

INSTITUTE FOR THE ADVANCEMENT OF JUSTICE & HUMAN RIGHTS

United States Universal Periodic Review — Fourth Cycle, 53rd Session

2 October 2026

H.E. Ms. Zanariah Zainal Abidin

Ambassador Extraordinary and Plenipotentiary; Permanent Representative

Permanent Mission of Malaysia

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Copy: Mrs. Suraya Ahmad Pauzi, Minister, Deputy Permanent Representative; and the officer responsible for the Human Rights Council

Your Excellency:

Re: Renewal of Malaysia's 2020 recommendations to the United States

Please consider renewing and integrating Malaysia's 2020 recommendations in the United States review on 10 November 2026. The proposed language below extends Malaysia's established concern— independent institutions, systematic accountability and prompt redress—without attributing the Institute's findings to Malaysia.

The Institute for the Advancement of Justice & Human Rights is an independent truth-finding organization. It asks for critical examination, not endorsement. The enclosed Civil-Society Advocacy Brief was not filed as a stakeholder submission and is not part of the official UPR record; it is advocacy material structured for use by delegations and civil society.

The brief identifies a specific institutional question: when alleged torture, cruel, inhuman or degrading treatment, discriminatory denial of access to justice, or related severe harm arises through judicial or court-connected conduct, which sufficiently independent United States institution has the comprehensive mandate and effective powers to investigate, determine institutional responsibility, secure accountability and facilitate reparation?

Under presently administered domestic doctrine, judicial-conduct systems, judicial immunity, other immunities, jurisdictional rules and procedural barriers perform different lawful functions. Under the Institute's separate international-law analysis, however, their combined operation must also be tested against the United States' international obligations. The Institute concludes that the combined structure can foreclose every effective avenue required by those obligations. That is the Institute's independent determination, not a description of settled United States doctrine.

The proposed recommendations below preserve the distinction between torture and other ill-treatment, require proof of the applicable elements, and focus on independent investigation and effective institutional design. They do not ask the Mission to adjudicate any individual allegation.

Respectfully,

Cyrus Hazari

Director

Institute for the Advancement of Justice & Human Rights

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Mission briefing note — Malaysia

Decision requested

Decide whether to use one or more of the proposed recommendations below, in the Mission’s own words or substantially as drafted, during the fourth-cycle review of the United States on 10 November 2026.

1. Prior recommendation and United States response

Recommendation 26.98	Malaysia recommended that the United States “Consider establishing an independent national human rights institution in line with the Paris Principles.”
Recommendation 26.254	Malaysia also recommended that the United States “Ensure systematic accountability and full and prompt redress for victims in cases of police misconduct and brutality.”
United States response	The United States supported both recommendations only in part. For 26.98 it stated that it had no current plan to establish a single national human rights institution. For 26.254 it shared the stated ideal subject to federal-power limitations and its qualification that support did not concede legal necessity or unsuccessful existing efforts.

2. Mission-specific basis

Malaysia’s two recommendations already connect institutional independence with systematic accountability and prompt redress. The fourth-cycle opportunity is to preserve that connection while closing a setting-based gap: accountability and redress must remain available when alleged official misconduct occurs through judicial or court-connected action, not only through policing.

3. The institutional gap identified by the Institute

The Institute’s investigation does not claim that no United States law can reach any judicially connected wrong. Individual civil and criminal provisions may reach particular predicate acts. The narrower finding is that no institution identified by the United States has a comprehensive, treaty-specific and sufficiently independent mandate to receive these allegations across federal and State systems, coordinate potentially applicable law, investigate institutional responsibility and secure the accountability and redress required by the Convention against Torture.

The Convention itself is not directly enforceable domestically through articles 1–16 because the United States declared those provisions non-self-executing. Judicial immunity forecloses personal damages liability within its doctrinal scope; complaint systems remain judiciary-controlled or judiciary-linked; and other bars can further narrow relief. The Institute therefore asks whether an effective alternative forum actually functions. If none does, the combined structure is not merely forum allocation; it becomes institutionalized impunity under the Institute’s analysis.

The Institute remains corrigible on facts, citations, legal mechanics, scope and attribution. It does not weaken a substantiated determination merely because domestic doctrine labels each component legitimate when considered separately.

4. Proposed recommendations

1. Establish an independent national human rights institution in line with the Paris Principles, with jurisdiction over every branch and level of government, including judicial and court-connected conduct, and with effective complaint, investigation, referral, public-reporting and redress functions.
2. Ensure systematic accountability and full and prompt redress for victims of serious official misconduct, including alleged torture or other cruel, inhuman or degrading treatment arising in judicial, administrative, family-court or child-protection proceedings, through investigation independent of the institution and officials implicated.
3. Guarantee effective access to justice for persons with disabilities and self-represented litigants through individualized accommodations, safeguards against coercive participation that foreseeably causes serious harm, accessible complaint procedures and effective review and remedy when accommodations are denied.

5. Interpretive safeguard

The third recommendation addresses discrimination and access to justice as an additional route to prevention. It does not assume that denial of accommodation, lack of due process or harmful judicial action is by itself torture. Classification under articles 1 or 16 requires proof of the applicable elements and must be determined through an independent investigation. Disability-accommodation denial, procedural unfairness, harmful judicial action, family separation, the treatment of migrants and human experimentation without consent are not automatically torture or other ill-treatment.

6. Requested next step

If the Mission is willing to consider the proposal, the Institute would welcome one short discussion with the responsible human-rights officer before the review. It can provide pinpoint sources and narrowly framed answers to any challenge. The Institute will not represent silence, receipt or a meeting as agreement or endorsement.

Primary-source record and enclosure

1. [Working Group report — United States, A/HRC/46/15 \(15 December 2020\)](#)
2. [United States addendum and responses, A/HRC/46/15/Add.1 \(4 March 2021\)](#)
3. [OHCHR United States UPR page — fourth-cycle review information](#)
4. [UN Geneva Blue Book — current Malaysia mission entry](#)
5. [Paris Principles — General Assembly resolution 48/134](#)
6. [Convention against Torture — official OHCHR text](#)

Enclosure

Institute for the Advancement of Justice & Human Rights, Universal Periodic Review—United States of America, Fourth Cycle—Fifty-third Session of the Working Group: Civil-Society Advocacy Brief (7 August 2026; enclosed PDF SHA-256: 1a1b9f1d6871ea4a8a7966e577e7b24eeeb49ecc3c1ce53f11fccd4f3d141b2).

Attribution control: the Working Group report records State recommendations, not Human Rights Council findings; the addendum records United States positions; the remaining analysis and proposals are IAJ determinations that the Mission must test independently.