

Malaysia's Input on OHCHR Report "Anti-Corruption and Human Rights in ASEAN: Areas of Overlap based on the UNCAC Implementation Review Mechanism and UN Human Rights Mechanisms Recommendations"

1. Freedom of Information (FOI) Act

Malaysia continues to take necessary steps to ensure citizens' right to freedom of expression and access to information in accordance with Article 10 of the Federal Constitution within the next three years. As part of this effort, a series of engagement sessions have been conducted nationwide to enhance understanding of issues related to freedom of expression and information. Throughout 2024, a total of seven engagement sessions were held across different zones, namely the Northern Zone, Southern Zone, East Coast Zone, Sabah Zone, Sarawak Zone, and Central Zone, involving over 1,500 participants. Participants included representatives from various ministries, departments, and federal and state government agencies, as well as academics, non-governmental organizations (NGOs), civil society organizations (CSOs), and foreign experts, particularly information commissioners from other countries experienced in the implementation of similar legislation.

On 16 December 2024, the findings from these engagement sessions and a policy proposal for drafting the Freedom of Information (FOI) Act were presented at the National Governance Cabinet Special Committee (JKKTN) Meeting Series 5/2024, chaired by the Prime Minister. During the Meeting Series 5 No. 4/2024, the Cabinet agreed in principle on the policy proposal for drafting the FOI Bill, which was initially expected to be tabled in Parliament in 2025.

Subsequently, on 28 February 2025, a memorandum from the Prime Minister concerning the policy proposal for the FOI Bill was presented at a Cabinet meeting. The Cabinet agreed in principle and approved the establishment of a Protem Committee to prepare the draft of the FOI Bill. The first meeting of the Protem Committee was held on 17 April 2025, chaired by the Director-General of the Legal Affairs Division

(BHEUU), Prime Minister's Department, and comprised representatives from ministries and government agencies, CSOs, NGOs, the Malaysian Bar Council, and academia. The mandate of the Protem Committee is to review and prepare the draft FOI Bill before its submission for Cabinet consideration and subsequent tabling in Parliament.

Between April and September 2025, the Protem Committee held six meetings, two workshops, and two additional engagements with stakeholders to prepare a working draft of the FOI Bill. However, during the Cabinet meeting on 17 October 2025, it was noted that comments from Ministries and central agencies on the proposal for the establishment of Ombudsman Malaysia required further refinement to avoid overlapping functions with other federal and state agencies. Additionally, due to a packed Parliamentary agenda, the proposed FOI Bill, originally intended to fall under the Ombudsman Malaysia, could not be tabled during the current session. Consequently, the tabling of both the Ombudsman Bill and the FOI Bill has been deferred to early 2026, with an expected Parliamentary presentation in March 2026, or at the latest, in the June/July 2026 sitting. The deferment will allow for further engagement with government stakeholders and provide the Attorney General's Chambers sufficient time to review both Bills thoroughly, ensuring strong support from all relevant parties prior to Parliamentary tabling.

2. Ombudsman Malaysia

The Malaysian Government is committed to improving the delivery of public services through good governance, placing emphasis on transparency, accountability, and integrity. In pursuit of this objective, the establishment of Ombudsman Malaysia involves the rebranding and merging of existing entities, namely the Public Complaints Bureau (PCB) and the Enforcement Agency Integrity Commission (EAIC), rather than creating an entirely new body. The suggested structure for Ombudsman Malaysia will operate within the existing legislative and constitutional framework, with minimal additional changes, recognizing the complexity of this process.

Ombudsman Malaysia will oversee complaints received from the public, channel them to the relevant agencies for investigation, and promote good governance, particularly concerning maladministration, misconduct in enforcement agencies, integrity, and anti-corruption. As part of the establishment process, various workshops, meetings, and engagements with stakeholders have been conducted to evaluate and determine the mechanisms for implementing this new office. International practices have been studied to identify best practices and challenges, particularly regarding organizational structure, staffing and financial requirements, jurisdiction and scope, functions and powers of the Ombudsman, and related legal implication.

Following consultations with stakeholders, it has been agreed that the Ombudsman Malaysia, created primarily through consolidation of PCB and EAIC, will encompass four key functions: handling complaints on maladministration and misconduct in federal public agencies, acting as the central agency for administering the Whistleblower Protection Act 2010, and serving as the oversight body for the Freedom of Information Act. As of November 2025, a complete policy paper has been prepared and is scheduled for presentation to the Cabinet in January 2026, with Bill drafting expected to commence following Cabinet approval, and Parliamentary tabling anticipated in June 2026.

3. Whistleblower Protection

Regarding the Whistleblower Protection Act 2010 [Act 711], this legislation was enacted to protect whistleblowers who disclose improper conduct to enforcement agencies. Since its gazettelement, no amendments had been made until the Government initiated proposals in 2018 under the National Anti-Corruption Plan (NACP) 2019–2023. This initiative continued under the National Anti-Corruption Strategy (NACS) 2024–2028. To date, more than 20 working committee meetings, five policy development workshops, and six engagement sessions have been conducted with government agencies, key enforcement agencies, and NGOs to review and refine the proposed amendments.

The amendment process is divided into three phases. The first phase, completed in 2025, included four principal areas: removal of the proviso prohibiting whistleblowers from reporting due to secrecy clauses; extension of physical protection under the Witness Protection Programme; conferral of discretionary authority to enforcement agencies prior to revocation of protection; and establishment of a Whistleblower Protection Committee to oversee protection administration. The second phase involves harmonization of Act 711 under the Malaysian Ombudsman to ensure a more independent, impartial, and cohesive mechanism for complaint handling, which will be tabled concurrently with the introduction of the Ombudsman Bill. The third phase focuses on strengthening internal mechanisms and introducing third-party reporting channels to allow whistleblowers to disclose improper conduct beyond enforcement agencies while safeguarding against reprisals.

4. Corruption and Death Penalty

Malaysia takes note of the OHCHR report addressing the intersection between anti-corruption measures and human rights obligations among ASEAN Member States, including references to the application of the death penalty in corruption-related offences in certain jurisdictions. The Government appreciates the report's analytical approach and emphasis on proportionality of punishment and adherence to international human rights standards. Malaysia acknowledges the United Nations' position opposing the death penalty in all circumstances, as reflected in the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) and the interpretation of "the most serious crimes" under Article 6 of the ICCPR.

Within the Malaysian context, the death penalty remains part of the criminal justice system; however, significant reforms have been introduced to align its application with principles of justice, proportionality, and human rights. In 2023, the Government enacted the Abolition of Mandatory Death Penalty Act [Act 846] and the Review of Death Penalty and Life Imprisonment (Federal Court's Temporary Jurisdiction) Act [Act 847], abolishing the mandatory death penalty for 11 offences and reinstating judicial discretion to consider case-specific facts. These reforms also established a comprehensive judicial review process, completed in October 2024, allowing those previously sentenced under mandatory provisions to have their cases reconsidered by the Federal Court. A limited number of cases remain under consideration by the respective State Pardons Boards, with the moratorium on executions in effect since 2018.

A Special Working Group on Death Penalty Reform has been established under BHEUU to conduct a comprehensive policy and directional study on the death penalty, bringing together representatives from government agencies, the judiciary, civil society, and academia to evaluate legal, social, and comparative international perspectives. The objective is to ensure any future decisions on the death penalty are evidence-based, consultative, and balanced against human rights, victims' rights, public confidence, and national circumstances.

Malaysia continues to uphold its obligations under UNCAC, emphasizing that anti-corruption efforts must respect human dignity and be pursued with integrity. Malaysia's anti-corruption efforts, led by the Malaysian Anti-Corruption Commission (MACC) and supported by strong legislative frameworks, focus on prevention, enforcement, and public education, without extending capital punishment to corruption-related offences. The Government reaffirms its commitment to constructive engagement with OHCHR, UNCAC review mechanisms, and ASEAN partners to exchange best practices and strengthen the rule of law, transparency, and accountability.

5. National Action Plan on Business and Human Rights (NAPBHR) 2025–2030

The Government of Malaysia officially launched the National Action Plan on Business and Human Rights (NAPBHR) 2025–2030 on 12 August 2025. This Plan builds upon a decade of progress in the business and human rights agenda, including the endorsement of the UN Guiding Principles on Business and Human Rights (UNGPs) in 2011 and Malaysia’s earlier Strategic Framework presented by SUHAKAM in 2015. BHEUU, in collaboration with SUHAKAM, UNDP, and key ministries, led the development of NAPBHR through a consultative process, identifying three key pillars: Labour, Environment, and Governance.

The Labour pillar addresses forced and child labour, unfair wages, unsafe working conditions, and discrimination, particularly protecting vulnerable groups including migrant workers, women, persons with disabilities, Indigenous peoples, and informal sector workers. The Environment pillar promotes sustainable business practices, environmental accountability, respect for Indigenous land rights, and adoption of Human Rights Impact Assessments. The Governance pillar strengthens systems for corporate due diligence, transparency, and accountability, while integrating human rights into procurement and governance frameworks for GLCs, SOEs, and multinational corporations.

Following the launch, BHEUU has begun implementing the 11 immediate actions outlined under the Plan. These include maintaining the Steering and Technical Committees, retaining the Business and Human Rights Working Group, establishing the Multistakeholder Monitoring, Evaluation, Training and Learning (METL) Committee, conducting consultations with stakeholders, engaging State actors via Technical Committees, developing a standard self-assessment document for businesses, consulting businesses by industry, conducting training and harmonisation with ESG frameworks, establishing a Human Rights Tribunal, conducting capacity-building for legal practitioners on access to remedy and SLAPP cases, and studying the feasibility of introducing a Supply Chain Act. These actions aim to operationalize the NAPBHR and ensure early-phase

momentum while maintaining monitoring and reporting mechanisms aligned with international standards.

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