**Request for inputs for the thematic report of the UN Special Rapporteur (SR) on right to education.**

**“Academic Freedom and Freedom of Expression in Educational Institutions”**

Member States have been invited to submit inputs on the following aspects:

| **NO.** | **KEY QUESTIONS AND INPUTS SOUGHT** | **INPUTS BY LINE AGENCIES** |
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|  | **General framework** | |
|  | How is academic freedom defined and protected in the constitution or laws of your country, and what are possible limitations or restrictions? Please provide the  original citation and source, as well as a summary of relevant judicial practice, if any. | The Malaysian constitution guarantees freedom of speech and expression under Article 10. While Article 10(2)(a) delineates certain limitations on these freedoms, they are not intended for suppression but rather as enabling measures to ensure the enjoyment of rights and freedoms within a multi-religious and multi-ethnic society.  This approach has proven successful in Malaysia. For example, social harmony has been maintained over the years and the media landscape has been robust and diverse, representing all political views. |
|  | Are academic staff, teachers, students all entitled to academic freedom? Does this differ by level of education? Please explain. | In Malaysia, the concept and extent of academic freedom may vary depending on the level of education and the specific context within educational institutions. |
|  | What do you consider to be (a) the main challenges to academic freedom, and (b) gaps in the legal framework for protecting academic freedom? | **Main Challenges to Academic Freedom:**  1. Legal Restrictions: The Universities and University Colleges Act (UUCA) was legislated for the establishment, organization and management of Universities and Public University Colleges and it remains an important, relevant and well-functioning Act. The Government is cognizant of the need to continuously review this acts, with a view to aligning them with international standards. Amendments represent opportunities to enhance this Act. Since its enactment in 1971, the UUCA has undergone seven amendments, which aimed to give more space and freedom to students to be involved in politics within and outside campuses. These amendments have contributed to fostering an environment conducive to open discourse and the cultivation of critical thinking among students.  2.Self-Censorship: Due to concerns about potential repercussions, academic staff may engage in self-censorship, avoiding certain topics or perspectives that could be perceived as controversial. This self-censorship can impede the open exploration of diverse ideas and hinder academic freedom.  3.Lack of Institutional Autonomy: Some critics argue that universities may face challenges in maintaining true institutional autonomy, which is crucial for academic freedom. Factors such as government funding and control mechanisms can impact the independence of universities.  **Gaps in the Legal Framework:**  1. Lack of Explicit Constitutional Protection: Unlike some other countries, Malaysia’s constitution does not explicitly guarantee academic freedom. While there are provisions for freedom of speech and expression, the absence of specific mention of academic freedom leaves it subject to interpretation and potential limitations.  2. Misunderstanding in Legislation: The concerns regarding the perceived lack of clarity in the UUCA stemmed from a misunderstanding of the law and the assertion that it might indirectly curtail academic freedom. The Government is cognizant of the need to continuously review this acts, with a view to aligning them with international standards. Amendments represent opportunities to enhance this Act. Since its enactment in 1971, the UUCA has undergone seven amendments, which aimed to give more space and freedom to students to be involved in politics within and outside campuses. These amendments have contributed to fostering an environment conducive to open discourse and the cultivation of critical thinking among students.  3. Limited Judicial Review: The effectiveness of legal protections for academic freedom may be hindered by limited opportunities for judicial review or inconsistent judicial interpretations. A robust and accessible mechanism for challenging restrictions on academic freedom is crucial for safeguarding this right.  4. Inadequate Safeguards for Students: While there may be a focus on academic freedom for faculty, the protection of students’ rights to express themselves and engage in intellectual inquiry can be an area where the legal framework may need enhancement. |
|  | **Autonomy of educational institutions** | |
|  | Please explain the autonomy and self-governance enjoyed by educational institutions at the different tiers of education. Please explain what autonomy and self-governance entail. Are there restrictions on police or military personnel entering educational institutions? If so, please share the rules. | An overview of autonomy and self-governance at different levels of education in Malaysia:  1. Higher Education Institutions:  Universities and Colleges: Higher education institutions in Malaysia, such as universities and colleges, typically have a higher degree of autonomy compared to lower levels of education. They often have their own governing bodies, such as a board of directors or a council, responsible for making key decisions related to academic policies, budgeting, and administrative matters. As for the issue of restrictions on police or military personnel entering educational institutions, there may be regulations in place to maintain the safety and security of these institutions.  Generally, the details may vary as per below:  Security Protocols: Educational institutions, especially higher education institutions, may have their own security protocols to ensure the safety of students, staff, and facilities. This can include measures to control access to the campus.  Permission Requirement: In some cases, prior permission may be required for law enforcement or military personnel to enter educational institutions. This is to balance security concerns with the need to maintain a conducive learning environment.  Respect for Autonomy: There is typically an understanding that law enforcement or military presence on educational campuses should respect the autonomy and self-governance of the institutions, and interventions should be in accordance with established legal procedures. |
|  | Please provide examples of institutional guidelines/codes of conduct developed to ensure respect for academic freedom, including from external public or private actors. | It is common for universities and higher education institutions to develop their own internal policies and guidelines to uphold academic freedom.  The aim is fostering an environment that encourages intellectual inquiry, free expression, and critical thinking.  In Malaysia, the commitment to academic freedom may be reflected in the following ways:  University Charters and Mission Statements: Many universities articulate their commitment to academic freedom in their charters, mission statements, or similar foundational documents. These statements typically emphasise the importance of creating a space where diverse perspectives can be explored and where intellectual freedom is protected.  Codes of Ethics: Some academic institutions have codes of ethics or conduct that guide the behaviour of faculty, students, and staff. These codes may include provisions related to academic freedom, professional responsibility, and ethical conduct in research and teaching.  Academic Policies and Guidelines: Universities often develop specific academic policies and guidelines that outline the rights and responsibilities of academic staff, students, and other members of the university community. These documents may address issues related to research, publication, classroom discussions, and engagement with external entities as well as stakeholders.  Committees on Academic Freedom: Some universities may establish committees or offices responsible for addressing issues related to academic freedom. These bodies may play a vital role in monitoring and safeguarding academic freedom within the institution.  While universities may develop internal guidelines to ensure respect for academic freedom, the legal framework and government policies also play a role in shaping the overall environment for academic freedom in Malaysia. |
|  | **Funding** | |
|  | How is funding, including for research, regulated? Is the process transparent, and are there any guarantees put in place to ensure respect for academic freedom? | In Malaysia, funding for research and higher education is regulated through a combination of government allocations, policies, and institutional mechanisms. The regulatory framework and transparency of the funding process can impact the degree of academic freedom enjoyed by researchers and academic institutions. Here are **four (4) key aspects** of how funding for research is regulated in Malaysia:  **1.Government Funding:**  Ministry of Higher Education (MOHE) and Other Agencies: The Ministry of Higher Education and other government agencies in Malaysia play a significant role in allocating funds for higher education and research. Funding may be provided through various programs, grants, and initiatives aimed at supporting research projects, infrastructure development, and academic activities.  Research Funding Agencies: Entities like the Malaysian Research Assessment Instrument (MyRA) and the Ministry of Higher Education (MOHE) may manage and allocate research funding. The distribution of funds often aligns with national research priorities and goals.  **2.Institutional Autonomy:**  University Autonomy: While universities in Malaysia receive government funding, they also operate with a degree of autonomy. This autonomy allows universities to make decisions regarding the allocation of internal funds and the pursuit of research priorities.  Research Centres and Institutes: Research centres and institutes within universities may have their own funding mechanisms, and researchers often seek external grants and collaborations for specific projects.  **3. Transparency and Accountability:**  Grant Application Processes: The process for applying for research grants is typically structured, involving submission of proposals, peer review, and evaluation. The transparency of these processes can vary, but there is an expectation that funding decisions are made based on the merit of the research proposals.  Reporting and Accountability: Researchers receiving grants are usually required to adhere to reporting mechanisms, outlining how funds were utilised and the outcomes of the research. This contributes to accountability and transparency in the use of public funds.  **4. Academic Freedom Considerations:**  Legal Framework: While there may not be explicit legal guarantees for academic freedom in the context of research funding, the broader legal framework supporting freedom of speech and expression may indirectly contribute to academic freedom.  Institutional Policies: Universities may have policies and guidelines that promote academic freedom, ensuring that researchers can pursue their work without undue external interference. These policies may address issues such as intellectual property rights and the dissemination of research findings. |
|  | Which rules and regulations protect academic freedom from interferences by commercial actors and financial sponsors, at different tiers of education? Please explain how conflicts of interest that may arise are addressed. | Academic institutions and researchers are generally expected to adhere to ethical guidelines and principles that help manage potential conflicts of interest. Here are some general considerations:  1. Higher Education Institutions:  Research Ethics Committees: Many universities have Research Ethics Committees or similar bodies responsible for reviewing research proposals. These committees assess the ethical aspects of research projects, including potential conflicts of interest. Researchers may be required to disclose any financial relationships or affiliations that could influence the research.  Institutional Policies: Universities often have policies and guidelines addressing conflicts of interest, both in research and academic activities. These policies may outline the disclosure requirements for financial relationships with commercial entities and sponsors.  2. Research Funding and Collaboration:  Grant Application Processes: When applying for research grants, researchers are typically required to disclose any financial interests or affiliations that could be perceived as a conflict of interest. Granting agencies may have their own guidelines for managing conflicts of interest in the funding process.  Publication Standards: Academic journals often have editorial policies that require authors to disclose any potential conflicts of interest related to their research. This transparency is crucial in maintaining the integrity of the peer review and publication process.  3. Conflict of Interest Management:  Conflict of Interest Committees: Some institutions may have dedicated committees responsible for reviewing and managing conflicts of interest. These committees may assess potential conflicts and recommend appropriate measures to mitigate risks, ensuring that the integrity of research and academic activities is maintained.  Code of Conduct: Universities may have a code of conduct that outlines the expected behaviour of faculty, staff, and researchers. This code may include provisions related to conflicts of interest and the steps that individuals should take to manage and disclose such conflicts.  4. Legal and Regulatory Framework:  National Laws and Regulations: While specific regulations addressing conflicts of interest in academic research may be limited, broader legal and regulatory frameworks related to ethics, integrity, and transparency may indirectly contribute to managing conflicts of interest.  Engaging with institutional ethics committees, compliance offices, and staying informed about best practices in academic research ethics can help address and manage conflicts of interest effectively. |
|  | **Surveillance** | |
|  | Please explain whether and the extent to which academic staff and students, at all levels of education, are subject to surveillance by public authorities, for example through on-site cameras or online scrutiny. Has this led to undue restrictions to academic freedom and freedom of expression in educational institutions? | Here are some considerations related to surveillance in educational institutions in Malaysia:  1. Campus Security Measures:  Educational institutions, particularly higher education campuses, often implement security measures to ensure the safety of students, staff, and visitors. These measures may include the presence of security personnel, CCTV cameras, and other physical security measures.  2. Online Scrutiny:  In the context of online activities, educational institutions may have acceptable use policies governing the use of digital resources and online platforms. These policies could include guidelines for online behaviour and may be in place to maintain a positive and secure online learning environment.  3. Government Monitoring:  While Malaysia has laws related to national security and public order, there were no widespread reports of pervasive surveillance specifically targeting academic staff and students in educational institutions up to date.  4. Impact on Academic Freedom:  Surveillance, if perceived as intrusive or excessive, could potentially have implications for academic freedom and freedom of expression. The feeling of being under surveillance may create a chilling effect, leading individuals to self-censor or limit their expressions, which can impact the open exchange of ideas within academic settings.  5. Legal Protections:  The Malaysian constitution includes provisions related to freedom of speech and expression, and any surveillance activities that infringe upon these fundamental rights could be subject to legal scrutiny. However, the interpretation and application of these rights may be influenced by broader legal frameworks. |
|  | **Freedom of expression in teaching and access to books** | |
|  | Do teachers and professors, at all levels of education, enjoy freedom of expression in their own teaching? Are there any limitations imposed, such as remaining “neutral” or forwarding a particular perspective, e.g. on religious and political matters? | In Malaysia, teachers and professors generally have a degree of freedom of expression in their teaching, but there are certain limitations and considerations, particularly in areas that may be deemed sensitive, such as religious and political matters.  The extent of academic freedom for educators may vary depending on the level of education, institutional policies, and relevant laws.  Below are several key considerations:  1. Higher Education Institutions:  In universities and higher education institutions, there is generally an expectation that professors and lecturers have academic freedom in their teaching, research, and discussions. However, there may be some limitations, particularly in areas that are deemed sensitive or controversial.  2. Limitations on Topics:  Lecturers and professors, guided by personal consciousness, may opt to avoid discussions on certain topics that may not be in line with societal norms in Malaysia. This cautious approach is not a reflection of restrictions of freedom of expression, but rather to mitigate potential negative repercussions that might arise within the society, such as incitement by the public on social media platforms without understanding the full context of the discussion.  Academia may also be mindful of guidelines related to religious education, ensuring that teaching respects the diversity of Malaysia’s multicultural and multi-religious society.  3. Code of Conduct and Professional Ethics:  Lecturers and Professors are expected to adhere to a code of conduct and professional ethics. This code may include guidelines on maintaining professionalism, respecting diverse perspectives, and avoiding the promotion of personal biases in the classroom.  While academic freedom is generally upheld, it is important to recognise that there can be a delicate balance between academic freedom and societal or institutional expectations, especially in matters related to religion and politics.  Academia may navigate this balance by fostering critical thinking, respecting diverse perspectives, and adhering to ethical guidelines.  Changes in laws, policies, and societal norms can impact the landscape of academic freedom. Educators in Malaysia may also refer to institutional guidelines and codes of conduct to understand the specific expectations and limitations in their respective educational contexts. |
|  | Please explain the extent to which teachers and professors at different education levels can chose school manuals and other books/resources for teaching, and the reasons for any restriction in this regard. Have any specific books/materials been banned, including from school libraries, and alternatively is some material mandatory? If so, why? | In Malaysia, the selection of school manuals, textbooks, and teaching resources is generally guided by the national curriculum and educational policies. The Ministry of Higher Education (MoHE) plays a significant role in determining the curriculum and approving educational materials for use in colleges/ universities. While teachers and educators may have some flexibility in choosing supplementary materials, there are guidelines and restrictions in place to ensure alignment with national educational objectives and values. |