

Position of the Human Rights Commission of Malaysia on Freedom of Religion

As a National Human Rights Institution (NHRI), the Human Rights Commission of Malaysia (SUHAKAM) has been mandated, via federal law, namely, the Human Rights Commission of Malaysia Act 1999, to advise and recommend to the Government of Malaysia on the measures or actions to be taken on infringements of human rights, to propose formulation of legislation and Government's policies so as to ensure that they are in line with the human rights principles and international human rights standards as enshrined in the Universal Declaration of Human Rights (UDHR) 1948 and the Federal Constitution.

Article 4(1) states that the Federal Constitution is the supreme law in Malaysia, and any law passed after Merdeka Day, which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void. More interestingly in Article 160(2), when defining the term "law", states that – "law includes written law, the common law in so far as it is in operation in the Federation or any part thereof, and any custom or usage having the force of law in the Federation or any part thereof".

Article 18 of the UDHR on the other hand has clearly provided that – "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance".

This is also supported by Article 20(b) of the Cairo Declaration on Human Rights in Islam 1990 which states that – “No one shall be subject to coercion, which would impair his/her freedom to have or to adopt a religion or belief of his choice.”

In Malaysia, freedom of religion is also enshrined under Article 11 of the Federal Constitution which states that every person has the right to profess and practice his religion. Article 11(1) provides – “Every person has the right to profess and practise his religion and, subject to Clause (4), to propagate it.” Clause 4 empowers the State laws and in respect of the Federal Territories, the federal laws, to control and restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam. This provision is deemed to be in line with Schedule 9, List II, Item 1 – “the control of propagating doctrines and beliefs among persons professing the religion of Islam;”.

Therefore, it is clearly understood that the freedom to profess or practice a religion is enshrined in the Federal Constitution and there is no imposition of restrictions or any impediments, in the performance of any type of religious practices in Malaysia.

The Commission is of the view that every Malaysian, regardless of background, gender, race and religion, is guaranteed his or her fundamental rights as enshrined in the Federal Constitution, this includes vulnerable groups. It covers the right to life (this includes the right to livelihood, to right of privacy and to the right to live with dignity), freedom of movement, freedom of religion, right to education, right to have property, right to have access to health care and right to employment

opportunities. Article 8 of the Federal Constitution states that every person is equal before the law and shall not be discriminated against.

Human rights for all.