CENTRE FOR
INDEPENDENT
JOURNALISM
Advocating Media Freedom and Access to Information

A REPORT ON THE STATE OF FREEDOM OF EXPRESSION in Malaysia 2024

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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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1. INTRODUCTION

Since establishing the Madani Government two years ago, Malaysia has encountered significant political, economic, and societal turbulence. The global shift in technological advancement, political polarisation, and financial uncertainty have significantly impacted the Malaysian society and the government, further complicating Malaysia's effective post-general elections development.

In its 2022 manifesto, the Madani government promised to deliver on many necessary reforms to laws and institutions that hinder freedom of expression, but these promises were not fulfilled. To date, the government has not made many inroads on its reform agenda but has expanded its censorship through amendments or adoption of new laws. Reforms such as establishing the media council and adopting the right to information legislation moved forward this year, but the lack of urgency in implementing these initiatives has derailed the commitment to safeguard free expression, media freedom, and the right to information.

In 2023, the Centre for Independent Journalism (CIJ) raised alarm over the growing restrictions on media freedom and free expression in Malaysia, especially in online spaces. More and more people—journalists, activists, and everyday citizens alike—were investigated or charged under laws such as the Communications and Multimedia Act 1998 (CMA), the Sedition Act 1948, and various sections of the Penal Code. Often unclear and overly broad, these laws have been used to silence criticism, suppress dissent, and hamper critical discourse.

In June 2024, the UN High Commissioner for Human Rights, Volker Türk, on his visit to Malaysia, urged[1] the government to reconsider outdated laws such as the colonial-era Sedition Act and overly broad legislation such as the Security Offences (Special Measures) Act (Sosma). Türk emphasised that laws like the Communications and Multimedia Act (CMA), the Peaceful Assembly Act, and the Printing Presses and Publications Act are still being used to silence human rights defenders, including those fighting to protect the environment. His call was a reminder of the urgent need for reform to safeguard fundamental freedoms in Malaysia.

The UN Human Rights Council officially adopted Malaysia's Universal Periodic Review (UPR) in July of this year. CIJ[2] and other civil society groups voiced deep concerns about the government's acceptance of only 1 of the 17 recommendations on protecting freedom of expression in Malaysia and backtracking on earlier promises to ratify the International Covenant on Civil and Political Rights (ICCPR)[3]. Despite calls from UN member states, the government refused to repeal laws that stifle freedom of expression, such as the Sedition Act, Section 233 of the Communications and Multimedia Act, and the Printing Presses and Publications Act. The government also declined to reform the Peaceful Assembly Act, which continues to be used to restrict peaceful protests. This resistance raises serious concerns about the future of human rights and the information ecosystem in Malaysia.

1. https://www.ohchr.org/en/statements-and-speeches/2024/06/statement-un-high-commissioner-human-rights-volker-turk-end-his
2. https://cijmalaysia.net/upr56-we-want-commitment-to-freedom-of-expression-we-want-commitment-to-change/
3. https://www.article19.org/resources/malaysia-government-undermines-civic-freedoms/

Table 1: A Review of the Government's Commitments on Freedom of Expression

Promises	Backtracked	No progress	In Progress
Reviewing & Repealing Sedition Act	✓		
Reviewing & Repealing Printing Presses and Publications Act	✓		
Reviewing & Repealing Communications and Multimedia Act	✓		
Enacting Right to Information Act			✓
Amending Official Secrets Act		✓	
Establishing Media Council			✓
Protecting Whistleblowers		✓	

II.
USE OF LAWS TO RESTRICT FREEDOM OF EXPRESSION

Table 2: A breakdown of the use of laws that limit freedom of expression in Malaysia[4]

Law	2023 (Jan-Nov)[5]	2024 (Jan-Nov)[6]
Section 233 of the Communications and Multimedia Act 1998 (Criminalises improper use of network facilities, etc.)	103	99
Sedition Act 1948 (Criminalises discourse deemed as seditious)	31	19
Section 505(b) of the Penal Code (Criminalises statements conducting to public mischief)	30	19
Section 298 + Section 298(a) of the Penal Code (Uttering words, etc., with deliberate intent to wound the religious feelings of any person; causes, attempts to cause, or is likely to cause disharmony, disunity, or feelings of enmity, hatred, or ill will)	6	14
Section 504 of the Penal Code (Criminalises speech—intentional insults with intent to provoke a breach of peace)	6	14
Peaceful Assembly Act 2012 (Regulates public protest)	12	14
Section 500 of the Penal Code (Criminalises defamation)	13	11
The Printing Presses and Publications Act 1984 (Governs the usage of printing presses)	3	3
Total	193	187

Between January and November 2024, the above laws, collectively, were invoked by the authorities **187 times.** CIJ monitored and analysed 105 unique cases, revealing that multiple laws are often applied in relation to the incident or alleged offense.

The data above, reflecting 187 instances where the repressive laws were invoked, demonstrates a pattern where overlapping laws are used to address the same issue or incident, raising important questions about enforcement practices, potential for double jeopardy and their impact on due process and access to justice in Malaysia.

4. Disclaimer: The data and statistics presented in this report were computed from CIJ's monitoring of online media reports and may not include every case under the laws mentioned above. As such, our data may vary from official government statistics or data from other human rights organisations. Furthermore, our monitoring scope does not cover all repressive laws that are used in Malaysia to curtail FOE, such as security laws, Syariah enactments and gender or sexuality-related laws
5. Number of laws used captured in 2023, which includes reported police investigations, arrests and charges
6. Data captured in 2024 from the 1 January to 30 November includes the number of investigations and arrests made using the respective repressive laws in Table 1

Where are we now with reforms?

- **Section 233 of the Communication and Multimedia Act.**
  - During a briefing at the Special Chamber's session in Parliament in June, Deputy Communications Minister Teo Nie Ching[7] disclosed that the Malaysian Communications and Multimedia Commission (MCMC) had initiated 3077 investigations on Section 233 of the CMA. Among the 3077, 644 cases were offensive in nature. She also stated that the government was working on amending, including to amend Section 233 of the Communications and Multimedia Act (CMA) 1998, to address concerns over its potential misuse and to provide more explicit legal boundaries.

  - On 2 December, the proposed amendments for the CMA were tabled in Parliament for its first reading and was subsequently passed in Parliament on 9 December[8]. CIJ[9] and other critics found the bill deeply concerning, as it introduced amendments that would further enhance the CMA's punitive aspects, and expand its scope and the powers of the Malaysian Communications and Multimedia Act.

	Current Provisions of S233	**New Amendment to S233**
Definition	(1) A person who— (a) by means of any network facilities or network service or applications service knowingly— (i) makes, creates or solicits; and (ii) initiates the transmission of, any comment, request, suggestion or other communication which is obscene, indecent, false, menacing or offensive in character with intent to annoy, abuse, threaten, or harass another person;	(A) in paragraph (1)(a)— (i) by substituting for the word "offensive" the words "**grossly offensive**"; and (ii) by substituting for the words "or harass another person" the words ", harass or **commit an offence involving fraud or dishonesty** against any person";
Fines	A person who commits an offence under this section shall, on conviction, be liable to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding 1 year or to both and shall also be liable to a further fine of RM1000 for every day during which the offence is continued after conviction.	(2) A person who commits an offence under subsection (1) shall, on conviction, be liable to a fine not exceeding **RM500,000** or to imprisonment for a term not exceeding **2 years** or to both and shall also be liable to a further fine of **RM5000** for every day during which the offence is continued after conviction.";

7. https://www.bernama.com/en/news.php?id=2315827
8. https://www.freemalaysiatoday.com/category/nation/2024/12/09/communications-act-amendments-passed-in-bloc-vote/
9. https://www.article19.org/resources/repressive-amendments-communications-multimedia-act/

Explanations

Explanation 1 — Obscene content may include content that gives rise to a feeling of disgust due to lewd portrayal which may offend a person's manner on decency and modesty, having possibility of bringing negative influence and corrupting the mind of those easily influenced. In relation to a child, obscene content includes but not limited to child sexual grooming, sexual degradation that portrays any person as a mere sexual object or to demean the dignity, exploit or discriminate them, portrayal of sex or pornography including rape, attempted rape against child, sexual bestiality, whether consensual or otherwise.

Explanation 2 — Indecent content may include content which is profane in nature, improper and against generally accepted behavior, customary laws and culture. Content that portrays private parts based on arts, information or science which are not gross, are not indecent. In relation to a child, indecent content includes but not limited to content which is profane in nature, improper and inappropriate for a child according to a reasonable adult's consideration.

Explanation 3 — Content that portrays private parts based on arts, information or science which are not gross such as sex education or anatomy, are not obscene or indecent.

Explanation 4 — False content may include content or information which are untrue, confusing, incomplete or fabrication of non-existent matters. Content in the form of satire and parody or where it is clear that it is fictional, are not false.

Explanation 5 — Menacing content may include content which causes annoyance, harmful and evil threats, encourages and incites criminal act or leads to public disorder. In relation to a child, menacing content includes but not limited to—

(a) content that may cause emotional disturbance such as, portrayal of gruesome death, and domestic violence; or

(b) content that may cause a child to imitate the portrayal of such act, such as content with suicidal tendencies, dangerous physical acts, street crime acts, or usage of drug.

Explanation 6 — Grossly offensive content may include content that contains expletive and profane in nature that offends many people including crude references, hate speech and violence as follows:

(a) crude references are obscene, offensive, coarse or profane words. However, the usage of those words in the context of their ordinary meaning and not intended to be used as crude language are not grossly offensive;

the context of their ordinary meaning and not intended to be used as crude language are not grossly offensive;

(b) hate speech that refers to any word, visual, audio and gesture that are insulting or demeaning a person are grossly offensive.

(c) portrayal of violence in news reporting in accordance with ethics for journalists are not grossly offensive. In relation to a child, content which portrays violent scenes that depict humanitarian context or for the purpose of character and plot development, is not grossly offensive; or

(d) any communication made in good faith is not grossly offensive as long as the communication consists of statements of fact, that are true in substances and facts, and consists of statements of opinion."; and

The new amendments of Section 233 still include expansive and vague terms, and are further exacerbated by increased powers and highly punitive measures.

CIJ and ARTICLE 19 raised concerns on the following contentious issues in the Bill:

- **Inadequate and lack of meaningful consultation** with all relevant stakeholders. Civil society organisations, especially those working on freedom of expression, were not included in any meaningful or constructive consultations, nor were informed on the specifics of the amendments.

- **Expansion of the powers of the Malaysian Communications and Multimedia Commission (MCMC)**
  - Powers to issue "written instructions" are bestowed throughout the Bill as well as issue directions on "any license conditions and any other conditions" under Section 51.

  - Enhance the investigative powers of any "authorised officer", not limited to the police, under Section 248 to search and seize without a warrant in the absence of adequate safeguards against abuse, and contravening due process requirements of necessity, and proportionality under international law.

  - The MCMC and its officers are granted immunity from prosecution under the proposed amendments to the MCMC Act (section 51A).

- **Content-related offences**—Sections 211 and 233—include expansive and vague terms that fail to meet Article 10(1)(a) of the Federal Constitution and other international standards of restrictions on speech and expression.

  The extensively broad 'Explanations' create further ambiguity as they lack a clear threshold in line with international standards, especially in relation to 'hate speech', and 'false content'. The explanations are also inconsistent with the interpretation provided in the Content Code 2022 developed by the Content Forum. It is concerning that the inclusion of 'hate speech' under the amended provision—what constitutes "grossly offensive"—fails to meet international standards of restrictions of speech and expression. We remind the government that in addition to the three-part test prescribed by Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR), Article 20(2) also requires that governments only restrict speech that incites discrimination, hostility, violence, or international crimes.

- **Control of online platforms**

  (i) Licensing

  - Section 230B imposes strict liability on service providers for user-generated content risk, incentivising the removal of content and undermining freedom of expression online. It empowers the MCMC to take pre-emptive measures to prevent, detect, or counter any network security risk.

  - Section 46A allows the Minister to dispense with the registration formalities under a class license. This removes the service provider's right to opt in to a procedure.

  (ii) The suspension of content application service providers (Section 211A) — undermines the right to access the Internet and freedom of expression and information.

  The introduction of a new licensing regime and the imposition of strict liability on service providers for user-generated content risk incentivising the over removal of content, undermining freedom of expression online. Such measures contradict the **Manila Principles on Intermediary Liability** and the spirit of Section 3(3) of the CMA as well as Article 10 of the Federal Constitution.

- **Power to Intercept Communication (Surveillance) - Section 252**
  A very low threshold is required for the Public Prosecutor to order surveillance measures if they think communications are likely to contain any information. The specifics of the nature of communication were not defined nor narrowed down. These activities were not provided by law, have no legitimate aim and lack judicial authorisation and external oversight.

- **Preservation of communication data and Disclosure of stored communications data—** Section 247 expands the scope of the investigative powers of the MCMC to request for records, including data that licensees must retain under the new record keeping rules.

  The newly added sections 252A and 252B, **compels service providers to disclose and preserve user data**, undermining data protection and privacy rights. This is further compounded by the fact that the government is excluded from the scope of the Personal Data Protection Act 2010, thus removing the obligations to guarantee data protection.

- **High and disproportionate penalties** - The amendments further disproportionately increase punitive measures in offences and related penalties. The fines increased by 900% compared to the previous Act. No rationale is provided to support these amendments increasing sanctions, nor is there a clear justification for the quantum adopted in determining the threshold of fines and imprisonment.

These standards establish a high threshold for circumscribing speech and an obligation to prohibit speech that leads to incitement.

- **Sedition Act**

The Malaysian government announced on 14 November[10] that they plan to retain the Sedition Act 1948 in order to maintain public order and national security while the National Security Council drafts a new National Security Bill to address issues on race, religion and royalty (3R). Deputy Home Minister Shamsul Anuar Nasarah stated that any amendments or replacements to the Act in the future will take into account the changing digital challenges and ensure that constitutional monarchy and interfaith harmony are maintained. He also explained that though Malaysians have been given freedom of expression under Article 10 of the Constitution, discussions touching on sensitive issues must still be within legal limits, adding that police actions are to prevent threats to national security.

Section 233 of the Communication and Multimedia Act (CMA), the Sedition Act, and blasphemy laws continued to be weaponised as a tool for political control by the Madani government, particularly to suppress dissent and shape discourse on issues surrounding race, religion and royalty (3R).

10. https://www.malaymail.com/news/malaysia/2024/11/14/sedition-act-stays-for-now-but-national-security-bill-in-the-works-says-deputy-home-minister/156844

Key Cases of 2024:

- **Strategic Use and Narrative Shaping**

In 2024, CIJ observed a trend where the Sedition Act and CMA were used on several politicians and independent social media influencers. Many faced intimidation through investigations and charges for posts criticising state decisions or policies and those linked to contentious racial or religious matters.

Authorities, including the Malaysian Communications and Multimedia Commission (MCMC), invoked these laws to target individuals with significant reach, leveraging legal action as a chilling signal to wider digital audiences.

Figure 1: Screenshot from MalayMail

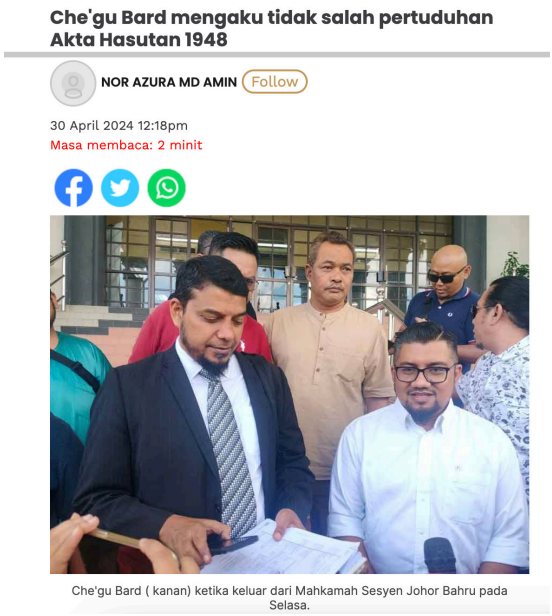


Figure 2: Screenshot from Sinar Harian

Badrul Hisham, better known as Chegubard, is a political activist affiliated with the Bersatu Party, has been subjected to multiple investigations under the CMA[11] [12] and has been charged with two counts under the Sedition Act[13]. On April 29, 2024, Chegubard was indicted under Section 4(1)(c) of the Sedition Act. These charges arose from his Facebook post referencing a Bloomberg article alleging that Prime Minister Anwar Ibrahim had discussions with business leaders regarding a casino license in Forest City, an assertion the Prime Minister has refuted. Badrul additionally faced two charges of making seditious statements and defaming the King for questioning his interaction with the owner of KK Mart. He is charged under Section 500 of the Penal Code and Section 4(1)(c) of the Sedition Act[14].

11. https://www.malaymail.com/news/malaysia/2024/03/06/police-record-statements-from-chegu-bard-muhammad-zahid-over-alleged-remarks-on-car-gifted-by-king-to-pm/121850
12. https://theedgemalaysia.com/node/708140
13. https://www.nst.com.my/news/crime-courts/2024/04/1043969/updated-chegubard-pleads-not-guilty-sedition-and-defamation
14. https://www.nst.com.my/news/crime-courts/2024/04/1043969/updated-chegubard-pleads-not-guilty-sedition-and-defamation

Figure 3: Screenshot from MalayMail

Authorities also apprehended blogger and ex-United Malays National Organisation (UMNO) youth exco Wan Muhammad Azri Wan Deris, commonly referred to as Papagomo, for making seditious comments about the King in a tweet[15]. Additionally, he is on trial under Section 4(1) of the Sedition Act 1948 for alleging that the government supports Israel and the West[16].

Figure 4: Screenshot from New Straits Times

Democratic Action Party politician Tony Pua was also investigated under the Sedition Act and CMA[17] over his remarks made about the Pardons Board. Pua openly criticised the Board's decision to reduce the Najib Razak sentence, sparking debate about transparency and accountability in the pardon process.

15. https://www.malaymail.com/news/malaysia/2024/04/30/blogger-papagomo-under-arrest-for-alleged-seditious-remarks-against-agong/131695
16. https://www.malaymail.com/news/malaysia/2024/01/08/papagomo-claims-trial-to-sedition-for-pro-israel-remarks-against-govt/111247
17. https://www.nst.com.my/news/nation/2024/02/1009696/updated-igp-tony-pua-will-be-summoned-over-remarks-pardons-board

2. Grassroots Activist and regular netizens as targets

Rather than just prominent figures being targeted, a notable trend in 2024 was the targeting of regular online users or netizens as well as grassroots activisits who engaged in seemingly innocuous speech. These cases often involved individuals from marginalised and lower-income groups[18].

Figure 5: Screenshot from Malaysiakini

Human rights defender Mukmin Nantang was summoned to the Semporna district police headquarters on 27 June 2024 for speaking up against the alleged injustices faced by an indigenous community. He was arrested under Section 4(1) of the Sedition Act. He was released on bail shortly after his statement was recorded[19]. The arrest and investigation are in relation to his peaceful advocacy for the rights of the Bajau Laut people, an indigenous community in Sabah that faces systematic forced eviction and barriers to obtaining official identification documents, rendering many members of the community stateless[20].

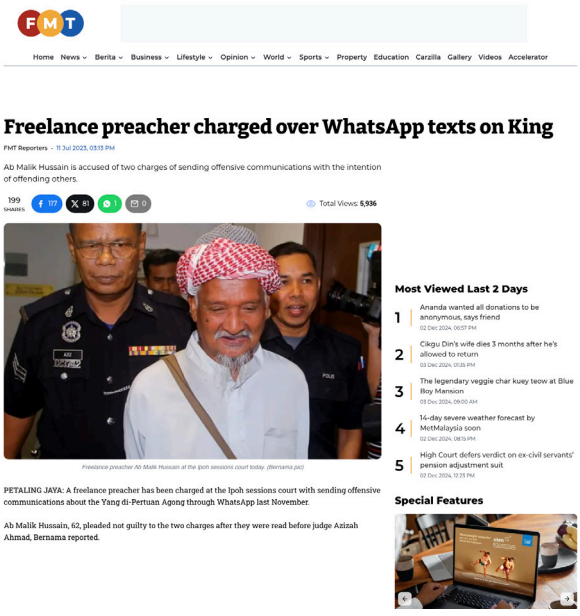


Figure 6: Screenshot from FreeMalaysiaToday

18. Statement based on media reports gathered
19. https://www.malaysiakini.com/news/709798
20. https://www.freemalaysiatoday.com/category/nation/2024/06/27/activist-who-exposed-eviction-of-bajau-laut-community-nabbed-for-sedition/

Over the years, there have been consistent records of instances wherein Section 233 of the CMA was used to initiate charges against regular citizens. Last year, we noted that the lengthy remand period for investigation was disproportionate to the crime committed. Similarly, we also need to highlight the excessive fines ordered by the courts. Based on our monitoring, the penalties usually range from RM8000 to RM15000[21]. Media reports have also highlighted cases where the accused were unrepresented in court[22]. Following the three-part test framework[23], the exorbitant fines imposed on the individuals who are found guilty fail to meet the elements of legality, necessity and proportionality. This impact on these individuals is severe both financially and psychologically, specifically on marginalised or lower-income groups. The disproportionate penalties mirror strategic litigation against public participation (SLAPP) tactics[24], further stifling critical discourse.

3. Digital surveillance

CIJ has noted a growing trend of surveillance and monitoring of online activities.

On 24 April, Dr Mohamed Sulaiman Sultan Suhaibuddeen, chief network officer of the MCMC, stated in an article by The Star that the MCMC monitors social media on a daily basis for postings that are deemed a 'threat' to the country[25]. In the same article Dr Sulaiman outlined that MCMC has an interest in protecting free expression online; however, we note this is unlikely to happen given that Section 233 of the CMA remains broadly worded and vague. Furthermore, the question of its definition and the methodology of how they determine harmful content needs to be probed further as it is not disclosed to the public. In addition to MCMC being the sole moderator, the police have also been employed to monitor 'hate speech' online[26]. We believe this will have a long-lasting impact on discourse in Malaysia, as this will lead to a culture of self-censorship.

Unpacking the implications

Through the illustrations above, it is clear to see that the legal environment that dictates expression in Malaysia is no longer just centred on curbing offensive, hateful and obscene content online, but has turned into a political instrument that is tactically used to consolidate power rather than addressing the root causes of harm. The law has been weaponised to:

- Silence voices

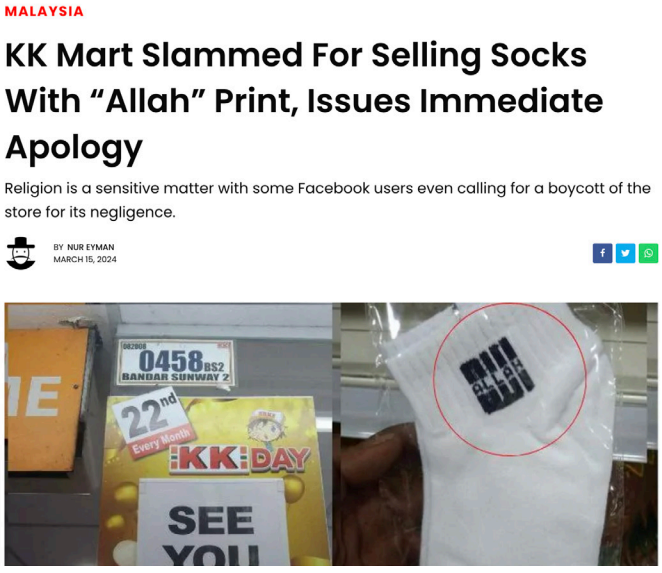
In 2024, the Madani government focused its efforts in stabilising Malaysia's economy[27] but has, in the process, ignored and often undermined the fundamental value of a democracy, which is to accept criticism in its decision-making and to promote dialogue. The Sedition Act and Section 233 of CMA served as a convenient tool to silence voices of opposition against the government whilst amplifying pro-government voices. Minimal effort was shown to promote dialogue or invoke clarification. Instead, they prioritised publicised arrests to intimidate dissenters and provide alternative narratives to issues.

21. In the current provision of the Section 233 of the Communication and Multimedia Act if an individual is found guilty under this section shall, on conviction, be liable to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding one year or to both and shall also be liable to a further fine of RM1,000 for every day during which the offence is continued after conviction.
22. 11 January, a parcel delivery rider in Malaysia has pleaded not guilty to 10 charges of insulting Islam, stemming from a text uploaded on Facebook that was deemed offensive to the Islamic faith. The charges fall under Section 233(1)(a) of the Communications and Multimedia Act, which deals with the improper use of network facilities or services. Bail was set at a cumulative amount of RM16,000.
23. https://www.ohchr.org/Documents/Issues/Expression/ICCPR/Seminar2008/PaperCallamard.doc
24. Read further on our report on SLAPP in Malaysia and how it undermines free expression in Malaysia and its impact on people. https://cijmalaysia.net/wp-content/uploads/2023/06/SLAPP-Report.pdf
25. https://mcmc.gov.my/ms/media/press-clippings/the-human-touch-still-required-says-mcmc-man
26. https://www.komunikasi.gov.my/en/public/news/23935-mcmc-pdrm-will-step-up-monitoring-of-fake-news-hate-speech-ahead-of-state-elections-teo
27. https://themalaysianreserve.com/2024/09/28/madani-initiatives-drive-economic-growth-strengthen-ringgit-amir-hamzah/

- Entrenched state involvement in 3R discourse

In 2024, Section 233 of the CMA, the Sedition Act, and Section 298 of the Penal Code were used to silence individuals who attempted to make their voices heard on issues related to race, religion, and royalty (3R). For example, the spike in the use of Section 298 of the Penal Code showcases how blasphemy laws are used to stifle discourse. According to ARTICLE 19, provisions in blasphemy laws are vague and can be misused. They disproportionately give governmental bodies the authority to determine the boundaries of religious discussion, thus creating dissension between maintaining religious harmony and upholding freedom of expression. Individuals with unpopular views or minority groups frequently face disproportionate targeting[28].

The 'sock-gate' issue, which was at the forefront of conversations in early 2024 is a strong example. "Sock-Gate," as it became known in Malaysia, started when a KK Mart outlet began unknowingly selling socks with the word Allah on them, which became public through a viral post online claiming religious insensitivity[29]. The matter received widespread condemnation, with the Johor royalty[30] and the Department of Islamic Development Malaysia (Jabatan Kemajuan Islam Malaysia [JAKIM])[31] calling for firm action to be taken. Also, a concern was that the issue was heavily politicised by actors such as UMNO Youth Chief Akmal Saleh, who called for a boycott against KK Mart, whom he claimed showed disrespect towards Muslims[32].


MALAYSIA

KK Mart Slammed For Selling Socks With "Allah" Print, Issues Immediate Apology

Religion is a sensitive matter with some Facebook users even calling for a boycott of the store for its negligence.

BY NUR EYMAN
MARCH 15, 2024

Figure 7: Screenshot from The Rakyat Post (TRP)

The penalisation of any speech that appeared to have taken an opposite view or stance from the government is where we see a failure in the way the authorities handled the matter. On 21 March, Ricky Shane Cagampang was handed a 6-month prison sentence following his conviction for making an offensive comment regarding Islam under Section 233(1)(a) of the CMA[33]. While Ricky claimed to have deleted the comment shortly after posting it, the court still held its position to charge for the post. Ricky was also unrepresented in court.

28. https://www.article19.org/wp-content/uploads/2021/01/2021.01.20-Malaysia-blasphemy-briefing-paper-final.pdf
29. https://www.thestar.com.my/news/nation/2024/03/16/kk-mart-vendor-issue-public-apology-for-controversial-socks-on-store-shelves
30. https://www.malaymail.com/news/malaysia/2024/03/19/johor-regent-calls-for-stern-action-over-allah-socks-issue-says-matter-should-not-be-taken-lightly/124234
31. https://www.thestar.com.my/news/nation/2024/03/19/jakim-issues-warning-to-kk-super-mart-urges-public-to-leave-3r-matters-to-authorities
32. https://www.malaymail.com/news/malaysia/2024/03/22/after-partys-backing-umno-youth-chief-aims-to-bury-kk-mart-with-boycott/124999
33. https://www.malaysiakini.com/news/700249

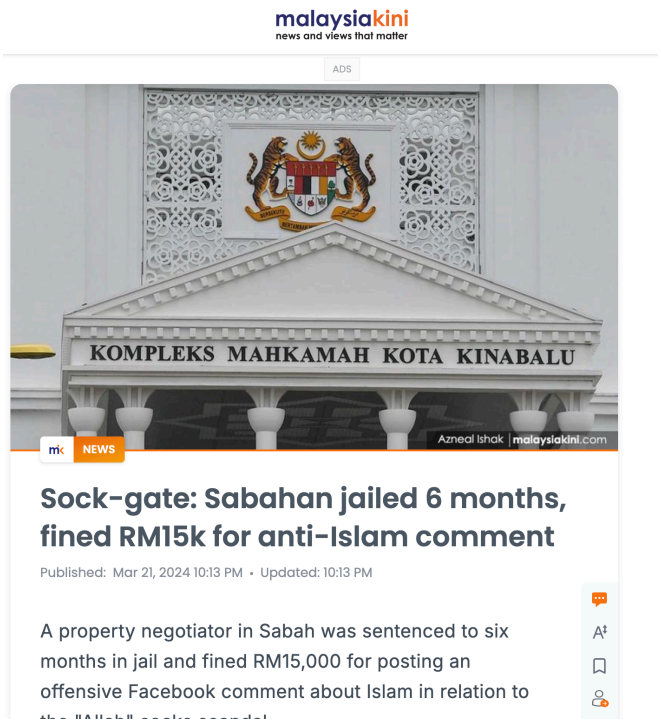


Figure 8: Screenshot from Malaysiakini

On 15 July KK Supermart & Superstore Sdn Bhd (KK Mart) and its supplier Xin Jian Chang Sdn Bhd were each ordered to pay RM60,000 for damages under **Section 298 of the Penal Code**[34] for displaying socks with inscriptions of the word 'Allah' as being offensive to religious sensitivities. The charge, which has a maximum sentence of about one year's imprisonment, a fine or both, arose from the incident that took place at one of the outlets located at Sunway City in March 2024. The court dismissed the case against the founder of KK Mart, his wife and three of the company officers.

The Larger Context

These laws exist as part of a broader problem that indicates a culture where maintaining power remains a priority. The State consistently chooses to rely on punitive measures rather than having meaningful engagement with the people on contentious issues. Secrecy and censorship, often justified under the pretext of safeguarding national security, are increasingly ineffective in a modern democratic society where information and news become viral in matter of seconds, and will only serve to deepen public distrust and erode confidence in the institutions. The government must demonstrate a genuine cultural shift and unwavering political will to reprioritise its reform agenda and rebuild public trust. They must halt any action that prioritises the government's agenda over the protection of individual and collective human rights.

34. https://bernama.com/en/news.php?id=2317777

Challenges in navigating online harms

Technology has facilitated many democratic movements, leading to digital democracy. As society embraces new technology which becomes more accessible, discourse has shifted from town halls to online chat rooms and spaces.

We have seen throughout history how social media played an integral part in Brexit[35] and the 2020 and 2024 US election[36]. In 2022, Malaysia faced a similar turn of events where political warfare did not occur on the streets but on various online platforms, as seen in the 15th General Elections. CIJ's social media monitoring of hate speech[37] during this period found evidence of coordinated inauthentic behaviour (CIB), including young influencers being used as political advertisers, and hate speech weaponised to garner political mileage[38]. The Perikatan National (PN) party, a predominantly right-wing ethno-religious conservative party, dominated the online space through the means mentioned above and successfully influenced young people to vote for the party as well – swinging a considerable portion of vote to PN[39].

The monitoring efforts have ignited significant discussion around the State's responsibility to address hate speech on social media. The rapid spread of misleading content on platforms like TikTok – such as the 13 May videos after the 15th General Election or Hadi Awang's video accusing the DAP of using Malay candidates – has underscored the question of social media platform accountability, particularly regarding the standards and processes these platforms use for content moderation. This situation highlights an urgent need to examine the role of social media as a powerful tool for shaping political and electoral discourse and to determine what additional standards and measures may be required in this technology-driven landscape.

In the last two years, the Madani government since coming to power has attempted to curb the internet space, claiming an urgent need to combat the rise in hate speech, disinformation, online financial scams, and the need to protect children and women from cyberbullying and sexual offenses in online spaces. This provided the government the justification to fast-track multiple new laws and amendments, including the passing of the Cybercrime Act, Online Safety Act, inclusion of Cyberbullying provisions in the Penal Code and considerable amendments to the CMA. The government's narratives to 'protect children, women and the elderly' from online threats, while supporting the protection of human rights, are nonetheless, not backed with real action. The provisions of these laws expand government powers to monitor our online communications, conduct surveillance, compel social media platforms to take down content or disclose content-data, as well as access all our communications data, indiscriminately and with minimal judicial oversight or other safeguards in place. The co-opting of these narratives as well as the instrumentalization of the tragic death of a Malaysia influencer to justify the influx of new legislations and amendments, detracts attention from the need to address the systemic problems and root-causes that enable and facilitate online harm.

35. Hänska, M., & Bauchowitz, S. (2017). Tweeting for Brexit: how social media influenced the referendum.
36. https://www.princeton.edu/news/2023/07/28/social-media-polarization-and-2020-election-insights-spias-andrew-guess-and
37. https://cijmalaysia.net/social-media-monitoring-of-malaysias-15th-general-elections/
38. Please do look at our report on the key findings during our social media hate speech project. https://cijmalaysia.net/social-media-monitoring-of-malaysias-15th-general-elections/
39. https://www.bernama.com/en/bfokus/news.php?analysis&id=2215285
https://www.channelnewsasia.com/asia/malaysia-ge15-split-youth-vote-politics-election-2022-3119936

Overview of the Regulatory Shift

A Regulatory Shift Towards Online Safety

Malaysia scored 60 out of 100 in the Freedom on the Net 2024[40] report, a slight drop from the 2023 score of 61. It is at a critical juncture in addressing the challenges of the digital era, with the introduction of several proposed online regulations. The key proposals include **the Online Safety Act, a social media licensing framework, a Code of Conduct for social media** and **internet messaging services,** and **amendments to the Penal Code to criminalise cyberbullying**. Along with these are also amendments to the **Communications and Multimedia Act.** While the government has expressed that these initiatives are much-needed to combat online harms such as scams, hate speech, child exploitation, and obscenity, it calls into question the issues of freedom of expression, how enforcement will be exercised, and what the potential overreach is in this instance. Balancing rights with safety will require open and inclusive processes that take in the voices of civil society, the tech industry, and the public. However, consistently, insufficient consultation took place in the process of creating these bills.

- **Online Safety Bill**

The Online Safety Bill (OSB) which was passed in Parliament on 11 December, takes a 'duty of care' approach to online safety[41]. It is expected to protect users from online harms such as cyberbullying, online financial fraud, and the exploitation of children. Section 13(3) states that under the duty to implement measures to mitigate risk of exposure to harmful content, users' freedom of expression shall not be limited unreasonably and disproportionately.

Nonetheless, the approach and framework pose significant risks to freedom of expression. These include:

40. https://freedomhouse.org/country/malaysia/freedom-net/2024
41. https://www.thestar.com.my/news/nation/2024/09/06/online-safety-bill-will-be-comprehensive-address-cybercrimes-against-children-says-azalina

1. Lack of an Independent Oversight Body

- The MCMC, as the regulatory body tasked with enforcing the OSB, is not independent in law or practice. The CMA and the MCMC Act empowers the Minister of Communication to issue directives, raising serious concerns about political interference. The Bill further expands the powers of the MCMC and the Minister, allowing surveillance, unfettered access to data and monitoring without adequate safeguards, including judicial oversight

2. Broad and Vague Definition of Harmful Content

- The OSB includes an overly broad and ambiguous list of "harmful content," which risks the removal of legal and legitimate expression as service providers are mandated to proactively screen for such content. Given the powers of the MCMC, it could potentially lead to government manipulation and censorship under the guise of moderation. Further, these provisions could also infringe upon users' privacy and freedom of expression, violating international human rights principles of necessity and proportionality in restrictions to freedom of expression.

3. Failure to Adopt a Comprehensive System-Based Approach

- The bill focuses extensively on content moderation rather than adopting a systems-based approach that addresses root issues like platform design, algorithmic transparency, and user education. This content-centric focus risks increasing surveillance and privacy violations without effectively tackling broader challenges related to online safety.

- **Licensing Framework for Social Media**

The Ministry of Communications introduced the new *Regulatory Framework for Internet Messaging Service Providers and Social Media Providers*[42] (licensing regime) through the amendments to the (i) Communications and Multimedia (Licensing) (Exemption) Order 2000 ("EO 2000") and (ii) the Communications and Multimedia (Licensing) Regulations 2000 ("LR 2000"). As of 1 August 2024, online service providers, with more than 8 million users, will require class licenses and be subjected to the provisions under the Communications and Multimedia Act and the Code of Conduct (Best Practice) for Internet Messaging Service Providers and Social Media Service Providers (Code of Conduct), which is expected to come into effect on 1 January 2025. The draft Code of Conduct was released for public consultation[43] on 22 December 2024.

The MCMC, with its overbroad authority, would now have powers over these services and may require access to user data or even restrict or suspend access to their services in the event they are found to be non-compliant. While the framework seeks to increase accountability of social media platforms, similar to the Online Safety Bill, it imposes an obligation of general proactive monitoring or filtering of content by these services in the guise of a duty of care. Coupled with the punitive sanctions under the CMA, it is likely to incentivise the social media platforms to engage in over-moderation of content or disclose data of its users, thus impacting our freedom of expression and privacy.

42. https://www.mcmc.gov.my/skmmgovmy/media/General/pdf2/Info-Paper-for-Regulatory-Framework.pdf, assessed 12 December 2024
43. https://mcmc.gov.my/en/media/announcements/public-consultation-on-the-draft-code-of-conduct, assessed 12 December 2024

- **Penal Code Amendments for Cyberbullying**

Amendments to Malaysia's **Penal Code**[44] to address cyberbullying as a criminal offence were passed in Parliament on 10 December. This includes penalising actions that cause harm, distress, or alarm to individuals through online harassment, doxxing, or threats. While the amendments aim to deter harmful behaviour, the provisions are broad and encompass an overly wide range of content and speech, which fail to meet the test of legality, necessity and proportionality. It opens itself to arbitrary interpretation and potential abuse. It further conflates offenses committed by adults together with those committed by children, with the same spectrum of penalties, without consideration for remedial or restorative justice.

Regulation and Freedom of Expression

Takedowns

While these initiatives promise better online safety, they could inadvertently restrict freedom of expression. Even without the existence of an Online Safety Bill, the Malaysian government monitors the internet by requesting platforms such as Meta and TikTok to take down content on their platforms. In June, TikTok released their bi-annual government removal requests report and Malaysia had requested to take down 1862 contents[45]. Meta has indicated that they have received over 37,200 takedown requests from January to June of 2024 from the MCMC including hate speech based on religion in violation of Section 298A of the Penal Code, criticism of the government, and racially or religiously divisive content and bullying content in violation of CMA Sections 233(1)(a) and 211.[46]

The government justified the large volume of takedown requests as its primary focus on combating scams and online gambling—issues that Deputy Minister Teo Nie Ching highlighted in Parliament. However, the inclusion of content related to race, religion, and royalty (3R) in these legal actions suggests a broader, less defined agenda[47]. In 2023, the MCMC defended its large number of takedown requests by citing the need to protect public safety, particularly from harmful content related to race, religion, and royalty (3R). Legal action against Meta was framed as a last resort, with the MCMC asserting that the platform's lack of cooperation left it no choice[48]. The lack of transparency on the nature of takedown requests creates a perception that the government is using "online harms" as a pretext for censorship. By targeting vague 3R content and political discourse, the approach risks stifling legitimate public debate rather than addressing concrete threats. This raises serious concerns about freedom of expression, undermines trust in regulatory practices, and highlights a deeper struggle to manage narratives without resorting to censorship.

See the annex II on cases related to 'takedowns' this year

DNS rerouting the battle on Internet sovereignty

Besides takedown requests, the Ministry of Communications made another attempt at curbing freedom of expression online through DNS rerouting.

44. https://www.nst.com.my/news/nation/2024/10/1125305/updated-govt-approves-amendments-penal-code-targeting-cyberbullying
45. https://themalaysianreserve.com/2024/06/10/malaysia-leads-global-surge-in-social-media-takedown-request/
46. https://transparency.meta.com/reports/content-restrictions/country/MY/
47. https://www.bernama.com/en/news.php/news.php?id=2313542
48. https://mcmc.gov.my/ms/media/press-clippings/mcmc-legal-action-against-facebook-s-parent-meta-f
49. Simply put, DNS, or Domain Name System, functions like a glossary for the internet. When you enter a web address into your browser, such as www.example.com, your computer needs to convert that address, which is easy for people to read, into an IP address, a numeric identifier that designates a particular server on the internet. This conversion is carried out by a DNS resolver. Typically, this resolver is managed by your Internet Service Provider (ISP) or a third-party DNS service that you have set up on your https://www.ibm.com/topics/dns

We noted in our report last year that DNS tampering is not a new practice by the government[50]. This year, however, the MCMC ordered Internet Service Providers (ISPs) in Malaysia to redirect DNS queries sent to alternative DNS providers back to their servers, making it a blanket block on targeted websites across all users and all ISPs. The MCMC said at the time[51] that the move was aimed at safeguarding the public from "harmful content," namely the websites *"related to online gambling, pornography, copyright infringement, scams, and other violations of Malaysian law."*. Following a public outcry, the Minister of Communications, directed the MCMC to halt the process and stated that the Ministry would conduct a stakeholder consultation before proceeding with the order[52].

CIJ has also recorded accounts wherein the MCMC has used similar actions to censor dissenting voices. A political analyst, Murray Hunter, claimed that the government was blocking his blog. The MCMC quickly responded that they were not involved in blocking his site. It is important to note that this incident was not an isolated incident as it also happened last year in October[53].

Separately, MCMC has also disclosed that a total of 24,277 websites were blocked between 2018 and August this year, the bulk of which comprised sites promoting online gambling (39%), containing pornography or obscene content (31%) or for copyright infringement (14%). These figures match Sinar Project's iMap censorship report, but Sinar Project has also found that they temporarily blocked media outlets Utusan TV, Malaysia Now and Guan Ming Daily and LGBTQIA content[54].

Ways forward

To include multi stakeholder consultation

As Malaysia works through its online safety frameworks and regulations, it is imperative that the government prioritises transparency, accountability, and the protection of human rights, ensuring all voices are heard and taken into consideration when producing regulations that directly affect every citizen in Malaysia. The technology sector has a critical role in considering the potential risks posed by emerging technologies like artificial intelligence (AI) and ensuring proportionate safeguards are in place to protect end users. A collaborative effort by the government, social media platforms, civil society organisations, and other tech actors is crucial to fully understand the unique harms faced in Malaysia, such as online hate speech, mis/disinformation, and other discourse deemed sensitive and to shape the regulatory framework whilst balancing protections towards free expression.

By grounding legislation through research and inclusive consultations, we can create an online safety framework that prevents power imbalances, fosters trust, and protects privacy.

50. On 28 June 2023, according to recent reports, MalaysiaNow, a news portal, appeared inaccessible on certain Malaysian internet service providers (ISPs), suggesting they might be blocking it. Abdar Rahman Koya, the editor of MalaysiaNow, stated that the website had been inaccessible to Celcom and Maxis users days before the article published that the portal was blocked. The Malaysian Communications and Multimedia Commission (MCMC), a regulatory body under the Communications and Digital Ministry, did not respond or clarify the block but instead released a statement on 7 July 202336 stating that Internet Service Providers (ISPs) need to comply with the Communications and Multimedia Act. *excerpt taken from CIJ freedom of expression report 2023*
51. https://www.mcmc.gov.my/en/media/announcements/faq-dns-redirection-to-isp-local-dns
52. https://www.malaymail.com/news/malaysia/2024/09/11/fahmi-says-dns-rerouting-plan-off-the-table-opts-for-more-public-engagement/150084
53. https://imap.sinarproject.org/news/internet-censorship-update-blocking-of-murrayhunter-substack-com-website
54. https://imap.sinarproject.org/reports/2024/imap-malaysia-2024-internet-censorship-report

III.
PRIVACY IN DIGITAL SPACES

Privacy in the digital world

The recent revisions to **Malaysia's Personal Data Protection Act (PDPA)** 2010 in July 2024[55] represent a significant step forward in updating the nation's data protection regulations, addressing crucial topics such as mandatory breach notification and stricter rules for cross-border data transfers[56]. The newly established regulations enhance both transparency and accountability by requiring organisations to inform authorities about data breaches, ensuring that users are promptly warned of potential threats to their personal information. With the introduction of data portability rights, these changes aim to empower individuals and encourage better data management practices within organisations. However, although these modifications are an advancement, they still do not sufficiently tackle critical issues related to the actions of big technology companies, leading to gaps in protecting fundamental rights to privacy and freedom of expression.

Glaringly, the new amendments still exclude the government from its scope, thus exempting the government, the largest holder of personal data, from accountability if vulnerabilities or breaches occur on government databases. On 16 July, Digital Minister Gobind Singh said that Pangkalan Data Utama or PADU – the central database hub that consolidates citizens' information across government departments and which is meant to spearhead data-driven governance and informed decision-making - is not covered under the purview of PDPA[57]. Additionally, he has said the existence of the Official Secrets Act 1972 and various circulars are sufficient to prevent abuse. However, these Acts do not meet the robustness needed to handle complex and vast information that is involved in decision-making processes. Further, the CMA amendments under the newly added sections 252A and 252B, can compel service providers to disclose and preserve user data, undermining data protection and privacy rights, especially given that the government is excluded from the scope of the PDPA 2010.

Next, there is no regulation to combat "surveillance capitalism"[58], where technology companies profit from users' personal data by utilising extensive analytics to facilitate targeted advertising and behavioural profiling. The proposed amendments fall short of challenging this framework or offering methods for users to manage such intrusive data collection practices. The use of personal data poses serious risks to freedom of expression, as it fosters the development of 'echo chambers' and the manipulation of public discussions via algorithm-driven content distribution. In the absence of more robust protections concerning data analytics and transparency, these platforms hold the authority to influence online interactions, restricting diverse viewpoints and promoting harmful narratives.

55. https://www.thestar.com.my/news/nation/2024/07/31/amendments-to-personal-data-protection-act-needed-due-to-rapid-tech-growth-says-gobind
56. https://www.dataprotectionreport.com/2024/07/malaysia-introduces-watershed-amendments-to-personal-data-protection-act-2010/
57. https://www.malaysiakini.com/news/712165
58. https://news.harvard.edu/gazette/story/2019/03/harvard-professor-says-surveillance-capitalism-is-undermining-democracy/

Furthermore, the economic influence of big tech is closely linked to their ownership of user data, which drives both their advertising income and systems for content moderation. While it is important to have content moderation to reduce harmful speech, the absence of transparency in how these choices are made raises concerns about arbitrary censorship and excessive moderation. For example, platforms frequently rely on automated systems to identify and eliminate content, resulting in mistakes that disproportionately affect marginalised voices. We have witnessed multiple occurrences of this throughout the year. The CMA amendments, requiring proactive content curation and monitoring by social media platforms, further triggers the possibilities for companies to act in an unfettered manner in accessing and using user data.

Moreover, the amendments fall short of introducing obligations for tech companies to disclose their data processing practices comprehensively. This lack of transparency enables platforms to retain economic dominance and operate without meaningful checks on their influence over online spaces. By mandating greater openness in data practices and algorithmic decision-making, Malaysia must address the imbalance of power between users and platforms, protecting both privacy and freedom of expression. Without such measures, the amended PDPA and CMA risks perpetuating a system where individuals have little control over their data, and corporate giants continue to wield disproportionate influence over digital interactions.

IV.
MEDIA FREEDOM

In 2023, the above FOE restrictions, and a lack of progress in relation to the promised reforms by the Madani government contributed to a significant drop in the 2024 Reporter without Borders (RSF) World Press Freedom Index, where Malaysia dropped in rank from 73 to 107. In 2024, the downward trend continued with censorship, and the continued use of oppressive laws posed a threat to media freedom and journalists' right to freedom of expression.

Attack on the Fourth Estate

This year, several journalists were subjected to police investigations on reporting on matters of public interest, such as government-linked projects, alleged government corruption, and matters related to the police. This situation created a hostile environment for the media under its culture of secrecy and censorship. Oppressive laws are not only wielded against human rights activists and politicians but are also used to target the media. The government often defends its actions by labelling critical reporting as false or misleading. Notwithstanding, this response reflects a broader failure of the government to take appropriate actions or address legitimate concerns. Instead, they resort to draconian methods of intimidation and censorship, deliberately designed to stifle public scrutiny and silence critical journalism, undermining both press freedom, rule of law and accountability.

Figure 9 @ New Straits Times

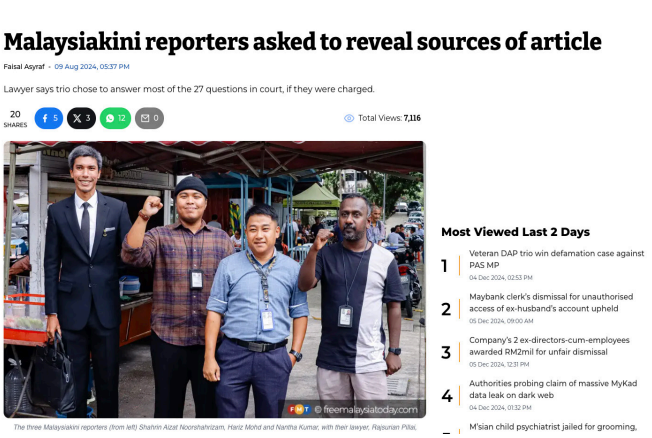


Figure 10 @ FreeMalaysiaToday

On 6 May, a journalist from Bloomberg, Ram Anand, was summoned to Bukit Aman by Malaysian federal police for questioning regarding an article published by Bloomberg titled "Malaysia Mulls Casino at Forest City". The article[59] alleged plans for a casino development in Johor's Forest City, which prompted a defamation complaint by business tycoon Vincent Tan. The investigation, initiated under the **Sedition Act (Section 4(1)), Penal Code (Section 500 for defamation), and the Communications and Multimedia Act (Section 233)**, alleged the article contained false and unverified statements. Prime Minister Datuk Seri Anwar Ibrahim, Berjaya, and Genting Malaysia have all denied the report and called for action against Bloomberg. Ram Anand's statement was recorded as part of the investigation.

59. https://www.nst.com.my/news/crime-courts/2024/05/1046840/updated-forest-city-casino-claim-police-record-statement-bloomberg

On 9 August, three journalists from Malaysiakini[60], Nantha Kumar, Hariz Mohd, and Shahrin Aizat Noorshahrizam, were questioned by police for over an hour regarding an article about an alleged police reshuffle within Bukit Aman. The article cited a police source who claimed that senior officers, including Deputy Inspector-General of Police Ayob Khan Mydin Pitchay, would be transferred to lead other agencies. However, the Inspector-General of Police, Razarudin Husain, later denied these claims. The journalists were interrogated under **Section 233 of the Communications and Multimedia Act and Section 505(b) of the Penal Code.**

Figure 11 @ MalayMail

On 7 February, Clare Rewcastle Brown[61], known for her investigative reporting on the 1MDB scandal, was convicted of criminal defamation in a trial held in absentia, violating principles of natural justice and her constitutional right to a fair hearing. Despite correcting her error and issuing an apology, she was still convicted under Section 500 of the Penal Code.

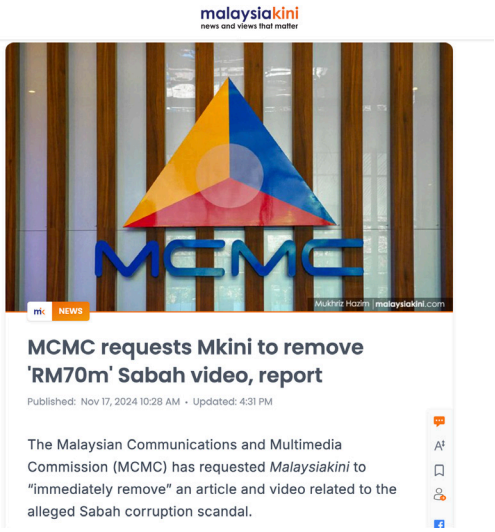


Figure 12 @ Malaysiakini

On 17 November, the MCMC requested Malaysiakini to remove a video and article related to the alleged Sabah corruption scandal, claiming it could interfere with police investigations and endanger the whistleblower's safety. The video features Tempasuk assemblyperson Arsad Bistari discussing a blocked RM70 million project, which he later claimed was taken out of

60. https://www.freemalaysiatoday.com/category/nation/2024/08/09/malaysiakini-reporters-asked-to-reveal-sources-of-article/
61. https://www.nst.com.my/news/nation/2024/02/1010773/clare-rewcastle-brown-jailed-two-years-defaming-terengganu-sultanah

context and "maliciously edited." The whistleblower, who has received death threats, claims to have more evidence implicating state ministers and is seeking immunity and protection under the Whistleblower Protection Act.

The direct intervention by the MCMC is deeply problematic as it undermines freedom of the press and access to information on a matter of public interest. The overreach by the MCMC, whose role is to regulate communications and multimedia in a fair and transparent manner and not to suppress legitimate reporting on public interest issues, is now constantly being used as a tool for censorship.

Implications towards Media, democracy and governance

The cases above suggest that the Madani government has adopted tactics reminiscent of its predecessors. Rather than valuing the media as a cornerstone of democracy, it increasingly views it as a propaganda tool to be controlled. Critical reporting is met with suppression, fostering a chilling effect on journalism and undermining the media's vital role as a watchdog of the state. Furthermore, the opaque nature of investigations and takedown processes enables arbitrary enforcement, eroding trust in governance and stifling the free flow of information essential for a healthy democracy.

The continued use of Section 233 of the CMA and the Sedition Act with its increased fines and broadly-worded amendments will be used to justify actions against the media and will lead to self-censorship by media outlets. We have already seen this in play where there was widespread media silence on the case where an e-hailing driver, a person with a disability, was slapped by a bodyguard linked to the royalty[62]. Self-censorship around 3R issues is problematic as it deprives the public of knowledge and discourse about these issues.

The government must ensure that actions taken in such cases are proportionate, transparent, and grounded in fair legal standards. A commitment to media freedom through clear protections against arbitrary investigations is essential. The Media Council will play a critical role in handling disputes involving journalists and balance the need for accountability with the protection of freedom of expression.

Code of Conduct and Malaysian Media Council

In February, the Communications Ministry launched a Journalism Code of Ethics[63], aimed at addressing challenges posed by social media and modern issues while serving as the basis for issuing media passes. While the Code includes positive changes, such as promoting inclusivity and source confidentiality, what it lacks is the following:

- Lack of meaningful consultation with media groups, journalists and civil society

62. https://www.malaysiakini.com/news/707873
63. https://www.thestar.com.my/news/nation/2024/02/20/communications-ministry-launches-malaysian-code-of-ethics-for-journalists

The Malaysian Code of Ethics for Journalists was both initiated and adopted by the government, raising concerns that it could easily become yet another tool for controlling and censoring the media. There is little clarity on how the Code will be enforced, particularly when it comes to the issuance, suspension, or termination of media passes. Questions remain about whether journalists will have the right to appeal these decisions and, if so, who will oversee the appeals process. The lack of transparency, combined with the government acting as the final arbiter, grants those in power significant room to wield the code for political expediency, further tightening their grip on the media landscape.

- The overlap between the Malaysian Media Council

With the government's pledge to establish a multi stakeholder, independent Malaysian Media Council (MMC), there remains a lack of clarity and transparency regarding the Council's role and mandate. Questions remain about how conflicts between the MMC's provisions and the current Malaysian Code of Ethics for Journalists will be addressed, especially if their standards directly contradict one another. Such discrepancies could undermine the MMC's authority, which is intended to play a crucial role in setting and upholding standards for Malaysia's media landscape.

- Content of the Code

The second concern lies in the content itself. While the code acknowledges the vital role of independent media, it falls short of anchoring its standards within an established human rights framework. There is an urgent need to align it with international human rights principles. It is alarming that it includes language that encourages self-censorship where deemed necessary, thus creating an enclosed environment in an already closed space with suppressive laws.

Additionally, the establishment of a multi stakeholder and independent Media Council could adopt a harmonised and robust code of ethics to ensure that it is consistently and transparently used across board.

Media Sustainability Struggles

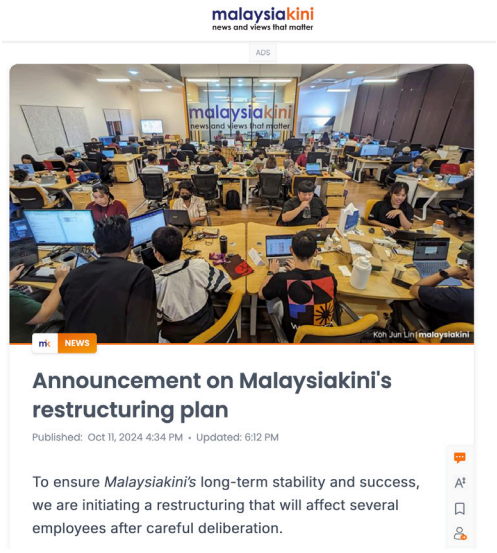


Figure 13 @ Malaysiakini

Additionally, within this non-conducive environment for journalists to work in, media outlets are also faced with the challenge of keeping themselves financially viable and sustainable. In times of digital transformation, independent media is compelled to change their business models to fit into the current internet landscape, such as building digital subscribers, donations, grants, membership events and other means of funding as well as even changing their news delivery format to short videos.[64]

However, while some may find success in this business model most of the time, media outlets still face sustainability issues[65]. Free Malaysia Today and Malaysiakini underwent a restructuring process[66] to ensure its long-term sustainability amidst the global challenges faced by the news media industry. In June this year, Media Chinese International (MCI), which includes China Press, Sin Chew Daily, Nanyang Siang Pau, Ming Pao, and Guang Ming Daily, announced[67] that it plans to undergo a significant workforce reduction of up to 44% over the next five years. It aims to integrate artificial intelligence (AI) into its operations and will gradually shut down its printing operations and cut employee headcount from 1,800 to 1,000.

The number of restructuring and layoffs we have seen in Malaysia this year has led to significant job losses and impacted job security across the media industry. It has raised urgent questions about what measures the government is taking to safeguard the fourth pillar of democracy from economic threats. Protecting the media from financial instability is crucial to preserving its independence and ability to hold power to account. Furthermore, the government must commit to creating policies around revenue sharing with social media giants in the media and consider funding independent media without jeopardising its autonomy to publish without censorship.

Printing, Presses and Publications Act 1984

In addition to the topic of media sustainability, the government plans to expand its media licensing regime. In May this year, the government announced plans to expand the Printing Presses and Publications Act (PPPA) 1984 to regulate digital media content, citing challenges in controlling printed publications as more content moves online[68]. In November, it was reported that the Ministry of Home Affairs was moving forward with plans to significantly amend the PPPA.

The reported amendments are problematic on several fronts:

- Potential for increased government control and censorship

The PPPA is a draconian legislation with wide and restrictive powers over print media, including licensing and the ability to revoke permits arbitrarily by the Minister. It was reported that the current amendments are likely to include a requirement for license renewal every three years. It could potentially also be expanded to include digital media. Expanding this framework would give the government added ammunition over online news portals. The CMA in its current form is already a threat to free, independent media; and with the addition of the PPPA, the situation may worsen.

64. https://newsq.net/2020/04/09/can-improving-algorithms-in-fact-improve-news-quality/
65. https://innovating.news/article/building-news-sustainability/
66. https://www.malaysiakini.com/news/722310
67. https://www.campaignasia.com/article/media-chinese-to-layoff-44-employees-in-malaysia-and-replace-them-with-ai/496381
68. https://www.malaysiakini.com/news/706796

- Challenges to independent and alternate media

Many independent and smaller media outlets that operate primarily online would not have the capacity to abide by a new regulatory requirement and could struggle to meet the compliance standards, including licensing, disclosures, and vague and arbitrary content restrictions. Overregulation of digital media could deter innovation in Malaysia's growing digital economy, particularly in the media sector. Start-ups and new players might find entering the market too risky or resource-intensive, limiting diversity and competition in the media landscape.

- Conflicts with Calls for Self-Regulation

Media stakeholders have long advocated for an independent Malaysian Media Council to oversee the media landscape and self-regulate the industry. Expanding the powers of PPPA to digital media undermines these efforts by consolidating regulatory power within the government, leading to further abuse and redundancy. It is evident that the media landscape in Malaysia requires a much-needed overhaul.

V.
RIGHT TO INFORMATION (RTI)

The implementation of the Federal Right to Information (RTI) Act – referred to as the Freedom of Information (FOI) Act by the government – made significant inroads in the first half of this year, but was stalled following the conclusion of the stakeholder consultations organised by the Legal Affairs Division under the Prime Minister's Department (BHEUU). On 16 July[69], Deputy Law Minister Kulasegaran announced in Parliament that the Bill is expected to be tabled by the end of this year. Nonetheless, in August, the Minister announced that the tabling will be delayed to next year.

Despite promises by the Madani government, the delays in putting it into effect are troubling, as fears of it being in cold storage is a likely possibility and questions on proper implementation remain widely open.

The government, in 2024, through BHEUU, conducted a series of nationwide consultations with stakeholders, in Peninsular Malaysia, Sabah and Sarawak. The engagement sessions nationwide involved over 1,100 participants[70] – including representatives from state agencies, civil society organisations (CSO), academics, and legal experts. The consultations aimed to seek inputs from the various stakeholders on the parameters of the RTI legislation. It discussed the need to address the overlaps between legislations such as the Official Secrets Act 1972, Personal Data Protection Act 2010 and the Omnibus Act on government data sharing. BHEUU had also invited a CSO expert and an academic to all its consultation to provide insights on progressive models and discussed the impact of the Selangor and Penang Freedom of Information Enactments. The consultations culminated in the Central region consultation in August, which brought experts from RTI Commissioners to legal experts from Australia, Canada, Indonesia, Sri Lanka, and South Africa.

The Consultations and various discussions surfaced the following issues to be addressed:

- The need to align expectations and support the call for a Federal level legislation;
- Amendments or repeal of existing laws, such as the Official Secrets Act 1972, Section 203A of the Penal Code, PDPA 2010 and the Whistleblowers Protection Act 2010, to ensure effective alignment with a new RTI law;
- Challenges in establishing an independent oversight body.

These signal a commendable effort to adopt a consultative approach. The consultations addressed how individual states implement their own RTI and the importance of data disclosure in governance.

69. https://www.malaymail.com/news/malaysia/2024/07/16/freedom-of-information-bill-to-be-tabled-in-parliament-by-end-of-this-year-says-deputy-minister/143906
70. https://malaysiagazette.com/2024/08/29/bheuu-libatkan-1100-peserta-bagi-gubal-akta-kebebasan-maklumat/

The progressive consultation and engagement model adopted by BHEUU enables effective participation of various actors and stakeholders. It is critical that this openness be maintained and cultivated to ensure that the RTI legislation is informed by the needs of the public and would promote a transformative culture of governance which would prioritise principles of maximum and proactive disclosure that facilitate the public's access to information, and ultimately build confidence in public institutions and rectify years of corruption, misuse of authority, and financial irresponsibility driven by a culture of secrecy.

Key Concerns

Prime Minister Anwar Ibrahim, who chaired the Special Cabinet Committee on National Governance on September 14, 2023[71], supported the enactment of the FOI Act. This demonstrates a stronger political will to recommit to good governance. Should the FOI Act be passed, it has the potential to democratise information access, enabling citizens, journalists and civil society to hold the government accountable.

However, legislative change is just the beginning; implementation is key. The RTI legislation must be implemented with an adequate budget as well as sufficient and effective training for public officials, fostering a culture change in the bureaucracy towards transparency in government. Public awareness campaigns will also be needed to inform the public of their rights under the new law.

- **Exemptions**

The Act should clearly and narrowly define exemptions for non-disclosure based on international standards of legitimacy, necessity, and proportionality. These exemptions must also be subject to an overarching harm test and a public interest test.

- **Independent oversight body**

An independent oversight body is essential to monitor the enforcement of the RTI law in Malaysia, thereby ensuring its efficacy. Its independence and ability to operate without external influence must be guaranteed through strong legal protections. This authority should be politically impartial and be provided with adequate financial and human resources to carry out its responsibilities. It should have the authority to accept appeals regarding denials of information, mandate the release of information by government entities, and issue administrative orders and penalties against public agencies that do not adhere to the RTI law.

- **Official Secrets Act (OSA) 1972 and laws**

The alignment of the OSA with the RTI Act is critical as it is unclear how the two legislations can coexist. On 29 August, at the Central region consultation in Putrajaya, Law Minister Azalina Othman[72] stated that the OSA will be maintained and amended to enable the two pieces of legislation to complement each other. However, this would prove problematic as, principally, the OSA is meant to maintain the culture of secrecy under the guise of 'national security' while the RTI legislation is meant to foster a culture of transparency. Amendments or repeal of other existing laws, such as Section 203A of the Penal Code, PDPA 2010 and the Whistleblowers Protection Act 2010, is also needed to ensure effective alignment with a new RTI law; the RTI is meant to foster a

71. https://www.pmo.gov.my/2023/09/enactment-of-freedom-of-information-act-approved-in-principle-pm-anwar/
72. https://malaysiagazette.com/2024/08/29/bheuu-libatkan-1100-peserta-bagi-gubal-akta-kebebasan-maklumat/

culture of transparency. Amendments or repeal of other existing laws, such as Section 203A of the Penal Code, PDPA 2010 and the Whistleblowers Protection Act 2010, is also needed to ensure effective alignment with a new RTI law;

The Omnibus law - Data Sharing Act

On 12 December, the Data Sharing Bill was passed in Parliament[73]. The core objective of this law is to regulate data sharing among government agencies. A strong point is that it includes a provision on the requirement to formulate procedures to 'preserve the privacy and confidentiality of data' (Section 6(2)(a)).

Concerns remain, however, about the Bill's check-and-balance mechanism especially due to an absence of an explicit provision on the obligations of the government to guarantee data protection. It has also failed to add the rights of the data subject and their right to consent (or relatedly withdraw said consent) on the use and sharing of personal data between government agencies, in the absence of adequate data protection guarantees or remedies in the event of a breach. The alignment of the new law with the proposed RTI legislation requires further interrogation as well.

Without clear definitions, independent oversight, and alignment with international data protection standards, the Omnibus Bill risks creating a system that prioritises state convenience over the rights of individuals.

73. https://www.nst.com.my/news/nation/2024/09/1102044/updated-data-sharing-bill-be-tabled-december

VI.
STRATEGIC LITIGATION AGAINST PUBLIC PARTICIPATION (SLAPP)

CIJ monitored several instances of Strategic Litigation Against Public Participation (SLAPP) in 2024. As we strive for greater public participation, there is a need for information, transparency, and accountability.

On 23 March, McDonald's Malaysia withdrew its lawsuit against Boycott, Divestment, and Sanctions (BDS) Malaysia. The lawsuit had alleged the BDS movement of defamation for linking the company to Israel. The withdrawal occurred after BDS Malaysia clarified that McDonald's Malaysia operates independently and is not connected to any activities in Israel.

On 19 April, Parti Sosialis Malaysia (PSM) and Malaysiakini successfully overturned a gag order[74] filed by Beaks Construction and Suria Harmoni Resources, who sought to silence reporting on the mistreatment of migrant workers facing unpaid wages, withheld passports, and restricted movements. The Shah Alam High Court ruled that the companies failed to disclose critical facts when obtaining the ex parte injunction and found the published claims were not evidently false. PSM's lawyer, Edmund Bon, highlighted this as a clear example of a Strategic Lawsuit Against Public Participation (SLAPP) aimed at intimidating human rights defenders and stifling legitimate grievances.

On 16 July, The Human Resource Development Corporation (HRD Corp) threatened legal action against The Edge and one of its writers over reports highlighting governance and financial issues flagged by the Public Accounts Committee (PAC) and the auditor-general[75]. The articles revealed concerns about HRD Corp's alleged dubious property deals, including an RM154 million building purchase without board approval, and suggested procedural failures and poor governance. HRD Corp denied the allegations, claimed adherence to governance standards, and demanded the articles' removal alongside a public apology.

74. https://www.freemalaysiatoday.com/category/nation/2024/04/19/psm-news-portal-set-aside-order-to-stop-debate-on-migrant-workers-plight/
75. https://www.malaysiakini.com/news/712124

VII. PEACEFUL ASSEMBLY

The intimidation and silencing of voices did not just exist in online spaces. This year, human rights activists were subjected to numerous challenges when expressing their right to free assembly. While Article 10(1)(b) of the Federal Constitution guarantees Malaysians the right to assemble peacefully, the practice remains fraught with barriers, inconsistent enforcement, and intimidation.

- **Investigations and Intimidation by the Police**

Many rights protests and pro-Palestine protestors were subjected to police investigations for alleged failure to provide notice under the Peaceful Assembly Act (PAA) 2012 (amended 2019). Human rights activists involved in these protests were called in for questioning, further exacerbating concerns over the shrinking space for dissent and the right to assembly.

- Failure of Notice: Protest organisers were frequently investigated for failing to provide sufficient notice. Despite the 2019 amendment to the PAA reducing the required notice period from 10 days to 5 days, the police continued to demand a 10-day notice period and have claimed that protestors need to obtain permits as part of the procedure to have public assemblies[76]. This issue persists even when, on 4 March, Inspector-General of the Police Razarudin Hussain said that the police no longer need to issue permits for assemblies and a notice is sufficient[77]. This inconsistency undermines the legitimacy of enforcement and creates barriers for spontaneous assemblies responding to urgent issues.

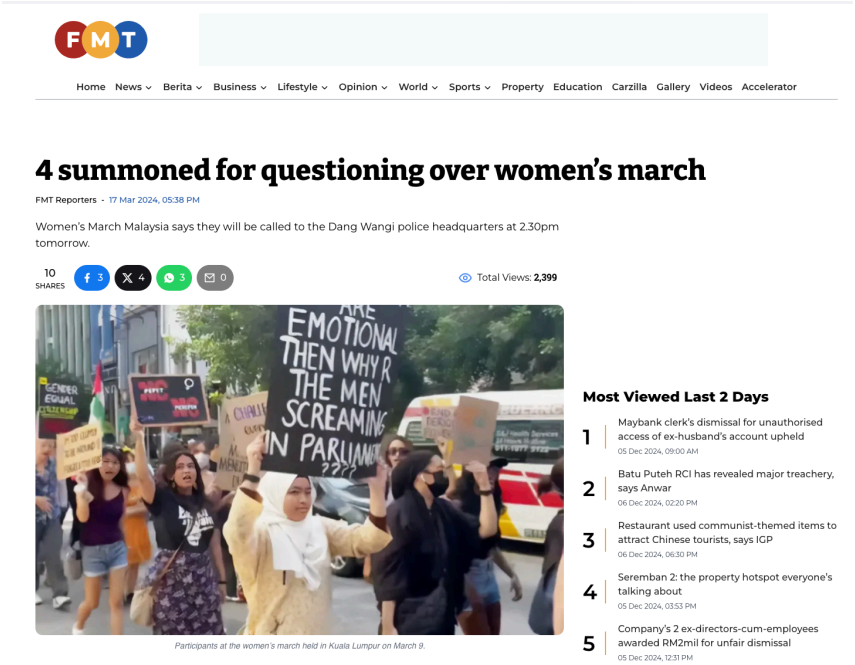


Figure 14 @ FreeMalaysiaToday

76. https://www.freemalaysiatoday.com/category/nation/2024/03/04/remind-cops-no-permit-needed-for-rallies-says-maria-chin/
77. https://www.nst.com.my/news/nation/2024/03/1021036/no-issues-permit-and-notice-permits-no-longer-needed-rallies-igp

- **Lack of Transparency from Police in Police Investigations**

The police failed to provide transparency in their investigative procedures, particularly regarding their actions against protest organisers and participants. Activists reported unclear charges, opaque processes, and a lack of public updates on the outcomes of these investigations. This was particularly apparent during the 2024 Women's March, where four of the organising committee were called in for investigation under PAA 2012[78]; the organisers cited that their notice was rejected four times and denied by the police without a proper explanation. This opacity raises concerns about accountability and the potential misuse of police powers to discourage public participation in assemblies.

- **Intimidation Tactics by Law Enforcement**

Police conduct during the protests needs to be highlighted further as it requires urgent action by the Minister of Home Affairs. CIJ stands firm in insisting that the authorities do away with heavy-handed and intimidating tactics to protect our fundamental right to protest.

- Excessive Presence of Law Enforcement: Protests were often met with a large number of police presence, including Special Branch officers. On 16 July, Boycott, Diversify and Sanctions (BDS) Malaysia, in a press statement[79], claimed to have received heavy-handed harassment while carrying out their weekly planned pro-Palestine protests.

- Use of force and immediate arrests: Activists were met with force and have been subjected to immediate arrest this year.

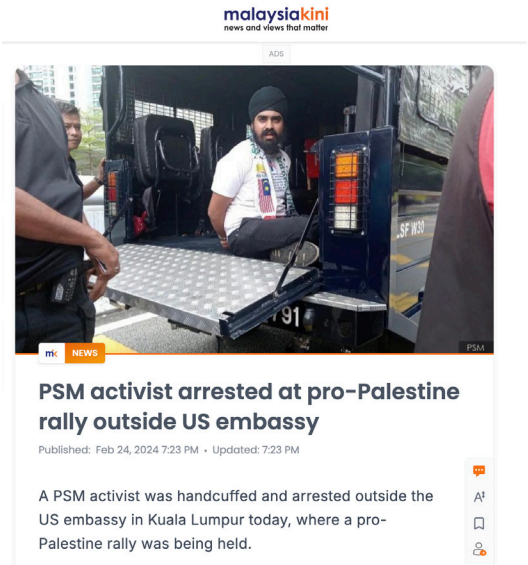


Figure 15 @ Malaysiakini

On 24 February, a PSM activist, Harmit Singh, was handcuffed and briefly arrested outside the US embassy in Kuala Lumpur before a pro-Palestine rally began, despite organisers having notified the police of the demonstration in advance. Harmit was released before the event ended but was required to give a statement to the police later.

78. https://www.freemalaysiatoday.com/category/nation/2024/03/17/4-summoned-for-questioning-over-womens-march/
79. https://bdsmalaysia.com/bds-malaysia-condemns-police-harassment-and-urges-reform-of-archaic-public-assembly-laws/

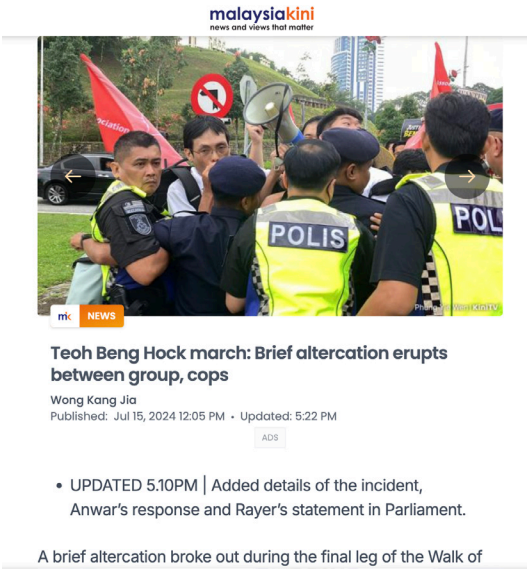


Figure 16 @ Malaysiakini

On July 15, a brief altercation occurred during the final leg of the **Walk of Justice** organised by the Teoh Beng Hock Association for Democratic Advancement (TBH-ADA) when police formed a barrier 100m from the Parliament gates, initially physically preventing the group from submitting their memorandum. The group criticised Prime Minister Anwar Ibrahim for his lack of engagement and called for better treatment of groups seeking justice, with calls in Parliament to ease the memorandum submission process.

VIII. ARTISTIC FREEDOM

This year, the government has been heavily scrutinising artistic freedom in the context of films. Unorthodox artistic expression has been met with heavy censorship and penalties, sparking necessary debate on whether Malaysia is interested in fostering talent within the artistic space. The implications of such actions are far-reaching, affecting not only filmmakers but also the broader cultural landscape.

Censorship of FIlm

Figure 17 @ FreeMalaysiaToday

In addition to the intense backlash faced by the directors and crew of the film Mentega Terbang, on January 17, the director and producer of the banned film were charged under Section 298 of the Penal Code for allegedly hurting religious sentiments, an offence punishable by up to one year in jail, a fine, or both. Their lawyer has also shared plans to challenge the validity of Section 298 in the High Court, arguing that the law may infringe on constitutional rights[80].

The action did not end there as Home Minister Saifuddin Nasution Ismail defended the ban on Mentega Terbang[81], claiming it promoted apostasy, religious pluralism, and liberalism, which he argued could disrupt public order and offend Islamic sensitivities. However, the film's director, Mohd Khairianwar Jailani, denied these claims, stating that the movie aimed to raise awareness about Malaysia's religious diversity.

80. https://www.malaysiakini.com/news/693400
81. https://www.malaysiakini.com/news/714060

Film Screenings Met with Intimidation

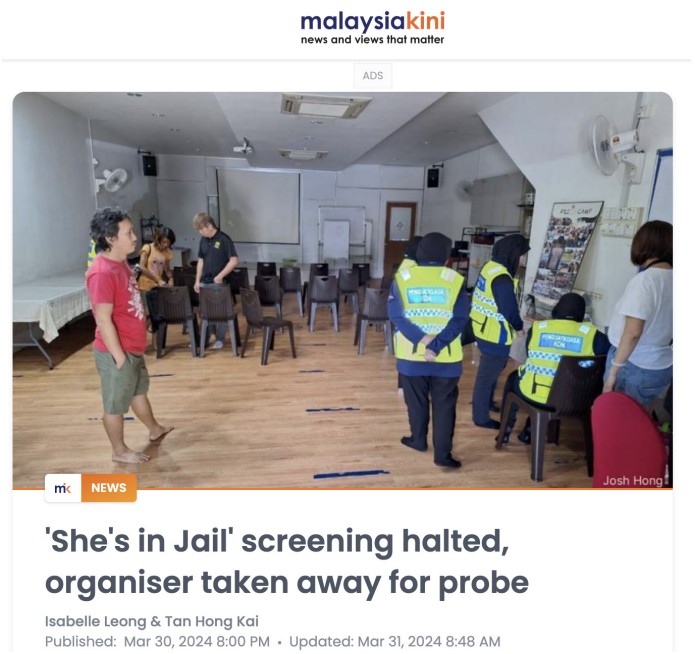


Figure 18 @Malaysiakini

On 30 March, the Film Censorship Board (LPF) and police halted a documentary screening of '*She's in Jail*' in Johor[82]. They cited the lack of approval under the Film Censorship Act 2002, leading to the questioning of activist Lee Chen Kang and the seizure of an external hard drive. The documentary, about Hong Kong pro-democracy activist Chow Hang-tung, had been screened previously in Kuala Lumpur and Ipoh without issue.

On 5 August, the Home Ministry (KDN) conducted an enforcement visit to the Freedom Film Festival (FFF) in Petaling Jaya. KDN officers claimed that they were inspecting the event to ensure compliance with the Film Censorship Act 2002. The screenings continued, with festival organiser Anna Har emphasising that the Act does not apply to online film screenings[83].

Film Censorship Guidelines

On 20 May, The Home Ministry launched a new film censorship guideline, which encompasses three main pillars incorporated in the new censorship guidelines: namely, public order and safety, religion and morality, and sociocultural perspective[84].

CIJ finds the new guidelines problematic on several fronts:

- **Expansion of LPF's Jurisdiction**

The censorship guidelines have now been broadened by the inclusion of private screenings, embassies, festivals, and non-commercial ventures in its purview, going beyond the scope of the Film Censorship Act (FCA) 2002. This amounts to overreach in terms of disturbing many forms of expression and denying the momentum of grassroots creative initiatives. The most notable example is the organisation Johor Yellow Flame being penalised for private screenings.

82. https://www.malaysiakini.com/news/701196
83. https://www.malaysiakini.com/news/714425
84. https://www.malaymail.com/news/malaysia/2024/05/20/home-minister-new-film-censorship-guidelines-launched-to-boost-production-of-high-quality-works/135440

- **Intolerance towards different perspectives**

According to the new Film Censorship Guidelines booklet, film content must not incite racial issues, political tension, misunderstandings, and confusion about religion. The ambiguity and overreach of these censorship criteria makes the Home Ministry the sole arbiter of the content. This lack of clarity risks arbitrary censorship, suppressing critical or meaningful discussions on societal challenges, and discourages filmmakers from addressing complex or sensitive topics crucial for fostering awareness and dialogue in Malaysia's diverse society.

Broadly restricting content with vague definitions will lead to self-censorship, stifle creative storytelling, and hinder filmmakers from exploring historical or contemporary social issues. This will lead to a severe drought in creative storytelling as these filmmakers will publish their work in other countries or publish them through online screenings so as not to face censorship[85].

- **Ban on LGBTQ+ content**

The government has also imposed its moral standing of protecting religious interests by the explicit prohibition of content featuring LGBTQ+ themes, which perpetuates discrimination and erases the lived realities of these marginalised communities. Such restrictions not only contravene global human rights standards but also hinder the creative industry from reflecting the diversity and complexity of Malaysian society. On 21 March, Home Minister Saifuddin Nasution Ismail reaffirmed that Malaysia does not recognise the LGBTQ+ lifestyle and will ban films promoting LGBTQ+ themes, communism, Islamophobia, or values contrary to Islam. He added that censorship of streaming platforms falls under the Communications and Multimedia Act, and discussions with the Communications Ministry could address such content if necessary.

85. https://www.scmp.com/lifestyle/entertainment/article/3244830/why-malaysian-film-pendatang-dystopian-thriller-playing-countrys-ethnic-tensions-aims-dodge-censors

IX. GENDER

Women and the LGBTQ+ community continue to be targets of violations of freedom of expression and their right to public participation, specifically where harmful narratives and stereotypes are consistently being propagated in public spaces. Gender-based violence persists both online and offline where women are often the targets of discriminatory and misogynistic behaviours. What is becoming increasingly worrying in Malaysia is the fact that these problematic behaviours are often enabled and even promoted by prominent politicians and key opinion leaders.

One instance of this occurrence was when Selangor PAS Youth Secretary Aubidullah Fahim Ibrahim said during the 65th annual muktamar of PAS that PAS Youth leaders should marry non-Malays or non-Muslims in order to garner more votes. He then stated that Selangor PAS Youth Chief Sukri Omar would "lead the way"[86].

In another instance, Terengganu Immigration director Azhar Abd Hamid publicly stated that local women – including older women – have been known to be 'targets' wherein foreign men marry them to obtain business licenses and to live in Malaysia. While he acknowledged that this is not a rampant issue in Terengganu, he did claim that there were cases such as these and that, left unaddressed, this issue would become an even bigger concern[87].

These statements made against women, depicting them as mere victims who are easily goaded into marriages, are not only false and unfair, but they also diminish the role of women in society as human beings capable of making decisions on their own – as much as men are.

Mahathir's Remarks on the LGBTQ+ Community and Women's Rights 'in the West'

Hate speech and disinformation propagated against the LGBTQ+ community continue to be an issue in Malaysia, particularly where the actors are notable public figures.

During a speech at a Perdana Leadership Foundation roundtable discussion, former Prime Minister Dr Mahathir Mohamad made disparaging remarks against the LGBTQ+ community and discouraged Malaysian women from emulating Western values. He stated, "By practising LGBT, [the LGBTQ+ community] would not be able to have children and eventually, their race will become extinct".

In his closing speech at the event titled "Masa depan umat Islam di Malaysia: Peranan wanita antara tuntutan dan kewaspadaan", he cautioned the audience – including women leaders, activists, and academicians – against emulating Europeans, particularly in reference to the LGBTQ+ community, further stating that this 'culture' erases "the concept of a family".

86. https://www.nst.com.my/news/politics/2024/09/1104929/selangor-pas-youth-proposes-marrying-non-malays-boost-votes
87. https://www.sinarharian.com.my/article/657595/berita/semasa/lelaki-warga-asing-kahwini-warga-emas-demi-lesen-perniagaan

This gender disinformation, spoken at a public event by a notable public figure, damages continued efforts to combat discrimination against the LGBTQ+ community. These actors are continuously given a platform from which they can and will propagate harmful rhetoric about women and the LGBTQ+ community in Malaysia.

The 88th CEDAW Review

In May 2024, the CEDAW Committee reviewed Malaysia's track record on women's human rights and implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) at its 88th Session from 22-24 May 2024 in Geneva, Switzerland. From a freedom of expression angle, both the CSO delegation and the CEDAW Committee recognised the need for many reforms in order for Malaysia to fulfil its obligations under CEDAW. These reforms include:

- Establishing a system for the collection of disaggregated data on discrimination against women through the enactment of an effective Right to Information Act;
- The inclusion of all women, particularly the underrepresented rural women, indigenous women, women with disabilities, and LBTI women, in political and public life and enjoyment;
- Abolishing patriarchal attitudes and stereotypes against women in society, which are particularly exacerbated whenever sexist or condescending remarks are made about women in politics, through the development and implementation of a comprehensive strategy to target community and religious leaders, girls and boys, and women and men, to eliminate stereotypes concerning the role of women in family and society;
- Adopting the Malaysian Media Council Bill and ensuring that it both promotes women's rights in the media and protects women journalists from attacks and gender-based violence;
- Ensuring that Members of Parliament are held accountable for sexist and condescending remarks about women;
- Providing capacity building to public officials and the media, as well as to managers, to enable them to address misogynistic stereotypes and promote positive portrayals of women as active drivers of development in the media; and
- Addressing discriminatory narratives targeting Lesbian, Bisexual, Transgender, and Intersex (LBTI) women.

The Mufti Bill

Another rising concern that will affect both freedom of expression and Malaysia's legal landscape is the proposed Mufti (Federal Territories) Bill. The Bill was first read in Parliament on 2 July 2024, and its broad provisions threaten to undermine individual freedoms, human rights, and institutional accountability. Amongst many other potentially problematic provisions, Section 11 of the Mufti (FT) Bill 2024 seeks to make fatwas binding on all Muslims in the Federal Territories. This potentially undermines a Muslim's right to depart from a fatwa to follow their personal observances, beliefs, or opinions. This section is also silent on whether or not Muslims are bound by ungazetted fatwas.

Furthermore, fatwas are also to be recognised by "any court" regarding all matters stated in the fatwa, which poses a constitutional issue because decisions made by the Fatwa Committee could affect non-Syariah courts[88].

The Mufti (FT) Bill 2024 thus poses a threat to Muslims' right to freedom of expression and their right to express their own religious practices or beliefs in Malaysia. Our government's lack of political will to accept criticism and meaningful consultation from concerned parties displays a complete failure to defend fundamental human rights in Malaysia.

Harassment of Women Journalists on the Field

On July 3 2024, a campaign worker at a political event attended by Deputy Prime Minister Datuk Seri Ahmad Zahid Hamidi during the Sungai Bakap by-election in Penang was reported to have sexually harassed a woman journalist on the job.

The journalist witnessed a man near her engaging in an indecent act, which was reportedly also observed by other media workers at the location. The man was arrested after surrendering himself at the Seberang Perai Selatan police headquarters. However, the case was classified as 'no further action' (NFA) by the office of the deputy public prosecutor[89].

The lack of protection of women journalists on the job is a persisting issue. Women journalists are entitled to the right to work in safe conditions without being denied the opportunity to pursue the same types of stories their male counterparts typically have no issue navigating.

Teresa Kok's Valid Questions Weaponised into Fodder for Hate Speech

DAP vice chairman Teresa Kok was criticised for suggesting that halal food certification should remain voluntary following the Malaysian Islamic Development Department's (Jakim) proposal to impose mandatory halal certification[90]. Teresa was also subjected to investigations under Section 298 of the Penal Code, Section 505(b) of the Penal Code, and Section 233 of the Communications and Multimedia Act 1998. UMNO Youth chief Dr Muhamad Akmal Saleh also disparaged Kok, calling her 'Nyonya tua (old Nyonya/old lady)' and suggesting she should have a non-halal logo on her head[91].

This disproportionate reaction to a Member of Parliament who was expressing her opinions on policy-related matters further depicts the state of freedom of expression in Malaysia. The state of freedom of expression will continue to erode if the authorities immediately shut down comments and suggestions, which are then exacerbated further by sexist and degrading remarks.

88. https://sistersinislam.org/the-far-reaching-implications-of-mufti-bill/
89. https://www.freemalaysiatoday.com/category/nation/2024/08/20/sexual-harassment-case-during-sungai-bakap-campaign-classified-nfa/
90. https://www.nst.com.my/news/nation/2024/09/1105011/kok-clarifies-remarks-halal-cert-after-uproar-says-comments
91. https://theedgemalaysia.com/node/731665

The Cyberbullying Case of Esha

Ms Rajeswary Apathua, known online on TikTok as Esha, was found dead on 5 July, a day after lodging a police report naming two people for allegedly harassing her using threats and vulgarities. In the police report, she cited that she feared being sexually assaulted and killed[92].

Her death, deemed as suicide, reflects and showcases the existing harms perpetuated on social media towards women who face increased prejudice, discrimination and palpable fear because of their gender. It is salient to observe that women are currently being sexualised, and patriarchal standards and expectations are being thrust upon women in online spaces, causing not only a general chilling effect but also physical and psychological harm that results in excessive measures being taken as we see in the above extreme case.

From instances such as this it is imperative that current online harms are addressed proportionately while preserving one's right to freedom of expression. However, the case above illuminates that these protective mechanisms would require the platforms to take effective and proportionate actions to prevent the propagation of this fear within women. Content moderation on platforms, as the first line of defence, is an effective measure of protecting women against online harms without being influenced by political expediency. However, platforms must first be held accountable to international human rights standards to meet their guidelines and enforcement.

92. https://says.com/my/news/here-are-key-facts-you-should-know-about-the-death-of-indian-malaysian-tiktoker-esha

X. RECOMMENDATIONS

A) Strengthening Freedom of Expression

- Ensure that any attempts to limit people's constitutional rights to free speech, expression and right to information adhere to established human rights principles and international standards and meet the following criteria:
    - They are grounded in a legal framework;
    - they are based on absolute necessity and not arbitrary; and
    - they are proportionate and serve the public's interest.

- Enable a secure and transparent space for people to engage in open and constructive discussions while upholding democratic values. Using fear-mongering or unjust enforcement of restrictive legislation to suppress or bully individuals who express dissenting opinions or disrespecting the government is unacceptable and must be avoided at all costs.

- Stop censorship and banning of arts and artistic performances, including satire.

- Initiate a comprehensive legislative reform based on Malaysia's international human rights obligations, and amend or repeal the following laws:
    - Film Censorship Act 2002
    - National Film Development Corporation (FINAS) Act 1981
    - Official Secrets Act (OSA) 1972,
    - Peaceful Assembly Act 2019,
    - Printing Presses and Publications Act 1984
    - Sedition Act 1948,
    - 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.

- Promote a progressive information regime and open governance by enacting a Right to Information (RTI) law.

- Ratify all outstanding international human rights treaties and their optional protocols.

- Establish anti-SLAPP legislation and foster an environment of zero tolerance towards retaliation against human rights defenders and media practitioners.

- Decriminalise defamation and allow defamation proceedings to fall under the purview of civil law, not criminal law.

- Develop a national action plan or framework to address women's and girls' freedom of opinion and expression online/in digital spaces by eliminating and preventing online gender-based violence.

- Repeal all discriminatory laws and discriminatory measures, including misinformation, raids, and censorship against LGBTQ people.

B) Strengthening Media Freedom

- Create an enabling environment for the media to function independently and without fear of repercussions for their reporting functions.

- Drop all investigations and pledge to stop all future acts of intimidation and adverse actions against the media and journalists.

- Review, amend and repeal repressive laws which restrict media freedom, specifically:
    - Official Secrets Act (OSA) 1972,
    - Printing Presses and Publications Act (PPPA) 1984,
    - Sedition Act 1948, and
    - Section 233 of the Communications and Multimedia Act (CMA) 1998

  to fall in line with the fundamental right to freedom of expression.

- Establish the Malaysian Media Council (MMC) as a transparent and independent self-regulatory body for the industry by adopting the work of the Protem Committee set up in January 2020.

C) Social media regulation

- Establish a social media council as an independent multi stakeholder co-regulatory framework to hold social media platforms accountable

- Engage with social media platforms and multi-stakeholder experts to strengthen the current social media standards and mechanisms to ensure effective responses in situations of harm in online spaces and to request social media platforms to conduct a human rights impact assessment of their use of AI in content moderation.

D) Providing better data and digital protection

- Establish legal and policy frameworks to prevent discrimination resulting from personalisation and targeting of products and services, leading to discrimination.

Annex I

Legislations and Policies referred to in the report

Law	Description
Section 233, Communications and Multimedia Act 1998	Prohibits posting offensive content online with the intent to annoy, abuse, threaten, or harass. The section has a broad and subjective definition of "improper use of network facilities or network services," criminalising "obscene," "indecent," "false," "menacing," or "offensive content."
Sedition Act 1948	Criminalises anything of a "seditious tendency" without requiring proof of intent, including exciting disaffection against the Ruler, promoting feelings of ill-will and hostility between races or classes, and questioning matters related to Malay as the official language or the special position of Malays and natives of Sabah and Sarawak. Terms like "hatred," "contempt," and "discontent" are vague and subjective.
Printing Presses and Publications Act (PPPA) 1984	Requires licence for publishing newspapers, issued by the Ministry of Home Affairs. Grants broad powers to the Home Minister to curtail content, revoke or suspend licence, and ban books and publications deemed prejudicial to public order, morality, security, or public interest. The grounds are vague and open to interpretation.
Official Secrets Act 1972	Criminalises dissemination of information classified as an official "secret." Allows any document to be classified as secret, with no harm requirement or connection to national security. No time limits for declassification, and courts cannot review the classification of documents.
Section 204A, Penal Code	Makes it an offence to disclose information obtained during the performance of duties or functions, with penalties of up to RM1 million in fines, imprisonment for up to one year, or both.
Section 500, Penal Code	Criminalises defamation.
Section 504, Penal Code	Criminalises intentional insults with intent to provoke a breach of the peace. The law is broad and used to criminalise all "insults," including legitimate comments necessary for democracy and accountability.
Section 505, Penal Code	Criminalises statements "conducing to mischief," including the making of misleading, false statements, or misinformation.
Section 298A, Penal Code	Criminalises speech insulting religion by causing, or attempting to cause, disharmony, disunity, enmity, hatred, ill will, or prejudice to harmony or unity on religious grounds.

Annex II

- 3 January, Malaysian Health Minister Dzulkefly Ahmad reported a fake Facebook account using his identity to the Malaysian Communications and Multimedia Commission (MCMC). He expressed concern over the creation of the account by irresponsible parties and urged the public to disregard any engagement with it. Dzulkefly lodged an official complaint with MCMC for further action to address the misuse of his identity and potential misinformation.

- 4 January, the Malaysian police have initiated investigations against two individuals for their remarks on the National Council of Islamic Religious Affairs (MKI). The investigations are related to DAP lawmaker Ngeh Koo Ham's suggestion for non-Muslim constitutional experts to be appointed to a committee studying the harmonization of Shariah law and the Federal Constitution. A committee was established by MKI, which Selangor's Sultan Sharafuddin Idris Shah headed. Investigations are ongoing under the Sedition Act 1948 and Section 233 of the Communications and Multimedia Act.

- 4 January, 15 individuals, including CSO leaders, MCA Youth deputy chief Mike Chong Yew Chuan, Muda secretary-general Amir Hariri Abd Hadi, and former MP Tian Chua, were summoned by the police to assist in the investigation of the 'Aksi Bertindak: Kepung Demi Palestine' rally near the US Embassy. The rally aimed to symbolically 'surround' the US embassy, demanding an end to Palestinian killings and an immediate ceasefire, highlighting the blockade on Gaza. The police are obtaining statements from organisers, involving 48 NGOs, to aid the probe under the Peaceful Assembly Act 2012.

- 5 January, Communications Minister Fahmi Fadzil announced the government's plan to appoint religious leaders, known as "asatizah," as spokespersons to engage with various communities to counter distorted Islamic views propagated by certain political leaders. Fahmi emphasised the importance of addressing extreme Islamic views within the opposition. He also stressed the government's objective to demonstrate that Islamic teachings can be more nuanced than what certain political leaders portray.

- 8 January, former Umno Youth exco Wan Muhammad Azri Wan Deris, also known as Papagomo, pleaded not guilty to charges of making seditious remarks linking the government to pro-Israel and pro-Western countries last year. The charges were framed under Section 4(1)(b) of the Sedition Act 1948.

- 10 January, the Malaysian police stated that they have received a total of 77 reports nationwide related to the 'Dubai Move,' an alleged plot to topple the unity government. Investigations are being conducted under Section 505(b) of the Penal Code and Section 233 of the Communications and Multimedia Act in response to concerns raised by videos circulating online suggesting a change of government.

- 11 January, a parcel delivery rider in Malaysia pleaded not guilty to 10 charges of insulting Islam, stemming from a text uploaded on Facebook that was deemed offensive to the Islamic faith. The charges fall under Section 233(1)(a) of the Communications and Multimedia Act, which deals with the improper use of network facilities or services. Bail was set at a cumulative amount of RM16,000.

- 12 January, the police in Malaysia initiated an investigation into claims that Perikatan Nasional (PN) attempted to bribe the King to overthrow the government. The investigation was conducted under Section 500 of the Penal Code for defamation and Section 233 of the Communication and Multimedia Act 1998.

- 29 January, the High Court overturned a gag order imposed on Mentega Terbang film producer Tan Meng Kheng, stating that the prosecution failed to demonstrate a real and substantial risk to the fairness of the trial. Tan had applied to challenge the gag order, arguing that it was illegal and restricted freedom of speech, while both he and the film director, Mohd Khairi Anwar, faced charges related to allegedly hurting religious sensitivities through the film.

- 30 January, a lorry driver, Faizal Mohamad, was sentenced to a six-month jail term by the sessions court for posting a death threat against Prime Minister Anwar Ibrahim on TikTok. Faizal had pled guilty and was charged under Section 233 of the Communications and Multimedia Act.

- On 31 January, former Umno veteran Datuk Abd Zarin Mohd Yasin, aged 72, was charged for uploading offensive posts on the procurement of Covid-19 vaccines on his Facebook account 4 years ago. The charge is under Section 233 of the Communications and Multimedia Act 1998. Abd Zarin was granted bail at RM7,000 with one surety.

- 4 February, Inspector-General of Police Razarudin Husain confirmed that DAP politician Tony Pua will be summoned for questioning over his Facebook remarks criticising the Pardons Board's decision to reduce Najib Razak's prison sentence. The police are investigating the case under the Sedition Act and Section 233 of the Communications and Multimedia Act.

- On 7 February, Sarawak Report editor Clare Rewcastle-Brown was sentenced to two years in absentia for defaming the Sultanah of Terengganu, Sultanah Nur Zahirah. She was charged with criminal defamation under Section 500 of the Penal Code stemming from claims made in Rewcastle-Brown's book, "The Sarawak Report - The Inside Story of the 1MDB Expose", regarding the Sultanah's alleged involvement in the corruption scandal.

- 10 February, Nik Elin filed three police reports after receiving death threats following her successful Federal Court challenge that nullified 16 provisions in Kelantan's Syariah criminal laws. The police are investigating this under Section 233 of the Communications and Multimedia Act 1998.

- 12 February, former Permatang Pauh MP Nurul Izzah Anwar announced on Facebook that she would soon lodge a police report against an alleged slanderous post made against her, denying false claims of appointment and salary allocation. She emphasised the importance of verifying information and warned against spreading false information, citing possible legal violations under Section 233 of the Communications and Multimedia Act 1998.

- 15 February, the Home Ministry conducted its largest seizure of sex toys this year, valued at RM70,000 in operations across multiple states, resulting in the detention of four individuals suspected to be proprietors. These seizures, conducted under the Printing Presses and Publications Act 1984, point to the ministry's efforts to combat the sale of sex toys, which is deemed contrary to societal values and culture, with suspects facing potential legal actions under Section 292(a) of the Penal Code for distribution of 'obscene' material.

- 19 February, social media influencer Dd Chronicle, real name Dediy Sulaeman Ra'e, was summoned by the police to record a statement regarding a parody video allegedly mocking the Federal Court's decision on the Kelantan Shariah enactment issue. The investigation was conducted under sections 504 & 505 of the Penal Code and Section 233 of the Communications and Multimedia Act.

- 21 February, content creator Ryzal Ibrahim, known for the 'Duriankimchi' YouTube channel, was charged at the sessions court in Miri under Section 233(3) of the Communications and Multimedia Act 1998 for ridiculing the traditional Iban costume Ngepan Indu on social media, Ryzal pled guilty and was fined RM10,000, by default 6 months in jail.

- 4 March, Women's March Malaysia (WMMY) organisers stated that the police rejected four of their notifications to hold a march commemorating International Women's Day without any explanation. Despite the Peaceful Assembly Act 2012 abolishing the need for a permit, WMMY planned to make a final attempt to serve a notice to the police for approval at the Dang Wangi police headquarters.

- 5 March, PAS President Abdul Hadi Awang was questioned by police regarding remarks in a letter towards the Sultan of Selangor. This sparked investigations under Section 4(1) of the Sedition Act 1948 and Section 233 of the Communications and Multimedia Act 1998.

- 6 March, police recorded statements from individuals Chegubard (Badrul Hisham Shaharin) and Muhammad Zahid Md Arip regarding allegedly seditious remarks related to a car gift from Malaysia's King to Prime Minister Anwar Ibrahim. The investigation is ongoing under Section 4(1) of the Sedition Act 1948 and Section 233 of the Communications and Multimedia Act 1998.

- 7 March, a fishmonger was arrested for posting an offensive comment against the Raja of Perlis on Facebook, following a police report lodged by another individual. The netizen was remanded for three days, and the case is being investigated under Section 4(1) of the Sedition Act 1948 and Section 233 of the Communications and Multimedia Act 1998. Police are also probing the defacement of banners featuring the Raja Muda of Perlis's photograph.

- 11 March, an investigation was initiated against academic Teo Kok Seong under 505(b) of the Penal Code and Section 233 of the Communications and Multimedia Act for allegedly criticising vernacular schools. This comes amid debates in Parliament regarding vernacular schools, following recent court rulings upholding their constitutional status.

- 17 March, police are summoning news anchor Muhammed Ahmad Hamdan over a letter he wrote regarding allegedly rude conduct by a patrol officer. Muhammed's letter, published in the New Straits Times, detailed the encounter where he felt intimidated and harassed, prompting a police response. Investigations are initiated under Section 504 of the Penal Code and Section 233 of the Communications and Multimedia Act 1998.

- 17 March, a doctor accused of sexually harassing a trainee doctor at Raja Permaisuri Bainun Hospital in Ipoh filed a police report following the spread of a defamatory letter on social media. This has led to investigations under Section 500 of the Penal Code for defamation and Section 233 of the Communications and Multimedia Act.

- 25 March, five individuals, including two Directors of KK Super Mart and three from a vendor, were charged in Malaysia for selling socks with the word "Allah,". This is deemed sacred by Muslims and caused widespread outrage and calls for a boycott. The case is investigated under Sections 109, 298, and 298A of the Penal Code and Section 233 of the Communications and Multimedia Act.

- 27 March, the Malaysian police's attempt to issue a red notice against Facebook owner Ganesparan Nadaraja failed because the offences were not covered under Article 3 of Interpol, according to Bukit Aman Criminal Investigation Department director Mohd Shuhaily Mohd Zain. Investigations are ongoing under various laws including the Sedition Act 1948, Section 505(c) and Section 298 of the Penal Code, and Section 233 of the Communications and Multimedia Act 1998, regarding Ganesparan's alleged offences involving religious and racial issues.

- 30 March, a teacher accused of paedophilia at MRSM Tumpat has lodged a defamation report against a former student who made these allegations on social media. This has prompted an investigation by Kelantan police under Section 500 of the Penal Code and Section 233 of the Communications and Multimedia Act 1998. Meanwhile, Majlis Amanah Rakyat (Mara) has initiated a thorough investigation into the allegations and suspended the teacher pending the outcome.

- On 30 March, a screening of the independent documentary "She's in Jail" in Skudai, Johor, was cancelled after one of the organisers was questioned by the Film Censorship Board (LPF) and police, citing lack of approval for the film. Activist Lee Chen Kang was questioned under Section 6 of the Film Censorship Act, with LPF personnel seizing screening devices for investigation. "She's in Jail" is a documentary that portrays the story of Chow Hang-tung, a human rights lawyer and pro-democracy activist from Hong Kong. Chow is facing charges of "inciting subversion" under Hong Kong's national security law. She has been in detention for more than two years and is currently awaiting trial.

- 27 June, Mukmin Nantang, founder of Borneo Komrad, was arrested by Sabah police and later released on bail. Mukmin is being investigated for sedition after highlighting the eviction of the Bajau Laut community in Sabah, which the authorities justified as a safety measure following criminal activities in the area.

- 20 June, the Malaysian Communications and Multimedia Commission (MCMC) reported that over 70% of content removal requests were related to online gambling and scams, denying accusations that the requests were intended to silence government criticism. Despite these claims, the significant increase in content removal raises concerns about the impact on freedom of expression, particularly regarding sensitive issues such as race, religion, and royalty.

- 22 June, voters in the Sungai Bakap by-election were urged to avoid inappropriate comments, particularly on race, religion, and royalty (3R) issues, with the Malaysian Communications and Multimedia Commission (MCMC) warning of action against violators.

- 24 June, Malaysia's proposed licensing regime for social media and messaging platforms raised concerns among stakeholders, who fear potential government overreach and abuse, despite initial claims that the initiative would focus on digital revenue-sharing with local content producers. Instead, the proposals, including a kill switch for content removal and mandatory content moderation audits, have sparked pushback from platform owners and civil society.

- 30 June, police opened an investigation into the "Rakyat Tolak Anwar" rally held outside the Seri Perdana Complex in Putrajaya, summoning 12 individuals under the Peaceful Assembly Act 2012 for allegedly holding the protest without proper permission. Despite the investigation, Home Minister Saifuddin Nasution Ismail stated that the rally reflects the government's respect for peaceful assembly and freedom of expression under Prime Minister Anwar Ibrahim's leadership.

- 21 June, MACC chief commissioner Tan Sri Azam Baki dropped the RM10 million defamation lawsuit he filed against whistleblower K. Lalitha, who wrote articles alleging business ties among MACC leadership, with the case being discontinued without admission of fault from either party. Azam had initially claimed that the articles and related tweets were defamatory and sought damages, while Lalitha maintained that her reporting was based on legitimate sources.

- 25 June, police investigated preacher Firdaus Wong, following a report by the Malaysian Hindu Agamam Ani Association. The investigation centres on a TikTok video where Firdaus allegedly advised on how underage non-Muslim teenagers could secretly convert to Islam, sparking concern among non-Muslims. The Investigation was conducted under Section 505(c) of the Penal Code for allegedly making a statement that could incite public mischief.

- 30 June, Johor police investigated the Facebook page "Kelab Penyokong Pas Malaysia" for seditious posts implicating the Johor Regent in a supposed corruption scandal, following several reports against the page's administrator. The investigation covers violations under the Sedition Act 1948 and the Communications and Multimedia Act 1998.

- 9 August, three **Malaysiakini journalists**—Nantha Kumar, Hariz Mohd, and Shahrin Aizat Noorshahrizam—were questioned by police for over an hour regarding an article about a rumored reshuffle in **Bukit Aman**. The investigation focuses on **Section 233 of the Communications and Multimedia Act** (improper use of network facilities) and **Section 505(b) of the Penal Code** (statements conducive to public mischief).

- 9 October, the police are investigating allegations of interference by Prime Minister Datuk Seri Anwar Ibrahim in the MACC investigation, based on a report by Bloomberg and a statement by former UMNO Supreme Council member Isham Jalil. The investigation is being conducted under **Section 500** (defamation) and **Section 505(b)** (statements conducive to public mischief) of the Penal Code, as well as **Section 233** of the Communications and Multimedia Act 1998 (improper use of network facilities).

- 19 August, a Sabah assemblyman, Arsad Bistari, lodged a police report denying the content of a viral video linking him to corruption, claiming the video had been "edited." The case is being investigated under **Section 500** of the Penal Code (defamation) and **Section 233** of the Communications and Multimedia Act (improper use of network facilities).

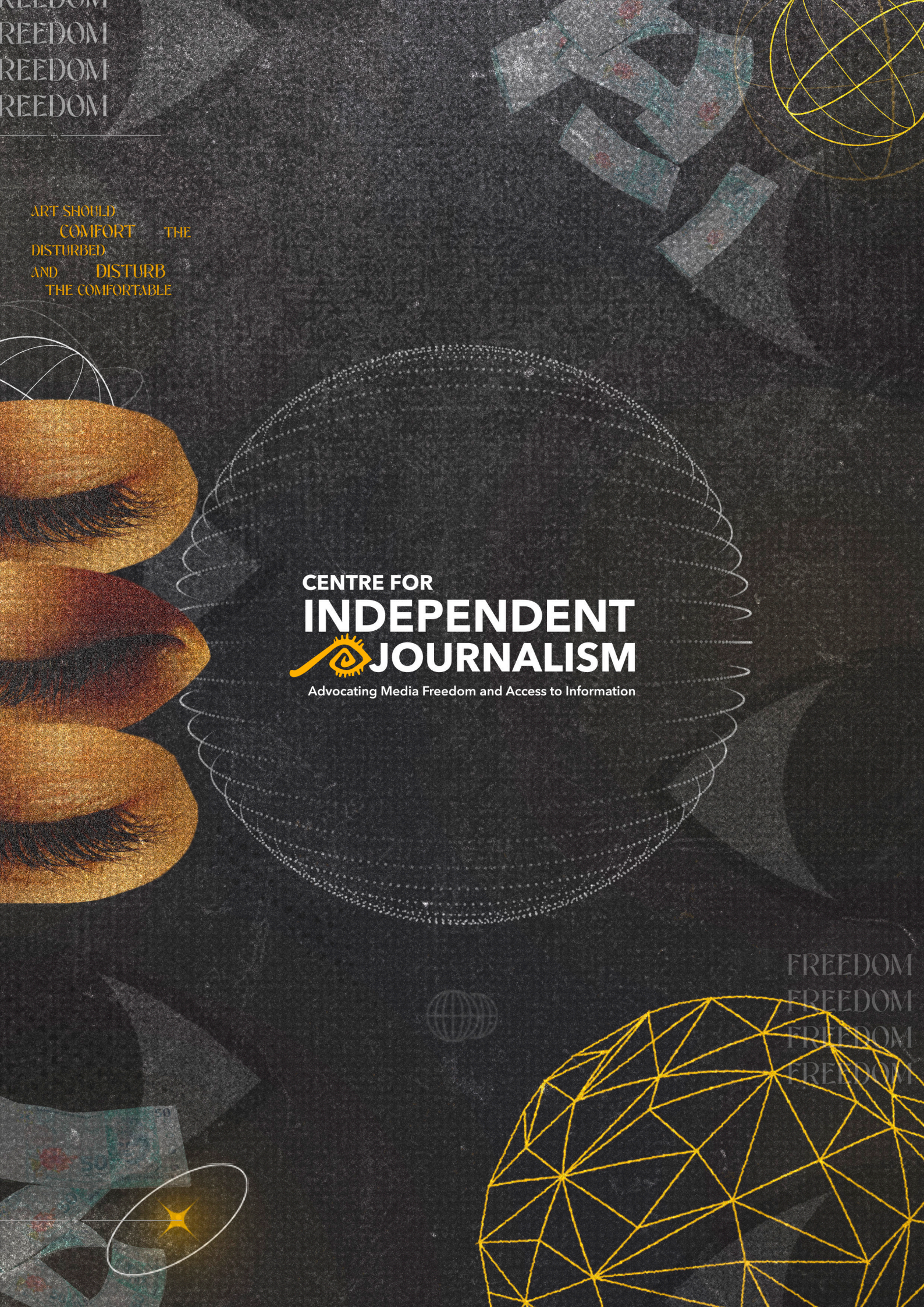
Takedowns

- 3 March, former minister Rafidah Aziz criticized the blocking of her Facebook post in Malaysia, which addressed the discharge of retirees from the National Heart Institute and refused to appeal to Facebook. Communications Minister Fahmi Fadzil clarified that the Malaysian Communications and Multimedia Commission did not request the block, and Rafidah demanded clarification on the legal basis for the action.

- 30 June, the Malaysian government denied involvement in the removal of former minister Khairy Jamaluddin's TikTok posts on BlackRock and Malaysia Airports Holdings Bhd, with Communications Minister Fahmi Fadzil stating that no instructions were given. The removal of the posts was attributed to TikTok's community guidelines, and the case is being examined under **Section 233** of the Communications and Multimedia Act (improper use of network facilities) for potentially offensive content.

- 4 July, the Malaysian Communications and Multimedia Commission (MCMC) is investigating viral posts from the "Bola Tribe" account for content related to sensitive issues such as race, religion, and the royal institution, with a strong possibility that the account is fake. The case is being examined under **Section 233** of the Communications and Multimedia Act (improper use of network facilities), which criminalizes offensive or provocative content that could incite disharmony.

- 17 November, the Malaysian Communications and Multimedia Commission (MCMC) has requested for Malaysiakini to remove an article and video about a purported Sabah corruption scandal involving an RM70 million project. The MCMC's letter, sent on November 16, expressed concerns that the content could interfere with ongoing police investigations related to a death threat linked to the case.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