

JOINT STATEMENT

28 September 2024

Commemorating the International Day for Universal Access to Information (IDUAI) 2024: Do Not Delay Our Right to Information Any Further

28th September is observed globally as the International Day for Universal Access to Information (IDUAI), a day the Centre for Independent Journalism (CIJ), the Center to Combat Corruption and Cronyism (C4 Center), ARTICLE 19, and Sinar Project commemorate in light of our work on the right to information (RTI) and the pressing need for increased transparency and information justice in Malaysia.

This year's theme for IDUAI is "[Mainstreaming Access to Information and Participation in the Public Sector](#)". This theme is highly relevant for Malaysia as the push for a federal Right to Information (RTI) legislation gains momentum. Malaysia is on the brink of achieving this goal, which would ensure the right to information is both comprehensive and accessible to all individuals in Malaysia. Such legislation would strengthen our democracy by promoting transparency and enhancing public participation in matters of public interest in an open and constructive manner. Thus, we urge the government to prioritise the development of a comprehensive robust RTI legislation and framework without further delay.

This legislation is crucial to preserving the liberties and rights of all people, as RTI is an integral part of freedom of expression, which is protected under Article 10 of the Malaysian Federal Constitution and under Article 19 of the Universal Declaration of Human Rights. RTI is grounded in the principle of maximum disclosure, namely that all information held by public bodies is public and should be accessible to all. The government serves as a custodian of such information on behalf of the people, not as a gatekeeper. The proactive disclosure of publicly held information can empower citizens, foster trust in the government, and correct decades of corruption, abuse of power, and financial mismanagement fueled by a culture of secrecy.

Therefore, in conjunction with this year's IDUAI theme and to guarantee mainstreaming access to information held by public bodies, we call for the government to implement the RTI legislation and framework without further delay, taking into account the following non-negotiable principles grounded in international human rights law:

1. Open By Default

The RTI Legislation must be grounded in the principle of maximum disclosure: all information held by public bodies is public and must be made open by default. Under international human rights law, individuals requesting access to public information need not provide reasons or purpose in order to receive it. Information may only be withheld or not disclosed if there are legitimate grounds recognised under international human rights law, such as national security, defence, privacy and personal data protection, international trade, and law enforcement, amongst others.

Disclosure of information should not depend on the government's goodwill but adhere to this principle. The public has the right to seek and receive information; they should also be able to access this information in a timely and easily accessible manner.

Thus, the Act should stipulate **clear and narrowly defined exemptions for non-disclosure** based on international standards of legitimacy, necessity, and proportionality. These exemptions must also be subject to an overarching harm test and a public interest test.

2. Guarantee the Establishment of an Independent RTI Oversight Body

An independent oversight body is needed to oversee the implementation of the RTI law in Malaysia, thus ensuring its effectiveness. Its autonomy and ability to function without interference must be protected by robust legal safeguards.

This body should be politically independent and receive the necessary financial and human resources to perform its functions. It must have the power to receive appeals against refusal to disclose information, order the disclosure of information by public bodies, and issue administrative directives and sanctions against public bodies that fail to comply with the RTI law.

3. Repeal or Amend Other Laws to Ensure Alignment with the New RTI Law

Existing laws that obstruct an effective RTI framework must be reviewed, repealed or amended. Laws, specifically the Official Secrets Act 1972 and Section 203A of the Penal Code, which impede effective implementation of RTI should be repealed or amended to establish the primacy of the RTI Act. Further, the Personal Data Protection Act 2010 and the Whistleblower Protection Act 2010 must be amended to ensure more effective alignment with the objectives of the RTI law so that they complement said law.

We reiterate that there must be a fundamental cultural shift in public bodies towards greater openness, transparency and accountability. A paternalistic view that the government knows best and the public should be kept away from the inner workings of our bureaucracy is no longer tenable as we move closer towards establishing a mature democracy in Malaysia. Policies must be crafted and implemented to create efficient, proactive publication schemes and effective use of information and communication technology (ICT). This will necessitate the duty to ensure adequate resourcing and training for officers of public bodies to operationalise and sustain these initiatives.

Through this reminder on IDUAI, we hope to continue to collaborate with the Legal Affairs Division in the Prime Minister's Department (BHEUU), other government stakeholders, parliamentarians, our fellow CSOs and the general public to advocate for a federal RTI Act and framework that integrates international best practices into our domestic context. However, this collaboration must be based on the premise that we share a common goal to implement, without delay, a comprehensive RTI framework that serves the public interest. This would only bring about a better, more transparent Malaysia that is stronger through data governance and democracy.

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