Submission for Malaysia's United Nations

Human Rights Council's Universal Periodic Review 2023

Title: Ensuring better delivery of healthcare involves respecting healthcare workers towards freedom to exercise conscience and religion and better working conditions.

Introduction

The Islamic Medical and Health Practitioners Association of Malaysia (I-Medik) is a registered medical association comprised of qualified medical doctors, dentists, pharmacists, nurses, and allied healthcare practitioners. The members include surgeons, physicians, family medicine and public health specialists, obstetricians and gynaecologists as well as consultants and professors in academia. Formally established in 2013, I-Medik is dedicated to providing equal access of health information and health services to the general public including those of vulnerable groups, people with disability, those living in remote areas and people without proper documentation. I-Medik has branches in all 14 states of Malaysia with members who actively participate in life-saving relief missions during emergencies, and giving assistance to people recovering from conflicts or natural disasters. During the COVID-19 pandemic, I-Medik mobilized its members to voluntarily assist the government as front-liners in gaining and maintaining public trust in the COVID-19 vaccination programme. Internationally, I-Medik has sent relief missions to conflict areas such as Cox's Bazaar, Bangladesh to provide humanitarian aid to the Rohingyan refugees, to Syria to provide aid to Palestinian refugees, and to Acheh and Turkey for post-disaster recovery and rehabilitation efforts following the 2004 tsunami and 2022 earthquake respectively.

1.0 Right to freedom of religion and conscience in the health sector

1. In recent years, there have been unwelcome attempts to curb the religious rights of the lesbian, gay, bisexual, transgender and queer (LGBTQ) community in Malaysia as reported by I-Medik in the previous UPR cycle[1,2]. As LGBTQ people have a close connection to various health issues, there has been an extension of these violations of freedom to practice one's religion and conscience in the health sector as explained below.

2. Freedom of religion and conscience are protected by Article 11 of the Federal Constitution[3] and Article 18 of the Universal Declaration of Human Rights (UDHR)[4]. No person shall be discriminated against based on position or occupation in the health sector.

3. There is plenty of evidence which clearly shows that religious and conscience practice encourages good behavior, and subsequently reduces the prevalence of unhealthy lifestyle diseases, and resilience from illness[5,6,7,8]. Health as defined by the WHO can be preserved through religious or non-religious approaches where appropriate. Thus, the impact of religion and conscience to the health of the individual or a community should be taken into account in any action or policy implemented by health authorities.

4. There were official responses by the government that seemed to deny the rights of public and medical practitioners alike, to express religious positions as part of a holistic approach in the prevention of sexually transmitted diseases and illegal substances addiction.

5. A Muslim scholar who was invited by the State Health Department to deliver a talk on National World AIDS Day 2022 was accused by pro-LGBT groups of making disparaging remarks regarding individuals who are HIV positive[9]. There was however no evidence of the exact statements made. These groups consistently reject the religious approach in prevention of STDs. Bowing to pressure, the State Health Department were forced to issue an apology for inviting the scholar, following a joint statement by the Malaysian AIDS Council and Malaysian AIDS Foundation denouncing the event, despite the lack of any concrete proof of the scholar's speech[7,8,10,11].

6. The Ministry of Health (MOH) pilot project to upscale the usage of pre-exposure prophylaxis (PrEP) involving homosexual, bisexual, and transgender people posed a polemic among the society and even part of the medical fraternity. Islam is the religion of the Federation as stated in Article 11. There appeared to be a lack of proper consultation with the stakeholders, namely the religious authorities who would prefer abstinence as the method more suitable in the society to address the HIV problem. These poor stakeholder engagement mechanisms resulted in downgrading remarks made against the religious authorities, NGOs and professionals (medical and non-medical based) who still have dissenting views with regards to the project[12].

7. Public humiliation of medical staff by certain dissatisfied patients through social media has caused disproportionate stress towards doctors, nurses and health staff. In February 2023, a healthcare staff member who was merely discharging her duty to remind a stable walk-in patient to observe the dress code policy was accused of denying treatment through a social media post when that was not the case. The patient was offered more suitable clothing, but she refused and left. The MOH however did little to support the staff member who was already under duress due to the public humiliation[13].

8. Freedom of expressing religious values and conscience should be protected and respected by all parties including the health authorities. The responses by the government and related agencies in handling religious views and practices in the health sector were clearly biased and discriminating. Patient care should be viewed as preserving health in all its dimensions, holistically, and the effect of health authorities' actions should take the community's concerns and beliefs into account as well, rather than just acting in the interest of one specific group or person.

Recommendations:

9. To respect expression of religious positions as part of a holistic approach as long as it does not jeopardize patient's care in any way.
10. To adequately involve all relevant stakeholders in the discussion, including religious authorities and utilizing expertise from NGOs in planning health policies that deal with sensitive cultural and religious values.
11. To adopt health strategies or policies that are appropriate and accepted by the local community.

12. To set a mechanism that scrutinizes complaints against healthcare staff to protect them from accusations and labelling them as homophobic or transphobic simply for incorporating religious counselling to prevent high risk sexual behavior leading to HIV.

References

1 . https://www.ohchr.org/en/hr-bodies/upr/uprmy-stakeholders-info-s31

2. 'Universal Periodic Review' (UPR) Reports by I-Medik. https://www.youtube.com/watch?v=XmCKQiL-9fk

3. Malaysia Information on Religion. Accessible at : https://www.malaysia.gov.my/portal/content/30116

4. SUHAKAM. Freedom of Religion [Internet]. 2022. Available from: https://suhakam.org.my/portfolio/freedom-of-religion/

5. Garofalo R, Kuhns LM, Hidalgo M, Gayles T, Kwon S, Muldoon AL, et al. **Impact of religiosity on the sexual risk behaviors of young men who have sex with men**. *J Sex Res*. 2015;52(5):590–8.

6. Muhammad NA, Shamsuddin K, Sulaiman Z, Amin RM, Omar K. **Role of Religion in Preventing Youth Sexual Activity in Malaysia: A Mixed Methods Study.** *J Relig Health*. 2017;56(6):1916–29.

7. Mueller PS, Plevak DJ, Rummans TA. **Religious involvement, spirituality, and medicine: Implications for clinical practice.** *Mayo Clin Proc*. 2001;76(12):1225–35.

8. Svensson NH, Hvidt NC, Nissen SP, Storsveen MM, Hvidt EA, Søndergaard J, et al. **Religiosity and Health-Related Risk Behaviours in a Secular Culture—Is there a Correlation?** *J Relig Health* [Internet]. 2020;59(5):2381–96. Available from: https://doi.org/10.1007/s10943-019-00919-2

9. Mohsen AS. Lecturer under fire for disparaging PLHIV, LGBT community on World AIDS Day. 2022;1–4. Available from: https://www.thevibes.com/articles/news/78897/lecturer-under-fire-for-disparaging-plhiv-lgbt-community-on-world-aids-day

10. Jabatan Kesihatan Negeri Sembilan. Kenyataan Media: Isu Discrimination Language Semasa Sambutan Hari AIDS Sedunia Peringkat Kebangsaan 2022 [Internet]. Available from: https://www.facebook.com/photo/?fbid=514232020745327&set=a.225075609660971

11. Malaysian AIDS Council & Malaysian AIDS Foundation. Joint Media Statement By The Malaysian AIDS Council & Malaysian AIDS Foundation [Internet]. Available from: https://www.facebook.com/photo/?fbid=514949350669860&set=a.225866079578190

12. Another mufti comes out against anti-HIV drug for LGBT https://www.freemalaysiatoday.com/category/nation/2023/01/20/another-mufti-comes-out-against-anti-hiv-drug-for-lgbt/

13. Jabatan kesihatan Negeri Perak. Kenyataan Akhbar: Maklumbalas Awal Isu Viral Pesakit Wanita Di Hospital Kampar Di Media Sosial [Internet]. Available from: https://www.facebook.com/photo/?fbid=518970323686537&set=a.186906246892948

2.0 Encroachment on the rights to favourable conditions at work among young doctors/healthcare workers

1. Article 23 of the UDHR cites that everyone is entitled to favourable conditions of work without any discrimination. Article 24 cites the right to rest and leisure including limitation of working hours and periodic holidays with pay[1].

2. In Malaysia, under the Medical Act 1971, it is compulsory for all graduated medical students to undergo compulsory service with the government for at least 3 years, the first two as trainee house officers (HO). After completion, they will either continue to serve the government either as general medical officers or specialists, or leave the government service to join the private sector.[2]

3. The Malaysian healthcare system is known to be among the best in the world in terms of accessibility. Seventy-five percent of Malaysians seek in-patient treatment and 90 percent of Malaysians seek out-patient treatment at public facilities and these numbers grow by the day.[3]

4. For the past few years there has been a steady increase in junior doctors leaving the government service after completion of compulsory service. In 2022 alone, as much as 30% have left the service. A growing number have even left the medical profession altogether to venture into non-medical fields. This has inevitably resulted in not just the loss of trained doctors but also has left the government healthcare system severely understaffed, resulting in an extra burden of work for those who remained behind. [4-6]

5. Among problems cited by junior medical doctors include unclear pathways to job progression, insufficient salary especially for urban workers, and increased work load exacerbated by the exodus.[7]

6. Compared to permanent staff, contract doctors are not afforded certain privileges which are necessities for all doctors. For example, if they contract a chronic illness like tuberculosis, they only get up to 6 months sick-leave whilst permanent staff are allowed sick-leave up to 2 years. The MoH announced that the government had agreed to approve special medical duty leave and TB

leave for contract pharmacists, dentists and doctors who are diagnosed with cancer, tuberculosis (TB) and leprosy. But this can only be taken by those who have completed the mandatory service which comprises housemanship of two years and a continuation of their contract for another three years. Essentially, those within 5 years of service are not covered.[8]

7. The bullying culture is well known to exist within the medical fraternity. It has been worsening the past few years due to the increase in tensions at work for various reasons including the Covid-19 pandemic.[9,10]

8. Despite the touted growing number of medical graduates per available posts, there are still medical officers working well beyond the 24 hour mark per shift. This causes extreme fatigue that may impair decision making among stressed out healthcare workers thus, affecting patient care. This is especially true in areas involving critical care. [11]

Recommendations:

1. Amend the Medical Act 1971 to ensure the contract doctors received similar basic rights for sick-leave and treatment. The Act should also include a strict policy of a maximum of 8 hours per shift to ensure doctors get enough rest.

2. Enact an effective whistleblower system to address bullying and harassment in the health services sector, especially among trainee doctors.

References:

1. Article 23 and 24 of Universal Declaration of Human Right (UDHR) [Internet]. Available at: https://www.un.org/en/about-us/universal-declaration-of-human-rights#:~:text=Article%2023&text=Everyone%2C%20without%20any%20discrimination%2C%20has,other%20means%20of%20social%20protection.

2. Law of Malaysia, Act 50, Medical Act 1971,Part III:Registration of Medical Practitioners [Internet]. Available at: https://mmc.gov.my/wp-content/uploads/2022/06/Medical-Act-1971-Act-50.pdf

3. Public healthcare system in crisis [Internet]. Available at: https://www.thestar.com.my/news/nation/2023/02/16/health-services-in-crisis#.Y_EB5F5YPUw.whatsapp

4. Malaysian contract doctors who resigned according to year [Internet]. Available at: https://twitter.com/HKontrak/status/1628935727412305922?t=r5cq0O8pi97wPTNc6V9-6w&s=19 and https://www.malaysiakini.com/news/656196

5. Manpower shortage stems from hiring process [Internet]. Available at: https://www.thestar.com.my/news/nation/2023/02/16/manpower-shortage-stems-from-hiring-process

6. Doctor strike,Hartal Doktor Kontrak in Malaysia [Facebook]. Available at: https://www.facebook.com/hartaldoktorkontrak/videos/378734703649599/?extid=CL-UNK-UNK-UNK-AN_GK0T-GK1C&mibextid=YCRy0i

7. Retain top medical talent with better work conditions and clear career pathways [Internet]. Available at: https://www.freemalaysiatoday.com/category/nation/2022/12/24/retain-top-medical-talent-with-better-work-conditions-clear-career-pathways/

8. Special leave does not solve our problem, says Hartal Doktor Kontrak. Available at : https://www.malaymail.com/news/malaysia/2022/01/02/special-leave-does-not-solve-our-problem-says-hartal-doktor-kontrak/2032480?fbclid=IwAR1q5vVpWyeTA5KKiu7tUlwVLuhJwd1pmDiDEFRNkTkhZaRRZhkDOoEjWyQ

9. Stop the bullying and abuse of trainee doctors in Malaysia. Available at : https://www.thestar.com.my/opinion/letters/2022/05/11/stop-the-bullying-and-abuse-of-trainee-doctors-in-malaysia

10. Samsudin EZ, Isahak M, Rampal S, Rosnah I, Zakaria MI. Workplace bullying among juniordoctors in Malaysia: a multicentre cross-sectional study. Malays J Med Sci. 2021; 28(2):142–156 Available from: https://www.researchgate.net/publication/351277098_Workplace_Bullying_Among_Junior_Doctors_in_Malaysia_A_Multicentre_Cross-Sectional_Study [accessed Jun 26 2023].

11. Docs in public healthcare are overworked, underpaid. Available at : https://www.nst.com.my/news/nation/2023/02/879632/docs-public-healthcare-are-overworked-underpaid