

**19 MARCH 2024**

## **CIJ and C4 Center's Participation in the Working Study Visit to Australia in Support of the Establishment of Malaysian Freedom of Information Legislation**

In support of the government's efforts to enact a federal Freedom of Information (FOI)/Right to Information (RTI) Act by the end of 2024, Wathshlah Naidu, Executive Director of the **Centre for Independent Journalism (CIJ)** and Prishanth Linggaraj, Policy and Legal Research Officer with the **Center to Combat Corruption and Cronyism (C4 Center)** joined a working study visit to Australia from 24 February to 2 March 2024. The visit was intended as an opportunity for Malaysian representatives to learn about key considerations that should be taken into account in the creation and implementation of a robust and holistic RTI framework, drawing from the experience of the Australian government, both at the federal and state levels.

CIJ and C4 Center joined the delegation headed by Members of Parliament YB Khoo Poay Tiong and YB Zahari Kechik from the Parliamentary Special Select Committee on Human Rights, Elections, and Institutional Reform, along with representatives from the Legal Affairs Division of the Prime Minister's Department (BHEUU), the Personal Data Protection Department (JPDP), the Attorney General's Chambers (AGC), the National Digital Department (JDN), the Office of the Chief Government Security Officer (CGSO), Parliament Malaysia, as well as a representative of the Australian High Commission to Malaysia.

During the working visit, the Malaysian delegation had the opportunity to engage with various Australian leaders, departments and agencies, such as with the Attorney General, the Deputy Minister of Foreign Affairs, the Office of the Australian Information Commissioner, the Commonwealth Ombudsman, the Administrative Appeals Tribunal, the Law Council of Australia, and a roundtable with the Department of Foreign Affairs and Trade, Department of Defence, Department of Home Affairs, and the Australian Federal Police. The delegation also had the pleasure of meeting with several key figures in Australian administrative law reform: Professor John McMillan, former Senator John Faulkner, and Geoffrey Watson SC.

Our in-depth discussions throughout this visit provided us with important insight on the challenges that must be addressed when establishing the Malaysian RTI regime, as well as the tangible benefits which can arise once a progressive and viable RTI Act is enacted. Decades of government secrecy have led to widespread corruption, abuse of power, and financial mismanagement, which must be addressed through greater transparency. The public can no longer be dealt with in a paternalistic manner, shielded from viewing the inner workings of the government under the guise of “national security and interest”. Therefore, the introduction of RTI legislation is a vital step in ensuring accountability and better scrutiny upon the government.

The right to information (RTI) is an internationally recognised element of freedom of expression and speech, which is enshrined under Article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as Article 10 of the Malaysian Federal Constitution. This concept generally refers to a right held by members of the public to access information held by the government and an overall culture of openness and transparency. Under this paradigm, the government is deemed as a custodian of this information and therefore cannot restrict public access without sufficient justification. In other words, information held by the government should be openly accessible by default.

On the basis of key learnings from this visit, CIJ and C4 Center emphasise that there are several non-negotiable principles that must be incorporated into the RTI framework, without which a progressive and viable regime cannot exist:

1. All government information must be made open by default, and there cannot be requirements imposed upon an applicant to provide reasons for the making of a disclosure application;
2. There must be an independent oversight body to guarantee a fair, trusted and accessible appeals process, with sufficient safeguards to its autonomy and ability to function without interference;
3. Clear and limited grounds of exemption for non-disclosure of information must be stipulated under the Act, based on international standards of necessity and proportionality and subject to an overarching public interest test;
4. Other laws which may affect the realisation of a holistic RTI framework must be amended/aligned, such as the Official Secrets Act 1972, the Personal Data Protection Act 2010 and Section 203A of the Penal Code;
5. Further policies must be crafted and implemented to encourage a cultural shift within the public sector towards transparency and accountability, such as efficient proactive publication systems and effective utilisation of information and

communication technology. This would require the duty to ensure adequate resourcing and training.

CIJ and C4 Center would also like to convey our utmost gratitude to BHEUU and the Government of Australia, specifically the Australian High Commission to Malaysia and the Department of Foreign Affairs and Trade, for inviting us to join this trip. We believe that the inclusion of civil society organisations (CSOs) in these initiatives signals a welcome change in Malaysia, where civil society is being viewed as a valuable stakeholder in the institutional reform process.

Over the following months, we shall continue to collaborate with BHEUU and other government stakeholders and engage with our fellow CSOs, as we continue to develop the Malaysian federal RTI Act with the view of adopting and adapting international best practice into the domestic context, without reducing the potency of the concept in the process.

#### **END OF STATEMENT**

**For further information, please contact:**

**Pushpan Murugiah (C4 Center)**

H/P no.: +6019 2166218

Email: [pushpan@c4center.org](mailto:pushpan@c4center.org)

**Wathshlah Naidu (CIJ)**

H/P no.: +6012 2984300

Email: [exec\\_director@cijmalaysia.net](mailto:exec_director@cijmalaysia.net)