



YAB Dato Sri Ismail Sabri Yaakob  
Prime Minister of Malaysia  
Pejabat Perdana Menteri, Blok Utama, Bangunan Perdana Putra, Pusat Pentadbiran  
Kerajaan Persekutuan, 62502 Putrajaya, Malaysia

17 September 2021

**Re: Government should respect human rights as it seeks UN Human Rights Council membership**

Dear Prime Minister,

We, the undersigned international human rights organisations—ARTICLE 19 and CIVICUS World Alliance for Citizen Participation—call on the new government of Malaysia to implement a comprehensive program of reform to strengthen human rights in Malaysia, especially the rights to freedom of expression, association, and peaceful assembly, as a prospective member of the UN Human Rights Council. Malaysia must also sign and ratify the International Covenant on Civil and Political Rights (ICCPR) and demonstrate that it is committed to protect human rights.

During the Human Rights Council [pledging session](#) on 8 September 2021, organised by Amnesty International and International Service for Human Rights, H.E. Dr Ahmad Faisal Muhamad expressed Malaysia's unequivocal commitment to advancing human rights for all, noting the domestic legislation in place to enable citizens to "exercise rights and freedoms responsible and not to suppress them." However, over the last two years there has been a deterioration in the state of human rights and fundamental freedoms under the former Prime Minister Muhyiddin Yassin's government. This has included violations of the rights to freedom of expression, association, and peaceful assembly, the failure to ratify key international human rights treaties, including the ICCPR, together with the government's dismal record of cooperating with the UN human rights system.

As the government seeks membership to the UN Human Rights Council and has made [public pledges](#) to uphold human rights, it is imperative that the new government takes sincere and concrete action to improve its rights record at home. The new government has a unique opportunity to reverse the rights-violating actions of its predecessors and shift to a new rights-respecting approach. Legal and policy reform are pivotal to attain this and would demonstrate a genuine intention from the new government to meet its international human rights obligations.

Without overhauling the violations and abuse of human rights in its country, Malaysia cannot be a valuable and effective member of the Human Rights Council.

**Freedom of expression, peaceful assembly, and association**

Several laws in Malaysia unduly [fetter](#) the rights to freedom of expression, peaceful assembly, and association. In order to fulfil its pledges made to the Human Rights Council, Malaysia must repeal or substantially revise the following laws:

- The Sedition Act 1948 – Despite the former government’s commitment to conduct a study and a review of the security laws, including the [Sedition Act](#), the authorities aggressively applied the law, primarily against government critics. Between January and August 2021, [NGOs documented](#) the investigation of 17 cases involving 37 individuals under the Sedition Act. The recent [investigation](#) of the #Lawan protest organisers under the Sedition Act is worrying and runs contrary to Malaysia’s international human rights obligations. The new government must follow-through with its pledge to review this archaic colonial law and should ultimately repeal it, noting that it has no place in a rights-respecting democracy.
- The Communications and Multimedia Act 1998 – Under the former government, the [Communications and Multimedia Act](#) continued to be used as the primary tool to censor [human rights defenders](#), [journalists](#), [artists](#), [political opponents](#), and ordinary members of the public who have been critical of government officials or Malaysian royalty or shared opinions about issues deemed sensitive, such as race and religion. We are encouraged to hear H.E. Dr Ahmad Faisal Muhamad state during the Human Rights Council pledging session on 8 September 2021 that, “the government is in the midst of amending the Communications and Multimedia Act.” The new government must ensure the Act is adequately reformed in consultation with stakeholders so it can no longer be used by authorities as a weapon to silence expression.
- The Peaceful Assembly Act 2012 – In its pledges to the Human Rights Council, the government committed to a review of the problematic Peaceful Assembly Act. It is imperative that this review leads to legislative reform of this law, which authorities have used to target protest organisers and discourage assemblies. The space for peaceful protests [shrank](#) considerably under the previous administration, who disrupted gatherings critical of authorities and arbitrarily arrested peaceful protesters under the guise of dealing with the pandemic. We urge the new government to reverse this approach and ensure adequate protection for the right to freedom of peaceful assembly.
- The Societies Act 1966 – Muhyiddin’s government utilised the broad powers of the Societies Act to [delay and even reject](#) the formation of new political parties, undermining the right to freedom of association, which is critical in a functioning democracy. While not included in its written pledges, we encourage the government to substantively revise this law, ceasing its use as a barrier to the exercise of the freedom of association.
- Other legislation routinely used to silence dissent includes Sections 504 and 505b of the Penal Code, the Printing Presses and Publications Act 1984, the Film Censorship Act 2002, Section 114 of the Evidence Act 1950, and the Official Secrets Act 1972. Wholesale reform of these laws is required to ensure that the right to freedom of expression can be exercised in the country without fear.

The reform or repeal of the aforementioned laws have been [repeatedly](#) raised by the Malaysian human rights commission, [human rights groups](#), the [UN High Commissioner for Human Rights](#), [UN Special Rapporteurs](#), and [other States](#) as essential to safeguarding human rights in the country. Encouragingly, during the pledging session, H.E. Dr Ahmad Faisal Muhamad stated that “the government is cognizant of the need to continuously review these acts to make sure that they continue to be efficient, continue to be relevant, and in line with international standards.” To demonstrate that this commitment is sincere, the government must prioritise meaningful legislative reform of all laws impeding on the rights to freedom of expression, association, and peaceful assembly.

### **Undermining accountability mechanisms**

ARTICLE 19 and CIVICUS are further concerned that domestic accountability mechanisms have been weakened in Malaysia. While the Human Rights Commission of Malaysia (SUHAKAM) retains its “A” status as a National Human Rights Institution, SUHAKAM’s yearly reports have been largely ignored by the government. Although SUHAKAM’s 2018 report was [debated](#) for the first time in parliament after 19 years under the previous Pakatan Harapan government in December 2019, there was a lack of [follow-through](#) by Muhyiddin’s government.

Concerningly, on 8 August 2021 SUHAKAM [announced](#) that its commissioners have been called in for police questioning over their attendance as monitors at the [#Lawan protest](#). Two SUHAKAM commissioners, Jerald Joseph and Dato Mah Weng Kai, were investigated on 5 August at the Dang Wangi District Police Headquarters under Section 21A of the Prevention and Control of Infectious Diseases Act 1988 and the Peaceful Assembly Act.

In presenting its candidacy for membership of the UN Human Rights Council, Malaysia made the voluntary commitment to “[c]ontinue to strengthen human rights institutions and mechanisms in Malaysia.” The government pledged funding support, law review, and more government agency engagement with SUHAKAM. A crucial requirement for fulfilling this pledge is for the government to meaningfully engage with SUHAKAM, viewing them as a key partner in upholding human rights.

### **Discrimination**

In its pledges to the Human Rights Council, the government stated that it would “continue to promote diversity,” and that it “firmly embraces the values of inclusivity, acceptance, and understanding in ensuring harmony and peaceful coexistence.” The government asserted that it will take a “whole-of-society approach in the promotion and protection of human rights in the country.”

Despite legislative protections in Malaysia, namely Article 8(2) of the Malaysian Constitution, which prohibits discrimination on the grounds of religion, race, descent, place of birth or gender, systemic discrimination against minorities persists. ARTICLE 19 and CIVICUS are concerned about homophobic and discriminatory language and actions directed at [LGBTQI communities, refugees, migrants, and religious minorities](#) in Malaysia. Any form of national unity must include the rights of minorities, and there is a crucial need for more inclusive and non-discriminatory policies in place.

### **Police reform**

While the government made no reference to police reform in its pledges to the Human Rights Council, ARTICLE 19 and CIVICUS note that it is a pivotal aspect of improving rights protection in Malaysia. Police reform should be prioritised alongside legal reform, as the arbitrary implementation of rights-respecting laws can still lead to human rights violations.

ARTICLE 19 and CIVICUS have [recorded](#) dozens of incidents of harassment and intimidation by police against activists, human rights defenders and ordinary citizens because of the exercise of their right to freedom of expression. Without police reform, existing restrictive legal provisions will continue to be used to intimidate vocal critics and to shrink civic space in Malaysia.

The new government must reform the Royal Malaysia Police and establish a dedicated Independent Police Complaints and Misconduct Commission (IPCMC) with a mandate to receive and investigate complaints about police misconduct and abuse. The IPCMC should

be given the necessary powers to investigate abuses, compel cooperation from witnesses and government agencies, subpoena documents, and submit cases for prosecution.

### **Commitments to the UN human rights mechanisms**

It is encouraging to hear Malaysia's pledge to assess, monitor and implement its Universal Periodic Review (UPR) recommendations. The government has committed to work closely with the UN Office of the High Commissioner for Human Rights (OHCHR) and the UN in Malaysia to jointly develop a UPR "Monitoring Matrix" to measure the implementation of UPR recommendations that Malaysia has accepted. It has also committed to a "multi-stakeholder biannual consultation" with involvement from civil society and the UN to follow up on UPR recommendations. If adequately acted upon, these commitments could give rise to far-reaching improvements to human rights in Malaysia.

Despite this, the government's cooperation with mechanisms of the UN Human Rights Council has historically been incredibly poor. Civil society groups working on the UPR process in Malaysia, in their 2021 [midterm UPR report](#), concluded that steps towards ratifying the core human rights instruments, including the ICCPR, have progressed extremely slowly despite commitments made since the [first UPR cycle](#) in 2009. ARTICLE 19 and CIVICUS hope the new administration will speed up the process of ratification to illustrate its commitment to human rights as it seeks Human Rights Council membership.

In 2019, the Pakatan Harapan government implemented a policy of standing open invitations for visits by the UN Special Procedures. Malaysia has previously hosted various Special Rapporteurs including [on the sale and sexual exploitation of children](#), [on the human rights to safe drinking water and sanitation](#), and [on extreme poverty and human rights](#). The new government should uphold this policy of open invitations, and in particular extend invitations to the Special Rapporteurs on the Rights to Freedom of Peaceful Assembly and of Association, on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and on Freedom of Religion or Belief. ARTICLE 19 and CIVICUS urge the new government to respond to [individual communications](#) from Special Procedures and enter into meaningful dialogues with UN experts rather than deny allegations outright as previous governments have.

### **Recommendations**

To demonstrate its commitment to human rights as a prospective member of the UN Human Rights Council, ARTICLE 19 and CIVICUS make the following recommendations to the Malaysian government:

- Ratify the core human rights instruments and their optional protocols, including the ICCPR, and rescind reservations to existing treaties that are contrary to their objectives and principles;
- Extend a standing invitation to all UN Special Procedures, and act swiftly to facilitate visits by the mandates on freedom of expression and on freedom of peaceful assembly and association;
- Implement all recommendations made by UN Member States during the previous cycle of Malaysia's UPR, in particular those relating to civic space;
- Repeal the Sedition Act 1948, the Printing Presses and Publications Act 1984, Official Secrets Act 1972, and the Film Censorship Act 1998;
- Reform the Communications and Multimedia Act 1998, in particular Section 233(1)(a), to ensure it fully complies with international freedom of expression law and standards;
- Reform the Penal Code, including Sections 504 and 505b, the Peaceful Assembly Act 2012, Section 114 of the Evidence Act, and the Societies Act 1966 in accordance with international law and standards;

- Drop all investigations and charges against those exercising their right to freedom of expression, including social media users;
- Ensure authorities do not harass or instigate arbitrary criminal investigations and proceedings against human rights defenders, protesters, activists, media workers, or opposition political figures;
- Consult with civil society organisations on the shortcomings of Malaysia's legal framework as they relate to freedom of expression and access to information;
- Establish an IPCMC to investigate police abuses as per the recommendations of the Royal Commission to Enhance the Operation and Management of the Royal Malaysia;
- Should Malaysia be granted membership to the Human Rights Council, ensure it exercises earnest efforts to defend and enhance international human rights standards and ensure accountability for human rights violations and abuses in other countries in Southeast Asia and worldwide.

ARTICLE 19 and CIVICUS express sincere hope that the new government will take these steps to address the human rights concerns highlighted above and stand ready to engage in constructive dialogue to support such efforts. We hope to hear from you regarding this matter as soon as possible.

Yours sincerely,

ARTICLE 19 and CIVICUS.

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