

CIVIC SPACE IN MALAYSIA

Summary of the joint submission to the 45th Session of the

UN Universal Periodic Review (2018-2023))

CIVICUS, The Asian Forum for Human Rights and Development (FORUM-ASIA) and Suaram Rakyat Malaysia (SUARAM)



We are deeply concerned by the harassment of human rights defenders (HRDs) and the use of restrictive laws including the Sedition Act, section 233 of the Communications and Multimedia Act (CMA) and other laws to silence dissent. We are further alarmed by systematic harassment of peaceful protesters using the Peaceful Assembly Act 2012 and restrictive provisions in the law that are inconsistent with international law and standards.

KEY CONCERNS



FREEDOM OF PEACEFUL ASSEMBLY

Under the 2012 Peaceful Assembly Act (PAA) organisers of protests are required to notify the police 5 days before an event. Failure to do so is a criminal offence. Further, there are onerous requirements to provide detailed information about the protest and its organisers, that fall short of international standards.

- The PAA still lacks an exception to the notice requirement for spontaneous assemblies. The law also makes it a criminal offence for people under 21-years-old to organise an assembly and for children to attend an assembly. Further, non-citizens are also denied the right to organise or participate in protests.

- In recent years - especially around the pandemic - protesters have faced intimidation and harassment ahead of protests. Police have blocked roads and undertaken surveillance of protests. Some have been arbitrarily arrested. Police also harassed bodies that monitored the protest,

- Police have also harassed and intimidated organisers and participants by summoning them for questions after the protests. In some cases, police visited the homes or offices of protesters to hand over summons



FREEDOM OF EXPRESSION

The government has continued to arrest and prosecute online critics for criticism of the state, religion and the monarchy, primarily using section 233 of the Communications and Multimedia Act (CMA) and the Sedition Act and other laws including section 298A(1)(a) of the Penal Code and section 14 of the Minor Offences Act

- Media outlets and journalists have faced judicial harassment for their reporting critical of the government and corporations. Some have been called in for questioning by the police while foreign journalists have been deported for their reporting. Whistleblowers have also been targeted.

- The authorities have targeted writers and sought to ban books under the restrictive Printing Presses and Publications Act (PPPA) 1984 for allegedly insulting the Islamic faith, discussing the monarchy or which contains 'LGBT elements'. Artists have also been questioned or faced threats and attacks from non-state actors with impunity

- The government has yet to pass a national law on freedom of information. The Official Secrets Act 1972 is an outdated, overly broad law that places virtually no limits on what can be designated as 'secret' and runs counter to the public's interest in access to information about government activity



FREEDOM OF ASSOCIATION

The legal framework governing the operations of CSOs – the Societies Act 1966 – remains unduly restrictive and heavily burdensome. Organisations that have attempted to register with the Registrar of Societies (ROS) have experienced excessive waiting periods as there is no fixed time period to decide upon a registration application.

- CSOs report that in practice, applications from some human rights groups are sent to the police intelligence for vetting, and sometimes denied registration. As a result, over the years, many CSOs working on human rights have been forced to register as companies, which presents legal and bureaucratic restrictions.

- In recent years, the Societies Act 1966, which also governs the registration and operations of political parties, has been used to delay or reject the formation of political parties, especially those in opposition.

- Sisters in Islam, a CSO working to promote women's rights within the frameworks of Islam and universal human rights, has been battling in the courts against an edict (fatwa) prepared by the Selangor State Fatwa Committee in July 2014 labelling the group as 'deviant and against the teaching of Islam'.

Civic space in Malaysia is currently rated **"OBSTRUCTED"** by the CIVICUS Monitor

COMMON VIOLATIONS AGAINST HUMAN RIGHTS DEFENDERS INCLUDE:



Judicial harassment of HRDs including being questioned by the police or even charged under the Sedition Act or section 233 of the CMA for criticism of the state or the monarchy



Failure to ensure accountability for enforced disappearances allegedly carried out by state agents, namely the Special Branch or the police intelligence unit.



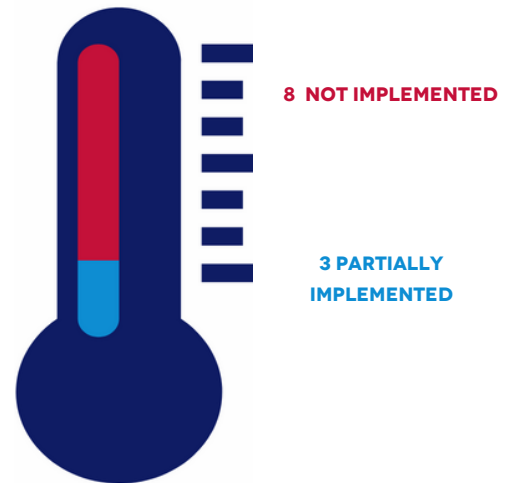
Journalists have faced judicial harassment or faced deportation for their reporting



Activists have faced threats and harassment from non-state actors as well as being vilified for their work.

PREVIOUS UNIVERSAL PERIODIC REVIEW PROCESS

Malaysia received 11 recommendations relating to the space for civil society (civic space).



RECOMMENDATIONS

- 1 Review the Societies Act to guarantee that undue restrictions on freedom of association are removed and the Act is brought into compliance with the ICCPR. Registration authorities should be bound to act within a reasonable length of time. A clear legal basis should be provided in the legislation supporting the denial of registration for CSOs, compatible with international human rights law and standards
- 2 Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work and conduct impartial, thorough and effective investigations into all cases of harassment and intimidation, threats and enforced disappearances and bring the perpetrators of such offences to justice.
- 3 Repeal the Sedition Act and Penal Code sections 298 and 298A and drop all charges and quash convictions of individuals prosecuted under these laws for peacefully exercising their right to freedom of expression.
- 4 Review the Communications and Multimedia Act in order to ensure that the legislation is in line with international law and standards on freedom of expression. Thoroughly revise section 233(1)(a) to define more narrowly and precisely what constitutes an 'improper use of network facilities or services' under the Act.
- 5 Amend the Peaceful Assembly Act 2012 to guarantee fully the right to freedom of peaceful assembly as provided in international law and standards. Provide an exception to the notice requirement for spontaneous assemblies where it is not practicable to give advance notice, and remove excessive fines currently imposed on protests and organisers. Repeal provisions that prevent children and non-citizens from participating in protests
- 6 Halt the systematic questioning and harassment of protesters under the Peaceful Assembly Act 2012
- 7 Ratify the ICCPR and take steps to ensure that all domestic legislation is consistent with the treaty and implement its provisions in policy and practice.

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