

JOINT PRESS STATEMENT

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Refer the Freedom of Information Bill 2026 to the Parliamentary Select Committee: A Betrayal To The People's Right To Know

The Centre for Independent Journalism (CIJ), ARTICLE 19, Center to Combat Corruption and Cronyism (C4 Center) and the undersigned civil society organisations (CSOs) are profoundly disappointed with the version of the Freedom of Information (FOI) Bill expected to be tabled today, 13 July, for the first reading at the Dewan Rakyat, the lower house of parliament.

We acknowledge the Malaysian government's efforts to implement dedicated federal Freedom of Information legislation. However, this FOI Bill is not the landmark reform the Malaysians have long been [promised](#). It is a deeply flawed and regressive Bill and creates a restrictive administrative procedure that falls far short of international human rights standards and further undermines the fundamental principles of the right to information. As currently drafted, the FOI Bill would be ineffective in ensuring that all persons in Malaysia have the right to information as guaranteed by Article 10(1)(a) of the Federal Constitution. **On the contrary, the FOI Bill appears designed to promote secrecy rather than openness and transparency.**

The Bill excludes key principles essential to any comprehensive FOI framework: it fails to specify the primacy of the right to information, and omits the presumption of maximum disclosure. Instead, it creates only a tightly controlled administrative procedure for requesting information while preserving virtually every existing barrier to disclosure. The Preamble, the Explanatory Statement and repeated clauses in the Bill openly state that the FOI Bill is 'purely procedural', creates no substantive right to information, preserves the supremacy of all secrecy laws, specifically the Official Secrets Act (OSA) 1972, and expressly denies that access to information is a fundamental liberty. This makes the Bill redundant.

A progressive freedom of information law begins with a straightforward principle: **all information held by public bodies belongs to the people by default unless there is demonstrable harm and a compelling public interest in withholding it.**

Rather than expanding democratic freedoms, the FOI Bill expressly restricts them. It is incompetent drafting at the first instance!

The FOI Bill, in its current form, undermines the very object and purpose of a freedom of information law. We highlight the following issues in particular:

1) Instead of creating a right of access and presumption of maximum disclosure, the FOI Bill preserves the Official Secrets Act 1972 (OSA) in its entirety and excludes from its operation every document or category of information protected under any other written law. The government has therefore chosen to legitimise and perpetuate its decades of excessive culture of secrecy rather than dismantle it. *(See Clause 2(3) and Explanatory Statement)*

2) The exemptions are excessively broad and lack essential safeguards. While all access to information laws recognise legitimate exemptions, those exemptions must be interpreted narrowly and always justified by a demonstrable risk of harm. The exemptions in Malaysia's FOI Bill are sweeping, vague, and capable of shielding enormous categories of government information from

public scrutiny, including internal advice, deliberations, commercial interests, and information supplied by third parties.

Most importantly, there is **no comprehensive harm test** requiring public authorities to demonstrate that disclosure would cause a real, substantial and demonstrable harm before information may be withheld. Furthermore, there is **no meaningful public interest override** requiring disclosure when the public interest in transparency outweighs any potential harm.

Thus, information exposing corruption, abuse of power, environmental harm, threats to public health or the misuse of public funds may remain hidden simply because it falls within one of the broad exemptions, even where disclosure is overwhelmingly in the public interest.

3) The FOI Bill limits access to information, is purpose-driven, and threatens overarching sanctions.

Access as stated in the FOI Bill is limited to **citizens** over the **age of 18 years old**, is subject to **identity verification** and requires justification from applicants as to why they want to access the information. The FOI Bill limits access to **prescribed purposes** and, in many cases, requires applicants to demonstrate a 'proper and tangible interest'.

The Bill further compounds this by creating **criminal liability** for applicants who use information for a purpose different from the one originally stated in their request. This is a disproportionate restriction that will deter journalists, researchers, whistleblowers, civil society organisations, and the public from making requests for fear of prosecution. Information often reveals new issues that could not reasonably have been anticipated when the request was originally lodged. Criminalising the subsequent use of lawfully obtained information undermines meaningful access, discourages legitimate public scrutiny, and is fundamentally incompatible with the principles of open government and freedom of expression.

4) The most alarming provision is Clause 22, which declares that ***nothing in the Act shall be construed as constituting a fundamental liberty under Part II of the Federal Constitution***. This clause expressly seeks to prevent the legislation from being relied upon to support the constitutional interpretation of fundamental liberties, including the right to freedom of expression and the right to information. Clause 22 therefore raises concerns regarding the separation of powers and judicial independence by seeking to limit the courts' ability to interpret constitutional rights in light of the Act. Any progressive FOI law should strengthen constitutional democracy by recognising that the right to information is an indispensable component of the freedoms guaranteed under the Federal Constitution, particularly freedom of expression under Article 10(1)(a). A progressive and purposeful constitutional interpretation would hold that meaningful expression is impossible without the right to seek, receive, and impart information held by public authorities, which is necessary for public discourse, good governance and participation in democracy.

5) Lacks independence and authority within the oversight body. Although the FOI Bill provides for review by the Ombudsman, it simultaneously strips the Ombudsman of jurisdiction over the very categories of information most likely to involve abuse of secrecy, including information protected under the OSA and other secrecy laws. An oversight body that cannot review the most controversial refusals is not an effective guardian of transparency, nor able to provide meaningful accountability. Worse still, the Bill itself makes reference to a **non-existent Ombudsman** established **under a non-existent law**, contrary to all conventions of legal drafting. The incomprehensible nature of these provisions reaffirms that this Bill was drafted shoddily and carelessly, despite such a long period of development.

Overall, we find that the FOI Bill 2026 merely creates the illusion of openness while preserving the existing culture of secrecy. Parliament must not be tasked with endorsing legislation that falls fundamentally short of the principles it purports to uphold.

We therefore call upon the government to withdraw the Bill and to refer it instead to a Parliamentary Special Select Committee for comprehensive clause-by-clause scrutiny involving civil society organisations, media representatives, academics, the legal profession, and all relevant stakeholders.

Malaysia deserves legislation that reflects international standards and good practices and fulfils the government's own reform commitments.

Note: See attached document for a preliminary analysis of the FOI Bill 2026

Issued by:

- 1) Centre for Independent Journalism
- 2) ARTICLE 19
- 3) Center to Combat Corruption and Cronyism (C4 Center)

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- 1) Gerakan Media Merdeka (Geramm)
- 2) Justice for Sisters
- 3) SIS Forum (Malaysia)
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