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*Permanent Representative of Malaysia
Geneva*

14 October 2014

Mr. Karim Ghezraoui
Chief, a.i.
Special Procedures Branch
Office of the High Commissioner for Human Rights

Dear Mr. Ghezraoui,

I wish to refer to the press release by the Office of the High Commissioner for Human Rights (OHCHR) entitled "*Malaysia's Sedition Act Threatens Freedom of Expression by Criminalizing Dissent*" dated Wednesday, 8 October 2014 concerning recent cases of persons charged with sedition.

2. The Government of Malaysia is committed to upholding the rule of law and the promotion and protection of human rights for all Malaysians. In this regard, I am compelled to respond to the comments made by the respective Special Rapporteurs which were misleading and imbalanced as the allegations were made without taking into consideration the existing initiatives undertaken by the Government on the issue.

3. Firstly, it is pertinent to emphasize that the Government of Malaysia is consistent in meeting its international commitment to ensure freedom of opinion and expression for its people. While Malaysia is not a state party to the International Covenant on Civil and Political Rights (ICCPR), freedom of opinion and expression, as provided in both the ICCPR and the Universal Declaration of Human Rights (UDHR), is protected under the Federal Constitution of Malaysia. However, as with any other right, the right to freedom of expression is not absolute and is restricted only insofar as it infringes upon the rights of others or threatens the peace and harmony of the country. This is also in line with article 19 of ICCPR and article 29 of UDHR which provides that the enjoyment of all rights and freedoms is subject to restrictions and limitations as may be determined by law to meet the just requirements of national security and public order.

4. The right to freedom of speech and expression is guaranteed under article 10 of the Federal Constitution of Malaysia. The Sedition Act 1948 represents limited restrictions of those rights which are clearly permitted by articles 10(2) and 10(4) of the Federal Constitution.

5. In the context of the complex racial and religious beliefs of Malaysian society, the Sedition Act 1948 is necessary and relevant to guarantee that freedom of speech, opinion, and expression are not abused and will not lead to racial and religious tensions that would threaten the harmony, peace and security of Malaysia.

6. The Government firmly believes that in order to build a democracy that is truly responsive to the needs of its people Malaysia must continue to strive in finding the right balance between freedom of expression and national harmony. In this regard, the Government has established the National Unity Consultative Council (NUCC) to look into recommendations and the way forward in strengthening ethnic harmony and national unity in Malaysia.

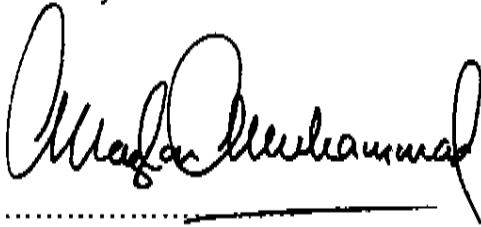
7. Among the reasons behind the decision to charge certain individuals under the Sedition Act 1948 is because their act, speech, words, or publication have incited violence.

8. To date, NUCC has been actively garnering views and proposals from the relevant stakeholders. This exercise is to further enhance the current legal framework pertaining to national harmony. The proposals are currently being studied by the Government and are subject to further consideration. Such an approach is essential in ensuring that the promotion and protection of national unity and social cohesion of the diverse Malaysian communities are consistent with the core tenets of the Federal Constitution, which includes the fundamental freedoms guaranteed by it.

9. With regard to the possible review of the Sedition Act 1948, the Government of Malaysia on 12 September 2014 had issued a press release which emphasised that a balance must be struck between the freedom of expression and its limitations as provided through legislation. This is to protect the essential principles that have been upheld by the nation thus far under the Federal Constitution. It also highlighted that it was imperative that proposals to amend or replace the Sedition Act should result in strengthening national harmony as well as enhance peace and security. At the same time, the proposals should ensure and protect Malaysians from radical, extreme and fanatical movements apart from curbing racial and religious extremism. Thus, until the Government completes its deliberations, the Sedition Act 1948 remains in force to preserve national harmony and security, and to prevent those who might undermine it. All trials under the Sedition Act are a matter for the courts. Malaysia's judiciary is independent, as the judgments of many cases prove.

10. The Government takes a serious view on the fulfilment of its commitments and obligations as a member of the international community. As such, we are committed to implementing the accepted recommendations within the UPR Process, including those pertaining to the Sedition Act 1948. As a developing country and maturing democracy, Malaysia requires the necessary time and space to continue making improvements to its legislation in the interest of the nation and its people.

Thank you.



(MAZLAN MUHAMMAD)

Ambassador and Permanent Representative
of Malaysia to the United Nations in Geneva

Cc:

- i. **Mr. Zeid Ra'ad Al Hussein**
United Nations High Commissioner for Human Rights
- ii. **Mr. David Kaye**
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
- iii. **Mr. Maina Kiai**
Special Rapporteur on the rights to freedom of peaceful assembly and of association
- iv. **Mr. Michel Forst**
Special Rapporteur on the situation of human rights defenders
- v. **Mr. Gabriela Knaul**
Special Rapporteur on the independence of judges and lawyers