



# WORLD MOVEMENT *for* DEMOCRACY

*Confronting the Challenges to Democracy in the 21<sup>st</sup> Century*

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# Defending Civil Society

*Report on Laws and Regulations  
Governing Civil Society Organizations  
in  
Malaysia*

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\*Statements and views expressed in this report are those of the author and do not necessarily reflect that of the World Movement for Democracy, the National Endowment for Democracy, or the International Center for Not-for-Profit Law.

## INTRODUCTION

Civil society organizations (CSOs) have only a limited impact in Malaysia, defined by patronage and the particular cause involved. CSOs that are associated with the government (or perceived to be linked) enjoy greater political support and autonomy. Some CSOs are established to promote cultural heritage of ethnic groups. CSOs working on human rights issues are usually guided by international human rights principles; however, they are often seen as anti-government and their recommendations are thus frequently ignored. Because of this, many CSOs gravitate towards “safe” issues, such as women’s rights, HIV/AIDS, and socio-economic empowerment, which allow them to gain government support.

Malaysia has a Westminster-style parliamentary democracy. All laws are based on common law. The Parliament enacts laws that apply throughout the country, and individual state legislative assemblies enact laws for their respective states.<sup>1</sup> The Federal Constitution is the supreme “law of the land,” but it only protects the rights of citizens to freedom of expression,<sup>2</sup> freedom of assembly,<sup>3</sup> and freedom of association.<sup>4</sup> These rights may be limited if deemed necessary in the interests of national security, public order or morality. A constitutional right to privacy was recently judicially identified, but its exact ambit is uncertain.<sup>5</sup> The Federal Constitution, Police Act of 1967, Societies Act of 1966, Companies Act of 1965, Trustees (Incorporation) Act of 1952, Income Tax Act of 1961, Anti-Money Laundering Act of 2001, and Anti-Corruption Act of 1997 all work simultaneously to govern CSOs.

Much of the public does not understand the laws that affect them due to the government’s lack of effort in promoting these laws. There is no clearly articulated public policy on CSOs.<sup>6</sup>

## ESTABLISHMENT & REGISTRATION

### *Societies*

A club, company, partnership or association of seven or more persons must register under the Societies Act of 1966 (SA 1966).<sup>7</sup> Societies for mutual benefit must provide for the relief or maintenance of its

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<sup>1</sup>The division of law-making powers in Malaysia between Parliament and the state legislative assemblies is governed by the 9th Schedule of the Federal Constitution - List 1 for issues within the jurisdiction of Parliament, List 2 for issues within the jurisdiction of state legislative assemblies and List 3 for concurrent jurisdiction.

<sup>2</sup> Article 10(1)(a) of the Constitution. Article 10(2)(a) states that this right can be limited if it is necessary or expedient in the interest of the security of the Federation, public order or morality.

<sup>3</sup> Article 10(1)(b) of the Constitution; Article 10(2)(b) states that this right can be limited if it is necessary or expedient in the interest of the security of the Federation or any part thereof, or public order.

<sup>4</sup> Article 10(1)(c) of the Federal Constitution states that “all citizens have the right to form associations.” Article 10(1)(c) of the Constitution; Article 10(2)(c) states that this right can be limited if it is necessary or expedient in the interest of the security of the Federation or any part thereof, public order or morality. Restrictions on the right to form associations may also be imposed by any law relating to labour or education (Article 10(3) of the Constitution).

<sup>5</sup> The Federal Court in *Sivarasa Rasiah v Badan Peguam Malaysia & Anor* [2010] 3 CLJ 507, held that “personal liberty” in article 5(1) of the Constitution includes within its compass other rights such as the right to privacy.

<sup>6</sup> The last known public statement on CSOs was by former Prime Minister Abdullah Badawi on 5 May 2005, where he stated that “civil society must be given the space to engage with government and express their views constructively and responsibly.”

<sup>7</sup> It excludes (i) companies registered under the Companies Act 1965; (ii) any association constituted under any written law; (iii) any registered trade union, any association, company or partnership formed for the purpose of making gain; (iv) any registered co-operative society, any organization or association that is part of a school

members/subscribers or their family members through its objectives and rules.<sup>8</sup> Mutual benefit societies can only benefit families of the members and do not extend to benefits for the greater public.<sup>9</sup>

The regulatory body is the Registrar of Societies (ROS).<sup>10</sup> Registered societies must respect various core tenets of Malaysian life and government, including:

- the Federal and State Constitutions;
- the importance of democratic values;
- the position of Islam as the religion of Malaysia, as well as tolerance for minority religions;
- the use of Malay, the national Language;
- the position of the Malays and natives of States of Sabah and Sarawak; and
- the legitimate interests of other communities.

### **Companies**

Under the Companies Act of 1965 (CA 1965), a non-profit may become incorporated as a company limited by guarantee (CBLG)<sup>11</sup> if its objects are found to be useful to the community.<sup>12</sup> Each CBLG's name must reflect its charitable activities. The Companies Commission of Malaysia (CCM) registers and regulates all companies within the country.<sup>13</sup> Under this Act, political activities and trade unions are prohibited.

Registration may be refused to a CSO if it is likely to be used for unlawful purposes or any purpose incompatible with peace, welfare, security, public order, morality, national security or public interest. In practice, CSOs may find it difficult to register as a society, as the process is quite cumbersome and

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curriculum, and any school, management committee of a school, parents' association or parent-teachers' association registered or exempted from registration under any law for the time being in force regulating schools.

<sup>8</sup> For example, for sickness, old age, widowhood, orphaned children, birth or death, unemployment or distressed circumstances.

<sup>9</sup> Section 2 of the Societies Act 1966 defines a mutual benefit society as "any society which by its objects and rules either as the principal object or as an ancillary object makes provisions by voluntary subscriptions of the members thereof or subscribers thereto with or without the aid of donations for—

(a) the relief or maintenance of the members or subscribers, their husbands, wives, children, fathers, mothers, brothers, sisters, nephews, nieces or wards, during sickness or other infirmity, whether bodily or mental, in old age or in widowhood or for the relief or maintenance of the orphan children of members or subscribers during minority; or

(b) the payment of money on the birth of a member's or subscriber's child or on the death of a member or subscriber or of the child, husband, wife, parent or grandparent of a member or subscriber or on the death of any other person or for the funeral expenses of the member or subscriber or of the child, husband, or wife of a member or subscriber or of the widow of a deceased member or subscriber; or

(c) the relief or maintenance of the members or subscribers when unemployed or when in distressed circumstances."

<sup>10</sup> A statutory body under the Ministry of Home Affairs (MHA).

<sup>11</sup> Section 4 of the Companies Act 1965 defines a "company limited by guarantee" as a company formed on the principle of having the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up.

<sup>12</sup> Section 24(2)(a) of the Companies Act 1965 permit a public company with limited liability to be formed for the purposes of providing recreation or amusement or promoting commerce, industry, art, science, religion, charity, pension or superannuation schemes or any other object useful to the community.

<sup>13</sup> A statutory body under the supervision of the Ministry of Domestic Trade Cooperatives and Consumerism (MDTCC).

includes numerous queries and long delays in registration application responses. In fact, most CSOs resign themselves to being unable to register as a society, and many human rights CSOs choose to register instead as companies. At the same time, CSOs that are perceived to be pro-government do not seem to have any problems with the registration process.

### **Trusts**

A private trust must be established with a trust deed or declaration, but does not have to be registered.<sup>14</sup> Trusts for charitable purposes must be non-profit and are prohibited from political/trade union activities. All trusts fall into one of four categories: relief of poverty; advancement of education; advancement of religion; or other beneficial purposes. Each trust must be open to everyone, and at least 50 percent of trustees must be disassociated from the organization and its founder.<sup>15</sup> In practice, unregistered trusts are unable to open bank accounts.

In addition, under the Trustees Incorporation Act of 1952 (TIA 1952), a trust may be established for any religious, educational, literary, scientific, social or charitable purpose. The Minister in the Prime Minister's Department decides whether to issue a certificate of incorporate for each trust.

### **Public-Benefit Status**

Any non-profit or charitable organization<sup>16</sup> can apply to the Minister of Finance (MOF) for tax exempt status.<sup>17</sup> The MOF issues tax exemption through statutory orders. Applicants must provide detailed information and documentation in a letter to the MOF.<sup>18</sup>

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<sup>14</sup> To make known their existence, it is advisable for the charities to advertise their objectives through the local newspapers.

<sup>15</sup> There must be no discrimination on the basis of race, religion or descent.

<sup>16</sup> According to the Inland Revenue Board of Malaysia, the following organizations/institutions may apply for tax exemption - Public or benevolent institution; society/institution engaged in research for the cause, prevention or cure of diseases, socio-economic research, technical or vocational training; Malaysian religious institution/organization which is not for profit and established exclusively for the purposes of religious worship or the advancement of religion; any non-profit organization in Malaysia established to administer a public/private fund or held solely for the purpose of the establishment, enlargement or improvement of an institution or the provision of a scholarship, exhibition or prize for an individual for educational work, research work; an organization established exclusively to administer a public fund solely for the relief of distress among members of the public; an organization which maintains or assists in maintaining a zoo, museum, art gallery or is engaged in the promotion of culture or the arts; an organization engaged in or in connection with the conservation or protection of animals; a government-assisted organisation engaged solely in addressing problems related to industrial and commercial development and promoting and enhancing the relationship between the public sector and the private sector; a government-assisted organization established and maintained exclusively to administer and augment a fund established or held solely for promoting national unity; an organization established exclusively for the conservation or protection of the environment; an international organization as defined under the International Organization (Privileges and Immunities) Act 1992 carrying out charitable activities as determined by the Minister; or a benevolent fund or trust account established or held for the sole purpose of providing relief or aid to an individual who has no, or insufficient means, or in the case of a dependent individual whose parents or guardian has no, or insufficient means, to pay for the cost of the medical treatment required by such individual to treat a serious disease.

<sup>17</sup> Sections 44 (6) and 127 of the Income Tax Act 1967 and section 13 of Schedule 6 Part 1 of the Income Tax Act 1967; See also Guidelines for application of approval under section 44(6) of the Income Tax Act 1967, Inland Revenue Board of Malaysia, Technical Department.

<sup>18</sup> **Companies:** copies of the certificate of registration, memorandum and articles of association, detailed information on directors/trustees, financial statement for preceding two years, list of past and future activities, and supporting letter from relevant Department/Ministry; **Societies:** copies of certificate of registration,

### **Barriers to Entry**

Any unregistered society is unlawful and any person organizing or participating in any activity of an unregistered society is liable to a fine. CSOs may form unincorporated associations, but this option is limited because there must be less than seven members, they cannot open a bank account, and meetings must be held in private dwellings. An unincorporated association may be formed by an agreement among the members of that association, provided that such association does not contravene SA 1966, CA 1965 or any other law. Contractual obligations among the members and the prevailing law govern the members of unincorporated associations.

### **Requirement for Founders**

Regulations on some types of CSOs do not allow non-Malaysians to be founders, thus restricting refugees, asylum seekers, and stateless persons from forming associations. Even those CSOs for which foreigners are allowed to be founders face hurdles in the registration process. Specific requirements are as follows:

- **Societies:** Minimum of seven founders, with no prohibition for non-Malaysians. The Registrar may require office-bearers to be Malaysians. Minors may be members, but a person under 17 years of age is not allowed to be a member of the committee, or a trustee or office-bearer. There is no minimum amount of assets required. Mutual benefit societies are required to have a minimum of one trustee and disallowed to include foreign members or subscribers.<sup>19</sup>
- **Companies:** Minimum of two founding directors who must be between 18 and 70 years of age, and at least two subscribers. The directors cannot have a criminal record, and their principal residence must be within Malaysia. RM2.00 (US\$0.65) is required to form a company. If a CBLG uses the word 'foundation' in its name, it is required to pay the government RM1,000,000.00 (US\$324,620).
- **Trusts:** There must be at least one trustee and one beneficiary. Minors are prohibited from being trustees. A private trust can only have four trustees unless it is public, charitable, and/or religious. There is no required minimum amount of assets.

### **Registration Procedures**

For societies, it is widely perceived that the ROS acts on government orders, particularly those of the Minister of Home Affairs (MHA). Incorporation of trusts is subject to the discretionary powers of the Minister in the Prime Minister's Department. Generally, there are no significant constraints on registration besides excessive delays, particularly if CSOs are not connected to persons of authority. This, coupled with the threat of deregistration, has compelled some CSOs to register instead as for-profit companies.

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constitution/rules, list of committee members, financial statement for preceding two years, list of past and future activities, and supporting letter from relevant Department/Ministry; Trusts: stamped copy of trust deed, list of trustees, financial statement for preceding two years, list of past and future activities, and supporting letter from relevant Department/Ministry.

<sup>19</sup> "Subscriber(s)" it is not specifically defined in the SA 1966. However, in relation to mutual benefit societies, it is used interchangeably with "members;" it refers to the members who pay a subscription to obtain the benefits of being a member.

Registration procedures are as follows:

- **Societies:** The inaugural meeting must be attended by at least seven persons, and members must agree on the following: formation, name, registered place of business, constitution, and appointed office bearers. Application to ROS must contain the incorporation documents<sup>20</sup> and a fee of RM30.00 (US\$9.75). The decision of the Registrar may be appealed to the MHA within 30 days, upon payment of a fee of RM50.00 (US\$16.25). The Registrar has no fixed time period to decide upon each registration application. For non-Malaysian societies, if any office-bearer or member assists in the management of money or subscription collection in Malaysia, the society is deemed to be established.
- **Companies:** “Off the shelf” companies can be purchased from various private providers. “Off the shelf” companies are fully incorporated under the CA 1965, but have not carried on any business transaction or activity since their incorporation. Various secretarial firms have such companies available for those who require immediate incorporation of a company. Alternatively, for a completely new registration, a name search is conducted to determine availability of the name. Incorporation documents<sup>21</sup> must be sent to the CCM within three months of the name’s approval. Registration fees depend on the authorized share capital. Anyone dissatisfied with the Registrar’s decision may appeal to the Court within 30 days. CCM pledges incorporation within one day. The procedures for the registration of foreign companies are extremely similar.<sup>22</sup>
- **Trusts:** The application for incorporation must include incorporation documents,<sup>23</sup> submitted to the Minister. The Minister has no fixed time period to decide on the application.<sup>24</sup>

## GOVERNMENT SUPERVISION & ENFORCEMENT

### *Internal Governance*

Generally, there is no heavy interference in CSOs’ internal governance. CSOs are not required to notify the government of internal meetings or project activities. Regulatory authorities may revoke a CSO’s

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<sup>20</sup> Incorporation documents are: application form; list of office-bearers and their personal details; constitution and rules; flag, symbol, emblem, badge or other insignia; and minutes of the inaugural meeting.

<sup>21</sup> Incorporation documents are: original stamped copy of the memorandum and articles of association; statutory declaration by directors that he/she is not bankrupt/convicted and imprisoned for prescribed offences; declaration of compliance; original name search form; copy of CCM letter approving the name; and copy of the identity card of each director and company secretary.

<sup>22</sup> If there are directors residing in Malaysia, a memorandum stating their powers must be executed on behalf of the foreign company and submitted to CCM; a memorandum of appointment or power of attorney authorizing the person(s) residing in Malaysia to accept on behalf of the foreign company any notices required to be served on such foreign company, Form 80, and a flat fee of RM1000 if the foreign company does not prescribe a share capital.

<sup>23</sup> Objects of the body or association of person, the rules and regulations, parties to every deed or instrument creating the trust, a statement and short description of land interest in land possessed by such body or association of persons, names and personal details of trustees or association of persons, proposed title of the body corporate, and proposed devise of the common seal, its regulations for the custody and use thereof.

<sup>24</sup> The Minister has the discretion to refuse to grant the certificate of incorporation if he/she is satisfied that the application has not complied with the provisions of Trustees (Incorporation) Act 1952.

certificate of incorporation, suspend all/any activities, or seek involuntary dissolution if the CSO is found to be carrying out unlawful activities or those incompatible with peace, welfare, security, public order, or morality. However, the following provisions should be noted:

- **Societies:** To prevent further violation of SA 1966, the Registrar may suspend the society's activities, order amendments to its rules or constitution, prohibit the society from entering its place of meeting or having contact with non-Malaysian societies, and search, inspect and seize any of the society's documents. A Registrar is required to give prior notice to an office bearer within the society if he or she intends to enter a society's place of meeting in order to search and inspect all books, accounts, minutes of meetings and other documents kept by the society (section 63 of the SA 1966). The SA 1966 does not explicitly mention the time period necessary for the notice.

There have been no known cases where the Registrar has used these powers to act unjustly against CSOs registered as societies. When these powers have been used, the societies have usually been uncompliant with SA 1966 requirements. However, unjust use of these powers remains a threat to CSOs.

- **Companies:** To ensure compliance with CA 1965, the Registrar may access any company's offices to inspect and make copies of any document that the CA 1965 requires the company to keep if the Registrar has reasonable belief there may be a problem. The CA 1965 does not explicitly require notice to be given to companies.

#### **Reporting:**

- **Societies:** The following documents must be annually submitted to the Registrar: amendments to rules, list of office-bearers, number of members residing in Malaysia, place of business, accounts, name and address of any affiliated association, and description of any money or property, pecuniary benefit or advantage received from foreign entities. For a nominal fee, the list of office-bearers may be obtained from the ROS.
- **Companies:** Annual returns,<sup>25</sup> audited accounts and an auditor's report must be submitted annually to CCM; all such documents may be obtained for a nominal fee.<sup>26</sup> Resolutions affecting the memorandum, articles of association, form of the company or change of directors must also be lodged with CCM.
- **Trusts:** Certified accounts of all gross income, balances, payment, monies and endowments, and names and particulars of trustees, including vacancies and changes in personal details of trustees, must be submitted annually to the Minister.<sup>27</sup> Any person, for a fee, may obtain a copy of these accounts.<sup>28</sup> There is no requirement to submit documents for unincorporated trusts.

#### **State Enforcement & Sanctions**

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<sup>25</sup> Annual return is a snapshot of general information about a company's directors, secretary, registered office, shareholders, share capital, principal business activities, etc.

<sup>26</sup> An exemption may be made for audited accounts to be kept private.

<sup>27</sup> Sections 5 and 15 of the Trustees (Incorporation) Act 1952.

<sup>28</sup> List of trustees is not publicly available.

All sanctions may be appealed, but there are issues with the courts' independence. There are no known examples of imprisonment being applied to society or company representatives based on the legal violations, except for making false or misleading statements. Some sanctions include:

- **Societies:**
  - Fine not exceeding RM 5,000.00 for failure to furnish annual reports.
  - Fine not exceeding RM 3,000.00 for failure to obtain approval of Registrar for change in name, place of business, and rules.
  - Imprisonment not exceeding five years and/or fine not exceeding RM 15,000.000 for failure to comply with Registrar's order prohibiting communication or affiliation with foreign corporations.
  
- **Companies:**
  - Fine of RM 5,000.00 for failure to lodge annual general meeting.
  - Fine of RM 2,000.00 for failure to lodge annual returns.
  - Imprisonment for three years and/or fine of RM 50,000.00 for use of a company name in business prior to incorporation.
  
- **Trusts:**
  - Revocation of certificate of incorporation for willful contravention of any provision in the TIA 1952.

### ***Dissolution, Winding Up & Liquidation of Assets***

#### **Societies:**

- Voluntary dissolution – A society can dissolve itself either with the consent of three-fourths of members or upon the occurrence of an event prescribed in the rules.
- Involuntary dissolution – The Registrar may dissolve a society if it appears that the funds of a society with more than 2,000 members are insufficient to meet existing claims, or the rates of contributions are insufficient to cover the benefits assured. The Registrar then divides the society's assets.

#### **Companies:**

- Voluntary winding-up – A company can be wound up either by members through a special resolution or upon expiration of a time period or occurrence of an event, prescribed in the memorandum or articles.
- Involuntary winding-up – A company can also be wound up by a court order on the petition of any creditor, liquidator, Minister, or Registrar. Grounds for involuntary winding up include:
  - If the company fails to lodge its statutory report or hold statutory meetings;
  - If a company suspends business within a year of incorporation;
  - If there is less than two members;
  - If unable to pay its debts;
  - If directors have acted in their own interests or in an unfair/unjust manner;
  - If an inspector or the Court believes that winding-up is in the interest of the public or the company's shareholders; or



- If a company is being used for unlawful purposes or any purpose incompatible with peace, welfare, security, public order, good order or morality.<sup>29</sup>

A liquidator will be appointed, and all property becomes vested in his custody. He or she may choose to sell the property and compromise any debt due. Powers of the liquidator is subject to the control of the Court.

**Trusts:**

- Voluntary dissolution – Decision of trustees, with the consent of body or association of persons can dissolve a trust.<sup>30</sup>
- Involuntary dissolution – The Minister can choose to revoke a trust’s certificate of incorporation if the trust was affected by fraud, or was likely to be used for unlawful purposes or purposes incompatible with the security or public order or morality.

Assets and liabilities will vest in trustees appointed by the body or association of persons; in the absence of trustees, property will be vested in Amanah Raya Berhad.<sup>31</sup>

Decisions regarding involuntary dissolution of a society, company, or trust, may be appealed to the Court, but they tend to be subject to the Court’s political leanings. Most members of the judiciary perceive the Court to be an arm of the government.

**Other Constraints**

Government harassment is infrequent; usually, authorities are compelled to act only when police reports have been issued against a particular CSO or its activities. In some instances, under the pretext of investigating alleged offenses, the authorities have requested/seized statements and documents and searched CSO premises. Protection available to CSOs is biased towards pro-government CSOs, with minimal protection afforded to CSOs known to speak out against the government or document government-induced oppression.

The government gives greater prominence to GONGOs (government-organized NGOs) and police reports lodged by GONGOs against other CSOs; this has a chilling effect on freedom of expression.

**CSO General Powers:**

- **Societies:** Movable and immovable property are vested in trustees or the governing body of the society. A society may sue or be sued in the name of the public officer<sup>32</sup> of the society.<sup>33</sup>

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<sup>29</sup> The courts have yet to interpret this ground of involuntary dissolution.

<sup>30</sup> “Body of persons” is referred to in the establishment of a trust; in section 2 of the TIA 1966, trustees may be appointed by any body or association of persons and such trustees may apply to the minister for a certificate of registration.

<sup>31</sup> “Amanah Raya Berhad” is the corporatised successor to the office of the “public trustee.” It provides trust, legacy management and will writing and custody services, and has various statutory functions including to manage the estates of persons who die intestate and where there are no available private administrators willing to administer their estate.

<sup>32</sup> A “public officer” is a named member of a society who is declared to the registrar and registered as the person who will be named in any suit by/against the society (section 9 of the SA 1966). If no such person is registered, then the society can sue/be sued in the name of any office-bearer of the society.

<sup>33</sup> If a public officer is not registered, the society may be sued in the name of any office-bearer.

- **Companies:** A company is able to own property, to sue and be sued in its own name, has perpetual succession, has a common seal, and may make donations to any patriotic/charitable purposes. CBLGs cannot own land without the license of the Minister for Domestic Trade, Co-operatives and Consumerism (MDTCC).
- **Trusts:** In unincorporated trusts, trustees are personally named in any legal action against the trust.<sup>34</sup> In incorporated trusts, all property is vested in the name of the body corporate. The trust has perpetual succession, a common seal, power to sue and be sued in its corporate name, and power to deal with property transactions.

## CSO ACTIVITIES

### ***Expressive/Advocacy/Public Policy Activities***

CSOs may engage in legislative activities, participate in law reforms, hold watching briefs, and endorse a candidate for public office. However, some CSOs are not allowed to engage in political activities (see “Establishment & Registration” above).<sup>35</sup>

CSOs are able to champion unpopular causes and criticize the government to a limited extent, since they may face threats or intimidation because of their views. Most legal restrictions come in the form of the statutory power to deregister or involuntary dissolve CSOs; however, there are no known cases of this occurring. Activism within civil society is highly stifled for several reasons. Oppressive laws, such as the Sedition Act of 1948, Internal Security Act of 1960, and the Communications and Multimedia Act of 1998 (CMA 1998), create a climate of fear. For example, the CMA 1998 criminalizes “annoying” communications. This provision could be used to censor CSOs, considering a great deal of advocacy materials are placed online for affordability purposes. Also, increased intolerance of Internet discourse and the threat of possible non-renewal of printing permits<sup>36</sup> have led to self-censorship and limited the avenues for CSOs to regularly disseminate information. Additionally, CSOs do not have an independent redress mechanism when their space is threatened due to the questionable independence of the judiciary. Finally, the civil society movement recently lost much of its leadership to mainstream politics.

### ***Communication & Cooperation***

Generally, CSOs are permitted to contact and cooperate with local and foreign CSOs and government bodies. There is no restriction or need for advance notice to travel, participate in networks, or access the Internet. However, the Registrar may prohibit a society from having contact/affiliation with non-Malaysian societies, if it is in the interest of public order, safety or security, or public interest. There has yet to be any prohibitions.

### ***Seeking/Securing Funding***

There are no restrictions or special rules regarding foreign funding, other than those set out in the Anti-Money Laundering Act of 2001 and the Anti-Corruption Act of 1997. The Anti-Money Laundering Act of 2001 prohibits the use of funds from unlawful activities and requires CSOs to take steps to ensure that

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<sup>34</sup> The trustees’ personal assets will not be affected by any claims against the trust.

<sup>35</sup> The courts have yet to define political activities, but it is assumed to be party politics.

<sup>36</sup> Renewal of permits is regulated through the Printing Presses and Publications Act 1984, the use of which has not abated.

their sources of funding are legitimate. There is also an obligation to report suspicious transactions. All CSOs are permitted to compete for government funds, but there are no set bidding rules.

***Economic Activities:***

- **Societies:** A society is allowed to carry out business provided that the society is not formed for the sole purpose of carrying on any lawful business for profit.
- **Companies:** A CBLG is required to apply its profits to the promotion of its non-profit objectives. Any payment of dividend to its members is strictly prohibited.
- **Trusts:** In charitable trusts, 50 percent of all donations received in each calendar year must be spent within the following year on charitable purposes. Business activities are limited to 25 percent of the foundation's funds, and all profits must be utilized for charitable purposes.<sup>37</sup>

**CONCLUSIONS**

***Government Rationale***

The government often uses the need to maintain ethnic and religious harmony as a reason for restricting activities of CSOs and asking them not to address certain issues that may incite racial or religious tension. The Sedition Act 1948 has been used under this pretext, although only against those not linked to the government or to persons in authority or influence.

***Recommended Strategic Responses:***

- Empower civil society by providing more resources to foster an environment of courage and critical thinking.
- Create an environment of greater citizen participation and empowerment, transparency, and accountability.
- Train activists and build capacity to generate a more active civil society movement.

There are no known initiatives to address the legal barrier challenges.

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<sup>37</sup> The 25 percent restriction does not apply where the business itself helps those for which the charity is aimed (e.g., blind people selling their wares).