

# Programme of Strengthening the Governance System and Harmonising the Laws of Higher Education

## Executive Summary

Final Report submitted to the Department of Higher Education, 30 November 2019

### About This Report

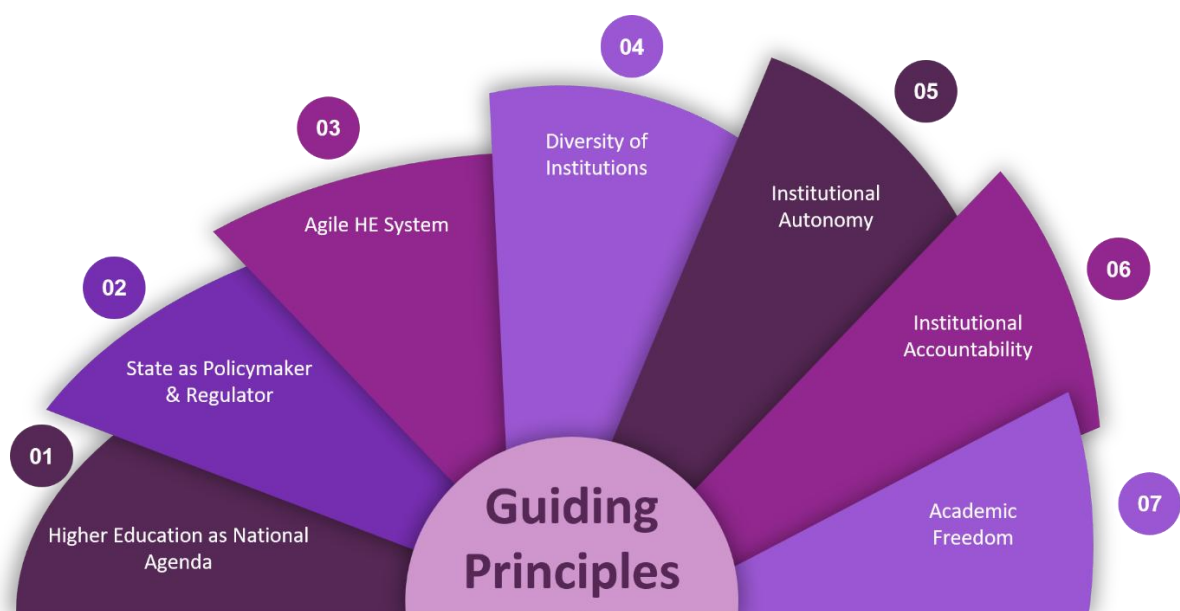
In January 2019, Malaysia's Department of Higher Education, under the Ministry of Education, appointed an independent committee to review the country's higher education laws and governance. The committee studied local and international practice and consulted with more than 30 policymakers, government officials, university leaders, academics and other stakeholders. Members of the committee also engaged and participated in dialogues with working committees, task forces, associations, academic and student groups.

The final report, which was submitted to the Department of Higher Education on 30 November 2019, comprises six detailed policy papers together with a proposal for a new law.

### Guiding Principles

The recommendations are grounded in 7 key principles. Higher education is a national priority, and government should keep investing in it regardless of economic conditions, since both public and private institutions help develop the country's people. At the same time, universities need real autonomy: freedom to manage academic matters, choose their own leaders, and admit their own students, while remaining true to their own constitutions and the law. This must go together with academic freedom, so that lecturers and researchers can teach, research, publish and speak openly, including about their own institutions, without fear of punishment. Finally, autonomy and freedom must always be balanced by accountability to government and the public.

*The higher education system is regulated and funded to meet the social and economic interests of Malaysia, with individual higher education institutions that are autonomous and accountable in the pursuit of knowledge, based on integrity and academic freedom, as well as the education and development of talents based on equitable opportunities and in line with the Falsafah Pendidikan Kebangsaan.*



## Why Legislative and Governance Change Is Needed

Malaysia's higher education system has grown substantially. It now includes 20 public universities, dozens of private universities and university colleges, hundreds of private colleges, and several foreign branch campuses, together teaching well over a million students. Despite this size, the system is still run through direct, heavy involvement by the Ministry of Education (now Ministry of Higher Education). The Minister alone appoints the top leaders of public universities and most board members. Academic staff are covered by civil service disciplinary rules that were never designed for university life; current rules, for example, discourage lecturers from publishing personal opinions or commenting on government or university decisions, which works against academic freedom. Funding for public universities is negotiated year by year with no clear formula, leading to sudden cuts, including a 19 percent drop in 2017 alone, and making it hard for universities to plan ahead. A National Council on Higher Education exists in law to guide national policy, but it has barely met since 2011. The committee concludes that this level of government control has weakened institutional autonomy and academic freedom, and it sets out recommendations in six areas, summarised below.

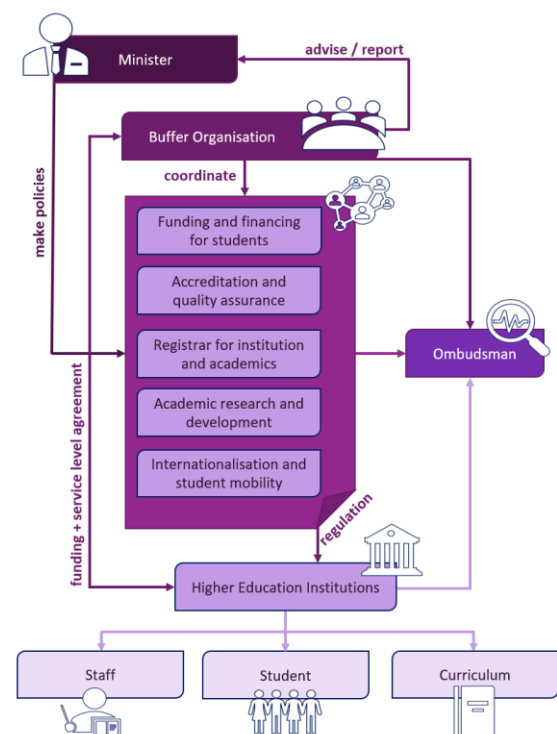
## The Six Recommendations

### 1. Create a Central Coordinating Body Between Government and Universities

Today, the Ministry of Education deals directly with universities on almost everything. The committee instead recommends a “**buffer organisation**” (commonly known as a Commission), which sits between the Minister (as a policymaker) and the universities, taking over the detailed, day-to-day work of running the system while the Minister focuses on national direction.

This body would be overseen by a board of 15 to 21 members, split evenly into three groups: government representatives, academics, and outside experts, so that no single group can dominate decisions. Under the board, five specialist units would be created to manage:

- Funding and financing for students
- Accreditation and quality assurance
- Registration of institutions and academic staff
- Academic research and development
- Internationalisation and student mobility



### 2. Set Up an Independent Ombudsman for Complaints

The committee recommends an independent **Ombudsman** for higher education, giving students, staff and the public a free, neutral and confidential place to bring complaints against a university, once the university's own internal process has already been tried. The Ombudsman cannot punish anyone or force a university to change its rules, but can investigate complaints fairly, recommend fixes, and publish an annual report to Parliament. A similar model, the Office of the Independent Adjudicator, already operates in England and Wales.

### 3. Make Funding Fairer and More Predictable

Public universities currently negotiate their budgets with government every year, with no clear formula behind the amount received. The committee recommends two separate types of funding instead. **Per-student funding** is a basic, guaranteed amount based on how many students each university teaches, following a published formula and fixed for a three-year cycle so universities can plan with confidence; this would apply only to public universities. **Performance funding** is extra and optional, tied to specific goals such as improving research output or attracting international students, and can go to both public and private institutions, giving government a way to encourage improvement without controlling day-to-day operations.

### 4. Introduce Formal Agreements Between Government and Universities

The committee proposes that each university sign a **Service Level Agreement** with the higher education authority: a formal, legally binding contract spelling out the services the university provides, the funding it receives in return, the standards it must meet, and how disputes are resolved. Reviewed every three to five years, this gives universities the freedom to run their own affairs while remaining clearly accountable for results.

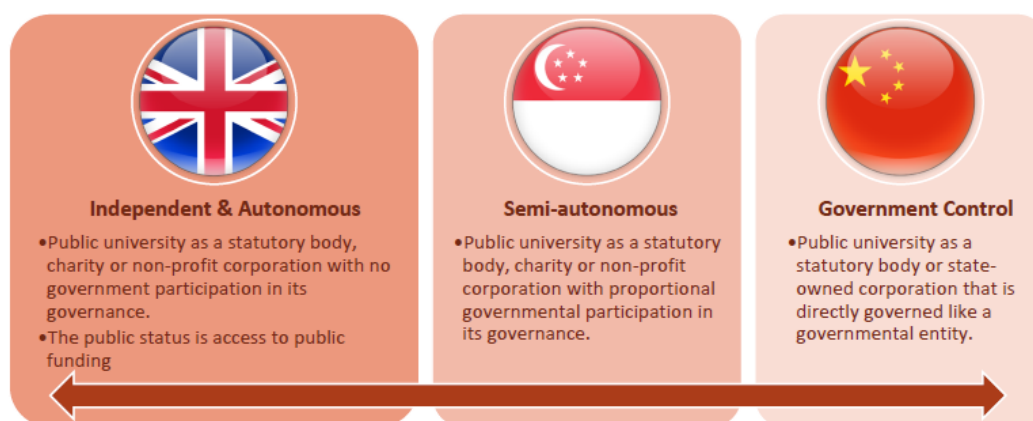
### 5. Strengthen the Academic Profession

Being an academic in Malaysia currently works more like a government job than a true profession: there is no professional body, no consistent national standards for hiring or promotion, and limited protection for academic freedom. The committee recommends:

- Writing clear legal rights and duties for academics into law
- Ensuring recruitment and promotion are based on merit
- Formally protecting academic freedom in law, and freeing academic staff from the restrictive civil service disciplinary rules that currently limit what they can say and publish
- Creating a proper code of conduct and academic integrity standards, covering research ethics and teaching quality
- Building a stronger culture of professionalism and excellence across the sector

### 6. Make Universities Self-Governing Institutions

The committee compared how "public" universities are run around the world, from systems fully controlled by government, like Malaysia's current model, to fully independent institutions, such as those in the United Kingdom, Singapore, New Zealand, Australia and Hong Kong. It recommends moving Malaysia's public universities much further towards the independent end of this range.



Public universities would become independent bodies, either statutory bodies with their own pension scheme or companies guaranteed by the government. Two changes would make this possible: universities would be paid for their service based on the number of students they teach, rather than receiving a lump sum budget from government, and consequently, they would gain full control over hiring, salaries and pensions instead of following civil service rules.

Each university would be run by a governing board split evenly into three groups: representatives of the state, the university community of staff and students, and outside experts. Its Senate, the body in charge of academic matters such as teaching and research, would need at least as many elected academic representatives as appointed ones, making it more democratic than the current arrangement. The management of the university will be appointed by the governing board and also fully accountable to the board.

Private higher education institutions and colleges would also be required to build clear governance rules into their company constitutions, including a proper academic board that keeps academic decisions separate from business decisions.

## **One New Law: The Higher Education Institutions Act**

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Higher education in Malaysia is currently governed by a patchwork of separate and sometimes overlapping laws, including the Universities and University Colleges Act 1971 and the Private Higher Educational Institutions Act 1996. The committee recommends combining these into a single new law, to be called the Higher Education Institutions Act.

This new Act would cover the Minister's role, the new buffer organisation described above, how institutions are registered and governed, the Ombudsman, students' rights, staff rights including academic freedom, and the process for closing an institution if that ever becomes necessary. Two existing laws, covering the Malaysian Qualifications Agency and the national student loan fund, would remain separate but continue to work alongside the new Act.

The overall purpose of the new law is to protect institutional autonomy and academic freedom, strengthen governance and accountability, safeguard students, and make regulation consistent and transparent across all institutions, whether public or private.

## **Summary**

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The central idea running through this report is a shift away from direct government control of Malaysia's universities and colleges, towards a system where institutions govern themselves. This new independence would be balanced by clear funding formulas, formal service agreements, an independent complaints body, and stronger legal protection for academic freedom, so that institutions remain fully accountable to government and the public, but through transparent rules rather than day-to-day control.

## **Team Members**

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