

26 June 2024

Joint Letter to the Prime Minister of Malaysia

Stop The Move Towards Silencing the People of Malaysia

Dear Prime Minister Datuk Seri Anwar Ibrahim,

We, the undersigned organisations and individuals, are gravely concerned with the [recent report of the Cabinet's approval of the move towards a licensing regime for social media](#). This move by the Madani administration increases censorship of freedom of expression - as enshrined in Article 10 of the Federal Constitution, and in the Universal Declaration of Human Rights. This move is ushering Malaysia towards the path of an authoritarian regime.

Our collective concern at this move stems from the Madani administration and the Communication Ministry's track record of continuous enforcement and implementation of its punitive powers to silence criticism and dissent from people in Malaysia. It is an abuse of power and poor governance for the government to insist that online content and expression aligns only with their agenda and values, and is free from criticism of the State. These actions have disastrous consequences for public debate, right to information, creativity, positive cultural and social growth and the free flow of information as well as stunts political critique and opinion. It is an attack on a healthy, functioning democracy and shrinks public participation.

This move is also a violation of the promises made by Pakatan Harapan during the 15th General Elections (GE15) and in the international community to protect freedom of expression and civil liberties. These actions are a breaking of trust and commitment that you, as Prime Minister, and as the Cabinet, made to Malaysians on a reform agenda that reflects human rights.

Rather than fulfilling the reform agenda, your administration has expanded censorship and curtailed criticism and healthy discourse based on arbitrary definitions of 'sensitive content' that are not rooted in international human rights standards and practices.

Despite repeated calls by civil society for freedom of expression to be protected, the Madani administration has backtracked on its commitments in the following ways -

- The Communications Ministry drafting amendments to expand the powers of the already authoritarian and expansive [Communications and Multimedia Act 1998](#)
- The Communications Ministry and Legal Affairs Division drafting an [Online Safety Bill](#) that would further empower the government to suppress online content

- The government's proposed amendments to expand the powers of the [Printing Presses and Publications Act 1984](#) to online media
- The Home Ministry expanding the powers of the [Lembaga Penapisan Filem \(LPF\) guidelines](#) beyond the scope of the Film Censorship Act to further focus on censorship of public order and security, religion, as well as morality and sociocultural perspectives.
- The Dewan Rakyat and Dewan Negara passing a [Cyber Security Bill](#) which expands the government's powers to control any computer-related activities, further serving as another mechanism for online censorship
- [The surge of takedown requests of online content](#) from the government to social media
 - [TikTok](#) reported receiving the most takedown requests globally from Malaysia at 1,892 in the second half of 2023, and
 - [Meta](#) reported that in the second half of 2023 Malaysia has over 4,700 items reported by MCMC, including items pertaining to hate speech based on religion in violation of Penal Code Section 298A, criticism of the government, and racially or religiously divisive content and bullying content in violation of CMA Sections 233(1)(a) and 211.

Given the above, we question the standards the Madani administration seeks to uphold when regulating online content, especially on social media. While we acknowledge that regulation is important in mitigating harm online to the general public, their rights must still be upheld. The government proposal to regulate even more [content regulation beyond the licensing regime](#) will do more harm than good. It provokes further interrogation of the need of this host of new powers as the current political landscape leans more towards infringing on freedom of expression and speech, and introducing political bias.

It is further disheartening that in the process of creating these new regulations, and despite the repeated calls from civil society, there have been few constructive conversations with civil society and human rights experts engaged on these issues, including on platform accountability.

We do acknowledge that social media platforms wield extensive power through their content moderation practices and, by virtue of this, control the narratives and people's freedom of expression on their respective platforms. Innovative means must be considered in determining the accountability of these platforms. The [UN Guiding Principles on Business and Human Rights](#) notes that, *"the state must ensure that laws and policies governing the creation and ongoing operation of business enterprises do not constrain but enable business respect for human rights. The state is also expected to provide effective guidance to business enterprises on how to respect human rights throughout their operations"*.

In this regard, we demand the following, with no further delays:

1) Establish a multistakeholder mechanism for the oversight of content moderation on social media - [Social Media Council \(SMC\)](#) - as an inclusive self-regulatory framework

A self-regulatory framework and mechanism are pivotal to combating shortcomings in content moderation practices and ensuring that national contexts are taken into account while keeping the right to freedom of expression and democratic principles at its centre.

The Social Media Council, consisting of social media platforms, civil society, experts, and industry stakeholders, can create an accountability model that can (i) provide guidance on content moderation; (ii) establish a forum to review individual content moderation decisions by social media platforms; (iii) provide oversight on how the community standards and guidelines of the respective platforms are interpreted and guided by international standards on freedom of expression and fundamental human rights; (iv) act as a forum where stakeholders can discuss recommendations and (v) use a voluntary-compliance approach to the oversight of content moderation where social media platforms and all stakeholders sign up to a model that creates an obligation to voluntarily implement the SMC's decisions and recommendations.

A balanced approach of self-regulation with independent oversight and clear legal frameworks is a more effective way to ensure accountability of social media platforms while protecting democratic values. An inclusive multistakeholder initiative will also ensure more credibility as it would remove the role of the government in being the sole arbiter on standards and content moderation.

2) Invest in media and digital literacy programmes

Initiate more comprehensive media and digital literacy programmes, including at all educational institutions, to educate the students and public on online harm and be better equipped to identify and respond to these harms, including in seeking effective remedies.

3) Institutionalise consultative processes with civil society experts and the public, especially on regulatory and legislative issues, to ensure that any new legislation or regulations adhere to international human rights standards and do not undermine freedom of expression and civil liberties.

4) Rechannel the priorities, focus on institutional reforms, and enable a secure and transparent space for people to engage in open and constructive discussions while

upholding democratic values. Thus, **focus on initiating a comprehensive legislative reform** based on Malaysia's international human rights obligations, and amend or repeal the following laws which have been weaponized to censor lawful content, expression, and speech:

- Film Censorship Act 2002
- National Film Development Corporation (FINAS) Act 1981
- Official Secrets Act (OSA) 1972,
- Peaceful Assembly (Amendment) Act 2019,
- Printing Presses and Publications Act 1984,
- Sedition Act 1948,
- Section 211 and 233 Communications and Multimedia Act 1998,
- Section 114A of the Evidence Act (Amendment) (No.2) 2012,
- Section 203A of the Penal Code,
- Section 298A of the Penal Code,
- Section 500, 504, and 505(b) of the Penal Code.

Establish a moratorium on the use of these laws while undergoing reform initiatives.

Policymakers must ensure that any measures adopted to combat online harm and to draw accountability for social media do not unduly impair freedom of expression and speech. Any restrictions to freedom of expression and speech must meet international human rights laws and standards of legitimacy, necessity, and proportionality. Instead of political expediency, the public's interest must be at the centre of all laws, policies and practices.

We sincerely hope you, the Madani administration, and the Communications Ministry respond constructively to our demands. We must abandon the spectres of Malaysia's undemocratic past, and uphold the promises made during GE15 and the principles you have espoused for over 20 years. Only by preserving and bolstering the people's right to freedom of expression can we truly unite as a democratic Malaysia.

Thank you.

Endorsed by:

Organisations

1. Centre for Independent Journalism (CIJ)
2. ADHD Queeple
3. Agora Society Malaysia
4. AIDA (Autism Inclusiveness Direct Action Group)
5. Aliran
6. Alliance of River Three (ART!)
7. All Women's Action Society (AWAM)
8. Amnesty International Malaysia (AIM)
9. ARTICLE 19
10. Association of Women Lawyers (AWL)
11. BebasNews
12. Bersih
13. Beyond Borders Malaysia
14. Borneo's Plight in Malaysia Foundation (BoPiMaFo)
15. Centre for Policy Initiatives (CPI)
16. EMPOWER
17. Environmental Protection Society Malaysia (EPSM)
18. Family Frontiers
19. Freedom Film Network
20. Gerakan Media Merdeka (GERAMM)
21. Gindol Initiative for Civil Society Borneo
22. HAYAT
23. Justice for Sisters
24. KL & Selangor Chinese Assembly Hall Civil Right Committee (KLSCAH CRC)
25. Klima Action Malaysia - KAMY
26. KL Queer Space
27. KRYSS Network
28. Kuala Lumpur Reporter
29. Lawyer Kamek
30. Legal Dignity

31. MAJU
32. MUDA
33. North South Initiative
34. Our Journey
35. Parti Sosialis Malaysia (PSM)
36. Pergerakan Tenaga Akademik Malaysia (GERAK, Malaysian Academic Movement)
37. Persatuan Pemangkin Daya Masyarakat (ROSE)
38. Persatuan Penulis Berbilang Bahasa (PEN Malaysia)
39. Pertubuhan Advokasi dan Kesejahteraan Pekak Malaysia (DAWN)
40. ReformARTsi
41. Reproductive Rights Advocacy Alliance Malaysia (RRAAM)
42. Saya Anak Bangsa Malaysia [SABM]
43. Saynotopjdlink.org
44. Sinar Project
45. Sisters In Islam (SIS)
46. Society of Entrepreneurial Educational Development
47. Suara Rakyat Malaysia (SUARAM)
48. Suara Siswa Universiti Malaya
49. Treat Every Environment Special (TrEES)
50. Undi Sabah
51. Women on Web
52. Women's Aid Organisation (WAO)

Individuals

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