

Freedom of Expression in Malaysia: A Factsheet for Advocacy

1. Legal Landscape:

Issue: Government critics are silenced, and expression is criminalised through laws such as the Sedition Act 1948, Section 233 of the Communication and Multimedia Act 1998, Printing Presses and Publications Act 1984, and sections 298, 499, 504, and 505 of the Penal Code.
Concern: Despite promises to repeal draconian laws, the archaic Sedition Act persists, and a troubling pattern involves combining sections of different laws to investigate and prosecute online speech.

2. Printing Presses and Publications Act (PPPA):

Issue: The PPPA has unclear criteria for what is "prejudicial to public order or national security," and its definition of "publications " is vague. It is used to restrict items related to religion and LGBTQ+ issues.

Concern: Restrictive permit systems and vague definitions limit public discussions and ideas, impeding media freedom.

3. Media Freedom:

Issue: Despite accepting recommendations for improvement, media freedom remains constrained, with journalists facing harassment and investigations.

Positive Aspect: Initiatives for a media council have started, but concerns exist about government decision-making powers within the council.

4. Right to Information:

Issue: There is limited access to information on crucial matters due to the culture of secrecy, legal restrictions like the Official Secrets Act (OSA) of 1972, and the absence of right-to-information legislation.

Concern: Lack of progress in amending the OSA hampers drafting effective right-to-information legislation.

5. Strategic Lawsuits Against Public Participation (SLAPP):

Issue: SLAPPs are used to hinder criticism of development projects, involving both corporations and enforcement agencies.

Concern: The legal system is exploited to suppress public participation and dissent.

6. Personal Data Protection Act (PDPA) 2010:

Issue: Online platforms face data breaches; PDPA enforcement is limited, with no sanctions for corporations or perpetrators.

Concern: Ineffectiveness in safeguarding data and protecting user rights.

7. General Elections 2022:

Issue: Politicians employ divisive narratives, hate speech, and disinformation, particularly targeting LGBTQ+ individuals.

Concern: The proliferation of hate speech and disinformation undermines democratic processes and silences political dissent.

8. Syariah Criminal Offences (Federal Territories) Act 1997:

Issue: Restricts freedom of expression based on religion, sexual orientation, and gender identity.

Concern: Enables penalties for disobedience of fatwas, limiting freedom of speech in matters related to Islam.

9. Suppression of Peaceful Assemblies:

Issue: Police suppress peaceful assemblies through the Peaceful Assembly Act and Sedition Act of 1948.

Concern: Restrictive laws hinder freedom of assembly, allowing authorities to decide legality and use excessive force.

Recommendations for Advocacy:

- Comprehensive legislative reform to align laws with international human rights obligations.
- Enact a right-to-information (RTI) law and amend the Official Secrets Act for effective alignment.
- Establishment of a transparent and independent Malaysian Media Council (MMC).
- Anti-SLAPP policies, amendments to the Whistleblower Protection Act, and zero tolerance for retaliation against human rights defenders.
- Decriminalisation of defamation, shifting proceedings to civil law.
- Repeal of the Printing Presses and Publications Act 1984 to safeguard fundamental freedoms.
- Review and amendment of the Personal Data Protection Act for effective data protection.
- Establishment of an independent multistakeholder committee to address hate speech in line with international standards.
- Cessation of arbitrary raids on LGBTQ+ spaces by authorities.
- Recognition of freedom of expression as a fundamental right in all legal enactments.
- Ratification of outstanding international human rights treaties and their optional protocols.

Note: A moratorium should be in place during legislative reforms.