



# From "New Malaysia" to "Malaysia Madani": Hopes and Aspirations for Malaysian Academia <sup>1</sup>

After the historic elections of 2018 (GE14), sentiments about a "New Malaysia" that not only welcomed but also initiated substantial reforms were in the air. Gerak joined the rakyat in celebrating these sentiments and welcomed the dawn of a new government that we hoped would set Malaysia "back on track".

Gerak issued a 10-point memorandum about higher education reforms. This was a culmination of the movement's aspirations to witness a peaceful and democratic transition of power that ushered in a coalition that promised a wide array of pressing institutional reforms. Regardless of political persuasion, the election wins of 2018 were a moment of national pride, joy, camaraderie and fulfilment.

***1) This chapter draws on two key press statements issued by Gerak, which collectively trace the trajectory of higher education reform advocacy across Malaysia's turbulent political landscape between 14th General Election (GE14) and 15th General Election (GE15). Gerak published its 10-Point Memorandum on 11 June 2018 in the wake of the GE14, addressed to then-Minister of Education Maszlee Malik. See [https:// gerak-akademik.org/2018/06/11/Gerak-10-point-memorandum-submitted-to-the-minister-of-education/](https://gerak-akademik.org/2018/06/11/Gerak-10-point-memorandum-submitted-to-the-minister-of-education/). Amidst political upheaval following the Sheraton Move and in the lead-up to GE15 in 2022, GERAK reaffirmed its reform agenda by issuing another statement to position PH as the coalition most willing to engage meaningfully with academic stakeholders. See <https://gerak-akademik.org/press-statement/an-agenda-for-the-reform-and-development-of-higher-education-in-malaysia>.***

Gerak appreciates the new government being mindful of the need for broad, meaningful, and effective institutional change. The group looks forward to the translation of its many manifesto pledges into a policy programme of progressive action.

As academics and scholar-practitioners involved in teaching, research and publication, Gerak is especially eager to see institutional reforms in higher education. The movement draws on its members' firsthand knowledge of the problems ailing Malaysia's universities, as well as the latent potential that can be tapped. Gerak highlighted a few key areas of reform that it believes will help make our universities become more vibrant, excellent, and progressive. The movement's "10-Point Memorandum" is reproduced below:

## **1. Restructure University Administration.**

Malaysia's higher education institutions have for too long been under the yoke of the Ministry of Education (MoE). Top university managements have rarely spoken independently, let alone analytically.

This relationship needs to be reset, from the current overt hierarchy and political subordination to one of mutual respect and critical engagement. This, we believe, can be achieved via the following:

1.1 Replace all 'politically appointed' vice chancellors, deputy vice chancellors, chairman and boards of directors-The practice of appointing chairman, board of directors, vice-chancellors, deputy vice-chancellors and other top university administrators on the basis of political patronage and loyalty has to stop.

Instead, we urge the new government to immediately replace all these political appointees with respected, independent-minded, analytical and accountable leaders.

1.2 Establish National Search Committees to appoint the new university top management-In this interim period, we urge that the appointment of new vice-chancellors, deputy vice-chancellors, chairman and board of directors be undertaken by a National Search Committee comprising eminent scholars (serving or retired academics), civil society and corporate leaders, and MoE officials appointed by the minister. For subsequent appointments, we suggest that each university be authorised to set up its own committee, which shall be fully empowered to nominate its own members and proceed to appoint new university administrators. Gerak is also calling for the introduction of term limits to all top university administrative posts to that of two to three years, i.e. six years maximum.

1.3 Review the membership criteria of the board of directors and the composition of the university senate-Gerak also requests a review of the membership criteria of the board of directors and the composition of the university senate. The board must include at least one representative from the academic staff association, support staff union, and alumni who have hitherto been sidelined from the existing management structure. These groups have a role to play in the running of the university and can provide checks and balances. Gerak is adamant that politicians and ex-politicians appointed on the basis of patronage have NO ROLE in university boards.

The university senate is another equally important academic decision-making body that has long been dominated by the patronage politics of top university management. Hence, there is a need to reform the composition of University Senates by opening up membership to academics not holding any administrative role who are freely elected to the Senate by their peers. The total number of these nonadministrative academics must equal that of the deans, directors and other ex-officio members of the university senate.

1.4 Trim central university leadership—We request the downsizing of all central university leadership posts in line with the need to empower faculties, centers/institutes, academics and students. Among the posts that should be abolished are those of deputy vice-chancellor (student affairs) and pro vice-chancellors. Student affairs can be coordinated by a student affairs office.

1.5 Review the appointment of faculty/institute/centre heads— Another area of reform is the appointment of deans, deputy deans, directors and deputy directors based on political or personal loyalties that presently tend to perpetuate a culture of fear and/or blind loyalty. At present, the procedure of appointing academic administrators to these positions varies from university to university. Some provide the platform to nominate a few candidates, but the vice-chancellor ultimately has the power to appoint anybody that he or she deems fit. Some vice-chancellors just consult a few faculty members before making an appointment. Other vice-chancellors do not consult any faculty members but unilaterally appoint individuals who support him or her. Hence, Gerak proposes that the position of deans, deputy deans, directors and deputy directors should be decided via a free and transparent election process among faculty members. We also strongly urge that holders of such positions be limited to two consecutive terms of three years each, with a six-year maximum term limit.

1.6 Decentralised powers at all levels-We need a reset from the current managerialism that operates on the basis of distrust, excessive monitoring and standardisation, toward a new mode based on trust, substantive accountability and specialisation. This includes more decision-making power in the hands of deans and heads of departments on matters of recruitment, teaching programmes, discipline-specific assessment and promotion criteria. The Faculty Meeting must also be immediately revived, recognised and respected as the authoritative decision-making body of the faculty. Meanwhile, a gradual and methodical process of replacing deans, deputies, heads of departments, etc., can be implemented.

1.7 Change the status of top bureaucratic posts-The posts of registrar, chief librarian, bursar, director of assets and chief information officer should be redesignated as contract positions payable via an allowance that is separate from the permanent service and salary grade

positions of senior bureaucrats. This is to ensure that underperforming senior bureaucrats would not continue to occupy these positions. As well, rotation of such positions would allow for rejuvenation and fresh ideas within the university system.

## **2 Abolish/Amend Laws that Stifle Academic Freedom.**

Laws that stifle academic freedom negatively impact academic excellence as they inhibit analytical and independent thinking crucial for expanding the boundaries of knowledge and guaranteeing the quality, accuracy and objectivity of scholarship. To uphold academic freedom in the New Malaysia, the following legislation should be repealed or amended:

2.1 Repeal the universities and UUCA-The act is tainted by virtue of its being used, since its inception, to punish dissent and defuse protests. It remains an authoritarian state's tool of control that contradicts the principles enshrined in the Universal Declaration of Human Rights. We strongly urge the government to replace it with legislation that efficiently regulates the autonomous functioning of universities and protects the freedom of university students and staff in our academic pursuits, underpinned by fundamental protections of freedom of thought and expression. This would ensure our universities function according to recognised international standards and norms.

2.2 Amend Act 605 of the Statutory Bodies (Discipline and Surcharge) -Act 605 needs to be amended to exempt all institutions of higher learning from its authority, as has been done for other statutory bodies, for example, the Central Bank of Malaysia and the Employees Provident Fund Board. Only via an amendment to Act 605 can academic staff then be free to participate in the life of academia without fear of administrative sanctions by the civil service.

2.3 Repeal other laws and administrative requirements-Other legislation detrimental to academic freedom is the Sedition Act and the Anti-Fake News Act, while the Aku Janji is a repressive administrative requirement. All do not help build a healthy university environment. Gerak calls for the abolishment of these acts and repressive administrative requirements.

2.4 In place of these laws and repressive administrative requirements, Gerak strongly calls for the enactment of a Freedom of Information Act that will facilitate access for the academic community to the wealth of data presently gathered by numerous government agencies but unavailable to the academic community. Access to a broad range of information produces reliable research and validates good scholarships. The above measures, Gerak believes, will nurture a culture of freedom of inquiry and expression instead of a culture of fear that is antithetical to critical thinking and creativity. The above measures would also strongly uphold

the principle of academic freedom as enshrined in Unesco's Recommendation Concerning the Status of Higher Education Teaching Personnel, 1997.

### **3. Widen Access to Higher Education Institutions.**

The percentage of enrolment for the 17-23 age cohort in higher education institutions in Malaysia in 2015 was quite low at 26 per cent. Malaysia was ranked at 99 out of 186 countries under the Unesco gross enrolment for tertiary education. Thailand's average was 48.9 per cent, China was 43.4 per cent, the Philippines was 35.2 per cent and India was 26.9 per cent.

3.1 Increase student intake-Based on the above statistics, it is timely and necessary for the government to increase the number of places in our higher education institutions. Besides opening up more places (especially for Technical and Vocational Education and Training or TVET), the Ministry should also provide more financial aid to students so as to encourage them to further their studies without being excessively burdened by loans.

3.2 Increase access for students from disadvantaged households-Students from disadvantaged households—based on parents' income and educational attainment-and those who are the first in a family to attain tertiary education, must be promoted on a preferential basis.

3.3 Shift from centralised admissions to autonomous admissions-Our public universities must shift from a centralised admissions system to that of autonomous admissions. Each university must be mandated to pursue meritocracy alongside diversity (not just ethnic but also based on region, socioeconomic background, language, nationality, special needs and other relevant criteria).

### **4. Uphold Meritocracy Over 'Kulitocracy'.**

We acknowledge the need for and the legitimacy of affirmative action programmes begun under the New Economic Policy (1971). Nonetheless, we also agree with the numerous critical observations that there remain serious problems at the level of implementation. Many who are supposed to benefit from these programmes end up being marginalised, while other communities feel unjustly ignored.

4.1 Provide equal opportunity and access to all stages of education-Gerak proposes that the MoE take the lead in looking at crucial questions of equal opportunity and access to all stages of

education, with the aim of replacing monolithic ethnic criteria with other fairer measures. This, we believe, will provide the basis for excellence combined with justice.

4.2 Ensure student enrolment is based on merit, along with an affirmative preference to students from disadvantaged backgrounds-In this regard, Gerak proposes that university and higher education admissions in general be based on merit, along with an affirmative preference given to students from disadvantaged and special needs backgrounds. The enrolment of university students should also reflect the diversity of Malaysian society (i.e. ethnicity, religion, gender, class and age). We believe that a more comprehensive and fairer system of selection (i.e. a means test for the economically disadvantaged) would clearly begin to address issues of lop-sided student demography in the public tertiary education system.

4.3 Ensure faculty recruitment is based on merit-Similarly, in the area of faculty recruitment and training, the efficacy of the seemingly dated Bumiputera-non-Bumiputera dichotomy needs to be re-examined. A system where one ethnic group dominates in public universities while others flock to the private sector is an unhealthy one that only reinforces the idea of and deepens segregation in our society. We must move towards a situation where our (public) universities attract the best talents (preferably Malaysians) and provide training opportunities (PhD scholarships, TVET, for example) to all deserving cases. The system of providing funding purely for Bumiputra candidates (Academic Staff Training Scheme or ASTS, Skim Latihan Akademik Bumiputera or SLAB, for example) needs to be re-examined.

4.4 Establish an Office for Diversity and Inclusion-To assist universities in achieving these ends, Gerak strongly suggests that all universities establish an Office for Diversity and Inclusion that will assist university administrators in recruiting a more diverse faculty and student population in a more just manner.

## **5.Introduce Creative Pedagogy and Alternative Assessment Practices.**

Universities need to eradicate rigidity in the pedagogical practice that becomes the causal factor for learning via rote memorisation. Such an approach produces graduates who lack confidence and initiative, are reserved, less analytical and thus less dynamic. To keep pace and to progress in this fast-changing world, it is timely for a more creative pedagogy that promotes academic empowerment and freedom in teaching, as proposed by the 1997 Unesco Recommendation concerning the status of Higher Education Teaching Personnel.

5.1 Introduce creative pedagogy and alternative assessment-Creative pedagogy and alternative assessment demand flexibility in many areas. It is a call to consider possibilities, understand things in new ways, value and integrate ideas and practices that are accepted and considered as

good (if not best) standards of the past, present and future. Being creative requires transforming existing ideas, programmes, and even practices to produce higher education academics and learners who can solve problems, overcome challenges, and engage in open dialogue and intellectual discourse, ultimately providing innovative or alternative solutions.

5.2 Eliminate mundane practices that restrict diversity in thinking and teaching—Valuing flexibility in practice, universities should put a stop to student attendance ticking, academic clock-in/ out system, learning just within the four walls, and filling up unnecessary Malaysian Qualifications Agency (MQA) forms and requirements (which should be done by administrators, if need be). These are the mundane, time-consuming practices that restrict diversity in thinking and suppress professional academic autonomy.

5.3 Allow academics to focus on teaching, research and writing— Academics should be given freedom and trust to carry out their scholarly responsibilities. More time has to be allocated for academics to do research and design their lessons and assessments by reducing administrative bureaucracy. Of course, suitable mechanisms could be designed and employed to monitor progress and quality of higher education. This could be done professionally through (internal/external) peer-review practices and self-accreditation. Freedom is necessary for developing creativity, promoting analytical and independent thinking, and developing ethical norms among Higher Education academics and learners.

5.4 Empower academics-Academics need to be entrusted with greater latitude and flexibility, especially in determining the content of their courses. In some universities, even changing the weightage of assignments in a courses continuing assessment requires faculty approval. Such changes should only require the instructor to inform the head of the department. Excessive bureaucratic requirements are burdensome to academics and serve auditors rather than students. Excessive bureaucratic requirements result in rigid and retrograde teaching practices, e.g. standardised answers and regurgitation, because the "quality management" process demands that answer schemes are recorded and matched with course contents.

## **6. Review Academics' Key Performance Index <sup>2</sup> (KPI)**

Presently, there is too much unfairness in the assessment of academics for promotion and annual KPI evaluation. While there is standardisation, different universities are using different

criteria and weightage to evaluate academic staff. Furthermore, the criteria used are based on administratively driven university ranking criteria and not on sound academic reasoning. Worse, political patronage, and individual loyalties have played a major role in academic promotions. Often, this has resulted in the appointments of professors and academic promotions of those with little or no scholarly background. To improve promotion criteria, we urge the following:

6.1 Introduce KPIs that are reflective of Unescos recommendations— Gerak strongly supports the idea that the criteria for assessment should be in compliance with the '1997 Unesco Recommendation on the Status of Higher Education Teaching Personnel. The Recommendation states that academics should do four things: teach, do research, contribute to society and be mobile. Examples of criteria that can be used are (1) teaching: teaching observation, number of graduated postgraduates; (2) research: number of refereed papers, journal articles, books, number of citations, H index; (3) contribution to society: articles in newspapers or popular journals/magazines, public talks, exhibitions, artistic/theatrical performances, community involvement; (4) mobility: presentations in local/overseas conferences, papers with international authors, and sabbaticals or research leave taken overseas.

6.2 Stop the obsession with ISI publications-ISI stands for the Institute for Scientific Information, an academic publishing service. Universities should allow academics to publish in all reputable journals without discriminating against non-ISI ones. The publication of books or chapters in books (especially among social science, humanities and arts scholars) should also be promoted and not be deemed as second-class publications. Our universities should also upgrade Malay language journals to international standards so that rewards for publishing in Malay may not be less than those for publishing in international journals.

***2 ) Throughout our book, the term key performance "indicators" is used, although "index" is also accepted as seen here in Gerak's memorandum.***

## **7. Dissolve Majlis Profesor Negara (MPN).**

At many instances since it was formed, MPN has been used to legitimise the previous ruling political party, justifying policies based on race and religious sentiments rather than promoting knowledge and ethical values that help support nation-building. In other words, MPN has been

beholden to the powers that be and not to the search for truth or the creation of knowledge. Hence, it should be dissolved immediately.

7.1 Professors should have the freedom to engage with stakeholders and others and should not be institutionalised. They should have the freedom to engage with any authority, whether the government, civil society organisations (CSOs), corporations, or any other individuals/groups, without the need to go through a council like the MPN.

7.2 Wastage of public funds-Worst and most embarrassingly, the MPN reportedly has been receiving an annual grant of about RM8 million from the government. And yet the council has yet to produce any scholarly study that has made a significant contribution to the betterment of the country.

## **8) Provide a Safe and Inclusive Working Environment.**

Sexual harassment is a major issue of concern in institutions of higher learning, as it creates a non-conducive and unsafe environment for the well-being of the academic community. This issue has not been addressed effectively or has been simply ignored.

8.1 Increase awareness on the sexual harassment code and mechanism-Gerak strongly supports the implementation of a sexual harassment code and complaint/redress mechanism in all universities (public and private) to address sexual harassment. These codes and complaint/redress mechanism must be well-publicised and included in welcome/orientation information packs for all students when they begin their university education and for all staff when they are employed. Where the code and complaint/redress mechanism have not been put into place, particularly in private universities, these are to be established soon so as to bring our universities in line with internationally recognised global standards of gender sensitivity and behaviour.

8.2 Introduce periodic gender sensitisation programmes-Gerak proposes that periodic gender sensitisation programmes be conducted for first responders of cases involving sexual harassment, especially heads of departments or wardens, such training would improve the effective handling of cases and also emphasise the severity of the issue. Our universities in the new Malaysia must not trivialise or sweep cases of sexual harassment under the carpet. To ensure the effectiveness of these gender sensitisation programmes, an annual university allocation to raise awareness of the issue must be budgeted for.

8.3 Ensure that universities are held accountable-University vice-chancellors and registrars must be held responsible for any failure to take appropriate action on or for covering up reported cases of sexual harassment. Case statistics that are received must be investigated, and their outcomes must be publicised and made available to the campus community. The involvement of academic staff associations/unions is paramount, and representatives must be incorporated in all complaint/redress mechanisms or panels to investigate such cases.

## **9) Stop Unethical Academic Practices.**

And now, we look at unethical practices in Malaysian higher education-plagiarism, cheating and academic bullying. There have been too many cases uncovered of plagiarism, cheating during assignments/exams, and academic bullying in our universities. These unethical, even illegal practices, inhibit genuine scholarship and impede creativity. They stymie originality of thought and intellectual growth. Their prevalence reflects the tendency of some university students and academics to involve themselves in repugnant practices that are antithetical to genuine scholarship. These unethical practices ultimately undermine the very foundations of knowledge and eventually the country's progress. Gerak strongly proposes that the following be implemented soon:

9.1 Root out academic plagiarism and cheating-There is no excuse or explanation that justifies plagiarism or cheating, whether by academic staff or students. The normal penalty for such unethical practice is a severe reprimand/sanction leading to expulsion from study/employment from the university, depending on the gravity of the offence. However, all so accused must be given a fair hearing for their alleged offences. Students/ Academics found guilty of plagiarism/cheating and expelled from university must not be readmitted into any university setting to continue academic careers or to resume their studies.

9.2 Stop academic bullying-Academic bullying seems to be on the rise. Many students and academics feel intense pressure to publish material irrespective of its scholarly significance or value) with the advent of institutionalised policies for postgraduate students to co-publish with their academic supervisor/s. This is a practice unheard of previously in the humanities, arts and social science disciplines. Allegedly, senior academic staff often pressure subordinates under their authority to include their names in publications, as seen by the diverse areas of publication of some senior academics that are clearly unrelated to their known expertise. Contract staff are particularly vulnerable to such bullying. Gerak proposes that periodic awareness raising of these unethical practices needs to be highlighted with an ethical code and a complaints/redress mechanism established to combat this problem. The unethical

requirement for postgraduate students to publish with their supervisor/s in the humanities, arts, and social science disciplines has to end.

9.3 Establish an Office of the University Ombudsman-To ensure our universities live up to internationally recognised global standards of ethical principles and scholarly excellence, Gerak proposes that all universities establish an Office of the University Ombudsman that will provide independent oversight and be responsible for monitoring both academic and other non-academic rights and quality standards. The Office of the University Ombudsman shall be vested with the authority to hold the university administration accountable to maintain internationally recognised academic standards of practice that guarantee academic integrity, autonomy and high-quality scholarship.

## **10) Establish the Committee on Institutional Reforms of Higher Education.**

Gerak urges the new Minister of Education to establish a Committee on Institutional Reforms of Higher Education (CIRHE) so that these issues and other areas of institutional reforms that need further deliberation can be looked into. This CIRHE should be chaired by a senior academic who has been in the system and who is fully aware of the gravity of the situation of Malaysian academia,

Gerak believes that among some additional key issues that need to be addressed by the CIRHE are a review of all university constitutions, rules and decision-making processes to ensure that they conform to internationally recognised standards of practice and are in harmony with human rights, academic freedom and university autonomy. Such a committee would study and propose ways to reduce the presence of unnecessary, overlapping and burdensome red tape in universities; review centrally determined KPIs and the present MoE obsession with ratings; re-evaluate the role of accreditation agencies like MOA and MyRA (Malaysia Research Assessment); re-evaluate promotion criteria for academics and administrators; and promote a new university culture that values openness, discussion, diversity, ideas, collegiality, transparency, ethics meritocracy and democratic decision-making.

Gerak stands ready to assist the MoE in achieving these fundamental institutional reforms, whether in terms of creative ideas, developing innovative policy measures or via the secondment of any of its suitably qualified members to any ministerial committee, if so required,

Gerak believes that with the adoption of these measures, Malaysian universities and academia can finally reclaim their autonomy and freedom. Both are crucial in producing academic excellence necessary to power our society and country forward into the brave new world of the 21st Century.

On the eve of GE15, Gerak stands firmly behind PH as the coalition of choice to lead Malaysia out of the multiple crises it finds itself in, including the crisis confronting Malaysian higher education.

But why PH? Quite simply, because it is the only coalition in the history of Gerak's existence—and we have been around for more than a few years—that reached out to us and other reform-minded CSOs during its brief tenure from 2018 to 2020.

There were genuine attempts to work together to repair much of the damage that had been inflicted by a BN regime that, for many decades, was arrogant at the same time as it was incompetent, certainly in handling our higher education sector.

After the Sheraton Move of 2020,<sup>3</sup> after the betrayals against the people's mandate, very little progress has been made by the regime that wrested power, and higher education in Malaysia remains in a crisis (Astro Awani 2020),<sup>4</sup>

Hence, for us, the two opposing factors—PH's willingness to genuinely address our higher education crisis and collaborate with concerned organisations like Gerak to come up with democratic solutions, and the sheer incompetence and indifference, on the other hand, of the caretaker minister and her minions—enjoins us to take this stand.

Together with this stand, Gerak also offers a summary of the main issues affecting higher education that the new government must address urgently.

### **The System is Highly Divided with Different Sets of Policies and Laws Regulating the Different Divisions of the System.**

There are at least six acts of parliament dealing with the establishment and management of higher education institutions. There are at least six different types of degree-awarding institutions, with about six types of universities. The divisions, including the public/private division, are the result of ad hoc policies devised by politicians out of political rather than educational considerations. There is currently no single authority to unite the system and coordinate its role in the development of higher education.

Harmonisation of the system will require the establishment of a higher education commission or similar entity to regulate the different types of institutions, subject to the same standards, and bring them within a single funding regime. The National Council on Higher Education, established by an act of parliament in 1996, was to coordinate the policies on higher education, which the minister was to implement. The Council ceased to function from 2013, without any

reasons being given. Widening the scope and constitution of the council and giving powers of enforcement may be an alternative to the establishment of a commission. Whatever the solution, there have to be safeguards against noncompliance by the government with the laws it passes.

3) In February 2020, a political development dubbed the Sheraton Move saw the fall of the ruling PH coalition government and the resignation of Prime Minister Mahathir Mohamad after 22 months in power. For a scholarly discussion on this, see Johan Saravanamuttu, "Malaysia in 2020: Political Fragmentation, Power Plays and Shifting Coalitions," *Southeast Asian Affairs* (2021): 169-184. <https://www.jstor.org/stable/27075081>.

4) Gerak too weighed in on the surprise resignation of Maszlee Malik (Education Minister). The former Gerak Chair, Zaharom Nain, in an interview with Astro Awani's Melissa Idris and Sharaad Kuttan reminded the public of the crisis facing higher education, and Gerak's own 10-point proposal for reform. Zaharom also suggested certain individuals who might be appropriate to replace Maszlee Malik.

See the full interview here: <https://www.youtube.com/watch?v=aL.BUwNzM3xY>.

### **Government Interference in the Governance and Management of Higher Education Institutions.**

There is excessive interference by the government in the educational processes of higher education institutions. In the case of private institutions, the interference is written into Act 555, which regulates private universities and colleges. Public universities and higher education institutions, like Government Linked Companies (GLCs), are used by the ruling dynasties to reward political loyalists. The Government's power to appoint university vice-chancellors, deputy vice-chancellors, and directors on the board of universities has impacted university governance and the accountability of the senior officials of the university and the board of directors. Instead of focusing their duties on the university community of academics and students and the public, these officials act to appease the government and seek its patronage. The appointment of vice-chancellors, deputy vice-chancellors and directors must be made by an independent agency, such as the proposed commission or a reconstituted National Council on Higher Education.

## **The Main Legislation on Universities Strips Universities of Their Essential Attributes. The Institutions Established are Universities in Name Only.**

There are attributes associated with universities without which they lose their special character. The Universities and University Colleges Act 1971 is silent on matters such as university autonomy, academic freedom and students' right to participate in the governance of universities, all of which are important attributes for the university, the academics and the students to play their respective roles in the university. These essential attributes must be legislated. The UUCA Act 1971, or any new legislation that is passed, must entrench these essential rights.

## **The Existing Legislation Does Not Safeguard the Interests of the Students in Higher Education.**

Despite the rhetoric of student-centred education, current legislation on higher education provides little to safeguard the interests of students. Most of the provisions directed at students deal with discipline and what they are prohibited from doing. There is a provision under Act 555 which allows the MoHE to take action against the institution when students' interests are under threat, but the provision lacks clarity to be of any practical use. There are no similar provisions in the other legislation.

Without any legislative safeguards, students have to rely on their contractual relationship with the institution. Although the Consumer Protection Act 1999 was amended 10 years ago to extend protection to students, recent cases where students were stranded with courses that were not accredited show that neither the MoHE, the MQA, nor the Consumer Tribunal were able to adequately resolve the students' problems.

## **Address the Fundamental Crisis of Patronage, Favouritism and Discrimination in Public Appointments.**

A root problem that affects not just the higher education system, but many other aspects of civil rights is entrenched discriminatory practices in appointments to public office.

Discrimination is rampant in our public universities and higher education institutions. The solution is simple, but its implementation requires a commitment from the government to

change these discriminatory practices, not only in the admission of students but also in the appointments of vice-chancellors and directors. Ignoring this weakness in the system will leave our universities simply as entities bearing that description, like places of worship that have burned their basic documents.