



TOOLKIT FOR PARLIAMENTARIANS:

PROMOTING AN INCLUSIVE MALAYSIAN
SOCIETY THROUGH THE UNIVERSAL
PERIODIC REVIEW (UPR) PROCESS



ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS

APHR is a regional network of current and former parliamentarians who use their unique positions to advance human rights and democracy in Southeast Asia. We seek to help create a region where people can express themselves without fear, live free from all forms of discrimination and violence, and where development takes place with human rights at the forefront. Our members use their mandate to advocate for human rights inside and outside of parliaments, regionally and globally. They work closely with civil society, conduct fact finding missions, and publish recommendations and opinions on important issues affecting the region. APHR was born out of the recognition that human rights issues in Southeast Asia are interconnected, and from the desire of progressive legislators to work together across borders to promote and protect human rights.



International Panel of
Parliamentarians
for Freedom of Religion
or Belief

The International Panel of Parliamentarians for Freedom of Religion or Belief (IPPFoRB) is a global network of parliamentarians and legislators from around the world committed to combating religious persecution and advancing freedom of religion or belief, as defined by Article 18 of the United Nations Universal Declaration of Human Rights. IPPFoRB focuses on growing a diverse and collaborative global network and building the capacity of parliamentarians to act as agents of change in support of freedom of religion or belief both at home and abroad.

First published in 2024 by ASEAN Parliamentarians for Human Rights (APHR) ©APHR2024

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Acknowledgements:

This Toolkit was made possible thanks to the support of the International Panel of Parliamentarians for Freedom of Religion or Belief (IPPFoRB). We also would like to thank all the civil society organizations, members of parliament, and stakeholders in Malaysia who participated in the consultations to provide meaningful insights. Lastly, we express our gratitude to **Dr. Ahmad Farouk Musa** for the development and drafting of this Toolkit

About Cover Photo:

Above photo: A view of Parliament Building in Kuala Lumpur, Malaysia 12 November 2019. EPE-EFE
Bottom Photo: Delegates attend the opening of the 50th session of the Human Rights Council at the European Headquarters of the United Nations in Geneva, Switzerland. 13 June 2022. EPA-EFE



What is the Universal Periodic Review (UPR)?

The UPR of the United Nations Human Rights Council (UN HRC) is a peer-review process to foster dialogue on human rights and to improve adherence to universal standards and best practices. It was launched in 2007 through United Nations General Assembly Resolution 60/251. Every 4.5 years each Member State's human rights record is examined by peers.



A number of key documents are submitted:

- National Reports from Member State concerned,
- Information from UN bodies and treaty-based rights mechanisms, and
- Information provided by relevant stakeholders, including civil society and think-tanks.

The *State Under Review* (SUR) is evaluated on its compliance with the international human rights standards and best practices. The SUR receives recommendations from other States on how the national human rights practices could be improved. The SUR may accept, note, or reject each recommendation made.

What is the principle of inclusivity and why is it important?

In the framework of the [Sustainable Development Goals \(SDGs\)](#), inclusivity stands as the guiding principle, aiming to ensure that every individual, regardless of their background, has equal opportunities, rights, and access to the economic, social, and political dimensions of society. It encompasses the prevention of discrimination and marginalization, including those rooted in race and religion, among other factors. In the context of Agenda 2030, inclusivity involves addressing the unique needs and concerns of marginalized minorities who often face discrimination. Its role in realizing the SDGs and ensuring that no one is left behind is pivotal, as it promotes social, economic, and political inclusion, irrespective of various characteristics, including race and religion.

Within this context, inclusivity pertains to combating discrimination by underscoring the urgency of eradicating disparities and inequalities across all aspects of life, while acknowledging that discrimination based on race and religion represents a significant barrier to advancing progress across multiple SDGs. Globally, racial discrimination is a [prevalent form of injustice](#), impacting nearly one in six individuals, and it is particularly pervasive among both men and

women, primarily rooted in factors like ethnicity, gender, and religion. Moreover, inclusivity contributes to the development of open, diverse, and inclusive societies, safeguarding individuals' rights to freely express their beliefs, thoughts, and conscience without any form of coercion or interference, and providing a shield against discrimination and harmful practices.

Why is UPR an effective avenue for advocating inclusivity?

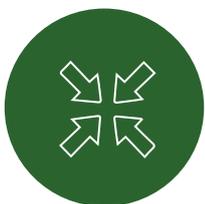
Firstly, we believe that the UPR focuses on improving the human rights situation on the ground. The UPR holds States accountable both nationally and internationally for their adherence to universal human rights standards. Most importantly, the UPR assesses whether States fulfil their human rights obligations and are in compliance with their international commitments. Besides, the UPR encourages the sharing of best practices among States and other stakeholders.



The Role of Parliamentarians in the UPR Process

What are the crucial roles of Members of Parliament (MPs) in the UPR process?

Among the role of Parliamentarians in the UPR process are:



To convene national consultations.



To provide input to the national report and directly to the Office of the United Nations High Commissioner for Human Rights (OHCHR).



To implement UPR outcomes and commitments undertaken by the State.



To use their oversight mandate to monitor the implementation of key government agencies.

How can MPs advocate for the principle of inclusion through their engagement in the UPR process?

1 Providing checks and balances on government work



A robust check and balance system is essential for enabling different branches of government to effectively carry out their responsibilities. In the context of human rights, with inclusivity as a fundamental principle crucial for the sustainable coexistence of diverse, multi-racial societies, it becomes the duty of every government to uphold this principle in both their domestic policies and international engagements. Parliamentarians, being an integral part of the legislative branch of government, bear the responsibility of holding their governments accountable in cases of discrimination or any threats to the core principles of inclusivity, especially in relation to race and religion. The awareness of this role is paramount, as it directly impacts the peace, stability, and progress of their nation and the broader international community. Notably, the [Malaysian Constitution](#) strongly underscores inclusivity principles, exemplified by the right of every individual to profess and practice their religion.

For the various organs and agencies of government, effective checks and balances are essential. Considering that *freedom of conscience* is a human right issue that is vital for the sustainability of a multiracial society, every government has a duty to uphold it in both their domestic policies and international relations. Since Parliamentarians form the legislative branch of government, they and therefore have a duty to hold their governments to account to fulfil their commitments. Parliamentarians must also be aware of this role at all times because the peace, stability, and development of their own country and their fellow members of the international community depend upon them.

2 Relaying feedback from civil society to the government



Parliamentary reports and inquiries can be run by either official parliamentary committees or Legislative Member Organisations (LMOs), if available. Report writing links civil society and persecuted minorities to their government. It helps highlight the existence of a crisis and challenge to uphold the principles of inclusivity, call on governments to uphold their obligations to human right values, and provide insights on the causes and potential solutions to guide the government.

3 Flagging national and international challenges in promoting inclusive practices



Parliamentarians have the power to draw attention to and address urgent systemic discrimination issues, both at home and on the international stage, utilizing various diplomatic channels. They can effectively raise these matters through parliamentary inquiries, debates, and media outlets, including social media platforms, fostering broader discussions on pertinent challenges, and potential remedies. For instance, parliamentarians can play a vital role in countering

online hate speech, particularly messages that target specific racial or religious groups, while simultaneously promoting positive narratives on the advantages of religious tolerance.

Additionally, parliamentarians can actively engage in the UPR process of the UN Human Rights Committee, offering their recommendations and ensuring their implementation. As advocates for human rights, they can leverage their influence by organizing international conferences, meetings, and conveying advocacy letters to further advance these concerns. This diplomatic approach underscores the critical role parliamentarians play in addressing discrimination and human rights issues at both the national and global levels.



Malaysia and the UPR

By and large, the Malaysian government has been relatively open to the UPR. There is an observed increase in openness to proposed recommendations year-on-year, with most of them accepted in full or in part, and the remaining ones noted. In fact, in recent years, none of the recommendations have been rejected outright.

1 First Review,
11th February 2009

103
recommendations
received:

62 accepted
19 noted
22 not supported

2 Second Review,
24th October 2023

232
recommendations
received:

113 accepted in full
22 accepted in principle
15 accepted in part
82 noted

3 Third Review,
8th November 2018

268
recommendations
received:

147 accepted in full
37 accepted in part
84 noted

4 Fourth Review,
25th January 2024

348
recommendations
received:

**Decision on all recommendations received will be provided before the 56th Session of the Human Rights Council, scheduled to be held in June/July 2024.*

Outcome of Previous UPR

As stated above, and after appearing before the Human Rights Council in Geneva during its 40th Session in November 2018, the Malaysian government formally responded to the 268 recommendations made by 108 UN member states during Malaysia's UPR in November 2018. The government accepted 147 recommendations in full and 37 in part, noting 84 [recommendations](#). Malaysia [received 44 recommendations](#) specific to the accession of international human rights instruments.

However, a number of key recommendations were still not implemented for a variety of reasons, among them is the ratification of the [International Convention on the Elimination of All Forms of Racial Discrimination \(ICERD\)](#) and the [accession](#) to the [Rome Statute of the International Criminal Court \(ICC\)](#). It seems that no progress has been made at all.

On the 14th of October 2021, the United Nations General Assembly made the [decision](#) to include Malaysia as a member of the UNHRC for the term spanning from 2022 to 2024. The Malaysian government has affirmed its dedication to safeguarding human rights within the nation. However, there are concerns regarding the current state of human rights and fundamental freedoms, with indications of a decline in this.



UPR in Malaysia and Inclusive Practices

Identifying the most significant findings related to inclusivity in Malaysia during the UPR process

The principles of inclusivity are embedded in Article 11 of the Federal Constitution of Malaysia. While Malaysia is committed to upholding these principles in theory, the practical realization of these civil rights is intricate, shaped by historical, legal, political, social, and economic complexities.

A case in point is the report by the Human Rights Commission of Malaysia (*Suruhanjaya Hak Asasi Manusia Malaysia - SUHAKAM*), notably concerning instances of enforced disappearance, including that of [Amri Che Mat](#) in 2019. Additionally, the question of whether freedom of religion encompasses the liberty to change or leave one's faith remains a subject of legal ambiguity in Malaysia. State Sharia laws assign jurisdiction to Sharia courts for the declaration of a person's departure from the Muslim faith or the criminalization of apostasy, primarily

impacting Muslims, especially in certain States. Such laws may appear inconsistent with the right to equality before the law, particularly when a Muslim's conversion to another religion extends beyond the permissible exceptions outlined in the Federal Constitution. In the absence of a lawful exception and clear rationale, these State apostasy laws may be viewed as potentially discriminatory and interfering with the fundamental freedom of Muslims.

The intricate nature of this situation is compounded by substantial state control over various religious groups and the violation of fundamental rights through complex legal mechanisms. The practice of inclusivity is constrained, with minority groups living in constant apprehension of enforced disappearance or kidnapping. Past incidents involving activists from minority faith communities, such as [Christians and Shi'as](#), have raised genuine concerns, exemplified by the enforced disappearance of individuals like [Amri Che Mat and Raymond Koh](#).

These concerns were previously raised during the third UPR but minimal concrete actions have been taken by the government to address these issues. SUHAKAM has reiterated the critical importance of upholding and safeguarding the civil right to freedom of religion, emphasizing that Federal and State government authorities should abstain from actions that could lead to the disappearance of individuals based on their profession or practice of minority faiths and beliefs.

While the Malaysian Constitution demonstrates a progressive stance in delineating the rights of minority groups, the practical implementation by religious authorities has often involved stringent regulations and exerted significant pressure, intimidation, and harassment on minority communities. Addressing this situation necessitates a robust political commitment and a surge of grassroots movements reflecting the profound concerns within society.

Addressing key issues that emerged during the UPR review and evaluating the government's responses and follow-up actions on UPR recommendations

It appears that none of the previously highlighted concerns have received substantial attention or resolution in Malaysia. An example of this is the ongoing delay in ratifying the International Covenant on Civil and Political Rights (ICCPR).

While there have been attempts to tackle the issue such as the formation of a Consultative Council of People's Harmony under the Prime Minister's Department in [November 2019](#), intended to offer guidance to the Federal Government on matters of unity and social well-being, tangible outcomes were yet to be realized until the council was dissolved in [May 2020](#).

There were also efforts to explore the [harmonization of Islamic laws](#) across various states to align with the Federal Constitution in July 2019, however, to date, no updates or developments have been reported regarding the matter underlining the need for concerted efforts from among parliamentarians and key stakeholders to address recommendations arising from the UPR.



What can MPs do?



Understand the issue and raise awareness

- Gain understanding of the ordeal of minority groups with respect to freedom of conscience through knowledge of recurring issues (such as apostasy cases) and exposure to victims' testimonies.
- Promote inclusivity by fostering an understanding of the challenges faced by minority groups concerning their rights, and by actively listening to the testimonies of those affected.



Inside Parliament

- Open the parliamentary body to opportunities for conversations and collaboration on inclusivity on a regional and global level.
- Advocate for the creation of parliamentary caucuses or organizations devoted to fostering unity and inclusivity.
- Cultivate a culture of openness within the parliamentary body to facilitate discussions and collaborations on inclusivity at both regional and global levels.
- Champion the establishment of parliamentary caucuses or organizations dedicated to advancing unity and inclusivity.
- Play an active role in the UPR by using your oversight function to monitor government's progress and compliance to the implementation of recommendations that come out from the final outcome of the review. Encourage constituents to report instances of actual violations and potential abuses, particularly among marginalized groups.



Malaysia under review in January 2024 © Ministry of Foreign Affairs Official Photo

- Call upon the government to facilitate visits by the UN Special Rapporteur for Freedom of Religion or Belief and other international human rights representatives.
- Deliberate on the need to revitalize the National Harmony Commission with a more diverse and inclusive membership, including impartial experts from interfaith and civil society organizations.



For more information (Useful References / Links)

- Malaysia's candidature to the United Nations Human Rights Council for the term 2022-2024. Voluntary pledges and commitments.
- Amnesty International Malaysia: Strides and Setbacks, Amnesty International: Submission to the 45th Session of the UPR Working Group, January-February 2024
- International Commission of Jurists (ICJ) Submission to the UNITED NATIONS HUMAN RIGHTS COUNCIL : 45th Session of the Working Group on the Universal Periodic Review January -February 2024
- ARTICLE 19, CIVICUS World Alliance for Citizen Participation, Komuniti Muslim Universal (KMU) and Sisters in Islam (SIS): Joint submission to the Universal Periodic Review of Malaysia by ARTICLE 19, CIVICUS World Alliance for Citizen Participation, Komuniti Muslim Universal (KMU) and Sisters in Islam (SIS) For consideration at the 45th Session of the Working Group in Jan / Feb 2024
- Asia Pacific Refugee Rights Network – Global Detention Project: Submission to the Universal Periodic Review, 45th session of the UPR Working Group, January/ February 2024. Concerning immigration detention.
- CIVICUS: World Alliance for Citizen Participation, The Asian Forum for Human Rights and Development (FORUM-ASIA) & Suara Rakyat Malaysia (SUARAM) Joint Submission to the UN Universal Periodic Review 45th Session of the UPR Working Group.



About Back cover photo: The Malaysian flag flies near the Prime Minister Office in Putrajaya, Malaysia. EPA-EFE