



Preliminary Analysis of the Freedom of Information Bill 2026

13 July 2026

1. The Right of Information: International Human Rights Standards

The right of access to information held by public bodies – often referred to as ‘freedom of information’ (FOI) or the ‘right to information’ (RTI) – is a fundamental human right recognised in international law. Crucial as a right in its own regard, it is also central to the functioning of democracy and an important mechanism for achieving other rights and objectives, including combatting corruption and ensuring social and economic rights.

The right of access to information is recognised under Article 19 of the [Universal Declaration of Human Rights \(UDHR\)](#) and Article 19 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#) as an element of freedom of expression. It is included as the right to seek, receive and impart information. The UN Human Rights Committee, in [General Comment 34 \(2011\)](#), interpreted the scope and limits of the right to information, stating that Article 19 of the ICCPR guarantees the right of access to information held by public bodies. It requires that states proactively disseminate information in the public interest and ensure that access is **‘easy, prompt, effective and practical’**. The Comment also states that countries must enact **‘necessary procedures’** such as legislation to give effect to the right to information. The General Comment further

stipulates that fees for access must be limited, responses to requests must be timely, authorities must provide explanations for withholding information, and states need to establish appeals mechanisms.

One of the key issues in a right to information law is the definition of when a public body may refuse to disclose information. Under international human rights law, restrictions on the right to information must meet the requirements of the **three-part test**, whereby a public body must disclose any information which it holds and is asked for, unless:

- The information concerns a **legitimate protected interest** listed in the law;
- Disclosure threatens **substantial harm** to that interest; and
- The harm to the protected interest outweighs the **public interest** in having the information.

The standards on FOI/RTI are also reflected in several reports by the UN Special Rapporteur on freedom of expression. In their [2004 Joint Declaration](#), the three special mandates on UN Special Rapporteur on Freedom of Opinion, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression:

‘The right to access information held by public authorities is a fundamental human right which should be given effect at the national level through comprehensive legislation (for example Freedom of Information Acts) based on the principle of maximum disclosure, establishing a presumption that all information is accessible subject only to a narrow system of exceptions’.

The right to information is also specifically protected in the [Convention of the Rights of the Child](#) (Article 13) and the [Convention on the Rights of Persons with Disabilities](#) (Article 21), which Malaysia has ratified. Similarly, Malaysia also ratified the [United Nations Convention against Corruption \(UNCAC\)](#) in 2008 as part of its commitment to combat corruption. UNCAC requires states to enhance transparency in their public administration (Article 10), provide effective measures to access information (Article 13) and provide for the protection of whistleblowers and witnesses (Articles 32 and 33).

Goal 16 of the [Sustainable Development Goals \(SDGs\)](#), adopted in 2015, calls for all countries to **‘Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels’**. This includes an important target (16.10.2) committing states to adopt laws and regulations on public access to information.

Further, Article 23 of the [ASEAN Human Rights Declaration \(AHRD\)](#), adopted in 2012, expressly recognises the right to information as a fundamental human right. It provides that ***‘Every person has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information, whether orally, in writing or through any other medium of that person’s choice’***. This affirms that the right to information is not merely a procedural privilege granted by governments, but an integral component of the broader right to freedom of expression. As a Member State of ASEAN that adopted the AHRD, Malaysia has committed itself to upholding this principle.

2. PRINCIPLES OF FOI REGIME

A number of the international standards and statements noted above provide valuable insight into the precise content of the right to freedom of information, beyond simply affirming its existence. Additionally, model RTI laws have been developed by human rights organisations to provide a useful framework for right to information legislation.

ARTICLE 19 has published a set of nine principles, [The Public’s Right To Know: Principles on Freedom of Information Legislation \(the ARTICLE 19 Principles\)](#), that set out best-practice standards for freedom of information legislation. Similarly, the [Centre for Law and Democracy](#) has developed a framework to assess the strengths of RTI legislation across seven categories: Right of Access, Scope, Requesting Procedures, Exceptions and Refusals, Appeals, Sanctions and Protections, and Promotional Measures.

The [Tashkent Declaration on Universal Access to Information](#), adopted in 2022, is a key instrument of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) that reaffirms the right to information as a fundamental human right. It outlines a framework to promote digital inclusion, combat corruption, and foster transparency for sustainable development. It affirms the need to close digital socio-economic and gender divides; mandates proactive publication of public finances, conflict of interest declarations, company beneficial ownership data, and registers of lobbyists; requires states to protect the identities of whistle-blowers and journalists' confidential sources, even during states of emergency; and demands transparency of online intermediaries.

Relatedly, our analysis of the FOI Bill is informed by the following fundamental principles based on international law and standards, as well as evolving State practice:

1. **Right of Access:** Every person has the right to access information held by public authorities. Information held by public authorities is deemed a public good, and the public bodies are seen as custodians. Public authorities have a duty to disclose information, while the public has the corresponding right to receive it. Access to information is a fundamental democratic right that enables the public to participate meaningfully in public affairs and hold the government accountable.
2. **Maximum Disclosure and Open by Default:** Right to information legislation should be guided by the principle of maximum disclosure, which holds that all information held by public bodies should be presumptively accessible, and that this presumption may be overcome only in very limited circumstances. Disclosure takes precedence and the right of access to information should prevail over conflicting secrecy provisions. Existing secrecy laws should be reviewed, harmonised and amended to ensure they are consistent with the principles of transparency, accountability and maximum disclosure.
3. **Obligation to Publish:** Public authorities should proactively publish key information of public interest without waiting for requests. This includes information on policies, decisions, budgets, contracts, procurement, organisational structures and the delivery of public services.
4. **Limited Scope of Exemption:** Exemptions to the right to information should be clearly and narrowly drawn where disclosure would cause substantial harm to a legitimate protected interest. It must be subject to strict ‘**harm**’ and ‘**public interest**’ tests so that access remains the rule and secrecy the exception.
5. **Processes and Procedures to Facilitate Access:** The process for requesting information should be rapid, fair, accessible, and inexpensive for *all*, with *no purpose requirements*. Public authorities should have a duty to assist applicants, process requests promptly within strict statutory timelines, and provide information in user-friendly and disability-friendly formats wherever possible. Information Officers shall be appointed in all public bodies and agencies to facilitate non-discriminatory, equal access for all.
6. **Independent Oversight Body:** An independent oversight body should be established with the powers to receive and investigate complaints, review decisions to refuse access, order the disclosure of information, monitor compliance with the law, issue binding guidance, and promote good practices. The oversight body must be

institutionally independent of the Executive, adequately resourced, and empowered to ensure that the right to information is effectively implemented and enforced.

7. **Right of Appeal:** Anyone whose request is refused should have the right to an effective review by an independent and impartial oversight body with the authority to order disclosure where appropriate, followed by access to the courts.
8. **Costs:** Generally, the principle should be that information is provided at no or low cost, limited to the actual or reasonable costs of reproduction and delivery. The cost of obtaining information should never become a barrier that discourages or prevents people from exercising their right to information.
9. **Protection from Sanctions for Disclosure in Good Faith:** Public officials, whistleblowers, journalists and others who disclose information in good faith and in accordance with the law should be protected from civil, criminal or disciplinary action. Such protection encourages transparency and supports the disclosure of information in the public interest.
10. **Promotion of Open Government and Good Record Management:** Public authorities should maintain accurate, complete and accessible records using effective digitalised record management systems. Good governance depends on reliable documentation and open administrative practices that facilitate timely access to information. Meetings of public bodies should be open to the public, and the rationale for freedom of information applies not only to information in documentary form but also to such meetings.
11. **Promotion and Training:** The government should actively raise public awareness of the right to information and provide ongoing training for public officials on their responsibilities under the law. A successful access to information regime requires a culture of openness, supported by education, institutional commitment and adequate resources.

3. KEY ISSUES OF THE FOI BILL 2026

The FOI Bill does not uphold international standards on the right to information as reflected above. The overarching issues below obstruct rather than enable the exercise of our freedom of information:

1. The FOI Bill is missing key principles essential to any comprehensive FOI framework: it fails to specify the primacy of the right to information, and omits **the right of access and presumption of maximum disclosure**.
2. The regime of exemption under the FOI Bill is formulated in vague, broad terms and is exceptionally extensive. The **harm test and the public-interest override** for assessing refusals to disclose information are omitted entirely.
3. **Clause 22** of the FOI Bill expressly seeks to prevent the legislation from being relied upon to support the constitutional interpretation of fundamental liberties, including the right to freedom of expression and the right to information. While Parliament may define the scope of statutory rights, **constitutional interpretation falls within the competence of the courts**. Clause 22 therefore raises concerns regarding the separation of powers and judicial independence by seeking to limit the courts' ability to interpret constitutional rights in light of the Act.
4. The FOI Bill does not specify that, in cases of **conflict with other legislative or regulatory** provisions that restrict access to information, this law should prevail. This is not consistent with the principle of the primacy of the right to information. There is an immediate need to table amendments to, or repeal, the Official Secrets Act 1972 and Section 203A of the Penal Code, which explicitly contravene a progressive FOI regime.
5. The FOI Bill stipulates that the Ombudsman will be the external oversight body. Nonetheless, the legal authority remains unclear, as the Ombudsman Bill has yet to be tabled in Parliament. Further, the Bill fails to emphasise the role and importance of the Ombudsman and an **independent oversight body** tasked with conducting appeals, monitoring and enforcing the law. These bodies are considered a crucial interface between the public and the bureaucracy, helping the law work more effectively. We are concerned that without an independent oversight body, authorities will be unable to implement the FOI Bill effectively.
6. The inclusion of **criminal penalties** for anyone who uses any information obtained under this Bill is contrary to the purpose of such a request or gives false information in the request made under Clause 6, and violates the free flow of information and the right to freedom of expression, and denies the defence of public interest on the applicant's part.

4. SPECIFIC AREAS OF CONCERN AND RECOMMENDATIONS

No	Clause/Provision	Concerns	Recommendations
1	Preamble	General Principles <i>Affirming the nature of freedom of information as a right</i> • The FOI Bill should specify the primacy of the right to information. Such a specification is crucial when enacting FOI legislation, as it signifies a shift from a culture of secrecy to one of openness and transparency within government. • The preamble appears to be a ceremonial introduction instead of a foundational statement of intent for this Act. The purpose of this Act should be to establish the right to information, which includes the right to seek (request), receive (access) and impart (share) information held by public bodies. • Beyond this, the Bill repeatedly states that accessing information is not a right (Clauses 6(2) and 22). This is further emphasised under the Explanatory Statement, which notes that the Bill 'is purely procedural in nature' and 'creates only a procedural mechanism for requesting access to information, not an overriding substantive right of disclosure'. This contradicts international human rights law and fundamental principles of the right	1. The FOI Bill should include a comprehensive Section setting out the objectives of the law – either in the Preamble or in the very first provisions of the Bill. This should include the objective of the legislation: to provide effective mechanisms to uphold Malaysia's international obligations and the primacy of the right to information law. 2. All references to the principle that the FOI Bill does not confer a substantive right of access to information held by the government should be deleted. 3. Access to information should be guided by the principle of maximum disclosure, with nondisclosure permitted only in exceptionally justifiable circumstances and subject to appeal. 4. The law on the right to information should require that other legislation be interpreted consistently with its provisions and repealed when necessary. Laws that are inconsistent with the principle of maximum disclosure should be amended or repealed, including the Official Secrets Act (OSA) 1972 and Section 203A of the Penal Code.

		to information. If this FOI Bill is passed by Parliament, Malaysia will become an outlier, declaring itself non-substantive and purely procedural. <i>Principle of Maximum Disclosure</i> • The principle of maximum disclosure should underpin the FOI Bill. This principle establishes a presumption that all information held by public bodies should be subject to disclosure and that this presumption may be overridden only in very limited circumstances. This implies that both public authorities and information should be defined broadly. <i>Principle of Disclosure takes precedence</i> • The FOI Bill does not specify that, in cases of conflict with other legislative or regulatory provisions restricting access to information, the implementation of this Bill should prevail. It appears the FOI Bill is subordinate to all existing secrecy laws, allowing other statutes to nullify its operation. There is no mechanism for balancing secrecy against public interest. • This is not consistent with the principle of the primacy of the right to information. The FOI Bill	
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		should take precedence over other non-constitutional laws when a conflict arises between them. However, our experience is that officials do not always make that distinction and often base decisions on older laws rather than fully applying the newer Act.	
2	Clause 3	Interpretation and definition • <i>Information</i>: Clause 3 of the FOI Bill defines information as ‘any information contained in any official document within the control of the public authority excluding the matters mentioned under Section 9’. We find that this definition fails to encompass the wide array of materials held by public bodies, particularly in the digital age. Instead, we believe that information includes all materials held by a public body that carry out state functions. The definition of information should explicitly recognise the obligation to disclose records themselves, not just the information they contain. • <i>Public Authority</i>: Clause 3 outlines a series of bodies and institutions to which it applies. We believe that the definition of the ‘Public Authority’ should be more specific and include all those bodies that are owned or controlled - totally or partially - or funded - directly or indirectly - by public funds, to the extent of that funding.	1. The FOI Bill should define ‘information’ comprehensively and ensure that the right to information covers a wide range of materials held by public bodies, thereby promoting transparency, accountability, and public access to information. The approach taken in the CSO Model Right to Information Act, for example, defines ‘information’ as ‘any recorded information, regardless of its form, source, date of creation, or official status, whether or not it was created by the body that holds it and whether or not it is classified’. 2. A more precise description of the relevant ‘Public Authority’ is included in Article 132 of the Federal Constitution. Reference should be made to Article 132 in the definition, beyond simply stating the ‘Federal Government’. 3. The approach taken in the CSO Model Right to Information Act, for example, defines ‘personal information’ as ‘information that is related to any natural person, whether living or deceased person, which allows for the identification of that

		• <i>Personal information</i>: The definition provided in the Bill is overly extensive and does not all fall within the parameters of 'personal information'. The definition includes '<i>the views or opinions of another individual about an individual</i>'; which is very problematic and broad, and which runs the risk of concealing matters of legitimate public interest and concerns. In any event, it should be subjected to the harm test.	person, whether on its own or in connection with other information'.
3	Clause 12	Exemptions We find that the exemptions regime in the FOI Bill is one of its most problematic points, and it fails to strike a careful balance between the public's right to know and the need to protect other important individual and societal interests. It exempts information simply for belonging to a certain category rather than because disclosure would cause a sufficiently serious and identifiable harm. Exemptions to the right to information should be interpreted narrowly and always justified by a demonstrable risk of harm. While some provisions include reference to harm ('would likely prejudice', 'would likely endanger'), many do not. The FOI Bill also fails to require public authorities to demonstrate that disclosure would cause substantial harm to the protected interest before refusing access.	1. The regime of exceptions in Clause 12 should be completely revised. The FOI Bill's regime of exceptions should be based on the three-part test. Information should not be withheld unless its disclosure would affect a legitimate aim under international human rights law; releasing the information would cause substantial harm to that interest; and the harm to the public interest from non-disclosure would be greater than the harm to that interest. 2. We urge the government to consider in particular the CSO Model Right to Information Act, which provides guidance on drafting these provisions in alignment with international standards on the right to information.

		Harm and Public Interest Test According to international standards, exceptions to access to information are allowed but should be limited. Refusals to disclose information represent an interference with the right to information and should only be justified if they meet a strict three-part test under Article 19 of the International Covenant on Civil and Political Rights (ICCPR): • The information must relate to a legitimate aim recognised under international human rights law; • The disclosure must threaten to cause a substantial harm to that aim; • The harm to the aim must outweigh the public interest in having the information. Moreover, non-disclosure of information must be justified on a case-by-case basis. The FOI Bill falls short in all three parts of the test. • First, the grounds for rejecting information requests go beyond the legitimate aims provided in international law. ➤ For instance, Clause 12 (n), <i>‘the information would disclose matter in</i>	
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		<i>the nature of opinion, advice or recommendation prepared by an officer of the public authority or Minister, or consultation or deliberation that has taken place between officers of the public authority, Ministers, or an officer of the public authority and a Minister, in the course of, or for the purpose of, the deliberative processes involved in the functions of a public authority'</i> and several others are framed as a class-based exemption rather than clearly linked to a specific legitimate aim. International standards require that exceptions be based only on content that can harm a legitimate interest, rather than on the type of document. • Second, Clause 12 fails to state that refusals must meet a substantial harm test. ➤ For instance, Clause 12 (h), <i>'the information would likely disclose trade secrets of the public authority or of any other person'</i>. We note that it is not sufficient for the information to simply fall within the scope of a legitimate aim. The	
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		public body must also show that disclosing the information would cause substantial harm to the legitimate aim. • Third, the FOI Bill contains no public interest override. Even if it can be shown that disclosing the information would cause substantial harm to a legitimate aim, the information should still be disclosed if the benefits of disclosure outweigh the harm. The harm to a legitimate aim must be weighed against the public interest in having the information made public. When the latter is greater, the FOI legislation should provide for disclosure of the requested information. For example, in some instances, the information requested may be private, or engage commercial confidentiality or personal privacy, but may at the same time expose high-level corruption within the government.	
4	Clauses 5, 6, 7,8,9, 10, &11	Processing the right to information requests • <i>Request for access</i> ➢ Clause 5(1) - stipulates that only Malaysian citizens aged 18 or older may request for access to information from public authorities; this provision contradicts	1. Clause 5(1) should be amended to state that any person shall have the right of access to information under the FOI Bill. 2. Amend Clause 5(1)(a) to explicitly include the possibility of submitting a request either orally or in writing, even electronically and remove the obligation for the requesters to provide their ID, so long as they provide a name and an

		international freedom of expression standards, which guarantee this right to everyone regardless of age or nationality. Limiting the scope of the FOI Bill to citizens only and above will deprive many people of the right of access, including, for example, children, refugees or stateless people. This is particularly relevant in the Malaysian context, where significant numbers of individuals fall within these categories. ➤ Clause 5(1)(a) - this provision establishes that a request to access information must be in writing and must include the applicant's Identity Details (ID). However, to comply with international standards, the provision should allow requests to be submitted orally, in writing, or electronically. Provision should be made to ensure full access to information for disadvantaged groups, for example those who cannot read or write, those who do not speak the language of the record, or those who suffer from	address/email that is sufficient for the information holder to contact them for a reply. 3. Remove Clause 6, as individuals and entities should not be required to demonstrate a specific interest in accessing information or provide reasons for their request. Any FOI law should operate on the principle of open disclosure. 4. Amend Clause 8(3)(b) to reduce the deadline for reply to urgent requests to a maximum of 48 hours only. 5. Amend Clause 10 to ensure that deferment is permitted only when the grounds for exemption are met, is strictly necessary, for a limited period, and is subject to clear statutory criteria and review. 6. Clause 5(2) should be revised. The FOI Bill must specify that no fee should be imposed for making requests and that charges should be limited to reasonable costs related to reproduction and postage (if needed). Fees should be waived for requests pertaining to personal information, requests made in the public interest, and for individuals whose income falls below the national poverty line. 7. Amend Clause 11(3) to include a specific timeframe of 15 working days for legal certainty.
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		disabilities such as blindness. The FOI Bill should not require the requester to provide their ID, so long as they provide a name and an address where they can be contacted for a reply. • <i>Purpose of request</i> ➤ Clause 6(1) - This is inconsistent with international standards, which provide that applicants should not be required to state or justify the purpose of their request - no reason has to be provided. ➤ Clause 6(1)(a)-(d) - The government should not limit access to specified categories of purpose. The list in the current FOI Bill acts as a default denial. ➤ Clause 6(2) - This clause is even more problematic. Beyond limiting the permitted categories of purpose, it states that even in those cases, applicants have no entitlement to obtain information. It appears to create an entirely discretionary regime that completely reverses the logic of international human rights standards, which hold that freedom of information legislation should establish a legally enforceable	
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		right of access subject only to narrowly defined exceptions. • <i>Verification of request</i> ➤ Clause 7 - There is no clear legal basis to require such proof of identity. The only information required is the information requested and contact details. This additional, unnecessary task will increase the administrative burden on the public authority. • <i>Decision of request</i> ➤ Clause 8(3)(b) - A matter of life and death should be dealt with and a decision delivered to the applicant no later than 48 hours. An additional 14 working days defeats the purpose of this exception clause. • <i>Refusal of request</i> ➤ Clause 9(1)(e) - there is no standard definition provided in the Bill; therefore, it's open to abuse. • <i>Deferment of access</i> ➤ Clause 10 - The provision risks allowing public authorities to delay	
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		disclosure in ways that undermine timely public scrutiny and accountability. • <i>Internal Review</i> ➤ Clause 11(3) - There is no timeframe for when the head of the public authority should communicate the outcome of the review. This will lead to a prolonged and delayed process.	
5	Clause 4	Missing details of the duty of the Appointed Officer • The role of an Appointed Officer or Information Officer is significant, as they serve as the central point of reference for managing FOI requirements within their respective agencies. Clause 4 does not specify the officer's duties, resulting in a non-standardised approach across the board. This lack of clarity could lead to reliance on the discretion of the minister and the ministry, potentially perpetuating existing issues stemming from varying approaches and standards across government departments.	1. The mandate and function of the Information Office must be clarified to avoid ambiguity. The approach taken in the CSO Model Right to Information Act could be adopted in the Bill.
6	Clause 13&14	External Oversight Body • Clause 13 has included that the Ombudsman will be the external oversight body. But the Bill fails to	1. The FOI Bill must include comprehensive provisions for independent oversight and ensure that the oversight body has the

		emphasise the role, independence, and importance of an external oversight body tasked with monitoring and enforcing the law. These bodies are considered a crucial interface between the public and the bureaucracy, helping the law work more effectively. We are concerned that without an independent oversight body, the FOI Bill will, in fact, be unable to be implemented effectively. • Worse still, the Ombudsman is a non-existent body supposedly established by a Bill that has not yet been enacted. This is a highly unorthodox provision that runs contrary to legal drafting conventions and raises concerns about the independence, powers and function of the oversight body when it is established. • We are also concerned about Section 14 and Paragraph 20 of the Explanatory Statement, which states that <i>‘the Ombudsman is prohibited to exercise such external review function in the case where the head of public authority during the internal review had refuse to consider the appeal due to the grounds that such information requested is the information that is classified as an official secret under the Official Secrets Act</i>	necessary powers and resources to carry out its function effectively. 2. The functions, powers, composition, appointment, and removal/termination of the independent body, as drafted in the CSO Model Right to Information Act, should be adopted in the Bill.
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		<i>1972, or any official document, secret, confidential information or other information the disclosure of which is prohibited, restricted or otherwise protected under any written law’.</i> • This limitation restricts oversight of the decision-making process, and it seems that the head of the public authority's decision cannot be challenged or is deemed final if the refusal is based on exemptions under the OSA. Furthermore, the assessment of refusals to disclose information entirely omits the harm test and the public interest override.	
7	Clause 17&18	Sanctions/Offenses • Clause 17(1)(a) introduces criminal penalties (five-year imprisonment and/or a fine of RM100,000 (approximately USD 24,000). Clause 17(1)(a) may legitimately require Ombudsman members and staff to preserve the confidentiality of information obtained in the course of their duties. However, the provision is drafted too broadly, applying to ‘any information or document’ without distinguishing genuinely confidential or exempt information. It should be limited to information whose disclosure would cause harm to a legitimate protected interest and should	1. Remove Clause 17. 2. Remove Clause 18(a) and 18(b). 3. Criminal penalties under Clause 18(c) should be narrowly tailored to serve the law's objectives and encompass a range of administrative, civil, and criminal sanctions that are necessary and proportionate.

		include an explicit public interest defence protecting disclosures that expose wrongdoing, corruption or serious threats to public health, safety or the environment. Criminal sanctions should be reserved for intentional and harmful breaches of confidentiality and be proportionate. • Clause 17(1)(b) is drafted in exceptionally broad terms, prohibiting any person who has access to information under the Act from disclosing it further. This undermines one of the principal purposes of freedom of information legislation, namely enabling information lawfully obtained from public authorities to be disseminated and contribute to public debate. • Clause 18 introduces criminal penalties (five-year imprisonment and/or a fine of RM100,000 (approximately USD 24,000) for anyone who (a) uses any information obtained under this Act contrary to the purpose of such request; (b) gives false information in the request made under Clause 5; and (c) unlawfully destroys, erases, alters, damages, conceals, blocks or falsify any information within the control of the public authority with the intention of unlawfully preventing disclosure of any information or any	
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		part thereof or obstructing the request for access to any information. ➤ The inclusion of criminal penalties for Clauses 18(1)(a) and 18(b) violates the free flow of information, the right to freedom of expression, and the defence of public interest on the applicant's part. If the public information is obtained by individuals who otherwise release it to expose wrongdoing or to expose a serious threat to health, safety, or the environment. These individuals should be protected against sanctions if there is a reasonable belief that the information is substantially true, in the public interest, and that it discloses evidence of wrongdoing. ➤ If someone can be penalised for making even reasonable mistakes, they will necessarily err on the side of caution and be reluctant to request access to information. ● As for criminal responsibility, under Clause 18(1)(c), individuals who intentionally obstruct	
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		access to information or wilfully destroy information are subject to criminal liability; such provisions are crucial for upholding the integrity and availability of information. However, the sanctions system should be narrowly tailored to serve the law's objectives and encompass a range of administrative, civil, and criminal sanctions that are necessary and proportionate.	
8	Clause 21	Measures to promote openness • Clause 21 of the FOI Bill lists information that authorities should proactively disseminate. The obligation to publish certain key categories of information, even in the absence of a request, is an important aspect of the right to information. There are substantial benefits to this approach. In particular, research worldwide has found that public bodies that proactively make information available benefit from fewer requests for basic information and, in turn, minimise the number of requests they must respond to. Furthermore, there are significant social and economic benefits in making such information available. • Clause 21 sets out 9 categories of information that public bodies may publish through different media or channels. Meaning that there is no statutory requirement for public authorities to proactively	1. Clause 21 should be revised based on the list provided in the CSO Model Right to Information Act.

		disclose information. We also believe that the list needs further elaboration, particularly regarding decision-making procedures, budgets and expenditures for national bodies, public procurement, and policy documents.	
9	Clause 17	Obligation of secrecy - Failure to protect whistleblowers • Clause 17 will also affect whistleblowers, individuals who disclose otherwise confidential information to expose wrongdoing or a serious threat to health, safety, or the environment. These individuals should be protected against sanctions if there is a reasonable belief that the information was substantially true, in the public interest and disclosed evidence of wrongdoing. • Public officials should be shielded from sanctions for disclosing information in good faith, even if it later turns out the information is not subject to disclosure. If officials can be penalised for even good faith behaviour, they will necessarily err on the side of caution and be reluctant to disclose information, even when it should be disclosed. Given the culture of secrecy that normally prevails within government, such reluctance to disclose may already be a longstanding practice. For this	1. Remove Clause 17 and provide comprehensive protection of whistleblowers.

		reason, protection for reasonable, even if mistaken, disclosures under the law is important.	
10	Omissions	We also observe that the FOI Bill omits several provisions that are either essential or highly valuable to the effective operation of a system of access to information. These include in particular: • Record maintenance: An access to information law can be seriously undermined if public authorities keep records so poor that they cannot locate the information sought. To help avoid this problem, many such laws place an obligation on public authorities to maintain their records in good condition. Good record-keeping is important not only for access to information but also for effective governance, so the benefits of such a system will extend far beyond the scope of the FOI Bill. • Annual reports: It is important that public authorities keep records of their information disclosure activities and be required to report annually on these activities. Such reports are an important means of monitoring the performance of public bodies in the information field and most access to information laws provide for their creation and maintenance. Ideally, this annual report should be published and formally submitted to the independent administrative body responsible for oversight of the law, and that body	1. We recommend incorporating these obligations into the FOI Bill.

		should in turn be required to report annually to the Parliament on overall progress in implementing the law.	
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