

Report

*INTERNATIONAL DAY
FOR UNIVERSAL ACCESS TO INFORMATION
(IDUAI) FORUM 2022 IN MALAYSIA*

Global Theme: Artificial Intelligence, E-Governance and Access to Information

Putrajaya
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The Centre for Independent Journalism (CIJ) is a feminist, freedom of expression watchdog and non-profit organisation that aspires for a society that is democratic, just and free, where all peoples will enjoy free media and the freedom to express, seek and impart information.

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Executive Summary

The IDUAI Forum 2022 in Malaysia was co-organised by Centre for Independent Journalism, Legal Affairs Division of the Prime Minister's Department (BHEUU) and UNESCO on 20 October 2022 in Putrajaya to celebrate International Day for Universal Access to Information, bringing together civil society, the state, businesses, media, and international organisations to discuss “Artificial Intelligence, E-Governance and Access to Information”.

This forum was aimed at providing an opportunity to discuss the complexities arising from the changing information landscape and review emerging trends and related risks linked to data intensive governance models. Discussions focused on identifying collaborative and innovative ways to ensure adequate protections are in place when moving forward with an inclusive application of AI for all areas in accessing information. This includes ensuring that there is civic space and public participation on the progress of the State in their commitment to Sustainable Development Goals 16.10.2 on adopting and implementing constitutional guarantees for right to information (RTI).

Objectives of the Forum:

1. To discuss the relationship of artificial intelligence, access to information and privacy protection, including benefits and risks, locating it within the current information eco- system;
2. To discuss innovative global practices on integrating transparency in using AI and design of e-services, as well as global developments on the right to information in facilitating an enabling environment for transparency and accountability;
3. To develop innovative strategies in ensuring the promotion of the public's right to information and privacy within the AI innovation ecosystem in Malaysia.

The audience comprised of government agencies, think tanks, international organisations, civil society organisations, academicians, the business community, tech industry players, media, and the diplomatic community in Malaysia.

The forum began with opening addresses by Wathshlah Naidu, Executive Director, Centre for Independent Journalism and Dr Asa Torkelsson, UN Resident Coordinator and UNFPA Representative for Malaysia, as well as a keynote address by YB Dato Sri Dr. Hj. Wan Junaidi Tuanku Jaafar, Minister in the Prime Minister's Department (Parliament and Law).

According to Wathshlah Naidu, in the digital age, data-driven policies can contribute to more responsive governance, greater development, and an informed, robust society. She hoped for a commitment from stakeholders in creating an ecosystem that builds trust – with a transparent and accountable government supported by the right infrastructures and robust legal safeguards. A data informed society would require all stakeholders to ensure an enabling environment by enhancing digital literacy.

Dr Asa Torkelsson underlined the need to ensure the design and implementation of digital tools like AI are transparent, ethical, and accountable as people have the right to know how the algorithms affecting their lives are designed and what kind of data is collected about them. She also highlighted the important aspects of the implementation of the right to information framework: a clear procedural framework that is efficient, user-friendly and affordable; an oversight body to hear appeals against refusals of access or other infringements of the law; the inclusion of administrative rules to facilitate effective implementation at state and sub-national levels.

YB Dato Sri Dr. Hj. Wan Junaidi Tuanku Jaafar admitted that recent efforts to transform public service delivery and other government services was hampered by among others, allegations of corruption, lack of transparency, lack of accountability as well as inefficient resources and financial management. As these issues have undermined the credibility of public sector institutions, the recent government's push for good governance, openness and fair distribution through a transparent democratic process will be fundamental in charting new priorities in the development agenda. He noted how since last year, many measures and actions were undertaken to reform the government administration, which covers the separation of powers between the executive, legislative and the judiciary towards greater transparency and accountability.

The forum was kicked-off by the first session entitled "Setting the Scene – Role of e-governance, artificial intelligence in promoting inclusive approaches to access information." This session looked at how Malaysia is adopting artificial intelligence in governance and explored inclusive approaches to access digitalised information. This session delved into how the use of AI in e-governance can be used for building trust, protecting rights and enabling public participation.

Moderated by Zurairi Abdul Rahman, News Editor of The Malay Mail, the session consisted of five panellists: Nordina Idris, Undersecretary of Division (SUB) of Technology, Strategy and Application, Ministry of Science, Technology and Innovation (MOSTI); Dr Mahesh Appannan, Senior Principal Assistant Director, Disease Control Division, Ministry of Health (MoH); Ms Tan Lee Chin, Group Chief Operating Officer (Group Strategy and Content), Media Chinese International Limited Malaysia; Ms Sarah Yong, Co-Chairperson of the IT, Innovation and Future in Technology Committee, and Co-Deputy Chairperson of the Cyberlaws Committee, Bar Council; Dr Jun-E Tan, Senior Research Associate, Khazanah Research Institute (Panel discussant).

Nordina provided an introduction to Malaysia's Artificial Intelligence (AI) Roadmap, noting how the COVID-19 pandemic was a major catalyst for the roadmap and greatly accelerated government efforts towards digitalisation. In explaining the details of the roadmap, she saw the need to cultivate more talent like data scientists whilst increasing funding for Research & Development.

The most important effort under the roadmap was to establish the governance within the AI coordination and implementation, and this required the collaboration of the government, academia, industries and society. She also pressed on the need to include the underprivileged in the discussion. Nordina also raised concerns about privacy issues arising from open access to information, as well as philosophical and moral conundrums - like the trolley problem - that hangs over AI solutions.

Dr Mahesh gave a presentation on how the Ministry of Health (MOH) made use of artificial intelligence, implemented e-governance and made information accessible publicly. He explained how the COVID-19 pandemic spurred MOH into digital-intensive pandemic management via the MySejahtera app, which is underpinned by artificial intelligence. Decision-making was data-driven, and this data was made accessible to the public. They built algorithms to predict and identify new hotspots, implemented virtual patient-care through MySejahtera and also used AI to manage their antiviral dispensing criteria. Data security and privacy concerns were addressed by the MOH partnership with the National Cybersecurity Agency. Dr Mahesh assured that data protection was paramount, with data governance in place that ensured most of the process was machine-controlled, and how the data would be eventually purged. He also said no other government agencies requested data from MOH.

Sarah Yong's presentation centred on how there was insufficient legislation – there was no single legislative framework for AI, while the Personal Data Protection Act (PDPA) only governs commercial transactions, and does not apply to dealings with the government. When there is a breach, the state is not held accountable at all. Yong saw a direct link in breaches of personal data with spikes in online and cyber-fraud and noted that legislation needed to be amended to impose a certain level of accountability or liability upon government agencies that handle personal data.

Tan Lee Chin saw the growth of AI as both a threat and opportunity to the media industry. The tech giants' control, with the use of AI, over the way people create and consume content has undermined the viability of media companies. But they can also harness AI to learn more about their audience and produce more relevant content, including producing quality journalism based on data.

Tan suggested that the legal framework for journalists to access information could be improved with proactive disclosure by the government. AI and other technologies can provide solutions to bridge the digital divide for journalists far from urban centres. She also hoped the government can give assurances, with formalised clear guidelines on data, that it is not using digital technologies as a form of surveillance on the work of journalists.

Dr Jun-E Tan perceived the problem in AI governance is one of information asymmetry; who holds the information has too much, and we do not know what they have, so we do not know what to demand from them. The cross-border nature of technology impacts our ability to govern and safeguard data flows, while international ethical standards may not necessarily work in different countries. She also questioned if technological solutions can really be beneficial across different contexts.

Much of the ensuing Q&A for session 1 dwelled on the issue of liability when something goes wrong. While there is no legal framework as yet to address this, government agencies are in the process of discussing this issue. Many questions were also raised about the security and privacy issues surrounding MOH's MySejahtera app. While assuring that the MOH's data is secure with stringent data governance, Dr Mahesh Appannan was also open to being more transparent in the process of rolling out AI applications. Both Sarah Yong and Dr June-E Tan pinpointed transparency as the way forward, with the Right to Information pathway as an important step towards AI or algorithmic accountability.

The second session entitled “Locating Malaysia within the Global Standard Information Ecosystem” was moderated by Suri Kempe, intersectional feminist & Human Rights Advocate and Co-founder, *Kemban Kolektif*, and consisted of five panel speakers: Kishali Pinto-Jayawardena, Member of Sri Lanka Right to Information Commission; Nayantara Ranganathan, Digital Asia Hubs (DAH) - researcher and lawyer; Undral Ganbaatar, Programme Specialist, UNESCO Jakarta Office; Ana Lomtadze, Programme Specialist UNESCO Jakarta - in charge of UNESCO’s media development and Noor Hasliza binti Mohd Hassan, Principal Assistant Director, ICT Consultancy Division, Malaysia Administrative Modernisation and Management Planning Unit (MAMPU).

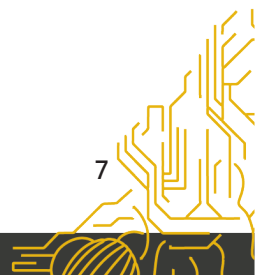
This session examined global standards within a progressive transparency regime that would enhance and strengthen right to information. As Malaysia is still at an early stage of AI adoption, this session discussed challenges and opportunities for contributing to the development of ethical AI standards and regulation. This session also included learning from tools such as the open data guidelines developed by UNESCO to support the government in the development and promotion of government public domain information.

Pinto-Jayawardena provided accounts of the trials and tribulations she observed within the Right to Information ecosystem in her home country of Sri Lanka as a vivid comparison and contrast to tease out the potential challenges and opportunities for reform in Malaysia. In recounting several cases from Sri Lanka, she demonstrated how RTI law was able to be used by marginalised communities to hold the state accountable to the citizenry. The information disclosures also resulted in actual action being taken to correct systemic wrongs and punish the culprits.

She also underscored how the introduction of AI systems into the RTI process necessitated certain considerations in the AI design to ensure the underprivileged are not disempowered. To this end, the independence of oversight agencies into the data protection process was key. Finally she emphasised the importance of the human element as the final arbiter in making decisions legally accountable.

Nayantara Ranganathan raised a myriad of questions that probed the power dynamics around the AI adoption process – Who are the private contractors who have been chosen by the government to participate in the technology development? Under what incentives and data-sharing policies are these private entities participating? What is the business model or long-term plan for such systems? What are the specific goals to be achieved through the adoption of a particular system? What are the known shortcomings of each dataset that is used? What are the trade-offs in adopting a system that uses AI and what are the risks that can be foreseen in using these systems? Nayantara believed there was a need to employ frameworks that provided enough information to interrogate the impacts these technologies have on society.

Undral Ganbaatar presented the case for ethical frameworks, and how UNESCO has been developing one. Among the various values and principles that underpin this ethical framework was the inherent value of human rights principles and how AI can contribute to that space. One of the fundamental recommendations is that AI systems should exist for the improvement for human lives and not the other way round.



While showing how digital technologies can be hugely beneficial for RTI and public service delivery, Ana Lomtadze warned that the digitalisation of access to information can also bring new digital divides, which policymakers have to address. There was also ongoing debate of whether the general public should be given the right to information about the collection, storage and use of data, and its conversion into meaningful information. There was also a need for AI systems to be designed in ways that enable their decisions to be explained and humans to be accountable for their use.

To address accountability issues, UNESCO is currently working on new guidelines for open data that tackle the question of whether data collecting entities should be treated as legal data fiduciaries with responsibility to secure data against breaches.

Dr Noor Hasliza binti Mohd Hassan shared her insights into the Malaysian public data ecosystem in a detailed presentation, showing how it is driven by two overarching policies – the National Fourth Industrial Revolution (4IR) Policy and MyDigital Blueprint. She then presented various government initiatives under these policies including the Malaysian Government Central Data Exchange (MyGDX) and the Data Driven Government (DDG) 2022-2025 framework.

In the Q&A for session 2, Ganbaatar commented that now was the right time to amp up the conversation on a global standard for AI governance. Meanwhile, Ranganathan urged participants to address the political economy of data and really try to answer the question of what the incentives or disincentives are that exist towards implementing these ethical guidelines. There were various questions pertaining to government processes and tendencies towards information disclosure, with the legal roadblocks that hamper RTI challenges. In this regard, both Dr Noor Hasliza binti Mohd Hassan and Ana Lomtadze pointed to the political factor in improving and reforming these processes – Dr Noor Hasliza appealed for political stability for this to happen whilst Lomtadze noted that UNESCO can provide all the frameworks and assistance but the onus was ultimately on the political will of member states to enact legislation that will have a significant impact on the matter.

The third session was entitled “Reimagining Information Eco-system that Promotes Information Justice,” moderated by Ong Kar Jin, Chief Strategy Officer at NØught Labs, and consisted of three panel speakers, Dr Punitha Silivarajoo, Director (Policy & Research), Legal Affairs Division, Prime Minister’s Department of Malaysia; Lee Shook Fong, Programme Officer for Right to Information, CIJ; and Vicks Kanasingam, Chief Executive Officer, Censof Digital Sdn Bhd.

This final session invited participants to imagine an eco-system that would promote information justice. With insights from Sessions 1 and 2, this session aimed to develop innovative strategies in ensuring the promotion of the public’s right to information and privacy within the AI innovation ecosystem in Malaysia. This facilitated session invited participants from all sectors (government, media, CSO, academicians, international organisations, legislators) to reflect on the lessons from the previous sessions, and share potential roles and contributions in current initiatives or create new network for ideating and implementing new initiatives.

The session started off with the panel speakers leading participants in breakaway discussions divided into three groups – Public Sector; Private Sector; and CSOs, NGOs, Academia, Media. After a 20-minute discussion, participants would regroup to listen to the panel speakers present views from each group, that was followed by a free-flowing discussion.

Vicks Kanasingam contrasted the needs of the private sector for quick adoption and deployment of technologies towards growth, with the way the public sector would impede this with too much governance and a culture of fear. He sought to change the perspective towards AI from fearing its impact to relishing the opportunities it can offer to address four major challenges for the nation: food security, an ageing population, climate change issues and digital divides.

Dr Punitha Silivarajoo noted how it was eye-opening for the government civil servants to tackle issues of liability and the ethical perspectives with regards to information control. They were also concerned how their ability to be transparent was restricted by various legislations including the OSA and 203(a) of the Penal Code.

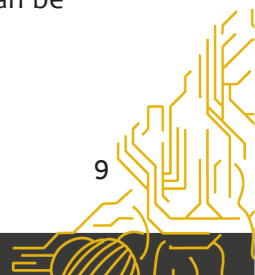
Lee Shook Foong reiterated concerns over the question of liability and the inclusivity in incorporating a diversity of views when it comes to the design of any new technology. There was a need to take a human rights-centred approach, centred on the human interest and the public interest, as well as a robust legal system that governs the adoption of AI.

Ong Kar Jin could see the contrast between the private and public sector in their perspectives towards liability and governance of AI. The private sector wants to build first to rush to market and correct the flaws later, whilst the public sector wants to make sure everything is fit and proper before it is rolled out.

In envisioning the ideal ecosystem, the panellists came out with a host of appeals and recommendations. Vicks Kanasingam wanted a Ministry of Data that could serve as a way for the government to not only govern data but provide the sandbox to test out AI technologies before they are rolled out to the public. He also mooted the idea of IDPA – IoT Data Protection Act – to complement the PDPA, govern data collection across all types of devices.

Lee Shook Fong envisioned her ideal ecosystem as one where the people have the autonomy to decide what information can be made transparent. Her group discussion also proposed building capacity by introducing an AI curriculum into communication studies and encourage more networking to connect investigative journalists who work on AI and technology/data issues. She also mooted a forum where people could get together and have comprehensive consultations with all stakeholders before any policies or designs are finalised.

Dr Punitha Silivarajoo explained how BHEUU was able to achieve an array of constitutional amendments was because they went down to the ground to engage relevant stakeholders and the general public. There were various impediments for civil servants to be transparent; not just the OSA, but also laws in various ministries and agencies, which would involve amending several pieces of legislation. The ideal for civil servants is to be able to balance between information that should be protected - national security and other sensitive areas - and information that can be divulged. What is needed is a clear and proper guideline for these.



Ong Kar Jin concluded the session by highlighting how trust and power are major factors in any conversation about data systems.

In her closing speech for the forum, Undral Ganabaatar reviewed the many issues and concerns raised throughout the day, concluding that the concept of AI technology was still new to many and how we were all pondering on how it affects us on a human level.



OPENING SESSION



Opening Session

Welcome Address by Wathshlah Naidu, Executive Director, Centre for Independent Journalism

Good morning and *selamat sejahtera* to all. A warm welcome to YB Dato Sri Dr. Hj. Wan Junaidi Tuanku Jaafar, Minister in the Prime Minister's Department (Parliament and Law), Dr Asa Torkelson, UN Resident Coordinator a.i and UNFPA Representative for Malaysia, YBhg. Datuk Haji Mohd Rabin bin Basir, Director General, BHEUU, YBrs. Tuan Abdul Aziz bin Mohd Johdi, Deputy Director General (Policy and Development), BHEUU, Ms Kishali Pinto-Jayawardena, Member of Sri Lanka Right to Information Commission, Dr. Punitha Silivarajoo and her team at BHEUU, our panel of speakers and moderators, and colleagues from the various government agencies; CSO; academics; media and the business sector.

Welcome to the Forum on Artificial Intelligence, E-Governance and Access to Information, jointly organised by the Legal Affairs Division of the Prime Minister's Department (BHEUU), UNESCO and the Centre for Independent Journalism (CIJ).

We continue to appreciate BHEUU's commitment towards moving forward the agenda on RTI legislation, paving the way for transparency and open governance.

In the midst of challenging times, especially as we move on from battling the COVID 19 endemic and related infodemic, we locate the right to information as fundamental to creating a thinking and resilient society that would influence the promotion and protection of our constitutional guarantee of freedom of expression. To quote UNESCO – Information is Power!

The last three years have clearly demonstrated the critical need for and the heavy reliance on accurate and timely data and information that impact our survival. In the digital age, data-driven policies can contribute to a more responsive governance; greater development; and an informed, robust society. Our focus on a digital transformation agenda should be on improving public services and, economic growth, that is ultimately aimed at enhancing access and quality of life of the public.

In this context, today's discussion on the role of e-governance and AI is critical in promoting inclusive approaches in realising our RTI.

To many of us, AI is still very much bright, shiny and sexy. We take pride in this emerging field and in our tech innovations. We have advanced to geo-tagging, biometric surveillance, mining, engineering and commercialisation of personal data, among others.

The Malaysian AI Roadmap, of which we will hear more of in Session 1, have prioritised key AI projects in healthcare, agriculture, education, smart city transportation, and public service.

- Catalysed by the pandemic, the project on healthcare would rely on machine and deep reinforcement learning with the intention to establish an autonomous vaccine distribution and management system.

- For smart city transportation, machine learning, big data, optimization, IoT, and blockchain, would drive autonomous maintenance, repair, and operation processes for a more effective and reliable public commuter service.
- In the public service, intelligent automation through chatbots could improve process efficiency and service delivery at the federal and state government levels. Additionally, MAMPU is studying the use of AI-based facial recognition to monitor employee attendance.
- Using similar AI technologies, the project on agriculture and education will match industry demands with automated management systems.

We have further begun using of AI in our judiciary. A pilot is initiated in Sabah and Sarawak in 2 types of cases – drug possession under Section 12(2) of the Dangerous Drug Act and rape under Section 376(1) of the Penal Code. The intention is to achieve greater consistency in sentencing, and to allow the courts to clear case backlogs efficiently, preventing stressful and lengthy legal proceedings. A model is created from past case patterns (AI algorithm used to analyse cases under both offences in Sabah and Sarawak between 2014 – 2019), then applied to present-day cases before producing sentencing recommendations that judges can choose to adopt or deviate from.

On the other hand, we ask these questions:

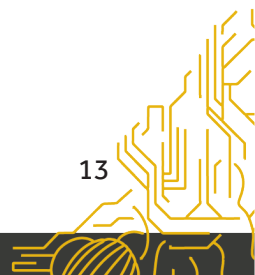
- What is it we want the AI to do? What are its learning objectives?
- Who is doing the learning? Is it able to achieve its objectives effectively?
- Are we encoding biases through profiling and allowing for policing? In the pilot they decided to drop race as a category.
- Who is mining and engineering the data? Where is the data being stored? Who has access to it?
- Do we have adequate safeguards? Are they legally binding?
- How do we deal with the fact that the government – the largest holder of personal data – are exempted from the Personal Data Protection Act?

While we have seen positive development on standard setting around the different regions, this forum aims to provide a shared space to contribute to the development of a coherent and aligned framework that would address the challenges in Malaysia.

Specific objectives of the Forum

1. To discuss the relationship of artificial intelligence, access to information and privacy protection, including benefits and risks, locating it within the current information ecosystem;
2. To discuss innovative global practices on integrating transparency in using AI and design of e-services, as well as global developments on the right to information in facilitating an enabling environment for transparency and accountability;
3. To develop innovative strategies in ensuring the promotion of the public's right to information and privacy within the AI innovation ecosystem in Malaysia.

We hope today's discussions will set the tone towards a commitment in creating an ecosystem that builds trust – with a transparent and accountable government supported by the right infrastructures and robust legal safeguards; as well a commitment to engage with all relevant stakeholders. We need to get away from the 'black box'.



We need a data informed society. This would require all stakeholders to ensure an enabling environment and enhanced digital literacy. Thank you BHEUU for hosting us. Looking forward to a successful round of discussions and commitments.

Opening Address by Dr Asa Torkelsson, UN Resident Coordinator and UNFPA Representative for Malaysia

Ms. Wathshlah G. Naidu, Executive Director, Centre for Independent Journalism; Colleagues from UNESCO, Centre for Independent Journalism, and the Legal Affairs Division under the Prime Minister's Department. Distinguished speakers, and participants. A very good morning and *selamat pagi* to you all.

I would first like to congratulate the co-organizers for holding this important forum in commemoration of the International Day for Universal Access to Information – the Legal Affairs Division under the Prime Minister's Department, UNESCO, and Centre for Independent Journalism.

Access to information is fundamental in any society, and in recognizing its significance, the 74th UN General Assembly proclaimed 28 September as the International Day for Universal Access to Information at the UN level in 2019. This year's UNESCOs Global Conference took place in Tashkent, Uzbekistan on the 28th and 29th of September and included around 1,500 in-person and virtual participants. Today's forum is one of hundreds of events taking place around the world.

Ladies and gentlemen,

To participate effectively in decision making, citizens need to be able to access the information that governments use to determine policies and make decisions. Respecting the right to information fosters a culture of openness and accountability and encourages responsible use of public resources. It serves to build public trust and ensures accountability in State institutions. And it gives individuals greater control over their personal information.

International human rights law specifically recognizes the right of access to information. Article 19 of the International Covenant on Civil and Political Rights protects everyone's right to seek, receive and impart information of all kinds.

As public bodies make increasing use of digital solutions, with Artificial Intelligence being used to support the delivery public services and decision-making, it is essential that the design and implementation of these tools are transparent, ethical, and accountable. People have the right to know how the algorithms affecting their lives are designed and what kind of data is collected about them. This is true not only for governments, but also for technology companies and platforms.

While virtual spaces offer boundless opportunities, they also come with risks. For example, a recent UNICEF study documented the online harassment of children in Malaysia, causing mental and psychosocial ill-health and stress. We may also need to step up our training so that users are very well familiarized with the complex surrounding new information pathways.

The 2022 edition of the International Day for Universal Access to Information is an opportunity to discuss pressing issues related to e-governance and artificial intelligence with a view to assuring the Right to Access Information.

We are grateful for UNESCO for taking the lead on this, as a specialized UN agency with the mandate to promote the free flow of information. Apart from the celebration of the International Day, UNESCO provides training and a platform for all stakeholders to participate in international discussions in the constantly evolving area of access to information.

UNESCO has been mandated by its Member States to monitor and report progress on Sustainable Development Goal (SDG) Indicator 16.10.2 on Public Access to Information. Every year, UNESCO conducts its Survey on Public Access to Information to track progress and I invite you all to consult the 2022 survey, which gathered responses from 122 countries.

Ladies and gentlemen,

Human rights are best protected by law based on international standards. Today, more than 135 countries and territories have adopted the right to information legislation. In 1990 we had just fourteen. This is a near ten-fold increase.

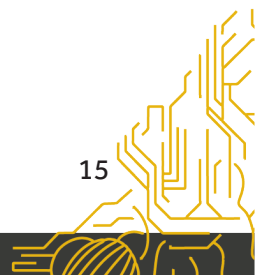
The right to information is most fully realized when access to governmental information is guaranteed by legislation. All information held by public bodies should be subject to disclosure and States should seek to disclose information proactively. The core underpinning principle is maximum disclosure with limited exceptions. This means that legal provisions granting access should be interpreted as broadly as possible, and supported by a general presumption of disclosure, the right to information should apply broadly.

Of course, this right, just as the right to freedom of expression from which it is derived, is not absolute and governments may legitimately withhold certain information. However, exceptions should be crafted and interpreted as narrowly as possible. Importantly, provisions that allow the public interest to override disclosure should only apply where the harm demonstrably outweighs the overall interest in disclosure.

In addition to these basic principles, I would highlight three important aspects of the implementation of the right to information framework.

First, it is important to have a clear procedural framework designed to facilitate access in an efficient, user-friendly and affordable manner. If an information request is refused, the public body should be required to contact the requester and provide them with an explanation and information about their options for appeal.

Second, a strong system should include a specialized oversight body, such as an information commission or commissioner, with the power to hear and determine appeals against refusals of access or other infringements of the law. This is as well as wider powers and adequate resources to implement the law.



Third, an effective right to information laws must include administrative rules to facilitate effective implementation at state and subnational levels. These should include obligations to appoint specialised officials to receive and process requests, to provide training to their staff, to maintain their records, and to report annually on implementation the law.

Ladies and gentlemen,

Before I end, I emphasise - and this is particularly important for the digital age – ensuring that all individuals can seek, receive, and relay information. This means providing content in local languages, in different formats as well as fostering media and information literacy skills to enable individuals to critically and effectively engage, to combat disinformation.

On a very final note, I want on behalf the United Nations in Malaysia to express our appreciation to the Legal Affairs Division under the Prime Minister’s Department for spearheading the government’s commitment in moving forward with the legislation of a new federal RTI law. Consultations with various stakeholders has been ongoing since 2019 and hope that progress will be made in the near future. I wish all of you a productive workshop ahead.

Thank you.

Keynote Address by YB Dato Sri Dr. Hj. Wan Junaidi Tuanku Jaafar, Minister in the Prime Minister’s Department (Parliament and Law)

Bismillahirrahmanirrahim. Assalamualaikum Warahmatullahi Wabarakatuh. A very good morning and *salam sejahtera*. Madam Karima El Korri, United Nations Resident Coordinator for Malaysia, Singapore and Brunei Darussalam; Madam Wathshlah G. Naidu, Executive Director, Centre for Independent Journalism; panellists and moderators, distinguished participants, ladies and gentlemen.

1. First, I would like to express my sincere apology for not being able to join you all physically due to unavoidable circumstances.
2. However, it is my great pleasure and honour to share my thoughts in conjunction with the International Day for Universal Access to Information 2022 in Malaysia with the global theme: “Artificial Intelligence, E-Governance and Access to Information.
3. I would like to express my utmost appreciation to UNESCO, Centre for Independent Journalism and the Legal Affairs Division for organising this event.

Ladies and gentlemen,

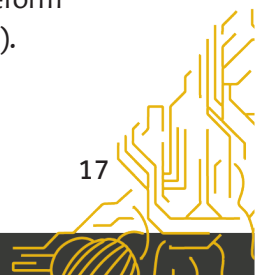
4. This programme looks into the relationship of artificial intelligence, access to information and privacy protection including its benefits and risks. It also stresses the need to visit and discuss innovative global practices on integrating transparency in using artificial intelligence and design of e-services. Global development on the right to information in facilitating and enabling an environment for transparency and accountability is vital as underscored in the

objectives. Ultimately, innovative strategies in ensuring the promotion of the public right to information and privacy within the artificial intelligence ecosystem in Malaysia is given priority.

5. At the end of the day it is expected that the understanding of the relationship between artificial intelligence, access to information and privacy protection within the information ecosystem in the public sector is enhanced. Global good practice is looked at in promoting right to information, including progress on access to information laws and its implementation. It is hoped that a collaborative, holistic and actionable strategy with clear timelines for stakeholders is attained.

Ladies and gentlemen,

6. The dawn of the recent administration signals the need for holistic reform of the government, with stronger democratic governance. The reform agenda necessitates the highest standards of ethics, conduct and good governance at all levels, to strengthen transparency and accountability in order to gain the trust and confidence of the people or the *rakyat*. In this regard, the values and principles of the rule of law, integrity, equity and inclusiveness have to be imbued across all levels and proper mechanisms are implemented to prevent abuse of power.
7. At the same time, the public service must deliver equitable and quality services with efficiency and effectiveness through collective effort, education and creativity focusing on priorities that matter the most to the *rakyat* (citizens)
8. In recent years, efforts were undertaken to transform public service delivery, addressing areas such as bureaucracy, digitalisation, talent, project management as well as local authority services.
9. Despite these efforts, the impacts achieved to improve public services in a comprehensive and sustainable manner was hampered by among others, allegations of corruption, lack of transparency, accountability as well as inefficient resources and financial management. These issues and challenges have undermined the credibility and worthiness of public sector institutions.
10. Therefore, with the recent government at the helm, principles of good governance, openness and fair distribution through a transparent democratic process will be fundamental in charting new priorities in the development agenda.
11. Since last year, many measures and action were undertaken to reform the government administration, which covers the separation of powers between the executive, legislative and the judiciary towards greater transparency and accountability. This is to ensure checks and balances in line with the Federal Constitution. These efforts cover four priority areas, namely, improving governance at all levels, elevating integrity and accountability, enforcing prudent public finance management and enhancing the public service delivery system. As such, comprehensive reform is required to ensure a government worthy of trust and confidence of the *rakyat* (citizens).



Ladies and gentlemen,

12. To facilitate all the above, I believe in fostering innovation at all levels of society. This includes not only the private sector but also the public sector. Allow me to share something that is close to my portfolio.
13. Even before the pandemic forced industry to embrace digital transformation, Sabah and Sarawak had already launched a pilot artificial intelligence tool as a guide to help judges with sentencing decisions. The High Court case of Denis P Modili against Public Prosecutor in which an appeal against a Magistrate's Court judgement dated 9 February 2020 about a sentence imposed on 20 February 2020, an appeal notice was filed by the accused expressing dissatisfaction with the verdict as it was decided through the application of artificial intelligence. This case was the first to apply artificial intelligence in sentencing and as a result make new history in Malaysian law.
14. The office of the Chief Registrar of the Federal Court of Malaysia explained that artificial intelligence technology-based sentencing guidelines are designed to serve as reference and guidance for session court judges and magistrates. From 23rd July 2021 onwards, the artificial intelligence was introduced in the lower court in Kuala Lumpur and Shah Alam, covering 20 common offences including physical and sexual assault, theft of property, drug possession and traffic violations.
15. Regarding the role of e-governance, artificial intelligence and promoting inclusive approaches to access to information, I'm sure our panellists and experts from the Ministry of Science, Technology and Innovation (MOSTI), and Ministry of Health (MOH) will share information with all of you throughout the sessions today.
16. As for the freedom of information or FOI, it is a fundamentally a right given to the people to request information from the source, be it government or not. It also encompasses the obligation of government agencies to publish information on a routine basis. International and regional legal instruments recognise FOI as a fundamental right in a democratic society.
17. Although the FOI acts have not been enacted at the federal level yet in this country, freedom of information has been practised through the government's open data platform (data.gov.my) as follows:
 - a) Anyone can access, use and share data
 - b) Anyone can access, use and share data without charge
 - c) Anyone can apply a new dataset
 - d) Each dataset has been licensed to allow anyone to use the data as they see fit, including changing, merging and sharing with others, even for commercial purposes.
 - e) Ensure that the information contained in the document is accurate, complete, up-to-date and not misleading.

18. I'm sure that our representative panellist from MAMPU will share with all of you on e-governance and open data concept that have been practised in public sector since a couple of years ago.

19. For me, I believe the access to information help the public make public authorities accountable for their action and allows public debate to be better informed and more productive. During my recent visit to the United Kingdom, where my team visited the Information Commission at Cheshire, United Kingdom, this visit was an eye-opener for us, because the FOI law not only stand by side with the Official Secrets Act (OSA), but the implementation of the law only happened five years after its enactment. This because the enacting of an act comes with the implementation pace which may be complicated in the case of the information commission which also looks at data protection, thus it was indeed a complex endeavour.

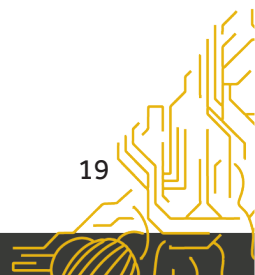
Ladies and gentlemen,

20. Access to information can also improve public confidence and trust if the government and the public sector bodies are seen as being open and transparent. At the same time, as a government, we need to ensure the information or data given are not being misused for incitement, defamation, fraud, obscenity and threats.

21. In this regard, BHEUU has repaired the policy paper and report based on feedback from a series of engagements between government agencies, and the private sector, NGOs and CSOs since 2019. This paper will be tabled in the next Cabinet Committee Meeting on Anti-Corruption (JKKMAR), chaired by the Prime Minister. It's up to the new government after the General Election to decide whether to proceed with the enactment of the FOI act.

Ladies and gentlemen,

22. Although no democracy has absolute access to information, we hope to achieve a level of independence and openness to access to information in Malaysia. With this I wish everyone a happy International Day for Universal Access to Information 2022. May all of you have a wonderful session. Thank you.





Session 1:

**Role of e-governance,
artificial intelligence in
promoting inclusive
approaches to access
information**

Session 1: Role of e-governance, artificial intelligence in promoting inclusive approaches to access information

The first session was moderated by Zurairi Abdul Rahman, News Editor of The Malay Mail and consisted of five panellists:

1. Puan Nordina Idris, Undersecretary of Division (SUB) of Technology, Strategy and Application, Ministry of Science, Technology and Innovation (MOSTI)
2. Dr Mahesh Appannan, Senior Principal Assistant Director, Disease Control Division, Ministry of Health (MoH)
3. Ms Tan Lee Chin, Group Chief Operating Officer (Group Strategy and Content), Media Chinese International Limited Malaysia
4. Ms Sarah Yong, Co-Chairperson of the IT, Innovation and Future in Technology Committee, and Co-Deputy Chairperson of the Cyberlaws Committee, Bar Council
5. Dr Jun-E Tan, Senior Research Associate, Khazanah Research Institute (Panel discussant)

Puan Nordina Idris, Undersecretary of Division (SUB) of Technology, Strategy and Application, Ministry of Science, Technology and Innovation (MOSTI)

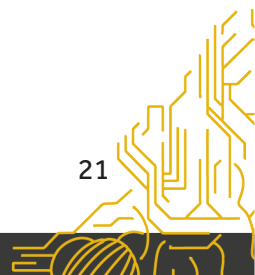
Nordina provided an introduction and explanation to Malaysia's Artificial Intelligence (AI) Roadmap, which forms one of five national technology roadmaps to intensify Malaysia's efforts to become a technology developer. According to Nordina, the COVID-19 pandemic was a major catalyst for the roadmap, greatly accelerating government efforts towards digitalisation.

While Nordina sees the forum today as encompassing three main areas – e-governance, protecting rights and inclusivity - for her, the AI roadmap covers more than just these areas.

The ecosystem of AI in this country has been scattered. Under this AI roadmap, there are many diverse players. She gave the example of how the Department of Statistics are handling the public sector's Big Data analytics. Meanwhile, the National Big Data Framework is undertaken by MAMPU (handling the public sector), MDEC (private sector) and the Ministry of Communications and Multimedia (K-KOMM). For the public sector, MAMPU is in charge of the Malaysian Government Central Data Exchange (MyGDX) and Open Government Data. Under K-KOMM comes the Personal Data Protection Department and the Malaysian Communications and Multimedia Commission which regulates the Communications and Multimedia industry. When the government digitalised all of its activity, it is under the stewardship of K-KOMM, while MOSTI provides the technology perspective.

The AI roadmap is guided by 7 principles of Responsible AI:

- 1) Fairness
- 2) Reliability, Safety and Control
- 3) Privacy and Security
- 4) Inclusivity
- 5) Transparency
- 6) Accountability
- 7) Pursuit of Human Benefits and Happiness



For the AI roadmap to attain these 7 principles, Nordina said there was a need to cultivate talent; for example, there was a need to create more data scientists and increase funding for Research & Development.

Nordina also raised the problematic issue of ethics arising from these efforts in cultivating the technologies and the ecosystem as a way to show how the AI roadmap goes beyond science. Under this roadmap, the most important effort was to establish governance within the AI coordination and implementation. In doing so, there was a need for collaboration between the government, academia, industries and society. Details are still pending, but the government is setting up a system of governance and it will be reported to the National Digital Economy and Fourth Industrial Revolution (4IR) Council. Under the AI implementation unit, the government has six sub-committees headed by the most appropriate leaders in sectors like policy, legal and regulation.

Nordina holds that the discussion over the AI roadmap have to include those who are underprivileged. Nordina also raised concerns about privacy issues arising from open access to information, citing the example of personal genomic data being opened up to wider access – something she believes will happen in the near future. She also raised questions about philosophical and moral conundrums like the trolley problem that hangs over the AI-guided driverless vehicles. To this end, she would like to see more discussion and debate on these issues that involves the breadth of society.

Dr Mahesh Appannan, Senior Principal Assistant Director, Disease Control Division, Ministry of Health (MoH)

Dr Mahesh gave a presentation on how the Ministry of Health (MOH) made use of artificial intelligence, implemented e-governance and made information accessible publicly. Echoing Nurdina, Dr Mahesh emphasised the effect of the COVID-19 pandemic in accelerating the use of such technologies. The COVID-19 pandemic was when we saw one of the most data and digital-intensive pandemic management endeavours ever in history.

Dr Mahesh outlined five areas the MOH used data and digital technologies for pandemic management:

1. How they used data
2. How they gathered strategies that had to work
3. How they solidified partnerships
4. How they made friends with their media partners
5. How they used all our experience to achieve one common goal

Cutting across all this was the principle of communication.

Realising that this would be the one of the worst pandemics ever, it spurred them to come out with the MySejahtera app. The MySejahtera app amassed 30 million unique users, and was able to digitally contact-trace 47 million cases. And underpinning this app was artificial intelligence. 96% of COVID-19 patients were looked after at home, making Malaysia one of the best countries in the world in managing the pandemic effectively.

Decision-making was data-driven, and this data was published, accessible by the public, to counter misinformation. This data was made available at GitHub KKM, and the key data points were also published via COVIDNOW.

MySJ Trace also used Bluetooth technology for digital surveillance and its reporting system, as well as the check-in facility within the MySejahtera app.

They built algorithms to predict and identify new hotspots, allowing for pre-emptive action for pandemic management.

Virtual patient-care via MySejathera filtered through the patients by severity of conditions, significantly reduced the traffic and case-loads at COVID-19 assessment centres which were at risk of being overwhelmed by the number of patients pouring in. This resulted in some centres going from handling 8,000 patients per day to 300 per day.

MOH also used AI and other digital technologies to manage their antiviral dispensing criteria, where the MySejahtera app aided in delivering precision medicine as needed by patients.

As of three months ago, as the pandemic receded, MySejahtera has transitioned to become a public health app, helping the move from curative medicine to preventive medicine. Two new modules were recently launched within the app, the organ donor pledge and blood donation records, with more modules to come.

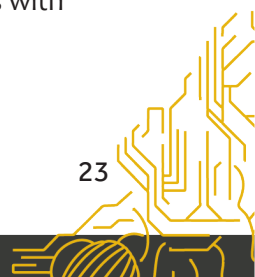
Dr Mahesh emphasised that the MOH was one of the most difficult ministries to access and extract data from, especially since patient confidentiality is paramount to the medical profession. Hence, MOH partnered with the National Cybersecurity Agency to help in data security.

Regarding concerns about the privacy of personal data - particularly since the recent Public Accounts Committee report had revealed that a third party from the private sector was managing the MySejahtera app. Dr Mahesh explained why the urgency in responding to the pandemic necessitated an accelerated procurement process for the app, as well as the use of a third party vendor with the immediate expertise in quickly building the system.

The need to deploy the app fast however did not supersede data protection, Dr Mahesh assured, as several data governance documents were put in place. For example, no personnel has access to your data until you are reported as being COVID-19 positive; everything is machine-controlled. This data is archived after 30 days and purged after 60 days. Dr Mahesh also mentioned that other government agencies did not request this data from MOH.

Ms Sarah Yong, Co-Chairperson of the IT, Innovation and Future in Technology Committee, and Co-Deputy Chairperson of the Cyberlaws Committee, Bar Council

Yong mentioned that her own concerns over the security of her personal data delayed her from downloading the MySejahtera app, creating a climate of uncertainty for her and many others with similar apprehensions during the pandemic.



As the foundation of AI is data, Yong noted that in regard to data safeguards, there was no single legislative framework for AI. The Personal Data Protection Act (PDPA) only governs commercial transactions, and does not apply to dealings with the government, be it federal or state. Specifically, the Act only applies to businesses that glean personal data from commercial transactions.

In terms of the safeguards for health data, within the framework of the Personal Data Protection Act, it is considered as sensitive personal data. As such, even processing and storing the data requires explicit consent from the patient.

One of the principles in the PDPA is the security principle – data must be secured. With the world moving forward with AI and nations requiring their citizens to sign on to digital devices and policies that require electronic identity, currently our data is shared across different ministries. As a lawyer herself, Yong is aware of a connection between the JPN registry and the court system for court filings.

This raises a lot of concerns because the state is essentially not governed by the PDPA, thus there is a gap when there is a breach because the state is not held accountable at all. For example, the recent disclosure of an alleged breach of JPA public servants¹, which was reported in May. Five months later, there has been no update on the issue. Yong asks, “Where’s the check and balance in this?”

With the spike in cyber-scams and cyber-fraud, Yong makes the point that there is a direct link in breaches of personal data and citizens falling for such scams.

Yong noted that there was a lot of existing piecemeal legislation that the authorities have attempted to enforce, like the Cybercrimes Act for hacking instances and the Penal Code. However, in terms of cases involving the breach of personal data, the only way the authorities can held accountable is via civil action under the tort of negligence, alleging that the state or government agency has been negligent in handling the data. This is an expensive legal recourse that is not available to most people.

Unfortunately, the PDPA does not confer the right to sue parties and is essentially a legislation enforced by the PDPA commissioner. As such, under the PDPA, fines are imposed on businesses that allow your data to be breached. However, it does not allow for individuals to sue the business to claim for damages. Therefore, Yong infers that though businesses are kept accountable, the only personal remedy available is through said civil suit against the authorities which she mentions already is mostly unviable for individuals.

Yong felt that a lot more could be done in terms of securing personal data, and holding the government accountable. Legislation needed to be amended to impose a certain level of accountability or liability upon government agencies that handle personal data.

¹ Note: attempted data breach into the e-payroll of civil servants where first news was reported by Sin Chew: <https://www.bharian.com.my/berita/nasional/2022/09/1001765/kerajaan-dapat-petunjuk-isu-pencerobohan-sistem-penyata-gaji>; <https://www.utusan.com.my/nasional/2022/09/data-peribadi-penjawat-awam-digodam-kumpulan-gray-hat/>

Ms Tan Lee Chin, Group Chief Operating Officer (Group Strategy and Content), Media Chinese International Limited Malaysia

As a media professional, Tan expressed how the media industry was suffering due to AI, with the big tech players and their algorithms controlling the information ecosystem. As these tech giants control, moderate, disseminate, distribute, curate and shape the content that people are creating and consuming, it makes the work of the media industry very difficult. The viability of the media industry itself is also severely under the threat. Media organisations are businesses but they also play a role in serving public interest.

On the other hand, Tan also remarked that journalists also have the opportunity now to harness AI to produce quality journalism. However, in Malaysia there are only a handful of data journalists resulting in a skill and expertise gap in the talent pool. Thus, there was a need to retrain journalists to be able apply AI in their work. There was also a need to improve AI literacy, to be able to assess what is good AI, and the ability to highlight the biasness in the AI models.

AI can be important to help discover and produce news or content that is relevant. Currently, industry players are using AI to improve on their digital assets; for example, in the personalisation of news feeds. Media organisations also want to know more about their users – what are the problems experienced by users that need to be solved? Tan sees this is a potential way forward for journalism – producing news content that is relevant, that is solving problems people are facing.

There is a legal framework for journalists to access information, but Tan goes further to suggest things government can do, like proactive disclosure. This is particularly useful when a lot of data is interconnected between different government departments; how do we access the data that is able to answer the questions the journalists have?

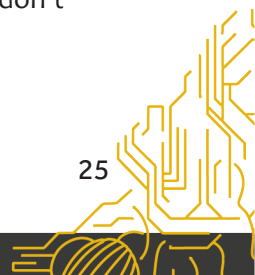
Tan also remarked about looking beyond the Klang Valley to address the information challenges faced by journalists in far-flung corners of the country.

In her recommendations for the ideal government collaboration between the media and the government in terms of data sharing, Tan felt that the government should give assurances that the digital technologies like MySejahtera are not used as a form of surveillance on the work of journalists, and these assurances can be formalised in clear guidelines with open data.

Panel Discussant: Dr Jun-E Tan, Senior Research Associate, Khazanah Research Institute

Dr Tan highlighted the need to appreciate the consideration of where the technology is applied – what are we actually doing with the AI? She noted how her interest was piqued by Dr Mahesh's presentation as it outlined cases where AI was clearly used, and its distinct problems that need to be solved, and how these could be extrapolated to flesh out the risks and challenges that might arise.

On the right to information and using AI in governance, Dr Tan made the point that the problem we have here is information asymmetry, where who holds the information has too much, and we don't know what they have, so we don't know what to demand from them.



The government is not governed by the PDPA, while the private sector owns a lot of the digital infrastructure, partially through partnerships with the government – we do not know what they own and how they use that data.

Dr Tan also noted that one of the technological issues is that a lot of technology is cross-border in nature. This impacts our ability to govern and safeguard, especially when it occurs in jurisdictions outside our country. For example, how does Malaysia deal with problems arising from citizens using the infrastructure of Meta to communicate through WhatsApp or Facebook and how will their rights be safeguarded?

This cross-border aspect also comes into play when considering the ethical dilemmas arising from AI – why are we applying one set of international ethical principles when it is not one-size-fits-all. Dr Tan advocates for Malaysia to take a more active and vocal role in the international discourse regarding the AI ethical principles so that they will reflect our local concerns.

The problems Dr Tan sees with AI ethical principles is that the principles are at the technological level and not at the business level. When fairness, transparency, and privacy is considered, it is usually applied to the narrow context of how the technology is designed but not what the appropriate technology is to be used. Designing better, more ethical technology is just one part of the story as Dr Tan wants to consider the broader approach of questioning if the technology itself is beneficial in some contexts. She believes there will always be people who will be marginalised by technology, and asks how we safeguard and make sure the trade-offs are not too stark between those people who benefit from technology and those who do not.

Dr Tan saw the need to be more inclusive and engage with a wider range of stakeholders, like gig workers and their concerns working on platforms.

Q&A for Session 1

Ho Yi Jian of Sunway University asks whose responsibility it is when something goes wrong. He feels AI implementation is inevitable, but is worried about the recourse for the public when something happens that adversely affects the public. He would like to see a framework for independent investigations into the viability of government AI machine-learning systems especially when it affects the public.

Ho also saw the need to consider the issues around the algorithm. He uses the example of the MySejahtera app, where the government holds the data, whilst the third-party vendor controls the algorithm.

On the issue of public recourse, **Nordina Idris** informed that it will be discussed by the regulatory sub-committees. She also added that all ministries and government agencies have to contribute to the Big Data database but she questioned whether the granularity of that data accords meaningfulness and whether that will affect the algorithm as well.

The issue of liability is grey area according to **Sarah Yong**. Is the user and/or creator of the AI liable? There have been legal challenges from the intellectual property aspect, where the ‘personhood’ of the AI is being debated, where the AI is argued as the creator of the intellectual property. Yong has no answers to these questions, and remarked that we do not have the legislative framework for it. She cited a case in the US where a bank issued loans based on AI, which turned out to be faulty, creating a situation where people who deserved home loans were denied the loans, impacting on people’s lives. She stressed that these questions had to be answered, and governed before AI is rolled out.

Dr Mahesh Appannan confesses to be a strong proponent for AI, and believes it is hugely beneficial. As a healthcare practitioner, he would only want a matured AI for it to treat patients. AI has to be rigorously tested, validated and verified. In some cases, like using AI for contact-tracing, Dr Mahesh says he does not mind if the AI was ‘over-tracing’ people, rather than ‘under-tracing.’ Before the rollout of the AI application, Dr Mahesh said it has to be tested and validated before a committee. But he concedes that this process is not shown to the public, and he stated that if that was what is required, he had no problems with unveiling that process.

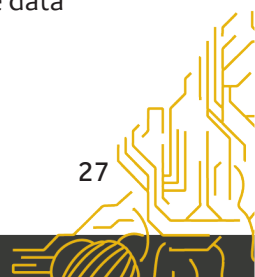
Dr Mahesh felt that the government was disproportionately blamed for problems like data leaks. Addressing Zurairi’s question to him about why MOH decided not to make the algorithms open-source, Dr Mahesh said the whole endeavour was very new for MOH, and there were many privacy issues in healthcare which made it difficult to share with the public.

Lee Shook Fong from CIJ said it would be good for the government to proactively disclose the AI models and make it transparent. Citing the case of AI sentencing in courts in Sabah and Sarawak, she noted that only 67% of judges followed what AI recommended. To that end, she held that it would be good for the public to know what was the AI model, how the AI was trained and with what datasets. In another question, Lee cited a recent survey where only 1 out of 5 respondents said they trusted that their data on the MySejahtera app would be secure. She asked if the MOH would take into account feedback from the public, and take seriously questions surrounding the security of the data.

Dr June-E Tan remarked that the Right to Information pathway is important for pushing AI and algorithmic accountability. To be able to have more information that we have on how decisions are made would be useful for everyone.

While welcoming the questions and critiques regarding MySejahtera, **Dr Mahesh** questioned the sample size and the methodology of the survey mentioned by Lee, noting that there were also a lot of people on the fence in regards to the trust in security issue, and also revealed that there were 14 million updates for the latest version, indicating public usage remains high. He also promised there were great plans for the app, including integrating lifetime health cards. He assured that the data governance process is highly stringent and conducted in a secured environment.

Sarah Yong commented on the AI sentencing in courts in Sabah and Sarawak, and at the time of prior to its implementation, had asked if the algorithm was vetted, and whether it was neutral. One of the solutions was transparency, for people to have access to the algorithm. Criminal Law practitioner should have the right to access this AI, and to test it for themselves with the data inputs into the algorithm, to see how different factors can produce different results.





Session 2:

**Locating Malaysia
within the global
standard ecosystem**

Session 2: Locating Malaysia within the global standard ecosystem

The second session was moderated by Ms Suri Kempe, Intersectional feminist & Human Rights Advocate and Co-founder, Kemban Kolektif, and consisted of five panel speakers:

1. Ms Kishali Pinto-Jayawardena, Member of Sri Lanka Right to Information Commission
2. Ms Nayantara Ranganathan, Digital Asia Hubs (DAH) - researcher and lawyer
3. Ms Undral Ganbaatar, Programme Specialist, UNESCO Jakarta Office
4. Ms Ana Lomtadze, Programme Specialist UNESCO Jakarta - in charge of UNESCO's media development
5. Dr. Noor Hasliza binti Mohd Hassan, Principal Assistant Director, ICT Consultancy Division, Malaysia Administrative Modernisation and Management Planning Unit (MAMPU)

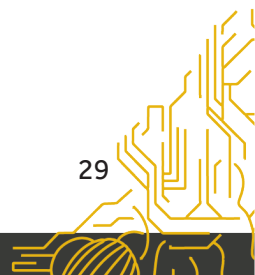
Ms Kishali Pinto-Jayawardena, Member of Sri Lanka Right to Information Commission

Pinto-Jayawardena presented the trials and tribulations she observed within the Right to Information ecosystem in her home country of Sri Lanka as a vivid comparison and contrast to tease out the potential opportunities and challenges for reforms in Malaysia. She started with the description of Sri Lanka as a police state which has sensitised its citizenry to the dangers of digitally-driven methods to the extent that any discussion over the issue elicited strong hostility from Right to Information advocates, which she sees as a “mental mind-block,” while also stressing that there were legitimate concerns behind this hostility.

For her, the foremost challenge for Malaysia in its potential adoption of the Right to Information legislation, is how not to undermine the gains of the information era as a result of the transition to AI and into the digital age. She cited the example where the Sri Lankan state government were compelled to acknowledge gains which came at the cost of thousands of lives lost during the decades of conflict. However, she recognises the complexities and discussions that would emerge in South-east Asia would be a little different to what would emerge in countries like Sri Lanka and India.

She described a few key recent cases where the public filed an appeal against public authorities who have rejected their information requests. As Sri Lanka is currently going through one of its worst economic crises since independence, due to gross arrogance and corruption from political leadership, its RTI advocates' efforts in drafting and implementing a Right to Information law has been on how to hold the state accountable to the citizenry. This has been a challenge they have taken on as well as a problem they have solved to an extent over the last 5 years.

Sri Lanka's RTI has been tested in a few recent examples. During the recent mass demonstrations, the police extensively used teargas to quell the demonstrations, which resulted in many people frequently suffering long-term effects and illnesses. Journalists investigated and questioned the police regarding the teargas – the year of purchase, the quantity and amount paid to purchase. The police refused to reveal this information, claiming it was a matter of national security. The RTI commission however contradicted the police and said the police were compelled to provide the information as it pertained to the health of the people. The information disclosed to the commission showed that the police were using poisoned teargas on the people.



Another example was when questions arose regarding the financial sums used to pay for the Prime Minister and his entourage's trips abroad while the country was blighted by a severe economic crisis. The office of the Prime Minister refused to provide the information, but the commission said that these amounts had to be disclosed.

She cited another case where RTI requests to audit a donation fund dedicated to COVID-19 pandemic management. It was found out that only 6% of the donated funds was used to tackle COVID-19. This resulted in action taken where the government used the remainder of funds to directly address the COVID-19 pandemic.

Pinto-Jayawardena highlighted these cases to show how tackling these RTI challenges directly did not just result in information disclosure but also actual action being taken to correct the systemic wrong that has happened or action taken against the culprits, including prosecutions and dismissals of public officials.

One of the greatest sources of pride for her have been that people who have used RTI are not the English-educated urban elites but the most marginalised and rural communities in the areas most troubled by the conflict in Sri Lanka. This shows that RTI goes beyond being a framework that allows the public to access information; it helps empower marginalised populations with little recourse for accountability from the state.

Where the digital literacy is low in a country like Sri Lanka, Pinto-Jayawardena poses the question of how to optimise the digital tools in the information struggle in a way that does not deprive the marginalised population of the country in using the law as they have been using so far.

Pinto-Jayawardena cited Mexico as an illustration of how the tools have been incorporated into the RTI process caters mainly to the more elite layers of Mexican society, which she sees as a relevant warning for Malaysia.

Primarily, it is important to remember that the people who will use the RTI law, is not the privileged. Thus, it is important to design the AI systems in a way that does not disempower the underprivileged. The primary target of the RTI law should be the ordinary citizenry.

Regarding the protection of data, the Sri Lanka populace also had similar concerns about apps used for COVID-19 management, and whether their personal data would be given to the police, and used to serve the motives of the state in a dangerous context. Sri Lanka also had few legal protections. Much like Malaysia, one of the few legal recourses, tort litigation, would be just as prohibitively expensive.

The commissioners in the RTI commission in Sri Lanka are also guaranteed the independence to act critically with regards to the state. However, a conflict of interest in regards to keeping every entity accountable arises when you have a data protection authority that is both under the thumb of the state and makes decisions on data security measures and determine which parties are liable. As such, it is crucial for Malaysia to consider the independence of the agencies to oversee and monitor data protection processes.

Pinto-Jayawardena also highlighted situations where data protection laws could impede or contradict RTI. For example, if one makes a RTI request for information on names of officials or politicians, that could come under their data protection law.

She concluded her speech by emphasising the importance of the human element. In Sri Lanka the RTI commission makes an order based solely on public interest. Replacing these processes with AI could be problematic; AI could have a role in sorting through data and aiding the commission, but she insists that it is humans who should ultimately preside over legal issues pertaining to other humans and be held legally accountable to their decisions, as the AI systems cannot be made legally accountable.

Ms Nayantara Ranganathan, Digital Asia Hubs (DAH) - researcher and lawyer

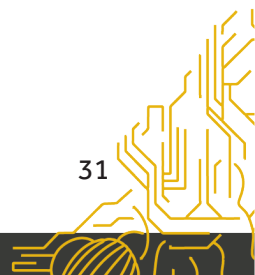
Ranganathan elaborates that AI is a catch-all term that refers to technologies with varying degrees of sophistication. It is a term that shapeshifts to accommodate whatever it is one is talking about. However, what unites the diverse array of technologies under the umbrella term of AI is not so much the technical methods that underlie them, but the promise that is sold to society about either the efficiency or the accuracy of these systems, often as an alternative to human fallibility or inefficiencies.

In regards to RTI in the context of AI, it is important to discuss what kinds of questions we should be asking and the information that needs to be disclosed to the public. One of the most urgent priorities for a lot of societies like Malaysia that are adapting these technologies is to get past this abstraction of AI and allow for real understanding of the systems.

For example, what are the practical methods being employed? Who are the private contractors who have been chosen by the government to participate in the technology development? Under what incentives and data-sharing policies are these private entities participating? What is the business model or long-term plan for such systems? What are the specific goals to be achieved through the adoption of a particular system? What are the known shortcomings of each dataset that is used? What are the trade-offs being made in adopting a system that uses AI and what are the risks that can be foreseen through the use of these systems?

Ranganathan cited a case study where an AI system in the US was used to analyse cases of recidivism in the criminal justice system and predict its likelihood. This kind of system is also incorporated into AI sentencing systems.

In algorithmic systems that consider recidivism, recidivism is regarded as a fixed constraint on the backdrop of which a risk assessment is conducted. This outlook brings a technical calculus of prediction potentially on the basis of markers like class, ethnicity, etc, while discarding the possibilities of social reforms that could actually ensure that people do not have to resort to crimes. It is as if the recidivism is a given and regarded as a pre-existing fact about people you have to discover as opposed to a different approach not centred on technology but centred on social concerns.



Technology adoption sets us up to think of technical solutions to problems that might not require said technical solutions. Aside from data protection and privacy, we need to employ frameworks that give us enough information to interrogate the impacts these technologies have on society. Even if there are strong data protection frameworks, we need to understand what kinds of power dynamics are solidified in the implementation of these systems.

Ms Undral Ganbaatar, Programme Specialist, UNESCO Jakarta Office

Ganbaatar started by addressing the questions of why there was a need for ethical frameworks in the absence of other frameworks such as legal ones, and why UNESCO is the entity working on this.

UNESCO does a lot of work around the ethics of science and technology. Since the 1950s UNESCO has had intellectuals and philosophers associated with UNESCO pondering about the ethical implications of frontier technologies and scientific discoveries. In the 1970s, UNESCO started their bioethics programme. With all this history and experience, UNESCO was asked by the member states to develop the normative instruments on ethical implications of AI in 2019. It was adopted by 193 countries, including Malaysia, at UNESCO's general conference in November 2021.

These recommendations are based on a number of inter-connected values and principles. Ganbaatar delved into a couple of normative instruments to illustrate what sorts of values and principles it is advocating for.

Amongst the values it advocates for, the one that was most integral is the respect, protection and promotion of human rights, fundamental freedoms and human dignity as something underlying the ethical approach to AI.

In the national strategies for AI in Southeast Asia, a lot of the focus is on the digital economy and economic growth; values in numerical terms. However, there is a lot of inherent value in considering human rights principles and how AI can contribute to that space. One of the fundamental recommendations is that AI systems should exist for the improvement of human lives, human conditions and society as a whole, and not the other way around. The instrument also has several policy recommendations about the environment and ecosystems.

Ganbaatar elaborated on three of those recommendations (there are ten in the document):

- 1) Human oversight and determination – there should be mechanism for human oversight over AI technologies but it should be very clear what those mechanisms are – there should always be a human who has ultimate responsibility and accountability for the use of AI.
- 2) Right to data protection and privacy – the recommendation states that AI systems that are used for human rights-sensitive cases, including law enforcement, social welfare and healthcare, it should have mechanisms to measure its impact and it should be independent data protection authorities and public authorities that are responsible for this role.
- 3) Awareness and literacy – there needs to be more awareness in the general public to understand what these issues are.

Ana Lomtadze, Programme Specialist UNESCO Jakarta - in charge of UNESCO's media development

Lomtadze listed some of the advantages in using digital technologies in facilitating provision of public services and right to information namely:

- reducing service delivery time
- better prediction of information needed for decision-making
- personalisation of information
- precision of information
- facilitating greater information retention and retrieval
- enabling proactive information disclosures by governments
- reaching the wider audience as well as engaging citizens in a two-way communication with the state to provide feedback.

However, digitalisation of access to information can bring new digital divides including digital gender and socio-economic divides. UNESCO believes policymakers have to address political, socio-economic, linguistic and cultural barriers that might prevent equal access to information and communication technologies. It is important that more investments to understand both digital and non-digital barriers to access to information in order to maximise participation for all. Further, these barriers are always context specific and the remedies will always have to be tailored.

There are concerns about the use of personal data and privacy and the biases in the design of AI and digital solutions. There is an ongoing question of whether there should be a right to explanation about the collection, storage and use of data, and its conversion into meaningful information, particularly in regards to how human rights is impacted by the designs and workings of algorithms.

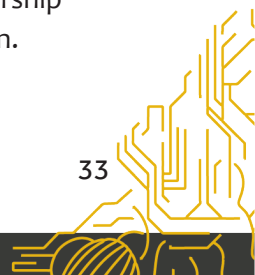
The UN Secretary-General's 2018 high level panel on digital cooperation actually stated autonomous and intelligent systems should be designed in ways that enable their decisions to be explained and humans to be accountable for their use. At the end of the day this really means that data processing operations have to be communicated in not only a comprehensive but generally understandable language for the general public.

UNESCO has also developed the internet universality ROAM principles – these are covering the internet and ICT technologies to be aligned with rights, openness, accessibility and multi-stakeholder governance. These principles constitute a holistic body that can guide the values, norms and policies that are relevant to access to information legislation in particular.

UNESCO calls on all digital stakeholders to implement digital policies that are guided by these principles with a particular focus on ensuring accessibility and inclusion for marginalised communities.

Since 2018 UNESCO has adopted a set of indicators to assess the implementation of these ROAM principles at country level including particular indicators for assessing access to information in digital contexts. These examine issues like affordability, local content language capabilities.

Given that most data are owned by private actors, the potential remit of access to information legislation beyond state institutions is also becoming increasingly relevant. And this ownership raises the issue of international data flows which complicates decisions on national legislation.



The numerous layers of private actors collecting data have limited accountability for respecting and protecting rights, so UNESCO is currently working on their new updated guidelines for open data and will be addressing this debate of whether these data collection entities should be treated as legal data fiduciaries with responsibility to secure data against breaches and to adhere to a code of conduct for how they use this data.

Dr Noor Hasliza binti Mohd Hassan, Principal Assistant Director, ICT Consultancy Division, Malaysia Administrative Modernisation and Management Planning Unit (MAMPU)

Dr Noor Hasliza shared her insights into the Malaysian public data ecosystem in a very detailed presentation.

There are two major policies or action plan that the public sector agencies should refer to:

- 1) The National Fourth Industrial Revolution (4IR) Policy – published by MOSTI, it focuses on 5 fundamental technologies including big data analytics to support the deployment and optimisation of other 4IR technologies.
- 2) MyDigital Blueprint – published by the EPU, it details the plan to drive digital transformation in the public sector and utilise data to improve government services

Under these policies, the public sector follows a blueprint called the Public Sector Digitalisation Strategic Blueprint 2021-2025 (PSPSA) – which outlines three strategies under the ‘Strategic Thrust 1: Harnessing Data Intelligence’:

- Reinforcing management and coordination of data
- Reinforcing open data initiative
- Empowering government service delivery based on data ingenuity

Next is the *Rangka Tindakan Kerajaan Berpacukan Data* – Data Driven Government (DDG) 2022-2025 framework - a framework developed to create a ‘data driven government ecosystem’ through a holistic and efficient data management in the public sector.

Dr Noor Hasliza presented various government initiatives under these policies and framework, such as:

- Malaysian Government Central Data Exchange (MyGDX) – Data sharing platform that provides data integration services across agencies to facilitate the provision of End to End (E2E) online services.
- Dasar Perkongsian Data Sektor Awam – Policy and guidelines for public sector data sharing initiatives
- Analitis Data Raya Sektor Awam (DRSA) – To facilitate big data deployment in the public sector agencies
- Data Terbuka Sektor Awam – To promote sharing of public sector open data
- Public Sector Data Dictionary (DDSA) – A standard for data attribute naming in the application systems in the public sector
- MyGovEA – A Guideline for EA implementation in the public sector
- Government-Wide Reference Architecture – Framework to facilitate data categorisation based on data custodian and services
- Garis Panduan Pengurusan Keselamatan Maklumat Melalui Pengkomputeran Awan (Cloud computing) dalam Sektor Awam – For data security in cloud computing and explain the data categorisation for electronic data sharing

Dr Noor Hasliza elaborated on the Data Driven Government (DDG) 2022-2025 framework with its objectives, namely:

- To reinforce data management and coordination based on Once Only Principle
- To utilize data from various sources
- To support the MyDigital Initiative in developing data driven digital service policy

Next, Dr Noor Hasliza presented on documents for the Global Standard References on Data Management which provide the standards for the government's public data ecosystem. These documents are as listed:

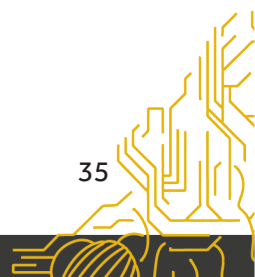
- UN-SDG – 2030 Agenda of Sustainable Development
- OECD – The Path of Becoming Data-Driven Public Sector
- UN-EGDI – E-Government Development Index (EGDI) Report – Open Government Data & Open Data Watch
- Countries Benchmark – Digital Services and Data Management Policy, Guidelines and Implementation (Norway, New Zealand, Singapore, Estonia, South Korea, Finland, Georgia, United Kingdom, etc)

Dr Noor Hasliza proceeded to provide a look at the Open Data portal at www.data.gov.my with 12,480 datasets as of 17 October 2022. She then introduced the government online services gateway www.malaysia.gov.my which was inspired by gov.uk and provides access to information and government access based on life events from birth to death through a single gateway.

Finally, she presented the challenges within the public data ecosystem:

1. People
 - Leadership – Support and top management buy-in plays a huge role in planning the direction and implementing initiatives in the public sector.
 - Culture – Imposing data sharing and proper data management culture will boost the efficiency of data management.
 - Trust – Lack of trust on sharing the data and supporting the government's data initiative will cause setbacks to the journey towards an efficient data management ecosystem
 - Clarity of Roles & Responsibility – people need to know their roles and responsibilities so that they can easily identify problems and address them
2. Process
 - Policy & legislation – the primary challenge agencies face is in the establishment and enforcement of the policy regarding data in the public sector
 - Security – security will contribute to a better data management ecosystem and engenders trust
3. Technology
 - Cost & Data Architecture – Without strong financial and technical support you cannot have a better and efficient data management ecosystem

Dr Noor Hasliza concludes that MAMPU is progressing by revising and reviewing all the policies to suit the current technologies and the working Data Driven Government (DDG) 2022-2025 framework action plan along with all the public sector agencies.



Q&A for Session 2

Wathshlah Naidu of CIJ asked Undral Ganbaatar where Malaysia is now in terms of moving forward under global standards – how far away are we in coming up with a framework for standards?

Undral Ganbaatar replied that Malaysia is definitely at the right place at the right time. In public policy spaces, this is very new, and now is the moment for the country to ramp up the conversation. From the UNESCO perspective, the global normative instrument was adopted in 2020; as such the country has only had one-year to reflect on what it has accomplished so far, and what it needs to do going forward.

She introduced a few tools that UNESCO developed – an ethical assessment toolkit and readiness assessment tool, which was developed at the behest of the UNESCO member states.

She felt that Malaysia is quite high in terms of its capacity, awareness and interest in engaging with AI and e-governance.

While the tendency is to look to countries in North America and Western Europe, Ganbaatar felt that the context in those countries is different from East and Southeast Asian countries, and this is particularly important to consider when it comes to ethics.

There are universal ethical norms that these countries can agree on, but in terms of national contexts and priorities, they can differ. Ganbaatar stressed that there is a real need for national-led conversations, maybe guided by universal norms embedded in human rights principles.

Nayantara Ranganathan opined that high-level normative frameworks can be a good guiding light but she thinks there was a need to address the political economy of data and really try to answer the question of what the incentives or disincentives are that exist towards implementing these ethical guidelines. In the absence of concrete incentives or disincentives, and without addressing business models that are motivated towards intensive datafication, Ranganathan believes that in a lot of jurisdictions, these kinds of broad high-level principles can also fall short of what is required to govern these technologies.

Vicks Kanasingam, Chief Executive Officer, Censof Digital Sdn Bhd recommended that UNESCO should promote the need for a Ministry of Data, rather than an agency, as data becomes increasingly critical. He also suggested to Dr Noor Hasliza for the government to develop a mobile app to bridge the digital divide. He also asked why it was taking so long to come out with a national standard, and what the reasons are behind the slow process?

Dr. Noor Hasliza binti Mohd Hassan responded that the government has already implemented mobile apps for certain systems. However, they are currently working on a SuperApp initiative. Regarding data standards, at least for MAMPU, she stated that a set of standards known as the DDSA (*Data Dictionary Sektor Awam*) has already been developed and imposed. The DDSA is the set of standards established for all public agencies in regards to data management. Currently, MAMPU is in the process of revising in order to release the DDSA 2.0.

For emerging technologies like AI, robotics, IoT, Big Data, Cloud Computing, they are currently formulating an action plan for the AI roadmap. MAMPU is also in the midst of publishing blockchain guidelines for the public sector.

Ho Yi Jian of Sunway University asked Dr Noor Hasliza, what happens if government agencies do not comply with the DDSA?

Dr. Noor Hasliza binti Mohd Hassan replied while there is no punishment if agencies do not comply with the DDSA, if they want to share data or integrate systems with other agencies, they will face a host of problems – they will have to cleanse their data and comply with the DDSA in order to integrate. If there is non-compliance, you can integrate but it will take a much longer time.

Wathshlah Naidu commented that as Malaysia has the Official Secrets Act and we section 203(A) of the Penal Code which criminalises government civil servants for revealing information without permission, Malaysia is still experiencing the challenge of having a lot of information that is still classified. She asked what measures are being taken by MAMPU and BHEUU to move on from official secrecy, as it is difficult to be completely transparent when you have an Official Secrets Act.

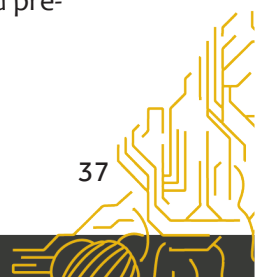
Dr. Noor Hasliza binti Mohd Hassan explained that in data categorisations of restricted (*terhad*), confidential (*sulit*), secret (*rahsia*) it is in the Chief Government Security Officer's (CGSO) security directive (*arahan keselamatan*) that they are responsible for the security of data, both online and offline. Malaysia also has the National Cybersecurity Agency helping govern this. From the view of MAMPU, in the DDG framework, they have parts pertaining to security and data. As such, MAMPU will first follow the *arahan keselamatan* from the CGSO, and then discuss the subject of security in the DDG framework. Not all data is secret or restricted, but some agencies make it easy for themselves by restricting everything. She recommended that create more awareness by going to the agencies to inform them that not all data is restricted. MAMPU have formulated the standards on how to categorise the data, so she pleads agencies to comply accordingly.

For her, it is more important to look at change-management, the awareness and promotion, so that they categorise the data correctly, because the guidelines are there.

Kishali Pinto-Jayawardena expressed surprise regarding Malaysia's "obsession" with the OSA, citing how Sri Lanka has not used the OSA in the last 50 years, and in both India and Sri Lanka, RTI law trumps the OSA.

Dr Punitha Silivarajoo, Director (Policy & Research), Legal Affairs Division, Prime Minister's Department of Malaysia, remarked that this has been a reoccurring issue for the past 3 years. The problem for civil servants is drawing a clear line between what can be divulged and what cannot. Not many civil servants read the OSA or the *arahan keselamatan*, therefore its always safer for civil servants to say this is an official secret, to protect themselves. That is why civil servants encourage Freedom of Information, so that there will be a balance. As long as we have the OSA – a law introduced in 1972 - they are still going to experience the same problems.

Dr. Noor Hasliza binti Mohd Hassan stressed the need to balance promoting data sharing and preserving data protection, and how that is the challenge for everyone in the public sector.



Kishali Pinto-Jayawardena wanted to add that the way women have used RTI in Sri Lanka has been remarkable as speaking up against the state can be very dangerous. In northern Sri Lanka, those who have used it the most are female-led households. It is used not only against the state but also against the corporate sector. There have been many instances of these RTI challenges being enforced against companies.

Dr. Noor Hasliza binti Mohd Hassan remarked that the data management ecosystem needed support not only from IT officers but also every member of the organisation. Every member plays an important role in managing data for the public sector. She hoped that the DDG framework could be improved to manage and govern the data in the public sector more efficiently because it comprises all aspects – security, integration, etc. She also underlined the importance of political stability for the sake of the data management ecosystem.

Undral Ganbaatar revealed that in December 2022, UNESCO will be organising a global forum on AI ethics in Prague, which will be open virtually for anyone to join in to discuss different perspective on AI ethics.

In her closing remarks, **Nayantara Ranganathan** commented that more information might not be an end in itself as there are a lot of challenges with transparency. The scale of complexity does not lend themselves to easy or linear explanations. A lot of companies who are developing these systems might explain away their systems as a kind of intellectual property. Solving the challenges to transparency could help in progression towards interrogating these systems.

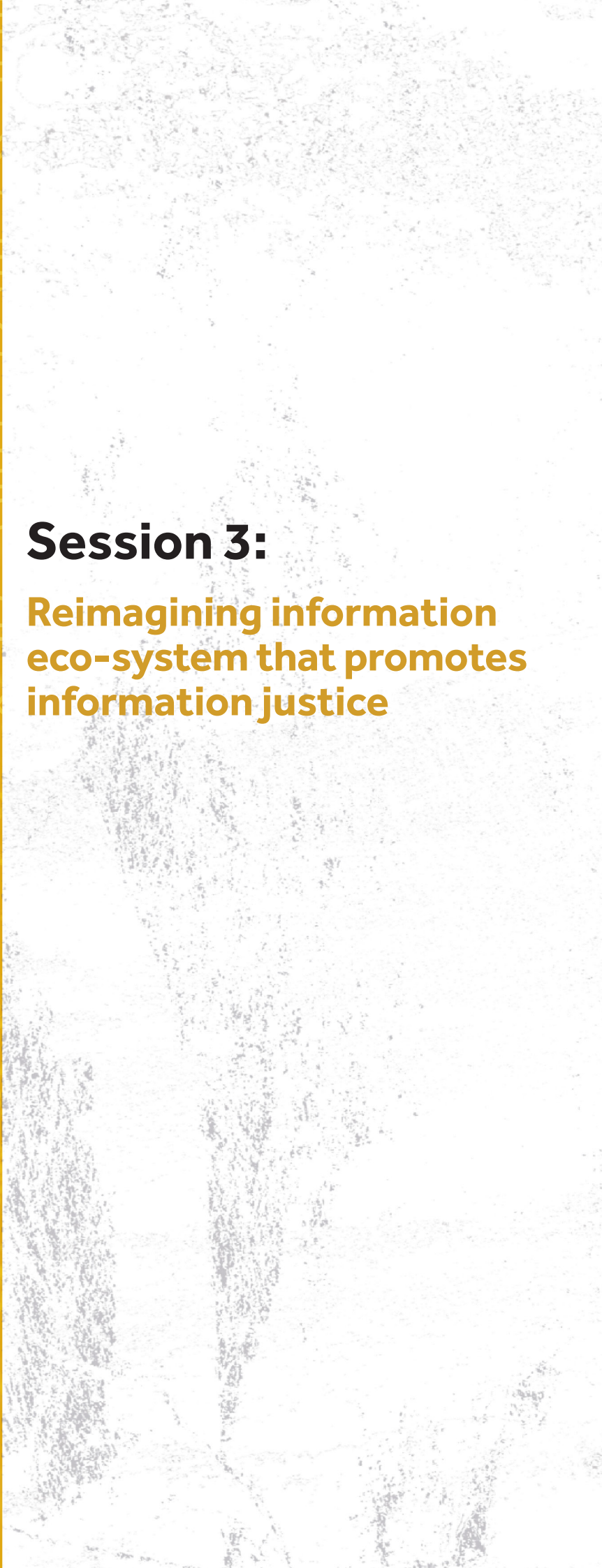
Ana Lomtadze wanted to remind that UNESCO is here to serve its member states, to provide technical assistance and ethical frameworks as well as provide forums where we can debate. At the end of the day, UNESCO depends on the political will of member states to enact legislation that will have real world impact on citizens, and on civil society to push for this political will.

Moderator **Suri Kempe** said that the conversation sometimes seems to move into a binary that pits the state against the citizenry, but we are forgetting that corporations play a huge role in AI and contribute to the ethical framework and ethical standards in terms of use. She stressed that it was important to centre RTI as a means to gain information to access our rights, and to consider whose lives we are trying to improve, as we think about the promise of efficiency that AI offers.



Session 3:

**Reimagining information
eco-system that promotes
information justice**



Session 3: Reimagining information eco-system that promotes information justice

The third session was facilitated by Ong Kar Jin, Chief Strategy Officer at Nought Labs, and consisted of three panel speakers:

1. Dr Punitha Silivarajoo, Director (Policy & Research), Legal Affairs Division, Prime Minister's Department of Malaysia
2. Ms Lee Shook Fong, Programme Officer for Right to Information, CIJ
3. Mr Vicks Kanasingam, Chief Executive Officer, Censof Digital Sdn Bhd

The session started off with the panel speakers leading participants in breakaway discussions divided into three groups:

1. Public Sector – led by Dr Punitha Silivarajoo
2. Business sector – led by Vicks Kanasingam
3. CSOs, NGOs, Academia, Media – led by Lee Shook Fong

The groups would discuss for 20 minutes, after which the panel speakers went on stage to present the views that was discussed in the groups followed by a free-flowing discussion.

Vicks Kanasingam, Chief Executive Officer, Censof Digital Sdn Bhd

Kanasingam introduced his career background to showcase how his experiences have informed his views and that of the business sector. In his work overseas, he witnessed firsthand how companies would quickly adopt technologies and grow rapidly, whilst upon returning to Malaysia he saw how companies were slow to grow because they were often held back by government policies, too much governance and a culture of fear.

To this end he felt that the conversation on AI at the forum looked at AI with fear, and was giving AI too much respect. He asked everyone not to be afraid of AI, and use it to their advantage to make the world a better place. He wished for a shift in the mindset towards using AI to address the four pain points of the nation:

- Food security
- Ageing population
- Climate and environmental issues
- Digital divides – between urban and rural, between SMEs and MNCs, and between enterprises and government agencies

Dr Punitha Silivarajoo, Director (Policy & Research), Legal Affairs Division, Prime Minister's Department of Malaysia

The government has been looking into this since 2019 and have done an array of engagements looking into the possibility of FOI or RTI legislation. From a government perspective, they did not really know what this was about, but were open to understanding FOI.

She wanted to address certain themes that emerged from the day's sessions. On the issue of liability – what if something goes wrong, who is liable for it? She admitted that there was no

answer for that yet; there is no legislation and no real idea for what they should investigate. It was an eye-opener for those in the government.

On AI sentencing, her group found it harmful in cases of sexual or drugs-related cases. It would be frightening if the AI made decisions without human intervention. She agreed on the importance of having an oversight body for these kinds of decisions.

She also pointed out that today she had also learnt about the ethical perspective; how it was problematic to have too much information centred on one group of people, like the government or the private sector.

The government group was also discussing issues of privacy and data protection – who is accountable for it and how transparent can they be with the information considering the OSA and 203(A) of the Penal Code? Her colleagues also talked about various other Acts that have clauses that restrict civil servants from accessing information.

Lee Shook Fong, Programme Officer for Right to Information, CIJ

Drawing from the previous presentations of Dr June-E Tan and Dr Noor Hasliza binti Mohd Hassan about the importance of incorporating the diversity of views when it comes to the design of any new technology, Lee thinks that the design should fundamentally reflect the needs of the people and what can it do for them, and not the other way round.

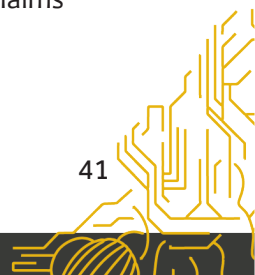
She added that there was a need to take a human rights-centred approach, centred on the human interest and the public interest. If this is done, she feels adopting new technologies will never go wrong.

Lee also reiterated concerns previously raised on the question of liability namely; who is accountable? There was also a need to shift gears to talk about ethics, regulation and how we can have a robust legal system that governs the adoption of AI.

Ong Kar Jin made note of the gap between the private sector and the public sector in their approaches to the issue of liability. The private sector wants to build first to rush to market and correct the flaws later, whilst the public sector wants to make sure everything is fit and proper before it is rolled out.

He also pointed out gaps in the PDPA that apply to both the private and public sectors. Under the current PDPA, the government cannot be held accountable for breaches as the PDPA does not govern non-commercial transactions - which may not apply to foundations. If companies do not use the data, they will not be held liable for breaches either, which means breaches that arise from companies transmitting data through the cloud may not be liable either.

He also remarked that the private sector's approach to AI implementation may also be far more cautious than the imagined fears, due to their risk aversion to civil lawsuits, and insurance claims and premiums.



Vicks Kanasingam explained why he asked for a Ministry of Data. The centralised collection of data at the ministry will provide a massive dataset for AI based on a simulation of historical data. The ministry can then run simulations, and regularly test, verify and finetune the AI tool before launching it.

Related to the issues around the PDPA, Kanasingam suggested the legislation of IDPA – IoT Data Protection Act. With the proliferation of devices constantly collecting data, there is no legislation governing this data collection. With the IDPA and PDPA, a true value proposition can then be created on how to manage the forward trajectory of AI development.

Ong Kar Jin interpreted Kanasingam’s points as a way to have the government play the role as the safe space or sandbox to test AI technologies before they are rolled out to the public.

Dr Punitha Silivarajoo revisited the topic of too much data being centred in one party, stating there was a need to understand and raise awareness on how much data was out there. There is also a problem with civil servants not sharing information among themselves and the wider public.

Within the CSO, academia and media group, **Lee Shook Fong** noted the recurring theme of the lack of awareness of the issue, and the knowledge gap in understanding what AI means. Consumers lack awareness of their rights as technology users. There was also a need to figure out how to build capacities, and avoid working in silos. For example, data journalists in the field face difficulties deciphering huge data dumps from organisations.

On the issue of the digitalisation of governance, the large digital divide as well as geographical disparity faced by rural communities is at the heart of it an issue of accessibility, which can be related to how federal funds for development do not trickle down sufficiently to these communities, which also leads to issues of corruption.

On the issue of procurement, with regards to infrastructure development – if the information about procurement is bound by the OSA, that information is inaccessible.

Ong Kar Jin cited the example of Facebook launching an initiative in India where free internet access is provided via an app from Facebook. However, the app was preferential to other Facebook apps and programmes. The Supreme Court of India struck this initiative down because it violated net neutrality. This illustrated the tensions between the private sector who need to design their technologies to justify their bottom line, and the government and CSOs who raise concerns about how these technologies are built.

Vicks Kanasingam agreed with what the Supreme Court of India did. In his opinion, the business mindset has to shift from now just solely focusing on profit but also the ESG (environmental, social and governance) aspect. Both the government and the private sector has to prioritise value over going for the cheapest costs in government procurement processes.

Ong Kar Jin remarked that the best policies for governance can be drawn up, but may not necessarily work at the implementation stage unless there is buy-in from the civil servants from top to bottom.

Dr Punitha Silivarajoo said that the policy can always be changed, and it is ever-changing. And she is aware that policies are often finetuned after lessons from the implementation stage. She noted how at BHEUU, one reason why they had recently achieved an array of constitutional amendments was because they went down to the ground to actively engage people.

Lee Shook Fong detailed CIJ's engagements on FOI/RTI issues. CIJ is working in partnership with Sinar Project to review the Freedom of Information enactments, and amend them. She cited how we could learn from Sri Lanka where their RTI act covers corporations. She also recalled previous forums where the panellist from CGSO explained why the culture of secrecy continues to permeate the government – because there's no framework for them to refer to the disclosure of information other than the OSA. One solution to this is to have an RTI law. She also noted further lessons from Sri Lanka, like conducting a six-month trial before the implementation of the Act; and how they got marginalised communities to use the Act was to ask the right questions and how they learnt to ask the right questions was to get CSOs to go to the ground and ask the communities.

Vicks Kanasingam talked about the Metaverse – Facebook's immersive 3-D virtual worlds world, and its benefits like being able to collaborate much better, and sharing information instantly. He concluded with the aphorism that data is potential power – when data is stored it has no power, but it can be powerful when it is put to use.

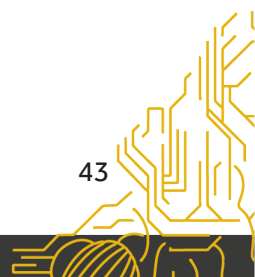
Dr Punitha Silivarajoo noted the various impediments with not just the OSA, but also laws in various ministries and agencies, which would involve amending several pieces of legislation. The ideal for civil servants is to be able to balance between information that should be protected - national security and sensitive areas - and information that can be divulged. What is needed is a clear and proper guideline for these.

She also noted how sometimes the government is reluctant to engage with CSOs. However, she mentioned how BHEUU has had a good relationship with CIJ with lots of sharing of information for mutual benefit and the common good.

Lee Shook Fong envisioned her ideal ecosystem as one where people can reclaim power and have the autonomy to decide what information can be out there.

Feedback from her discussion group mooted the idea of introducing an AI curriculum into communication studies, so we can nurture talents like skilled investigative journalists. There should also be more networking to connect with more investigative journalists who work on AI and technology/data issues. In an ideal world, there should be a forum where people could get together and have comprehensive consultations with all stakeholders before any policies or designs are finalised.

Ong Kar Jin concluded the session by noting the power dynamic between the different groups, especially in how CSOs are concerned when power is too concentrated. He stressed that trust and power are major factors in any conversation about data systems.



Closing Speech by Undral Ganabaatar, Programme Specialist, UNESCO Jakarta Office

Thank you very much to the distinguished directors and representatives of the government, of the private sector, of think tanks and research institutes. I think today's conference could've been across three days instead of three sessions. We covered so much ground.

For some of us, the concept of artificial intelligence was very new. We are all pondering over how it affects us on a human level, on a day-to-day level - never mind the regulations, the ethical frameworks, and the laws - how we feel AI technology affects us on a day-to-day basis.

We also covered e-governance and the digital public services that the government is offering in Malaysia, and we talked about access to information and the legal and policy and various barriers that are still in place that we need to address with various stakeholders.

It was all very informative for me and very interesting, and I hope it was for everyone attending here today. Thank you very much to CIJ for organising this conference and inviting UNESCO to be part of it. We worked with CIJ on our media and freedom of information unit for many years and I hope this collaboration continues for many more years to come. Thank you very much to all the partners and participants. Terima Kasih.

