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Freedom of the Press 2014 - Malaysia

Long-standing media controls in Malaysia were forced onto the public agenda in 2013 during the run-up to general elections in May, when the opposition coalition Pakatan Rakyat vowed to abolish all legislation restricting press freedom. Although Pakatan Rakyat won over 50 percent of the popular vote and gained seven seats in Parliament, the ruling Barisan Nasional (BN) coalition retained power. At the end of the year, all legal restrictions remained in place.

The constitution guarantees freedom of expression under Article 10, but it allows for a host of limitations on this right. The Sedition Act and harsh criminal defamation laws are regularly used to impose restrictions on the press and other critics of the government. Violations are punishable by several years in prison. In July 2013, Alvin Tan and Vivian Lee, a self-styled “sex-blogger duo,” were arrested after they posted a Facebook image of themselves eating *bak kut teh*, a popular pork soup, under a Ramadan greeting that read, “Happy Breaking Fast, with fragrant, delicious and appetizing *bak kut teh*.” Eating pork is forbidden for Muslims, and the post was deemed offensive by Muslim and non-Muslim Malaysians alike. The two were charged under Subsection 4(1)(c) of the Sedition Act for posting seditious material, Section 298A of the penal code for promoting enmity between different racial or religious groups, and Subsection 5(1) of the Film Censorship Act for publishing indecent photographs. Initially denied bail, they were released after one week in

detention. Their trial was postponed until 2014. In June 2013, local media reported that a woman was arrested under both the Sedition Act and the Communications and Multimedia Act (CMA) for insulting the Malaysian monarch in a Facebook comment.

The Internal Security Act (ISA), which allowed detention without trial and had been used in the past against members of the press and opposition figures, was repealed in 2012. However, the ruling coalition replaced it with the Security Offences (Special Measures) Act (SOSMA). The new law grants suspects the right to a fair trial, but nevertheless permits 28 days of initial police detention, after which the attorney general must decide whether to prosecute. Despite an earlier government pledge to abolish the Sedition Act, prosecutions have increased in recent years. Political cartoonist Zulkiflee Anwar Haque, better known as Zunar, was arrested under the act in 2010 following his publication of a collection of cartoons, which the police seized. He filed a suit accusing the authorities of unlawful arrest and detention, but the High Court rejected it in 2012. In November 2013, Zunar lost an appeal of that ruling.

Although the opposition-controlled states of Selangor and Penang passed freedom of information laws in 2011, Malaysia has no federal law with such guarantees, and officials remain reluctant to share even innocuous information with journalists—including the content of proposed legislation—for fear of being charged under the Official Secrets Act (OSA).

The CMA gives the communications and multimedia minister a large measure of discretionary authority over broadcast licenses, leading to considerable self-censorship among broadcast journalists. In keeping with a promise by the prime minister, the BN reviewed existing media licensing and censorship laws in 2012, and an amendment to the 1984 Printing Presses and Publications Act (PPPA) repealed a provision that had required all publishers and printing firms to obtain an annual operating permit. However, the revision left all other restrictions in place, including the government's authority to grant or deny license applications and to revoke the required licenses at any time without judicial review. The Home Affairs Ministry may likewise continue to issue "show cause" letters, which require newspapers to explain certain articles or face suspension or revocation of their permits. On May 22 and July 8, 2013, the ministry seized copies of opposition party newspapers *Suara Keadilan* (owned by the People's Justice Party, or PKR) and *Harakah* (owned by the Pan-Malaysian Islamic Party, or PAS) for breaching permit conditions, including a rule stating that the newspapers may be sold to party members only. In December, the ministry suspended the weekly magazine *The Heat* indefinitely over alleged violations of the terms of its publishing license. The magazine, which had registered as an economic and social weekly in July 2013, had begun covering broader current events in the manner of a daily, according to the Home Affairs Ministry. *The Heat's* publishers claim that they had clarified the magazine's status with the ministry months earlier, and that officials had in fact agreed to the change. Critics of the suspension argued that it was politically motivated, as the magazine had recently published a feature article detailing lavish spending by the prime minister and his wife.

In October 2013, the Malaysian Court of Appeal upheld a High Court finding that Mkini Dotcom, the parent company of the Malaysiakini news website, had the right to obtain a newspaper license. The Home Affairs Ministry had refused to issue the license for a print edition, arguing that it was "a privilege," not a right. However, the High Court judge in 2012 had ruled that the ministry's decision was "improper and irrational" and exceeded the limits of its authority. The judge also noted that the right to a license was a freedom of expression issue and as such was "a fundamental liberty

enshrined in the constitution.” The Home Affairs Ministry elected not to contest the 2013 appeals court verdict, clearing the way for Malaysiakini to reapply for the print license.

The internet remains a bright spot in the media landscape, with the government formally committed to a policy of refraining from direct online censorship through Section 3(3) of the CMA and the Multimedia Bill of Guarantees. However, web content is monitored by the Malaysian Communications and Multimedia Commission (MCMC), and there were numerous reports of cyberattacks on independent news sites prior to the May 2013 general elections. In June, when Communications and Multimedia Minister Ahmad Shabery Cheek noted that the government was studying the possibility of regulating online news portals, netizens greeted his remarks with anger and derision. In November, the Federal Department of Islamic Development issued a call for stronger internet regulation; the MCMC had investigated 29 cases of “insults against Islam,” including on social media, in the first half of the year. However, the government had taken no further action on these proposals by year’s end.

Independent news outlets and online portals are occasionally restricted in their ability to cover official events. For example, Malaysiakini journalists have been barred from covering political party conferences and some ministerial press conferences and briefings. Media watchdogs reported that mainstream outlets’ coverage of the 2013 elections was heavily biased in favor of the incumbents. The Southeast Asian Press Alliance noted some intimidation of journalists, including threats and interference with investigative work.

Physical harassment and intimidation are usually less of a danger for journalists than arbitrary arrest or threats of legal action, though incidents are occasionally reported. In February 2013, three Al-Jazeera television journalists, who were reporting on an armed standoff in Sabah between Malaysian troops and a Philippines-based militia group calling itself the Royal Sulu Sultanate Army, were detained and interrogated by Malaysian authorities for at least six hours. One of the journalists, a Filipina, was accused of working for the rebel group.

Although the media industry is dominated by private ownership, the majority of print and broadcast outlets are controlled either by political parties in the ruling coalition or by businesses with political connections to the government. The largest media conglomerate, Media Prima, owns half of the Malay and English-language newspapers as well as many television channels; it is believed to be closely linked to the United Malays National Organization (UMNO), the leading party of the BN. Huaren Management, which is associated with another BN member, the Malaysian Chinese Association, monopolizes Chinese-language newspapers. Despite the BN’s insistence that mainstream newspapers are impartial, the owners’ political and business interests often lead to self-censorship by journalists. Foreign print media are occasionally censored or banned.

With around 67 percent of the population accessing the internet in 2013, Malaysia is home to many news websites and blogs that offer competing points of view. Although not all internet news organizations are politically independent—many have suspected affiliations with politicians from either the opposition or the ruling coalition—they offer an array of political opinions that cannot be found in the traditional media. Social-networking sites such as Facebook continued to flourish in 2013, hosting vigorous debates on political issues and government policies. The internet has also been a place to challenge corruption and raise other human rights concerns, though existing laws require bloggers to tread carefully.

2014 Scores

Press Status

Not Free

Press Freedom Score

(0 = best, 100 = worst)

64

Legal Environment

(0 = best, 30 = worst)

24

Political Environment

(0 = best, 40 = worst)

23

Economic Environment

(0 = best, 30 = worst)

17

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