



## Malaysia: IPCC bill is a step backwards for police accountability

27 October 2021 - Today, we—Amnesty International Malaysia, ARTICLE 19, CIVICUS World Alliance for Citizen Participation and Human Rights Watch—call on Members of Parliament in Malaysia to reject the deeply flawed Independent Police Conduct Commission (IPCC) bill and move quickly to table a bill to establish a police accountability mechanism that is truly independent and capable of ensuring adequate police oversight.

The [IPCC bill](#) is expected to be tabled in Parliament during this Parliamentary sitting for its second reading. While there is little doubt that Malaysia desperately needs an independent oversight commission for the police, the IPCC bill, first tabled in August 2020, further weakens the already anaemic oversight mechanism currently in place and must be rejected.

The bill fails to address widespread public concerns about police misconduct, ongoing misuse of power against government critics, and custodial deaths. If passed, the bill would not, as the government states, promote accountability, but rather shield police officers from scrutiny and independent oversight.

### Police abuse of power in Malaysia

Malaysia has a long history of police abuse, including the excessive use of force, torture, ill-treatment, harassment, and deaths in custody. Human rights violations by police officers have been documented by both national and [international](#) non-governmental organisations (NGOs).

The police have also abused their power to restrict freedom of expression and assembly in Malaysia. The space for peaceful protests has shrunk considerably. Police personnel continue to harass those [criticising government](#) officials and have arbitrarily [arrested](#) peaceful protesters under the guise of dealing with the COVID-19 pandemic.

The aggressive application of the [Sedition Act](#) 1948, in particular against government critics, is another abuse of police power frequently witnessed. Between January and August 2021, [NGOs documented](#) investigations under the Sedition Act being opened by police in 17 cases involving 37 individuals in total. The recent [investigations](#) of the

#Lawan protest organisers under the Sedition Act are another worrying example of police overstep to the detriment of human rights.

The [Communications and Multimedia Act](#) is also frequently used by the police to censor [human rights defenders](#), [journalists](#), [artists](#), [political opponents](#), and ordinary members of the public who have been critical of the [police](#), government officials or Malaysian royalty, or shared opinions about issues deemed sensitive by the government, such as race and religion.

## **Police misconduct and violence**

This year alone we have seen [multiple](#) alarming custodial deaths. In January, former police volunteer reservist [Mohd Afis Ahmad](#) died from blunt force trauma to the head just a day after he was arrested. In another case in April, milk trader [A Ganapathy](#) was admitted to the Intensive Care Unit upon his release following 12 days in police custody, where he later died. Autopsy results revealed he died from complications arising from injuries on his legs and shoulders, believed to have been sustained while in police custody. In May, security guard [S Sivabalan](#) died about 70 minutes after he was arrested by police, allegedly of a heart attack. Promised investigations into each of the above cases appear not to have made any progress.

Police misconduct is not limited to deaths in custody. Allegations of corruption, abuse of power and links to [criminal elements](#) have also been raised in recent years. In March this year we were alarmed by [allegations](#) from the former Inspector General of Police (IGP) Abdul Hamid Bador that there is a movement of corrupt young police officers or 'cartels' within the police force whose ambition is to dominate the police force enabling them to carry out 'dirty work' for their own personal interests.

The allegations from the former IGP have shocked the public and highlighted how crucial it is to establish an independent body to investigate these claims and to reform the police force. An independent and effective oversight commission is not going to solve all these problems, but it is an important first step, given the lack of accountability within the police force in Malaysia.

## **Independent Police Conduct Commission (IPCC)**

Despite these concerns, the tabled IPCC bill is not a move towards police accountability but the opposite. The bill further weakens the limited police oversight provided by the current system under the Enforcement Agency Integrity Commission (EAIC). Our key concerns with the bill are as follows:

1. **No powers of search and seizure** - The EAIC, for all its weaknesses, has the power to perform searches and seizures in its investigations of wrongdoing, including custodial deaths. The IPCC does not and as such would weaken the ability to conduct meaningful and effective investigations into police misconduct.

2. **Limited powers to compel documents and no provisions for hearings**  
Under the IPCC, documents or evidence can be withheld if deemed 'prejudicial to national security or national interest,' a vaguely defined clause that is open to abuse. Unlike the EAIC, the IPCC does not provide for a hearing. Hearings would allow commissioners to fully explore and examine complaints, ensure greater transparency to victims of abuses and their families, and inform the public and decision makers around police procedures and policies.
3. **Prior notice requirement for site visits** - The IPCC commissioners cannot visit police premises, lockups, or places of detention without prior notice to the head of department. Experience from the National Human Rights Commission of Malaysia (SUHAKAM) shows that authorities may treat early notice requirements as permission requirements, diluting the power of site visits.
4. **Limited investigation power** - Even if the IPCC commissioners are able to successfully carry out investigations despite the above limitations, its powers are limited to making recommendations to a relevant body such as the Police Force Commission, the Malaysian Anti-Corruption Commission or other relevant authorities. Given how recommendations by bodies such as the EAIC and SUHAKAM have been consistently ignored, it is not unreasonable to expect the IPCC will face the same blue brick wall. The IPCC is also exempt from investigating any act provided for in the Inspector-General Standing Orders (IGSO) (Sections 96 and 97 of the Police Act 1967). The standing orders generally govern issues such as the conduct of arrests, the treatment of detainees, and on matters related to permissible use of weapons, amongst others.
5. **Appointment process lacks independence and is unclear** - Under the IPCC, as with the EAIC, members of the Commission will be appointed and dismissed by the King on the advice of the Prime Minister, calling into question the independence of the body. Moreover, appointed members may themselves be police officers. The Chief Executive Officer of the Commission is appointed by the Minister of Home Affairs, which further undermines the principle of independence and impartiality.

### **The need for an independent police oversight body**

The idea of an independent police oversight body was first proposed in 2005, as part of 125 recommendations made by the Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police. The commission was composed of prominent public figures, including a former IGP. The police force also made its submissions as did the Retired Senior Police Officers' Association of Malaysia.

A key recommendation was the establishment of an Independent Police Complaints and Misconduct Commission (IPCMC) to investigate police abuses and discipline those responsible. A proposed bill was drafted as part of the report. Yet, more than 16 years later, Malaysia seems to be moving ever further away from meaningful police reform.

Police leadership has resisted independent oversight and the IPCMC has not yet been established, despite vigorous and sustained campaigning from [civil society](#) and [human rights organisations](#). The previous Pakatan Harapan government [tabled](#) an IPCMC bill in July 2019 although it was [criticised](#) by human rights groups for being insufficient.

Malaysia needs an independent oversight body that is truly independent and impartial from the State and the police, to avoid a conflict of interests. To be effective, the oversight body must possess real powers and responsibilities to investigate and take concrete action against police officers responsible for serious abuses. It is long overdue for the Malaysian government to treat the matter of custodial deaths and other police misconduct with the urgency it warrants. The families of those who have died while in police detention deserve answers and justice for their loved ones. People in Malaysia need to be assured that these deaths will not continue to occur with impunity and that those who abuse their positions of power and responsibility will be held accountable.

Therefore, we urge the government to drop the IPCC bill and instead urgently table a bill that establishes an oversight commission that is truly independent, with sufficient powers to effectively investigate and take action against police misconduct. The rule of law applies to all, even the police.

### **Endorsed by**

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