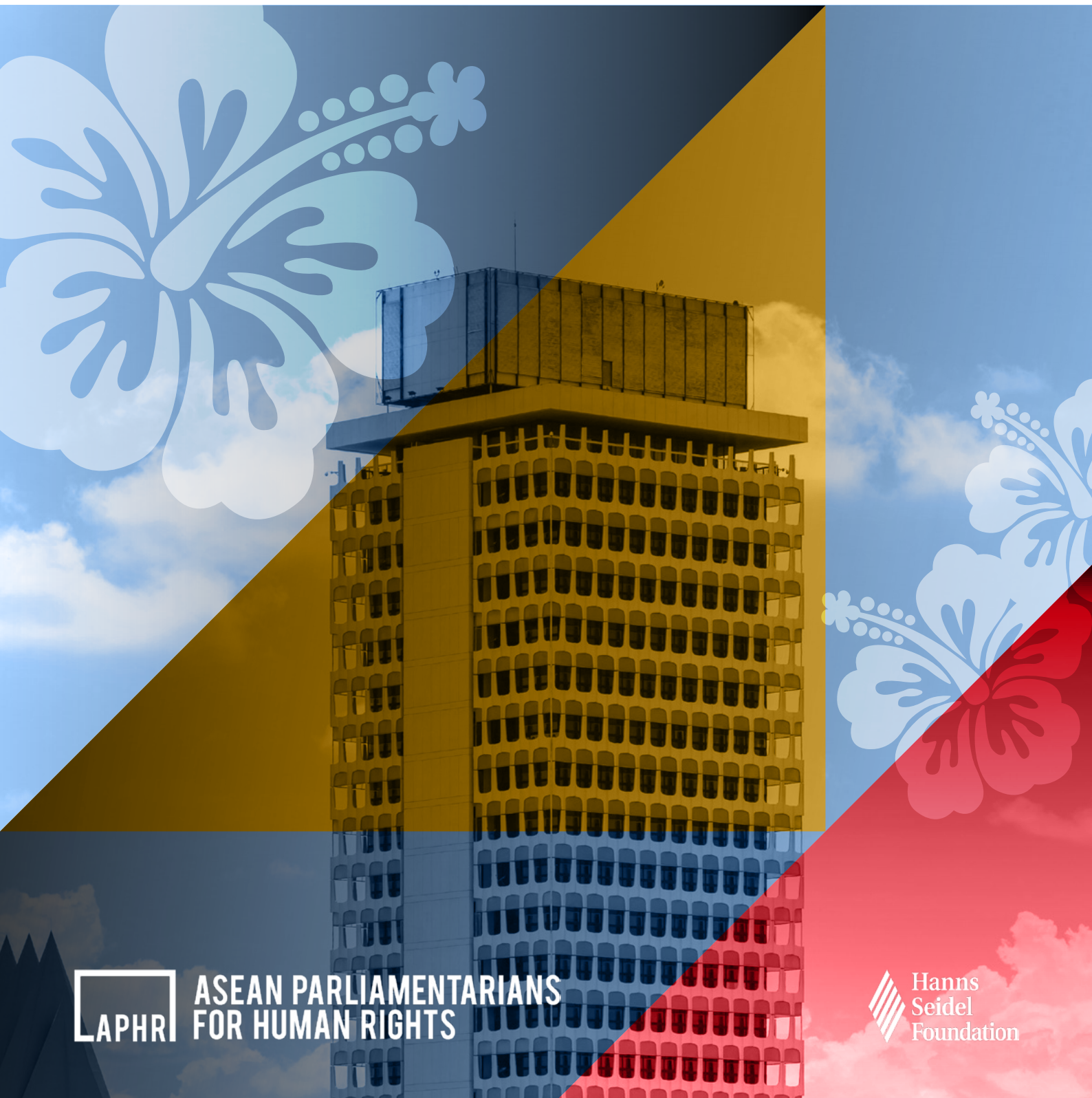


A Toolkit on Advancing Human Rights through the Malaysian Legislative Process 2023



**ASEAN PARLIAMENTARIANS
FOR HUMAN RIGHTS**



**Hanns
Seidel
Foundation**



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.



The Hanns Seidel Foundation (HSF) is a German Political Foundation. It is mandated by the German Parliament to promote democratic and sustainable structures worldwide. This mandate involves strengthening institutions, individuals, procedures and standards, as well as building the requisite attitudes, towards that end.

Acknowledgements

APHR would like to extend its special thanks to **Mugheelan Sellathoray** for conducting the research and gathering the preliminary information required in the development of this Toolkit. We also would like to thank all the civil society organizations, members of parliament, and stakeholders in Malaysia who participated in the consultations and provided meaningful insights. We also express our gratitude to **Izmil Amri**, who developed and drafted this Toolkit. Our special thanks to **Gendis Kendra Disa** for the design and layout. Lastly, APHR expresses its gratitude to the Hanns Seidel Foundation for their support and making the research and publication of this Toolkit possible.

Background

Leaders across Southeast Asia are increasingly adopting laws that restrict fundamental freedoms. In this context, parliamentarians, through their legislative mandate, become an important shield against further erosion of human rights. Members of Parliament (MPs) can repeal or amend restrictive bills as they reach parliament.

To be able to engage them effectively, APHR and civil society organizations in Southeast Asia must be able to understand and know the parliamentary legislative process. However, the legislative system can seem complex to those unfamiliar with it and is perceived as overwhelming or intimidating to many who try to navigate it in almost absolute darkness.

To respond to this gap, APHR carried out research in a total of five countries in Southeast Asia, including Malaysia, to better understand and unpack the legislative processes in each country. The research covered the legislative process, including the different stages a bill can go through, how to write an amendment, who can initiate a bill, what is the usual practice in the country, as well as effective entry points for law reform advocacy.

The research was completed in early 2023 and it was based on desk research, including a review of Constitutions, parliamentary rules and procedures, Speaker rulings, reports, and other relevant sources. Interviews with MPs, MPs staff, and civil society were also carried out to ensure the research reflected the actual practices or conventions on the ground.

From Research to Toolkit

The research is then developed into a pedagogical and accessible report to explain the different steps in the legislative procedures and where MPs can intervene to either amend or repeal a law and to be made available to civil society partners to engage more effectively with the parliamentary process.

Purpose of the Toolkit

- Assist civil society, advocates, and those who wish to engage with the legislative system in their efforts to promote human rights in Malaysia;
- Enhance APHR and civil society's capacity to support MPs to use their legislative mandate to promote human rights and democratic norms; and
- Strengthen transparency and civic participation in legislative processes in Malaysia.

Introduction to the Malaysian Parliament

Malaysia is a Federation of 13 territories, referred to as states, practicing constitutional monarchy where each state is ruled by either a Sultan, Yang di Pertuan Besar, Raja or Governor.

The Head of State is known as Yang di-Pertuan Agong (YDPA/The King), elected in a rotation among the Malay monarchs every five years or whenever there is a vacancy.

The head of the government is the Prime Minister, functioning in a parliamentary democracy with a bicameral legislative system made up of the Upper House or the Senate (*Dewan Negara*) and the Lower House or the House of Representatives (*Dewan Rakyat*).

- The YDPA can call for Parliament to sit, stop, or dissolve. Parliament shall continue to sit for five years from the date the first sitting is held after the general election unless it is dissolved first. Upon completion of a term of five years, Parliament is automatically dissolved (*Article 55, the Federal Constitution*).
- The Federal government is divided into three branches: executive, legislature, and judiciary (*Article 127, the Federal Constitution*).
- Parliamentary functions include: enacting laws, amending existing federal laws, scrutinizing government programmes through its oversight function, approve government spending, and approve new taxes (*Article 44, the Federal Constitution*).



The Official language of Parliament is Bahasa Malaysia, but English may be used with the permission of the Speaker. Most official documents of the parliament are available only in Bahasa Malaysia, however, there are a range of documents, reports, and research documents available in both Bahasa Malaysia and English.

Members of Parliament

Members of Parliament, who are chosen by the people through elections, have a role to play in determining which party has the confidence to form the government.

The main functions of a parliamentarian, as provided for in the above legal framework, are to make laws, conduct oversight, approve taxation and expenditure, and represent their respective constituencies.

The House of Representatives (*Dewan Rakyat*)

The House of Representatives (*Dewan Rakyat*) is made up of 222 MPs elected in a general election every five years, or when the YDPA, on the suggestion of the Prime Minister, dissolves Parliament.



The *Dewan Rakyat* is headed by the Speaker, who is elected when the *Dewan* meets for the first time after a general election. Any MP is qualified to be elected Speaker, but non-MPs who meet the qualifications required to be an MP are also eligible. A candidate must be nominated and seconded by at least two MPs. If only one candidate meets these conditions, they are automatically selected; otherwise, voting by secret ballot is conducted, with the winner decided by a simple majority.

Role of The Speaker

The Speaker or Tuan Yang Di-Pertua is responsible for:

- overseeing the parliament sitting so that it runs smoothly
- arranging the debate so as not to deviate from the issues being discussed
- deciding on the Order of Business of the Meeting in the event of a dispute
- checking whether petitions, bills and amendments to the law are in line with the procedures.

The Speaker will determine conference dates, meeting agenda, preparation of meeting minutes, handling of the voting process and the like. The Speaker also has the power to determine the adjournment and extension of the conference if deemed necessary.



Bernamea

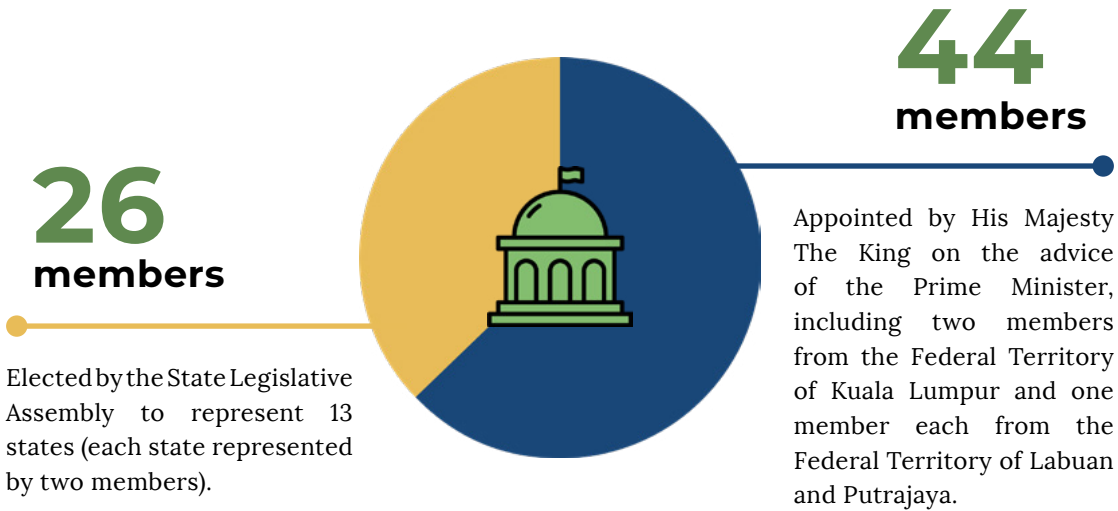
The Speaker is in charge of enforcement and compliance with the rules of the House of Representatives. The Speaker reserves the right to stop the speeches of members of the House if necessary.

The Speaker can even suspend members of the House who violate the rules of the House. The Speaker has the power to direct the police or any officer of the *Dewan* to enforce his instructions.



The Senate (*Dewan Negara*)

The *Dewan Negara* has a total of 70 members.



The function of the *Dewan Negara* is to review and approve bills brought up by the *Dewan Rakyat*. Both houses have to approve the bill before it is sent to the YDPA for His Majesty's assent.

Types of Bills

1. Government Bill

Public bills that are brought forward to Parliament by a cabinet minister. These bills include bills on matters of general public interest such as national defense, public order, and taxation.

2. Private Members' Bill

Private Member's Bills are those introduced by any member of the legislature other than a minister or deputy minister.

3. Hybrid Bills

Hybrid Bills may be of general application and are introduced by either a minister or private member but they belong to that class of bills which, in the opinion of the speaker affect individual rights or interests adversely.

4. Supply bill

Supply bills including national budget, additional funds bill, amendments to budget are still considered as part of the government bill which will be tabled by the Minister of Finance.

Bernamea



Legislative Process

There are two main stages in the process of drafting and passing of a bill: **Pre-parliamentary** and **Parliamentary**.

Pre-parliamentary Stage

This is the stage in which steps are taken for Government bills originating from Cabinet Papers initiating the process of drafting a bill by the relevant government departments and/or the Attorney General's Drafting Department. At this stage, consultations will take place via discussion with various stakeholders and civil servants.

Before a bill is introduced to Parliament, the following four elements are essential in providing initial input in drafting a particular bill. Other than the executive putting forth a policy paper that ultimately turns into law, Parliamentary Special Select Committees can also propose policy, and be tasked to look into proposals by the government.

The Cabinet

Public bills presented in the *Dewan Rakyat* emanate from the executive with a policy proposed to the Cabinet or Cabinet of Ministers. It can start with a simple proposal from the Ministry or take into account the interests and needs of the country by the Cabinet.

Studies can be carried out, involving consultation workshops with stakeholders, such as the process during the drafting of the Defence White Paper in 2019 where different town-hall sessions were done to include opinions from military veterans, public opinion, engagement with CSOs lead by respective ministries. Once supported, the Cabinet will direct the Attorney General's Chambers to draft a bill.



CSO's play an important role in this period to put forward their proposals through the engagement session with ministries. CSO's also will use the approach of handing over memorandum, press releases, and social media campaigns to seek the public support and policy makers attention.

Examples of bills that had engagement with CSOs prior to tabling are Undi 18, Anti-trafficking in persons, and anti-smuggling of migrants (amendment) act 2022, and Employment (amendment) act 2022.

Further reading

- [Is 'Undi 18' a wise step?](#)
- [A commentary on the Anti-Trafficking in Persons and Anti-Smuggling of Migrants \(Amendment\) Act 2022](#)

Attorney General's Chambers

The AG Chambers will then draft a bill and it will be submitted to the Cabinet for consideration. Subject to any changes, the Minister in charge will submit a motion to present the bill in the *Dewan Rakyat* to be debated.

Select committees

Existing special select committees formed by the *Dewan Rakyat* also play a role in providing input for a bill. Select committees consist of elected representatives from the opposition and ruling parties coalition. The committee will discuss and propose amendments to draft bills when necessary.

Dewan Rakyat

A bill may also be introduced in any of its members, referred to as a Private Member's bill. However in practice, private members' bills are not prioritized when there are more urgent matters submitted by the government. Private members' bills in this case may either not see the light of day, or otherwise be negotiated to be given priority ahead of government matters; as seen in the case of the tabling to amend the Shariah Courts (Criminal Jurisdiction) Act 1965, better known by its Malay initials RUU355 back in 2017.

Parliamentary Stage

The procedure is set out in Chapter 5, Part IV of the Federal Constitution and Standing Orders of House of Representatives and Senate. The Standing Orders regulate the actual procedure in the passage of a Bill in Parliament.

A motion is submitted to the Speaker's office by the Government or individual MPs to table a particular bill, which is then included into the Order Paper, which is a list prioritizing the daily order of business.

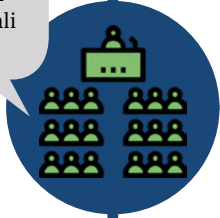




First Reading

The First Reading is the introduction of a bill. Here, the long title of the bill is read by the proposing member. The minister presents and argues the bill. No votes are cast on the bill at the First Reading stage.

Tan Sri Speaker, saya mohon supaya Rang Undang-undang ini dibacakan untuk kali kedua.



Second Reading

During the Second Reading, the bill will be debated in principle by members of the *Dewan Rakyat*. After debate, the speaker will call a vote from the members present.

After the motion is seconded, the minister outlines the main principles of the bill. A debate on principles ensues. If the bill receives the requisite number of votes, it proceeds to Committee Stage.



Committee Stage

The *Dewan* resolves itself into a Committee on the bill. This is called the Committee Stage and it is intended to allow members the opportunity to discuss details of the bill and to propose amendments in a less formal proceeding.



Third Reading

The rationale of the Third Reading is to provide an opportunity for members of the House who are not members of the Committee concerned to debate the bill in detail. When the House resumes sitting, the minister reports that the Bills have been considered and accepted by the Committee with or without amendments. The third reading is also the last opportunity for the House to make any specific amendments before this bill is sent to the *Dewan Negara*. A second round of voting is done at this stage.



The Senate (*Dewan Negara*)

When a Bill has been passed in the manner described above in the House of Representatives, it is then transmitted or sent to the *Dewan Negara* for consideration.

There are 3 possible scenarios at the *Dewan Negara*,

1. The *Dewan Negara* passes the bill without any changes, the bill will be presented to His Majesty, the YDPA for royal assent;
2. The *Dewan Negara* approves with amendments: The Bill will be returned to the House of Representatives for consideration and resubmit once again for reading at the House of Representative. The bill will only be presented to the YDPA when both houses reach a consensus;
3. The *Dewan Negara* does not pass the bill: Such as in the case of abolishing Anti-Fake News Act the *Dewan Negara* had rejected the bill *Dewan Rakyat* re-tabled the bill and got approved. *Dewan Rakyat* has the authority to exclude *Dewan Negara* in order for the Bill to advance to the last phase of the parliamentary procedure under Article 68 of the Federal Constitution. The bill may be reintroduced by *Dewan Rakyat* during the following legislative session, and if it is not again approved by *Dewan Negara* without revisions, it will be automatically forwarded to the YDPA. (Further reading: [Dewan Negara rejects Anti-Fake News Act repeal](#))

Constitutional Amendments

Article 159 of the Federal Constitution provides for constitutional amendments. Through an amendment act endorsed by two-thirds of Parliament's members, the constitution can be changed. Amendments to the Malaysian Constitution must not only be approved by a 2/3 majority in the *Dewan Rakyat* but must also be approved by a 2/3 majority in the *Dewan Negara*.

Parlimen Malaysia Instagram Page



Royal Assent

The Yang Dipertuan Agong as Head of State who by virtue of Article 40(1A) acts on the advice of the Prime Minister, shall give the royal assent required before a bill becomes law. Clause 4 of article 66 of the Federal Constitution reads:

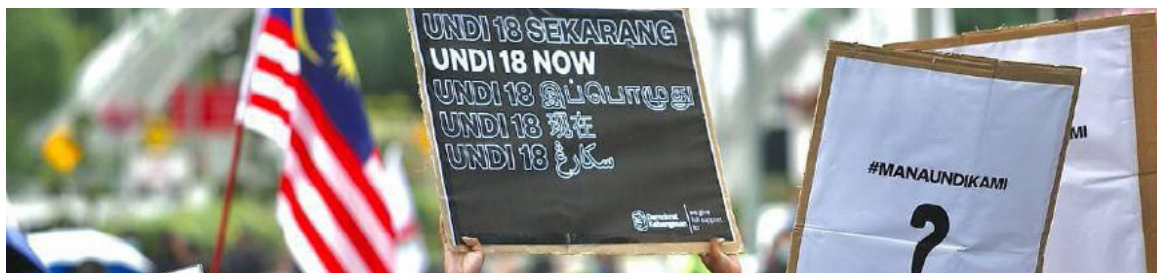
“ The Yang Di Pertuan Agong shall within thirty days after a Bill is presented to him assent to the Bill by causing the Public seal to be affixed thereto”.

After 30 days, if no action is taken by the Yang Di Pertuan Agong, a bill automatically becomes a law.

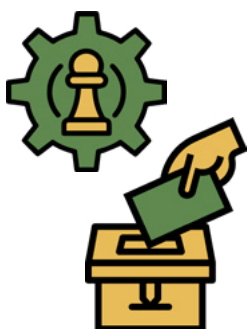
CE Photo/Uwe Aranas



Case Study: UNDI 18



STR/Azhar Ramli



UNDI 18 (English, Vote 18) is a CSO focused on Malaysian youth political empowerment, credited for successfully lobbying Members of Parliament to amend the Federal Constitution which changed the minimum voting age from 21 to 18 years old. This is the first Constitutional Amendment in Malaysian history to be supported unanimously in both the *Dewan Rakyat* and *Dewan Negara*.

After the 14th General Election, the new Pakatan Harapan (PH) government led by Tun Dr. Mahathir Mohamad started working towards implementing the new minimum voting age in line with the PH's election manifesto.

UNDI 18 Facebook Page

UNDI 18 successfully obtained the endorsement of then Minister of Youth and Sports Syed Saddiq as well as bipartisan endorsements from members of Parliament in the opposition bloc to support the reform. They lobbied and met MPs in person to secure support from each political party represented in the *Dewan Rakyat*.

The Constitution (Amendment) Bill 2019 was tabled in the *Dewan Rakyat*, which included provisions relating to automatic voter registration for all Malaysians and amendments to the minimum age of candidacy for standing for elections to the *Dewan Rakyat* and state legislative assemblies.

On 16 July 2019, the Constitution (Amendment) Bill 2019 was passed unanimously by all present members of the *Dewan Rakyat*.





Free Malaysia Today

Abolishing the Mandatory Death Penalty

On 11 April 2023, the *Dewan Negara* passed the bill abolishing the mandatory death penalty in Malaysia. This followed the *Dewan Rakyat*'s unanimous vote to abolish the penalty, reducing the number of offenses punishable by death and abolishing natural life prison sentences only eight days prior. Henceforth, offenses punishable by death will no longer receive an automatic death sentence, and judges will have the discretion to decide on the appropriate sentence, including a prison sentence not exceeding 40 years.

Malaysia has had a moratorium on executions since 2018. The move to abolish the mandatory death penalty will allow more than 1,300 persons currently under sentence of death in Malaysia to be entitled to have their sentences reviewed.

A number of CSOs have been lobbying for the total abolishment of the death penalty, including Amnesty International, the Malaysian Bar, the Human Rights Commission of Malaysia (SUHAKAM), and the Anti-Death Penalty Asia Network (ADPAN).

➤ [Timeline of the campaign](#)

What else happens in Parliament?

Minister Question Time (MQT)

Minister Question Time is a session in the *Dewan Rakyat*. MQT takes place from 10am to 10.30am on Tuesdays and Thursdays when the *Dewan* is session to enable questions on current issues to be answered by the relevant ministers. MPs could bring forward issues that require urgent attention or answer from the minister such as flood, food crisis, natural disaster, defense issues, national security issues, et cetera.

Inquiries to Members other than the Minister must be relevant Bills, motions, or public matters relating to the affairs of the Council be held accountable to the Member. The purpose of the question is to obtain facts that are within the specialized knowledge of the Expert in question.

Parliament Questions

MPs may submit two types of questions: Questions for Oral Answers (**Oral Questions**) and Questions for Written Answers (**Written Questions**). Inquiries may be directed to Ministers and Members other than the Minister. Inquiries to the Minister shall be in respect of matters relating to the affairs of their office; or a Bill, motion, or public matter relating to the business of the Council for which the Minister is responsible.



The parliament questions are the best opportunity for CSOs to raise questions that concern national attention and require the government's stand on it by raising it through MP's.

CSOs, even individual constituents, can send a parliament question in Malay to their MP or backbencher MPs to be raised as a question. They can log on to the Parliament website for contact details of their respective MPs to submit their questions. The replies from the government will be published in the Hansard which is made available at the Parliament's website.

EPA Images/Ahmad Yusni



Committees

The Committees perform tasks assigned to it by the Standing Orders that govern the process of Parliament, as well as other topics to which the House may refer from time to time. The Speaker serves as Chairman of the Committee of Selection.

- **Public Accounts Committee (PAC)**

The Public Accounts Committee is established at the start of each Parliament to examine the Federation's accounts and to appropriate the funds allocated by Parliament to satisfy public expenditure.

- **Standing Orders Committee**

This Committee is responsible for considering and reporting on all matters relating to the Standing Orders that the *Dewan* may refer to from time to time.

- **House Committee**

The Committee advises the Chairman on all topics concerning the House's conveniences, services, and privileges.


- **Committee of Privileges**

The Committee's function is to look into issues that are brought to it and make a statement to the House about them. Any member of the House can notify the Speaker of any matters affecting the House's powers and privileges.

Special Chambers

A Special Chamber has been established as a parallel parliament hearing so that urgent or important national issues can be debated without interfering with the House of Representatives' regular business.

Established in 2016, the first Special Chamber was held in a temporary block in the Parliament complex, aimed to ensure that there will be no more rejected motions to discuss matters of urgent public importance, especially those closer to local concerns with regard to each MP's constituencies.



MPs can submit their questions to the Speaker with a word limit of 500 words asking in depth answers from the minister. Either the minister or the Deputy minister will answer the question in the special chamber.

Special Select committees

Special Select committees would serve as an executive check and balance mechanism, improving government policies and providing legitimacy to the administration's decisions and policies.

They have the authority to summon any individual to submit a statement, views, or opinions on the topics covered by the committee's terms of reference.

Currently, there are ten (10) Special Select Committees in the Dewan Rakyat, namely:

1. Special Select Committee on Fundamental Liberty and Constitutional Rights
2. Special Select Committee on Finance and Economy
3. Special Select Committee on Security
4. Special Select Committee on Agencies under the Prime Minister's Department
5. Special Select Committee on Agriculture and Domestic Trade
6. Special Select Committee on Infrastructure Development
7. Special Select Committee on Education
8. Special Select Committee on Women and Children Affairs and Social Development
9. Special Select Committee on Health, Science and Innovation
10. Special Select Committee on International Affairs



AP Photo



All-Party Parliamentary Group Malaysia (APPGM)

On 17 October 2019, the Parliament of Malaysia established the All-Party Parliamentary Group Malaysia (APPGM) which is a bipartisan and multi party representation consisting of MPs, Civil Society Organization (CSOs), Non-Governmental Organizations (NGOs), academics as well as individuals from the public and private sector.

Modeled after the All-Party Parliamentary Groups (APPGs) in the United Kingdom (UK Parliament, the four committees are run by MPs as a platform for them as well as other parties such as academicians, professionals, and CSOs to discuss, research, and submit reports of recommendations to the Parliament or its committees.

- All-Party Parliamentary Group Malaysia (APPGM) - Refugee Policy
- All-Party Parliamentary Group Malaysia (APPGM) - Sustainable Development Goals (SDG)
- All-Party Parliamentary Group Malaysia (APPGM) - on Political Financing
- All-Party Parliamentary Group Malaysia (APPGM) on Integrity, Governance and Anti-Corruption (IGAR)

Aimed at making Parliament a more people friendly institution by including members beyond the walls of both *Dewans*, APPGM functions somewhat like a Parliamentary select committee but with more freedom to engage and take action on common topics at a more micro level. Its suggestions, though not binding on Parliament itself, allows for a more informed debate by both sides of the *Dewan*, by virtue of them being included in its discussions and action plans.

The SDG group, previously chaired by APMR Member and former Petaling Jaya MP Maria Chin Abdullah was geared to engage and work on local issues with local communities, in hopes to actualise and localize the SDGs. This included ground work in identifying local needs and issues based on the SDG by employing participatory approaches in mapping and analysis which will then assist APPGM-SDG in identifying solution projects which include micro-projects with micro funds of RM20,000-RM40,000 for a period of 3 to 4 months.

CSOs are suggested to engage with each committee according to their thematic concerns to pitch ideas and initiate advocacy discussions.

More information on members and secretariat of each APPGM committees are available on [Parliament website](#).

Open Data Practices

Steering Committee Meetings; National Key Economic Area; (NKEA; Communications Content and Infrastructure; (CCI) chaired by the Minister of Communications and Multimedia on 29 May 2014 has decided the Malaysian Administrative Modernization and Management Planning Unit (MAMPU) to implement the Development of Public Sector Open Data Platform.

Below is a list of links to access parliament reports and relevant parliament-related documents.

Parliament Sitting Calendar	Written Answers
Committees	Answers for Ministers Question Time
List of Order Paper for Special Chamber	List of Bills
List of Order Papers	Papers and Reports
Special Select Committee	Parliament Public Accounts Committee (PAC) Hansard
Hansard for Special Chamber	Reports Of Public Accounts Committee (PAC)
Hansard (Parliament Sitting)	
Oral Answers	

Open data practices challenges

The availability of open data for all sectors in Malaysia is very limited, this creates a situation which is difficult and challenging for many researchers in Malaysia who want to do research on specific topics.

The Official Secrets Act 1972 provides broad discretionary powers for the government in restricting data availability. Broad terms that include any official documents in addition to authorizations to any government official gives great discretionary power to the government to define any government document including official data as an official secret, as well as carry with a sentence of up to 1 year imprisonment.

CE Photo/Uwe Aranas



Other laws that restrict the work of CSO's include Sedition Act and Communications and Multimedia Act.

Most government data are available through the following web pages that can be utilized by CSO's:

MAMPU Government Open Data Website
Department of Statistics Malaysia Open Data
MysIDC
Key data sets by sector
eStatistics
Sinar Project - Open Data

Importance of civil society engagement with parliament for human rights and democracy advocacy

In Malaysia, the relationship between civil society organizations and the government remains weak, and there are obstacles in the public policy debate. One reason for this is that the Malaysian government has enacted a number of restrictive legislation in the past, restricting CSOs' ability to exercise their fundamental rights.

However, parliamentarians should consider civil society and people's organizations as allies, especially in the advancement of human rights and democracy in Malaysia. As in the cases of landmark reforms such as Undi 18 and the abolishment of mandatory death penalty, the campaigns were heavily reliant on CSOs as partners and allies of politicians to educate the general public and initiate a movement to add credibility and power to their campaign.



APHR, Interface between Members of Parliament and Civil Society Organizations on Strengthening Climate Action in Malaysia, 2022

That being said, CSOs have also expressed their dissatisfaction with ministry inefficiency. On the other hand, CSOs have yet to develop a uniform operational style or an united manner of functioning; instead, structural deficiencies and other challenges are holding them back.

However, CSOs have on various occasions played a significant role in the law reformation and being part of the bill drafting. Undi-18 is an example of CSO that was instrumental in engaging MP's and political parties to come up with constitutional amendment to change voting age from 21 to 18 years old along with automatic voter registration.

Undi-18 used mechanisms such as social media, roundtable sessions with MP's, research write up on voting rights, and worked as a pressure group to the government on introducing the amendment. CSOs could approach cabinet level and select committee level for policy amendments or repeal of law.



CSO could engage the MP's through various mechanisms:



Links for more information

- [The official portal of Parliament of Malaysia](#)
- [Federal Constitution](#)
- [Standing orders of the Dewan Rakyat](#)
- [Standing orders of the Dewan Negara](#)
- [Parliament Public Accounts Committee \(PAC\)](#)
- [Parliament Research and library division](#)
- [Journal of Malaysia Parliament](#)
- [Legal Affairs Division](#)
- [Parliament sitting live streaming](#)
- [Parliament Malaysia Youtube Channel](#)
- [Malaysian Parliamentary Procedure: A Guide to the Standing Orders of the Dewan Rakyat \(National Democratic Institute\)](#)



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