

ADVOCACY FACTSHEET (4th UPR Cycle)

NATIONAL HUMAN RIGHTS COMMISSION OF MALAYSIA

RECOMMENDATION TO MALAYSIA

- *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

PREV UPR CYCLE RECOMMENDATIONS

- Took note of four recommendations that involve strengthening SUHAKAM's independence in compliance with the Paris Principles
- Fully accepted more general recommendations on strengthening the institution, maintaining or strengthening cooperation between the government and SUHAKAM, and implementing a human rights policy

NATIONAL EFFORTS TAKEN

- 2009: Amendments to the National Human Rights Commission of Malaysia (SUHAKAM) Act 1999 to include a selection committee for appointment of Commissioners
- 2021: Retention of 'A-status' accreditation with the Global Alliance of National Human Rights Institutions' Sub-Committee on Accreditation (GANHRI-SCA), albeit with longstanding recommendations that are still unaddressed (*see below*)
- 2023: Ongoing review of SUHAKAM Act 1999

KEY ISSUES

- Selection and appointment process that is not transparent, independent and participatory. There are no legal requirements for establishment and disclosure of appointment criteria used by the Selection Committee; selection of recommendations from the Selection Committee's list by the Prime Minister; and broad consultation and/or participation in various stages of the appointment process.
- Dismissal process that is not transparent and independent. Grounds for dismissal are currently not clearly defined and appropriately confined to actions that adversely impact the Commissioner's capacity to fulfil their mandate. There are also no provisions that warrant substantiation of dismissal application with the decision of an independent body with appropriate jurisdiction. SUHAKAM did propose corresponding draft amendments to make the process more accountable – the requirement of a finding of guilt by a tribunal or court for a criminal offence or misconduct before a Commissioner can be dismissed.
- No legal requirement for SUHAKAM to have their annual reports debated in Parliament
- Limitations to mandate:
 - Unable to make unannounced visits to detention facilities
 - Unable to compel responses and actions by governments to recommendations given
 - Unable to initiate/resume investigations on human rights violations if the case has past/ongoing court action

For more information, contact Jernell Tan at: documentation@suaram.net

Link to our UPR Report: <https://shorturl.at/dyQZ4>

