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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Aliran Kesedaran Negara National Consciousness Movement, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 May 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Shrinking democratic space and ongoing human rights violations in Malaysia

We welcome the focus that United Nations High Commissioner on Human Rights Zeid Ra'ad placed on the shrinking democratic space in Malaysia. We also thank him for raising serious concerns over the continual use of the Sedition Act and other draconian laws against human rights defenders, journalists, opposition politicians and civil society activists during the 31st UNHRC Regular Session in March 2016.

Despite mounting international pressure the Malaysian government continues to act with impunity. For example, on 15 May 2016, Bersih chairperson Maria Chin Abdullah was barred from leaving the country. The reason? An instruction from Putrajaya (the administrative capital).¹

Money politics, unfettered cash distribution, undue influence and threats, and biased delineation activities were rife in the run-up to Sarawak state election on 7 May 2016. Sarawak has long been considered the ruling National Front coalition's 'fixed deposit'. Electoral watchdog group Bersih called this election the most "shocking and appalling" election to date.

We can clearly see that there is an ongoing trend to curb freedom of expression and freedom of assembly. The government is trying every possible way to curtail such fundamental human rights in Malaysia, as can be seen in the:

- Continual harassment, arrests, detention and prosecution of journalists, activists and opposition leaders, especially those working to expose the latest developments related to the 1MDB grand corruption scandal implicating Prime Minister Najib.
- Use of the Peaceful Assembly Act against peaceful rally or protest organisers and participants.
- Continual use of the Sedition Act 1948 to limit freedom of expression in Malaysia. Many Members of Parliament and human rights defenders are facing charges for raising concerns about corruption and human rights, which in Malaysia is sometimes termed as termed as "activities detrimental to parliamentary democracy". Any MP convicted will be stripped of his or her parliamentary post and disqualified from contesting in an election for five years.)
- Severe constraints on the freedom to express one's sexual and gender identity – a controversial subject in Malaysia.
- Ongoing political detention of Opposition Leader Anwar Ibrahim.

Amendments to the Criminal Procedure Code (CPC) and Penal Code

Proposed amendments to the Criminal Procedure Code (CPC) threaten to undermine fundamental rights enshrined in the Federal Constitution of Malaysia. The proposed amendments to the code that will be tabled in the ongoing parliamentary session include a shocking amendment that will restrict bail for ALL offences under Section 124 of the Penal Code.

Section 124 has been invoked countless times throughout 2015 against civil rights activists and politicians during the #KitaLawan rallies and subsequently against media such as the Malaysian Insider earlier this year.

The amendment to CPC and the denial of bail for offences under Section 124 would greatly strengthen the 'bite' of Section 124 and grant the government power to imprison, punish and silence dissenters.

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News Straits Times online, <<http://www.nst.com.my/news/2016/05/145792/maria-chin-barred-leaving-malaysia-klia>>

Increased use of the Sedition Act to crack down on human rights defenders

The following human rights defenders and opposition politicians have been investigated/ charged/convicted under laws detrimental to freedom of expression and assembly.

- On 31 March 2016, three lawyers, Charles Hector, R Shanmugam and Francis Pereira were summoned by the police over their motion at the Malaysian Bar's annual general meeting held on 19¹ March. The motion was to seek Attorney General Mohamed Apandi Ali's resignation.² There are no charges at the time of writing.
- Activist and lawyer Haris Ibrahim was sentenced to eight months in prison by the Sessions Court after being found guilty of making seditious remarks at a public forum following the 13th general election three years ago. However, the judge granted the defence's application for a stay of execution pending appeal, with bail increased to RM10,000 from RM5,000.
- On 14 April 2016, Padang Serai MP and lawyer N Surendran failed in a bid in the High Court to persuade it to refer the constitutionality of the Sedition Act to the Federal Court. The court ruled that the three questions posed by Surendran - whether the Sedition Act was constitutional, whether the Act violates Articles 5, 8, 10 of the Federal Constitution and whether intention being irrelevant was unconstitutional in challenging the Act - have been answered in Prof Azmi Sharom's challenge and the High Court does not need to refer the questions to the Federal Court. N Surendran's counsels will be appealing against the decision to the Federal Court.³
- On 9 April 2016, Pandan MP and secretary general of the People's Justice Party Rafizi Ramli was charged under the Official Secrets Act (OSA) in relation to the 1MDB scandal that implicated the prime minister. Rafizi was charged under Section 8(1)(c)(iii) and Section 8(1)(c)(iv) of the OSA and under Section 499 of the Penal Code for criminal defamation.⁴
- On 3 April 2015, political cartoonist Zunar was charged with nine offences under the Sedition Act. The charges related to a series of tweets made that were critical of the government following the jailing of opposition leader Anwar Ibrahim of sodomy charges in February 2015.⁵ The next mention date is 11 July 2016, pending the outcome of the appeal in N Surendran's case.
- On 15 January 2016, Hishamuddin Rais was sentenced to nine months jail after a court rejected his appeal against his conviction over a speech he made on 13 May 2013 allegedly aimed at toppling the government. But the court allowed a stay of execution pending appeal at the Court of Appeal and imposed a RM6,000 bail (about US\$1,500).⁶ On 16 May 2016, his nine months jail sentence was overturned by the Court of Appeal but the RM 5,000 fine was retained.⁷
- On 18 May 2013, student activist Adam Adli, 24, was arrested over remarks he made at a public gathering on 13 May 2013, when he urged the public to take to the streets to protest against electoral fraud. He was investigated under Section 4 of the Sedition Act and Section 124 of the Penal Code for

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Free Malaysia Today, 31 March 2016, <<http://www.freemalaysiatoday.com/category/nation/2016/03/31/lawyers-questioned-under-sedition-act-to-keep-on-talking/>>

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Free Malaysia Today, <<http://www.freemalaysiatoday.com/category/nation/2016/04/14/surendran-to-appeal-to-federal-court-on-sedition-act/>>

4

The Star Online, <<http://www.thestar.com.my/news/nation/2016/04/09/rafizi-denies-osa-charges-pkr-leader-claims-trial-to-two-counts/>>

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Al Jazeera, <http://www.aljazeera.com/news/2015/04/malaysia-cartoonist-charged-sedition-tweets-150403065345610.html>

6

The New Straits Time, <http://www.nst.com.my/news/2016/01/122339/hishamuddin-raiss-gets-9-months-jail-sedition>

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The Star Online, <<http://www.thestar.com.my/news/nation/2016/05/16/hishamuddin-raiss-jail-term-overturned-by-appeals-court/>>

“activities detrimental to parliamentary democracy”⁸. On 18 February 2016, the Kuala Lumpur High Court reduced Adam’s custodial sentence to a RM5,000 fine⁹ and the court allowed a stay of execution pending his appeal at the Court of Appeal.

Media freedom

On 25 February 2016, popular online news portal, *The Malaysian Insider* (TMI) was blocked by the government. The Malaysian Communications and Multimedia Commission (MCMC) blocked access to the news portal via Malaysian internet service providers (ISPs).¹⁰

The blocking of news sites like Sarawak Report and Asia Sentinel, the ongoing intimidation and lawsuits against media such as *Malaysiakini*, and the arrest and deportation of two Australian Broadcasting Corporation journalists are part of a worsening crackdown on media freedom. This was also seen during the recent Sarawak state election with the barring of a foreign journalist from UK Channel 4 News, Jonathan Miller, from a post-election press conference attended by the prime minister.

Peaceful Assembly Act 2012 (PAA)

The Peaceful Assembly Act is arbitrarily used to restrict freedom of assembly and to charge those who organise or participate in protests, demonstrations and rallies. The restrictions imposed organisers and participants, the requirement of 10-day notice period, and restrictions as to time, place and manner of protest are grave concerns for human rights groups in Malaysia.

1 May 2016: Police released a statement that would take action against the May Day rally organiser for not following stipulations under the law.¹¹ Before the rally, the organiser complied with the 10-day notice period and had a meeting with the district police chief. Police have contacted the organiser to record a statement under the Peaceful Assembly Act, but no statement has been recorded so far.

5 May 2016: MPs Tian Chua and R Sivarasa were investigated under Section 9 of the Peaceful Assembly Act over a gathering on 9 February 2016 to commemorate former opposition leader Anwar Ibrahim’s first year in Sungai Buloh Prison. It is expected that more will be called for investigation.¹²

Sexual orientation and gender identity, religion and moral policing

On 13 April 2016, the Federal Territories Islamic Department (Jawi) raided a dinner by trans women for allegedly hosting a so-called beauty contest on the grounds that it had violated a fatwa against beauty pageants.¹³ Jawi officers took human rights lawyer Siti Kassim and one of the organisers to the Dang Wangi District Police Station.

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Malaysiakini, <<https://www.malaysiakini.com/news/230914>>

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The Star Online, <http://www.thestar.com.my/news/nation/2016/02/18/adam-adli-jail-sentence-reduced-to-rm5000-fine/>

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Malaysiakini, <<https://www.malaysiakini.com/news/331729>>

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The Star Online, < <http://www.thestar.com.my/news/nation/2016/05/01/police-to-take-action-against-may-day-rally-organisers/>>

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The Malay Mail Online, <http://www.themalaymailonline.com/malaysia/article/pkr-mp-under-illegal-assembly-probe-over-anwar-anniversary-gathering#sthash.kCqKld2Y.dpuf>

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The Malay Mail Online, <<http://www.themalaymailonline.com/malaysia/article/jawi-raids-transgender-beauty-pageant-for-breaking-fatwa#sthash.pliBiQux.dpuf>>

Siti Kassim was released on the same night while the hostess known as Ira was released the following day.¹⁴ The fatwa against beauty pageants was gazetted under the Administration of Islamic Law (Federal Territories) Act in February 1996.

We call upon the government to implement the commitments and pledges that it has made in the Human Rights Council and ratify all the core human rights conventions and their optional protocols. The government should issue a standing invitation to all the thematic special procedures rapporteurs.

Suara Rakyat Malaysia (Suaram) NGO(s) without consultative status, also share the views expressed in this statement.

14

The Star Online,< <http://www.thestar.com.my/news/nation/2016/04/05/lawyer-mulling-over-action-against-jawi/>>