such purposes as obtaining from him or a third person information or a confession, **punishing him for an act he or a third person has committed** or is suspected of having committed, or intimidating or coercing him or a third person, or **for any reason based on discrimination of any kind,** when such pain or suffering is inflicted by or at the instigation of or **with the consent or acquiescence of a public official or other person acting in an official capacity**. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*
>
> *2.This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.*

112. The family counsel also refers to the **United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),** particularly :

> *I. RULES OF GENERAL APPLICATION*
>
> *Basic principles*
>
> ***Rule 1***
>
> ***All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a***

***justification*. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.**

113. Currently, as it stands, Malaysia has yet to accede and ratify UNCAT. While there may be some difficulty in scrutinising and/or condemning the actions of the Malaysian Prisons Department which contravene with the UNCAT Articles, one should not ignore the fact that the Taiping Prison staff had committed various acts of brutalities towards the prison inmates on 17.01.2025. The prison officers had intentionally inflicted severe physical pain and suffering towards the prison officers, which led to various serious injuries suffered by the inmates as well as ultimately causing the death of Mr Gan. Moreover, since then no proper investigation was ever carried out and/or followed through either by Taiping Prison, the Malaysian Prisons Department and the Royal Malaysian Police.

114. While the Malaysian Prisons Department in Malaysia realises that there is an urgent need to transform its system, there are many challenges that have yet to be acted upon such as overcrowding, ageing facilities, and recidivism, among others. Another core issue that needs to be addressed is the treatment towards prison inmates. While efforts have been made to educate prison staff through its adoption of the Mandela Rules through e-learning modules translated into Malay for ease of understanding, these materials remain purely theoretical and lack hands-on training or practical application.

115. Therefore, the family council strongly calls for SUHAKAM and the Government of Malaysia to take the necessary and long overdue steps to accede to or ratify the UNCAT immediately or amend our local laws to incorporate the requirements of the UNCAT in order to line up with international standards. Prison reforms in Malaysia have long since been overdue and the Government of Malaysia cannot escape or avoid from this fact. The incident at Taiping Prison on 17.01.2025 is a stark example of multiple systemic failures and a lack of procedural clarity. Taiping Prison as well as the Malaysian Prisons Department have clearly fallen below the local and international standards and failed to adhere to the bare minimum of its treatment and wellbeing towards individuals under their care in prisons.

CONCLUSION

116. In light of all the reasons stated above, and on behalf of the family of Mr Gan, the family counsel respectfully urges the Honourable Panel to deliver the strongest possible condemnation upon the acts of brutality committed by the prison officers on 17.01.2025, which culminated in Mr Gan's tragic death. While Mr Gan was serving a sentence for a crime he had committed, nothing within the law or the bounds of humanity could justify the violence that ended his life. No inmate, regardless of guilt, should have had to suffer such a fate. The precise events of that day may never be fully known, as the CCTV footage capturing the crucial moments was never produced during the inquiry. Yet, from the available recordings showing the assaults on other inmates, it is evident that the level of violence was so severe that it was capable of causing fatal consequences.

117. Such conduct demands the utmost censure, not only in justice for Mr Gan but to ensure that no person under prison or police custody should ever be subjected to such inhumane treatment in Malaysia.

Dated on 28 November 2025.

RSDV

……

Family Counsel

Messrs Raja S Devan & Veni

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PUBLIC INQUIRY INTO THE ALLEGED HUMAN RIGHTS VIOLATIONS DURING AND AFTER THE INCIDENTS ON 17 JANUARY 2025 AT TAIPING PRISON, PERAK

BAR COUNCIL OBSERVER TEAM'S WRITTEN SUBMISSIONS

Contents

A. INTRODUCTION

1. These are the written submissions of the team of counsel representing the Bar Council of Malaysia in respect of the public inquiry into the alleged human rights violations during and after the incidents on 17 January 2025 at Taiping Prison, Perak.

2. According to a press statement issued by the Human Rights Commission of Malaysia (Suruhanjaya Hak Asasi Manusia Malaysia, or SUHAKAM) on 13 February 2025, the incident involved one custodial death and injury to several inmates[1].

3. On 23 May 2025, SUHAKAM announced that it would be conducting a public inquiry into the said incident ("**Public Inquiry**").[2] The Terms of Reference of the Public Inquiry are as follows:

> "*verify, among others, whether there were any human rights violations in connection with the incident, and, if so, -*
>
> *(i) to identify the nature and extent of such violations;*
> *(ii) to examine how and why such violations occurred;*
> *(iii) to determine the parties responsible for the violations; and*
> *(iv) to make recommendations to prevent the recurrence of similar incidents*."[3]

4. The Public Inquiry was commenced by SUHAKAM on 9 June 2025. The first set of hearings were conducted at the Pusat Koreksional, Kamunting, Perak from 9-12 June 2025 and 23-26 June 2025. The second set of hearings was held at the Inquiry Room of SUHAKAM in Kuala Lumpur between 8 July 2025 and 23 September 2025. There were 29 hearing days in total, and 50 witnesses in all.

B. IDENTIFY THE NATURE AND EXTENT OF HUMAN RIGHTS VIOLATIONS

Right To Life

5. Article 5 of the Federal Constitution states:

> "*No person shall be deprived of his life or personal liberty save in accordance with law*."[4]

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[1] Media-Statement-No.-11-2025_SUHAKAM-Strongly-Condemns-the-Obstruction-of-Its-Investigation-Into-Human-Rights-Violations-at-Taiping-Prison.pdf

[2] Media Statement No. 22-2025_SUHAKAM to Conduct Public Inquiry into Alleged Human Rights Violations at Taiping Prison – SUHAKAM

[3] Ibid.

[4] Article 5(1), Federal Constitution (Federal Constitution (Reprint 2020).pdf).

6. In the case of **Lee Kwan Woh v Public Prosecutor [2009] 5 MLJ 301**, the Federal Court speaking through Gopal Sri Ram FCJ held that:

> *"....the Constitution is a document sui generis governed by interpretive principles of its own. In the forefront of these is the principle that its provisions should be interpreted generously and liberally. On no account should a literal construction be placed on its language, particularly upon those provisions that guarantee to individuals the protection of fundamental rights. In our view, it is the duty of a court to adopt a prismatic approach when interpreting the fundamental rights guaranteed under Part II of the Constitution. When light passes through a prism it reveals its constituent colours. In the same way, the prismatic interpretive approach will reveal to the court the rights submerged in the concepts employed by the several provisions under Part II. Indeed the prismatic interpretation of the Constitution gives life to abstract concepts such as 'life' and 'personal liberty' in art 5(1)."*

7. Consequentially, it is submitted that while inmates, being persons held in custody in prison awaiting trial, may correctly be subject to limitations of their personal liberty, they nonetheless retain the right to be treated with inherent dignity, echoing the words of the Universal Declaration of Human Rights 1948 ("**UDHR**").[5]

8. In addition, we would highlight the concepts of "*disregard and contempt for human rights [resulting] in barbarous acts which have outraged the conscience of mankind*", the need for "*human rights* [to] *be protected by the rule of law*", "*the dignity and worth of the human person*", and ultimately the need to "*strive by teaching and education to promote respect for these rights....by progressive measures, national and international, to secure their universal and effective recognition and observance*".[6]

9. We submit that these concepts are not inconsistent with the Federal Constitution, and are therefore matters for which SUHAKAM ought properly to have regard when considering the situation of human rights in Malaysia, in line with Section 4(4) of the Human Rights Commission of Malaysia Act 1999 ("**SUHAKAM Act**").[7]

Right to Life – Death of an Inmate

10. The issue of right to life was clearly violated with respect to the death in custody of 62-year-old Gan Chin Eng ("**Uncle Gan**"). It is clear from the video recording that his medical condition was not attended to promptly. Even when he exhibited signs of not being well, he was simply left to sit or lie down on the floor on his own, without much attention being

[5] Preamble, Universal Declaration of Human Rights | United Nations.
[6] Ibid.
[7] Microsoft Word - Draf Act 597_clean copy 2__13 2 2012.pdf

paid to him. When he had collapsed, he was carried by hand by two other inmates for some distance before a gurney was located and he was placed on it. The lack of urgency with which Uncle Gan was attended to by Jabatan Penjara Malaysia ("**JPM**") personnel displayed a callous disregard for his right to life.

Right to Life - Prison Conditions/Institution

11. The submission invites SUHAKAM to recognise that the tragedy of 17 January 2025 at Taiping Prison was not an isolated breakdown of order, but the culmination of systemic and long-standing failures in the physical environment, administration, and institutional culture of Taiping Prison.

12. It is essential to emphasise at the outset that many of the individuals involved were remand detainees. They had not been found guilty of any offence and remained entitled to the presumption of innocence. Their liberty was restricted only for the purpose of securing their attendance at trial. JPM personnel therefore owed them a heightened duty to ensure that the conditions of detention upheld their dignity, safety, and fundamental rights. (For avoidance of doubt, the term "detainees" and "inmates" are used interchangeably.)

13. The tragedy occurred on the evening of 17 January 2025; a group of detainees transferred from Batu Gajah Prison was held temporarily in Hall B. The detainees were instructed to accept accommodation in Block E.[8] It was a prison block with no toilets, where inmates were required to use a bucket-system toilet, and which the detainees understood to be structurally damaged.

14. The detainees pleaded to be kept in Hall B instead rather than move to Block E which they knew to be unsafe, unsanitary, and unfit for human habitation.

15. Their plea was not an act of defiance, but a response grounded in genuine fear and the lived reality of the conditions inside Taiping Prison. It was a human response to accommodation that no reasonable person would willingly inhabit.

Historical and Structural Context

16. Taiping Prison was built in 1879, making it the oldest prison complex in Malaysia.[9] In 2012, it was gazetted as a National Heritage Site under the National Heritage Act 2005.[10]

[8] See **Exhibit 4 –** Picture of Block E Building

[9] *Architectural Heritages – Tourism Perak Malaysia*. (n.d.). https://www.tourismperakmalaysia.com/category/experiences/architectural-heritages/

[10] Borhanudin, M. N. (2021, June 14). *Penjara Taiping*. https://www.prison.gov.my/ms/profil-kami/profil-institusi/penjara-pusat-koreksional/3534-penjara-taiping See also: https://www.parlimen.gov.my/files/jindex/pdf/JDN22HINGGA31JULAI2019.pdf

Heritage recognition acknowledges the historic value of the structure,[11] but it does not, and cannot, justify placing human beings in unsafe conditions.

17. Testimony from the Senior Assistant Commissioner, namely the Deputy Director of JPM Negeri Perak (IW1)[12] acknowledged that Taiping Prison is old when he stated as follows:

> *"...untuk makluman Yang Bahagia Dato', **Penjara Taiping ni penjara usang**, Yang Bahagia Dato', 1849, kalau saya tak silap, 1879, ya. 1879. Jadi, **dah 100 tahun lebih lah kan**. Jadi, kadang strukturnya, **orang kata, keselesaan mereka kan, mungkin depa tak selesa**..."*

18. IW1 also described the structure of Block E as follows:

> *"JKR mendapati struktur dinding sel memang tak dapat untuk kerja-kerja membuat apa orang kata, tandas di dalam bilik, disebabkan **strukturnya yang lemah**. Kita ketuk pun Dato', **simen ini boleh, orang kata boleh pecah** ... "*

19. Another witness, the Deputy Superintendent of Taiping Prison (IW23),[13] described his experience at Taiping Prison as a "culture shock". He testified that:

> *"Pada saya, Penjara Taiping ni **daif lah, usang**... Sebab saya daripada Kajang, Putrajaya. Bila saya berkhidmat di...Penjara Taiping tu memang shock culture lah. Memang, apa kita panggil?...*
>
> ***Culture shock** juga lah. **Ada lagi pakai kerusi macam ni.** Ada lagi macam ni. Macam tu. Macam ni. Meja PYM blok pun... ya lah, teruk. **Tak seselesa macam ni**. **Kerusi pun dah beberapa kali kita pateri dah kaki dia**."*

20. The testimonies illustrate that the structure of the prison cell is fragile and unsafe, such that even staff members found the environment uncomfortable and deteriorated. If officers working regular hours experienced this level of discomfort, the impact on inmates living in these spaces continuously would be far more severe.

21. The most critical structural evidence came from Sr Azlan Bin Abdul Aziz of Jabatan Kerja Raya ("JKR") Perak (IW43).[14] His testimony confirms that Block E was unsafe, unsanitary, and unfit for human habitation, as follows:

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[11] **Exhibit 69 –** Letter from Department of National Heritage to Malaysian Prison Department dated 9.2.2020 (ref.no.: JWN.DW.600-1/3)
[12] Notes of Proceedings dated 9.6.2025 (CN-445-751-TN1087)
[13] Notes of Proceedings dated 10.7.2025 (CN-445-751-TN1136)
[14] Notes of Proceedings dated 3.9.2025 (CN-445-836-TN1223)

(a) **Colonial-era construction**: The prison's walls and pillars are pure bricks without iron reinforcement. Unlike modern prisons, Taiping Prison lacks a beam-column system.

(b) **Critical structural damage**: JKR identified serious damage in Blocks B and E, including horizontal cracks on the second and third floors. Metal plates on stairs and walkways were corroded due to age and moisture.

(c) **Repeated warnings**: JKR issued major reports in 2012, 2014, and 2022, each recommending total repair or rebuilding of the affected blocks.

(d) **Safety recommendation**: JKR advised against any new construction, drilling, or structural modifications of these blocks due to instability.

(e) **Proposal to Ministry of Home Affairs**: JKR recommended that any new prison building be constructed separately, not attached to the existing colonial structure.

22. This testimony and Exhibit 54 (Building Damage Inspection Report – Block E, Taiping Prison, Taiping, Perak dated 21.10.2022) affirms that Block E was not merely "old"; it was unsafe, and the JPM personnel at Taiping Prison were aware of the risks long before the incident occurred.

23. Furthermore, Exhibit 66 records that essential equipment under the Integrated Security System (SKEB), including cameras, were not functioning. JPM personnel in charge of Taiping Prison also requested structured training for its SKEB unit staff. This demonstrates a broader pattern of neglect affecting not only the physical structure but also operational capacity and safety.[15]

Institutional and Administrative Conditions

24. Chronic underfunding prevented necessary repairs and upgrades within the prison, and IW1's testimony illustrates this prolonged neglect. He explained that SUHAKAM had previously visited to address issues such as the "bucket system," yet no corrective action was taken. He stated that:

> *"... Yang Bahagia Dato' juga lah. Dulu pihak SUHAKAM dah pernah pergi untuk isu bucket, tong bucket, saya tak ingat, remember tahun, mungkin 2022 ataupun sebelum tu. Kan**? Tapi, tak ada jawapan ni lah, maksud dia kelulusan kami di Penjara Taiping** sebelum saya datang pun, **ada permintaan untuk membuat tandas di dalam bilik**. Tandas di dalam bilik.*

[15] **Exhibit 66 –** Letter from Malaysian Prison Department to JKR Perak dated 18.11.2024 (ref.no.: PRIDE.JTGP.100-11-/1/7 Jld.3 (87)

> ***Tapi, yang pertama itu tidak mendapat jawapan lah****, pasal* ***disebabkan struktur bangunan yang lemah****. Dan yang terakhir, pada* ***hujung Disember 2024****, satu lagi* ***surat dihantar kepada JKR Negeri Perak*** *untuk membuat tinjauan semula, kerana pada masa tersebut,* ***pihak kementerian ada bajet****. Dia* ***ada bajet untuk di Penjara Taiping, penjara usang tadi*** *yang saya sebut. Penjara usang ini untuk makluman Yang Bahagia Dato' lah, Taiping, Penjara Reman Pulau Pinang, Penjara Batu Gajah, sekarang panggil Pusat Koreksional Batu Gajah, Penjara Seremban, Penjara Pengkalan Chepa. Tapi,* ***Pengkalan Chepa dia dah buat dah****. Yang ini* ***yang tinggal di belah-belah kita, belah utara sini*** *Yang Bahagia Dato'..."*

25. Besides, the testimony from IW23[16] also highlights the lack of funding for basic furniture and facilities of Taiping Prison. As reproduced before, IW23's description of the items such as blocks, tables and chairs had been repeatedly welded just to remain usable, reflecting long-term neglect and the absence of resources for proper replacement.

26. Testimonies above show that underfunding not only compromised the working environment for staff but also indicated broader structural decay throughout the facility.

27. Other than that, Taiping Prison also faces insufficient staffing, which contributed to supervisory challenges. Testimony from one of the Taiping' Prison wardens, (IW24)[17] reveals that there was a critical shortage of staff, where as few as two or three wardens were responsible for supervising up to 100 inmates. IW24 stated as follows:

> *"Cuma* ***staf kami tak cukup****.* ***Memang tak cukup****... Anggota UKP lebih kurang 30 orang, tolak dua pegawai, tolak dua staf perempuan... Ada yang pencen, ada yang dah pindah... Lagi kecil. Tapi kami jaga di blok banduan lebih kurang 80, 90 atau 100...* ***Hanya dua staf, tiga staf sahaja****."*

28. Such conditions inevitably strained supervision, increased safety risks, and made effective oversight nearly impossible. These institutional shortcomings created an environment where unsafe and degrading conditions persisted without intervention.

Sanitation and the Bucket System

29. The conditions in Block E fell far below acceptable standards of detention. The block has no functioning toilets, and inmates are required to use buckets, i.e. a bucket system to manage human waste.

30. IW1 reveals the conditions as follows:

[16] Notes of Proceedings dated 10.7.2025 (CN-445-751-TN1136)
[17] Notes of Proceedings dated 10.7.2025 (CN-445-751-TN1136)

> *"Untuk makluman Yang Bahagia Dato', **penjara usang ni**, di Taiping,untuk makluman Yang Bahagia Dato', **sistem bucket masih digunakan**. Jadi, **bucket ni untuk makluman Dato', tong lah, tong kotak, tong hitam**. Dan kalau tu, **dia akan kongsi lah**. **Satu bilik, tiga orang, dia akan kongsi lah**. Kadang kita pun tak dapat dalam keadaan yang tu, kita akan bubuh mungkin dua tong ataupun tiga tong. Tapi tong tu, **satu untuk najis, satu untuk bekalan air, untuk dia cuci.** Macam tu Dato'. Lagi **sistem bucket digunakan, terutama waktu malam** lah Yang Bahagia Dato'. Kalau siang hari, tak ada masalah. Pasal siang hari, dia akan buang apa, kalau yang bekerja, dia akan berada di bengkel. Jadi, di bengkel ada yang orang kata, tandas bercangkung. Jadi, tak ada masalah. Waktu malam, selepas kita tutup master pukul 06:30PM tu, dia duduk dalam bilik Dato'. **Kalau bilik lima orang, kadang ada tiga tong**. Yang tu jadi kadang-kadang untuk makluman Yang Bahagia Dato' juga lah."*

31. The testimony described above affirms that inmates slept in confined cells overnight with multiple waste buckets, shared communally among three to five individuals. Such conditions create a constant smell, severe indignity, and heightened health risks, particularly when doors remain locked from 6:30 pm until morning.

32. The Commissioner General of Prisons has assured that all JPM personnel have been trained on the United Nations Standard Minimum Rules for the Treatment of Prisoners or popularly known as the Nelson Mandela Rules.[18]

33. The reliance on buckets for human waste in Taiping Prison, however, is incompatible with the Nelson Mandela Rules. ***Rule 1 of the Nelson Mandela Rules*** stipulates:

> *"**All prisoners shall be treated with the respect due to their inherent dignity and value as human beings**. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times."*

34. A block without toilets cannot satisfy ***Rule 15 of Nelson Mendela Rules***. Rule 15 states:

> *"The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner."*
>
> *(emphasis added)*

[18] *February 2023 – SUHAKAM*. (n.d.). SUHAKAM. https://suhakam.org.my/2023/02/

35. Moreover, a system requiring prisoners to defecate into shared buckets cannot satisfy ***Rule 16 of the Nelson Mandela Rules***. Rule 16 provides:

> *"Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate."*

36. The Nelson Mandela Rules are not aspirational guidelines; they represent the globally accepted minimum standard for humane conditions of detention. The conditions in Block E clearly fall far below that threshold. Even when asked, IW1 admitted that the bucket system is a humanitarian issue under the international standards of the Nelson Mendela Rules. IW1 stated as follows:

> *"Dia standard ni, untuk makluman Yang Berbahagia Dato' kan, kalau tanya soalan macam tu,* ***memang kemanusiaan dah ni lah****, Dato' kan. Kira* ***bucket ni****, kira orang kata dah* ***bagi saya dah ketinggalan zaman lah****. Itu sahaja.*
>
> *...* ***Pernah dengar,*** *Dato'. Bangkok Rules,* ***Mandela Rules****..."*

<u>Overcrowding</u>

37. Overcrowding in Batu Gajah Prison was a primary factor necessitating the transfer of detainees to Taiping Prison in the first place. This should never have been done. It was the limited capacity in neighbouring facilities that left officers with few alternatives, forcing them to allocate inmates to be housed in Block E despite its poor condition. JPM merely ignored the larger problem, thus compounding the issue.

38. Testimony from IW1 explained the situation at Batu Gajah Prison as follows:

> *"Masa tu, dia di* ***Batu Gajah, kapasiti dah melebihi****. Batu Gajah kapasiti 850 ke 900. Masa tu, dia punya* ***kapasiti dah jadi 1000 lebih****. 1000 lebih.* ***Bangunan dia pun sama macam bangunan di Taiping iaitu bangunan lama****..."*

39. When asked whether Taiping Prison was considered able to accommodate more inmates, including the 107 detainees transferred from Batu Gajah Prison, IW1 stated:

> *"Mungkin depa beranggapan macam tu lah... Tapi bila datang tu, kita terpaksa hadap lah, orang kata. Terpaksa terima lah...*
>
> *... Masa tu,* ***dalam 1,000 lebih lah****, Dato'. Bila tambah tu, dia tambah lagi...*

... Taiping ni, Dato', dia takkan below 1,000. Pasal di sini banyak, Dato'. Pasal apa, ***kes-kes kecil pun banyak dimasukkan di Taipin****g. Kalau cover Taiping ni, memang besar. Pasal kita ambil sampai di dekat dengan Lumut pun akan hantar ke Taiping. Manjung, minta maaf.* ***Manjung akan hantar ke Taiping****, Yang Berbahagia Dato'."*

40. IW1's testimony demonstrates that Taiping Prison was itself operating well above its ideal capacity, with over 1,000 inmates when only 800 was considered manageable. The additional transfer of 107 inmates further exacerbated overcrowding, increasing pressure on already limited resources and forcing the JPM personnel in charge of Taiping Prison to utilise Block E despite its substandard condition.

41. Taiping Prison's overcrowding violates ***Rule 12 of the Nelson Mandela Rules***, which provides:

> *"1. Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself.* ***If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room****.*
>
> *2. Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the prison."*

42. In addition, air circulation, minimum floor space, and other health-related standards were compromised due to the overcrowding. This violates ***Rule 13 of Nelson Mendela Rules***, which states:

> *"All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation."*

Right to Life – Freedom from Torture, Cruel, Inhumane and Degrading Treatment

43. Housing inmates in spaces where they must eat, sleep, and breathe in proximity to containers of their own waste clearly violates the international standards such as:

> (a) **Article 5 of UDHR**: "*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."*[19]

[19] https://www.un.org/en/about-us/universal-declaration-of-human-rights

(b) **Article 26 of ASEAN Human Rights Declaration:** *"All persons deprived of liberty shall be treated humanely and with respect for the inherent dignity of the human person."*[20]

(c) **Article 16 of UN Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment ("UNCAT"):** *"Each State Party shall undertake to prevent… acts of cruel, inhuman or degrading treatment or punishment…"*[21]

44. Holding persons in visibly deteriorated, unsafe facilities without proper toilets and relying on shared waste buckets, is fundamentally inconsistent with this foundational principle.

Right to Life and Right to Health - Harmful Impact and Violation of Human Rights

45. The cumulative effect of structural decay, lack of sanitation, and chronic overcrowding in Block E created an environment that no human being should be subjected to. For detainees, these conditions constituted a profound violation of not only their human dignity but their right to life and right to health and psychological well-being.

46. The specific harms caused by these conditions would include:

(a) **Heightened psychological pressure:** Inmates were confined in small, overcrowded spaces, with limited privacy and exposure to constant stress.

(b) **Indignity and loss of autonomy:** Inmates were required to use shared buckets for human waste due to the lack of proper functioning toilets, stripping them of the most basic control over bodily functions.

(c) **Health and safety risks:** Poor ventilation, deteriorating structures, and excessive population density increased the risk of illness and injury.

(d) **Fear and panic:** The lived experience of inmates reflected genuine concern about the unsafe environment, the threat of structural collapse, and the indignity of the bucket system.

47. Testimony and evidence show that these fears were real and reasonable. Inmates' complaints were ignored, and when they voiced their objections, the institutional prison system responded with force rather than remediation. The distress they experienced was not the result of their own conduct but a direct consequence of institutional failure.

[20] https://asean.org/asean-human-rights-declaration/
[21] https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading

48. From a human rights perspective, the structural, sanitary, and population deficiencies in Block E did more than inconvenience inmates. They stripped away dignity, caused severe psychological harm, and created a living environment that amounted to inhumane and degrading treatment and punishment, in direct contravention of international human rights standards. The conditions were not merely substandard; they were a systemic violation of the JPM's statutory duty to ensure humane detention.

Comparative Example: Fremantle Prison

49. The experience of Fremantle Prison in Western Australia offers a useful comparative perspective. In 1988, deteriorating conditions and outdated infrastructure led to riots, fires, and hostage-taking.[22] The Government responded not by blaming inmates alone but by commissioning the largest conservation and structural review of a heritage prison in Western Australia.

50. The Fremantle Prison Conservation and Future Use Project carried out extensive investigations and concluded that the prison was no longer suitable for operational use. The Government accepted the recommendation and shifted towards preserving the site as a heritage landmark, not as a functioning prison.

51. The Fremantle Prison incident demonstrates that when heritage prisons no longer meet modern standards, the appropriate response is structural reform or the cessation of its use as a prison, not continued reliance on unsafe facilities.[23]

Use of Excessive Force – treatment of inmates

52. On the day of the arrival of the transferred inmates (on 16 January 2025), they were checked and 8 out of the 107 inmates were rejected and sent back to Batu Gajah Prison. The rest of the inmates were then, according to JPM prison protocol, sent through the body scanner to check for any hidden contraband items.

53. They were then placed in the hall adjacent to the Block B (Dewan B), while awaiting medical checks to be carried out by the Taiping Prison doctor (Dr. Navin) (IW 39) and the medical officers (MAs), after which they were to be placed in the cells in Block E.

54. It was then stated by different witnesses that the transferred inmates refused to be transferred to Block E as the condition of Block E is structurally unsafe and there is a lack of proper toilets.

[22] Fremantle prison timeline. (n.d.). Fremantle Prison. https://fremantleprison.com.au/history-heritage/history/fremantle-prison-timeline/

[23] A copy of the Report of the Enquiry into the Causes of the Riot, Fire and Hostage Taking at Fremantle Prison on the 4th and 5th of January 1988 may be accessed at https://www.oics.wa.gov.au/wp-content/uploads/2013/12/Fremantle_prison_riot_inquiry_19881.pdf

55. Initially, from the testimonies of the mid-ranking JPM personnel, there seemed to be attempts by these personnel to negotiate and reason with the inmates and for them to agree to the placement in Block E as there was no place in the other blocks due to overcrowding. However, according to these witnesses, they failed to reach a compromise which led to the mobilization of JPM personnel to transfer the inmates by force on the evening of 17 January 2025.

56. It is unclear who exactly gave the order for the commencement of the transfer of the inmates from the hall (Dewan B) to the cell blocks on the evening of 17 January 2025. There was testimony that the Director was asked whether the transfer should proceed or not given the negotiations and the indeterminate outcome, and that it was he who ordered it to proceed. Yet the Director of Taiping Prison and the Deputy Director each place the blame on the other. This in itself clearly shows a breakdown in the chain of command in that neither the Director nor Deputy Director is prepared to shoulder responsibility for the actions of their subordinates. A "blame game" occurs. As later testimony from other JPM personnel shows, this breakdown in the chain of command and refusal to acknowledge and accept responsibility for their actions permeates the entire JPM personnel in Taiping Prison. Witness testimony is punctuated with responses of "I don't know", or "It is not me", "It is someone else", or simply silence.

57. There is no written order for the mobilisation of JPM personnel from other units and shifts, and for the use of riot gear including truncheons and pepper spray.

58. However what is clear is, from the CCTV footage provided, there seems to be no physical threat from the inmates at any time during the transfer operation. The inmates were squatting on the floor with their hands either above their heads or interlaced behind their heads in a submissive position.

59. The footage instead shows the opposite to be true, in that it is the JPM personnel who started attacking individual inmates. JPM personnel can clearly be seen kicking and hitting inmates, dragging them out the hall (Dewan B) by their neck or t-shirt, with multiple JPM personnel surrounding and repeatedly attacking a single inmate, who is helpless and defenceless. There is no sign of any provocation on the part of the inmate whatsoever. The inmates are then seen dragged one by one and forced to squat submissively outside the hall (Dewan B), where they are then further beaten, stepped on, heads aggressively shoved and even sprayed with pepper spray. Some inmates were seen bleeding from injuries to the head. No immediate medical attention is seen offered to any of these inmates.

60. Chaos reigned as a direct result of the break in the chain of command, with the lack of authority and control shown by the Deputy Prison Director (IW37) in charge of the transfer operation. Not once during the whole incident did he try to stop or issue orders to reign in the JPM personnel under his command, as they openly continued to beat and drag the inmates out of the hall (Dewan B). He witnessed the violence being perpetrated on the inmates, and did nothing.

Excessive Use of Force – Breach of Law and Regulations by JPM Personnel

61. According to Section 22 of the Prisons Act 1995, a prison officer may use weapons against a prisoner escaping or attempting to escape; or engaging in a combined outbreak, or breaking a barrier or using force against another person. The officer must warn the prisoner before using arms against him; and always only to disable and not to kill.

62. Under Regulation 56 of the Prisons Regulations 2000 on the use of force, it is clearly stated:

> " *(1) No officer shall strike a prisoner unless compelled to do so in self-defence or in defence of another person or prisoner or when ordered to inflict corporal punishment'.*
>
> *(2) A prisoner struck by a prison officer in self-defence or in defence of another person or prisoner shall be examined as soon as possible by the Medical Officer and an immediate report of the incident shall be made to the Officer-in-charge'*."

63. The Standing Order on the use of the truncheon and pepper spray [Exhibit 58 Commissioner General's Standing Order ("**CGSO**") No. E126] states that both these items are to be categorized as weapons and only to be used in situations where the officer is acting in self defence.

64. According to the testimonies of several of JPM personnel involved, they claimed that they only used physical force as a response to the alleged verbal threats by the inmates. The officers felt threatened, and some even went so far as to state that they were under a lot of stress.

65. Further, the JPM personnel called in to give testimony to this inquiry were all in agreement that what constituted 'reasonable force' is any force that does not cause death. As long as a person does not die from the force, according to them, it is 'reasonable'. This is farcical, wholly incorrect and totally unacceptable.

66. It is submitted that the force used in this incident was not only unreasonable but excessive in nature. The use of the truncheons and pepper spray is clearly a disproportionate response to the alleged verbal threats by the inmates. It is further submitted that JPM personnel who have access to the use of weapons in their line of work, they should always remain composed and level headed, and not allow themselves to be easily triggered by verbal threats from inmates, even if this can be factually proven to have occurred (which it has not). Properly and adequately trained JPM personnel should conduct themselves in a professional manner at all times.

Inadequate Medical Service/ Negligent behaviour of Taiping Prison medical staff

67. The Taiping Prison has an on-site clinic, manned by one doctor, Dr. Navin (IW39), three Medical Assistants ("**MA**"), three medical orderlies and a pharmacist. The clinic is equipped with minimal but adequate equipment including a blood pressure machine, an SPO2 machine, an ECG machine, an X-ray illuminator, stethoscopes, emergency trolleys/gurneys, oxygen tanks and other basic equipment. They also have a pharmacy stocked with medicine including antibiotics and painkillers.

68. The clinic however does not have an x-ray or ultrasound machine. In order to have an x-ray machine, the clinic would then need to have a radiographer on call. Taiping Prison does not have any ambulances as well.

69. For every inmate that arrives at Taiping Prison, the medical personnel are required to perform a basic health screening which covers screening for HIV, Hepatitis C and TB. They will also check for pre-existing health issues, including psychiatric conditions, before the inmates are placed in their accommodation blocks. Ideally this screening should be done within 24 hours of arrival.

70. For the inmates transferred on 16 January 2025, however, the Taiping Prison clinic did not conduct any health screening as required. The inmates were instead placed in Dewan B after going through the body scanner alone.

71. According to IW39, he was not informed of the inmate transfer prior to their arrival on 16 January 2025 or the further transfer from Dewan B to the respective cell blocks on 17 January 2025.

72. During the incident, IW39 said he treated about nine inmates who were brought to him and his medical assistant, Fadhil (IW38) while they were waiting outside Dewan B. The inmates suffered injuries to the head and other parts of their bodies.

73. IW39 did not, at any time, try to stop the incident once he saw what the JPM personnel were doing. He did not use his unique position as the Taiping Prison doctor or as a medical officer to advise the Director of Taiping Prison, the Deputy Director of Taiping Prison or the officer-in-charge about the potential harm caused by the continued beating of the inmates, be it on their heads or elsewhere. This was a dereliction of duty and a breach of his medical Hippocratic Oath to do no harm or allow harm to be done.

74. When asked to explain why he called the Taiping General Hospital during the incident and activated what he said was a 'contingency plan', IW39 said he was afraid there would be multiple inmates with injuries to the head, and he was afraid the injuries would be serious or fatal. This further confirms the fact that the force used by the JPM personnel was indeed

excessive, and that he knew or had good reason to believe or anticipate that there would be serious injuries amongst the inmates. Yet apart from making this advanced call, he did nothing to immediately intervene to stop the violence, or further violence, from taking place.

75. The doctor continued to fail in his duty as a physician not only under the Declaration of Geneva The Physician's Pledge [Exhibit 78] but also under ***Rule 32 of the Nelson Mandela Rules*** when he did not send the injured prisoners to the hospital for further medical examination and treatment. *Rule 32* states:

> *"1. The relationship between the physician or other health-care professionals and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular:*
>
> *(a) The duty of protecting prisoners' physical and mental health and the prevention and treatment of disease on the basis of clinical grounds only;*
>
> *(b) Adherence to prisoners' autonomy with regard to their own health and informed consent in the doctor-patient relationship;*
>
> *(c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others;*
>
> *(d) An absolute prohibition on engaging, actively or passively, in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment, including medical or scientific experimentation that may be detrimental to a prisoner's health, such as the removal of a prisoner's cells, body tissues or organs."*

76. IW39 stated that he instead used Taiping Prison's body scanning machine to scan for fractures on those inmates who were suspected to have suffered from them. There seems to be a different standard of care used by the doctor here in treating the inmates.

77. It is noted that IW39 is not an authorised person to operate a body scanner, nor is he trained in the use of the body scanner. Further, according to his own testimony, the body scanner is not the proper equipment to check for fractures, and he himself is not a trained radiologist or radiographer. This is another clear breach of his duty as a physician.

Professional Negligence in relation to Medical Cards or Referral Letters

78. There is also negligence in the maintenance of the medical records of inmates, with treatment dates and certain other relevant information missing from these records.

79. Evidence of tampering of the medical cards of the inmates include those in:

- ***Exhibit 32*** where the date of treatment was changed from ’22.1.2025’ to ’17.1.2025’.

- ***Exhibit 25(b)*** where there is some amendment/omission of details whereby the word ‘by’ is deleted, raising the question whether the doctor decided to omit/hide the identity of the person who dragged the inmate.

80. There is also evidence of discrimination in the filling of the medical cards and referral letters. Some of the inmates’ medical cards had words such as ‘riot in prison’ included [Exhibit 17]. Others had the words ‘hostile inmate started riot’ [Exhibit 9], ‘was involved in 17/1/2025 incident’ [Exhibit 23], ‘riot in prison’ [Exhibit 73], ‘alleged involved in prison provocation on the 17/1/2025’ [Exhibit 74]. IW39 had taken it upon himself to determine the true nature of what had occurred, and the nature of the inmates’ involvement. He was not authorised nor in a position to do so.

81. IW39’s explanation was that he inserted these words in the medical cards and referral letters as part of their medical history and as a warning to the hospital doctor that these inmates were a security threat. Again, he was not authorised nor in a position to make such a determination, which in any event was not a description of a medical condition. However he clarified that it was the Taiping Prison authorities that would decide whether an inmate is a security threat or not, and furthermore, all inmates referred to hospital would always be accompanied by an escort as per the JPM prison rules and regulations. He had thus exceeded his authority.

82. Therefore, including those unnecessary words while omitting how the injuries were actually sustained is discriminatory to the inmate receiving treatment at the hospital.

<u>The death of Uncle Gan</u>

83. We have already referred in part to the death of Uncle Gan in paragraph 10 above. The CCTV footage of Block E shows the inmates being sent into the cells as they gradually make their way to the back of the long corridor. Uncle Gan can be seen walking slowly, and then collapsing onto the floor of the corridor. JPM personnel can be seen repeatedly walking past, all the time ignoring him while they escorted other inmates to their cells.

84. It is two other inmates (Adam Fong and Hew Wei Leong) who are seen to stop on their own initiative and gave aid to Uncle Gan, fanning him with their t-shirt, and later propping him up against the wall. This goes on for quite some time. All this while, 4-5 JPM personnel can be seen sitting around the front desk, chatting away. No action was taken to check on Uncle Gan or to call for medical help by those JPM personnel present.

85. Uncle Gan was finally seen being carried by the two inmates (Adam Fong and Hew Wei Leong) with no help from JPM personnel. They are seen first lifting him by his arms and legs moving down the corridor, and later seen using a gurney which they have found along the way, and then pushing him to the front gate. They are made to wait at the gate for some time. This clearly shows that JPM personnel either lack training in basic first aid or declined to render first aid as they allowed Uncle Gan to be transported to the main gate with minimal or no care or emergency intervention at all.

86. Further, the doctor and medical staff failed to properly check and give aid to Uncle Gan before clearing him to be placed in his cell in the first place. CCTV shows Uncle Gan already looking weak and frail when he was made to squat outside Dewan B, and whilst walking to Block E. While outside Block E, he is further seen to be walking unsteadily and even collapsing and having to be physically propped up.

87. At the gate, according to witnesses, Uncle Gan was attended to by IW39, who claimed he was in a stable condition but needed to be sent to the hospital immediately. Taiping Prison personnel then decided to send Uncle Gan to the hospital using an empty prison van with no medical equipment or seating at the back, where he no doubt was bounced around during the journey, instead of calling for an ambulance where he could have been medically attended to en route.

88. The wait at the prison gate for the prison van to take Uncle Gan to the hospital was unnecessarily long. During that time, IW39 did not give any medical aid to Uncle Gan, but instead went to report to the Director of Taiping Prison at the canteen. Only two prison escorts [IW35] and [IW36] along with the van driver accompanied Uncle Gan to the hospital.

89. According to Exhibit 62, Uncle Gan was given CPR and after 20 minutes, this was stopped when he showed no signs of life. The diagnosis stated in the report was 'brought in dead - pending post mortem'.

90. The post mortem report [Exhibit 79] states the cause of death as 'Abdominal injury due to blunt force trauma' and 'Coronary atherosclerosis'. The forensic pathologist [IW41] explained that blunt force trauma caused the liver to rupture, and the amount of blood in the abdomen meant that Uncle Gan was bleeding for a long time after the injury as he had lost about 37% of his blood. The pathologist also ruled out CPR as a possible cause for the blunt force [CN-445-836-TN1223-902-09-20250 pages 23, 36, 37, 71].

91. It is submitted that the doctor (IW39), during the whole incident on 17 January 2025 and thereafter, showed a high level of incompetence in carrying out his duty as a physician. There were multiple instances of a lack of proper or adequate supervision or oversight in caring for the inmates who suffered injuries as stated above.

92. IW39 was also deficient and negligent in treating Uncle Gan and failed to give him the urgent care he needed by not rushing to send him to the hospital immediately. The inordinate delay in so doing very likely contributed to the death of Uncle Gan.

93. The inmates and Uncle Gan clearly had their right to adequate medical care taken away from them on that fatal day and subsequent days spent in Taiping Prison on remand.

Delay and/or Failure to Conduct Prompt Investigation into Human Rights Violations at Taiping Prison

94. The delay and/or failure of JPM and the Royal Malaysian Police ("**PDRM**") personnel to conduct prompt investigation into human rights violations at Taiping Prison does not accord with the laws, regulations, Federal Constitution and/or international human rights standards.

95. In turn, such failure is attributable to the State as it is the State that is the party responsible and accountable for the acts or omissions of its government officials to prevent, investigate, punish and compensate the victims of human rights violations.

96. The following examples highlight the lack of urgency and delay by the government officials to investigate the human rights violations at the Taiping Prison:

(i) The systematic failure of JPM personnel to report, investigate and take disciplinary actions against other JPM personnel who are the wrongdoers;

(ii) The lack of impartiality and urgency of PDRM personnel conducting the investigation into Uncle Gan's death; and

(iii) The lackadaisical attitude of JPM personnel and/or PDRM personnel in gathering and/or preserving the evidence of human rights violations.

The systematic failure of JPM personnel to report, investigate and take disciplinary actions against other JPM personnel who are the wrongdoers

97. JPM personnel failed to report the incident timely to their respective superior and/or colleagues.

(i) Tuan Nazri (IW1, Timbalan Pengarah Penjara Negeri Perak) admitted that he was not informed about the incident by his subordinates and he only knew about it when he went into his office. He admitted that the deputy director, Tuan Hasbi, only informed him the next day (NOP dated 9.6.2025, p 87 line 10 to p 89 line 33; p 93 line 8 to line 23);

(ii) IW1 further admitted that the fact that violence was used was not informed to him (NOP dated 9.6.2025, p 104 line 19 to 22);

(iii) Tuan Shafril (IW20, Ketua Inspektor Penjara) admitted he was not briefed on the inmates who were injured (NOP dated 8.7.2025, p 186, line 9 to 16). He was not briefed on the cause of death of Uncle Gan (NOP dated 8.7.2025, p 195, line 27 to 29).

(iv) Tuan Khairul Esmail (IW23, Timbalan Penguasa Penjara) admitted that he could not remember whether the incident causing injury was reported to the director (NOP dated 10.7.2025, p 63 line 1 to 2);

(v) Tuan Zaiful (IW33, Sarjan Penjara) admitted that he did not report the inmates who had suffered injuries to anyone (NOP dated 7.8.2025, p 64 line 3 to line 26);

(vi) IW33 admitted that he did not record any incident in relation to Uncle Gan in his pocket diary (NOP dated 7.7.2025, p 74 line 31 to 36); and

(vii) Tuan Azwan (IW32, Sarjan Penjara, Unit Kawalan dan Pencegahan) did not report to Tuan Zaiful (IW33, Sarjan Penjara, Unit Kawalan dan Pencegahan) and Tuan Azhari (IW34, Sarjan Penjara, Unit Kawalan dan Pencegahan) the condition of Uncle Gan (NOP dated 7.8.2025, p 44, line 3 to line 6; NOP dated 7.8.2025, p 105 line 16 to 19).

98. JPM personnel have a duty to make immediate report to their superior officer of any misconduct or wilful disobedience of the Prison Regulations 2000 or any abuse or impropriety which may come to his knowledge (**Regulation 257, Prison Regulations 2000**).

99. JPM personnel had also failed to investigate the cause of the incident involving and/or the death of Uncle Gan.

(i) IW1 confirmed that there was an internal investigation. However, he did not know the outcome of the investigation. No actions were taken internally by JPM save for the transfer of a few personnel (NOP dated 9.6.2025, p 109 line 1 to p 111 line 12). IW1 confirmed that the transfer was made because of safety reasons, not disciplinary reasons (NOP dated 9.6.2025, p 111 line 4 to line 35);

(ii) Tuan Hafidz (IW45, Timbalan Komisioner Jeneral Penjara) confirmed there was an internal investigation. But he could not identify the JPM officers who were involved in the 17 January incident (NOP dated 3.9.2025, p 176 line 2 to 11);

(iii) The internal investigation identified many JPM officers who had used excessive force (NOP dated 22.9.2025, p 37 line 24 to 32). However, no names were provided to the inquiry panel.

(iv) Tuan Hairie (IW29, Ketua Inspektor Penjara) confirmed that there was an internal investigation, but himself was not called for the internal investigation (NOP dated 25.7.2025, p 200 line 4 to 13). Similarly, Tuan Azwan (IW32) was not called for internal investigation (NOP dated 6.8.2025, p 213 line 11 to 14). Tuan Nasir (IW40, Penolong Penguasa Penjara) was also not called (NOP dated 21.8.2025, p 38 line 33 to p 39 line 2).

(v) The internal investigation did not pertain to the death of Uncle Gan. This was confirmed by Tuan Zaiful (IW33) (NOP dated 7.8.2025, p 74 line 23 to 29).

100. In this regard, they had failed to comply with the CGSO 406 (Exhibit 68), which stipulates that there is a duty to report extraordinary incident (*kejadian luar biasa*) to the Commissioner General.

101. The failure of JPM personnel to comply with the CGSO is a clear breach of statutory duty and constitutes a violation of the law (Section 20, Prison Act 1995; Regulations 197(2) and 252, Prison Regulations 2000), which renders them to have committed an offence under the law (Section 59, Prison Act 1995) and liable to prosecution, as well as disciplinary proceedings under Public Officers (Conduct and Discipline) Regulations 1993 and the Public Service Disciplinary Boards 1993 (Section 63(1) of the Prisons Act 1995; Regulation 275 of the Prison Regulations 2000).

102. To date, there has been no disciplinary action taken against any JPM personnel who had committed wrongdoing against inmates. Tuan Nazri (IW1) admitted that the JPM officers involved were only given verbal warnings and nothing else (NOP dated 9.6.2025, p 104 line 3 to 17). Tuan Nazri (IW1) confirmed that no disciplinary action taken against the JPM personnel (NOP dated 11.6.2025, p 55, line 1 to 31). Tuan Shahrul (IW37, Timbalan Pengarah Penjara) confirmed that actions should have been taken against the JPM officers who did not comply with the prison rules, although he has not done so due to pending police investigation (NOP dated 21.8.2025, p 76 line 36 to p 77 line 9).

103. In addition, some of the potential wrongdoers still occupy the same premise as the witnesses (inmates), despite the advice from Tuan Zaki (IW49, Director of Prosecution, Perak) to separate them, pending investigation (IW 49, NOP dated 12.9.2025, line 10 to 14, p 119). As mentioned earlier, JPM personnel who were transferred were due to concerns that remaining in Taiping Prison would be a risk to their safety.

104. Apart from the above, Tuan Khairul Esmail (IW23) also resorted to making a police report (Exhibit 45) on the 17 January incident, which contains facts which are untrue. These

include statement that the inmates were acting aggressively and the JPM personnel merely acted in self-defense.

105. The inaccuracies in the police report had been confirmed by the OCCI Perak. Tuan Aziz also agreed that the statement in the police report is untrue (NOP dated 22.9.2025, p 79, line 4 to line 36).

106. The failure of JPM to complete their investigation of the incident and to punish the wrongdoers is a clear violation of the equality and non-discrimination principles entrenched in Articles 8(1) and 8(2) of the Federal Constitution respectively.

107. Under the international human rights regime, prison authorities also have an obligation to report and/or investigate human rights abuses.

108. ***Rule 57(3) of the Nelson Mandela Rules*** stipulates that allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners shall be dealt with immediately.

109. ***Rule 71 of the Nelson Mandela Rules*** provides that the prison director shall report, without delay, any custodial death, disappearance or serious injury to a judicial or other competent authority that is independent of the prison administration and mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases.

110. In this regard, Rules 57(3) and 71 of the Mandela Rules have not been observed by the prison authority.

The lack of impartiality and urgency of the police conducting the investigation into Uncle Gan's death

111. The police authority ought to have conducted the investigation independently and expeditiously. However, in this instance, the police lack impartiality and urgency in conducting the investigation into Uncle Gan's death.

(i) SAC Luqman (IW47, Ketua Jabatan Siasatan Jenayah Negeri Perak) stated that the new investigating officer has not been appointment, following the change of the previous investigating officer (NOP dated 10.9.2025, p 138 line 2 to 19);

(ii) ASP Siti (IW42, Pegawai Penyiasat) informed the panel she had not received the post-mortem report. SAC Luqman informed the panel that the police received the post-mortem report a few days before 10.9.2025, approximately 9 months after the incident, despite the post-mortem report being made available in June (NOP dated 10.9.2025, p 139 line 28 to p 140 line 22). She admitted that she had not proactively followed up on the post-mortem report.

112. IW47 confirmed that the investigation has not been completed (IW47, NOP dated 10.9.2025, Line 17 to 20, p 154) and no arrest has been made, despite the case being investigated under Section 302 of the Penal Code (IW47, NOP dated 10.9.2025, Line 6 to 10, p 145). As a result, no wrongdoer has been prosecuted (IW 49, NOP dated 12.9.2025, line 23 to 27, p 117).

113. The Criminal Procedure Code imposes a duty on an investigating officer to complete every police investigation without unnecessary delay, and the officer making the investigation shall submit to the Public Prosecutor a report of his investigation together with the investigation papers in respect of such investigation within one week of the expiry of the period of three months from the date of the police report (section 120(1), Criminal Procedure Code; ***Indira Gandhi a/p Mutho v Ketua Polis Negara [2015] 2 SHLR 1***).

114. The failure of the police to complete prompt investigation calls into question the independence of the police as the investigative authority. It also violates Article 5(1) and Articles 8(1) and 8(2) of the Federal Constitution, potentially giving rise to a breach of constitutional duty and misfeasance in public office.

115. ***Rule 57(3) of the Nelson Mandela Rules*** necessitates prompt and impartial investigation conducted by an independent national authority in the event of allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners.

116. The failure of the police to conduct prompt, impartial and effective investigations render the non-compliance with ***Rule 71(1) of the Nelson Mandela Rules***.

117. In this regard, the Government has also failed to comply with the international human rights standard, i.e. Article 12 of UNCAT, to ensure that its competent authorities proceed to a prompt and impartial investigation.

118. The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, as recommended by the United Nations Economic and Social Council in 1981, also stipulates that:

> *"9. There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The*

investigation shall distinguish between natural death, accidental death, suicide and homicide."[24]

119. The PDRM have failed to adhere to international human rights standards which require prompt and impartial investigation. This failure is attributable to the State.

<u>The lackadaisical attitude of JPM personnel and/or PDRM personnel in gathering and/or preserving the evidence of human rights violations</u>

120. JPM personnel and/or PDRM personnel ought to gather and preserve all evidence pertaining to the human rights violations at Taiping Prison.

121. However, over the course of the SUHAKAM inquiry, it had been revealed that JPM personnel and/or PDRM personnel had failed to gather and/or preserve those evidence.

122. JPM was not cooperative and refused to provide the full-length CCTV recording to SUHAKAM, the PDRM investigation officer and the AGC. which has delayed the investigation :

(i) SUHAKAM's request for CCTV recordings was not approved by JPM because the police were investigating the matter (NOP 9.6.2025, p 98 line 4 to line 12).

(ii) IW49 confirmed that the JPM was not cooperative in providing CCTV recordings (NOP dated 12.9.2025, Line 1 to 7, p 105; line 5 to 8, p 117).

123. IW47 admitted he did not take initiative to see the full CCTV recording (IW47, NOP dated 10.9.2025, Line 2 to 19, p 1112).

124. Tuan Shahrul (IW37) admitted that the mobile phone which was used to record the incident should have been handed over to the Investigating Officer for purposes of the police investigation (NOP dated 21.8.2025, p 77 line 17 to line 27).

125. The JPM Personnel also admitted to writing and/or amending their pocket diaries some time after the incident and/or interview with SUHAKAM. This is notwithstanding that this is a clear breach of the CGSO 104 (Exhibit 59). The credibility of such records, not being contemporary in nature, has to be called into question.

126. The act of causing the disappearance of evidence of the commission of an offence in order to protect the offender is an offence under Section 201 of the Penal Code. The destruction of a document to prevent its production as evidence is also an offence under Section 204 of the Penal Code.

[24] https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-effective-prevention-and-investigation-extra-legal

127. Under ***Regulation 198 of the Prison Regulations 2000***, the Officer-in-Charge shall be responsible that all written laws, regulations and orders relating to the prison, prisoners and staff are strictly adhered to and all records, accounts, documents, and correspondence are properly kept, maintained up to date, and in safe custody. The Officer-in-Charge shall be responsible for seeing that proper records are kept of all such circumstances, and of any correspondence connected with such circumstances, as affect the interests of particular prisoners, and shall bring the cases to the notice of the Commissioner General after such time, or at such time, or at such intervals, as may be proper in each case (Regulation 202, Prison Regulations 2000).

128. In deleting and/or tampering with the relevant evidence, JPM personnel had clearly acted in bad faith, in violation of the law. Their actions also violate Rule 71 of the Nelson Mandela Rules, which provides that the prison administration shall fully cooperate with that authority and ensure that all evidence is preserved in custodial death.

129. PDRM have failed in their duty to collect all the necessary evidence expeditiously. ***Article 10 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*** stipulates that:

> *"The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify. The same shall apply to any witness. To this end, they shall be entitled to issue summonses to witnesses, including the officials allegedly involved and to demand the production of evidence."*[25]

130. The failure of JPM personnel and PDRM personnel to investigate promptly and independently the human rights abuses is itself a clear violation of international human rights standards. It also constitutes an abuse of power by government officials. We also note that not all JPM personnel were questioned during the internal investigation (see paragraph 99 above). This raises questions of how comprehensive these internal investigations are actually.

131. Apart from the JPM's and PDRM's failure to pursue the case diligently, JPM and PDRM have allowed the relevant evidence to be disposed of and/or tampered with. This calls into question the independence and/or impartiality of the investigation, and serves as an obstacle for the victims' families to access their fair trial rights and obtain due redress/compensation, as the evidence is tainted.

[25] https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-effective-prevention-and-investigation-extra-legal

132. These breaches by JPM and PDRM reflect by extension the government's failure and/or non-commitment to uphold human rights and adhere to international human rights standards.

C, EXAMINE HOW AND WHY SUCH HUMAN RIGHTS VIOLATIONS OCCURRED

Lack of adequate, proper and regular training

133. It is patently obvious that one of the primary causes of the occurrence of the above-identified human rights violations is the lack of adequate, proper and regular training of JPM personnel.

134. All rank and file JPM personnel who appeared as witnesses before the Public Inquiry stated that they had received some basic training on JPM procedures as contained in the CGSO upon joining the service. By "rank and file" we refer to those who did not possess university-level education qualifications. Most of this training occurred at a stint in the JPM College at the start of their service. However, beyond this initial training, very few rank and file JPM personnel had attended any subsequent training at the JPM College. Certainly, none recalled receiving any refresher training.

135. Some mid-level JPM personnel were employed, assigned to their posts and then immediately sent for training. By "mid-level" we refer to those who possessed a university-level qualification. Very few of these mid-level JPM personnel had degrees in areas directly related to their service in the JPM. Once trained, these mid-level JPM personnel went back to their assigned posts at their respective prisons. They would have had little to no on-the-field training or experience, and were basically learning on-the-job, and often taking the cue from more senior and experienced subordinates within the service as to how to carry out their responsibilities.

136. In short, they were not prepared for emergency situations, and certainly not prepared for an incident such as that which occurred on 17 January 2025 at Taiping Prison. What was disclosed in testimony can only be characterised as a total breakdown in the chain of command. Line officers did not give any, or any clear instructions, to rank and file personnel to cease or desist in the violence. Non-compliance with any instructions, if given, was not met with reprimand or remedial action. Individual personnel were allowed to act according to their own whims and fancies, without regard to any standard of discipline or code of conduct. There was little if any attempt to reign in those who had gone too far.

137. The oft-cited explanation from the various JPM personnel who appeared as witnesses was that JPM personnel had lost control ("hilang kawalan"). This was blamed on the inmates, whom it was said uttered threats of violence against JPM personnel and, more importantly, against members of their families, including threats of rape of family members. This

supposedly pushed them over the edge, and the ensuing violent attacks on the inmates was the direct consequence of such "provocation".

138. We submit that this rationale was a mere afterthought and a concoction on the part of JPM personnel. The first few JPM personnel who gave evidence at the Public Inquiry in the first week of the sessions in Kuala Lumpur only spoke about hearing harsh words from the inmates. They made no mention of nor did they recount any specific threats to wives or children. These specific threats only started being mentioned in the second week of the Public Inquiry hearings in Kuala Lumpur.

139. Due to the lack of audio in any of the recordings presented to the Public Inquiry, it is not possible to verify the veracity of these allegations made by the JPM personnel. However, the videos played at the Public Inquiry of events recorded on 17 January 2025 do not show any inmate adopting an aggressive speaking stance. The inmates are seen being forced to squat, with hands interlaced behind their heads and with their heads bowed low. Such a stance is inconsistent with any aggressive speech.

Lack of familiarity with rules and regulations

140. It was extremely telling that most of the JPM personnel, both rank and file and mid-level, were unable to recite accurately the CGSOs in relation to order, control, use of force. They all said that they recalled these CGSOs, having seen them once or twice before during training, but not at anytime recently. One or two JPM personnel witnesses were able to quote some relevant CGSOs, but it was clear that they had made it a point to refresh their memories selectively prior to appearing before the Public Inquiry. It was apparent that they could recall only some parts of the CGSOs but, when asked, not others.

141. The rank and file JPM personnel had no knowledge of or familiarity with international norms and standards. They did not know about the Nelson Mandela Rules, and had not heard about UNCAT.

D. DETERMINE THE PARTIES RESPONSIBLE FOR THE HUMAN RIGHTS VIOLATIONS

142. It is our submission that JPM personnel at Taiping Prison at all levels at the time of the incident on 17 January 2025 are responsible for the many human rights violations that occurred on that day. There was a breakdown in the chain of command, starting from the Director downwards, a breach of trust and responsibility on the part of the officers to discharge their functions properly, and a disobedience and dereliction of duty on the part of the rank and file to carry out their duties professionally.

143. We also submit that there has been systemic failure on the part of JPM itself to provide for adequate, proper and regular training of JPM personnel, resulting in their failure to comply

correctly with the CGSO and their lack of awareness, understanding and implementation of international norms and standards of prison incarceration.

144. The Government of Malaysia and the JPM are responsible for the continued use of outdated and outmoded prisons, leading to a failure to provide safe, clean and dignified accommodation for prison inmates.

145. The Government of Malaysia, JPM and the Ministry of Health are responsible for the poor standard of medical facilities, poor training and inadequate oversight and supervision of medical personnel, and critical inadequacy of medical equipment and services supplied to inmates of Taiping Prison. We submit that these contributed in a significant way to the death in custody of Uncle Gan.

146. We are also of the view that JPM's failure to properly and professionally investigate the incident internally and to promptly identify and hold individuals specifically responsible for the violence perpetrated on the inmates, the breakdown in the chain of command, the breaches of responsibility, the dereliction of duty, all represent a collective collapse in maintaining the professionalism of the prison service in Malaysia and a breach of their statutory duty. The explanation that their investigation could not be completed pending the completion of police investigations is wholly unacceptable given the fact that JPM is an independent and self-regulating law enforcement agency. Breaches of discipline and violations of the CGSO can and should have been dealt with by the JPM themselves. The external investigations by the Royal Malaysian Police go towards a separate matter as to whether there has been any criminality involved during the 17 January 2025 incident. The lack of any sense of urgency in addressing the incident belies an attitude of impunity towards and immunity against any sense of accountability for the actions of JPM personnel.

147. The Royal Malaysian Police must also bear some responsibility for the shoddy investigation and inordinate delay in carrying out their investigations. For one thing at the very least, the uncertainty or lack of clarity as to who was the Investigating Officer investigating the death in custody of Uncle Gan and the inordinate and inexplicable delay in securing the post-mortem report (which was ready the following day but not sought for even as at the date of the Public Inquiry) are serious weaknesses and evidence of negligence on the part of the Royal Malaysian Police in their investigation process.

E. MAKE RECOMMENDATIONS TO PREVENT THE RECURRENCE OF SIMILAR INCIDENTS

148. Based upon the foregoing, we would make the following recommendations.

Recommendation 1: Standing Orders must be made Publicly Available

149. The Commissioner General of Prison's Standing Orders should be made publicly available. As experienced during the course of the Public Inquiry, the CGSOs are currently

categorized as a secret governed by the Official Secrets Act 1972 (OSA). The Public Inquiry was only given extracts of the CGSO as and when a particular issue arose, e.g. on the use of force, and on the use of certain types of equipment.

150. The CGSOs lay down the standard operating procedures of the JPM. However, it is impossible to determine whether and to what extent the JPM recognises international human rights standards and reflect these in the CGSOs when these are not publicly available. Making them available would make JPM transparent and publicly accountable for their practices and procedures, and provide an avenue for the public to see and ensure that these are actually practiced.

151. In a free and open society, where the rule of law is both upheld and respected, every person is and should be entitled to know what his or her rights are. It is not acceptable that the rights of inmates, whether citizens or not, can be taken away or otherwise affected through a document the contents of which they are not allowed to know or see.

152. Every person is also entitled to know what to expect when they come face to face with the JPM. This is to avoid doubt, misapprehension and fear. At the very "front-line", we already see a glimpse of this happening, through "client charters". When you make a road accident report, there are signs informing you what the process is, what is expected of you, and what the authorities will do as well. These principles engender both transparency and accountability. These same principles should be extended to, and should underlie, all actions of the JPM. Currently, apart from (usually forced) self-disclosures by JPM, the only way to find out what the relevant CGSOs are on a particular area is through the testimony of JPM personnel at an inquiry or criminal trial, or civil action.

153. JPM may try to argue that making the CGSOs public will result in criminal elements within the prison environment know what JPM personnel will do in various circumstances, and will allow them to circumvent them. The counter-argument is that not following CGSOs may render action by JPM unfair, unwarranted and unlawful, as we have seen in this Public Inquiry. The response to criminal elements is not to keep standing orders secret but to counter criminal elements through internal and external procedures, coupled with properly-defined exceptions provided for in such standing orders. The equivalent of CGSOs in many other developed countries are readily available for inspection by the public.

Recommendation 2: Improved training for JPM personnel

154. It is very clear that the JPM system of mandatory and refresher training needs to be comprehensively overhauled. The system of having a training officer at each prison who would be responsible for scheduling training for JPM personnel at that particular prison has been shown not to work due to either unwillingness or unavailability of JPM personnel to attend such trainings.

155. The absence of refresher training every two-to-three years of JPM personnel to remind them of JPM policies or to introduce new or revised methods and operational procedures have no doubt contributed to the failure of JPM personnel to cope with the situation that obtained at Taiping Prison on 17 January 2025. The lack of professionalism, the inability to remain composed in the face of alleged insults and threats from inmates (which has not been proven) display a breakdown in the nature and extent of the training received by JPM personnel. There appears to be a total absence of scenario simulation in training, whereby JPM personnel are taught how to cope with exceptional circumstances in a proportionate way. The quick resort of violence and the rapid descent into disproportionate, wild and uncontrolled responses by JPM personnel on 17 January 2025 only point to the urgent need for much better training.

156. Another aspect of training that appears to be absent is psychological training and aptitude assessment. JPM personnel, especially at mid-level, are university graduates from a wide range of backgrounds and study disciplines. There does not appear to have been any screening undertaken to ensure that only those with a correct attitude and appropriate aptitude are selected to serve as JPM personnel. The arbitrary and animalistic manner in which some JPM personnel acted on 17 January 2025, with uncontrolled hitting, kicking, stomping and other forms of violence on inmates on the part of certain JPM personnel which was witnessed in the video recordings are shameful and shocking.

Recommendation 3: Reform of the criminal justice system

157. The present incident involved inmates under remand, awaiting trial. According to the prison officials, these inmates would ideally be housed in a separate block from those inmates convicted and serving sentences. However, due to the lack of space, the 'remand' block was already full to capacity, and therefore, the new inmates transferred from Batu Gajah were then housed in Block E, which was previously vacant.

Reducing bail amount for those awaiting trial, expediting trials

158. It is submitted that by reducing the bail amount for other less serious offences, and making it possible for more of those accused to afford bail, there would be less pressure on the prison system to find space for inmates, which is a primary factor in causing the continued use of outdated prisons. Reducing reliance on these outdated prisons and focusing on improving the conditions within the remaining prisons would help to improve the condition of our prisons overall.

Decriminalising minor drug offences

159. Another crucial step to reducing the number of remand inmates would be the decriminalisation of minor drug offences. Decriminalising minor drug offences should be part and parcel of a system centred more on rehabilitation and preventing recidivism. One key potential human rights violation is the infringement of personal liberty of individuals

from poor and marginalised communities (Right to Liberty) whereby these individuals cannot afford the bail set, which would then lead them to being remanded in prison while awaiting trial.

Reformation and social rehabilitation - alternate punishment

160. As for the inmates sentenced to imprisonment after trial, the availability of alternative forms of sentencing to do community service and other forms of rehabilitation instead would not only reduce the number of inmates in prison, but further the contribution of these persons to society and reduce the social stigma of having 'gone to prison'. [26]

Recommendation 4: Systemic Improvement of Taiping Prison

161. The Malaysian Bar recommends a comprehensive reform strategy to address the systemic failures at Taiping Prison, targeting structural integrity, sanitation, and population management. These measures are necessary to restore the dignity, safety, and psychological well-being of inmates and to ensure compliance with international human rights standards.

Structural Safety and Conservation Overhaul

162. The Bar recommends an immediate, independent engineering audit of all colonial-era blocks, including Block E, to assess structural safety and identify urgent remedial measures. Block E should be decommissioned until these safety concerns are fully addressed. Any restoration or refurbishment should adopt a Fremantle-style approach, balancing heritage preservation with modern safety standards to ensure that historical structures do not compromise inmate welfare. In parallel, federal funding should be allocated for the construction of new accommodation blocks, physically separate from the colonial buildings, to provide safe, modern, and sustainable detention spaces.

Sanitation Reform and Elimination of the Bucket System

163. The continued use of buckets for human waste is incompatible with both the Nelson Mandela Rules and basic human dignity. The Bar recommends the installation of functioning toilets in all inmate accommodation areas and the prohibition of housing inmates in any block without operational toilets or adequate washing facilities. Sanitation facilities must meet international standards, with compliance monitored through regular inspections by SUHAKAM or another independent body. This ensures that prisoners can meet their bodily needs in a clean and dignified manner, as required under Rule 15 and Rule 16 of the Nelson Mandela Rules.

[26] Please also refer to "Criminal Justice System in Malaysia : Moving Towards a More Compassionate Society" [2024] 2 MLJ ccxciii, written by Dato' Edwin Paramjothy Michael Muniandy, Director, Research Division, Chief Justice's Office, Federal Court of Malaysia. A copy the article is annexed to these written submissions.

Overcrowding Mitigation Plan

164. Overcrowding has been identified as a central factor exacerbating unsafe and degrading conditions in Block E. The Bar recommends that the Prisons Department present a detailed, time-bound plan to mitigate overcrowding, including temporary decarceration measures, careful redistribution of inmates, and transfers only to facilities capable of safely accommodating them. This plan should prioritise compliance with Rule 12 and Rule 13 of the Nelson Mandela Rules, ensuring minimum floor space, proper ventilation, and safe sleeping arrangements for all prisoners.

Continuous Monitoring and Human Rights Oversight

165. Finally, the Bar recommends the establishment of a continuous human rights oversight mechanism for all prisons under the Prisons Department. This should include regular inspections, monitoring of structural integrity, sanitation, and population levels, and an independent reporting channel to ensure transparency and accountability. Such oversight will not only prevent future violations but also reinforce the State's positive duty to treat all prisoners with respect for their inherent dignity. Breaches of the human rights of inmates and/or prisoners should constitute a disciplinary offence actionable by the JPM against any personnel.

Recommendation 5: Ratification of the UN international human rights instruments

166. We have highlighted the non-compliance with the international human rights instruments. We repeat our call upon the Malaysian government to accede to more international conventions on human rights as well as their optional protocols, in particular UNCAT. This would ensure the compliance by the government authorities with the international human rights standards, especially in respect of the housing and treatment of prison inmates.

167. The adoption of UNCAT would ensure that Malaysia's national legislation incorporates, and is consistent with, the definition of torture in Article 1(1) of UNCAT.

> *"For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."*

Recommendation 6: Criminalisation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under national legislation

168. Consistent with our recommendation for Malaysia to ratify UNCAT, we also recommend that Malaysia criminalise torture and other cruel, inhuman or degrading treatment or punishment either under the Penal Code or through a freestanding Act of Parliament. This would demonstrate Malaysia's commitment to becoming a torture-free nation. Article 14 of the ASEAN Human Rights Declaration provides:

> *"No person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment."*

169. The Penal Code is currently insufficient to cover the offence of torture and other cruel, inhuman or degrading treatment or punishment, nor does it make any express reference to such conduct. As such, the Penal Code does not adequately reflect the gravity of acts of torture.

170. As pointed out by the Office of the United Nations High Commissioner for Human Rights:[27]

> *"Torture is a crime under international law. According to all relevant instruments, it is absolutely prohibited and cannot be justified under any circumstances. This prohibition forms part of customary international law, which means that it is binding on every member of the international community, regardless of whether a State has ratified international treaties in which torture is expressly prohibited. The systematic or widespread practice of torture constitutes a crime against humanity."*

Recommendation 7: JPM to be placed under the Ministry of Justice

171. We further recommend that the current Ministry in the Prime Minister's Department (Law and Institutional Reform) be converted into a stand-alone Ministry of Law, Justice, Human Rights and Institutional Reform be established and that the JPM be placed under its purview. Currently, because of it coming under the jurisdiction of the Ministry of Home Affairs, JPM's approach to inmates and persons incarcerated reflect more of a national security priority, rather than a judicial one.

172. By transferring oversight of JPM to a Ministry of Law, Justice, Human Rights and Institutional Reform, the relevant Minister shall then be responsible for all aspects of the prison and correctional system in Malaysia, focusing more on rehabilitation and restorative justice. The Minister would also be responsible for the protection and promotion of human rights, and ensuring that the housing and treatment of prison inmates comply with

[27] https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet4rev.1en.pdf

international human rights standards at all material times, and that a yearly report is prepared, published and debated in the Dewan Rakyat.

Recommendation 8: Independence of the Medical Service from the Prison Service

173. Currently, the doctor stationed in a prison has to report to two different services, JPM and the Ministry of Health. The question of dual reporting leads to the issue of possible conflicting dual loyalties. This places an inordinate burden on the doctor. Members of the medical profession need to be able to perform their duties professionally, independently, impartially and with integrity. Their primary duty should be the care, health and well-being of inmates and/or prisoners. They should not be made subject to any external influence in the performance of their operational medical duties, or any other influence that would compromise their medical and professional independence. If they witness or observe acts or activities or conduct which is detrimental to the care, health or well-being of inmates and/or prisoners, they should be free to speak up without fear of repercussion or retribution from JPM personnel. This can only be accomplished if they are independent of having to report to JPM.

174. Along similar lines, the budget for medical clinics within a prison should come from the Ministry of Health. The quality of medical equipment and facilities should not be made subject to the funding from JPM, since other prison priorities may take precedence or preference. Medical equipment and facilities in prisons should comply with Ministry of Health guidelines in terms of their availability, proximity and location. It then would become the responsibility of the Ministry of Health to ensure that adequate training is given to JPM personnel in order to be able to have access to and operate the equipment in case of medical emergencies, but always under the supervision of the Ministry of Health's personnel stationed in any prison.

Recommendation 9: Reform of SUHAKAM and the SUHAKAM Act

175. As highlighted in our earlier submissions, there were shortcomings in the investigation process by SUHAKAM. SUHAKAM, as the National Human Rights Institution ("**NHRI**") in Malaysia, faced difficulties in investigating potential human rights violations over the course of this inquiry, as follows:

(i) JPM personnel, as repeatedly highlighted by the Chairman of the Public Inquiry, were willing to lie and/or giving contradictory answers on oath when giving evidence in the Public Inquiry in order to conceal the truth and to avoid identifying and naming their colleagues as perpetrators:

(a) particularly, the JPM personnel appeared evasive and defensive when they were queried on whether they had used any force against the inmates. Initially when interviewed by SUHAKAM staff, there was

little to no admission by JPM personnel that violence had been inflicted on the inmates. Most of them only admitted that they did use force against the inmates after they were shown the CCTV footages.

(b) some JPM personnel testified before the panel that they had recorded the incident in their pocket diaries. They then admitted to the panel that they did it after they were interviewed by SUHAKAM and before they attended the inquiry. We also noted that entries in the pocket diaries did not fully reflect all the activities of the day, on each and every day. There were selective and sporadic entries. There was also very poor supervision of the entries in the pocket diaries, with review by a senior officer being extremely ad hoc and not systematic. This merely encouraged and promoted an irresponsible and lackadaisical approach to complying with the CGSO on pocket diaries. This in effect made a mockery of the whole CGSO on pocket diaries.

(ii) SUHAKAM was prevented by JPM personnel from accessing both Batu Gajah Prison and Taiping Prison when the incident first came to light; and

(iii) JPM personnel clearly tampered with the evidence and/or refused to hand over evidence to SUHAKAM despite repeated requests being made by SUHAKAM.

176. Over the course of the inquiry, the Malaysian Bar also noted the following shortcomings in the procedural aspect of the inquiry:

(i) The Malaysian Bar observer team was not given adequate time to ask questions to some of the witnesses. There were times when we were rushed through our questions due to limitations of time, especially towards the close of the session or at the end of the day; and

(ii) Observers from the JPM were able to lead some of the witnesses, especially JPM personnel of more senior rank, and even adduce evidence on behalf of those witnesses, who seem unprepared and lacked knowledge of the issues.

177. Under the Principles relating to the Status of National Institutions ("**Paris Principles**"), an NHRI shall be able to hear any person and obtain any information and any documents necessary for assessing situations falling within its competence.

178. The powers relating to inquiries are currently set out in Section 14 of the SUHAKAM Act. These include SUHAKAM's power to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as SUHAKAM thinks necessary or desirable to procure or examine; and to summon any person residing in Malaysia to attend any meeting of SUHAKAM to give evidence or produce any document or other thing in

his possession, and to examine him as a witness or require him to produce any document or other thing in his possession.

179. We recommend the following:

(a) SUHAKAM should be given adequate powers to undertake investigations, including the powers to take evidence from victims and witnesses, obtaining documents and information, entering premises and conduct inspections, and compel the attendance of witnesses. In this regard, SUHAKAM should be able to issue orders, enforce those orders and penalise those who breach the orders. Amendments to the SUHAKAM Act may be necessary to achieve this.

(b) The SUHAKAM Act should be further amended to allow for SUHAKAM to visit any place of detention, including a prison, without having to give prior notice (written or otherwise) or to comply with the regulations of that place of detention. The most recent amendment to the SUHAKAM removed the need for the former but still made SUHAKAM subject to the latter. That simply makes a mockery of the role of SUHAKAM.

(c) The SUHAKAM Act should also be amended to remove the provision that once legal proceedings are commenced in relation to a matter under investigation by SUHAKAM, those investigations must be halted. This is an unnecessary fetter on the power and scope of SUHAKAM to perform its functions and to carry out investigations. We have seen in the past attempts by certain parties to frustrate the investigatory process and powers of SUHAKAM by commencing weak or baseless prosecutions and frivolous legal proceedings. The SUHAKAM Act needs to be amended to disallow these actions.

(d) We have noted that in this Public Inquiry JPM had carried out its own internal investigations whilst PDRM was carrying out its own investigations. One is internal to the prison system, while the other is with respect to possible criminal conduct in contravention of the Penal Code. The explanation that JPM cannot conclude its investigations whilst PDRM investigations are on-going is a poor one that should not be accepted. JPM should be able to carry out its own independent investigations and discipline its own personnel without the need to wait for PDRM to conclude its investigations. They can and should co-exist side by side. The ultimate aim of both investigations is different. A guilty JPM personnel can face both internal disciplinary action AND be prosecuted in the courts for a criminal offence. The issue of double-jeopardy does not arise. Likewise, SUHAKAM's own investigations and any public inquiry is a separate albeit overlapping investigation. SUHAKAM's aim is to determine violations of human rights. The question of interference of one investigation with another does not arise.

(e) As regards witnesses who were willing to deliberately lie and/or giving contradictory answers on oath during inquiry, SUHAKAM should be able to refer such witnesses to the police and/or recommend the witnesses to be charged in court, so that the witnesses may be charged with giving or fabricating false evidence as envisaged under Section 15(2) of the SUHAKAM Act. SUHAKAM should be able to do this even part-way through a public inquiry so as not to jeopardise the integrity of an on-going public inquiry and as a warning to pending witnesses.

(f) The inquiry is a public inquiry and has to be conducted transparently so that human rights violations can be fully investigated. SUHAKAM has rightly not excluded any part of the public from attending the inquiry under Section 14(1)(e) of the SUHAKAM Act. We further recommend that for a public inquiry, especially when the nature of the alleged human rights violations is grave and serious such as in this case, counsel/representatives for the observers and/or members of the public be given complete and full access to the notes of proceedings and/or exhibits. It is important that public confidence and transparency be upheld in a public inquiry. If there is confidential information, such confidential information may be redacted provided it is not material.

(g) Counsel/representatives for the observers should also be given adequate time to ask questions to the witnesses, provided that the questions are relevant.

(h) Lastly, the SUHAKAM should be able to issue procedural rules governing the conduct of the inquiry, which binds all witnesses and observers. This is to prevent observers from adducing evidence on behalf of the witness and violating the due process of the inquiry. Procedural rules of inquiry also provide more clarity, transparency and awareness on the procedural aspect and conduct of the inquiry.

Recommendation 10: PDRM to expedite the investigation

180. We recommend the PDRM be called upon to expedite and complete their investigation, so that the wrongdoers can be identified and held accountable, after investigation papers are sent to the AGC. Victims of the violence on that day and their next-of-kin should be able to begin to obtain their redress without any further delay.

F. CONCLUSION

181. The tragedy of 17 January 2025 was not simply an operational failure or a moment of inmate disobedience. It was the direct outcome of an environment that was unsafe, unsanitary, overcrowded, and institutionally neglected. The physical conditions of Taiping Prison – particularly Block E – amounted to degrading treatment in violation of Malaysia's obligations under international human rights law.

182. The inmates' resistance was, at its core, a plea for dignity. The events of that day underscore the urgent need for comprehensive structural, institutional, and human rights-aligned reform of our prison system to elevate it to acceptable international standards.

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ANNEXURE: CRIMINAL JUSTICE SYSTEM IN MALAYSIA: MOVING TOWARDS A MORE COMPASSIONATE SOCIETY [2024] 2 MLJ CCXCIII

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CRIMINAL JUSTICE SYSTEM IN MALAYSIA: MOVING TOWARDS A MORE COMPASSIONATE SOCIETY

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Federal Court of Malaysia

A. INTRODUCTION

The expression 'criminal justice system' is an overarching term that encapsulates a complex, multifaceted array of institutions, processes, and participants.[1] These constituent parts — ranging from the courts to the prosecution, from law enforcement agencies to correctional facilities — constitute an intricate network of interwoven relationships that collectively work to maintain the equilibrium of society's functioning.

The criminal justice system, in all its complexity, is ultimately a delicate balancing act. On one side, it weighs the imperative of just punishment, a tangible expression of societal condemnation for acts that disrupt the social order and violate the rights of others. On the other side, it balances the virtue of moral humility, acknowledging that we are dealing with a human institution which is inherently fallible and finite.[2]

At present, we stand at a critical juncture in the dispensation of criminal justice, observing a marked metamorphosis from punitive justice, primarily concerned with punishing the offender, to restorative justice, which seeks to repair the harm caused by criminal behaviour. The impetus for this jurisprudential transformation is multifaceted and complex. The burgeoning discourse on human rights, coupled with the widespread dissemination of advanced international norms, has emerged as a significant catalyst in effecting this change. Yet, this transition does not portend an unequivocal swing towards the predominance of individual rights. Rather, the shift intimates a more equitable approach, acknowledging the intrinsic dignity and value of every person, whilst still maintaining the equilibrium of communal harmony. This evolutionary process signifies a harmonious fusion of individual rights and collective values. It encapsulates a delicate balance, where individual rights are protected and upheld, but not at the expense of the collective good, and where justice, while upholding the law, also seeks to heal and restore.

B. PUNITIVE JUSTICE VERSUS RESTORATIVE JUSTICE

The conceptual basis for the exercise of judicial mercy in sentencing is humanity, entailing courts being moved by humanitarian impulses.[3] While compassion, in the literal sense, may merely be a tender feeling of sympathy,[4] it has in fact been defined and measured both operationally and psychometrically.

Simplistic, one may say — but compassion is evidently the very essence that has managed to alter the setting of our social equilibrium by moving away from the traditional concept and understanding of criminal punishment.

This profound realisation nudges us towards a path that is enlightened by 'compassion', a path that underscores the inherent dignity and humanity of all stakeholders ensnared within the intricate web of the justice system. This not only includes the alleged perpetrators standing ***trial***, but also the silent victims bearing their wounds in the shadows, the tireless defenders of the law dedicatedly labouring for justice, and the larger community that absorbs the ripple effects of these judicial proceedings.

It places paramount importance on reintegrating offenders back into society as contributing members, healing the psychological and emotional scars borne by victims, and restoring the ruptures caused within the community fabric. This holistic perspective reflects a more inclusive and empathetic approach to justice.

In essence, compassion compels us to view justice not as a punitive instrument of control, but as a transformative tool of healing, reconciliation, and societal harmony. In doing so, it aligns our judicial actions with our shared humanistic values and bolsters our collective aspiration for a justice system that truly serves humanity.

Across numerous jurisdictions in the ASEAN Region, there have been concerted efforts to bolster the rights of accused persons in order to ensure the preservation of their dignity, humanity, and fundamental freedoms throughout the entirety of the judicial process. This undertaking involves a multitude of components, such as the assurance of the right to a fair ***trial***. Access to competent legal counsel is another crucial right that is being reinforced. Simultaneously, there is an increased recognition of the need to protect the accused from cruel or unusual punishment. This approach acknowledges the principle of proportionality, which mandates that the punishment for a crime should fit the severity of the offence, respecting the inherent dignity of every human being.

At their core, these principles underscore the imperative tenet that the punitive force inherent in the criminal justice system should be exercised judiciously and with restraint. This potent authority should be unleashed only after a rigorous commitment to fair and just procedures, ensuring that every measure of the law is upheld and respected. The process not only protects the rights of the accused, but also strengthens the very fabric of our justice system, fostering trust and maintaining its credibility. In essence, justice must not only be done, but must be seen to be done, thereby reinforcing the balance between society's demand for retribution and the individual's right to a fair and equitable ***trial***.

In this article, I aim to shed light on the significant advancements within Malaysia's criminal justice system that reflect a concerted effort to refine and improve the system. These developments are a testament to the nation's ongoing commitment to enhance access to justice, ensuring that the practice and procedures in criminal law are continually updated and optimised for effectiveness and fairness. The scope of these enhancements spans the entire spectrum of the criminal justice system, involving key stakeholders such as the judiciary, law enforcement agencies, legislative bodies, and correctional institutions. Each has a critical role to play, from the courts' interpretation and application of the law to the legislators' role in crafting and amending legal statutes. These improvements are guided by the overarching goal of achieving a delicate balance between the rights and interests of all parties involved in the criminal justice process, from the accused persons to the victims, as well as the society at large. By striving for this equilibrium, Malaysia's criminal justice system is moving towards a more humane and compassionate approach while upholding the rule of law.

C. TOWARDS A HUMANE CRIMINAL JUSTICE SYSTEM: THE MALAYSIAN EXPERIENCE

i. Judicial Decisions

Although the fundamental principles underpinning the criminal justice system in Malaysia are not explicitly enshrined within the confines of the Federal Constitution,[5] the onus of interpreting and safeguarding these sacrosanct ideals has fallen upon the shoulders of the judiciary on countless occasions.[6]

Notably, Article 5(1) of the Malaysian Federal Constitution asserts that no person shall be deprived of his life or personal liberty except in accordance with the law, and Article 8(1) ensures that all persons are equal before the law and entitled to equivalent legal protection. As the last bastion against tyranny, the Federal Court of Malaysia has courageously grappled with the immutable principles that form the bedrock of our criminal justice system, thereby significantly augmenting the constitutionally-enshrined rights of accused persons. This judicial renaissance is attributable, in no small measure, to the astute application of diverse constitutional interpretive methodologies by the Malaysian judges.

To illuminate this further, we will examine a selection of seminal case precedents that serve as beacons guiding our judiciary in its role as the custodian of the constitution and guardian of individual rights.

Part of the landmark trilogy of decisions affirming the doctrine of a constitutional basic structure,[7] the case of *Alma Nudo Atenza*[8] had embossed the principle of presumption of innocence impliedly in the 'right to life' in Article 5(1) of the Federal Constitution,[9] thereby significantly altering the landscape of drug laws in Malaysia by way of a prismatic approach.[10] Led by former Chief Justice Richard Malanjum, a nine-member bench had found section 37A of the *Dangerous Drugs Act 1952* ('the DDA'), a perilous provision that allowed the use of double presumptions in drug trafficking cases, to be unconstitutional as it violated the requirements of fairness and undermined the presumption of innocence embedded in Article 5(1) and Article 8(1) of the Federal Constitution.[11]

For academic purposes, although perhaps rendered nugatory by recent legislative amendment, a case challenging the constitutionality of the mandatory death penalty was brought before a panel of Malaysian apex court judges circa 2020. The Federal Court in *Letitia Bosman*[12] affirmed the constitutional guarantee of the right to a fair ***trial*** as enshrined in Article 5(1) of the Federal Constitution. Abstaining from declaring the mandatory death penalty in the DDA as unconstitutional, however, the Federal Court in its majority judgment expressed that the discretion to determine the measure of punishment was not an inherent part of judicial power but was instead an integral part of the legislative function.[13]

On the other hand, Justice Nalini Pathmanathan in her dissenting judgement found that the mandatory death penalty for drug trafficking under the DDA and for murder under *section 302* of the *Penal Code*, without consideration of individual case circumstances, was unconstitutional. Her Ladyship held that the provisions violated constitutional safeguards and did not permit the imposition of a proportionate penalty, a chance for the accused to be heard, or consideration of any other mitigating factors. Her Ladyship in her pivotal ruling held that the one-size-fits-all approach for imposing the death penalty was irrational and disproportionate, not aligning with the varied degrees of culpability and involvement in crimes. As a result, Her Ladyship struck down section 39B of the *DDA* and *section 302* of the *Penal Code* for being unconstitutional.

Subsequently, in the case of *Yahya Hussein Mohsen Abdulrab*,[14] the Federal Court found that Article 5(1) guaranteed the right to a fair ***trial*** by virtue of the phrase 'save in accordance with law' as it is only through the process of law can a person be deprived of his life or personal liberty. The Federal Court further held that the

flagrant incompetence of the ***trial*** counsel was a breach of the accused's right to a fair ***trial*** as it had resulted in a ***trial*** that did not meet the minimum standard of fairness envisaged in Article 5(1) of the Federal Constitution and had caused a miscarriage of justice.[15]

The adherence to the rule of *audi alteram partem* took centre stage in the case of *Nivesh Nair Mohan*.[16] In *Nivesh Nair Mohan*, the applicant applied to review and set aside a previous Federal Court decision on his *habeas corpus* application on the main ground that there was a serious breach of natural justice. The Federal Court hearing the applicant's review application affirmed this contention on the lack of adherence to the *audi alteram partem* rule as the applicant was not afforded the right to be heard on a matter both parties had evidently agreed on (that the basic structure doctrine was part of the Federal Constitution). The earlier panel of the Federal Court had not only taken the liberty to decide based on this issue which was neither raised nor addressed by the parties, but had also ruled otherwise. The Federal Court in the review application found that this had left the parties with no means of redress and had in turn occasioned a substantial miscarriage of justice.

The judicial status quo on Article 145(3) of the Federal Constitution was monumentally shifted in the case of *Sundra Rajoo* (2021).[17] The celebrated case of *Sundra Rajoo* held that the Attorney General's prosecutorial discretion was amenable to judicial review, albeit only in appropriate, rare and exceptional cases. The Federal Court in *Sundra Rajoo* found that despite being fully aware of the applicant's legal immunity status as conferred on him by the International Organizations (Privileges and Immunities) Act 1992, the former Attorney General had acted in contravention of the same by still pursuing criminal charges against the applicant.

From a public law perspective, specifically in the context of accountability, the Federal Court's decision in *Sundra Rajoo* is a welcome change as it subjects even the Attorney General's prosecutorial discretion to the jurisdiction of the courts, and this would function as a much-needed check and balance. As the Attorney General is essentially an unelected political appointee, conferring him with unfettered discretion would be contrary to the rule of law.[18]

In the case of *Dhinesh a/l Tanaphll*,[19] the Federal Court unequivocally endorsed that the principle of judicial scrutiny must never be compromised, especially when it comes to addressing alleged injustices within our criminal justice system. The Federal Court in *Dhinesh a/l Tanaphll* had exercised its review function pursuant to Article 4(1) of the Federal Constitution to determine whether section 15B of the *Prevention of Crime Act 1959* ('the POCA') was void for being inconsistent with Article 4(1). The impugned section 15B of the *POCA* contained an ouster clause which prevented judicial review of the decisions of the Prevention of Crime Board ('the Board') save for procedural non-compliance. This in turn effectively precluded the court from even scrutinising that provision as to whether it conformed to the Federal Constitution.

The Federal Court in *Dhinesh a/l Tanaphll* held that section 15B of the *POCA* was void for being inconsistent with Article 4(1) of the Federal Constitution. In deciding as it did the Federal Court held that the courts were constitutionally empowered under Article 4(1) to exercise their review function to determine whether or not a statutory provision or a statute itself was consistent with the Federal Constitution. As the ouster clause directly contradicted Article 4(1) by preventing judicial review, it followed that the provision was inconsistent with that article and no other. The Federal Court further held that as a consequence of section 15B of the *POCA* being void, the court was not restricted to reviewing merely irregularities of procedure within the POCA itself, but was also entitled to scrutinise more substantive matters and review the legality of the Board's decision as a whole.

In synthesizing the above discussed landmark judgments, it becomes evident that the Federal Court of Malaysia has adeptly navigated the intricacies of constitutional law, vigorously affirming and expanding the protections afforded to individuals under the Malaysian Federal Constitution. Through these decisions, the Court has not only

fortified the principle of presumption of innocence and the right to a fair ***trial*** but has also boldly addressed the constitutional limits of legislative and prosecutorial powers. This judicial endeavor underscores a profound commitment to the principles of justice, fairness, and the rule of law, ensuring that the spirit of the Constitution lives and breathes through the concrete realities of legal proceedings.

Moving on, judicial precedents have recognised that the sanctity of human life is the most cherished value of an evolved society,[20] and custodial death is therefore one of the most reprehensible wrongs in a civilised society governed by the rule of law.[21] The gravity of such incidents becomes even more pronounced when those entrusted with the duty of protection and care on behalf of the state turn out to be the perpetrators of inhumane acts and omissions of neglect or violence. In the face of these challenges, Malaysian courts have made significant strides in protecting the rights of persons incarcerated in detention centres.

An essential aspect of these cases concerns those involving deaths in custody, an occurrence that tests the strength of the criminal justice system in Malaysia. The judiciary's role becomes paramount in addressing such incidents, striking a delicate balance between the state's power to detain suspected persons and the individual's right to life and personal liberty. The following part of this article will analyse cases involving deaths in custody and the measures taken by the courts to ensure a humane criminal justice system.

As a starting point, in Malaysia, the treatment of accused persons remanded in custody is guided by the principles outlined in the Prison Act 1995 and the Criminal Procedure Code ('the CPC'). These laws provide for the rights and standards for the treatment of detainees. The Prison Act 1995 provides for the humane treatment of detainees. It requires that prisoners are given adequate food, medical treatment, and access to legal representatives. The CPC, on the other hand, stipulates that detainees should be brought before a magistrate within 24 hours of their arrest, barring exceptional circumstances. These laws are designed to protect the rights of detainees and prevent abuses.

The treatment of suspected persons remanded in custody is further governed by a plethora of laws and regulations, including the Malaysian Constitution, which stipulates that no person can be incarcerated unless in accordance with the law. The law governing the treatment of accused persons remanded in custody in Malaysia is fundamentally rooted in principles of humanity, dignity, and respect for individual rights. This foundation is underpinned by the Malaysian Constitution, particularly Article 5(1), which guarantees the right to life and personal liberty, albeit this guarantee is subject to lawful limitations as prescribed by the law, and Article 8(1), which ensures equality and equivalent protection under the law for all persons. In *Lee Kwan Woh v Public Prosecutor*,[22] Gopal Sri Ram FCJ held that

> *it is a fundamental right guaranteed by* art 5(1) *that a person's life (in its widest sense) or his or her personal liberty (in its widest sense) may not be deprived save in accordance with state action that is fair both in point of procedure and substance.*

Reading Article 5(1) 'prismatically' and in light of Article 8(1),[23] His Lordship observed that the concepts of 'life' and 'personal liberty' encapsulated other rights – 'life' means more than mere animal existence and includes such rights as livelihood and the quality of life; 'personal liberty' includes other rights such as the right to travel abroad.

Speaking in the context of custodial detention, this means that the concepts of 'life' and 'personal liberty' extend beyond mere physical existence and restraint, encompassing a broader set of rights necessary for a dignified life, even for individuals who are incarcerated. These principles, reinforced by international human rights frameworks

and jurisprudence, have been consistently applied by Malaysian courts in cases concerning accused persons in custody. When a person is most vulnerable, he looks to the vindication of the law to protect, promote and defend his basic human rights. For one to be deprived of access to basic amenities, such as medical care when he is ill, is for him to be deprived of life in its truest sense. It is all the more tragic when a person is deprived of both liberty and life even before he is charged, tried and convicted for an offence.[24]

In cases of deaths in custody, the courts have demonstrated an unwavering commitment to ensuring accountability, transparency, and justice. The deceased's family members are often awarded damages in recognition of the state's responsibility to ensure the safety and well-being of individuals in its custody. For example, in the case of *Janagi a/p Nadarajah & Anor v Sjn Razali bin Budin & Ors*,[25] the court found negligence on the part of the prison authorities leading to the death in custody and awarded damages to the family of the deceased. The court underscored the duty of the detaining authority to provide medical assistance to detainees in order to preserve their right to life.

In another notable case, the family of N. Dharmendran was awarded damages following his death in police custody. The High Court held that the police were liable for his death due to their failure to provide him with necessary medical attention.

In the case of *Ketua Polis Negara & Ors v Nurasmira Maulat bt Jaafar & Ors (minors bringing the action through their legal mother and next friend Abra bt Sahul Hamid) and other appeals*[26] ('Kugan's case'), the Federal Court was accorded the opportunity to determine whether *section 8(2)* of the *Civil Law Act 1956* ('CLA 1956') bars the awarding of exemplary damages in an estate claim for death in custody where the death of the deceased is due to the breach of his constitutional right to life. With regard to Appeal No.52, the Respondent who is the administratrix of the estate of the deceased, Kugan a/l Ananthan, brought an action against the Appellants for negligence and/or breach of statutory duties resulting in the death of the deceased under police detention.[27]

In the High Court, the Respondent was awarded damages of a total amount of RM801,700 including the sum of RM100,000 for misfeasance in public office and the sum of RM300,000 as exemplary damages.[28] In the Court of Appeal, while the award of false imprisonment was set aside, the rest of the award were affirmed including the award of exemplary damages.[29] In other words, both the High Court and the Court of Appeal were of the view that the bar under *section 8(2)* of the *CLA 1956* is not applicable when there is a breach of fundamental liberty of right to life under the Federal Constitution.[30]

Despite that, the Federal Court by majority took a different stance and set aside the award of exemplary damages, upon the rationale that the Federal Constitution does not have provisions similar to those in the Constitution of Trinidad and Tobago and the Constitution of Bahamas which allow the award of damages for breach of constitutional rights,[31] and that the only available law for redress lies in the CLA 1956 together with the bar to exemplary damages under *section 8* thereof.[32] Consequently, the majority set aside the award of exemplary damages, and affirmed the amount of RM100,000 awarded as damages for misfeasance in public office in view of the acts done or omitted to be done to the deceased which contributed to the cause of his death.[33]

ii. Legislative Reforms

The foundation of a compassionate criminal justice system lies in robust legislative frameworks that explicitly incorporate principles of compassion and rehabilitation. In the relentless quest for a more compassionate and equitable society, Malaysia has undertaken numerous groundbreaking initiatives, central among which is the profound pivot from retributive justice towards a system centred around restorative justice. Much can be attributed to the far-sighted and visionary leadership of Ministers like YB Dato' Sri Azalina Binti Othman Said, who have spearheaded reforms to achieve a much more compassionate criminal justice system. The Honourable Minster has

worked tirelessly with her able team to bring about many legislative changes and reforms that have had extensive impacts on our criminal justice system.

The Honourable Minister has placed a significant emphasis on addressing offences against children within her reform efforts.[34] The Honourable Minister's initiatives are crucial in fortifying the legal protections that shield children from the perils of online exploitation and abuse.[35] These efforts underscore the government's dedication to providing a safer environment for children to thrive in the digital age. It is no secret that in this digital era, our children are confronted with increasingly harmful crimes, such as online stalking, sexual exploitation, and child pornography. While technological advancements have brought numerous benefits, they have also exposed children to grave risks, necessitating proactive measures to safeguard their well-being and safety. That apart, it is crucial to recognise that children who are victims of or witnesses to crimes endure immense trauma, not only due to the offence itself, but also from having to appear in court to establish the prosecution's narrative. This added burden on children underscores the necessity of comprehensive measures to protect them from further harm and trauma.

In this regard, the Honourable Minister's reform efforts are essential in addressing these modern challenges and ensuring the protection of children from online threats. Her commitment to exploring measures in order to safeguard children against overseas predators by expanding the scope of protection under the Sexual Offences Against Children Act 2017 ('the SOAC') reflects a proactive approach to tackling online sexual exploitation of Malaysian children by individuals residing abroad.

Realising the need for a more conducive venue for hearing matters involving children, the Special Courts for Sexual Crimes Against Children ('the Special Courts') addressing any sexual violence against children were established in Putrajaya pursuant to the SOAC. These Special Courts were the first of their kind in our country and also in Southeast Asia. Sessions Court Judges with special training and relevant experience are tasked to preside over the Special Courts. The jurisdiction of the Special Courts encompasses the crimes of child pornography, child grooming, physical and non-physical sexual assault, rape, incest, carnal intercourse against the order of nature and child prostitution. Technological facilities available in these courts are the Court Recording and Transcription ('CRT') system and live TV-link system. Since 2017, more than 13,000 cases of sexual offences against children have been recorded and administered in the Special Courts. Between 2018 and 2022, the Special Courts were expanded to all 14 states in Malaysia.

In terms of legislative reforms, the SOAC and the Evidence of Child Witness Act 2007 (Act 676) have undergone recent amendments. The SOAC has been amended to broaden the scope of what constitutes child pornography and to incorporate a provision concerning liability for the failure to report instances of sexual offences against children, among other changes. These amendments have been made to ensure that vigorous enforcement actions can be undertaken, thereby enhancing the overall efficacy of the law.[36]

As for Act 676, the recent amendments further empower the Courts with the authority to ensure a conducive environment for child witnesses. These critical enhancements include provisions that strictly prohibit improper questioning of children, thereby ensuring that child witnesses can provide their testimony in a safe and respectful atmosphere, free from inappropriate inquiries. Furthermore, adjustments were made to raise the age threshold for children from 16 to 18 years old. This is a welcome move because it enhances the breadth of protection for children. Even at ages 16 to 18, there may be adolescents who are vulnerable enough to warrant such protections.[37]

The appointment of Malaysia's first Children's Commissioner ('the CC') in August 2019 marked a significant milestone in the protection of children's rights in the country. The Office of the Children's Commissioner ('the OCC')

serves as an independent entity entrusted with the responsibility of empowering and safeguarding the rights of children in accordance with the United Nations Convention on the Rights of the Child ('the CRC'). The appointment of the CC underscores Malaysia's commitment to upholding the well-being and rights of all children under the age of 18 across the nation, irrespective of their status.

The CC is dedicated to promoting and protecting the rights of children, as outlined in the CRC. Their primary role revolves around ensuring the observance of the four core principles of the CRC, which are non-discrimination, the best interests of the child, the right to life, survival and development, and respect for the views of the child. These principles form the cornerstone of the CC's efforts to safeguard and uphold the rights of children in Malaysia.

Moreover, the CC is vested with the authority to empower child-related laws through the powers conferred upon them under the Human Rights Commission of Malaysia Act 1999. This empowerment is instrumental in ensuring that child-related laws are robust and effectively aligned with international human rights standards, thereby reinforcing the protection and promotion of children's rights within the legal framework of Malaysia.

Another pivotal aspect of the legislative transition to a more humane society can be seen in the re-evaluation of the country's long-standing reliance on the death penalty. Historically, capital punishment was deemed a rigorous deterrent against grave crimes, yet its efficacy and ethical ramifications have been subjects of intense discourses and debates. In a world increasingly attuned to human rights advocacy, Malaysia has indicated a resolute intention to re-examine its position on the implementation of capital punishment.

A testament to this resolute commitment is the enactment of the Abolition of Mandatory Death Penalty Act 2023 (Act 846), which took effect on 4 July 2023. This was followed by the promulgation of the Revision of Sentence of Death and Imprisonment for Natural Life (Temporary Jurisdiction of the Federal Court) Act 2023 (Act 847), which endows the Federal Court of Malaysia with the authority to reassess sentences of death in the light of modifications brought about by Act 846.

The replacement of the mandatory death penalty with an alternate form of punishment, specifically 'imprisonment for a term not less than 30 years but not exceeding 40 years, and if not sentenced to death, shall also be punished with whipping of not less than 12 strokes', represents a significant policy shift. This modification, however, is contingent on the nature and severity of the offence. Furthermore, the legislative reforms provide for the abolition of natural life imprisonment and removal of the death penalty as an option for some offences not resulting in death. Yet, it is crucial to note that these reforms do not categorically eliminate capital punishment in the country. Rather, they confer discretionary powers upon judges to impose the death penalty when deemed fitting for the crime, such as in instances of murder, terrorist activities, and hostage-taking.

Alongside this, the Penal Code (Amendment) (No. 2) Bill 2023, aiming to decriminalise attempted suicide, marks another significant stride in the shift towards a more empathetic and compassionate societal framework. This critical legal transformation signifies a paradigm shift in the perception and handling of mental health issues within our society, aligning Malaysia with global trends advocating the decriminalisation of suicide. The act of decriminalising attempted suicide acknowledges that these desperate actions often stem from profound psychological anguish, necessitating mental health intervention rather than punitive criminal prosecution. Furthermore, this move towards the decriminalisation of suicide has catalysed amendments to two other integral laws, namely the CPC and the Mental Health Act 2001 through the Criminal Procedure Code (Amendment) (No. 2) Bill 2023 and Mental Health (Amendment) Bill 2023, thereby demonstrating a holistic approach to enhancing the compassionate nature of Malaysia's criminal justice system.

D. WAY FORWARD

As we contemplate the trajectory of progress towards a more humane and compassionate criminal justice system, it is imperative to ask: what further steps must we undertake to realise this vision? The quest for a criminal justice system that prioritises empathy, respects human dignity, and genuinely rehabilitates, rather than merely punishes, is a noble yet complex endeavour. This journey demands a multifaceted approach, integrating legislative reforms, policy adjustments, and a cultural shift in the mindsets of all stakeholders involved in the justice process.

i. Sentencing Council

One of the avenues which we can explore is the setting up of a sentencing council. Sentencing is one of the most difficult tasks faced by criminal courts. Within the limits prescribed by Parliament, the courts have to rely on case laws for guidance in order to determine the appropriate type of punishment to be imposed and the quantum of punishment proportional to the severity of the case.

The purpose of such discretion is to allow the court to choose a sentence which the judge regards as most fitting, bearing in mind all the facts and circumstances of the case. The sentencing judge must set aside personal bias and other irrelevant or extraneous materials, and confine himself to the relevant facts of the case.[38] While doing so, he must have in mind the four classical principles of sentencing: retribution, deterrence, prevention and rehabilitation.

The conundrum, however, is this: each judge, having a mind of his own, would arrive at different sentencing conclusions while applying identical sentencing principles to similar facts.[39] The magnitude and quantum of sentence imposed will inevitably vary based on their personal experience and judicial expertise. This view is rooted in the observation of former United States Supreme Court Justice Oliver Wendell Holmes: '*the life of the law has not been logic; it has been experience*'.[40] In this regard, Freiburg has observed that sentencing systems all face a similar set of issues that can be described as follows: discretion (the power to make decisions), disparity (variation in decision-making), desert (proportionality between crime and sanction), severity (amount of punishment), and veracity (relationship between the sentence imposed and the sentence actually served).[41]

More often than not, the legislature does influence sentencing. As emphasised by Warren Young and Claire Browning of the New Zealand Law Commission, '*[Parliament] has recourse only to the blunt tool of amending maximum penalties, in the hope that this will have some unspecified trickle-down effect upon sentencing in the ordinary run of the case*'.[42]

The fact of the matter is, as observed above, political discourse on sentencing may devolve into a counter-productive competition over who can appear toughest, often measured by the length of sentences. Conversely, complete judicial discretion based solely on sentencing trends may raise concerns of a 'democratic deficit'. Both these issues could be remedied by the establishment of independent bodies capable of incorporating a broader range of perspectives, expertise and experience into sentencing policy.[43]

In curing the 'democratic deficit', the independent sentencing council could take into account public views when structuring sentencing guidelines. In Victoria, one aspect investigated during the inquiry into sentencing, which led to the establishment of the Sentencing Advisory Council, was '[w]hether any mechanism could be adopted to more adequately incorporate community views into the sentencing process'.[44] Engaging the public was seen as a means to improve public confidence in the sentencing procedure and maintain or enhance public trust.

A similar public sentiment can be discerned in Malaysia, as evidenced by a 2016 study conducted by the Performance Management and Delivery Unit ('PEMANDU').[45] One approach to addressing the issue of diminished community trust, stemming from the lack of accurate information, is to bridge this gap through an entity recognised for its independence, credibility, and authority. The proposed New Zealand Sentencing Council had as one of its aims 'to inform and educate the public about sentencing and parole policies and decision making, with a view to promoting public confidence in the criminal justice system'.[46] The independent sentencing council can thus tackle the lack of community support by disseminating comprehensive information to the community, the courts and the government regarding the sentencing process, the operation of guidelines and sentencing practices. This can contribute to increased community confidence through correcting myths and misconceptions.[47]

ii. Leveraging Artificial Intelligence

In the realm of technological advancement, the employment of Artificial Intelligence ('AI') as a tool for determining appropriate judicial sentences provides a novel avenue for the pursuit of justice. The concept is that 'like cases' should be treated in 'like manner', thus ensuring no individual is subjected to undue suffering due to human error. The integration of AI in the judicial system promotes equitable treatment, consequently facilitating our march towards a more compassionate society. Such a system eliminates any potential disparity in sentencing, which can occur in human-led adjudication. This paradigm shift towards 'AI sentencing' is a proactive measure that addresses issues of sentencing disparity and case backlog. It is widely accepted that fairness within the judicial system is intrinsically tied to consistency in sentencing. From the perspective of the common man or convicted offender, any deviation from established sentencing principles may be perceived as inconsistency, thereby fostering a sense of injustice, prejudice, and unfairness. Moreover, disparity in sentencing can potentially undermine public confidence in the criminal justice system, and give rise to a sense of resentment among prisoners who receive harsher sentences for similar offences.[48]

Countries such as China and Estonia have blazed the trail with AI sentencing mechanisms, whereby small claim disputes are adjudicated by AI judges, and such rulings can be appealed to human judges. This effective distribution of duties allows human judges to concentrate on complex disputes that necessitate human expertise, thereby ensuring the efficient administration of justice.

Closer to home, a significant milestone was achieved in Sabah in February 2020 when AI sentencing was implemented in the Magistrate Court case of *Denis P Modili v Public Prosecutor*[49] involving the possession of dangerous drugs. This landmark development, the first of its kind in Asia, utilised AI sentencing recommendations based on trends extrapolated from past data. Currently, twenty offences, including those in the Penal Code, the DDA, and the Road Transport Act 1987, have been incorporated into the AI-sentencing mechanism.

While it is widely acknowledged that the implementation of new technologies is far from flawless, it is imperative to note that these imperfections can be seen as opportunities for improvement. One significant criticism raised in this regard pertains to the potential violation of Articles 5(1) and 8(1) of the Federal Constitution when sentencing is determined using AI. Nevertheless, it is important to stress that AI recommendations serve as guidelines to assist the court, with the presiding judge retaining ultimate authority in sentencing decisions.

The incorporation of AI into our judicial system aims to standardise sentencing and ensure consistency, thereby enhancing the efficient and equitable dispensation of justice. While AI recommendations may guide the judges, it is the judges themselves that retain full and final discretion.

Another objection raised concerns the potential lack of human consideration in the sentencing process. Critics argue that an 'AI judge' may not fully appreciate the unique circumstances in each case, such as mitigating and aggravating factors, which could potentially result in justice being denied.

However, as seen in the case of *Public Prosecutor v Adrian Kheung Peng Yin*,[50] the judge, while referencing AI sentencing recommendations, ultimately exercised her own discretion, considering both mitigating and aggravating factors. AI sentencing — arguably a form of 'predictive' or 'forecast' justice — should not operate in a void devoid of human consideration. The fundamental idea is to 'supplement' rather than 'supplant' the role of human judges, ensuring an efficient administration of justice.

iii. Correctional Centre Reforms

The prison system in Malaysia has long been subjected to criticism for its flaws, often characterised by overcrowding,[51] limited focus on rehabilitation, and high rates of recidivism (with 15% of former inmates lacking access to rehabilitation opportunities).[52] As our society evolves and acknowledges the need for a more compassionate approach to criminal justice, as illustrated earlier, the concept of prison reform has started to gain traction. The concept of prison itself can never be separated from the broader social fabric; the state of prisons reflects the collective values, beliefs and priorities of a society.

To understand the symbolic and practical dimensions of prisons in relation to societal consciousness, we must return to the very cornerstone that first set the human rights arena in its current course. Adopted by the United Nations General Assembly in 1948, the Universal Declaration of Human Rights ('the UDHR') has outlined the fundamental rights and freedoms to which all individuals are entitled regardless of their nationality, race, gender, religion, or other characteristics. As enshrined in various international declarations and conventions,[53] human rights are widely understood to be universal and inalienable, indivisible, interdependent and interrelated.[54] The twin concepts of inalienability and interdependence mean that even within the confines of correctional facilities, these fundamental rights remain inviolable. Deprivation of liberty as a consequence of criminal behaviour does not equate to a forfeiture of inherent rights. While the rights of prisoners may be subject to certain limitations necessary for maintaining order and security, these limitations should always be proportional, respectful of human dignity, and in alignment with international human rights standards.

Which of the 'inherent rights' elucidated in the UDHR are relevant in the prison scene? Article 1 of the UDHR sets the foundation that '*[a]ll human beings are born free and equal in dignity and rights*'. Meanwhile, Article 3 states that '*[e]veryone has the right to life, liberty and security of person*'. This is followed by Article 5 (prohibition against cruel, inhuman or degrading punishment), Article 6 (right to recognition as a person before the law), Article 9 (prohibition against arbitrary arrest and detention), and Article 12 (prohibition of arbitrary interference with privacy, family, home or correspondence). Interestingly, the terms 'security' and 'liberty' both also appear in the International Covenant on Civil and Political Rights ('the ICCPR'). Article 9 of the ICCPR on the right to security and liberty is closely followed by Article 10 of the same, which outlines the right to be treated with humanity and with respect to inherent dignity. Other international conventions or guidelines on the subject of dignity include the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('the CAT') and the United Nations Standard Minimum Rules for the Treatment of Prisoners (also known as the 'Nelson Mandela Rules'). To date, Malaysia has yet to ratify the ICCPR and the CAT.

In the Malaysian legal context, the right of inmates to be treated humanely is guaranteed by the Lock-Up Rules 1953 and Prison Act 1995, which are legacies mainly left behind by the British colonial administration. The Prison Act 1995 dictates the minimum treatment to be given to detainees, including standards for accommodation, medical treatment, clothing and diet. However, the legislation was loosely drafted, and the gaps in its interpretation have almost always been resolved against detainees.[55] Under *section 14* of the *Prison Act 1995*, every prison should have a medical officer and a dental officer. However, given the overcrowded nature of prisons, according to the 2018 Prison Department Statistics, the ratio of doctors to prisoners is only 1:1000, compared to the population-to-doctor ratio of 1:454.[56] Similarly, while Rule 13 of the Lock-Up Rules 1953 reads that '*[e]very prisoner shall be supplied with bedding which shall be changed and washed as often as may be necessary but never less than once a month*', Suara Rakyat Malaysia (SUARAM) has observed that some prisoners were neither provided with pillows nor bed sheets in their cells and slept on the floor.[57]

Ultimately, the lack of medical officers and inadequate healthcare infrastructure in general are but symptoms of overcrowding in prison facilities. This issue is not new; overcrowded prisons have been the norm even before the COVID-19 pandemic struck. Prisons have been operating at peak capacity since 2018 when they had 65,222 prisoners. Before the pandemic hit in 2019, the total number of inmates exceeded the designed capacity of our prisons, reaching a staggering 71,785. As Malaysia entered lockdown and imposed movement restrictions, the prison population decreased slightly to 69,507.[58] However, this reduction in numbers did not translate to better overall conditions for prison inmates, as the pandemic soon exacerbated the trends of poor health. On 4 April 2021, the Sarawak State Disaster Management Committee confirmed that the spike in COVID-19 positive cases in the state was due to a 40 percent increase in prison and detention clusters. This trend was not unique to Malaysia; in the United States ('the US'), prisoners were 5.5 times more likely to contract COVID-19 on a per capita basis.[59] Things took a turn for the worse in 2023, when the Minister of Home Affairs, YB Datuk Seri Saifuddin Nasution Bin Ismail, reported that our prisons currently housed 78,236 inmates, far beyond the intended capacity of 65,000.[60]

In February 2023, the Prisons Department announced its plans to implement prison reforms nationwide with the aim of reducing overcrowding and recidivism.[61] These reforms included installing bunk beds in prison cells, working with the courts to speed up ***trials***, and focusing on rehabilitation programmes in the community.[62]

Additionally, the Prisons Department also announced its intention to make use of former National Service camps as

Resident Reintegration Centres and Satellite Prisons to reduce overcrowding and recidivism in prisons.[63] The department also said that it will conduct a study on the use of Electronic Monitoring Devices for low-risk prisoners on remand to avoid holding them in prison.[64]

Taking a step further, the Deputy Commissioner General of Prisons, Dato' Ibrisam bin Abdul Rahman, made a statement that the implementation of community service programmes for offenders was effective in addressing the issue of overcrowding in prisons, and that it was a more effective form of rehabilitation than serving a sentence in prison as it encouraged offenders to reflect on their actions and become responsible citizens.[65]

In order to provide a long-term solution to tackle overcrowding in prisons, the Ministry of Home Affairs is in the process of preparing a bill for a new legislation called the Drug and Substance Abuse (Prevention, Treatment and Rehabilitation) Act. This legislation aims to decriminalise minor drug offences by sending offenders to rehabilitation centres instead of prisons in order to avoid congesting the facilities.[66] The bill is expected to be tabled in Parliament in early 2024, and, if passed, it would replace the Drug Dependants (Treatment and Rehabilitation) Act 1983.[67]

Some valuable lessons from other jurisdiction may offer some solutions. For instance, in response to the rising pressure on the prison population in the United Kingdom ('the UK'), the UK government has implemented several measures, such as building 20,000 modern rehabilitative prison places, speeding up the deportation of foreign offenders, and delaying non-essential maintenance projects.[68] These efforts aim to ensure that there will always be sufficient prison spaces available for the most dangerous offenders, prioritising public safety.[69] The UK government has also adopted short-term measures to expand prison capacity through the roll-out of Rapid Deployment Cells that have a lifespan of around 15 years and greater use of double occupancy of cells where it is safe to do so.[70]

Moreover, the UK government has undertaken to *'legislate for a presumption that custodial sentences of less than 12 months in prison will be suspended and offenders will be punished in the community instead, repaying their debt within communities, cleaning up [the] neighbourhoods and scrubbing graffiti off walls*'.[71]

It has been emphasised by the UK Lord Chancellor and Secretary of State for Justice that at the heart of the long-term plan for prison reform is the aim to 'cut crime' by ensuring the following:[72]

(i) The most dangerous offenders are locked up for longer periods;

(ii) Prisons are geared to help offenders turn away from crime; and

(iii) Lower-level offenders get tough community sentences.

Meanwhile, in the US, sentencing reforms in the criminal justice system were made through the enactment of the First Step Act of 2018 '*to promote rehabilitation, lower recidivism, and reduce excessive sentences in the federal prison system*'.[73] The legislation aims to produce lower odds of recidivism by incentivising prisoners to engage in rigorous, evidence-based rehabilitation and education programming, and authorising a range of early release mechanisms for eligible individuals.[74]

According to the US Department of Justice, the recidivism rate of 12% among people who have benefitted from the First Step Act is significantly lower than the more typical 45% recidivism rate among people released from federal prison.[75] This demonstrates that the reforms in the First Step Act are essential towards advancing a fairer federal sentencing system and, most importantly, reducing the size of the prison population.[76]

It is also important to note that the First Step Act has sought to reduce the length of some mandatory minimum sentences prospectively, providing judges with wider discretion in sentencing.[77] It has also expanded the so-called safety valve provision, which allows courts to sentence those who are convicted of low-level and non-violent drug crimes and have only minor criminal records to less than the mandatory minimum sentence.[78]

Closer to home, in the Philippines, which ranks third in the world for prison overcrowding, nearly 70% of

incarcerated individuals are in custody for drug offences.[79] This has led to overcrowded detention facilities, with more than 60% of all indictments by Philippine prosecutors being related to minor drug cases.[80] To address this issue, the Philippine government is currently reviewing its legislation to promote reforms in the drug policy framework.[81] These reforms include reintegration programmes and psychological rehabilitation initiatives.

With the beneficial insights into the issue of prison overcrowding and corresponding reforms made in foreign jurisdictions as discussed above, the reforms undertaken by the Malaysian Prisons Department and through the bill for the Drug and Substance Abuse (Prevention, Treatment and Rehabilitation) Act appear to be aligned with international trends, namely:

(i) To decriminalise minor drug offences;

(ii) To increase prison capacity;

(iii) To ***expedite*** ***trials*** in courts to avoid holding prisoners on remand; and

(iv) The implementation of community service programmes.

Notwithstanding the above, there is still room for improvement in our reforms to tackle the issue of prison overcrowding. This can be achieved by devising strategies that encompass both short-term and long-term measures. The adoption of short-term measures will enable us to address the issue immediately while at the same time implementing long-term measures for the effective management of the prison population.

The short-term measures suggested are as follows:

(i) Increase prison capacity through the adoption of rapid deployment cells;

(ii) Rearrange prisoners to maximise the capacity of prison cells;

(iii) ***Expedite*** the deportation of foreign offenders;

(iv) Delay non-essential maintenance projects; and

(v) Install more bunk beds in prison cells.

Meanwhile, the long-term measures recommended to be implemented alongside are as follows:

(i) Decriminalise minor drug offences and allow offenders to be sent to rehabilitation centres to avoid congesting prisons;

(ii) Implement rehabilitation and education programmes with the aim of achieving lower recidivism;

(iii) Build more prisons to ensure that there are always sufficient prison spaces for the most dangerous offenders, thereby upholding public safety;

(iv) Implement community service programmes for low-level offenders; and

(v) Review criminal legislation to reduce the length of imprisonment for less serious offences, and provide for alternative punishment, such as community service.

It must be emphasised that the lists of short-term and long-term measures as set out above are meant to serve as general guidelines since the development of strategies in each country will need to be made based on the circumstances of that country.[82] Accordingly, a thorough assessment of the situation in our country must be made

by the government before any measure is implemented in order to ensure its effectiveness and sustainability in the long run.[83]

iv. Establishment of a Public Defender's Office

A Public Defender's Office ('PDO') embodies the principle of enhancing access to justice for vulnerable individuals by providing critical criminal defence aid. It is suggested for a PDO to be established in Malaysia, drawing inspiration from Singapore's innovative approach. The PDO in Singapore operates under the auspices of the Ministry of Law. It is staffed by dedicated full-time officers whose primary responsibility is to assist the Chief Public Defender in executing his duties in accordance with the Public Defenders Act 2022.[84]

Singapore's PDO extends its services to citizens and permanent residents who are charged with non-capital offences or seek to file or defend an appeal but are hindered by financial constraints. To ensure fairness and efficiency in the allocation of resources, the PDO mandates that all applicants must meet both the means and merits criteria. Additionally, applicants may be required to make a financial contribution, contingent upon their ability to do so, before they are deemed eligible for criminal defence aid.[85]

The establishment of the PDO is underpinned by the core belief in universal access to legal assistance and representation in court. It aims to bridge the gap for those unable to afford legal representation, ensuring that justice is not a privilege reserved for the economically advantaged but a fundamental right accessible to all. The PDO in Singapore represents a strategic move towards realising the ideal of equitable justice, serving as a beacon for ensuring that legal representation is within the reach of every citizen, irrespective of their financial standing.[86]

While the PDO in Singapore is fundamentally a government-funded initiative, it distinguishes itself by adopting a sustainable model of legal aid. This approach is in response to the challenges faced by other jurisdictions, where unchecked escalation in legal aid costs forced governments to implement abrupt and significant funding cuts. Singapore's PDO represents a thoughtful solution to these challenges, emphasising the efficient use of resources to support vital, fair, and just causes without compromising the quality of legal aid provided.[87]

The PDO's operational model is characterised by its collaboration with the Criminal Legal Aid Scheme ('the CLAS'), with the government continuing to co-fund the CLAS alongside the PDO. This collaboration signifies a hybrid model of criminal legal aid, drawing parallels with established systems in countries such as the UK and Australia. This model facilitates a comprehensive and adaptable framework for legal aid, enabling the PDO to leverage the strengths of both government-funded and outsourced legal services to best serve the needs of the community.[88]

The PDO in Singapore stands as a testament to the commitment to ensuring that justice is accessible to all, particularly the vulnerable and financially disadvantaged. By adopting a sustainable hybrid model and working in close collaboration with existing legal aid schemes, the PDO not only addresses the immediate needs of those requiring legal representation but also sets a benchmark for the effective delivery of legal aid services on a global scale.

E. CONCLUSION

From the preceding discourse, I have scrutinized the implementation of pivotal positive changes that have catalysed a shift towards restorative justice, marking a significant paradigm shift in our approach to the criminal justice system. This pivotal juncture calls for a comprehensive re-evaluation of our existing system, transcending the traditional focus on punitive measures and ushering in an era that emphasises rehabilitation, reintegration, and the holistic improvement of both individuals and society at large.

The path forward necessitates a departure from the dichotomous punitive mindset, towards a balanced and inclusive approach that considers the needs and perspectives of all stakeholders — victims, offenders, and the community. By fostering inclusivity, Malaysia can aspire to cultivate a criminal justice system that is not only fair and equitable but also empathetic and responsive to the diverse needs of its populace.

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INKUIRI AWAM KE ATAS PELANGGARAN HAK ASASI MANUSIA SEMASA DAN SELEPAS INSIDEN PADA 17 JANUARI 2025 DI PENJARA TAIPING, PERAK

HUJAHAN BERTULIS

JABATAN PENJARA MALAYSIA

BERALAMAT DI:

IBU PEJABAT PENJARA MALAYSIA,

JALAN KAJANG-SEMENYIH BYPASS,

43000 KAJANG, SELANGOR.

LATAR BELAKANG

1. Pada 03.02.2025, pihak Suruhanjaya Hak Asasi Manusia ("SUHAKAM") telah menerima aduan daripada sekumpulan orang awam yang merupakan tahanan Mahkamah Tinggi di Penjara Taiping bahawa telah berlakunya pelanggaran hak asasi manusia di Penjara Taiping pada 17.01.2025 seperti yang berikut –

    1.1. kekerasan telah digunakan oleh pegawai-pegawai penjara terhadap lebih kurang 100 tahanan Mahkamah Tinggi yang dipindahkan dari Pusat Koreksional Batu Gajah ke Penjara Taiping; dan

    1.2. kekerasan tersebut telah menyebabkan kematian seorang tahanan bernama Gan Chin Eng.

2. Susulan daripada aduan tersebut, pihak SUHAKAM telah menjalankan siasatan awal di Pusat Koreksional Batu Gajah dan Penjara Taiping bagi menentusahkan aduan tersebut, dan pada 08.04.2025, pihak SUHAKAM telah memutuskan untuk mengadakan inkuiri awam bagi menyiasat aduan tersebut dengan lebih lanjut berdasarkan terma-terma rujukan yang berikut:

    2.1. Sama ada berlaku pelanggaran hak asasi manusia ke atas mana-mana individu semasa dan selepas insiden 17.01.2025 di Penjara Taiping;

    2.2. Jika pelanggaran hak asasi manusia benar berlaku, apakah pelanggaran hak asasi manusia tersebut;

2.3. Bagaimana pelanggaran hak asasi manusia tersebut berlaku;

2.4. Apakah punca yang membawa kepada pelanggaran hak asasi manusia tersebut; dan

2.5. Siapakah yang bertanggungjawab ke atas pelanggaran hak asasi manusia tersebut.

HUJAHAN

3. Sepanjang inkuiri awam dijalankan, seramai 50 orang saksi telah dipanggil untuk memberikan keterangan dan sebanyak 94 dokumen telah dikemukakan sebagai Eksibit. Setelah meneliti kedua-dua jenis keterangan tersebut, Jabatan ini mendapati bahawa wujudnya pelanggaran hak asasi manusia semasa dan selepas insiden 17.01.2025 di Penjara Taiping seperti –

3.1. kekerasan dan layanan yang tidak berperikemanusiaan terhadap lebih kurang 100 tahanan Mahkamah Tinggi yang dipindahkan dari Pusat Koreksional Batu Gajah ke Penjara Taiping;

3.2. kelewatan dalam memberikan rawatan yang sewajarnya kepada tahanan-tahanan yang memerlukan;

3.3. penggunaan *bucket system* yang sudah tidak relevan dengan peredaran kemajuan semasa; dan

3.4. menempatkan tahanan-tahanan di blok E yang sudah disytiharkan tidak selamat oleh pihak Jabatan Kerja Raya ("JKR").

4. Bagi pelanggaran hak asasi manusia yang pertama iaitu kekerasan dan layanan yang tidak berperikemanusiaan terhadap lebih kurang 100 tahanan Mahkamah Tinggi yang dipindahkan dari Pusat Koreksional Batu Gajah ke Penjara Taiping, Jabatan ini mendapati bahawa pelanggaran hak asasi manusia tersebut berlaku adalah disebabkan oleh tindakan pegawai-pegawai penjara yang memukul, memijak dan mencederakan tahanan-tahanan tersebut dengan menggunakan cota dan *pepper spray* semasa proses pemindahan tahanan-tahanan tersebut dari Dewan B ke Blok C dan E berjalan.

5. Walhal, keterangan yang telah dikemukakan semasa inkuiri awam ini berlangsung seperti rakaman CCTV dan keterangan lisan daripada saksi-saksi langsung tidak menunjukkan bahawa wujudnya serangan secara fizikal daripada tahanan-tahanan tersebut ke atas pegawai-pegawai penjara.

6. Peraturan 56 Peraturan-Peraturan Penjara 2000, Perintah Tetap Komisioner Jeneral Penjara Bilangan E126 (Eksibit 58) dan Perintah Tetap Komisioner Jeneral Penjara Bilangan E334 (Eksibit 65) juga dengan jelas melarang pegawai-pegawai penjara untuk menggunakan kekerasan terhadap tahanan, melainkan sekiranya terdapat serangan secara fizikal daripada tahanan.

7. Bahkan, Peraturan 1 Peraturan Nelson Mandela juga ada menekankan tentang hak banduan yang perlu dilayan dengan rasa

hormat dan sewajarnya sebagai seorang manusia serta perlu dilindungi daripada sebarang penyeksaan, kekejaman dan layanan yang tidak berperikemanusiaan.

8. Walaubagaimanapun, Jabatan ini selanjutnya mendapati bahawa terdapat faktor lain yang menyumbang kepada tindakan pegawai-pegawai penjara yang memukul, memijak dan mencederakan tahanan-tahanan tersebut dengan menggunakan cota dan *pepper spray* iaitu kegagalan pegawai-pegawai penjara untuk mengawal emosi dalam menangani provokasi secara lisan dan ugutan daripada tahanan-tahanan tersebut.

9. Meskipun kenyataan Jabatan ini berkenaan dengan provokasi secara lisan serta ugutan daripada tahanan-tahanan tersebut tidak dapat dibuktikan melalui rakaman CCTV berikutan ketiadaan audio, dan wujudnya dakwaan bahawa keterangan lisan pegawai-pegawai penjara berkaitan provokasi dan ugutan daripada tahanan-tahanan tersebut berkemungkinan adalah rekaan semata-mata bagi menutup kesalahan yang telah dilakukan, namun demikian, Jabatan ini berpandangan bahawa kenyataan tersebut tidak boleh diketepikan, diabaikan mahupun dianggap sebagai satu spekulatif.

10. Hal ini kerana, secara logiknya, sudah tentu terdapat satu kejadian yang telah menyebabkan pegawai-pegawai penjara gagal mengawal emosi mereka sehingga mereka memukul, memijak dan mencederakan tahanan-tahanan tersebut dengan menggunakan cota dan *pepper spray*. Bak kata pepatah melayu, "kalau tiada angin, masakan pokok bergoyang".

11. IW47 yang merupakan Ketua Jabatan Siasatan Jenayah Negeri Perak juga mempunyai pandangan yang sama seperti Jabatan ini:

Rujuk keterangan IW47: Nota Prosiding bertarikh 10.09.2025 muka surat 147

LUQMAN	:	Jadi, kalau boleh pihak SUHAKAM, saya nak minta kalau boleh lah, look at, bukan setakat ini, lokap polis pun sama, saya pun rasa it is not suitable untuk satu manusia nak duduk. Because kalau tempat tu tempat sesuai, kita tak ada masalah. You know, dari segi kerja, dari segi apa pun, kalau hospital pun kita boleh bagi orang ini, boleh ada kelas satu, kelas dua, kelas tiga, I think orang-orang salah ni pun sama, kalau kita ada kelas macam tu. Tahu tak? Orang yang dia rasa dia mampu lah kenapa saya tak boleh duduk kat sini? Because after all, for the investigation purpose sahaja. For the penjara punya case, it's just macam hospital lah, terpaksa duduk. Tapi dapat lah treatment kelas A, kelas B, kelas C lah. Kalau dia mampu, dia bayar lah mahal sikit. So, maybe this incident can. Because this incident tend to happen again. Selagi fasiliti kita tidak improve. Because there is pressure by warden. Saya pun kesian dengan warden. Banduan pun kata kesian because how to live like that. Tapi warden, selagi banduan tak pergi situ, dia tak boleh balik. Dia pun marah, anak bini nak tunggu

		kat rumah lah, buat janji macam-macam, dia nak pergi supermarket lah semua. So, this other thing, the pressure at both side. Jadi, kalau nak tengok human right, we got to see both side, bukan setakat prisoners. Kita kena tengok warden juga. So, that's the way I look at it.
AR	:	Tapi, Tuan bersetuju bila saya mengatakan tindakan yang dia ambil itu tidak sepatutnya berlaku?
LUQMAN	:	Betul.
AR	:	Oleh anggota.
LUQMAN	:	So, bila kita cerita tentang manusia ini nak one person provoke, kata lah saya jadi cikgu, ada 40 student. Siapa tak siap homework, saya pukul. Ada seorang menangis, ada seorang tak kisah, ada seorang rasa nak bunuh diri. Dia masing-masing punya tindakan. You know? So, that means that kesan kepada seseorang apabila arahan itu keluar, tak sama. So, di dalam keadaan macam ni, ada warden yang bengis, ada warden yang slow, ada warden yang dah jenis muka selama. So, that's why bukan semua orang memukul orang. So, but the whole thing, it is started because of the pressure. Without the pressure, I do not think this thing happened.

12. Tambahan pula, terdapat keterangan lisan daripada tahanan-tahanan yang terlibat sendiri menunjukkan bahawa insiden yang berlaku di Penjara Taiping pada 17.01.2025 yang melibatkan

kekerasan oleh pegawai-pegawai penjara terhadap tahanan merupakan insiden luar biasa dan pertama kali berlaku di sana. Media massa sebelum ini juga langsung tidak pernah memaparkan mahupun menggemparkan tentang kekerasan oleh pegawai-pegawai penjara di Penjara Taiping terhadap tahanan.

Rujuk keterangan IW4: Nota Prosiding bertarikh 10.06.2025 muka surat 329

ASH	:	Sepanjang empat tahun, En Leong berada di Penjara Taiping. Betul kan, empat tahun. Pernah En Leong tengok keadaan seperti ini berlaku?
LEONG	:	Tak.
ASH	:	Tak pernah? Ini adalah pertama kali En Leong tengok.
LEONG	:	First time.

Rujuk keterangan IW10: Nota Prosiding bertarikh 12.06.2025 muka surat 331

ASH	:	Baik En Visva En Visva maklum tadi telah berada di penjara tujuh tahun.
VISVA	:	Ya.
ASH	:	Betul? Pernah tak En Visva mengalami situasi begini selama tujuh tahun?
VISVA	:	Tak ada.
ASH	:	Tidak pernah.
VISVA	:	Yang bergaduh –

ASH	:	Pada 17 Januari.
VISVA	:	Ok Insiden yang seperti macam ini tak pernah.
ASH	:	Tidak pernah.
VISVA	:	Tak pernah.

13. Secara tidak langsung, keterangan-keterangan tersebut sedikit sebanyak mampu menguatkan lagi kenyataan Jabatan ini serta keterangan lisan pegawai-pegawai penjara bahawa provokasi dan ugutan daripada tahanan-tahanan tersebut merupakan salah satu faktor yang telah menyumbang kepada kekerasan oleh pegawai-pegawai penjara terhadap tahanan-tahanan tersebut.

14. Jabatan ini mengambil maklum bahawa ahli-ahli panel inkuiri awam perlu berhati-hati dalam menerima keterangan lisan pegawai-pegawai penjara memandangkan mereka merupakan individu yang telah melakukan kekerasan terhadap tahanan-tahanan tersebut dan kekerasan yang telah dilakukan oleh mereka terhadap tahanan-tahanan tersebut adalah satu tindakan yang tidak wajar serta salah di sisi undang-undang. Namun demikian, memandangkan kesemua pihak yang terlibat dengan inkuiri awam ini telah acap kali diingatkan bahawa tujuan utama inkuiri awam ini dijalankan bukanlah untuk menentukan siapa yang salah dan siapa yang benar, tetapi sebaliknya untuk menentukan punca kepada pelanggaran hak asasi manusia yang berlaku di Penjara Taiping semasa dan selepas insiden 17.01.2025, maka Jabatan ini berpandangan bahawa faktor tersebut wajar dipertimbangkan dan diambil kira oleh ahli-ahli panel.

15. Bagi pelanggaran hak asasi manusia yang kedua iaitu kelewatan dalam memberikan rawatan yang sewajarnya kepada tahanan-

tahanan yang memerlukan, Jabatan ini mendapati bahawa pelanggaran hak asasi manusia tersebut berlaku adalah disebabkan oleh kelalaian dan ketidakseriusan pegawai perubatan, pembantu pegawai perubatan serta pegawai-pegawai penjara yang ditugaskan sebagai *medical orderly* di Penjara Taiping terhadap kecederaan dan kesakitan yang dialami oleh tahanan-tahanan yang berkenaan.

16. Hal ini kerana, keterangan lisan daripada tahanan-tahanan banyak menunjukkan bahawa pada peringkat awal selepas insiden 17.01.2025 di Penjara Taiping tersebut berlaku, mereka yang mengalami kecederaan seperti koyak di bahagian kepala, luka di bahagian punggung dan anggota badan yang lain serta patah tulang hanya diberikan ubat tahan sakit dan kain untuk membalut luka sahaja oleh pegawai perubatan, pembantu pegawai perubatan dan *medical orderly*. Selain itu, ada juga tahanan yang tidak diberikan rawatan yang bersesuaian dengan kecederaan yang dialaminya. Rawatan yang lebih tepat, terperinci dan sewajarnya seperti jahitan, *dressing*, pemeriksaan tulang dan rawatan luar di hospital hanya diberikan kepada mereka lebih kurang 5 hari selepas insiden 17.01.2025 tersebut berlaku. Malangnya, ketika itu, terdapat kecederaan yang dialami oleh beberapa orang tahanan yang sudah pun menjadi lebih teruk.

17. Walaubagaimanapun, Jabatan ini mendapati bahawa di sebalik pelanggaran hak asasi manusia tersebut, wujud juga beberapa faktor lain yang turut menyumbang kepada kelalaian dan ketidakseriusan pegawai perubatan, pembantu pegawai perubatan

dan *medical orderly* dalam memberikan rawatan segera dan yang sewajarnya kepada tahanan-tahanan yang berkenaan.

18. Pertama, perjawatan bagi pegawai perubatan, pembantu pegawai perubatan dan *medical orderly* yang tidak mencukupi untuk memberikan rawatan kepada tahanan-tahanan di Penjara Taiping, terutamanya apabila jumlah banduan di Penjara Taiping yang melibatkan reman dan sabitan semasa dan selepas insiden 17.01.2025 tersebut berlaku sudah pun mencecah hampir 1,200 orang. Ditambahkan lagi dengan lebih kurang 100 tahanan Mahkamah Tinggi yang dipindahkan dari Pusat Koreksional Batu Gajah ke Penjara Taiping. Namun, bilangan pegawai perubatan, pembantu pegawai perubatan dan *medical orderly* yang sedia ada ketika itu hanya 1:2:3 sahaja.

Rujuk keterangan IW38: Nota Prosiding bertarikh 18.08.2025 muka surat 221 dan 222

CHM	:	Di Penjara Taiping population dia?
FADHIL	:	Population?
CHM	:	Banduan.
FADHIL	:	Banduan. Setakat ni 1000 something lah. 1000 tapi tak sampai 1200.
CHM	:	Lebih 1200 ya?
FADHIL	:	Lebih kurang ke bawah.
CHM	:	Bahagian klinik satu doktor.
FADHIL	:	Satu doktor, dua orang MA.
CHM	:	Dua MA.

FADHIL	:	Tiga medical orderly.
CHM	:	Tiga medical orderly.
FADHIL	:	Satu penolong pegawai farmasi.
CHM	:	Satu pegawai farmasi ya. Dari pendapat kamu cukup ke? Cukup ke untuk servis population banduan yang lebih kurang 1200? Cukup ke?
FADHIL	:	Tak cukup.

19. Kedua, fasiliti kesihatan yang tidak lengkap seperti peralatan bantuan pernafasan, mesin x-ray dan *blood test analyser.* Walhal, kesemua fasiliti kesihatan tersebut adalah penting bagi tujuan pemeriksaan dan rawatan awal sebelum keperluan rawatan lanjut dapat ditentukan dan dijalankan, lebih-lebih lagi apabila insiden 17.01.2025 tersebut banyak melibatkan kecederaan di bahagian kepala dan anggota badan yang memerlukan pemeriksaan awal dibuat dengan tepat dan terperinci. Namun demikian, sekiranya kesemua fasiliti kesihatan tersebut diwujudkan di Penjara Taiping, ia perlu didatangkan dengan perjawatan bagi tujuan pengendalian.

Rujuk keterangan IW39: Nota Prosiding bertarikh 19.08.2025 muka surat 31 sehingga 35

20. Meskipun begitu, Jabatan ini berpandangan bahawa semasa dan selepas insiden 17.01.2025 di Penjara Taiping tersebut berlaku, masih terdapat beberapa usaha dan langkah proaktif yang telah pun dilaksanakan oleh pegawai perubatan, pembantu pegawai perubatan dan *medical orderly* bagi memastikan tahanan-tahanan yang berkenaan diperiksa dan dirawat seawal dan juga sebaik mungkin.

21. Sebagai contoh, berdasarkan rakaman CCTV, *triage* telah pun dijalankan oleh pegawai perubatan, pembantu pegawai perubatan dan *medical orderly* seawal tahanan-tahanan dikumpulkan di luar blok B sebelum bergerak ke blok C dan E. Seterusnya, terdapat beberapa tahanan yang telah pun dibawa ke hospital bagi tujuan pemeriksaan dan rawatan lanjut sejurus selepas pemindahan tahanan-tahanan tersebut ke blok C dan E selesai. Selain itu, beberapa jam selepas pemindahan tahanan-tahanan tersebut ke blok C dan E selesai, pegawai perubatan, pembantu pegawai perubatan dan *medical orderly* telah pun mula masuk ke dalam kedua-dua blok tersebut untuk memeriksa dan merawat tahanan-tahanan di sana.

22. Begitu juga dengan tahanan bernama Gan Chin Eng, meskipun wujud dakwaan bahawa pegawai perubatan, pembantu pegawai perubatan dan pegawai-pegawai penjara yang bertugas di blok E telah cuai dan gagal untuk memeriksa dan memberikan rawatan yang sewajarnya terhadap tahanan tersebut dengan kadar segera, namun Jabatan ini berpandangan bahawa tindakan pegawai perubatan, pembantu pegawai perubatan dan pegawai-pegawai penjara yang bertugas di blok E yang mengarahkan agar tahanan tersebut dihantar ke hospital dengan menggunakan kenderaan jabatan sudah memadai untuk menunjukkan bahawa tindakan segera dan yang sewajarnya telah pun diambil ke atas kondisi tahanan tersebut.

23. Lagi pula, sebelum tahanan tersebut dihantar ke hospital, keterangan dokumen dan lisan yang dikemukakan semasa inkuiri awam berlangsung tidak menunjukkan sebarang indikasi yang jelas

yang memerlukan tahanan tersebut untuk dirawat dengan kadar segera. Hal ini kerana, pertama, tidak wujud sebarang kesan kecederaan pada bahagian luar anggota badan tahanan tersebut. Rakaman CCTV dan keterangan lisan di kalangan tahanan-tahanan yang terlibat juga langsung tidak menunjukkan secara spesifik tentang bila, bagaimana dan siapa yang telah menyebabkan tahanan tersebut mengalami kecederaan. Kedua, semasa di blok E, tahanan tersebut masih boleh berjalan dan wujud keterangan lisan daripada rakan-rakan tahanan tersebut seperti IW17 dan IW18 yang menyatakan bahawa tahanan tersebut masih sedar, boleh bercakap dan boleh bergerak masuk ke dalam sel yang dijadikan sebagai ruang solat. Akhir sekali, *blood pressure*, *heart rate* dan *SPO2* tahanan tersebut juga kelihatan normal dan tidak menunjukkan bahawa tahanan tersebut perlu di hantar ke hospital bagi mendapatkan rawatan segera. Kenyataan tersebut turut disokong oleh IW41 yang merupakan pegawai forensik yang melakukan pembedahan *post-mortem* terhadap tahanan tersebut:

Rujuk keterangan IW41: Nota Prosiding bertarikh 02.09.2025 muka surat 63 dan 65

SK	:	Ok. Dr we were informed by the witnesses and also the doctor and the MA from the clinic of Penjara Taiping, ok, they tried their best to send Uncle Gan to hospital looking when he was brought from his cell to the front gate of the Taiping Prison, and that location to the hospital, it takes around five minutes. The location of the

		hospital between hospital and the Taiping Prison is only between in the range of five minutes travel. Ok. So, let's say at the point of this vital sign, he was taken and transported to the hospital in five minutes, can someone die with this vital sign?
TAN	:	Ok. So, again, I'm not an expert in treating the patient just with my background medical knowledge. Ok, just referring to the documentation, the blood pressure is somehow normal, heart rate normal, pale, the deceased is pale, and the oxygen level is low. The five-minute journey, let's say five-minute journey, I believe that the deceased might have a chance to survive. So, by looking at this vital sign, maybe we won't consider the patient is dying also. Not bad actually, quite stable vital sign.
SK	:	All right. So, it's unlikely someone will die with this vital sign.
TAN	:	Yes.
...		
SK	:	Within 30 minutes, the time span of 30 minutes, before the arrival at the Taiping Hospital. It could be longer, but based on the testimony we are just, let's take 30 minutes as the benchmark.
TAN	:	But all this is based on the allegation. I don't know whether it's good for me to, to comment on

		allegation or the post mortem finding. So, if you want to base on the allegation, based on allegation, so the person, he already, on the history itself, he said that he fall in the toilet, and with pain, sustained the injury over the left side, so means that he already had the liver injury lah. Based on allegation. That's why he go to the clinic. Ok. So, and this, this injury, this vital sign may not trigger me to send, if I at the place, the doctor handle the patient I might not send him to the hospital, because he quite stable.
SK	:	Quite stable?
TAN	:	Maybe I will monitor first. Or even the SPO2 try to drop, maybe I will try to stabilize him before I send him to the prison. Because look at this vital sign, it's still quite normal. It's stable. It doesn't require like urgent treatment for the patient.

24. Seterusnya, bagi pelanggaran hak asasi manusia yang ketiga iaitu penggunaan *bucket system* yang sudah tidak relevan dengan peredaran kemajuan semasa, Jabatan ini mendapati bahawa terdapat beberapa punca yang menyumbang kepada pelanggaran hak asasi manusia tersebut.

25. Pertama, struktur bangunan blok E di Penjara Taiping yang lemah untuk dibina tandas di dalamnya dan perkara ini telah disahkan sendiri oleh IW43 yang merupakan wakil daripada JKR:

Rujuk keterangan IW43: Nota Prosiding bertarikh 03.09.2025 muka surat 27

MFA	:	Tuan tahu. Sewaktu lawatan ada tak dimaklumkan berkaitan dengan sistem tong ni?
AZLAN	:	Sistem tong ni seingat saya tidak dimaklumkan. Cuma dia ada di penjara lain untuk dilaksanakan kerja-kerja naik taraf, menyediakan toilet di setiap sel. Tetapi disebabkan penjara-penjara di Perak ni melibatkan usia yang agak lama dan keadaan dinding dia pun telah poros. Dan pihak kami tidak mengesyorkan untuk kita laksanakan kerja-kerja naik taraf, menyediakan tandas. Dan sistem tong ni diteruskan disebabkan keadaan bangunan tu sendiri.

26. Meskipun terdapat cadangan dari JKR untuk membina tandas di luar blok E, namun cadangan itu dilihat tidak efektif dan tidak mungkin dapat dilaksanakan. Hal ini kerana, jika tandas di bina di luar blok, keselamatan yang ketat terhadap tahanan perlu dilaksanakan di mana tahanan tersebut perlu diiring oleh pegawai penjara. Malangnya, di Penjara Taiping, wujud isu kekurangan pegawai penjara di mana bilangan pegawai penjara yang bertugas di blok hanya 2 orang sahaja dan kadang kala memerlukan pegawai penjara yang lain yang pada hakikatnya tidak ditugaskan di blok untuk turut serta membuat kawalan terhadap banduan. Secara tidak langsung, ia menyebabkan beban kerja pegawai-pegawai penjara di Penjara Taiping bertambah memandangkan kebanyakan

daripada mereka perlu melakukan kerja-kerja di luar skop kerja asal mereka.

Rujuk keterangan IW43: Nota Prosiding bertarikh 03.09.2025 muka surat 32 dan 33

CHM	:	Yes, ok. Cuma pihak penjara kata ada alasan mereka lah. Kenapa tak boleh buat di luar?
AZLAN	:	Kita ada cadangan untuk kita buat terowong daripada penjara terus kepada toilet baru kita bina di luar. Tapi satu isu pula, setiap kali klien nak keluar, perlu diiring oleh seorang pegawai.
PM2	:	Ini tak cukup staff?
AZLAN	:	Tak cukup staff juga di situ. Itu antara isu-isu lah yang kita pertimbangkan. Dan pada tahun itu pun kita tolak kerja di Penjara lain lah, bukan sini.
MFA	:	Tuan tak ingat ya, bila recommendation ini diangkat, lawatan berkaitan dengan sistem sanitari ini dibuat?
AZLAN	:	Sebelum Covid tak silap saya.
MFA	:	Sebelum Covid. Jadi, kalau Tuan boleh perincikan lagi apa recommendation atau alternatif yang JKR cadangkan kepada penjara?
AZLAN	:	Membina tandas di luar daripada blok penjara. Tapi tak mungkin juga sebab ada kekangan keselamatan di situ.
CHM	:	Tapi ada reccomendkan lah.

AZLAN	:	Dalam perbincangan dengan pihak KDN, dengan pihak ICU, pada ketika itu, kita mengesyorkan dibina di luar. Tapi dari segi keselamatan, tidak membenarkan lah itu berlaku.

Rujuk keterangan IW45: Nota Prosiding bertarikh 03.09.2025 muka surat 124 dan 125

SK	:	Tuan, tadi saksi daripada Jabatan Kerja Raya memberi keterangan pagi tadi. Dia mencadangkan salah satu alternatif adalah membina tandas di luar blok. Bukan dalam cell sebab dalam cell tak boleh. Bangunan, struktur bangunan tidak membenarkan. Di luar. Tetapi cabarannya adalah bila pada waktu malam –
HAFIDZ	:	Ya, betul.
SK	:	Bila tahanan keluar, perlu ada escort.
HAFIDZ	:	Betul.
SK	:	Dan di segi keselamatan. Jadi, kalau kita mengambil kira keperluan tahanan pada zaman ini, dengan isu keselamatan, adakah isu keselamatan ini akan terus menjadi satu cabaran?
HAFIDZ	:	Ya, betul.
SK	:	Atau akan ada satu alternatif untuk menggantikan? Kalau tidak dia akan terus menjadi satu kekangan, Tuan.

HAFIDZ	:	Itu satu pandangan daripada JKR supaya kita buat toilet di luar lah.
SK	:	Ya.
HAFIDZ	:	Pandangan yang baik. Tetapi maksud di luar tu hendak lah, bukan lah di luar yang maksudnya kita kena keluar daripada sel. Lepas tu, kita kena pergi ke pintu utama blok, kita buka blok baru kita pergi. Itu sangat tak.
SK	:	Itu yang dimaksudkannya?
HAFIDZ	:	Sangat tak membantu penjara saya dari segi keselamatan, dari sudut kemanusiaan pun saya ingat dua, tiga lapis pintu, dia nak kena buka sebelum dia nak pergi ke toilet tu. Dan juga nyenyak akan menambah beban perjawatan di jawatan penjara itu sendiri. Saya fikir lah. Jadi, pandangan tu baik tapi buat masa sekarang ini, saya rasa kena kaji dengan lebih teliti lagi lah. Melainkan kita ada staf yang baik, cukup dari segi nisbah daripada semua tu dan kemudian kita ada satu kita kena buat satu sistem baru pula lah. Dari segi SOPnya semua tu, kita kena buat. Develop satu SOP baru pula. Khusus untuk tujuan-tujuan macam ni.
SK	:	Jadi, kalau tak salah saya Jabatan JKR tadi menggunakan perkataan terowong.
HAFIDZ	:	Terowong?
SK	:	Ke tandas. Daripada blok ke tandas lah. Maksudnya, tidak ada peluang untuk –

HAFIDZ	:	Terowong, ya?
SK	:	Ya. Dia gunakan perkataan terowong. Jadi, untuk supaya bila dia ke tandas dia tidak dapat melarikan diri lah. Faktor keselamatan tu. Dia hanya ke tandas sahaja.
HAFIDZ	:	Saya tak ada fikir lah kena buat terowong. Tapi, kalau JKR boleh memikirkan sesuatu benda macam tu –
SK	:	Dia mungkin terowong, mungkin laluan khas lah, Tuan. Laluan khas ke tandas lah. Jadi, dia tak ada peluang untuk melarikan diri ke, jadi tak ada isu keselamatan.
HAFIDZ	:	Boleh kita fikirkan. Saya sebenarnya tak ada halangan jika benda-benda tu tak melibatkan ancaman ataupun tolak-ansur pada sekuriti penjara, keselamatan penjara itu sendiri. Tapi, apa sekalipun kita kena tengok juga keadaan persekitaran blok tersebut. Sesuai ke tak sesuai? Sebab blok-blok lama ini, dia tiga tingkat. Penjara lama ni semua bertingkat-tingkat. Penang, tiga tingkat. Seremban, tiga tingkat. Taiping pun saya ingat tiga tingkat juga.

27. Kedua, status Penjara Taiping sebagai bangunan warisan juga merupakan salah satu punca yang menyumbang kepada pelanggaran hak asasi manusia tersebut. Hal ini kerana, sebarang binaan atau pengubahsuaian yang ingin dilaksanakan di Penjara Taiping perlu mendapatkan kebenaran daripada Jabatan Warisan Negara ("JWN"):

Rujuk keterangan IW44: Nota Prosiding bertarikh 03.09.2025 muka surat 61

ASH	:	Tuan, adakah pemilih asal masih boleh mengubah suai bangunan yang telah diwartakan?
RUZAIRY	:	Tiada halangan untuk mengubah suai, tetapi perlu apabila telah diwartakan, dia perlu mendapat kebenaran. Di bawah seksyen 40, kami ada kebenaran merancang. Even kalau mana-mana di apa itu, majlis pun ataupun kerajaan negeri pun, mereka ada kebenaran merancang. Dan di akta nya apabila kita dah wartakan sebagai warisan, dia perlu melalui proses kebenaran merancang lah. Dan mereka perlu menghantar permohonan kepada kita. Kalau apa-apa saja, supaya kita dapat advice. Kita beri advice dan biasanya mesyuarat kebenaran merancang itu, biasanya kita akan melibatkan pakar kita lah. So kita ada 13 jawatankuasa pakar. 13 jawatankuasa pakar, tetapi kalau melibatkan bangunan, dia adalah jawatankuasa seni bina. Jadi jawatankuasa seni bina dan landscape ini akan membantu kita untuk advice supaya sebarang kerja-kerja perubahan atau baik pulih, perlu mengikut garis paduan ataupun teknik yang terbaik, supaya pengekalan terhadap bangunan warisan tu terus-terus boleh dapat memanjangkan usaha terus lah bangunan itu.

		Tetapi permohonan perlu dibuat oleh pemilik lah dan dia menjadi kesalahan jika sebarang perubahan yang dibuat tanpa memaklumkan kepada pesuruhjaya warisan lah. Yang itu adalah di bawah seksyen 112 lah tentang bangunan warisan.

28. Namun demikian, untuk mendapatkan kebenaran tersebut akan melibatkan proses yang panjang dan rumit memandangkan satu kertas kerja yang terperinci perlu disediakan. Bahkan, kos untuk membuat sebarang binaan atau pengubahsuaian di Penjara Taiping akan menjadi lebih tinggi dari kebiasaan memandangkan bahan-bahan yang akan digunakan bagi tujuan tersebut hendaklah mengikut standard bahan yang telah digunakan semasa sesuatu bangunan tersebut mula dibina:

Rujuk keterangan IW43: Nota Prosiding bertarikh 03.09.2025 muka surat 35

MFA	:	Jadi Tuan setuju bahawa terdapat cabaran dan kekangan oleh pihak JKR dalam membuat pemeriksaan apabila perlu mendapatkan kelulusan daripada JWN?
AZLAN	:	Untuk melaksanakan pemeriksaan kami tiada halangan daripada pihak JWN. Bukan halangan lah, sedikit prosedur yang perlu dipatuhi oleh pihak JKR semasa hendak melaksanakan penyelenggaraan. Yang pertama dari segi skop

		kerja perlu mengikut garis panduan yang dibangunkan oleh JWN. Yang kedua adalah dari segi kos. Kos dia akan menjadi tidak sama sebagaimana bangunan-bangunan yang tidak berada daripada list warisan. Dia akan ada kaedah yang lebih spesifik dan juga ada garis panduan-garis panduan yang perlu disediakan, terutama perlu menyediakan konservator. Dalam pelaksanaan kerja ini adalah kos di situ untuk melantik third party konservator yang akan memantau kerja-kerja pembaikan dan juga sebarang kerja penyelenggaraan di bangunan-warisan. Itu hanya kekangan, bukan halangan lah, Dato' Seri. Cuma ada jalan dia agak jauh sedikit dan kos dia agak tinggi berbanding dengan bangunan-bangunan biasa. Dan kadang-kadang kita tengok, sebab itu lah kita tengok juga kadang-kadang kalau bangunan-warisan ini, kita susah. Kalau kata bangunan biasa, kita minta roboh saja. Sebab mudah, roboh dan bina baru. Tapi melibatkan warisan, terutamanya di Taiping sebab dia digazetkan sebagai kawasan-kawasan warisan, kebangsaan. Dan dia menyebabkan kerja-kerja penyelenggaraan ini bukan sukar tapi dia akan mengambil masa yang panjang.

Rujuk keterangan IW44: Nota Prosiding bertarikh 03.09.2025 muka surat 65 dan 66

ASH	:	Dengan pewartaan ini, adakah dia menghadkan kerja-kerja pengubahsuaian dalaman atau penambahbaikan infrastruktur penjara itu?
RUZAIRY	:	Kita sebenarnya Jabatan Warisan tidak melarang sebarang kerja-kerja perubahan terhadap fungsi lah fungsi sesuatu bangunan ada juga bangunan yang kita benar diwartakan sebagai, contoh lah Bangunan Sultan Abdul Samad dulu adalah mahkamah tapi sekarang dia dah bukan lagi sebagai mahkamah. So kita buat adaptive reuse. Tapi kita tidak menghadkan sebarang perubahan cuma permohonan perlu dihantar kepada kita sebab itu tertakluk pada akta lah Kebenaran Merancang, seksyen 40 mereka perlu hantar permohonan untuk contohnya nak mengecat jadi mereka perlu hantar pada kita dan kita biasanya tiada halangan untuk cat tetapi penggunaan cat itu mesti penggunaan cat yang standard seperti mana pada zaman tersebut sebab kita menjaga karakter, karakter seni bina kolonial setting colonial di kawasan Taiping itu sendiri.

29. Meskipun IW44 ada menyatakan bahawa pihak JWN boleh memperuntukkan sedikit dana untuk sebarang binaan atau pengubahsuaian di mana-mana bangunan warisan, namun kenyataannya, sejak Penjara Taiping digazetkan sebagai bangunan warisan sekitar 2012, perkara tersebut langsung tidak pernah berlaku.

Rujuk keterangan IW45: Nota Prosiding bertarikh 03.09.2025 muka surat 147

SK	:	Untuk Penjara Taiping, Tuan tahu atau tidak?
HAFIDZ	:	Taiping saya tak pasti lah sebab itu tahun bila ya? Saya ingat –
SK	:	2012. Digazettekan pada tahun 2012.
HAFIDZ	:	Ok, ya, ya. Betul-betul. Saya ingat masa itu kita setuju saya rasa. 2012 kita setuju. Sebab itu penjara pertama yang kita gazetkan sebagai penjara warisan lah. Dengan harapan bila digazettekan sebagai penjara warisan, dengan harapan kita akan dapat bajet-bajet khas, bajet-bajet tertentu yang mudah untuk kita uruskan Penjara Taiping tersebut. Itu harapan kami lah. Saya kira lah daripada awal dulu.
SK	:	Jadi realitinya harapannya?
HAFIDZ	:	Realitinya saya rasa tak begitu lah. Saya rasa tak begitu lah. Sebab saya rasa Jabatan Warisan pun dia pun ada kekangan juga kot dari sudut peruntukkan bajet bukan dia tak nak bagi tapi dia pun ada peruntukan kekangan juga di situ. Jadi benda-benda macam ni mengganggu-gugat kita punya kepercayaan hasrat kita untuk kita teruskan dengan warisan lagi lah pada masa akan datang tu. Sebab kita dah belajar daripada Taiping yang berbahagia Dato' Seri. Kan? Tak

		ada. Tak ada. Support tak ada. Tak ada privilege. Awalnya kita ingatkan bila kita dijanjikan, kita disyorkan bila diwartakan sebagai penjara warisan, kita dapat privilege. Maksud saya diberi perhatian apa yang kita minta, cepat turunnya peruntukkan. Peruntukkannya pula berasingan. Daripada KDN kita boleh minta, daripada warisan pun kita boleh minta. Tapi tak berlaku begitu. Itu yang saya boleh katakan lah.

30. Jabatan ini melalui Kementerian Dalam Negeri ("KDN") juga pernah mengangkat permohonan kepada Kementerian Kewangan untuk mendapatkan peruntukan bagi mengatasi isu penggunaan *bucket system* tersebut. Malangnya, wujud kekangan dari segi kewangan yang tidak mengizinkan isu tersebut dapat diatasi.

Rujuk keterangan IW48: Nota Prosiding bertarikh 12.09.2025 muka surat 24 dan 25

ASH	:	Ok, Tuan. Saya faham sekarang ini, penjara telah bertukarkan kepada portable bucket itu kan. Instead of tong hitam tu kan. Tapi, bagi kami, kita tengok kebersihan tu tidak ada lah. Kerana tidak ada paip untuk orang cuci. Kalau kita rujuk kepada Peraturan 15, 16 Peraturan Mandela. Setiap penjara perlu dilengkapi dengan sistem sanitari dan kebersihan diri yang baik dan bermaruah. Ok. Soalan saya Tuan, adakah... tadi

		Tuan kata untuk membuat penggantian sistem bucket tu memerlukan kos yang tinggi. Adakah KDN telah membuat permohonan peruntukan kewangan daripada MOF untuk tujuan ini, Tuan?
SYAH	:	Itu dalam laporan, kita tidak ada lagi. Ada tak? Minta maaf, panel. Saya minta.
MFO	:	Dato' Seri, dan semua ahli, untuk bajet, untuk peruntukan pembangunan penjara, memang setiap tahun kita ada diangkat lah, penjara angkat kepada KDN dan juga kita sebagai salah seorang bagi input juga lah bahagian kita bagi input juga. Walaubagaimanapun, kebiasaannya daripada senarai-senarai banyak tu daripada Kementerian Ekonomi, dia akan ada siling dia. So, bila siling tu, dia akan luluskan berdasarkan keutamaan. Jadi, ada termasuk juga semua apa yang penjara minta, termasuk pembaikan, termasuk penggantian. Walaubagaimanapun, tertakluk kepada Kementerian Ekonomi punya siling dan juga kedudukan kewangan. Tapi, memang ada penjara angkat lah untuk pembaikan. Termasuk lah, saya percaya untuk mengatasi masalah bucket sistem tadi termasuk juga. Walaubagaimanapun, macam sebut tadi, kekangan sikit lagi sekali, kedudukan kewangan kerajaan adalah yang kekangan lah, kekangan dia. Tapi, apa yang penjara angkat memang termasuk lah semua untuk cadangan

		penggantian, untuk pembaikan dan juga untuk menambahbaik infra-infra di penjara lah.

31. Jabatan ini mengambil maklum bahawa penggunaan *bucket system* pada masa kini adalah jelas bertentangan dengan Peraturan 15 dan 16 Peraturan Nelson Mandela yang menyatakan bahawa setiap penjara perlu mempunyai sistem sanitari dan kebersihan diri yang baik, bermaruah serta bersesuaian dengan peredaran zaman semasa. Sehubungan dengan itu, pelbagai usaha dan inisiatif telah pun dilaksanakan oleh Jabatan ini. Walaubagaimanapun, realitinya, punca-punca yang telah dinyatakan di perenggan-perenggan sebelum ini yang menyebabkan penggunaan *bucket system* tersebut tidak dapat dihapuskan di Penjara Taiping sehingga ke hari ini.

32. Bagi pelanggaran hak asasi manusia yang keempat iaitu menempatkan tahanan-tahanan di blok E yang sudah disytiharkan tidak selamat oleh pihak JKR, Jabatan ini juga mendapati bahawa terdapat beberapa punca yang menyebabkan pelanggaran hak asasi manusia tersebut berlaku.

33. Pertama, ketidakjelasan kenyataan yang dikeluarkan oleh pihak JKR berkaitan blok E. Meskipun IW43 ada menyatakan bahawa sekitar tahun 2014, pihak JKR telah mengeluarkan kenyataan bahawa blok E adalah tidak selamat untuk diduduki dan dinasihatkan agar blok E tersebut dikosongkan, namun jika diteliti Eksibit 54 yang dikeluarkan sekitar tahun 2022 iaitu 8 tahun kemudian, pihak JKR langsung tidak menyatakan dengan jelas bahawa blok E perlu terus dikosongkan. Sebaliknya, pihak JKR

hanya menyatakan dengan jelas bahawa blok B sahaja yang perlu terus dikosongkan.

Rujuk Eksibit 54 bertarikh 21.10.2022 muka surat 29

34. Selain itu, bagi blok E, pihak JKR melalui Eksibit 54 dan keterangan lisan banyak menyatakan bahawa blok tersebut perlu diselenggara terutamanya di tingkat 2 dan 3, dan kenyataan tersebut adalah selari dengan apa yang telah dilaksanakan oleh pegawai-pegawai penjara di Penjara Taiping di mana mereka telah menempatkan sekumpulan tahanan yang dipindahkan dari Pusat Koreksional Batu Gajah ke Penjara Taiping di tingkat 1 blok E tersebut sahaja. Lagi pula, keputusan untuk meletakkan tahanan-tahanan di tingkat 1 blok E hanyalah bersifat sementara sahaja, dan bukannya untuk jangka masa yang lama memandangkan ketika itu, terdapat kerja-kerja pembaikan yang perlu dijalankan terlebih dahulu di blok-blok reman.

Rujuk keterangan IW43: Nota Prosiding bertarikh 03.09.2025 muka surat 23 dan 24

MFA	:	Baik. Kalau Tuan ingat, untuk Blok E sahaja Tuan, ada 3 aras. Bawah, 1 dan 2. So, berdasarkan kenyataan Tuan tadi, adakah keseluruhan blok wajar dikosongkan?
AZLAN	:	Keseluruhan blok wajar dikosongkan, kalau kita tengok papan lantai di Blok E, di tingkat atas 2 dan 3, kita terdapat keretakan sepanjang laluan koridor di atas dan di tengah-tengah itu terdapat

		jeriji besi yang kita dapati telah karat dan juga ada terdapat di tempat-tempat tertentu telah putus ataupun telah renggang lah dan tidak selamat kepada penghuni. Selain itu, di tangga laluan naik ke atas, didapati juga telah karat. Dan juga keadaan dia perlu... perlukan kerja-kerja pembaikan. Dalam laporan kami juga, mengesyorkan jika bangunan Blok E ini perlu digunakan, pihak penjara perlu melaksanakan kerja-kerja pembaikan bagi memastikan tahap keselamatan itu dikembalikan kepada asal. Maksudnya, lantai dia pun dia kena buang semua. Lantai tingkat 2 dan 3 kena dirobohkan dan dibina baru. Itu cadangan daripada pihak kami lah.
CHM	:	Tingkat 1 dan 2 atau tingkat 2 dan 3?
AZLAN	:	Tingkat 2 dan 3. Tingkat 1 di bawah. Lantai dia pun crack. Tetapi sebab dia di bahagian bawah, Dato' Seri. Yang bahaya adalah tingkat 2 dan 3 sebab dia berada di tingkat atas. Dan lantai dia pun, papan dia pun dah crack. Terdapat dia punya spalling dan juga besi di tengah-tengah laluan tersebut pun juga telah berkarat lah.

35. Kedua, bilangan *master* banduan yang meningkat secara mendadak. Seperti yang dinyatakan sebelum ini, bilangan banduan reman dan sabitan di Penjara Taiping sudah pun mencecah 1,200 orang dan sudah dianggap sebagai *overcrowded.* Ditambahkan lagi

dengan masalah blok-blok penempatan yang rosak dan memerlukan kerja-kerja penambahbaikan.

36. Secara tidak langsung, ia telah menyebabkan pegawai-pegawai penjara di Penjara Taiping tidak mempunyai pilihan selain meletakkan sekumpulan tahanan yang dipindahkan dari Pusat Koreksional Batu Gajah ke Penjara Taiping di blok E meskipun untuk sementara waktu sahaja.

37. Jabatan ini mengambil maklum cadangan yang diusulkan oleh ahli-ahli panel semasa inkuiri awam ini berlangsung iaitu kompleks penjara yang baru perlu dibina untuk menggantikan Penjara Taiping yang sudah usang dan tidak sesuai untuk dijadikan sebagai penempatan banduan. Bahkan, realitinya, beberapa kompleks penjara baru juga sudah pun dibina. Namun, isu bilangan *master* banduan yang meningkat secara mendadak inilah yang menyebabkan Penjara Taiping terpaksa digunakan sehingga ke hari ini kerana kompleks-kompleks penjara yang sedia ada mahupun yang baru masih tidak dapat menyelesaikan isu lambakan banduan dan kesesakan dalam penjara, lebih-lebih lagi tahanan reman yang sedang menunggu kes mereka selesai dibicarakan.

CHM	:	Siapa tahu buat penjara yang baru macam di Alor Setar, penjara lama itu pun dah tua juga, kan?
HAFIDZ	:	Ya.
CHM	:	Macam kerajaan buat yang baru di Pokok Sena.
HAFIDZ	:	Ya, betul. Sebenarnya –
CHM	:	Tak buat macam tu di Taiping ke atau lain-lain.

HAFIDZ	:	Sebenarnya Dato' Seri, itu lah perancangan asal, awal je tentang penjara. Kita bina Pokok Sena dengan harapan kita akan tutup Penjara Alor Setar. Kita bina Penjara Seberang Perai di Pulau Pinang dengan harapan besar kita, kita boleh tutup Penjara Reman di Pulau Pinang itu, dekat pulau. Kita bina Penjara Tapah dengan harapan kita boleh tutup Penjara Taiping, Dato' Seri. Tetapi keadaan tak berlaku begitu. Pertambahan master banduan sangat mendadak. Saya boleh nyatakan tahun lepas, kita hanya ada dalam 82,000, 83,000. Sehingga Disember tahun lepas, Dato' Seri. Tapi, now dah 90,000.
PM2	:	Ya.
HAFIDZ	:	90,000 now. Maksudnya, pertambahan –
PM2	:	Exponential.
HAFIDZ	:	Pertambahan banduan tu sangat cepat. Sehinggakan perancangan yang kita buat tu, tak boleh nak pakai. Dan penjara-penjara lama yang kita cadangkan untuk kita tutup, gunakan penjara baru tu, tak boleh dibuat. Tak boleh dibuat. Ok.

KESIMPULAN

38. Berdasarkan hujahan di atas, dapat disimpulkan bahawa wujud pelanggaran hak asasi manusia di Penjara Taiping semasa dan selepas insiden 17.01.2025 tersebut dan pelanggaran hak asasi manusia tersebut berlaku disebabkan oleh pelbagai faktor, baik di pihak Jabatan ini sendiri mahupun pihak-pihak yang lain.

39. Walaubagaimanapun, di pihak Jabatan Penjara Malaysia, kami amat memandang serius insiden 17.01.2025 yang berlaku di Penjara Taiping tersebut. Jabatan ini tidak akan pernah sama sekali berkompromi dengan sebarang tindakan yang melampaui batas undang-undang atau penggunaan kekerasan yang tidak wajar.

40. Langkah-langkah pembetulan termasuk pemindahan staf dan banduan serta penubuhan lembaga siasatan membuktikan komitmen Jabatan terhadap akauntabiliti dan ketelusan. Jabatan juga mengakui cabaran struktur fizikal Penjara Taiping sebagai bangunan warisan yang usang serta kekurangan perjawatan kritikal menyumbang kepada kesukaran operasi harian. Namun, Jabatan sentiasa berusaha mematuhi piawaian hak asasi manusia setakat yang praktikal dalam kekangan sedia ada.

CADANGAN DAN SYOR

41. Bagi memartabatkan sistem koreksional negara dan mencegah insiden 17.01.2025 di Penjara Taiping tersebut berulang, Jabatan Penjara Malaysia mengemukakan syor dan cadangan penambahbaikan berikut untuk pertimbangan pihak SUHAKAM dan Kerajaan:

41.1. Penggantian Fasiliti Penjara Usang

Kerajaan disyorkan untuk mempercepatkan kelulusan peruntukan di bawah Rancangan Malaysia Ke-13 (RMK-13) bagi pembinaan kompleks penjara baharu untuk menggantikan Penjara Taiping. Status bangunan warisan

sedia ada menyukarkan kerja naik taraf fasiliti asas (seperti sistem sanitasi dan keselamatan) yang kritikal untuk pematuhan Nelson Mandela Rules.

41.2. Mempercepatkan Pengisian Perjawatan

Menyegerakan proses pengambilan anggota baharu melalui Suruhanjaya Perkhidmatan Awam (SPA) untuk mengisi baki 1,389 kekosongan jawatan. Pengisian ini penting bagi mengurangkan nisbah kawalan banduan yang tinggi, sekaligus mengurangkan tekanan kerja (burnout) dan risiko kesilapan dalam kalangan anggota.

41.3. Peningkatan Aset dan Perjawatan Perubatan

Mewujudkan perjawatan khusus seperti Juru X-Ray di klinik penjara dan membekalkan peralatan diagnostik moden (mesin X-ray dan Ultrasound). Ini akan mengurangkan risiko keselamatan semasa rujukan banduan ke hospital luar dan membolehkan rawatan awal yang lebih tepat di dalam penjara.

41.4. Latihan Simulasi Krisis dan Hak Asasi

Memperkasakan modul latihan di Unit Latihan Institusi (ULIN) dengan memasukkan simulasi pengendalian rusuhan, teknik de-escalation, dan kursus hak asasi manusia secara berkala dan wajib bagi semua anggota, terutamanya di penjara keselamatan tinggi.

41.5. Penaiktarafan Sistem Pemantauan Pintar

Memasang sistem CCTV berteknologi tinggi dengan keupayaan analisis video pintar (video analytics) dan storan awan (cloud storage) di semua kawasan strategik penjara, termasuk di dalam sel dan blok pengasingan, bagi memastikan pemantauan masa nyata dan integriti bukti yang lebih baik.