



Human Rights Situation in Malaysia

1. Freedom of Expression
2. Freedom of Peaceful Assembly
3. National Human Rights Commission of Malaysia (SUHAKAM)

Freedom of Expression

Implementation of Previous Recommendations

- Accepted recommendations to "take steps to ensure a free, independent, pluralistic and diverse media landscape, including by reducing political influence on media outlets" (*Georgia*) and to create a safe and enabling environment (*Ireland*)
- Partially accepted or took note of recommendations involving explicit calls for law reform (*Brazil, Czechia, Ireland, Lithuania, Spain, Switzerland, United States of America, Uruguay*)
- Engagements with stakeholders including civil society on the Sedition Act 1948, Printing Presses and Publications Act 1984 (PPPA), Communications and Multimedia Act 1998 and other legislations

Issues

- Continued investigations and court charges under the Sedition Act 1948. Whilst numbers are claimed by the government to be low, there is an increase in use of Section 233 of the Communication and Multimedia Act 1998 and Section 505(b) of the Penal Code to investigate and take action against media practitioners, human rights defenders and netizens
- Censorship, bans, and restrictive regulations are enforced under the pretext of safeguarding public morality and curtailing dissent/ freedom of expression
 1. Use of PPPA to ban LGBT-themed materials – e.g., Swatch Pride-themed watches, reinstated ban on book 'Gay is OK'
 2. Complete bans or scene cuts on films with LGBT themes or interreligious sensitivities – e.g., Mentega Terbang, Tiger Stripes
 3. Concert guidelines for universities that include attire restrictions and university management scrutiny of song lyrics
- Censorship of online news outlets – e.g., in 2023, there were 6 (3 news outlets, 3 blogs)

Proposed Recommendations

- Review, amend and repeal the following legislations, in consultation with stakeholders including civil society organisations, in line with international standards:

Sedition Act 1948; Section 233 of the Communications and Multimedia Act; Printing Presses and Publications Act 1984; Sections 298A, 500, 504 and 505b of the Penal Code; Film Censorship Act 2002; National Film Development Corporation (FINAS) Act 1981

- Review and amend the Universities and University Colleges Act 1971 (AUKU), in consultation with stakeholders including university student groups and civil society organisations, to enhance student autonomy in student affairs and freedom of expression on campus via removal of government interference from university administration
- Establish a Malaysia Media Council as a transparent and independent self-regulatory body, in line with recommendations by the Protem Committee

Freedom of Peaceful Assembly

Implementation of Previous Recommendations

- Out of 4 recommendations received from UPR Cycle 3, accepted 3 recommendations related to "amending the Peaceful Assembly Act" (*Czechia*), "encouraging FoPA in line with national legislation" (*Russia*), and "accelerating consultations to review Peaceful Assembly Act" (*Georgia*).
- Amendments in 2019 to the Peaceful Assembly Act 2012 - to decriminalise 'street protests', and shorten period of notification of assembly from 10 to 5 days.

Freedom of Peaceful Assembly

Issues

- Law enforcement falls short in role of facilitating public assemblies
 1. Organisers are discouraged from organising public assemblies during pre-assembly facilitation meeting with police officers
 2. Continued status quo of investigating organisers of peaceful assemblies, including those who have submitted notices to the police 5 days before the peaceful assembly. E.g., organisers and selected participants of the Women's March were respectively investigated for an allegedly 'illegal' assembly (when notice was already submitted) and 'indecent' placards (*'Imagine If Men Are As Disgusted With Rapes As With Periods, Child Not Pride, Trans Women Are Women, Police Your Behaviour Not My Body'*)
 3. Obstruction and intimidation by law enforcement towards public assembly participants – e.g., police barricades, pre-assembly warnings, probes against Commissioners of the National Human Rights Commission of Malaysia (SUHAKAM) who were monitoring the public assembly

Proposed Recommendations

- Revise law enforcement's internal standard operating procedures on policing public assemblies in line with international standards
- Improve existing human rights training module among law enforcement to include guidelines on policing public assemblies that are in line with international standards
- Allow spontaneous, small peaceful assemblies
- Review and amend the Peaceful Assembly Act to include the following:
 1. Guarantee children and non-citizens the fundamental right to peacefully assemble;
 2. Guarantee the media full, and not reasonable, access to public assemblies;
 3. Include significant public spaces, including outside Parliament and the Independence Square, as designated places of assembly
 4. Confine requirement of consent from owner/occupier of place of assembly to privately-owned premises

National Human Rights Commission of Malaysia (SUHAKAM)

Implementation of Previous Recommendations

- Took note of recommendations that involve strengthening SUHAKAM's independence in compliance with the Paris Principles (*Canada, Netherlands, United Kingdom and Finland*)
- Supported more general recommendations on strengthening the institution (*Turkey*), maintaining or strengthening cooperation between the government and SUHAKAM (*Russia, Azerbaijan*), and implementing a human rights policy (*Colombia*)
- Review of the National Human Rights Commission of Malaysia Act 1999 in progress

National Human Rights Commission of Malaysia (SUHAKAM)

Issues

- Questionable Commissioners (including Chairperson who has recently resigned) for the term 2022-2025, facilitated by a longstanding appointment process that is insufficiently transparent:
 1. 2 Commissioners with track records of non-endorsement of universal human rights
 2. Stance of cultural relativism in human rights by former Chairperson – via public statements and meeting with Islamic NGOs shortly upon appointment
 3. Defamation suit filed by former Chairperson against staff due to complaint filed by the latter against the former on allegations of racial discrimination and abuse of power in a new staff appointment
- Delay in tabling of annual reports in Parliament; no requirement to debate report content in Parliament
- Limitations to mandate – not able to make unannounced visits to detention facilities; lack of responses and action by governments to SUHAKAM's recommendations

Proposed Recommendations

- Amend the National Human Rights Commission of Malaysia Act 1999 and any relevant regulations to strengthen the SUHAKAM's independence and effectiveness in line with the Paris Principles, specifically the following:
 1. Mandate a clear, transparent and participatory selection and appointment process for Commissioners, including publicising selection criteria which will be used by the Selection Committee;
 2. Establish an independent and objective dismissal process, including the requirement of a finding of guilt by a tribunal or court for a criminal offence or misconduct before a Commissioner can be dismissed;
 3. Include provisions that mandate government ministries and agencies to respond and take action on SUHAKAM's recommendations within a specific period of time;
 4. Empower SUHAKAM to conduct unannounced visits on detention facilities via repeal of precondition of compliance with procedures relating to these facilities;
 5. Mandate SUHAKAM's annual reports to be debated in Parliament.



Thank you

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