



JUNE 2018

# "NO POLITICS ON CAMPUS"

Violations of the  
Rights to Freedom  
of Expression,  
Peaceful Assembly,  
and Association  
Against University  
Students in Malaysia



FORTIFY  
RIGHTS



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Students in Malaysia**

## Cover:

Police block students and supporters from marching towards Parliament to deliver a memorandum calling for the repeal of the Universities and University Colleges Act (AUKU).

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**FORTIFY  
RIGHTS**

**Fortify Rights** works to ensure human rights for all. We believe in the influence of evidence-based research, the power of strategic truth telling, and the importance of working in close collaboration with individuals, communities, and movements pushing for change. Fortify Rights envisions a world where human rights and fundamental freedoms are recognized, respected, and realized for all people.



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▲ Student leaders Nur Aqilah and Anis Syafiqah, speaking at the *Tangkap MO1* rally on August 27, 2016.

©Alyaa Abdul Aziz Alhadjri, Malaysiakini, August 27, 2016

▲ Student activists hold placards at a public event to protest the alleged misappropriation of public funds by government officials.

©Lau Li Yang, October, 2016

# SUMMARY

*"[We will] continue to stand up for what is right as students ... We see this as a continuing fight for the future generations, not just for ourselves. We need to create a safe space for students to express themselves freely."*

—Mr. Mukmin Nantang, *Universiti Malaysia Sabah* student who faced disciplinary action for participating in the *Bersih 5* rally

*"How does the university expect us to be world class thinkers when our thoughts and voices are filtered?"*

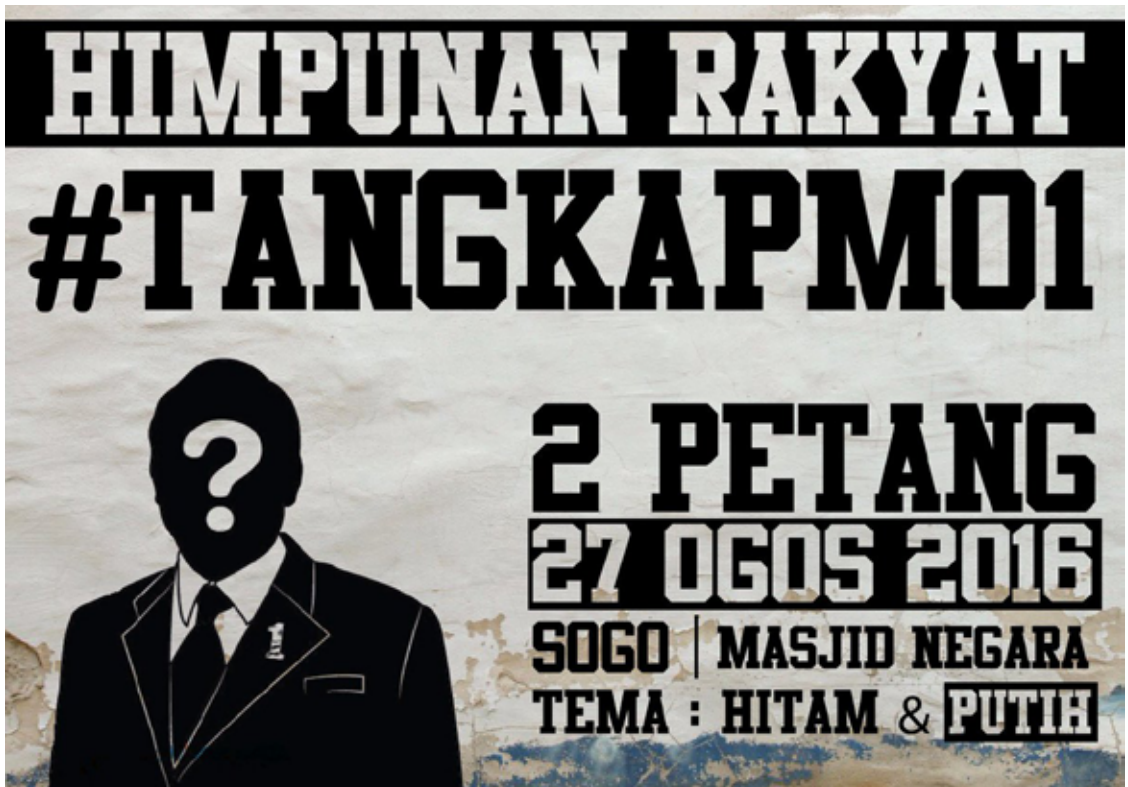
—Ms. Ming, 22-year-old *Universiti Malaya* student

**F**OR MORE THAN 45 years, Malaysian authorities and public universities have worked in concert to restrict the fundamental rights of university students. The former *Barisan Nasional* government enacted laws and rules to prevent students from engaging in political life and discourse, restricting their rights to freedom of expression, peaceful assembly, and association. The demonstrated aim of these restrictions was to prevent Malaysian students from challenging the political status quo.

This report documents recent violations of Malaysian university students' rights to freedom of expression, peaceful assembly, and association and exposes the laws and rules used to restrict their rights. Specifically, the Universities and University Colleges Act 1971 (AUKU) and the University (Discipline of Students) Rules 1999, referred to in this report as the Disciplinary Rules, contain explicit provisions to prevent students from engaging in otherwise lawful political activities.







Poster from the Special Affairs Department of the Prime Minister's Office announcing details and speakers at the "1MDB Townhall" held at the *Universiti Malaya* on October 11, 2016

©Lau Li Yang, October 11, 2016.



Digital poster expressing solidarity for student leaders Mukmin Nantang and Nur Aqilah, who faced disciplinary action for their involvement in the Bersih 5 rally in Sabah, East Malaysia

©Nurul Aqilah Mohamad Zanuzi, January 19, 2017.



- ◀ Digital poster in Malay announcing details for the Tangkap MO1 rally. Students shared the poster widely through social media during the weeks leading up to the rally

©Asheeq Ali, Tangkap MO1 Coalition, August 26, 2016

Since the 1970s, Malaysian authorities and universities have used AUKU and the Disciplinary Rules to silence student voices and limit student activism. On March 18, 1971, the ruling government under Tun Abdul Razak Hussein enacted AUKU to give the State control over universities and students who had become increasingly politically active and critical of the government. From 1975 to 2012, the former ruling government amended AUKU five times—initially increasing prohibitions on students’ activities on and off campus and imposing stiff penalties for violations, including potential imprisonment under the 1975 amendment. Later amendments in 2009 and 2012 removed prohibitions for off-campus activities and reduced penalties to expulsion and monetary fines, but key restrictions remained.

In 2010, four political science students from *Universiti Kebangsaan Malaysia* successfully argued before the Malaysian Court of Appeal that the prohibition on expressing support, sympathy, or opposition to a political party violated the Federal Constitution, which protects freedom of speech and expression. The Court of Appeal found in favor of the students.



Members of UMANY and other student activists, including student leaders Anis Syafiqah and Luqman Hakim, expressing solidarity with the “UMANY4” students facing disciplinary action for exercising free speech.

©Fortify Rights, March 7, 2017

“Universities should be the breeding ground of reformers and thinkers, and not institutions to produce students trained as robots,” said Judge Mohd Hishamudin Yunus in his ruling judgment. “Clearly the provision is not only counter-productive but repressive in nature.”

The court’s decision resulted in the last amendment to AUKU in 2012, which allows students to become members of societies, organizations, bodies, or groups or persons—including political parties—and to freely express support, sympathy, or opposition to them. But the law would not protect these freedoms if the groups are determined by a university’s Board of Directors to be “unsuitable to the interests and well-being of the students or the University.” The 2012 AUKU amendment still prohibited students from “being involved in political party activities within the campus.”

Dato’ Saifuddin Abdullah, then Deputy Minister of Higher Education who led the amendment process in 2012, told Fortify Rights that several ministers criticized him for the amendment that expanded students’ freedoms, but that former “Prime Minister Najib Razak eventually agreed on the amendment with the compromise of “no politics on campus.”

As a result, universities in Malaysia still wield extraordinary powers to control students’ activities anywhere—on campus or off campus—under the Disciplinary Rules. The Disciplinary Rules allow universities to discipline students for any activities considered “detrimental or prejudicial to the university or to public order, safety or security, morality, decency or discipline.” The Disciplinary Rules also restrict public assemblies on campus. University disciplinary committees can impose penalties ranging from a warning to expulsion.



Student leaders Luqman Hakim, Anis Syafiqah, and Asheeq Ali with their eight-member legal team and supporters following a trial hearing at the Kuala Lumpur High Court to challenge the constitutionality of AUKU and the Disciplinary Rules.

©Fortify Rights, May 19, 2017



*Bersih 5 rally participants in Kuala Lumpur, calling for free and fair elections in Malaysia.*

©Fortify Rights, November 19, 2016

This report analyzes nine cases of Malaysian universities disciplining students under AUKU and the Disciplinary Rules for exercising their rights to freedom of expression, peaceful assembly, and association from 2014 to 2017. In disciplinary proceedings documented in this report and commenced by *Universiti Malaya*, *Universiti Kebangsaan Malaysia*, and *Universiti Malaysia Sabah* between September 2016 and June 2017, the universities warned, fined, or suspended students for organizing and/or participating in off-campus public rallies, raising placards at university events, and organizing press conferences to discuss issues of concern to university students. In some cases, the Malaysian authorities called upon universities to take disciplinary action against specific students, and the universities complied.

The cases analyzed in this report are representative; however, many more students in Malaysia have faced penalties for exercising their basic freedoms beyond those analyzed.









In at least two cases documented in this report, university officials in 2016 cracked down on students for expressing concern about the notorious 1 Malaysia Development Berhad or 1MDB scandal, in which members of the former ruling government and their associates and families allegedly embezzled several billion dollars from a state-owned fund.

Today, however, historic changes are afoot in Malaysia. On May 9, 2018, the political opposition coalition, *Pakatan Harapan*, won the 14<sup>th</sup> General Elections in a landmark victory, ending six-decades of rule by *Barisan Nasional*, which had been in power since Malaysia gained independence from Britain in 1957. In its campaign materials, the new government vowed to “rebuild the nation.”

Former Prime Minister Tun Dr. Mahathir Mohamad—who saw through the 1975, 1983, and 1996 amendments to AUKU during his tenures as both the Minister of Education and Prime Minister—came out of retirement to lead the *Pakatan Harapan* coalition, and on May 10, 2018 he became Prime Minister again, adopting an unprecedented reform agenda.

In March, during the election campaign, *Pakatan Harapan* issued a manifesto entitled, “*Buku Harapan: Rebuilding Nation, Fulfilling Hopes*,” detailing 60 promises for reform. Among those promises is a commitment to amend AUKU.

“This is a manifesto that reflects the aspiration of the people,” wrote Prime Minister Tun Dr. Mahathir Mohamad in the foreword to the manifesto. “It was written based on inputs from the people for the people.”

This report, *"No Politics on Campus": Violations of the Rights to Freedom of Expression, Peaceful Assembly, and Association Against University Students in Malaysia*, is a testament to the importance of the new government's promise to amend AUKU and protect university students' rights. AUKU, the Disciplinary Rules, and disciplinary action by the universities named in this report violate rights protected by the Federal Constitution of Malaysia and international law, including the rights to freedom of expression, peaceful assembly, and association.

The Government of Malaysia should amend AUKU without delay and unlock the potential of Malaysian universities to contribute fully to the political life of the country.



**Anis Syafiqah**  
*Universiti Malaya*



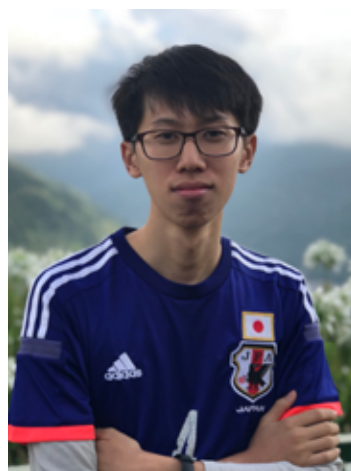
**Asheeq Ali**  
*Universiti Kebangsaan Malaysia*



**Chua Hun Ti**  
*Universiti Malaya*



**Ho Chi Yang**  
*Universiti Malaya*



**Lau Li Yang**  
*Universiti Malaya*



**Nur Aqilah**  
*Universiti Malaysia Sabah*



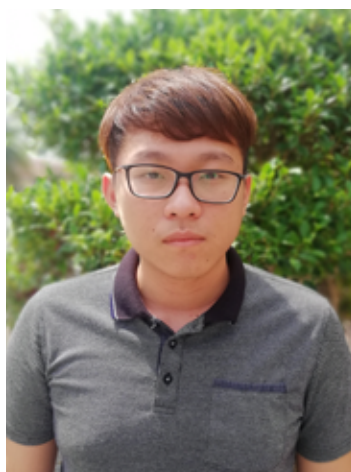
**Luqman Hakim**  
*Universiti Malaya*



**Mukmin Nantang**  
*Universiti Malaysia Sabah*



**Suhail Wan Azhar**  
*Universiti Malaya*



**Tan Jia You**  
*Universiti Malaya*

Student activists in Malaysia, profiled in this report, who faced violations of their rights to freedom of expression, peaceful assembly, and association.

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# METHODOLOGY

**F**ORTIFY RIGHTS INTERVIEWED more than 60 students and five academics at ten of the 20 public universities in Malaysia between November 2016 and June 2018.<sup>1</sup> Fortify Rights also interviewed the Co-Chair of the Malaysian Bar Council Human Rights Committee, five representatives of civil society organizations focused on human rights issues in Malaysia, two lawyers representing students facing disciplinary actions for exercising their rights, and the former Deputy Minister of Higher Education.

Fortify Rights conducted all interviews in English, Malay, or Mandarin Chinese. No one interviewed for this report received compensation, and all were informed of the purpose of the interview, its voluntary nature, and

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<sup>1</sup> Interviews for this report included students and academics from *Universiti Malaya*, *Universiti Kebangsaan Malaysia*, *Universiti Putra Malaysia*, *Universiti Teknologi Mara*, *Universiti Teknologi Malaysia*, *Universiti Sains Malaysia*, *Universiti Utara Malaysia*, *Universiti Malaysia Pahang*, *Universiti Malaysia Sarawak*, and *Universiti Malaysia Sabah*. For a list of all public universities in Malaysia, see, "Directory of Public Universities," Online Portal of the Ministry of Higher Education, <http://jpt.mohe.gov.my/index.php/ipta/institusi-pendidikan-tinggi-awam/direktori-universiti-awam> (accessed June 5, 2018). Some public universities in Malaysia are specialized institutions, such as the National Defense University of Malaysia, or *Universiti Pertahanan Nasional Malaysia* in Malay, which is a military training academy.

the ways that the information may be used. All provided informed consent. In the interests of security, the names of some interviewees and other identifying information are withheld.

Fortify Rights also obtained and analyzed copies of letters from the former Ministry of Higher Education to universities and from universities to students as well as court documents and media files, including videos. These documents and videos are catalogued and remain on file with Fortify Rights. Fortify Rights conducted desk research and reviewed historical documents and parliamentary debates on file at the National Archives of Malaysia relating to the development of AUKU. Fortify Rights also monitored student protests and rallies, including the *Bersih 5* rallies in Kuala Lumpur and Kuching that called for free and fair elections in Malaysia.

On June 9, 2018, Fortify Rights sent a letter to the Minister of Education Dr. Mazslee Malik summarizing the findings of this report and requesting a meeting to discuss potential solutions. The Attorney General of Malaysia Tommy Thomas, Chair of the Malaysian National Human Rights Commission (*Suruhanjaya Hak Asasi Manusia Malaysia* or “SUHAKAM” in Malay) Tan Sri Razali Ismail, Vice-Chancellor of *Universiti Malaya* Datuk Dr. Abdul Rahim Hj. Hashim, Vice-Chancellor of *Universiti Kebangsaan Malaysia* Professor Tan Sri Dato’ Seri Dr. Noor Azlan Ghazali, and Vice-Chancellor of *Universiti Malaysia Sabah* Datuk Dr. D. Kamaruddin D. Mudin were copied.

# BACKGROUND

*"Our government needs to realize that the more they impose fear of authoritative governance in the universities, the more students will retaliate."*

—Ms. Siti Aisyah, 22-year-old *Universiti Kebangsaan Malaysia* student

BACKGROUND

The Malaysian Parliament passed *Akta Universiti dan Kolej Universiti 1971* (AUKU) or the Universities and University Colleges Act on March 18, 1971, largely in response to increased student activism and student-led protests on university campuses during the late 1960s.<sup>2</sup> AUKU provided for the “establishment, maintenance and administration” of public universities and imposed restrictions on students, faculty, and others from having affiliations or doing anything that could be construed as “expressing support, sympathy or opposition to any political party or trade union ... or any unlawful body or group of individuals.”<sup>3</sup>

Students and opposition political parties quickly rose in unison to oppose AUKU, criticizing the government for undermining freedom of expression and peaceful assembly.<sup>4</sup> Students also ignored AUKU and continued to engage in political protests and rallies. For example, not long after AUKU’s enactment on June 14, 1971, more than 2,000 *Universiti Malaya* students held a demonstration against the Thai government’s oppression of Muslims in Patani, resulting in the arrest of 19 students and injury of 12 students by the police.<sup>5</sup>

To give AUKU further effect, the Malaysian Parliament passed an amendment on April 8, 1975 that increased restrictions on student activities both on and

2 Student activism in Malaysia escalated in the 1960s with students increasingly opposing government actions and calling for rights and protections. In 1967, students with the first university political club, the Socialist Club of *Universiti Malaya*, along with the *Universiti Malaya* Students Union (UMSU) and the *Universiti Malaya* Malay Language Society joined the Teluk Gong street protests in the state of Selangor to oppose the government’s eviction of residents from land occupied by the residents for generations. Two years later, in the months leading up to the May 1969 general elections, student rallies called for Prime Minister Tunku Abdul Rahman to step down because of his inability to resolve racial tensions in the country. These tensions led to mass race riots in Kuala Lumpur following Tunku Abdul Rahman’s reelection on May 10, 1969. Students continued to protest his reappointment until he eventually resigned on September 22, 1970. In 1968, police used tear gas for the first time against student protesters during a demonstration outside the Soviet Embassy in Kuala Lumpur to oppose the invasion of Czechoslovakia by the Soviet Union. On August 29, 1969, the police entered the *Universiti Malaya* campus to stop an anti-government demonstration for the first time, detaining UMSU President Syed Hamid Ali and several students. The rise of student activism led the National Operations Council—an emergency body formed to restore law and order after the race riots in 1969—to establish the Campus Investigative Committee in 1970. The Committee recommended the enactment of a law to regulate universities and student activities. Hasan Karim, *With the People! The Student Movement in Malaysia, 1967 – 74*, (Kuala Lumpur: Institute for Social Analysis, 1984), p. 1–7.

3 AUKU applies to universities and university colleges. For brevity, this report uses “university” to apply to both. The *Private Higher Educational Institutions Act 1996* [Act 555] governs private universities. Under section 5A of AUKU, the King of Malaysia is able to establish a university where AUKU would not apply. The King has never used this power. The bill for AUKU indicates that the 1971 enactment contained language derived from the *Emergency (Essential Powers) Ordinance* (No. 74) 1971 issued by the King of Malaysia. Laws of Malaysia, Act 30, Universities and University Colleges Act (AUKU), “Preamble,” 1971. See also, Tan Sri Dr. Tan Chee Khoo, *Official Report: House of Representatives*, Third Parliament, First Session, February 25, 1971, p. 256; Universities and University Colleges Bill, “Explanatory Statement,” March 9, 1971.

4 Karim, *With the People!*, p. 6.

5 *Ibid.*



off campus.<sup>6</sup> The amendment prohibited students from being members of or associating with a “society, political party, trade union or any other [group]” anywhere, unless provided for under the Constitution or approved by the Vice-Chancellor of the University.<sup>7</sup> The amendment imposed further restrictions on expressing support, sympathy, or opposition to any political parties or trade unions or support or sympathy for an “unlawful” group.<sup>8</sup> University groups were subject to similar prohibitions.<sup>9</sup>

At the time of the amendment, AUKU provided penalties of up to six months’ imprisonment and/or a maximum fine of 1,000 Malaysian Dollars (approximately US\$250), a substantial amount at the time.<sup>10</sup> Subject to exemption by the Minister of Education, students charged with any criminal offense faced immediate suspension and expulsion upon conviction or detention.<sup>11</sup> Any student suspended or expelled under AUKU could only be admitted to another university upon approval of the Minister of Education.<sup>12</sup>

A 2009 amendment retained restrictions on student engagement with or commentary on political parties but reduced restrictions on student membership and support of other groups that are “unlawful” or that the Minister has specified in writing to be “unsuitable to the interests and well-being of the University.”<sup>13</sup> The 2009 amendment also replaced criminal penalties with disciplinary penalties imposed by the Vice-Chancellor under the Disciplinary Rules.<sup>14</sup> Under this amendment, the Vice-Chancellor had discretion to discipline students charged with criminal offenses or detained.<sup>15</sup>

6 Universities and University Colleges (Amendment Act No. A295), 1975. See also, Meredith Weiss, *Still with the People? The Checkered Path of Student Activism in Malaysia*, (London: School of Oriental and Asian Studies, 2005), p. 18.

7 For brevity this report uses the term “group” where AUKU refers to an “organization, body or group of persons.” AUKU, section 15(1), amended by AUKU (Amendment Act A295) 1975, section 2.

8 AUKU, section 15(3), amended by AUKU (Amendment Act A295) 1975, section 2.

9 Under AUKU, any office-bearer or person managing or assisting in the management of a group could be held responsible for an offense carried out in the name of that group unless they are able to show the offense was committed without their knowledge and they exercised due diligence to prevent its commission. AUKU imposed other prohibitions on students and university groups collecting money or other property. AUKU, sections 15A, 15B(1), 15(2), and 15(4), amended by AUKU (Amendment Act A295) 1975, section 3.

10 AUKU, sections 15(5) and 15A(2), amended by AUKU (Amendment Act A295) 1975, section 3.

11 AUKU, section 15D, amended by AUKU (Amendment Act A295) 1975, section 2. This includes the imposition of any “preventative detention” or “internal security” order.

12 AUKU, section 15D, amended by AUKU (Amendment Act A295) 1975, section 3. Failure to comply with a suspension or expulsion decision by re-entering the university campus was an offense punishable by up to six months’ imprisonment and/or a maximum fine of 1,000 Malaysian Dollars (US\$250). AUKU, section 15D(6), amended by AUKU (Amendment Act A295) 1975, section 3.

13 AUKU, section 15(1), (2), and (5), amended by AUKU (Amendment Act A1342) 2009, section 8.

14 AUKU, section 15(7), amended by AUKU (Amendment Act A1342) 2009, sections 8 and 9. Section 15A(2) also replaced the criminal penalties for collecting money with disciplinary action. AUKU, section 15B, amended by AUKU (Amendment Act A1342) 2009, section 10.

15 AUKU, section 15D, amended by AUKU (Amendment Act A1342) 2009, section 12.

In 2010, four political science students—Mr. Mohammad Hilman Idham, Mr. Woon King Chai, Mr. Muhammad Ismail Aminuddin, and Ms. Azlin Shafina Adza—from the *Universiti Kebangsaan Malaysia* successfully argued before the Malaysian Court of Appeal that the prohibition on expressing support, sympathy, or opposition to a political party violated Article 10(1)(a) of the Federal Constitution, which protects freedom of speech and expression.<sup>16</sup> The Court of Appeal found that the restriction was not “reasonable” because there was no conceivable impact on public order or public morality.<sup>17</sup> In reaching his decision, Judge Mohd Hishamudin Yunus said:

In my opinion such a provision as section 15(5)(a) of the [AUKU] impedes the healthy development of the critical mind and original thoughts of students—objectives that seats of higher learning should strive to achieve. Universities should be the breeding ground of reformers and thinkers, and not institutions to produce students trained as robots. Clearly the provision is not only counter-productive but repressive in nature.<sup>18</sup>

The decision resulted in a final amendment to AUKU in 2012, allowing students to become members of societies, organizations, bodies, or groups or persons, including political parties, and to express support, sympathy or opposition to them provided that universities’ Boards of Directors do not find the groups “unsuitable to the interests and well-being of the students or the University.”<sup>19</sup> The amendment retained a prohibition on “being involved in political party activities within the campus.”<sup>20</sup> In an interview with Fortify Rights, Dato’ Saifuddin Abdullah, the former Deputy Minister of Higher Education who led the 2012 amendment process, said several ministers criticized him for the amendment but that former “Prime Minister Najib Razak eventually agreed on the amendment with the compromise of “no politics on campus.”<sup>21</sup>

<sup>16</sup> *Muhammad Hilman Bin Idham & Ors v Kerajaan Malaysia & Ors*, Putrajaya Court of Appeal, MLJU 770, Judgment (Appeals), October 31, 2011, p. 1–2.

<sup>17</sup> *Ibid.*, p. 2–3.

<sup>18</sup> *Ibid.*, p. 3.

<sup>19</sup> AUKU, sections 15(2)(a), (b), and (3), amended by AUKU (Amendment Act A1433) 2012, section 5.

<sup>20</sup> However, students are permitted to make statements on academic matters relating to subjects they study or research as well as express themselves at events that are not organized or sponsored by unlawful bodies or bodies determined “unsuitable to the interests and well-being of students.” AUKU, sections 15(2)(c) and 15(4), amended by AUKU (Amendment Act A1433) 2012, section 5.

<sup>21</sup> Fortify Rights interview with Dato’ Saifuddin Abdullah, Chief Secretary of the *Pakatan Harapan* and former Deputy Minister of Higher Education, Selangor, Malaysia, December 21, 2016.

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## Universities and University Colleges Act (Amendment), 2012<sup>22</sup>

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### **15. Activities of students or students' society, organization, body or group<sup>3</sup>. General prohibitions**

**(1)** Subject to subsection (2), a student of the University may become a member of any society, organization, body or group of persons, whether in or outside Malaysia, including any political party.

**(2)** A student of the University shall not –

**(a)** become a member of any political or any unlawful society, organization, body or group of persons, whether in or outside Malaysia.

**(b)** become a member of any society, organization, body or group of persons, not being a political party, which the Board determines to be unsuitable to the interest and well-being of the students or the University; or

**(c)** be involved in political party activities within the Campus.

**(3)** A student of the University and any society, organization, body or group of students of the University which is established by, under or in accordance with the Constitution, shall not express or do anything which may reasonably be construed as expressing support for or sympathy with or opposition to –

**(a)** any unlawful society, organization, body or group of persons, whether in or outside Malaysia; or

**(b)** any society, organization, body of persons which the Board determines to be unsuitable to the interests and well-being of the students or the Universit

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Despite the 2012 amendment, AUKU continues to give universities extraordinary control over students' activities on and off campus through their residual power to “regulate the activities of students and a society, an organization, a body or group of students ... within the campus” and enact disciplinary rules as the disciplinary board “deems expedient or necessary” and “create disciplinary offenses ... and punishments as the Board may deem appropriate.”<sup>23</sup> Under this power, in 1999, Malaysian public universities enacted a uniform set of

.....  
<sup>22</sup> AUKU (Amendment Act A1433) 2012.

<sup>23</sup> AUKU, section 15(5), amended by AUKU (Amendment Act A1433) 2012, section 5; AUKU, section 16C, amended by AUKU (Amendment Act A295) 1975, section 5.

disciplinary rules to regulate the activities of students. Universities established after 1999 adopted the same disciplinary rules without amendment.

The Disciplinary Rules prohibit on-campus assemblies of five or more persons as well as off-campus conduct considered “detrimental or prejudicial to the interests, well-being or good name of the University, any of the students, staff, officers, or employees of the University, or to public order, safety or security, morality, decency or discipline.” The rules also vaguely prohibit organizing, carrying out, or participating in activities that have “a direct adverse effect on the University or which is prejudicial to the interests of the University.”<sup>24</sup>

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## University (Discipline of Students) Rules, 1999<sup>25</sup>

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\* \* \*

### PART II: GENERAL DISCIPLINE

\* \* \*

#### 3. General prohibitions

A student shall not—

- (a) conduct himself, whether within the Campus or outside the Campus, in any manner which is detrimental or prejudicial-- (i) to the interests, well-being or good name of the University, any of the students, staff, officers, or employees of the University; or (ii) to public order, safety or security, morality, decency or discipline;
- (b) violate any provision of any written law, whether within the Campus or outside the Campus;
- (c) disrupt or in any manner interfere with, or cause to be disrupted or in any manner interfered with, any teaching, study, research, administrative work, or any activity carried out by or under the direction of or with the permission of the University;

\* \* \*

#### 9. Organizing assemblies

- (1) No student, organization, body or group of students shall, without the prior permission of the Vice-Chancellor, hold, organize, convene or call, or cause to be held,

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<sup>24</sup> *Universiti Malaya* (Discipline of Students) Rules, 1999, rules 3, 13, and 9.

<sup>25</sup> Disciplinary Rules, rules 3, 9, 11, and 13.

organized, convened or called, or be, in any manner, involved in holding, organizing, convening or calling, or in causing to be held, organized, convened or called, or be, in any manner, involved in doing any act towards holding, organizing, convening or calling, any assembly of more than five persons in any part of the Campus or on any land or in any building belonging to or under the possession or control of the University or used for the purposes of the University.

\* \* \*

## **10. Loudspeakers**

(1) No student, organisation, body or group of students shall own, or use, or have in his or its possession, custody or control, for public address purposes, any loudspeaker, loudhailer, amplifier, or other similar appliance without the prior approval of the Vice-chancellor.

\* \* \*

## **11. Banners**

No student, organization, body or group of students, shall--

- (a) make or cause to be made or do any act towards making or causing to be made;
- (b) fly, exhibit, display or in any manner make use of, or cause to be flown, exhibited, displayed or in any manner made use of; or
- (c) own or have in his or its possession, custody or control, any flag, banner, placard, poster, emblem or other device which is conducive to the promotion of indiscipline, disorder, disobedience or contravention of these Rules.

## **12. Publication, etc., of documents**

(1) No student, organisation, body or group of students, without the prior permission of the Vice-Chancellor, shall publish, distribute or circulate any document within the Campus or outside the Campus.

(2) In granting the permission under subrule (1), the Vice-Chancellor may impose such restrictions, terms or conditions as he may deem necessary or expedient.

(3) The permission required under this rule shall be in addition to any licence, permit or any other form of authorization which may be required under any other written law.



### 13. Student's activities outside Campus

(1) No student, organization, body or group of students, shall organize, carry out or participate in any activity outside the Campus which has a direct adverse effect on the University or which is prejudicial to the interests of the University.

In accordance with AUKU, public university Vice-Chancellors delegated their authority under the Disciplinary Rules to impose disciplinary punishments and suspend or dissolve on-campus bodies to a Disciplinary Committee administered by the Head of Student Affairs and Alumni Department or the *Jabatan Hal-ehwal Pelajar dan Alumni* within each university.<sup>26</sup> The Disciplinary Committee wields power to punish students with a warning, a maximum fine of 200 Malaysian Ringgit (US\$50), exclusion from areas of the University for a specified period, suspension for a specified period, and/or expulsion for a violation of AUKU or Disciplinary Rules.<sup>27</sup> Students who are disciplined may also be barred from participating in university activities, contesting campus elections, and staying in residential colleges.<sup>28</sup> Upon graduation, any disciplinary infringement is listed on a student's academic record, which may have an adverse effect on future employment prospects.<sup>29</sup> Any student who fails to appear after being called before the Disciplinary Committee for an alleged infraction is automatically suspended until they appear at a later time specified by the Committee.<sup>30</sup>

The government under *Barisan Nasional* controlled Malaysia since its independence in 1957 and for decades exerted control over universities, exercising direct and indirect power to discipline students.<sup>31</sup> In addition to a number of administrative controls, the Minister of Education (subsequently the Minister of Higher Education) appoints the Vice Chancellors of Malaysia's public universities, who in turn hold disciplinary power and are authorized to determine whether an expelled or suspended student may be admitted to another university.<sup>32</sup> The Minister of Higher Education also has the power to appoint a majority of a university's Board of Directors, which in turn has the

<sup>26</sup> AUKU, section 16B(1).

<sup>27</sup> AUKU, sections 16 and 16B(1), amended by AUKU (Amendment Act A295) 1975, section 4.

<sup>28</sup> *Universiti Malaya Student Representative Council, Rules and Regulation Handbook*, 2017/2018 Council Session, rule 13(1)(c).

<sup>29</sup> Disciplinary Rules, rule 62(1).

<sup>30</sup> Disciplinary Rules, rule 50.

<sup>31</sup> Damien Kingsbury, *Politics in Contemporary Southeast Asia: Authority, Democracy and Political Change*, (London: Taylor and Francis, September 13, 2016), p. 70–72.

<sup>32</sup> AUKU, section 3, which says, "The Minister shall, subject to the provisions of this Act, be responsible for the general direction of higher education and the administration of this Act

power to determine the lawfulness of political parties on campus.<sup>33</sup>

As discussed in this report, Malaysian universities use AUKU and the Disciplinary Rules to repress free speech and engagement in peaceful assemblies both on and off campus, at times upon the explicit direction of the Ministry of Higher Education or upon receipt of information from the Royal Malaysian Police or *Polis Diraja Malaysia*, who inform universities when students are under investigation.<sup>34</sup> Commenting on AUKU following its enactment, then Minister of Education Tun Hussein Onn said it was “not intended to prevent students in their individual capacity from having or expounding their personal political views.”<sup>35</sup> However, the implementation of AUKU and impacts on students’ political engagement tells a different story.

which shall be in accordance with the national policies, strategies and guidelines on higher education formulated or determined by an authority established under any written law for such purposes.” On October 1, 1995, the Malaysian government established the Department of Higher Education under the Ministry of Education to oversee the development of both public and private higher education in Malaysia. On March 27, 2004, the government separated the Department of Higher Education from the Ministry of Education and reestablished it as the Ministry of Higher Education, a full ministry under the purview of a Federal Minister. In May 2013, former Prime Minister Najib Razak announced the merger of two ministries into a single Ministry of Education. However, in July 2015, the government again split the Ministry of Higher Education from the Ministry of Education following a cabinet reshuffling. At the time of writing, it is unclear if the new *Pakatan Harapan* government will maintain the Ministry of Higher Education or merge its responsibilities within the Ministry of Education. See also, Study Malaysia, “The Malaysian Higher Education System – An Overview,” website, March 14, 2015, <https://www.studymalaysia.com/education/higher-education-in-malaysia/the-malaysian-higher-education-system-an-overview> (accessed June 7, 2018).

<sup>33</sup> AUKU, sections 13–14, schedule 1 holds that “Members of the Board of Directors—comprised of a Chairman, the Vice-Chancellor, two public servants, one community representative, one professor elected by the Senate, three people from the private sector, one alumni and one other person from within the university, are appointed by the Minister for a term of three years.” See also, AUKU, section 15(3), amended by AUKU (Amendment Act A1433) 2012, section 5.

<sup>34</sup> AUKU, section 4, which says, “For the purpose of enabling more effective discharge of the Minister’s responsibility for higher education and the administration of this Act, the Minister may, from time to time, appoint any person or body to investigate into any of the activities or the administration of any higher educational institution and to report to him the result of such investigation with recommendations relating thereto.” See also, AUKU, sections 15D(5) and (6).

<sup>35</sup> Federal Gazette, House of Representatives, *Universities and University Colleges Bill*, Hansard, DR Deb. 1/14, March 17, 1971, p. 1465–1466.



# I. HUMAN RIGHTS VIOLATIONS

**I**N 2016 AND 2017, Fortify Rights investigated cases of students in Malaysian public universities disciplined under AUKU and the Disciplinary Rules for their political activism both on and off campus.<sup>36</sup> Between September 2016 and June 2017, the *Universiti Malaya*, *Universiti Kebangsaan Malaysia*, and *Universiti Malaysia Sabah* commenced disciplinary proceedings against students for their participation in events in which they expressed political views about the ruling government or matters within their University.<sup>37</sup> Through student testimonies and court records, the following chapter documents restrictions on the students' freedom of speech and assembly through disciplinary action by Malaysian universities. This chapter also illustrates similar cases prior to the cases investigated by Fortify Rights.

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<sup>36</sup> The cases analyzed in this report are representative; however, many more students in Malaysia have faced penalties for exercising their basic freedoms beyond those analyzed.

<sup>37</sup> Kate Mayberry, "'Why Should We be Afraid?' 1MDB Scandal Awakens Fighting Spirit in Malaysian Students," *SEA-GLOBE*, February 13, 2017, <http://sea-globe.com/in-response-to-endemic-corruption-malaysian-youth/> (accessed November 19, 2017).

HUMAN RIGHTS VIOLATIONS

## RESTRICTIONS ON THE RIGHT TO FREEDOM OF EXPRESSION

### Holding Placards at a “1MDB Townhall” Event

In 2015, news broke that billions of dollars were allegedly embezzled from a state-owned Malaysian investment fund called 1 Malaysia Development Berhad, or 1MDB. The 1MDB scandal implicated former Prime Minister Dato Seri Mohammad Najib Tun Abdul Razak, members of his family, and associates. The United States Department of Justice filed lawsuits to seize more than US\$1 billion in assets believed to be stolen from the fund and laundered in the U.S., including expensive real estate in New York and California, expensive artwork, and financing for the Hollywood film *The Wolf of Wall Street*.<sup>38</sup> In what was described as the “largest single action ever brought” by the U.S. Department of Justice, the lawsuit alleged that a “high-ranking official in the Malaysian government” identified as Malaysian Official 1, or MO1—widely believed to be former Prime Minister Najib Razak—personally received US\$681 million from the state-owned fund.<sup>39</sup> The legal action alleges that up to US\$6 billion may have been stolen from the Malaysian people and laundered through the U.S.<sup>40</sup> Other investigations have begun around the world.

Former Prime Minister Najib Razak and the previous government of Malaysia consistently denied the allegations.<sup>41</sup> To deal with domestic fallout from the scandal, the Special Affairs Department of the Prime Minister’s Office held events at selected Malaysian public universities, dubbed “1MDB Townhall,” to discuss the lawsuit filed by the U.S. Department of Justice.<sup>42</sup>

On October 11, 2016, the Special Affairs Department of the Prime Minister’s Office held a “1MDB Townhall” at the *Universiti Malaya*. The University of Malaya Association of New Youth (UMANY)—a student movement that strives for the restoration of campus and student autonomy and advocates for democracy and equality across all universities in Malaysia—requested to invite

<sup>38</sup> The Department of Justice claims various people embezzled hundreds of million dollars from the fund during three “phases.” *United States of America v “The Wolf of Wall Street” Motion Picture*, United States District Court for the Central District of California (Complaint), 18 U.S.C. § 981(a)(1)(A) & (C), July 20, 2016, <https://www.justice.gov/archives/opa/page/file/877166/download> (accessed June 7, 2018).

<sup>39</sup> The Department of Justice claims various people embezzled hundreds of million dollars from the fund during three “phases.” *“The Wolf of Wall Street” Motion Picture*, 18 U.S.C. § 981(a)(1)(A) & (C).

<sup>40</sup> Edward Helmore, “Wolf of Wall Street Film Linked to Money ‘Stolen from Malaysian Fund,’ US Claims,” *The Guardian*, July 21, 2016, <https://www.theguardian.com/world/2016/jul/20/us-justice-department-1mdb-fund-seizure-fraud-investigation> (accessed June 7, 2018).

<sup>41</sup> “Everything is Going to be Okay in the End – Axed Apandi’s Response,” *Malaysiakini*, June 5, 2018, <https://www.malaysiakini.com/news/428341> (accessed June 5, 2018).

<sup>42</sup> Ministry of Communications and Multimedia, Special Affairs Department, *Townhall JASA: Jelajah Isu Ansuran JASA Malaysia*, <http://www.jasa.gov.my/bm/public/kandungan-popular/24-tender/343-townhall-jasa-jelajah-isu-anjuran-jasa-malaysia.html> (accessed November 19, 2017).



then opposition Member of Parliament Tony Pua to speak at the event. The organizers rejected the request, foreshadowing the nature of the event.<sup>43</sup> Arul Kanda, 1MDB's Chief Executive Officer, and Tun Faisal Ismail Aziz, Director of Strategic Communications of the Special Affairs Department, spoke at the *Universiti Malaya* event.<sup>44</sup> University officials attempted to incentivize students to attend the event, telling them that they would be given "merit marks" for attendance.<sup>45</sup>

The first speaker, Arul Kanda explained how the government used 1MDB funds, saying they "did not make a loss by investing [the] public funds."<sup>46</sup> He did not directly address allegations of embezzlement. During the question-and-answer session following the presentation, UMAN students asked Arul about the identity of "MO1" and the involvement of Prime Minister Najib Razak's stepson Riza Aziz, who was implicated in the U.S. lawsuit. Arul refused to answer, saying the questions were irrelevant.<sup>47</sup>

Four students affiliated with UMAN—Mr. Ho Chi Yang, 22, Mr. Lau Li Yang, 22, Mr. Tan Jia You, 21, and Ms. Chua Hun Ti, 23, now known as "the UMAN4"—stood up towards the end of the question-and-answer session with Arul Kanda and held placards that read "*Mahasiswa mahu jawapan*" ["Students want answers"], "*1MDB jangan spin*" ["Do not spin the facts of 1MDB"], "*1MDB We Want Answers*," and "*1MDB pulangkan duit rakyat*" ["1MDB, return the people's money"].

Five personnel from the Special Affairs Department forcefully pulled down the student's placards, eventually confiscating them.<sup>48</sup> Recalling the incident, one of the students involved, Li Yang, told Fortify Rights:

I stood up and shouted "*Siapa MO1? Siapa MO1?*" ["Who is MO1? Who is MO1?"]. Chi Yang, Jia You, Hun Ti, and I then stood up and raised our placards. [The Special Affairs Department officials] immediately came towards us and tore off our placards and urged us to sit down. They even pulled my shirt and pants to force me to sit down. Our friend Ching Siew's phone was also snatched by them, and she was told to delete

<sup>43</sup> University officials did allow Syed Saddiq Abdul Rahman, leader of the youth wing of the Malaysian United Indigenous Party or *Parti Pribumi Bersatu Malaysia* (PPBM) to attend the 1MDB Townhall event after initially telling him it was a student-only event. Fortify Rights interview with Ho Li Yang, Selangor, Malaysia, February 14, 2017.

<sup>44</sup> Fortify Rights interviews with Ho Li Yang and Kon Hua En, Selangor, Malaysia, February 14, 2017.

<sup>45</sup> The accrual of merit marks affects students' qualification to hold certain positions in their respective residential colleges and clubs and are reflected on their final academic transcript. Fortify Rights interview with Ho Li Yang, Selangor, Malaysia, February 14, 2017; *Universiti Malaya* "The Division of Students Merit," website, <http://www.hepa.um.edu.my/kolej-kediaman-bestari-kk4/college-rules/merit> (accessed June 7, 2018).

<sup>46</sup> Fortify Rights interview with Ho Li Yang, Selangor, Malaysia, February 14, 2017.

<sup>47</sup> *Ibid.*

<sup>48</sup> Video 1 of 1MDB Townhall event, October 11, 2016, 0:26 – 2:03 minutes.

the photos or video taken when we raised our placards. The students just watched anxiously, and some used their phones to record what the [Special Affairs Department] staff had done.<sup>49</sup>

The *Universiti Malaya* sent “show cause” letters to the UMANY4 on November 1, 2016, stating that the students created “a situation of indiscipline and disruption,” “destroyed public order, decency and discipline,” and interfered in an official event when they raised their placards.<sup>50</sup> *Universiti Malaya* alleged that the students’ actions violated Disciplinary Rule 3(a)(ii), which prohibits conduct that is “detrimental or prejudicial to public order, safety or security, morality, decency or discipline;” Rule 3(f), which prohibits boycotting of any “legitimate activity carried out by or under the direction, or with the permission, of the University;” and Rule 11(b), which prohibits students from exhibiting “any flag, banner, placard, poster, emblem or other device which is conducive to the promotion of indiscipline, disorder, disobedience or contravention of these Rules.”<sup>51</sup> On February 22, 2017, the *Universiti Malaya*’s Disciplinary Committee subsequently amended the alleged violation from Rule 3(f) to Rule 3(c), which prohibits the disruption or interference with “any activity carried out by or under the direction of or with the permission of the University.”<sup>52</sup>

Li Yang of the UMANY4 told Fortify Rights, “Raising placards is a means to protest [and is our] basic human right as citizens of Malaysia.”<sup>53</sup> On January 11, 2017, by a letter signed by Associate Professor Datin Dr. Hasmah Zanuddin, *Universiti Malaya*’s Disciplinary Committee called the UMANY4 to appear before the Disciplinary Committee from March 7 to 31.<sup>54</sup> On March 6, 2017, Ho Chi Yang asked the *Universiti Malaya* to provide clarification of the charges against the UMANY4, all evidence that would be relied upon during the proceedings, a list of names of the panel members on the Disciplinary Committee, and a list of expected witnesses to be called during the hearing.<sup>55</sup> He did not receive a response.<sup>56</sup>

49 Fortify Rights interview with Ho Li Yang, Kuala Lumpur, Malaysia, November 7, 2017.

50 Letters from *Universiti Malaya* to Ho Chi Yang, Lau Li Yang, Tan Jia You, and Chua Hun Ti, November 9, 2016.

51 Disciplinary Rules, rules 3(a)(i), (f), and 11(b).

52 *Ho Chi Yang & Ors v Student Disciplinary Appeal Committee, Universiti Malaya*, High Court of Kuala Lumpur, WA-25-213-08/2017, Judicial Review (Affidavit in Support), August 16, 2017, para 23. See also, Disciplinary Rules.

53 Fortify Rights interview with Li Yang, Selangor, Malaysia, February 14, 2016.

54 *Universiti Malaya* scheduled Ho Chi Yang’s hearing on March 7, Lau Li Yang’s hearing on March 14, Tan Jia You’s hearing on March 28, and Chua Hun Ti’s hearing on March 31. Letters from *Universiti Malaya* to Ho Chi Yang, Lau Li Yang, Tan Jia You, and Chua Hun Ti, January 11, 2017; Letters from *Universiti Malaya* to Ho Chi Yang, Lau Li Yang, Tan Jia You, and Chua Hun Ti, February 21, 2017.

55 *Ho Chi Yang & Ors*, WA-25-213-08/2017, Judicial Review (Affidavit in Support), para 24.

56 The Disciplinary Committee panel included Associate Professor Datin Dr. Hasmah Zanuddin as the Chair and Dr. Mohamad Azam Ismail and Dr. Rafidah Agaa Mohd Jaladin as members. Final year law student Kalaivanaan Murthy represented Ho Chi Yang. *Ibid.*, para 25.

During Ho Chi Yang's hearing on March 7, 2017, UMAN4 students held a press conference to protest the university's actions.<sup>57</sup>

Between March 14 and April 6, 2017, the *Universiti Malaya* held that the UMAN4 violated the Rules when they held up their placards because they "led an uncertain and chaotic situation."<sup>58</sup> They fined Lau Li Yang 600 Malaysian Ringgit (US\$150), Ho Chi Yang and Chua Hun Ti 300 Malaysian Ringgit (US\$70) each, and Tan Jia You 150 Malaysian Ringgit (US\$35).<sup>59</sup> The *Universiti Malaya* also issued a warning to each of the UMAN4 students.<sup>60</sup>

On April 5, 2017, UMAN4 issued a press release claiming that the proceedings were "flawed and unjust."<sup>61</sup> Lau Li Yang told Fortify Rights:

The proceedings contained a lot of mistakes and were conducted unprofessionally by the hearing panels. [The *Universiti Malaya* students representing us] were stopped several times from defending us by the panels during the proceeding ... [T]he appeal by Tan Jia You was rejected. The reason given by the university was that his petition was not submitted within 14 days [although] credible law lecturers confirmed that his appeal was submitted in time.<sup>62</sup>

The UMAN4 students appealed the decision on March 28 and April 14 and presented arguments before the *Universiti Malaya* Student Disciplinary Appeal Committee between May 7 and June 7, 2017.<sup>63</sup> The *Universiti Malaya* Disciplinary

<sup>57</sup> Fortify Rights interviews with Lau Li Yang, Anis Syafiqah, and Ho Chi Yang, Selangor, Malaysia, March 7, 2018.

<sup>58</sup> *Ho Chi Yang & Ors*, WA-25-213-08/2017, Judicial Review (Affidavit in Support), para. 50.7; *Ho Chi Yang & Ors v Student Disciplinary Appeal Committee, Universiti Malaya*, High Court of Kuala Lumpur, WA-25-213-08/2017, Judicial Review (Applicants' Outline Submission), December 4, 2017, paras. 56, and 58. Ho Chi Yang's affidavit in support of his application for judicial review states that the university made the decision on the basis that the students had "other options of expressing [their] dissatisfaction and chose to resort to an act which in some way left an impact on the organisers of the event." Written decision from *Universiti Malaya* to Ho Chi Yang, March 14, 2017; Written decision from *Universiti Malaya* to Lau Li Yang, March 23, 2017; Written decision from *Universiti Malaya* to Tan Jia You, March 31, 2017; and Written decision from *Universiti Malaya* to Chua Hun Ti, April 6, 2017.

<sup>59</sup> Written decision from *Universiti Malaya* to Ho Chi Yang, March 14, 2017; Written decision from *Universiti Malaya* to Lau Li Yang, March 23, 2017; Written decision from *Universiti Malaya* to Tan Jia You, March 31, 2017; and Written decision from *Universiti Malaya* to Chua Hun Ti, April 6, 2017.

<sup>60</sup> *Ibid.*

<sup>61</sup> University of Malay New Youth Association, "Four UM Students Received Stern Warning and Fines Over 1MDB Protest," *Universiti Malaya New Youth Association Facebook Page*, April 5, 2017, <https://www.facebook.com/umany2001/posts/1481522411878313:0> (accessed November 19, 2017).

<sup>62</sup> Fortify Rights interview with Lau Li Yang, Kuala Lumpur, Malaysia, May 17, 2017.

<sup>63</sup> Ar. Saifuddin Ahmad, Professor Goh Kim Leng, and Dato Seri Othman Zainal Azmi conducted the appeal hearings. Petitions of Appeal from Lau Li Yang, Chua Hun Ti, and Ho Chi Yang to *Universiti Malaya's* Student Disciplinary Appeal Committee, March 28, 2017; Petition of Appeal from Tan Jia You to *Universiti Malaya's* Student Disciplinary Appeal Committee, April 14, 2017.

Appeal Committee upheld the decision of the Disciplinary Committee but revoked the imposition of fines.<sup>64</sup> The Appeal Committee did not provide detailed reasons for their decision and rejected Ho Chi Yang's request for a copy of the appeal-hearing transcript.<sup>65</sup>

On August 17, 2017, the UMAN4 filed an application in the High Court of Kuala Lumpur for judicial review of their case.<sup>66</sup> The students explained to the Disciplinary Appeal Committee that they believed the misappropriation of public funds was linked to the government's higher education budget cuts in 2016.<sup>67</sup> In a hearing on December 4, 2017, the UMAN4 argued that *Universiti Malaya* violated their rights to freedom of expression and assembly by disciplining them for engaging in a peaceful protest.<sup>68</sup> During the appeal, they argued that the disciplinary action violated Article 10(1)(a) and (b) of the Federal Constitution of Malaysia, which protect every citizen's rights to "freedom of speech and expression" and "the right to assemble peacefully and without arms," respectively.<sup>69</sup> The UMAN4 students also argued that the hearings violated Rule 53 of the Disciplinary Rules, which requires the Vice-Chancellor to summon witnesses to a Disciplinary Committee hearing; however, in the UMAN4 case, the Disciplinary Committee allegedly summoned the witnesses.<sup>70</sup> The students also alleged that the Disciplinary Committee violated Disciplinary Rule 54, which requires students to give evidence after the Committee has heard all evidence against the student.<sup>71</sup> According to the UMAN4, the Disciplinary Committee acted as "investigator, prosecutor and adjudicator" and with bias by requiring the students to submit evidence to defend themselves before determining that there was a basis for the case and that the Disciplinary Committee acted "irrationally," "unreasonably," and "arbitrarily" in reaching their conclusion.<sup>72</sup>

64 Letters from *Universiti Malaya* to Lau Li Yang, Chua Hun Ti, and Ho Chi Yang, May 17, 2017; Letters from *Universiti Malaya* to Tan Jia You, June 7, 2017.

65 *Ho Chi Yang & Ors*, WA-25-213-08/2017, Judicial Review (Affidavit in Support), para 45.

66 Fortify Rights interview with Ho Li Yang, Kuala Lumpur, Malaysia, August 18, 2017.

67 *Ho Chi Yang & Ors*, WA-25-213-08/2017, Judicial Review (Affidavit in Support), para 13.

68 Rule 54 provides that a student shall be invited to give evidence after the Disciplinary Committee has heard all evidence against the student and determined that they have a case to answer, but according to the UMAN4, the Disciplinary Committee asked them to testify during the presentation of evidence against them and before the Committee determined they had a case to answer. *Ho Chi Yang & Ors*, WA-25-213-08/2017, Judicial Review (Applicants' Outline Submission), paras. 9.11-9.12; *Ho Chi Yang & Ors*, WA-25-213-08/2017, Judicial Review (Affidavit in Support), para 50.1.

69 *Ibid.*

70 *Ibid.*

71 *Ibid.*

72 *Ho Chi Yang & Ors*, WA-25-213-08/2017, Judicial Review (Applicants' Outline Submission), para 59; *Ho Chi Yang & Ors*, WA-25-213-08/2017, Judicial Review (Affidavit in Support), para 50.1.



On February 27, 2018, High Court Judge Azizah rejected the *Universiti Malaya*'s decision on the basis that the university did not comply with Rule 54 of the Disciplinary Rules.<sup>73</sup> However, Judge Azizah did not provide a ruling on the students' arguments pertaining to the rights to freedom of expression and peaceful assembly.<sup>74</sup>

## Organizing a Press Conference without Permission

Before facing disciplinary action for his role in the 1MDB Townhall event, *Universiti Malaya* student Ho Chi Yang faced discipline along with five other *Universiti Malaya* students for holding a press conference on December 14, 2015 without permission.<sup>75</sup> *Universiti Malaya* accused Ho Chi Yang, Chua Hun Ti, Mr. Suhail Wan Azhar, 22, Mr. Muhammad Luqman Hakim bin Mohd Fazli, 23, Mr. Muhammad Fahmie Nuaiman Bin Noor Azmi, and Ms. Nur Hananie Binti Muhammad Amir Chow, of violating provisions under Rule 3(a), which prohibits students from conducting themselves in a manner considered detrimental or prejudicial "to the interests, well-being or good name of the University" or "to public order, safety, security, morality, decency or discipline."<sup>76</sup> At the press conference, the students condemned a reported proposal by the university to impose a monthly limit on students' internet usage.<sup>77</sup> The university denied the claim and, after a disciplinary hearing on February 15, 2016, issued a warning to all six students.<sup>78</sup>

These types of disciplinary actions threaten larger penalties and can have a chilling effect on university students in Malaysia.

## Speech at Speaker's Corner

On August 4, 2015, *Universiti Kebangsaan Malaysia* reportedly disciplined student leader Mr. Asheeq Ali bin Sethi Alivi, 22, for delivering a speech at *Universiti*

<sup>73</sup> Asila Jalil, "High Court Quashes *Universiti Malaya*'s Conviction of 4 Students," *The Malaysian Insight*, February 27, 2018, <https://www.themalaysianinsight.com/s/40112/> (accessed March 22, 2018); Fortify Rights Interview with Lim Wei Jiet, Kuala Lumpur, Malaysia, February 27, 2018.

<sup>74</sup> Fortify Rights interview with Lim Wei Jiet, Kuala Lumpur, Malaysia, February 27, 2018.

<sup>75</sup> Fortify Rights interview with Ho Chi Yang, Selangor, Malaysia, February 14, 2017.

<sup>76</sup> Disciplinary Rules, rules 3(a)(i) and (ii).

<sup>77</sup> Fortify Rights interview with Suhail Wan Azhar, Selangor, Malaysia, August 7, 2017. *See also*, Alyaa Alhadjri, "UM May Charge Students for Internet, as Budget Cuts Loom," *Malaysiakini*, December 14, 2015, <https://www.malaysiakini.com/news/323304> (accessed June 8, 2018).

<sup>78</sup> Fortify Rights interview with Suhail Wan Azhar, Selangor, Malaysia, August 7, 2017; Fortify Rights interview with Ho Chi Yang, Selangor, Malaysia, February 14, 2017. *See also*, "Six UM Students Face Hearing for 'Unauthorized Press Conference,'" *Malaysiakini*, February 6, 2016, <https://www.malaysiakini.com/news/329604> (accessed June 8, 2018); "UM6 Found Guilty over Press Event, Given Warning," *Malaysiakini*, February 16, 2016, <https://www.malaysiakini.com/news/330618> (accessed June 8, 2018).

*Kebangsaan Malaysia's* "Speaker's Corner."<sup>79</sup> The Speaker's Corner is intended to provide a safe space for students to freely express their opinions.<sup>80</sup> Asheeq Ali spoke on the impact of a goods and services tax on students.<sup>81</sup> Asheeq Ali told Fortify Rights:

Although the Speaker's Corner is supposed to be a platform for students to voice their opinions, I was also charged and fined 100 Malaysian Ringgit (US\$25) under [the Disciplinary Rules] for voicing out my opinions, and I was threatened to be suspended from my studies. At that time, I promised the school to keep quiet, just so I could continue studying.<sup>82</sup>

## Holding Placards at the Young Southeast Asian Leaders Initiative Townhall event

On April 27, 2014, former U.S. President Barack Obama spoke at the Young Southeast Asian Leaders Initiative town-hall event held at *Universiti Malaya*.<sup>83</sup> During the event, six *Universiti Malaya* students raised placards to protest the Trans-Pacific Partnership Agreement.<sup>84</sup> On May 8, 2014, *Universiti Malaya* sent letters to the students threatening disciplinary action and asking for an explanation for their actions.<sup>85</sup>

On May 21, 2014, Joseph Yun, then U.S. Ambassador to Malaysia, responded to an email from *Universiti Malaya's* Students' Representative Council concerning the potential disciplinary action against the students, stating that the U.S. government supports the "rights to freedom of expression and association, including the right to peaceful protest without fear of reprisal."<sup>86</sup> The Ambassador urged *Universiti Malaya* not to take action against the students.<sup>87</sup>

<sup>79</sup> Fortify Rights interview with Asheeq Ali, Selangor, Malaysia, December 20, 2016.

<sup>80</sup> Richard Lim, "Speaker's Corner Back at UM," *The Star*, January 27, 2010, [https://umlib.um.edu.my/news/umlib\\_details.asp?cutid=961](https://umlib.um.edu.my/news/umlib_details.asp?cutid=961) (accessed June 7, 2018).

<sup>81</sup> Fortify Rights interview with Asheeq Ali, Selangor, Malaysia, December 20, 2016.

<sup>82</sup> *Ibid.*

<sup>83</sup> David Hudson, "President Obama at YSEALI Town Hall: Young People Like You Have to Be the Ones Who Lead Us Forward," *White House Archives*, <https://obamawhitehouse.archives.gov/blog/2014/04/28/president-obama-yseali-town-hall-young-people-you-have-be-ones-who-lead-us-forward> (accessed June 12, 2018).

<sup>84</sup> The Trans-Pacific Partnership Agreement is a trade agreement between the United States and Malaysia as well as other Pacific Ocean countries.

<sup>85</sup> "Anti-TPPA: UM Students Get Show-cause Letters," *Free Malaysia Today*, May 9, 2014, <http://www.freemalaysiatoday.com/category/nation/2014/05/09/anti-tppa-um-students-get-show-cause-letters/> (accessed March 22, 2018).

<sup>86</sup> Letter from then U.S. Ambassador to Malaysia Joseph Yun to *Universiti Malaya's* Students' Representative Council, May 21, 2014. See also, Ida Lim, "US Embassy Nods at UM Students' Right to Protest During Obama's Visit," *The Malay Mail Online*, May 23, 2014, <http://www.themalaymailonline.com/malaysia/article/us-embassy-nods-at-um-students-right-to-protest-during-obama-visit> (accessed March 22, 2018).

<sup>87</sup> Letter from then U.S. Ambassador to Malaysia Joseph Yun to *Universiti Malaya's* Students' Representative Council, May 21, 2014.

Following the Ambassador's intervention, the University ceased its disciplinary action against the students.<sup>88</sup>

## RESTRICTIONS ON THE RIGHT TO FREEDOM OF ASSEMBLY

### Organizing the *Tangkap MO1* Rally

In September and October 2016, *Universiti Malaya* and *Universiti Kebangsaan Malaysia* initiated disciplinary proceedings against five students, including Suhail Wan Azhar, Muhammad Luqman Hakim bin Mohd Fazli, and Asheeq Ali for organizing and participating in an off-campus *Tangkap MO1* rally on August 27, 2016.<sup>89</sup> The same students previously faced disciplinary action for exercising their rights to free speech (see cases above). The other students who faced disciplinary action for their role in the *Tangkap MO1* rally included Ms. Anis Syafiqah binti Md Yusof, 24, and Mr. Luqman Nul Haqim Zul Razali, 23, both of whom are students at the *Universiti Malaya*.<sup>90</sup>

The students are members of the *Gabungan Tangkap Malaysian Official 1* (the Arrest Malaysian Official 1 Coalition). Students from *Universiti Malaya*, *Universiti Kebangsaan Malaysia*, *Universiti Malaysia Sabah*, International Islamic University Malaysia, and *Universiti Teknologi Mara Seri Iskandar* established this coalition after the 1MDB scandal.<sup>91</sup> The rally, involving nearly 1,000 participants, called for the Malaysian government to identify and arrest the person known as MO1, who had allegedly embezzled US\$680 million of state funds.<sup>92</sup>

Student leader Anis Syafiqah notified the Royal Malaysian Police of the Coalition's plan to hold a rally at *Dataran Merdeka* or Independence Square in Kuala Lumpur on August 17, 2016.<sup>93</sup> When the police informed Anis the same day that the notification required the approval of the City Council of Kuala Lumpur or *Dewan Bandaraya Kuala Lumpur* (DBKL), Anis sent a letter to the City Council seeking their approval.<sup>94</sup> After the City Council refused the request without reason on

88 Ida Lim, "US Embassy Nods at UM Students' Right to Protest During Obama's Visit," *The Malay Mail Online*.

89 Letter from *Universiti Kebangsaan Malaysia* to Asheeq Ali, October 18, 2016; Letters from *Universiti Malaya* to Suhail Wan Azhar and Luqman Hakim, December 22, 2016.

90 Letters from *Universiti Malaya* to Anis Syafiqah and Luqman Nul Haqim, December 22, 2016.

91 The Department of Justice claims hundreds of millions of dollars were misappropriated from the fund by different people during three "phases." *"The Wolf of Wall Street" Motion Picture*, 18 U.S.C. § 981(a)(1)(A) & (C).

92 Joseph Sipalan, "Malaysian Student Protestors Demand 1MDB Arrest," *Reuters*, August 27, 2016, <http://www.reuters.com/article/us-malaysia-scandal-protests/malaysian-student-protesters-demand-1mdb-arrest-idUSKCN11208C> (accessed November 21, 2017).

93 Letter from Anis Syafiqah to the Royal Malaysian Police, August 17, 2016.

94 Fortify Rights interview with Anis Syafiqah, Selangor, Malaysia, December 12, 2016; Letter from the Royal Malaysian Police to the *Tangkap MO1* Coalition, August 17, 2016.

August 19, 2016, the Coalition decided to hold the rally on Jalan Raja Laut, a public road in the vicinity of *Dataran Merdeka* square.<sup>95</sup>

On August 20, 2016, Anis, Suhail, Luqman Nul Haqim Zul Razali, and Luqman Hakim Mohd Fazli, also known as “the UM4”, along with several students from other universities went to *Universiti Teknologi Mara Seri Iskandar* to distribute fliers and mobilize support for the rally.<sup>96</sup> When they arrived, police officers were guarding the main entrance. Anis told Fortify Rights, “We suspect[ed] that the police knew that we were coming because we promoted our campaign and activities on social media.”<sup>97</sup>

At approximately 6:40 p.m., the police arrested *Universiti Malaya* students Luqman Nul Haqim and Luqman Hakim as well as a student from *Universiti Malaysia Sabah*, Ashraff Nazrin, for trespassing when they climbed the *Universiti Teknologi Mara Seri Iskandar* fence to enter the campus.<sup>98</sup> The Perak Tengah District Police detained them at the Perak Tengah District Police Headquarters for two days before releasing them without charge.<sup>99</sup>

On August 26, one day before the rally, the Deputy Vice-Chancellor of *Universiti Kebangsaan Malaysia* issued a circular prohibiting students’ from participating in any rally or movement that “threatens public order or national security” and warning that disciplinary action would be taken if students violated the prohibition.<sup>100</sup>

The rally went ahead as planned on August 27 and was peaceful for its duration.<sup>101</sup> According to Asheeq:

At the gathering location, several student leaders in the coalition, including myself, gave speeches to the public. I essentially spoke on transparency and accountability and that the rule of law should be enforced without exception. [Royal Malaysian Police] personnel were present at the rally; however, no arrests were made. The police merely observed the rally until it ended... at around 5 p.m. The rally was carried out peacefully without any untoward incidents.<sup>102</sup>

<sup>95</sup> *Asheeq Ali v Universiti Kebangsaan Malaysia & Ors*, High Court of Kuala Lumpur, WA-24-115-12/2016, (Affidavit in Support), December 2016, para. 18.

<sup>96</sup> Fortify Rights interview with Anis Syafiqah, Kuala Lumpur, Malaysia, November 20, 2017.

<sup>97</sup> *Ibid.*

<sup>98</sup> Letter from *Universiti Malaya* to Luqman Hakim, November 22, 2016.

<sup>99</sup> Fortify Rights interview with Luqman Hakim, Kuala Lumpur, Malaysia, November 20, 2017.

<sup>100</sup> Circular from *Universiti Kebangsaan Malaysia* to students, August 26, 2016.

<sup>101</sup> “KL Rally Ends Peacefully,” *The Star*, August 28, 2016, <https://www.thestar.com.my/news/nation/2016/08/28/kl-rally-ends-peacefully-no-untoward-incidents-during-twohour-gathering/> (accessed November 21, 2017); “Tangkap MO1 Rally Starts in Kuala Lumpur,” *The Star*, August 27, 2018, <https://www.thestar.com.my/news/nation/2016/08/27/tangkap-mo1-rally-begins/> (accessed on June 7, 2018); “Young Malays at Forefront of Tangkap MO1 Rally,” *Malaysiakini*, August 29, 2016, <https://www.malaysiakini.com/news/353913> (accessed June 7, 2018).

<sup>102</sup> *Asheeq Ali*, WA-24-115-12/2016, para. 18

After the rally, the Dang Wangi District Police Headquarters called in Asheeq and other Coalition members to make statements.<sup>103</sup> Although the police did not charge members of the Coalition for organizing or participating in the rally, on September 7, 2016, the police sent letters to the Deputy Vice-Chancellors of *Universiti Kebangsaan Malaysia* and *Universiti Malaya* identifying the students that participated in the rally and stating that the students breached Section 10(c) of the Peaceful Assembly Act for failing to obtain advanced approval from the Municipal Council to hold the rally.<sup>104</sup> The letters from the Royal Malaysian Police to *Universiti Kebangsaan Malaysia* and *Universiti Malaya* also stated that the police initiated an investigation into alleged violations under Sections 124B, which prohibits “an activity detrimental to parliamentary democracy” and 505(b) of the Penal Code, which prohibits communications that intend or are likely to cause “fear or alarm to the public ... whereby any person may be induced to commit an offence against the State or against the public tranquility.”<sup>105</sup> Violations under Section 124B of the Penal Code carries a sentence of up to 20 years’ imprisonment and/or a fine, while Section 505(b) carries a sentence of up to two years’ imprisonment and/or a fine.<sup>106</sup>

That same day, September 7, 2016, the Director General of Higher Education Dr. Asma Binti Ismael sent a letter to the Vice Chancellor of *Universiti Kebangsaan Malaysia* Dr. Noor Azlan bin Ghazali, noting and providing photographic evidence of Asheeq’s involvement in the *Tangkap* MO1 rally.<sup>107</sup> In the letter, the Director General instructed the university to “take appropriate action against [him] pursuant to AUKU and the [Student Disciplinary] Rules 1999.”<sup>108</sup>

On September 27, 2016, *Universiti Kebangsaan Malaysia* sent Asheeq a “show cause” letter stating that his participation in the rally violated Rules 3 and 13 of the Disciplinary Rules.<sup>109</sup> Asheeq told Fortify Rights:

I was given 14 days to explain why disciplinary proceedings should not be initiated against me. I replied ... insisting that my attendance in the

<sup>103</sup> Fortify Rights interview with Asheeq Ali, Selangor, Malaysia, December 20, 2016.

<sup>104</sup> Asheeq Ali, WA-24-115-12/2016, para. 19; Letter from the Royal Malaysian Police to the Deputy Vice-Chancellor of *Universiti Kebangsaan Malaysia*, September 7, 2016. Peaceful Assembly Act 2012, section 10(c) states that “the notification of assembly made under subsection 9(1) shall be accompanied by a copy of consent of the owner or occupier of the place of assembly, if applicable.” Failure to provide ten days’ advanced notice of a public assembly carries a penalty of a fine up to 10,000 Malaysian Ringgit (US\$2,500). See Peaceful Assembly Act 2012, section 9(5).

<sup>105</sup> Letter from the Royal Malaysian Police to the Deputy Vice-Chancellor of *Universiti Kebangsaan Malaysia*, September 7, 2016; Letter from the Royal Malaysian Police to the Deputy Vice Chancellor of *Universiti Malaya*, September 7, 2016; Penal Code Act, 1976, sections 124B and 505(b).

<sup>106</sup> Penal Code Act, sections 124B and 505(b).

<sup>107</sup> Letter from the Director-General of Higher Education, Ministry of Higher Education to the Vice-Chancellor of *Universiti Kebangsaan Malaysia*, September 7, 2016.

<sup>108</sup> *Ibid.*

<sup>109</sup> Show cause letter from *Universiti Kebangsaan Malaysia* to Asheeq Ali bin Sethi Alivi, September 27, 2016.



rally had in no way smeared the image of the university. I was merely exercising my constitutional rights lawfully.<sup>110</sup>

On October 12, 2016, *Universiti Malaya* similarly instructed the UM4 to explain why disciplinary proceedings should not be initiated against them.<sup>111</sup> The students replied on October 24, stating that the allegations were “vague, frivolous and without basis,” and that they were merely practicing their right to assemble peacefully under Article 10 of the Constitution.<sup>112</sup>

On October 18 and November 22, 2016, *Universiti Kebangsaan Malaysia* and *Universiti Malaya* called Asheeq and the UM4 to appear before their respective University Disciplinary Committees.<sup>113</sup> On November 15, 2016, *Universiti Kebangsaan Malaysia*’s Disciplinary Committee fined Asheeq 200 Malaysian Ringgit (US\$50) and suspended him for one semester with immediate effect.<sup>114</sup> Following his appeal, on February 1, 2017, *Universiti Kebangsaan Malaysia*’s Disciplinary Appeal Committee reduced his suspension to one month.<sup>115</sup>

On December 9, 2016, *Universiti Malaya*’s Disciplinary Committee similarly fined the UM4, 400 Malaysian Ringgit (US\$100) and suspended them for one semester, with the exception of Suhail Wan Azhar who was issued a warning along with the fine.<sup>116</sup> According to information provided to the High Court of Kuala Lumpur, the *Universiti Malaya*’s Disciplinary Committee decided to discipline Luqman Nul Haqim Zul Razali and Luqman Hakim Mohd Fazli based partly on the conclusion that they trespassed on the *Universiti Teknologi Mara Seri Iskandar* campus.<sup>117</sup> On appeal, on February 10, 2017, the *Universiti Malaya*’s Disciplinary Appeal Committee revoked the suspensions and reduced Suhail Wan Azhar’s fine to 200 Malaysian Ringgit (US\$50), reiterating a warning for all of them.<sup>118</sup>

<sup>110</sup> Fortify Right interview with Asheeq Ali, Selangor, Malaysia, December 21, 2016.

<sup>111</sup> Show cause letters from *Universiti Malaya* to Anis Syafiqah binti Mohd Yusof, Suhail Wan Azhar, Luqman Nul Haqim Zul Razali, and Luqman Hakim Mohd Fazli, October 12, 2016.

<sup>112</sup> Letter from Anis Syafiqah to *Universiti Malaya*, October 24, 2016.

<sup>113</sup> Letter from *Universiti Kebangsaan Malaysia* to Asheeq Ali, October 18, 2016; Letters from *Universiti Malaya* to Anis Syafiqah binti Mohd Yusof, Suhail Wan Azhar, Luqman Nul Haqim Zul Razali, and Luqman Hakim Mohd Fazli, November 22, 2016.

<sup>114</sup> Letter from *Universiti Kebangsaan Malaysia* to Asheeq Ali, November 17, 2016.

<sup>115</sup> Appeal letter from Asheeq Ali to *Universiti Kebangsaan Malaysia*, November 16, 2016. The Student Disciplinary Appeal Committee is constituted pursuant to section 16B(5) of AUKU and, pursuant to section 16B(6), comprises three members appointed by the Disciplinary Authority, two of whom shall be from amongst its members and one other from within the university. Letter from *Universiti Kebangsaan Malaysia* to Asheeq Ali, February 1, 2017; Fortify Rights interview with Asheeq Ali, Kuala Lumpur, Malaysia, August 10, 2017.

<sup>116</sup> Letter from *Universiti Malaya* to the Suhail Wan Azhar, December 9, 2016.

<sup>117</sup> *Asheeq Ali v Universiti Kebangsaan Malaysia & Ors*, High Court of Kuala Lumpur, WC-24NCVC-508-03/2017, (Judgment), August 28, 2017, p. 16; *Anis Syafiqah & Ors v Universiti Malaya & Ors*, High Court of Kuala Lumpur, WA-24NCVC-2130-12/2016, (Judgment), August 28, 2017, p. 16.

<sup>118</sup> Letter from *Universiti Malaya* to Suhail Wan Azhar, February 6, 2017; Letters from Anis Syafiqah

On December 15, 2016, AsheeQ filed an application against *Universiti Kebangsaan Malaysia*, the Minister of Higher Education, and the Government of Malaysia in the High Court of Kuala Lumpur challenging the constitutionality of AUKU and the Disciplinary Rules under Article 10 of the Federal Constitution, which protects the rights to freedom of expression, peaceful assembly, and association.<sup>119</sup> On December 27, 2016, the UM4 students filed a similar application against *Universiti Malaya*.<sup>120</sup> The students argued that AUKU and Rules 3 and 13 of the Disciplinary Rules do not prevent a student from engaging in political activities off-campus and that any decision to the contrary violated the Federal Constitution.<sup>121</sup>

The High Court heard the cases together on May 19, 2017 and, on August 28, 2017, found against the students. The Court concluded that Section 15(3) of AUKU and the Disciplinary Rules were within Article 10(2) of the Constitution, which permits Parliament to restrict the rights through law. It found that the disciplinary action by the universities was justified based on the view that the students' participation in the rally brought disrepute to the university.<sup>122</sup>

Following the High Court decision, the Integrity Unit of *Universiti Malaya's* Vice-Chancellor's Office circulated a poster on November 28, 2017 via email informing staff and students that they are prohibited from "making public statements" that may "diminish the good name of the university or government" unless they obtain permission from an unnamed "minister concerned."<sup>123</sup> The post elaborated that public statements included "comments to the press and during lectures, speeches, screenings and publications (including social media)."<sup>124</sup> To date, Fortify Rights is unaware of the *Universiti Malaya* disciplining anyone in line with this warning.

The *Universiti Malaya* students decided not to continue with the legal proceedings after the High Court decision. However, AsheeQ appealed to the Putrajaya Court of

binti Mohd Yusof, Luqman Nul Haqim Zul Razali, Luqman Hakim Mohd Fazli, and Suhail Wan Azhar to *Universiti Malaya*, December 28, 2016.

<sup>119</sup> Malaysian Federal Constitution, Article 10(a) provides that every citizen has the right to freedom of speech and expression, Article 10(b) provides that every citizen has the right to assemble peaceably, and Article 10(c) provides that every citizen has the right to form associations. *AsheeQ Ali*, WA-24-115-12/2016.

<sup>120</sup> *Anis Syafiqah & Ors v Universiti Malaya & Ors*, High Court of Kuala Lumpur, WA-24NCVC-2130-12/2016, (Affidavit in Support), December 27, 2016.

<sup>121</sup> *AsheeQ Ali*, WA-24-115-12/2016, para.14; *Anis Syafiqah & Ors. v Universiti Malaya & Ors*, High Court of Kuala Lumpur, WA-24NCVC-2130-12/2016, (Affidavit in Reply), February 16, 2017, p. 10.

<sup>122</sup> *AsheeQ Ali*, WC-24NCVC-508-03/2017, p. 17; *Anis Syafiqah*, WA-24NCVC-2130-12/2016, p. 17.

<sup>123</sup> *Universiti Malaya's* Vice-Chancellor's Office, Integrity Unit, poster emailed to staff and students, November 28, 2017; Fortify Rights interview with Lau Li Yang, Kuala Lumpur, Malaysia, November 28, 2017. See also, Alyaa Alhadjri, "Universiti Malaya Issues Formal Gag Order on All Students, Staff," *Malaysiakini*, November 29, 2017, <https://www.malaysiakini.com/news/403757> (accessed March 22, 2018).

<sup>124</sup> *Universiti Malaya's* Vice-Chancellor's Office, Integrity Unit, poster emailed to staff and students, November 28, 2017.

Appeal on September 27, 2017. On February 22, 2018, a three-bench judge panel chaired by Judge Rohana Yusof dismissed Asheeque's appeal based on a procedural error, finding that he ought to have filed an application for judicial review rather than an originating summons in the High Court.<sup>125</sup>

On March 21, 2018, Asheeque appealed to the Federal Court of Malaysia, the last legal remedy available to him.<sup>126</sup> Despite the pending legal proceedings, on March 12, 2018, the *Universiti Kebangsaan Malaysia* enforced the disciplinary order by the Disciplinary Committee, suspending Asheeque for one month effective from March 14, 2018.<sup>127</sup> However, on March 30, 2018, Asheeque and *Universiti Kebangsaan Malaysia* reached an out-of-court settlement whereby the *Universiti Kebangsaan Malaysia* agreed to allow Asheeque to sit for his final examinations and graduate after he rescinded the Federal Court appeal with no costs.<sup>128</sup>

## Organizing the "40 Years: From UM to Prison" Event

On October 27, 2014, the *Universiti Malaya* reportedly fined eight students—Mr. Fahmi Zainol, Mr. Safwan Shamsuddin, Mr. Adam Fisticil Wilfrid, Mr. Haw Yu Hong, Mr. Khairul Najb Hashim, Mr. Khairul Anwar, Mr. Abraham Au and Ms. Nur Syamini (the "UM8 students")—and suspended Fahmi and Safwan for two semesters for organizing the event *40 Years: From UM to Prison*.<sup>129</sup> The event featured a talk by Datuk Seri Anwar Ibrahim, then leader of the political opposition and founder of the *Parti Keadilan Rakyat* or People's Justice Party. At the event, at least 1,000 students reportedly marched into the *Universiti Malaya* by forcing their way through the locked main gates of the campus. While none of the UM8 students were involved in breaking the main gates, the *Universiti Malaya* disciplined them for organizing the event.<sup>130</sup>

<sup>125</sup> V. Anbalagan, "Student Fails in Court Bid to Challenge UKM's Disciplinary Action," *Free Malaysia Today*, February 22, 2018, <http://www.freemalaysiatoday.com/category/nation/2018/02/22/student-fails-in-court-bid-to-challenge-ukms-disciplinary-action/> (accessed March 22, 2018).

<sup>126</sup> *Asheeque Ali bin Sethi Alivi v Universiti Kebangsaan Malaysia*, Federal Court of Malaysia, No. 08(L)-1-03/2018 (W), (Civil Application), March 21, 2018.

<sup>127</sup> Suspension notice letter from *Universiti Kebangsaan Malaysia* to Asheeque Ali, March 12, 2018. *Universiti Malaya* informed Asheeque Ali that "the enforcement of disciplinary punishments will be held until the court proceedings are completed." See, Letter from *Universiti Kebangsaan Malaysia* to Asheeque Ali, February 1, 2017.

<sup>128</sup> Letter from Asheeque Ali's solicitors to *Universiti Kebangsaan Malaysia*'s solicitors, March 28, 2018; Letter from *Universiti Kebangsaan Malaysia*'s solicitors to Asheeque Ali's solicitors, March 30, 2018.

<sup>129</sup> Kamles Kumar, "UM8 Students Allowed to Challenge Penalty over Anwar Talk," *The Malay Mail Online*, July 9, 2016, <http://www.themalaymailonline.com/malaysia/article/um8-students-allowed-to-challenge-penalty-over-anwar-talk#wuscZwjz8frP7pq.97> (accessed March 22, 2018).

<sup>130</sup> "Fahmi Faces Nine Charges for Anwar's Event," *Astro Awani English*, November 1, 2014, <http://english.astroawani.com/malaysia-news/fahmi-faces-nine-charges-anwars-event-47439> (accessed March 22, 2018); "Crowd Forces Open Locked UM Gate, Marches in with Anwar," *Astro Awani English*, October 27, 2014, <http://english.astroawani.com/malaysia-news/crowd-forces-open-locked-um-gate-marches-anwar-47121> (accessed March 22, 2018).

On December 12, 2014, the Disciplinary Committee of *Universiti Malaya* found that the UM8 violated Rules 3(a)(i) and (ii), 9(1), 10(1), and 27 of the Disciplinary Rules.<sup>131</sup> Rule 3(a)(i) prohibits conduct “which is detrimental or prejudicial to the interests, well-being or good name of the University;” or (ii) “detrimental or prejudicial to public order, safety or security, morality, decency or discipline.” Rule 9(1) prohibits students from “organizing, convening or calling, any assembly of more than five persons in any part of the Campus.” Rule 10(1) prohibits students to “own, or use, or have in his or its possession ... any loudspeaker ... without the prior approval of the Vice-chancellor.” Finally, Rule 27 makes it an offense when any student “contravenes any legitimate instruction, direction or requirement given or made by any officer or employee of the University.”<sup>132</sup>

Five of the UM8 students—Fahmi Zainol, Safwan Shamsuddin, Adam Fistivil Wilfrid, Haw Yu Hong, and Khairol Najib Hashim—filed an application in the High Court of Shah Alam for judicial review of their case.<sup>133</sup> On July 29, 2016, the High Court overturned the *Universiti Malaya*’s decision on the basis that the *Universiti Malaya* did not comply with Rule 53, which requires the Vice-Chancellor to summon witnesses, not the Disciplinary Committee, and Rule 54, which requires the University to establish its case against the students before requiring the students to present evidence in their defense.<sup>134</sup> On October 31, 2017, the Court of Appeal upheld the High Court’s decision.<sup>135</sup>

## Organizing a Forum to Discuss Water Shortages at the *Universiti Kebangsaan Malaysia*

*Universiti Kebangsaan Malaysia* student leader Asheeq Ali, who faced disciplinary action for organizing the *Tangkap* MO1 rally in 2016, told Fortify Rights that the *Universiti Kebangsaan Malaysia* previously disciplined him in 2014 during his first year of law school for organizing an on-campus forum to discuss a two-month water shortage in his residential college. He said:

<sup>131</sup> *Fahmi bin Zainol & 4 Ors v Jawatankuasa Tatatertib Pelajar, Universiti Malaya & Ors*, High Court of Shah Alam, 25-17-05/2015, Judicial Review (Judgement), April 21, 2017, paras. 14-42.

<sup>132</sup> Disciplinary Rules, rules 3(a)(i) and (ii), 9(1), 10(1), and 27.

<sup>133</sup> *Fahmi bin Zainol*, 25-17-05/2015.

<sup>134</sup> *Ibid.*, paras. 70-75; Hafiz Yatim, “High Court Quashes UM’s Action on Five Overturns UM Action Against Pro-Anwar Students,” *Free Malaysia Today*, July 30, 2016, <http://www.freemalaysiatoday.com/category/nation/2016/07/30/court-overturns-um-action-against-pro-anwar-students/> (accessed March 22, 2018).

<sup>135</sup> *Fahmi bin Zainol & Ors v Jawatankuasa tatatertib Pelajar & Ors*, Putrajaya Court of Appeal, 25-17-05 OF 2015, Appeals (Judgment), October 31, 2017, p. 9. See also, “Appeals Court Upholds Decision to Overturn UM’s Disciplinary Action Against Former Students,” *The Malay Mail Online*, October 31, 2017, <http://www.themalaymailonline.com/malaysia/article/appeals-court-upholds-decision-to-overturn-ums-disciplinary-action-against#gGoo1BRU7vKlaIBb.97> (accessed March 22, 2018).

We organized a forum where we brought in the Member of Parliament of Serdang [the constituency where *Universiti Kebangsaan Malaysia* is located] and another student who was doing a geographic course to assess the matter. The forum was disturbed by the university authorities, telling us that the event was not allowed to be carried out.<sup>136</sup>

Before organizing the forum, Asheeq said he went to *Syarikat Bekalan Air Selangor* or the Water Department of Selangor State office to find a solution to the water shortage at the residential college.<sup>137</sup> The Water Department reportedly told Asheeq that it was *Universiti Kebangsaan Malaysia*'s problem.<sup>138</sup> Asheeq along with student representatives from various faculties then reportedly presented a memorandum at the state assembly on the issue.<sup>139</sup> Asheeq and others also collected donations to distribute 1,500 five-liter water bottles to the affected colleges in *Universiti Kebangsaan Malaysia*.<sup>140</sup>

Asheeq reportedly faced disciplinary action from *Universiti Kebangsaan Malaysia* following the forum. He said:

Then the charges [under the Disciplinary Rules] came along ... for “*memburukkan nama baik universiti*” [smearing the good name of the university]. I was fined 200 Malaysian Ringgit [US\$50] and kicked out from my residential college. Then I realized I had to do something and became more active in campus activism.<sup>141</sup>

## Participating in the *Bersih 5* Rally

On January 16, 2017, the *Universiti Malaysia Sabah* Disciplinary Committee found *Universiti Malaysia Sabah* students Mr. Mukmin bin Nantang, 24, and Ms. Nur Aqilah bin Mohamad Zanuzi, 24, in violation of Rule 3(a)(ii) of the Disciplinary Rules for allegedly “smearing the good name of the university” by participating in the *Bersih 5* rally in Kota Kinabalu, Sabah in East Malaysia on November 19, 2016.<sup>142</sup>

*Bersih*—which means “clean” in Malay—rallies are large-scale protests calling for free and fair elections and an end to government corruption in Malaysia. Participants typically wear yellow shirts to demonstrate solidarity. The fifth

<sup>136</sup> Fortify Rights interview with Asheeq Ali, Selangor, Malaysia, December 20, 2016.

<sup>137</sup> *Ibid.*

<sup>138</sup> *Ibid.*

<sup>139</sup> *Ibid.*

<sup>140</sup> *Ibid.*

<sup>141</sup> *Ibid.*

<sup>142</sup> Letters from *Universiti Malaysia Sabah* to Mukmin Nantang and Nur Aqilah, January 16, 2016. Mukmin also participated in the Tangkap MO1 rally but was not disciplined for it.



*Bersih* rally—*Bersih 5*—in 2016 took place in several cities in Peninsular Malaysia as well as Kuching in Sarawak and Kota Kinabalu in Sabah. Thousands of people attended, including groups led by student activists.

The day before the rally, the *Universiti Malaysia Sabah* issued a letter, warning students against participating in any “illegal” gatherings or activities.<sup>143</sup> Mukmin also recalled how the university warned students during orientation sessions for new students to obey the school rules and not be involved in anything that can be construed as “anti-establishment.”<sup>144</sup>

On the eve of the *Bersih 5* rally on November 18, 2016, the police arrested and detained the organizer of the *Bersih* rally, Maria Chin Abdullah, and more than 10 activists, including *Universiti Malaya* students Anis Syafiqah and Luqman Hakim, under Section 147 of the Penal Code for allegedly rioting.<sup>145</sup> The authorities detained Maria Chin for 10 days under the Security Offences (Special Measures) Act 2012.<sup>146</sup> The Jinjang police also detained Anis and Luqman for two days.<sup>147</sup> However, *Universiti Malaya* did not take disciplinary action against Anis and Luqman, and the police did not charge the organizers or participants.

Although other student leaders did not receive disciplinary action for participating in *Bersih 5*, on January 16, 2016, *Universiti Malaysia Sabah* sent letters to student leaders Mukmin and Nur Aqilah calling them to appear before a disciplinary hearing on January 25 for potential violations under the Peaceful Assembly Act 2012 and Rule 3(a)(ii) of the Disciplinary Rules for their respective roles in the *Bersih 5* rally.<sup>148</sup> On January 25, 2017, Mukmin and Nur Aqilah wrote to the *Universiti Malaysia Sabah* Vice-Chancellor arguing that they were exercising their constitutional right to freedom of peaceful assembly and

<sup>143</sup> Circular warning letter from *Universiti Malaysia Sabah* to students, November 18, 2016. The University circulated the same warning letter more than one year earlier, on August 27, 2015. See, Circular warning letter from *Universiti Malaysia Sabah* to students, August 27, 2015.

<sup>144</sup> Fortify Rights interview with Mukmin Nantang, Sabah, Malaysia, March 9, 2017.

<sup>145</sup> Penal Code Act, section 147. The Royal Malaysian Police also arrested and investigated two of the 11 students under the Malaysia Penal Code during the eve of the *Bersih 5* rally, although the investigation did not lead to formal charges. See, “More Arrests on *Bersih 5* Eve, Maria and Mandeep May Miss Rally, Red Shirts Leader Missing,” *The Malay Mail Online*, November 18, 2016, <http://www.themalaymailonline.com/malaysia/article/more-arrests-on-bersih-5-eve-red-shirts-leader-missing#02GFg1FLHVSDpbDK.97> (accessed March 22, 2018).

<sup>146</sup> Fortify Rights, “Malaysia: Free Protest Leader Maria Chin Abdullah,” November 28, 2016. See also, Victoria Brown, “*Bersih 5*: Maria Chin Detained Under Sosma,” *The Star*, November 19, 2016, <https://www.thestar.com.my/news/nation/2016/11/19/bersih-5-maria-chin-detained-under-sosma/> (accessed June 5, 2018); Kow Gah Chie, “Maria Released After 10-day Detention,” *Malaysiakini*, November 28, 2016, <https://www.malaysiakini.com/news/364446> (accessed June 5, 2018).

<sup>147</sup> Fortify Rights interview with Luqman Hakim, Kuala Lumpur, Malaysia, November 21, 2017.

<sup>148</sup> Letters from *Universiti Malaysia Sabah* to Mukmin Nantang and Nur Aqilah, January 16, 2016.

that the university did not have jurisdiction over the off-campus rally.<sup>149</sup> On February 13, 2017, Mukmin and Nur Aqilah again wrote to their Vice-Chancellor requesting more information about the University's allegations, the names of members of the Disciplinary Committee as well as the *Universiti Malaysia Sabah* officers who would attend the hearing, a list of witnesses to be called before the panel, copies of all video and written evidence relied upon for the case, and permission to record the disciplinary hearing.<sup>150</sup> The *Universiti Malaysia Sabah* never replied.

Following the students' request for a postponement, the *Universiti Malaysia Sabah* Disciplinary Committee held a hearing on March 8, 2017 to determine the case against Mukmin and Nur Aqilah.<sup>151</sup> Mukmin told Fortify Rights that during the hearing the Disciplinary Committee informed them that the police provided the Student Affairs and Alumni Department with details of their involvement in *Bersih 5*, demonstrating to Mukmin "that the special branch of the police has been monitoring us."<sup>152</sup>

Without providing reasons, the Committee did not take further actions against Mukmin and Nur Aqilah.<sup>153</sup>

## RESTRICTIONS ON THE RIGHT TO FREEDOM OF ASSOCIATION

### Suspension of *Universiti Malaya's* Chinese Language Society

On October 3, 2017, the *Universiti Malaya* Student Affairs and Alumni Department issued a "show cause" letter to the Chinese Language Society following the organization's "New [Member] Recruitment Day" held at *Universiti Malaya's* 12<sup>th</sup> Residential College on October 2, 2017.<sup>154</sup> The Student Affairs and Alumni Department alleged that Chinese Language Society advertised and held the event without permission from the department.<sup>155</sup> On October 17, 2017, the Student

<sup>149</sup> Letter from Mukmin Nantang and Nur Aqilah to the Vice-Chancellor of *Universiti Malaysia Sabah*, January 25, 2017; Fortify Rights interviews with Mukmin Nantang and Nur Aqilah, *Universiti Malaysia Sabah*, March 9, 2017.

<sup>150</sup> Letters from Mukmin Nantang and Nur Aqilah to the Vice-Chancellor of *Universiti Malaysia Sabah*, February 13, 2017.

<sup>151</sup> The original hearing was scheduled for January 25, 2017. Letters from *Universiti Malaysia Sabah* to Mukmin Nantang and Nur Aqilah, March 2, 2017; Letters from Mukmin Nantang and Nur Aqilah to *Universiti Malaysia Sabah*, January 17, 2017.

<sup>152</sup> Fortify Rights interview with Mukmin Nantang, Sabah, Malaysia, March 9, 2017.

<sup>153</sup> Fortify Rights interviews with Nur Aqilah and Mukmin Nantang, Sabah, Malaysia, March 9, 2017.

<sup>154</sup> Show cause letter from *Universiti Malaya's* Deputy Vice-Chancellor to the *Universiti Malaya* Chinese Language Society, October 3, 2017.

<sup>155</sup> *Universiti Malaya's* Deputy Vice-Chancellor also stated that advertisements for the event should have been in English and Malay as well as Mandarin. *Ibid.*

Affairs and Alumni Department once again issued another “show cause” letter to the Chinese Language Society for organizing a camp in a secondary school in Pahang without permission and for using the Mandarin language in their event letter without Malay or English translations.<sup>156</sup>

In both “show cause” letters, the Student Affairs and Alumni Department did not cite any violations of either the Disciplinary Rules or AUKU but viewed the society’s actions as “very serious.”<sup>157</sup> Both “show cause” letters demanded an explanation from the Chinese Language Society within three days, failing which “strict consequences” will be taken against the society.<sup>158</sup>

Although Chinese Language Society responded to the “show cause” letters with a formal apology on October 4 and 19, 2017, within the stipulated three days’ deadline, the Deputy Registrar of *Universiti Malaya*’s Student Affairs and Alumni Department Yusof Harun suspended the Chinese Language Society on October 30, 2017 as a society from September 3, 2017 to February 4, 2018.<sup>159</sup> On November 14, 2017, the Deputy Registrar rejected the Chinese Language Society’s appeal.<sup>160</sup>

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<sup>156</sup> Show cause letter from *Universiti Malaya*’s Deputy Vice-Chancellor to the *Universiti Malaya* Chinese Language Society, October 17, 2017.

<sup>157</sup> Show cause letters from *Universiti Malaya*’s Deputy Vice-Chancellor to the *Universiti Malaya* Chinese Language Society, October 3 and 17, 2017.

<sup>158</sup> *Ibid.*

<sup>159</sup> Letter from *Universiti Malaya* Chinese Language Society to *Universiti Malaya*’s Deputy Vice-Chancellor, October 4, 2017; Suspension letter from *Universiti Malaya*’s Deputy Registrar to the *Universiti Malaya* Chinese Language Society, October 30, 2017.

<sup>160</sup> Appeal letter form *Universiti Malaya* Chinese Language Society to *Universiti Malaya*’s Deputy Registrar, November 1, 2017; *Universiti Malaya* previously suspended the Chinese Language Society in 1974 at the height of the student movement activity in Malaysia, alleging that Society was “involved in communist activities.” *Universiti Malaya* granted the Chinese Language Society permission to operate again in 1986 after repeated appeals. See, Ministry of Home Affairs, *Communist Party of Malaya Activities within the Universiti Malaya Chinese Language Society*, Library of the Malaysian Parliament, 1974, <http://webopac.parlimen.gov.my/webopac20/Record/0000012391> (assessed December 18, 2017).



## II. LEGAL ANALYSIS

*"Freedom of expression is one of the most fundamental rights that individuals enjoy. It is fundamental to the existence of democracy and the respect of human dignity."*

—Court of Appeal Judge Mohd Hishamudin Yunus in his conclusions on the UKM<sup>4</sup> case



**A** **UKU, THE DISCIPLINARY** Rules, and Malaysian universities' disciplinary actions against students for engaging in political activism on and off-campus violate the rights to freedom of speech, peaceful assembly, and association under the Federal Constitution of Malaysia and international law. Evidence collected by Fortify Rights indicates that *Universiti Malaya*, *Universiti Kebangsaan Malaysia*, and *Universiti Malaysia Sabah* violated these rights, and in some cases, at the behest of the Ministry of Higher Education.

Article 10(1) of the Malaysian Federal Constitution states that all citizens have the “right to freedom of speech and expression ... the right to assemble peaceably and without arms ... [and] the right to form associations.”<sup>161</sup> According to the Federal Court, restrictions may be imposed where: (i) the legislative objective is sufficiently important to justify limiting a fundamental right; (ii) the measures designed to meet the legislative objective are rationally connected to it; and (iii) the means used to impair the right or freedom are no more than is necessary to accomplish the objective.<sup>162</sup> Moreover, Article 10(2) of the Federal Constitution only allows for the Parliament to restrict such rights, if such restriction is “in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence.”<sup>163</sup>

Under international law, articles 19 and 20(1) of the Universal Declaration of Human Rights (UDHR) and articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR) protect the rights to freedom of expression, peaceful assembly, and assembly.<sup>164</sup> Although Malaysia is not a party to the ICCPR, the provisions of the UDHR and some provisions of the ICCPR are generally recognized as binding on all nations under customary international law.<sup>165</sup>

<sup>161</sup> Malaysian Federal Constitution, Articles 10(a), (b), and (c).

<sup>162</sup> *PP v Azmi bin Sharom*, High Court of Shah Alam, 06-5-12/2014(W), Trial (Judgment), October 6, 2015.

<sup>163</sup> Malaysian Federal Constitution, Article 10.

<sup>164</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 19 (right to freedom of opinion and expression), 20(1) (right to freedom of peaceful assembly and association). International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 19(2) (right to freedom of expression) and art. 21 (right of peaceful assembly).

<sup>165</sup> See, for example, Montreal Statement of the Assembly for Human Rights, 1968, attached to U.N. Doc. A/CONF.32/28, pt. I, at 2 (UDHR “constitutes an authoritative interpretation of the Charter of the highest order, and has over the years become a part of customary international law.”); Final Act of the International Conference on Human Rights, para. 2, U.N. Doc. A/CONF.32/41, U.N. Sales No. E.68.XIV.2 (1968) (UDHR states “a common understanding of the peoples of the world

However, these rights are not absolute. Under international law, states may impose restrictions on freedoms of expression, assembly, and association but only when the restrictions are considered “necessary in a democratic society in the interest of national security or public safety, public order (*ordre publique*), the protection of public health or morals or the protection of the rights and freedoms of others.”<sup>166</sup> Any restriction must be: (1) provided by law; (2) strictly construed with deference to the protection of the rights themselves; (3) applied on a case-by-case basis; (4) necessary for achieving a legitimate aim; and (5) proportionate to the interest to be protected.<sup>167</sup>

The restrictions on the rights to freedom of expression, peaceful assembly, and association as provided by AUKU and the Disciplinary Rule fail to meet the conditions required by both Malaysian law and international law. For example, AUKU Section 15 prohibits students from becoming members of, expressing support for, sympathy with, or opposition to any group determined to be “unsuitable to the interests and well-being of the students or the University.”<sup>168</sup> Rule 3 of the Disciplinary Rules prohibits conduct considered “detrimental or prejudicial to the interests, well-being or good name of the University” as well as any disruption or interference with any “activity carried out by or under the direction of or with the permission of the University.”<sup>169</sup> These broadly construed provisions are not narrowly tailored to ensure fundamental rights are protected as required by domestic and international law. The universities justified disciplinary action against the students under AUKU and the Disciplinary Rules saying the students created “a situation of indiscipline and disruption,” “led to an uncertain and chaotic situation,” brought “disrepute to the university,” and

concerning the inalienable and inviolable right of all members of the human family and constitutes an obligation for the members of the international community.”); U.N. Human Rights Committee, “*Issues Relating to Reservations Made upon Ratification of Accession to the Covenant or the Optional Protocols Thereto, or in Relation to Declarations under Article 41 of the Covenant*,” General Comment No. 24, U.N. Doc. CCPR/C/21/Rev.1/Add.6 (1994) (stating that some provisions of the ICCPR represent customary international law). See also, Henry J Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals*, 2nd ed, (Oxford: Oxford University Press, 2000). See also, Louis Henkin, *International Law: Politics and Values*. Vol. 18, “*Developments in International Law*” (Dordrecht: Martinus Nijhoff Publishers, 1995). These rights are also explicitly protected under the Convention on the Rights of the Child, to which Malaysia is a party. Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (no. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, acceded by Malaysia February 17, 1995, Art. 13 (right to freedom of expression) and 15 (right to freedom of peaceful assembly and association).

<sup>166</sup> ICCPR, articles 19(3) and 21. See also, Human Rights Council, 20th Session, *Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association*, Maina Kiai, U.N. Doc. A/HRC/20/27, May 21, 2012, para. 16.

<sup>167</sup> U.N. Human Rights Committee, “*The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*,” General Comment No. 31, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 6. See also, Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Kehl am Rhein: N.P. Engel, 1993), p. 387–87.

<sup>168</sup> AUKU, section 15.

<sup>169</sup> Disciplinary Rules, rule 3.

smear “the good name of the university.”<sup>170</sup> Malaysian law and international law allow for restrictions on fundamental rights only in specific instances, such as to protect national security or public order.<sup>171</sup> The restrictions under AUKU and the Disciplinary Rules fail to serve any legitimate aim.

## RIGHT TO FREEDOM OF EXPRESSION

Fortify Rights documented how universities in Malaysia disciplined students under AUKU and the Disciplinary Rules for holding placards during events and organizing events without permission to discuss issues of concern to the student body.<sup>172</sup> Article 19 of the UDHR and Article 19(2) of the ICCPR protect all forms of expression and the means of their dissemination.<sup>173</sup> The U.N. Human Rights Committee has elaborated on the different forms of expression that are protected by this right, explaining:

Such forms include spoken, written and sign language and such non-verbal expression as images and objects of art. Means of expression include books, newspapers, pamphlets, posters, banners, dress and legal submissions.<sup>174</sup>

The right to freedom of expression includes the freedom “to seek, receive and impart information and ideas through any media and regardless of frontiers.”<sup>175</sup> Press conferences and public forums are a critical means to disseminate information of public concern and states have an obligation to protect such means of communication.

By disciplining students for holding placards and organizing events without permission, the universities failed to protect the students’ right to free speech.

<sup>170</sup> See, Letters from *Universiti Malaya* to Ho Chi Yang, Lau Li Yang, Tan Jia You, and Chua Hun Ti, November 9, 2016; *Ho Chi Yang & Ors*, WA-25-213-08/2017, Judicial review (Affidavit in support), para. 50.7. See also, *Ho Chi Yang*, WA-25-213-08/2017, Judicial Review (Applicants’ Outline Submission), paras. 56-58; *Asheeq Ali*, WC-24NCVC-508-03/2017, p. 17; *Anis Syafiqah*, WA-24NCVC-2130-12/2016, p.17; Letters from *Universiti Malaysia Sabah* to Mukmin Nantang and Nur Aqilah, January 16, 2016. These justifications for disciplinary action are also articulated in Rule 3 of the Disciplinary Rules.

<sup>171</sup> Malaysian Federal Constitution, art. 10(2). The Parliament may impose restrictions on the freedom of expression, assemble peacefully without arms and to form association “as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence.”

<sup>172</sup> See, Letters from *Universiti Malaya* to Ho Chi Yang, Lau Li Yang, Tan Jia You, and Chua Hun Ti, November 9, 2016.

<sup>173</sup> ICCPR, art. 19(2) (right to freedom of expression).

<sup>174</sup> U.N. Human Rights Committee, “Article 19: Freedoms of opinion and expression,” General Comment No. 34, U.N. Doc. CCPR/C/GC/34 (2011), para 21-37.

<sup>175</sup> UDHR, art. 19 (right to freedom of opinion and expression).

## RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

Students also face restrictions on their right to peaceful assembly in Malaysia under AUKU and the Disciplinary Rules. Fortify Rights documented how students faced discipline for failing to obtain advanced approval to hold an off-campus rally and for organizing and participating in peaceful protests and gatherings.<sup>176</sup> In several cases documented by Fortify Rights, universities cited alleged violations of Malaysia's Peaceful Assembly Act 2012 to justify subsequent disciplinary action through the university, specifically the failure to obtain advanced approval from the Malaysian authorities to hold the events as required under Section 10(c) of the Peaceful Assembly Act 2012.<sup>177</sup>

The Peaceful Assembly Act 2012 is incompatible with international law, including with regard to the requirement to obtain approval in advance of a protest.<sup>178</sup> As articulated by the U.N. Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, "the exercise of fundamental freedoms should not be subject to previous authorization by the authorities."<sup>179</sup> While the authorities may require notification with a view towards facilitating the exercise of the right to peaceful assembly, the Special Rapporteur stated that "organizers should not be subject to criminal sanctions, or administrative sanctions resulting in fines or imprisonment."<sup>180</sup> The disciplinary action imposed by the universities, which included fines and suspension as penalties, against student-organizers of peaceful assemblies amounts to a violation of the students' fundamental rights.

## RIGHT TO FREEDOM OF ASSOCIATION

An "association" is defined as "any groups of individuals or any legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interests."<sup>181</sup> "[L]egislation that does not set any specific limitation on individuals [with regard to freedom of association]... complies with international standards."<sup>182</sup> As such, AUKU and the Disciplinary Rules are unlawful by imposing restrictions on student involvement with groups determined by a university's Board of Directors to be "unsuitable to the interests and well-being of the students or the University."<sup>183</sup>

<sup>176</sup> See, Letters from *Universiti Malaysia Sabah* to Mukmin Nantang and Nur Aqilah, January 16, 2016; Show cause letters from *Universiti Malaya* to Anis Syafiqah binti Mohd Yusof, Suhail Wan Azhar, Luqman Nul Haqim Zul Razali, and Luqman Hakim Mohd Fazli, October 12, 2016; Show cause letter from *Universiti Kebangsaan Malaysia* to Asheeq Ali bin Sethi Alivi, September 27, 2016; Letter from the Director General of Higher Education, Ministry of Higher Education to the Vice Chancellor of *Universiti Kebangsaan Malaysia*, September 7, 2016.

<sup>177</sup> See, Peaceful Assembly Act 2012, section 9(1).

<sup>178</sup> *Ibid.*, section 10(c).

<sup>179</sup> Human Rights Council, U.N. Doc. A/HRC/20/27, para. 28.

<sup>180</sup> *Ibid.*, para. 29.

<sup>181</sup> *Ibid.*, para. 51.

<sup>182</sup> *Ibid.*, para. 54.

<sup>183</sup> AUKU, section 15(2)(b).

The right to association includes the right to operate freely and be protected from undue interference.<sup>184</sup> As part of this right, authorities are obligated to respect to privacy.<sup>185</sup> Fortify Rights documented the suspension of a society at the *Universiti Malaya* after the group failed to get permission to hold an event and provide translated material to the University.<sup>186</sup> As articulated by the U.N. Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, “The suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association.”<sup>187</sup> According to the Special Rapporteur, suspensions should only take place when:

...there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient.<sup>188</sup>

In the case of *Universiti Malaya*’s suspension of Chinese Language Society, these conditions were not met.

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<sup>184</sup> Human Rights Council, U.N. Doc. A/HRC/20/27, Summary.

<sup>185</sup> *Ibid.*, para. 65.

<sup>186</sup> See, Show cause letter from *Universiti Malaya*’s Deputy Vice-Chancellor to the *Universiti Malaya* Chinese Language Society, October 3 and 17, 2017.

<sup>187</sup> Human Rights Council, U.N. Doc. A/HRC/20/27, para. 75.

<sup>188</sup> *Ibid.*



# III. HUMAN RIGHTS DEFENDERS

*"Universities should encourage the young leaders of tomorrow to have diverse ideas and healthy debate, setting a beacon of hope for the chaotic reality we live in."*

—Ms. Lim, 20, student at the Universiti Kebangsaan Malaysia

*"The government has to realize that there are so much we as youths of the nation can contribute to shape up a better Malaysia for future generations."*

—Asheeq Ali, 22, student at the Universiti Kebangsaan Malaysia

HUMAN RIGHTS DEFENDERS

**T**HIS CHAPTER HIGHLIGHTS the efforts, struggles, and milestones of some of the many student leaders and student movements working to amend AUKU and the Disciplinary Rules and to advance rights and freedoms in Malaysia.

## UNIVERSITY OF MALAYA ASSOCIATION OF NEW YOUTH (UMANY)

Established at the *Universiti Malaya* on June 27, 2001, UMAN Y is a student movement that strives for the restoration of campus and student autonomy and advocates for democracy and equality across all universities in Malaysia. UMAN Y provides students with a platform to raise awareness and promote debate on social and political issues and fundamental rights through social media and by organizing rallies and lecture series.

Hua En, UMAN Y's current president, told Fortify Rights: "Most importantly, we monitor how university policies affect student's welfare. We believe in 'Campus democracy' – where students must be given the right to organize themselves; the right to have a student union."<sup>189</sup>

As documented in this report, four members of UMAN Y faced disciplinary action for raising banners and asking questions at the "1MDB Townhall" event on October 11, 2016.<sup>190</sup> *Universiti Malaya* also fined and suspended four UMAN Y members involved in organizing the event *40 Years: From UM to Prison* in October 2014.<sup>191</sup>

Chua Hun Ti was the only woman who was involved and disciplined for her engagement in the "1MDB Townhall" event. She shared with Fortify Rights the important role of women student leaders and activists in Malaysia's student movements:

Who says only male students can lead a student movement? As a student activist, I disregard the notion that the student movement must be a male-dominated field. To understand and take interest in political and social and cultural issues is everyone's equal responsibility, regardless of gender. It is also a responsibility that university students ought to have ... In my experience, there are quite a number of female activists in the student movement. We act upon our capabilities and serve distinct functions to advocate campus and national issues. However, I believe the most important thing is that we possess the same aspiration and

<sup>189</sup> Fortify Rights interview with Kon Hua En, Kuala Lumpur, Malaysia, July 12, 2017.

<sup>190</sup> Letters from *Universiti Malaya* to Ho Chi Yang, Lau Li Yang, Tan Jia You, and Chua Hun Ti, February 14, 2016.

<sup>191</sup> Kamles Kumar, "UM8 Students Allowed to Challenge Penalty over Anwar Talk."

principles. We all stand firmly on wanting AUKU 1971 to be abolished and hope that every university or college student can enjoy their fundamental liberties and freedom, including the autonomy to govern their own campuses.<sup>192</sup>

Speaking on the challenges UMAN Y face with their advocacy efforts, Lau Li Yang, the head of UMAN Y's Strategic Bureau, told Fortify Rights:

It isn't easy to be associated with an association deemed as "troublemaker" by the university authorities. This is evident in our [UMANY4] charges. We are also often criticized by the "pro-university" students. However, with the environment in most public universities where students still do not have their rightful freedom of expression, we feel that we have a duty to advocate for their fundamental rights as well as academic freedom in universities. What is unfortunate, is that many of the students and lecturers are actually silent supporters. Students fear to be punished or expelled, lecturers fear to lose their jobs. This culture of fear is unhealthy and needs to stop.<sup>193</sup>

## **ANIS SYAFIQAH BINTI MD YUSOF, UNIVERSITI MALAYA**

Anis Syafiqah is a founder and spokesperson of the *Gabungan Tangkap Malaysian Official 1* or Arrest Malaysian Official 1 Coalition, a coalition of students from the *Universiti Malaya*, the *Universiti Kebangsaan Malaysia*, the *Universiti Malaysia Sabah*, the *Universiti Teknologi Mara*, and the International Islamic University Malaysia (UIA) established to mobilize support for the *Tangkap MO1* rally on August 27, 2016.<sup>194</sup> Anis shared with Fortify Rights why she formed the coalition, saying, "I felt that, as the leaders of tomorrow, we have a responsibility to speak out against an alleged grand corruption that will eventually cripple the democracy of Malaysia."<sup>195</sup> Motivated by the relative absence of women student leaders, Anis said:

Prior to this, there was no female student that took up the role as a front-liner of such a rally or peaceful protest. So, I thought, it is time to change the patriarchal perception that only male leaders can take the lead. To me, human rights is not an issue or burden exclusively for men, but women can take the lead too.<sup>196</sup>

<sup>192</sup> Fortify Rights interview with Chua Hun Ti, Kuala Lumpur, Malaysia, May 30, 2018.

<sup>193</sup> Fortify Rights interview with Lau Li yang, Kuala Lumpur, Malaysia, September 18, 2017.

<sup>194</sup> "'Tangkap MO1' Rally Expects 5,000," *Free Malaysia Today*, August 23, 2016, <http://www.freemalaysiatoday.com/category/nation/2016/08/23/tangkap-mo1-rally-expects-5000/> (accessed December 8, 2017).

<sup>195</sup> Fortify Rights interview with Anis Syafiqah, Selangor, Malaysia, December 20, 2016.

<sup>196</sup> *Ibid.*

As documented in this report, Anis and the other four student founders of the coalition faced disciplinary action from their respective universities for their role in organizing the *Tangkap* MO1 rally.

The Malaysian authorities also arrested and detained Anis on the eve of the *Bersih 5* rally in Kuala Lumpur. Recalling her arrest and detention, Anis told Fortify Rights:

During the night of the arrest, I was painting rally banners at my friend's house. However, the police were able to trace my location and arrested me ... The conditions in the lock-up were appalling. I noticed that there was a CCTV in the female cell. Hence, I did not dare to take a shower. The lights were on the entire night, and there was no bed, mattress, nor pillow. I was also not given a headscarf until Maria Chin [the chair of *Bersih 2.0* and organizer of *Bersih 5*, who was also detained the evening of the rally] demanded the warden in charge provide one for me.<sup>197</sup>

Anis graduated in January 2018. Anis continues to support student-led initiatives, including the Student Movement to Abolish AUKU. Anis told Fortify Rights:

[M]y sentiment is still with the *mahasiswa* (students). For as long as I can, I will continue to encourage youth to be brave and speak out for what is right and what is theirs. We still have a long way to go before we see our youth in universities be progressive in terms of their mindset and to rid the culture of fear among them because of laws like AUKU.<sup>198</sup>

## **ASHEEQ ALI BIN SETHI ALIVI, UNIVERSITI KEBANGSAAN MALAYSIA**

Asheeq is also a founder of the *Tangkap* MO1 Coalition as well as the current president of *Kesatuan Mahasiswa Malaysia* (KMM) or the Malaysia Student Coalition, a coalition founded on May 9, 2015 to represent 15 student movements focusing primarily on democratic rights, preventing corruption, and amending Malaysia's sedition laws and AUKU. KMM also supports students disciplined by their universities for attending or participating in peaceful assemblies by raising funds to pay for their fines.<sup>199</sup>

Describing the goal of KMM, Asheeq told Fortify Rights: "KMM aims to empower students to express their thought and to speak freely and to take part in national politics. We believe that students' roles are vital in maintaining the democracy in Malaysia."<sup>200</sup>

<sup>197</sup> *Ibid.*

<sup>198</sup> Fortify Rights interview with Anis Syafiqah, Kuala Lumpur, Malaysia, March 27, 2018.

<sup>199</sup> For example, the *Sedition Act* 1948, the *Prevention of Terrorism Act* 2015, the *Security Offices and Special Measures Act* 2012, and the *Official Secrets Act* 1972. Fortify Rights interview with Asheeq Ali, Kuala Lumpur; August 21, 2017.

<sup>200</sup> Fortify Rights interview with Asheeq Ali, Kuala Lumpur, Malaysia, August 21, 2017.

On May 30, 2017, Asheeq also founded DEMOKRAT *Universiti Kebangsaan Malaysia* with several other students to advocate for student rights.<sup>201</sup> DEMOKRAT leverages social media to engage in discussions on campus to promote democratization in student elections and to support students facing disciplinary action.<sup>202</sup>

As part of DEMOKRAT's activities, on April 6, 2018, Asheeq and others organized a student lectures series in public universities nationwide to share and educate students on the history of Malaysian student activism, the founding of the Student Affairs and Alumni Department under AUKU, and the use of AUKU to suppress the rights to freedom of expression, peaceful assembly, and association of university students for decades.<sup>203</sup> Through the lecture series, called the "Mortar Movement," Asheeq has shared his experience under AUKU with other students throughout Malaysia. Explaining the motivation for this initiative, Asheeq said: "I would like to use my situation as a motivation for other students to stand up for their rights."<sup>204</sup>

To date, Mortar Movement has visited five universities nationwide and aims to continue its activities when the new intake of students comes in September 2018.<sup>205</sup>

## THE STUDENT MOVEMENT TO ABOLISH AUKU

Ahead of Malaysia's transformative general elections, on March 27, 2018, Asheeq Ali led more than 20 student activists from several public universities in a march towards Parliament to deliver a memorandum demanding the repeal of AUKU.<sup>206</sup> After standing two hours in the rain chanting in Malay, "*Hidup, hidup mahasiswa. hancur hancur kezaliman*" ("Long live university students, crush tyranny"), Member of Parliament Steven Sim arranged for four representatives to enter the Parliament to meet with Dr. Wan Azizah Wan Ismail, the former opposition leader and current Deputy Prime Minister.

Lau Li Yang, student leader with UMANY, explained to Fortify Rights the timeliness of the initiative ahead of Malaysia's elections, saying:

<sup>201</sup> This movement is an extension of the original DEMOKRAT *Universiti Malaya*, founded in August 2016. Demokrat *Universiti Malaya*, Facebook pag, [https://www.facebook.com/pg/DemokratUniversitiMalaya/about/?ref=page\\_internal](https://www.facebook.com/pg/DemokratUniversitiMalaya/about/?ref=page_internal) (accessed May 30, 2018).

<sup>202</sup> Fortify Rights interview with Asheeq Ali, Kuala Lumpur, Malaysia, August 21, 2017.

<sup>203</sup> *Ibid.*

<sup>204</sup> Fortify Rights interview with Asheeq Ali, Kuala Lumpur, Malaysia, May 30, 2018.

<sup>205</sup> *Ibid.*

<sup>206</sup> The following day, a police officer from Dang Wangi Police Headquarters called Asheeq Ali for questioning around his involvement in organizing the rally. See, Fortify Rights interview with Asheeq Ali, Kuala Lumpur, Malaysia, March 27, 2018. See also, Nurul Azwa Aris, "Students March to Parliament to Demand Abolishment of UUCA," *Free Malaysia Today*, March 27, 2018, <http://www.freemalaysiatoday.com/category/nation/2018/03/27/students-march-to-parliament-to-demand-abolishment-of-uuca/> (accessed May 30, 2018).

We are hoping to send our message to the Parliament to once again reiterate the students' call to abolish AUKU. After this rally, we wish to deliver our students' manifesto to both the government and opposition for the upcoming General Elections, asking for academic freedom, basic human rights, and to abolish AUKU.<sup>207</sup>

Another student activist shared the reasons for her involvement in the rally, saying:

We are seeing more cases of students being convicted under AUKU. We want the government to understand that it is important for us to have our own voices. Perhaps the government did not expect that we will stand here in the rain to demand for the abolishment of AUKU, but we want them to know that students also have a voice and opinion of their own.<sup>208</sup>

Twelve days after the 14<sup>th</sup> General Elections in Malaysia, on May 22, 2018, three student groups, including UMANY, held a press conference at the *Universiti Malaya* via Facebook Live to announce their joint effort to launch an online petition to urge the new *Pakatan Harapan* government to fulfill its electoral manifesto, abolish AUKU, and revive both university and student autonomy.<sup>209</sup> As part of the online petition, the joint movement prepared a "Memorandum of Demands to the Government of *Pakatan Harapan*" addressed to the newly appointed Minister of Education Dr. Maszlee Malik, calling for the government to repeal AUKU and to revive both university and student autonomy as a matter of priority.

At the time of writing, the petition garnered a total of 974 signatures from the public.<sup>210</sup>

<sup>207</sup> Fortify Rights interview with Lau Li Yang, Kuala Lumpur, Malaysia, March 27, 2018.

<sup>208</sup> Fortify Rights interview with 24-years-old female *Universiti Kebangsaan Malaysia* student, Kuala Lumpur, Malaysia, March 27, 2018.

<sup>209</sup> University of Malaya New Youth Association, "Live Press Conference: Student Movement to Abolish AUKU," *Universiti Malaya New Youth Association Facebook Page*, May 22, 2018, <https://www.facebook.com/umany2001/videos/1916756161688267/> (accessed on June 7, 2018); *Buku Harapan: "Rebuilding Our Nation, Fulfilling Our Hopes," Promise 27: Abolish Oppressive Laws*, [http://kempen.s3.amazonaws.com/manifesto/Manifesto\\_text/Manifesto\\_PH\\_EN.pdf](http://kempen.s3.amazonaws.com/manifesto/Manifesto_text/Manifesto_PH_EN.pdf) (accessed on June 7, 2018).

<sup>210</sup> "Abolish Universities & University Colleges Act to Revive University and Student Autonomy," *Change.org*, May 22, 2018, <https://www.change.org/p/ministry-of-education-abolish-universities-university-college-act-to-revive-university-and-student-autonomy> (accessed on June 7, 2018).



# RECOMMENDATIONS

## TO PUBLIC UNIVERSITIES IN MALAYSIA

- **Immediately** and unconditionally drop and cease from instituting disciplinary proceedings against university students exercising their rights to freedom of expression, peaceful assembly, and association.
- **Train** university administrators and staff in charge of student disciplinary matters on the rights to freedom of expression, assembly, and association and their obligation to uphold them.
- **Make** available quantitative data on disciplinary actions against students, including the number of actions taken, the provisions and conduct on which they are based, and the penalties imposed since the passage of AUKU while respecting student confidentiality.
- **Ensure** students have the right to be heard and fairly represented at disciplinary hearings.
- **Amend** AUKU and the Disciplinary Rules to remove all restrictions that infringe on the rights to freedom of expression, peaceful assembly, and association under Malaysian law and international law. Specifically, bring the following provisions in line with international law:
  - AUKU Section 15, which prohibits students from becoming members of, expressing support for, sympathy with, or opposition to any group determined to be "unsuitable to the interests and well-being of the students or the University."
  - Disciplinary Rule 3, which prohibits student conduct considered "detrimental or prejudicial to the interests, well-being or good name of the University" as well as any disruption or interference with any "activity carried out by or under the direction of or with the permission of the University."

- Disciplinary Rule 9, which requires students to obtain advanced permission from the Vice-Chancellor to organize “any assembly of more than five persons” on campus.
- Disciplinary Rule 11, which prohibits students from making, exhibiting, or possessing “any flag, banner, placard, poster, emblem or other device which is conducive to the promotion of indiscipline, disorder, disobedience or contravention of these Rules.”
- Disciplinary Rule 12, which requires students to obtain advanced permission from the Vice-Chancellor to “publish, distribute or circulate any document within the Campus or outside the Campus.”
- Disciplinary Rule 13, which prohibits students from organizing or participating in any off-campus activity “which has a direct adverse effect on the University or which is prejudicial to the interests of the University.”
- **Ensure** disciplinary hearings comply with fair-trial principles, including the right to be informed of the basis for the hearing, the right to be represented, and the right to adequate time and facilities to prepare a defense.
- **Reinstate** student associations suspended for engaging in protected activities under international law and protect the right to freedom of association.

## TO THE GOVERNMENT OF MALAYSIA

- **Amend** AUKU and any related laws and regulations to remove all restrictions that violate the rights to freedom of expression, peaceful assembly, and association under Malaysian law and international law.
- **Investigate** and/or invite the Malaysian Commission of Human Rights (SUHAKAM) to investigate universities’ violations of the rights of students charged under AUKU and the Disciplinary Rules, with a view towards establishing an historical record of restrictions on students in Malaysia and providing remedies to students.
- **Establish** a human rights task force comprised of recognized human rights specialists to develop and provide annual trainings to university administrators throughout Malaysia to ensure they promote and protect students’ rights to freedom of expression, assembly, and association and so that administrators fully understand the legal conditions that must be met in order to lawfully restrict those rights. Ensure the task force includes at least one specialist on women’s rights and gender issues.

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- **Publicly** affirm university students' rights to freedom of expression, peaceful assembly, and association under domestic and international law.
  - **Ratify** the ICCPR and other key human rights treaties, including the International Covenant on Economic, Social and Cultural Rights.
  - **Invite** the UN Special Procedures, in particular the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Special Rapporteur on Freedom of Peaceful Assembly and Association to review Malaysia's compliance with the rights to freedom of expression, peaceful assembly, and association and adhere to the recommendations arising from any UN special procedures.



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For nearly five decades, Malaysian authorities and public universities have worked in concert to prevent students from exercising their rights to freedom of expression, peaceful assembly, and association. Based on a 17-month-long investigation involving more than 60 interviews with students from ten of Malaysia's 20 public universities, this report—**"No Politics on Campus": Violations of the Rights to Freedom of Expression, Peaceful Assembly, and Association Against University Students in Malaysia**—documents recent violations on and off campus affecting the rights of university students in Malaysia. It exposes the law and rules used to violate the rights of students in Malaysia and makes concrete recommendations for the Government of Malaysia to protect the rights to freedom of speech, peaceful assembly, and association.



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