

Media Monitoring Report

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THE CENTRE FOR INDEPENDENT
JOURNALISM MALAYSIA

Cover picture by
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CENTRE FOR
**INDEPENDENT
JOURNALISM**
Advocating media freedom and access to information

Background

This report aims to identify and monitor on a monthly basis instances of freedom of expression and speech concerns and violations in the Malaysian media, including relevant arrests and investigations.

Due to recent political developments on the national level as well as the ongoing COVID-19 pandemic, which have seen the return of UMNO to federal power and a Movement Control Order (MCO) implemented nationwide, this report includes analysis on the matter as well.

The monitoring sample consisted of a total of 12 online news portals across the entire country, from the Klang Valley to the east coast and both East Malaysia states. The 12 portals are: The Star Online, News Straits Times, Malaysiakini, Free Malaysia Today, Malay Mail Online, Sinar Harian, Berita Harian, Malaysian Gazette, Borneo Post, New Sarawak Tribune, Daily Express Sabah and Harakah.

Monitoring work was done twice daily for five days in a row.

Monitoring of TV and radio stations were not feasible due to budgetary constraints and lack of manpower.

Political crisis

March marked the controversial return of UMNO into federal power, and Parti Pribumi Bersatu Malaysia (PPBM) president Muhyiddin Yassin as the country's eighth prime minister, replacing Dr. Mahathir Mohamad, who had led the Pakatan Harapan (PH) coalition to Putrajaya during the May 2018 general elections.



Prime Minister Muhyiddin Yassin during his swearing-in ceremony at the National Palace in Kuala Lumpur on March 1. Picture credit: [EPA](#)

Dubbed a "backdoor government" because of the way a political coup was launched to achieve this, concerns were raised about existing plans for institutional reforms that were initiated by PH, especially with a PAS leader, Takiyuddin Hassan, as the minister of law. Noteworthy as well were the resignations of Attorney-General (AG) [Tommy Thomas](#) and Malaysian Anti-Corruption Commission (MACC) chief commissioner [Latheefa Koya](#), both of whom were appointed by the PH government and who were largely criticized by the then-opposition for their actions while in office.

The appointment of the new minister of communication and multimedia was also troubling, given that Saifuddin Abdullah was part of the 11 PKR MPs who defected from PPBM that led to a split in PH.

The Muhyiddin and PN administration is filled with controversy: it has come under fire for postponing the next Parliament session to May, seen several state governments fall due to PPBM's defection from PH and raised brickbats from within PH and Barisan Nasional (BN) due to the apparent sidelining of UMNO within the federal Cabinet.

Worst of all, politicking appears to be the norm - on both sides - despite the COVID-19 pandemic, with chief ministers and menteri besars from PH states excluded from Muhyiddin's first COVID-19 meeting. Welfare activists have been removed from the National Welfare Foundation (YKN) and opposition state assemblymen in Selangor, a PH-ruled state, were reportedly denied a special allocation for COVID-19 aid.

"Fake news" arrests

Then, the COVID-19 situation worsened, and a pandemic was declared by the World Health Organization (WHO).

The rise in the COVID-19 cases resulted in race-based discrimination and hate speech, including the use of derogatory and racist language and threats against COVID-19 clusters of persons who tested positive, such as the Masjid Seri Jamek tabligh cluster and those who attended the Theppa Thirunal (floating chariot festival) at Singamugha Kalliamman Temple in Penang, held a few days after the tabligh gathering.

March also saw an increase in alleged "fake news" charges by the authorities - at least 114 investigation papers have been opened as of 25 March, six of which have already been brought to court. Some of the fake news reported as being investigated or charged at the time include claims that veterans will assist the Defence Ministry in enforcing the MCO, the military are authorised to use physical force against the public, a COVID-19 prevention guide by Japanese doctors and that the Health Ministry is requesting donations. Charges were brought under Section 233 of the Communication and Multimedia Act 1998 (CMA) or Section 505(b) of the Penal Code.



A “fake news” alert by the Communications and Multimedia Ministry’s Quick Response Team. Picture credit: Bernama

The government was quick to act on the spread of fake news online, with daily tweets by Saifuddin on the latest fake news of the day, followed by regular statements by the Fast Response Team at the Communications and Multimedia Ministry. However, these were largely dealt with under Section 233 of the CMA, a controversial law that provides for a maximum fine of RM50,000 or a jail term not exceeding one year or both, for the improper use of network facilities or network service.

Investigations and charges under Section 233 of the CMA

A number of arrests were made under the Communications and Multimedia Act (CMA) in March.

March saw the questioning of several civil rights activists over a rally in Dataran Merdeka on February 29 following the political crisis affecting the nation. Lawyer Fadiah Nadiah Fikri is being investigated under the Sedition Act and Section 233 of the CMA after she tweeted for the people to "Turun ke jalan, Demokrasi mati" (Go down to the streets, democracy is dead). At least 15 other activists were also questioned by the police over the rally, including Marina Mahathir and Ambiga Sreenevasan. The questioning was viewed as a sign that the undemocratic days under BN rule were back.

Former AG Tommy had as early as February this year pledged not to use the contentious Section 233 of the CMA when charging those spreading fake information on the coronavirus outbreak, in line with PH's pledge to amend the section.

Investigations were also carried out and charges were brought for several individuals for insulting the Yang di-Pertuan Agong on Facebook, under Section 233 of the CMA as well.

On March 17, Ooi Wei Siong was fined RM6,000 for insulting the Yang di-Pertuan Agong on Facebook. He previously pleaded guilty to a charge under Section 233(1)(a) of the CMA. Despite the post being taken down and Ooi apologising for his action, the court noted that foul language was used to undermine the head of the state, and that while the Federal Constitution guarantees freedom of speech, this does not include insulting another person.

Two more Facebook users, Gavin Lee and Haizad Azhar, were detained and probed under the Sedition Act and Section 233 of the CMA for posting statements that insulted the King. On 13 March, Haizad was fined RM6,000 in default of three months' jail and paid the fine. He was unrepresented and apologised in court. It is unclear if Gavin Lee was charged.

Others that were investigated and charged under Section 233 of the CMA include Mohd Naim Md Isa, Mohamed Azwan Ali and Nursahira Mohd Mizuar. Mohd Naim was accused of producing a 57-second video clip in which he was heard saying "Kuarantin Kepala Bapak" while people in the

background helped themselves to food. It is unclear if he was eventually charged, although he did plead guilty in court.

Azwan Ali, on the other hand, was fined RM17,000 after he pled guilty to insulting staff of the Putrajaya Hospital on YouTube over their role as frontliners in dealing with the COVID-19 outbreak.

Nursahira was sentenced to three months' jail and a fine of RM10,000 for insulting the police on social media over the MCO, after the police told her to go home. She was unrepresented and pleaded guilty. She has since been allowed a stay of execution of her sentence pending her appeal.



Nursahira Mohd Mizuar apologises for allegedly insulting the police on social media over the MCO, on April 15 in Pendang, Kedah. Picture credit: Bernama

Attack on Malaysiakini

On 11 March, Malaysiakini published an article that contained a quotation from Environment Minister Tuan Ibrahim Tuan Man in which he appeared to defend logging operations in Kelantan. The following day a Facebook user accused Gah Chie of fabricating the quotation, stating in a post that the minister had not made the statement during a live-streamed press conference. The minister had in fact made the statement during an interview following the press conference.

The Facebook post was shared thousands of times and received thousands of comments, many of them attacks on Gah Chie. Many comments referred to her Chinese ethnicity and used abusive or degrading language. Some even called for her to be physically harmed.

Following several reports and an appeal, Facebook removed the post for violating its Community Standards.

While the Ministry of Environment disputed the Malaysiakini report, the Minister has stated that he “does not agree with any personal attacks against journalists” and called for disagreements about reporting to be resolved in a “professional manner”.

Recommendations

We share a similar view with the government in that fake news continues to remain a problem in Malaysia. This was especially heightened during the MCO. However, we strongly believe that misinformation and efforts to put out “fake news” must not be focused on legal prosecution. Any action to address “fake news” must be based on the harm test and ensure that it is legitimate, necessary, proportionate and time-based. Education must remain key in combating such instances, instead of prosecuting them. Emphasis should be placed on information verification and how to guard against fake news as well as seeking out information through the right sources through credible platforms and sites.

We also view with concern that Section 233 of the CMA is being used, when the former government had pledged to stop using this Act. We understand that with the change of the government, PH's 14th general election manifesto no longer applies, but we call on the new government review and adopt a moratorium on the arbitrary use of Section 233 and move towards an amendment of the vague provisions.

An attack on a journalist is an attack on media freedom and the public's right to be informed. Government, media, social media companies and civil society should work together to identify effective and rights-respecting measures to protect journalists and combat online hate speech. Special consideration should be given to the unique risks faced by women journalists. We also hope that Facebook will engage with civil society organisations and media actors to understand the local context and challenges. Timely action by Facebook and other social media platforms is crucial in curbing online attacks, which commonly include trolling and doxing.

The government's efforts so far have been rather gender-blind and have failed to address the disproportionate impact on women. The government has failed to recognise that the restrictions on movement and being confined to the home is likely to raise the possibilities of increased abuse in domestic violence situations.

The government must stop perpetuating discriminatory and harmful gender roles and stereotypes through any public service announcements and ensure that all measures are adopted to promote equal opportunities and gender equality.