

TO: MALAYSIAN LEGISLATORS
<http://www.petitiononline.com/foiMsia/petition.html>

Centre for Independent Journalists
October 2006

Recalling that the right to access information held by public authorities is included in the right to seek, receive and impart information, as guaranteed by Article 19 of the Universal Declaration of Human Rights;

Stressing that public bodies hold information not for themselves but on behalf of the public;

Welcoming the fact that we are meeting on International Right to Know Day, 28 September;

Recognising the fundamental importance of open and transparent government, and the right to access information to participatory democracy, in controlling corruption, in promoting public accountability and good governance, and to promoting personal dignity;

Noting that the situation in Malaysia is characterised by excessive secrecy and that there is at present no freedom of information legislation;

Recognising the trend whereby over 50 countries in all regions of the world, including a number of Asian countries, have passed freedom of information legislation;

Call on the government to pass a comprehensive freedom of information law in accordance with the following minimum standards:

1. Principle of Maximum Disclosure

The government should pass a comprehensive freedom of information law based on the right to information which establishes the principle of maximum disclosure.

Access to information is a basic necessity and right, not a luxury, indispensable to the aim of Malaysia to become an information society. The right to information is relevant to all members of society and their concerns.

2. Routine Publication

Public bodies should routinely make available a wide range of information of public interest. A commitment should be made, over time, to publish all information which anyone might wish to access. This information should be made available on an equal, non-discriminatory basis. Documents of significant public interest should be available in Bahasa Malaysia.

A specific commitment should be made to ensure that all individuals and groups affected by a project, development or policy are provided with all relevant information about that project, development or policy.

This information should be provided in an appropriate language and medium.

3. Independent Administrative Oversight Body

An independent administrative body should be established with a mandate to oversee implementation of the freedom of information law and to adjudicate appeals against refusals to disclose information.

Members of this body should be elected on the basis of credibility, expertise and qualifications. The elections process should be open and transparent and involve civil society.

This body should have the power to make binding decisions in relation to any appeals against refusals to grant access to information.

4. Promotion of Open Government

Public bodies should be required to make adequate provision for training of their officials on the application of the freedom of information law. In addition, the administrative body with responsibility for oversight of the law should be given a mandate and adequate resources to provide central training resources and support. Training manuals should be developed in association with civil society.

Public bodies should be required to adopt procedures to maintain records in an orderly fashion.

The law should make it a criminal offence to obstruct access to information wilfully, including by destroying or altering documents, or by providing incomplete disclosure.

5. Exceptions

Exceptions to the right of access should be set out clearly and narrowly in the law and should be limited to protection of legitimate interests in the areas of law enforcement, privacy, national security, commercial and other relationships premised on confidentiality, public or individual safety, and the effectiveness and integrity of government decision-making processes. Access to information should not be refused unless disclosure would pose a real risk of significant harm to one of the protected interests. Furthermore, information should be disclosed notwithstanding the requisite risk of harm where this is in the overall public interest.

Non-disclosure of information should be subject to an overall time limit of 20 years, to run from the date of creation of the document.

6. Processes and Costs

The law should set out minimum procedural rules relating to the processing of requests, for example, in relation to time limits, notice of and grounds for refusals to grant access and the like.

Costs for access to information should be limited to the cost of duplication of the information. Public bodies should have the discretion to waive costs for public interest requests or other reasons. Rules for charging should be required to be approved by the independent administrative oversight body.

7. Open Meetings

The law should establish a general presumption that official meetings are open to the public. This presumption may only be overridden by a specific decision of the meeting and that such a decision is to be made in public.

Details regarding the time, date and venue of these meetings should be made easily available to the public.

8. Secrecy Laws and Practices

The freedom of information law should prevail in case of conflict between it and any secrecy law. All secrecy provisions in other laws and guidelines should be reviewed, amended and/or

repealed within three years or they should lapse. In this regard, the Official Secrets Act, 1972 should be prioritised, as a matter of urgency.

9. Whistleblowers

Individuals should be protected from any legal, administrative or employment-related sanctions for releasing in good faith information on wrongdoing.

10. Review of the Law

The freedom of information law should provide for its own comprehensive review by parliament at least every five years. This review should be transparent and involve civil society. Sincerely, The Undersigned

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