

MALAYSIAN BAR COUNCIL

Obstacles to effective political participation faced by minorities

The Malaysian Bar Council is pleased to participate in this 2nd United Nations Forum on Minority Issues.

I speak as Co-Chair of the Human Rights Committee of the Malaysian Bar Council. I would like to draw the Forum's attention and highlight the problem of legislative restrictions prevalent in certain countries that impose, inter alia, the following pre-conditions to political participation:

1. the need for official registration with a governmental body in order to establish a political party, and the lack of transparency and potential for abuse of administrative discretion in granting such official registration. In some cases, there is no opportunity for judicial review of such exercise of discretion;
2. the requirement of geographical distribution and presence in multiple governmental or administrative jurisdictions before an organisation can be considered and recognised as a national organisation;
3. the inability of those without official residency or citizenship documents to participate in the political process.

Non-recognition may result in denial of public grants and monies to assist with organisational costs where these are made available, or an absence of any invitation to participate in governmental dialogues and consultations on issues affecting minorities. The inability to participate in the political process means the inability to influence the shaping of governmental policies that will undoubtedly affect one's future.

We call on governments to review and remove such barriers to effective political participation.

Conditions required for effective political participation by minorities

I would like to draw the Forum's attention and highlight the following threats and barriers to effective political participation for minorities:

1. governmental control and monopoly of radio and television, thus denying access to those not favoured or supported by the government of the day;
2. government requirement of annually-renewable permits for printing and publication of newspapers, journals, etc. which effectively forces self-censorship of minority views and opinions;

3. denial of official permission to publish newspapers in certain languages, in particular languages understood by minority communities, and restrictions in the frequency of such publications;
 4. the need for police permits to hold public gatherings of more than a certain number of people, sometimes as low as 5 persons;
 5. the use of laws on sedition to subvert free speech;
 6. the increasing resort to and wide interpretation of defamation of religion legislation to silence discussion of matters concerning a majority religion that nonetheless have serious consequences and implications on the freedom to profess and practice the religion of minority communities;
 7. the inability or refusal of law-enforcement agencies to protect the safety of participants at private gatherings on issues affecting minorities from interruption and disruption by groups representing the majority;
 8. the requirement for official registration with a governmental body in order to establish an organisation, and the lack of transparency and potential for abuse of administrative discretion in granting such official registration. In some cases, there is no opportunity for judicial review of such exercise of discretion;
 9. the requirement of geographical distribution and presence in multiple governmental or administrative jurisdictions before an organisation can be considered and recognised as a national organisation;
 10. the inability of those without official residency or citizenship documents to participate in the political and law-making processes.
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We call on governments to review and remove such barriers and instead to promote positive conditions for effective political participation.

I thank the Chair for granting the Malaysian Bar Council an opportunity to make this intervention.

Andrew Khoo
Co-Chair
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Malaysian Bar Council

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