

Stakeholder Written Submission for Malaysia's 4th Universal Periodic Review 2023

Submitted by:

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“Campus democracy, student autonomy”

A. Introduction of UMANY

1. The University of Malaya Association of New Youth (“**UMANY**”) is a student organisation dedicated to championing freedom, equality, democracy, and the rights and welfare of students. Established in 2001, UMANY’s core mission revolves around fostering a spirit of "Campus Democracy, Student Autonomy."
2. Additionally, UMANY strives to cultivate student activism and raise awareness about social justice issues. UMANY actively fights for the abolishment of the University and University College Act 1971 (“**UUCA**”), advocating for the restoration of the Student Union and granting autonomy for students to manage campus affairs.

(94 words)

B. Executive Summary

3. Throughout the reporting period of 2018 to 2023, UMANY observed ongoing violations and interference to fundamental liberties with oppressive laws on the university students.
4. We express our concern over the Government of Malaysia led by ex-student activists who were once being suppressed for protesting draconian laws, now demonstrated no political will to restore student autonomy by abolishing the UUCA, hence departing from its election promise.¹
5. The UUCA, which in essence restricts students’ activities, was introduced back in the 1970’s when the student movement gained momentum in national politics and brought significant impact to the general election results. From 1971 to 2023, the UUCA was amended 7 times either to reinforce its oppressive nature or to loosen the restrictions imposed on the students.
6. In 2018, the Government of Malaysia (“**the Government**”) established an Abolish UUCA Technical Committee to introduce a new bill that replaces

¹ The Pakatan Harapan’s manifesto for the 15th General Election contains promise to abolish UUCA. Pakatan Harapan. (2022, November 1). Educational Reforms. Retrieved July 15, 2023, from <https://kitaboleh.my/en/tawaran-kita-boleh/educational-reforms/>.

UUCA. However, despite repeated calls from the civil society and student groups, the Government now shows no intention and effort to continue the work of the Technical Committee which had successfully produced comprehensive six policy papers emphasising on the value of academic freedom, university autonomy and student autonomy.

7. In March 2023, the Government announced its intention to amend UUCA to grant more freedom to the students. However, the Government insisted that UUCA would not be abolished, neither did the government specify the part that it is going to amend.²
8. In the following, this paper will discuss how the UUCA imposes restrictions on the students' right, freedom, and autonomy, as well as why amendment is not a feasible option and UUCA must be abolished.

C. Freedom of expression

9. Under Section 15(3) of UUCA, university students are prohibited from expressing sympathy towards any organisation which the University Board determines to be unsuitable to the interests and well-being of the students or the University. However, UUCA does not define what amounts to "unsuitable to the interests and well-being of the students or the University", which then grants absolute discretion to the University Board to make its decision.
10. Furthermore, Section 16C vests power in the University Board to make such disciplinary rules as it deems necessary or expedient to manage students' discipline. Such vast power is exposed to further abuse as the University Board is comprised of political appointees which will be elaborated in section G below.
11. In 2019, a student was criminally charged for holding a placard on stage during the convocation ceremony, demanding resignation of the Vice Chancellor of

² MalaysiaKini. (2023, February 24). Harapan's Promise to Abolish UUCA Won't Be Fulfilled. Retrieved July 15, 2023, from <https://www.malaysiakini.com/news/656235>.

Universiti Malaya for making racial remarks at the Malay Dignity Congress held on 6 October 2019.³

12. The Malay Dignity Congress was organised by four universities, including Universiti Malaya (“**UM**”) where the Vice Chancellor was reported to have made racially charged speech. Every residential college at UM had been forced to send Malay students to attend the congress.
13. After the incident, the Vice Chancellor lodged a police report, and Wong was charged under Section 504 of the Penal Code for intentional insult with intent to provoke a breach of the peace.⁴
14. In 2022, when Wong was invited as a representative of NGO to give a talk on “Freedom of Speech” by the Universiti Malaya Students’ Union (“**UMSU**”) during the Orientation Week, the university management shut off his microphone and evicted the audience, on the ground that UMSU invited “a forbidden person” to give speech.⁵
15. Dissatisfied, the president of UMSU, Ooi Guo Shen gave an impromptu speech pointing out the hypocrisy of the university management, which “encourages critical thinking” on one side, but stifles the freedom of expression on another side. Ooi was later threatened by the university management that he will receive warning and be penalized for what he had done.
16. In October 2020, UMANU issued a statement titled “the YDPA should not Interfere in National Affairs”. Following the incident, the management of UM issued a press release claiming that they will launch investigation into UMANU.⁶

³ Free Malaysia Today. (2019, October 14). Student activist carries out solo protest at his own graduation. Retrieved July 16, 2023, from <https://www.freemalaysiatoday.com/category/nation/2019/10/14/student-activist-carries-out-solo-protest-at-his-own-graduation/>.

⁴ Malay Mail. (2020, February 26). UM graduate claims trial over alleged provocative remarks in VC protest. Retrieved July 16, 2023, from <https://www.malaymail.com/news/malaysia/2020/02/26/um-graduate-claims-trial-over-alleged-provocative-remarks-in-vc-protest/1841116>.

⁵ The Vibes. (2022, October 14). UM bars student activist from speaking at freedom of speech forum. Retrieved July 15, 2023, from <https://www.thevibes.com/articles/news/74216/UM-bars-student-activist-from-speaking-at-freedom-of-speech-forum>.

⁶ MalaysiaKini. (2020, November 1). UM investigating student group over statement against king. Retrieved July 16, 2023, from <https://www.malaysiakini.com/news/548924>.

The high committees of UMANY were later probed by police for sedition and offences under the Malaysian Communications and Multimedia Act 1998.⁷

17. In May 2022, Vinosiny, a female student of Universiti Utara Malaysia (“**UUM**”) was found dead in her hostel room due to electrocution. This incident sparked controversies among the society, prompting concerns regarding the safety of the campus facilities. A group of students, who lamented on Vinosiny’s death, initiated the #JusticeForVinosiny campaign, demanding the university management to provide a comprehensive and transparent account of the incident.
18. Instead of launching a transparent investigation into Vinosiny’s death, the university management issued a gag order barring the students from discussing the incident.⁸ However, the gag order was later removed due to public pressure.
19. In March 2023, a politician, Syed Saddiq was invited by a student group to give a talk in Universiti Teknologi MARA (“**UITM**”).
20. On the event day, Syed Saddiq was prohibited by the university management from entering UITM, with the reason being the organizing committee failed to comply with due procedures. The organizing committee later responded that the university management had initially granted the approval, but one day before the event, they cancelled the approval on the ground of “to respect the Ramadan month”.⁹
21. On 10 April 2023, the Ministry of Higher Education (“**MOHE**”) held a town hall seeking to collect opinions from the students in relation to the UUCA amendment, in which UMANY has sent its representatives to attend the town

⁷ MalayMail. (2020, November 18). UM students group cries ‘witch hunt’ after police expand probe, summon members again for questioning. Retrieved July 16, 2023, from <https://www.malaymail.com/news/malaysia/2020/11/18/um-students-group-cries-witch-hunt-after-police-expand-probe-summon-members/1923906>.

⁸ MalaysiaKini. (2022, May 27). UUM bans students from events about Vinosiny’s death. Retrieved July 10, 2023, from <https://www.malaysiakini.com/news/622696>.

⁹ Kosmo. (2023, March 31). Syed Saddiq dihalang masuk UiTM, sesi dialog pada tarikh baharu. Retrieved July 10, 2023, from <https://www.kosmo.com.my/2023/03/31/syed-saddiq-dihalang-masuk-uitm-sesi-dialog-pada-tarikh-baharu/>.

hall. During the town hall, when the Ministry was questioned of the UiTM incident, they simply answered “Under AUKU, we still enjoy freedom, as long as we don’t touch the ceiling.”¹⁰

22. From the town hall, despite the Ministry not providing explicit details about the amendments to be made, it appears that MOHE is not planning to make any changes to Section 15(3). However, it's important to note that the MOHE representatives' elusive responses regarding freedom of speech indicate a reluctance to relinquish their control over students' freedom of expression.
23. Additionally, the proposed amendments only include the parts concerning the students but not the academics.
24. Attire is a way for people to express themselves. Nevertheless, the university managements have made unreasonable dress code policies to suppress students' freedom of attire.
25. In February, UUM issued a dress policy stating that all male students are required to wear neckties during examinations, and all students are required to wear leather shoes before entering the examination hall.¹¹
26. In June 2023, a fire incident occurred at a hostel of UUM. Fortunately, the fire did not cause any injuries or death. However, rather than prioritizing a thorough investigation into the cause of the fire, the university management chose to reprimand non-Muslim female students for wearing shorts as they evacuated the hostel during the emergency. In July 2023, a male student in UUM was fined for having piercings and his earrings was confiscated by the university management.
27. Few months earlier, female students in Universiti Teknologi Malaysia (“**UTM**”) were also fined for dyeing their hair and “wearing too much earrings”.

¹⁰ MalaysiaNow. (2023, April 6). Lively debate in town hall session on Auku. Retrieved July 10, 2023, from <https://www.malaysianow.com/news/2023/04/06/lively-debate-in-town-hall-session-on-auku>.

¹¹ FocusMalaysia. (2023, February 10). “Relax dress codes across universities, even PM Anwar has ditched necktie culture”. Retrieved July 10, 2023, from <https://focusmalaysia.my/relax-dress-codes-across-universities-even-pm-anwar-has-ditched-necktie-culture/>.

28. Earlier, Universiti Kebangsaan Malaysia (“**UKM**”) issued a dress code policy, stating that students are not allowed to wear cheongsam and saree, which are traditional dresses for ethnic Chinese and Indians, during the convocation.¹² In the above incidents, neither of the universities gave any reason to justify their decision making.

D. Freedom of association and assembly

29. Under Section 15(2) of the UUCA, students are prohibited from being a member of an organization which the University Board determines to be “unsuitable to the interest and wellbeing of the students or the University.”
30. Under Section 15(5), the University is given the power to regulate the activities of student groups and organizations. Furthermore, Section 16(1) is a powerful tool for the Vice Chancellors to suspend or dissolve any student group on the ground that the student group conducts itself in a manner “detrimental or prejudicial to the interests, well-being, public order, safety or security of the University, the employees or the students”.
31. Similarly, the Act does not specify the meaning of “unsuitable, detrimental or prejudicial to the interest of the University, the employees or the students”. As such, what constitutes to “unsuitable and detrimental” is subject solely to the interpretation of the University Board.
32. In 2022, political artist Fahmi Reza wanted to enter public university campuses to organize “Kelas Demokrasi”, a lecture aiming to promote civil and democracy awareness among the students in conjunction with the 15th General Election.
33. However, Fahmi Reza was prohibited from entering the campuses by all public universities, and that the university management had forcefully cancelled Kelas Demokrasi which were scheduled to be held. Furthermore, four students of

¹² The Star. (2022, October 30). UKM's dress code guideline for convocation draws ire on social media. Retrieved July 10, 2023, from <https://www.thestar.com.my/news/nation/2022/10/30/ukms-dress-code-guideline-for-convocation-draws-ire-on-social-media>.

Universiti Sains Malaysia (“**USM**”) who participated in Kelas Demokrasi were investigated by the police.¹³

34. Furthermore, although MOHE mentioned during the UUCA town hall that UUCA will be amended to give power to the Student Union to approve student activities, in June 2023, MOHE issued a circular, banning all concert-related activities that have not gone through “risk evaluations” on campus.
35. This circular was issued following a concert held in Universiti Malaysia Terengganu (“**UMT**”), in which religious groups commented the event as being “contrary to Syariah law”, “immoral” and urged actions to be taken against the organizer.
36. With the State election drawing near, it seems that the government’s issuance of the circular can be viewed as a decision aimed at balancing the sensitivity of religious groups, albeit at the expense of basis rights and diversity.
37. Under Section 9 of both UM¹⁴ and Universiti Putra Malaysia (“**UPM**”) Statutes,¹⁵ students are prohibited to participate or organize assembly on campus. Notably, it constitutes assembly when there is a gathering of five persons or more. As the Statutes did not otherwise define an assembly, this would mean that the gathering of five persons, though not for the purpose of demonstration, might amount to an “assembly” under the law.
38. In 2022, several student groups, including UMANY, participated a national rally themed “TURUN”, protesting the removal of food subsidies by the government which triggered national inflation. As a result, student group leaders were investigated by the police, and the president of International Islamic University

¹³ Free Malaysia Today. (2022, December 7). Cops quiz USM students for joining Fahmi Reza’s democracy forum. Retrieved July 10, 2023, from <https://www.freemalaysiatoday.com/category/nation/2022/12/07/cops-haul-up-usm-students-for-joining-fahmi-rezas-democracy-forum/>.

¹⁴ University of Malaya (Student Bodies) Statute 1979. Retrieved July 10, 2023, from [https://hep.um.edu.my/URUSAN%20TATATERTIB/UNIVERSITY%20OF%20MALAYA%20\(STUDENT%20BODIES\)%20STATUTE%201979.pdf](https://hep.um.edu.my/URUSAN%20TATATERTIB/UNIVERSITY%20OF%20MALAYA%20(STUDENT%20BODIES)%20STATUTE%201979.pdf)

¹⁵ Akta Universiti dan Kolej Universiti 1971 Kaedah-Kaedah Universiti Putra Malaysia (Tatatertib Pelajar-Pelajar) 2005. Retrieved July 10, 2023, from https://ppuu.upm.edu.my/upload/dokumen/20200108092257pu_a_499.pdf.

Malaysia (“IIUM”), Aliff Naif, was prosecuted under the Peaceful Assembly Act 2010.¹⁶

E. Financial autonomy

39. Financial autonomy is one of the prerequisites for student bodies to thrive. By restricting the financial autonomy of student organizations, UUCA indirectly restricts student movements and decision-making.
40. Section 15A of the UUCA prohibits students and student organisations from collecting money or property, without the prior approval by the Vice Chancellor. This restriction hinders the raise fund and seek sponsorship for their initiatives.
41. Under the UM Statute, the finances of student bodies are controlled by the university Treasury. This is because student bodies are prohibited from registering an account. Whenever students collect fund from any parties, the fund will be channelled to the Treasury, instead of the student bodies’ accounts.
42. Additionally, for purchase of goods, students’ bodies must go through the e-procurement and e-proctoring systems. On the surface of it, these systems seek to prevent misuse of fund, where student bodies post their orders, while vendors submit their tenders. Ultimately, the bid with the lowest price is selected as the winning offer.
43. Nevertheless, the reality is, the systems cause challenges and inconvenience to student bodies. The lengthy approval timelines and administrative hurdles limit the student bodies’ flexibility and responsiveness.

F. Freedom to political participation

44. Before 2012, Section 15(1) of the UUCA restricted student participation in political parties, labour unions and the unions of student bodies.

¹⁶ Utusan Malaysia. (2022, August 18). Dua ahli politik, aktivis pelajar didakwa anjur perhimpunan. Retrieved July 10, 2023, from <https://www.utusan.com.my/nasional/2022/08/dua-ahli-politik-aktivis-pelajar-didakwa-anjur-perhimpunan/>.

45. Although the restriction was removed via an amendment in 2021, it did not nip the interest of the government in hindering students' right to politics. In 2022, the then Minister of Higher Education, Datuk Noraini Ahmad, issued a Draft of University Regulations (Political Students on and off Campus) 2022 seeking to control students' participation in politics.
46. This incident reflects that so long as UUCA is kept intact, amendments on certain parts would not be sufficient to safeguard students' rights as the government can always issue by-laws under UUCA to erode the rights enjoyed by the students.
47. At that time, numerous student groups, including UMANY gathered and submitted a memorandum to the MOHE demanding for the Ministry to retract the Draft. The Draft was left stranded after the 15th General Election.

G. Political Appointment

48. Political appointment sows the seeds of power corruption. Under the First Schedule of UUCA, the Minister would appoint the Vice Chancellor and the Deputy Vice Chancellor. The Vice Chancellor on the other hand would appoint the Deans, Deputy Deans and Heads of Institutes or Schools. The appointment structure under the UUCA adopts a top-down approach, in which there is no room for transparency or democracy.
49. Furthermore, the Minister would also appoint the Chairman of the University Board of Directors. Without a shadow of doubt, this appointment system effectively removed autonomy in universities by abolishing the major democratic instruments that allowed universities to self-govern, and by granting the government legal authority to have full control over universities.
50. During the UUCA town hall, when the students inquired whether the Government would consider replacing the Vice Chancellor appointment system to election by Senate and senior lecturers, the MOHE representative simply

answered no without further clarifications.

51. In 2021, the 26-year-old Danesh Raj Nagarajan, who was a former special officer of a senior UMNO politician and a youth leader in MIC, was appointed as a member of the UM Board of Directors. Although the MIC youth denied that he was a political appointee, the appointment sparked controversy considering Danesh did not possess extraordinary academic background that qualified him to sit among the experienced.¹⁷
52. When Perikatan Nasional took over the government from 202-2021, there were at least 13 individuals with political background being appointed as members of the University Boards of Directors, including Norliza Abdul Rahim (Deputy Chairman of Wanita UMNO), Abdul Rahman Dahlan (Supreme Council Member of UMNO) dan Kjairil Nizam Khirudin (Pemuda UMNO Leader).¹⁸
53. On the other hand, private higher education institutions do not escape the fate of being politically interfered as well. Under the Malaysian law, private higher education institutions (“**IPTS**”) are established as private companies. The approval of a new IPTS is dependent on the minister's decision, granting the government a degree of influence over the institutions' administration.
54. Additionally, being private entities, IPTS are primarily controlled by individuals or groups with significant political influence. For instance, Tunku Abdul Rahman University of Management and Technology (TARUMT, formerly Tunku Abdul Rahman College) and Universiti Tunku Abdul Rahman (UTAR) have strong ties to the Malaysian Chinese Association (MCA), a Chinese-dominated political

¹⁷ MalaysiaKini. (2021, October 8). UM's board director appointment sparks Twitter debate about 'cables'. Retrieved July 10, 2023, <https://www.malaysiakini.com/news/594622>.

¹⁸ Political appointments in UM.

https://www.pantaukuasa.com/statutory_body/6199a20ab1953cfd89cfd94c6124f843. Political appointments in UKM.

https://www.pantaukuasa.com/statutory_body/37a245030b9eebe434c8d4c742d9efa8. Political appointments in USM.

https://www.pantaukuasa.com/statutory_body/dfa6170570e7137e6f302bf250e72dfd. Political appointments in UUM.

https://www.pantaukuasa.com/statutory_body/6be23748b7a84ed01586cb8c17f0f281. Political appointments in UTM.

https://www.pantaukuasa.com/statutory_body/f2e3d6502f0f89aaf8251811142b922e. Political appointments in UPM.

https://www.pantaukuasa.com/statutory_body/962c525bbae8258ed0fface07f4db3ec.

party in Malaysia.

55. In 2018, following a change in power of the Government, the then Minister of Finance decided to withdraw annual funding allocated to TARUMT. The government's rationale was that public fund should not be used to support politically funded institutions. This issue exposed the problem of external political conflicts spilling into campus affairs and directly affecting student welfare.
56. Consequently, concerns arose regarding the autonomy enjoyed by TARUMT and UTAR campuses. The Board of Trustees and University Council of UTAR have MCA partisans comprising 30% (3 out of 10) and 50% (7 out of 14) respectively. Similarly, the Board of Trustees and Board of Governors of TARUMT have MCA partisans constituting 62.5% (5 out of 8) and 40% (4 out of 10) respectively.¹⁹
57. Despite this, the Board of Governors showed hesitancy in fully embracing campus democracy. In April 2023, TARUMT management interfered in the campus election by disqualifying certain candidates. This was done despite the management's promise that the election would be conducted fully by the students without any interference by the management.

H. Recommendations

58. Based on the discussions above, we strongly recommend that the Malaysian government must abolish the UUCA instead of amending it.
59. The Malaysian government to cease politically motivated harassment and prosecution against student activists.

¹⁹ Universiti Tunku Abdul Rahman University Council. <https://utar.edu.my/University-Council.php>, Universiti Tunku Abdul Rahman Board of Trustees. <https://utar.edu.my/Board-of-Trustees.php>, TARC Education Foundation Board of Trustees. <https://www.tarc.edu.my/tarc-umt/the-board-of-trustees/>, and TARC Education Foundation Board of Governors. <https://www.tarc.edu.my/tarc-umt/the-board-of-governors/>.

60. Replace UUCA with a new bill embracing the following features:
- i. Establish an independent Ombudsman system which receive complaints against students, staff, and the university management.
 - ii. Guarantee the freedom of speech, freedom to association and assembly, freedom to political participation, autonomy, and other fundamental rights of the students and academics.
 - iii. Guarantee campus autonomy via institutional reforms
 - a. Ensure the university management's financial autonomy.
 - b. Replace the Vice Chancellor appointment system with election by Senate.
 - c. Autonomy of universities in prescribing courses and formulating the course syllabus.
 - d. Stipulate entry qualifications and determine on the admission of students.
61. The Malaysian government to ratify the core international human rights conventions, especially the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights to demonstrate its stance and political willingness to safeguard the fundamental rights of its subjects.

(2815 words)