

## PRESS STATEMENT

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### **One Step In The Right Direction; S233 of the CMA Must Be Repealed**

The Centre for Independent Journalism (CIJ) welcomes the Court of Appeal's landmark ruling in *Heidy Quah v Government of Malaysia*, which declared the use of Section 233(1) of the Communications and Multimedia Act (CMA) to criminalise online expression deemed “offensive” or made with the “intent to annoy” as unconstitutional.

This Court affirmed that such vague and subjective provisions are inconsistent with Article 10(2)(a) of the Federal Constitution which guarantees freedom of expression, read together with Article 8(1) on equality, respectively, serving as a precedent for all future judgements. It is critical to note that the Court further extrapolated that criminalising “offensive” speech made with the “intent to annoy” under section 233 effectively enables the authorities to censor expression or views disliked by certain groups, in direct contradiction to the CMA's guarantee under section 3(3) that “nothing in the Act shall be construed as permitting the censorship of the internet”.

For too long, these vague and ambiguous provisions have been used to meet political expediency and uphold archaic values that are antithetical to international human rights standards. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) requires restrictions on speech to meet the three-part test of legality, necessity and proportionality. This is further affirmed by the UN Human Rights Committee's [General Comment No.34](#) that freedom of expression includes speech that may be “deeply offensive.” Therefore, criminalising expression on the grounds that it is “offensive” or “annoying” is incompatible with democratic discourse, and undermines the Madani government's commitments to human rights reform.

The misuse of Section 233 is not theoretical – it has repeatedly been weaponised to suppress criticism, bringing fear to human rights defenders, media and other critics of the prevailing government. Aside from Heidy Quah, we have seen Lalitha Kunarathnam summoned by police over her investigative article exposing corruption; activist and satirist Fahmi Reza repeatedly investigated for his political satire; the “Mentega Terbang” filmmakers targeted for artistic expression; former Bar Council president [Ambiga Sreenevasan](#) and activist lawyer [Siti Kasim](#) investigated by the police when they critiqued the government's investigation into former attorney general Tommy Thomas; and Malaysiakini journalists summoned in 2024 in

a chilling move against media freedom. These cases, amongst others, illustrate how the law has stifled legitimate expression, created a climate of fear, and obstructed the role of civil society and media in holding power to account. Human rights defenders like Heidy Quah must be allowed to speak without fear of prosecution when representing and bolstering the voices of those who cannot reach the ones in power. The peoples must be allowed to speak their minds, critique policies, demand accountability of the State and engage in open dialogue towards effective governance and rule of law without the constant fear of criminal sanctions.

The Court of Appeal's ruling sets a precedent for a future in which critical discourse and demanding accountability are not treated as threats to public order but as the foundation of a healthy democracy. We note that this ruling is in relation to the pre-2025 version of the CMA – before the amendments which resulted in the term “offensive” being substituted with “grossly offensive” and supplemented with additional Explanations were gazetted on 7 February 2025. Nonetheless, CIJ had argued that the [2025 amendments to Section 233 were equally expansive and vague](#), and failed to meet the threshold of allowable restrictions of speech and expression. International law protects any form of expression or speech, even those that are profoundly offensive, shocking, and disturbing. Restrictions that do not meet the three-part test violate the right to freedom of expression.

CIJ reiterates its longstanding call for the repeal of Section 233 of the CMA. As an immediate step, however, we urge the Ministry of Communications (KKOM) and Parliament to give full effect to the Court of Appeal's ruling by amending Section 233(1), including in interpreting the full spirit and principles of this ruling in relation to the CMA 2025. There must be a moratorium on the use of Section 233 until the proposed amendment or repeal comes into effect.

Malaysia now has an opportunity to move decisively away from repressive laws which restrict our constitutionally guaranteed freedom of expression and towards a legal framework that protects critical debate and accountability. The Court has done its part; the Parliament must now act.

**20 August 2025**

**Wathshlah G. Naidu**

**CIJ Executive Director**

For further inquiries, please contact Lim Jih-Ming at [comms@cijmalaysia.net](mailto:comms@cijmalaysia.net)

*The Centre for Independent Journalism is a feminist, 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.*