



CENTRE FOR  
**INDEPENDENT  
JOURNALISM**  
Advocating Media Freedom and Access to Information

# Report on the State of Freedom of Expression (FOE) in Malaysia 2022

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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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## I. INTRODUCTION

This rather tumultuous year continued with the repercussions of new political maneuverings, increase in restrictions and criminalisation of expressions in various forms, and culminated in the dissolution of parliament in October.

Throughout 2022, CIJ has observed and monitored an increase in the usage of oppressive legislation such as the Sedition Act and the Communications and Multimedia Act, Peaceful Assembly Act 2019, Sections 298A, 500, 504 and 505 of the Penal Code, amongst others, to silence dissenting opinions and expressions. Civil Society Organisations (CSOs) have also observed the suspension or derogation of our fundamental human rights in the name of national security, public order, public morality and sovereignty. We have noted incidents where defamation laws were used against the media as part of Strategic Litigation against Public Participation (SLAPP).

Netizens, media, human rights defenders (HRDs), opposition politicians, students and artists came under investigation for various forms of expression and speech.

Several key cases included Fahmi Reza, a satirical graphic artist and political activist who continued to be probed in 2022 for his work, and Lalitha Kunaratnam, a Malaysian independent investigative journalist and whistleblower who exposed the alleged corrupt practices of Malaysian Anti-Corruption Commission (MACC) Chief Commissioner Azam Baki. Lalitha was sued by Azam Baki for [RM10 million](#) on January 12 on the grounds of defamation. She was also investigated by the authorities under Section 233 of the Communications and Multimedia Act 1988.



Authorities frequently used harassment tactics, and below are some of the cases<sup>1</sup> where many individuals were investigated under archaic and repressive laws in 2022:

Laws	Number of Incidents 2021 <sup>2</sup>	Number of Investigations 2022 (Jan - Nov) <sup>3</sup>	No. of people implicated <sup>4</sup>
Section 233 of the Communications and Multimedia (CMA) Act 1998 (criminalises improper use of network facilities or network service, etc)	140	114 <sup>5</sup>	126
Sedition Act 1948 (criminalises discourse deemed as seditious)	19	15	19
Section 504 of the Penal Code (criminalises intentional insults with intent to provoke a breach of the peace)	32	6	8
Section 505 of the Penal Code (criminalises statements conducting to public mischief)	35	30	31
Printing Presses and Publications Act (PPPA) 1984 (governs the usage of printing presses)	0	3	3
Peaceful Assembly Act (PAA) 2012 (regulates public protests)	9	12	166
Section 500 of the Penal Code for Defamation	-	13	13
Total	235	192	N/A <sup>6</sup>

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<sup>1</sup> 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 aforementioned laws. 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 and gender or sexuality-related laws. Therefore, this already extensive list is certainly non-exhaustive as there are many more individuals who are being probed and charged under very repressive laws. Read together, however, these cases can be seen as part of a larger, deliberate and concerted series of actions intended to stifle our fundamental freedoms.

<sup>2</sup> Number of incidents captured in 2021 which includes reported police investigations, arrests and charges.

<sup>3</sup> Data captured in 2022 from the 1st of January to 30th of November includes number of investigations and arrests made under repressive laws

<sup>4</sup> This refers to the total number of individuals who were investigated by the police or summoned as witnesses.

<sup>5</sup> This number does not reflect investigations triggered by the election task force set up by the Ministry of Communications and Multimedia in October 2022.

<sup>6</sup> The total number of individuals implicated is not included in our table as there are many individuals with overlapping cases (e.g. Sedition Act and Section 233 of the CMA). Thus, including a cumulative figure of all the individuals may be inaccurate and misleading.

## II. LIMITED SPACES OF EXPRESSION FOR STUDENTS

CIJ observed that various fear tactics and harassment were used against students as well, in particular varsity students. In April 2022, UM Law student Nevyn Vinosh was investigated for an article on affirmative action in Malaysia that was posted on a blog.

The death of a University Utara Malaysia (UUM) student in July 2022 sparked debates and a demand for answers from the university. The university however issued a [gag order](#) to bar students from publicly organising or attending any events related to the death of the student.

## III. SHRINKING SPACES FOR PROTESTS AND PEACEFUL ASSEMBLY

The space for protests and peaceful assembly continues to shrink.



Image from Malay Mail

Organisers and participants of the Malaysian United Democratic Alliance (MUDA)'s [climate change memorandum](#) handover outside parliament; the anti-corruption [protests](#) calling for the Malaysian Anti-Corruption Commission (MACC) chief Azam Baki to be [investigated](#); [candlelight vigil](#) in solidarity with Ukraine; SUARAM and Bersih [protest outside Parliament](#), calling for the rejection of the Independent Police Conduct Commission (IPCC) bill and questioning the government's delay in tabling the anti-hopping bill; the [May Day](#) rally; Bar Council's '[Walk for Justice](#)'; [flash mob](#) and [protest](#) on the price hike of basic goods; [#Turun protests](#); amongst others, were summoned for investigations.

They were investigated under the Peaceful Assembly Act 2012, Section 505(b) Penal Code, and the Prevention and Control of Infectious Diseases Regulations 2021.

#### IV. STIFLING OF EXPRESSION AND SPEECH ON THE BASIS OF RELIGION



Screengrab from Malaysiakini

CIJ's monitoring further noted the continuation of the stifling of speech deemed blasphemous, particularly when it pertains to Islam. There was an increase in the use of Section 233 of the CMA, Sedition Act and [Section 298A of the Penal Code](#) for allegedly causing disharmony, disunity, or feelings of enmity, hatred or ill will, or prejudice, on the grounds of religion.

Writer [Uthaya Sankar SB](#) was arrested for allegedly commenting on polygamy and Prophet Muhammad (PBUH). Similarly, Siti Nuramira Abdullah and her partner, Alexander Navin Vijayachandran, were [detained by Malaysian authorities](#) in connection with a video of Siti performing stand-up comedy at Crackhouse Comedy Club which was deemed as an insult to Islam. The comedy club owner [Rizal Van Geyzel](#) was arrested related to three stand-up comedy films in which he addressed racial prejudices.

#### V. MEDIA UNDER ATTACK

Additionally, media continued to experience restrictions and came under attack numerous times in 2022.

The year started off with the nation recovering from the flood disaster in December 2021. However, there had been instances where the media was restricted in reporting the State's struggle and ineptitude in dealing with the flood crisis and its aftermath. Criticism against the State

on the handling of the aftermath of the floods that affected most states in Malaysia were curbed through action by the authorities. This was seen in the police questioning [Sean Augustine](#), former reporter for The News Straits Times and The Rakyat Post regarding a report on the government's flood relief response.

Aside from the retaliatory lawsuit against independent journalist, Lalitha, we also saw former BERNAMA Mandarin News journalist [Sydney Yap](#) Xi Ni facing threats of being sued for voicing her concerns in a [Facebook post](#) on labour related issues. This also raised the ongoing challenges related to job security, labour rights, right to association and collective bargaining of media workers.

Police also issued a “wanted for questioning” alert on veteran British journalist [Nick Kochan](#). The alert was issued immediately after The Asia Times’ freelance journalist published an [article](#) on an interview with United Malay National Organisation (UMNO) Vice President Mohammad Hasan.

The United Malays National Organisation (UMNO) issued [a Letter of Demand \(LOD\) to two media outlets](#), Malaysiakini and Astro Awani, over allegedly defamatory reports on the party. The LOD included demands for a retraction, written apology and compensation of RM25 million from the two media organisations, respectively.

[Ahmad Azam Mohd Aris](#), the former editor-in-chief of The Edge Communications Sdn Bhd, was also charged with two counts of criminal defamation against a Malaysian businessman and four firms in connection with two news articles on alleged penny stocks manipulation in 2020 and 2021.

The New Straits Times (NST) chief editor [Farrah Naz Karim](#) was interrogated by the police over an article published by the news daily regarding an alleged Mossad operation in Kuala Lumpur to kidnap a Palestinian national. It was reported that Farrah was questioned by the authorities for more than three hours. Farrah said in a statement that the police wanted to know how NST had obtained information on the kidnapping and its connection to Mossad. Farrah also made it clear that they ‘will not be intimidated by the police as producing detailed reports is part and parcel of investigative journalism’.

CIJ reiterates that the use of authorities and laws in questioning reporters for doing their job is a form of scare-tactics in restricting the media from doing investigative journalism pieces, which are essential for public knowledge. This in turn would reinforce media censorship.



## VI. ATTACKS AGAINST GENDER BASED EXPRESSION

CIJ is also alarmed with the ongoing criminalisation and ‘anti-LGBT’ agenda. Increase in censorship, raids and arrests is detrimental as it shrinks the space for expressions and dehumanises individuals and communities on the basis of their sexual orientation and gender identity.

The Department of Islamic Development Malaysia (JAKIM) put out a string of anti-LGBT [tweets](#) and posters. We also saw censorship of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) content with the banning of Disney/Marvel films such as [Thor: Love and Thunder](#) and [Lightyear](#).

The Ministry of Home Affairs also reportedly [banned three publications](#) under the Printing Presses and Publications Act on the basis that it is ‘detrimental to morality’.

The raid of a private Halloween party at RexKL in October also demonstrated the weaponization of laws and use of public authorities to clamp down against various forms of expression.

## VII. 15<sup>th</sup> GENERAL ELECTIONS AND FREEDOM OF EXPRESSION



Image from Al Jazeera

The 15<sup>th</sup> General Elections was also another game changer in the context of freedom of expression.

#### **a. Actions by the State**

Just before the elections the Communications and Multimedia Ministry (K-KOMM) created a [task force](#) to monitor fake news on social media during the general election. The team included over 100 members of the Royal Malaysia Police and the Malaysian Communications and Multimedia Commission.

CIJ found that the creation of this task force problematic. Firstly, there were no clear guidelines established by K-KOMM as to what constitutes 'Fake News'. Netizens are left clueless when posting content online as they would not know what can or cannot be posted on the Internet. Secondly, the task force was mandated to take swift action against those who post 'fake news' without the need of a formal complaint/ report. This lack of transparency gives authorities arbitrary powers to prosecute without any prior due diligence or adhering to procedures in line with international standards. This unchecked power may lead to harm to individuals involved.

#### **b. Hate speech during elections**

Politicians and other key actors weaponised inflammatory tropes and rhetoric to control narratives and advance narrow political interests by influencing public understanding around issues like race, religion, royalty, sexual orientation and gender identity.

CIJ Social Media Monitoring with various other partners during the 15<sup>th</sup> General Elections saw an amplification of toxic narratives and hate speech on the basis of race and religion as well as on the basis of sexual orientation and gender identity.

i) ***Race and religious based narratives prevailed***

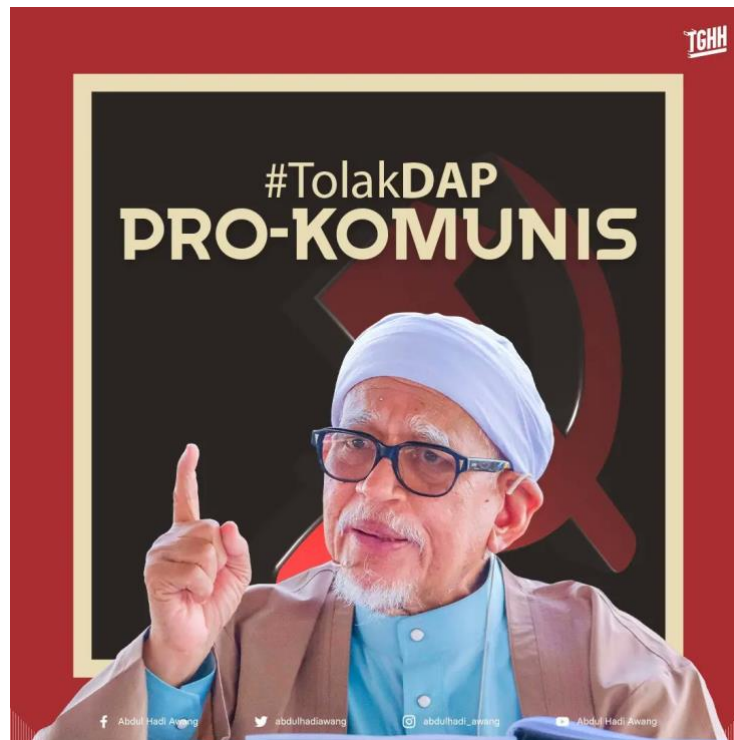


Image from Hadi Awang Twitter account @abdulhadiawang

[PAS president Abdul Hadi Awang](#) and other Perikatan National politicians were seen as key amplifiers of divisive, racist, intolerant and hate-based narratives. They resorted to using influencers and young content creators on social media to amplify the concept of “Ketuanan Melayu” (Malay Supremacy) narrative with [fear triggering](#) and at times even [inciting violence](#). These went hand-in-hand with anti-Chinese rhetoric that created fear and antagonism against the Chinese, thus attempting to influence Malay-Muslim voters to vote against Pakatan Harapan if they want their Malay and religious rights not to be eroded and influenced by non-Muslims.

Hadi Awang and PAS also resorted to ‘red-tagging’ with the continued accusation of [DAP being Communist](#) as they are allegedly atheist and promote LGBTIQ practices. We also saw the weaponization of TikTok to instil further fear and distort public perception post the General Elections with 13 May content as way to demonise Pakatan Harapan and its key leaders.

Pakatan Harapan also played the race card by claiming that voting for Perikatan Nasional (PN) will be like having [Taliban rule the country](#).

## **ii) Negative stereotypes and around sexual orientation and gender identity**

The monitoring also found the weaponization of misogynistic opinions and arguments on the basis of public morality and Islamic values to incite hate speech against the Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) community.

Following the 29 October raid by the police and Federal Territory Islamic Religious Department (JAWI) at a private Halloween party in Kuala Lumpur, we saw individuals and organisations representing the rights of the LGBTIQ community targeted in a seemingly coordinated manner across various platforms such as Facebook, Twitter and TikTok. Comments ranged from congratulating the authorities for the raid and related arrests, to calling the [LGBTIQ community to be eliminated from our society](#) and being [spreaders of viral disease](#).

A common theme regarding gender that has run through this election cycle is also the entrenched sexism, objectification and sexualisation of women candidates.

We saw [sexist TikTok videos](#) by key political leaders belittling and undermining women candidates as being incompetent or incapable of leading. Posts with sexist slurs, derogatory terms and vulgarism were often aimed at women candidates. Use of the term '[betina](#)', was often targeted at the DAP. We also saw women candidates chastised for not [covering 'aurat'](#) with a hijab.

These prevailing sexism and gender-based hate narratives undermine the role of women in politics as well as erode and limit opportunities and freedom for women to exercise their right to political participation. The focus on physical attractiveness as an asset draws the attention away from other skills, expertise or actions, and can be insidious as voters may perceive women candidates as less credible or equipped for public office.

## **iii) Xenophobia and doxing against the migrant and refugee communities**

While on a smaller scale, migrants and refugees were also negatively portrayed during elections. Most of the posts sow hate by claiming that these communities threaten national security and Malaysians' job security.

A [Jabatan Imigresen Malaysia](#) post encouraging the public to use their hotline to report undocumented migrant workers, resulted in a slew of hate comments. This included calls for

extermination and instances of doxing where addresses and contact details of migrant workers were revealed on social media.

### c. Media During the Elections

Months prior to the dissolution of parliament on 10 October, former Prime Minister Ismail Sabri Yaakob stated that the [media should report without interference](#) from the state to ensure freedom of expression in Malaysia. Nonetheless, certain patterns of media reporting election campaigns show otherwise.



Screengrab of [Malaysiakini article](#)

Early in the election campaign period, broadcast station [AwesomeTV](#) released a segment using racial tones to prompt Malay voters to vote during Polling Day on 19 November by stoking fear of being overrun by Malaysian Chinese voters. Following the release of the video segment, the broadcast station defended its take on motivating a larger Malay voter turnout in order to limit the political power gained by other ethnicities in Malaysia, especially by amplifying racist undertones against Malaysian Chinese voters.

MALAYSIA

## Awesome TV says 'not racist', just telling Malays to vote or new govt won't care for their welfare



Screengrab of [Malay Mail article](#)

During the election campaign, several other mainstream media outlets were called out for perpetuating sexist tones by focusing on physical attributes of female candidates standing for election. Female candidates such as Young Syefura Othman (Pakatan Harapan - Bentong), Nur Fathiah Syazwana Shaharuddin (Independent - Batu), Jo-Anna Sue Henley Rampas (Warisan - Tuaran) were described by the media houses using terms such as [“jelitawan”](#) and [“beauty with brains”](#).

Propping up female candidates as one-dimensional figures who are reported for their physical attractiveness rather than their expertise, credentials and the issues championed by them reinforces the trope of the “male gaze” by the media.

Having more female leaders in public office and the political sphere will not only cause positive impact for change on the nation’s laws and policies, but it will inspire substantive gender equality in Malaysia for generations to come. The role of the media in portraying women, especially female leaders is essential.

## Coalition calls out media for focusing on female candidates' looks

FMT Reporters - November 9, 2022 6:07 PM

179 Shares    



Screengrab of [Free Malaysia Today article](#)

The act of voting is the pinnacle of a flourishing democratic nation. The 15th General Elections was a time when we, as Malaysians, used our fundamental and constitutional right to vote to exercise our freedom of expression. In cultivating a vital democracy, it is essential to have an informed electorate and the role of the media is crucial in doing so.

The media, as the fourth estate, needs to at all times adhere to international standards of reporting, especially so during elections. In doing so, it is essential that the media informs the public with unbiased and factual news and calls truth to power.

### VIII. RECOMMENDATIONS

Anwar Ibrahim as the new prime minister and his unity cabinet gives Malaysians a certain level of optimism that priorities will be placed on institutional reforms in order to curb corruption and strengthen the promotion of our human rights.

With this spirit, we urge the State to show that the reform landscape in Malaysia is not dying, and they remain committed to good governance and accountability based on respect for universal human rights and freedom of expression, assembly, speech and right to information.

In this regard, the State must guarantee and adopt the following without delay:

## **1) Recommendations to the Malaysian Government on Strengthening Freedom of Expression**

a. Guarantee that any measures to restrict our constitutional freedom of expression, speech and assembly comply with human rights norms and international human rights standards and have:

(i) a **legal basis**;

(iii) are based on absolute **necessity** and are not arbitrary in nature; and

(iv) are **proportionate** in nature and uphold the public's interest.

b. Create a safe environment for robust civic discourse and healthy democracy for all and refrain from using scare tactics and arbitrary applications of repressive laws to sanction and intimidate those who criticise, question or belittle the government.

c. Initiate a comprehensive legislative reform in accordance with Malaysia's international human rights obligations, and amend or repeal:

- **Sedition Act 1948,**
- **Communications and Multimedia Act 1998,**
- **Peaceful Assembly Act 2019,**
- **Official Secrets Act (OSA) 1972,**
- **Section 203A of the Penal Code,**
- **Section 298A of the Penal Code,**
- **Section 114A of the Evidence Act (Amendment) (No.2) 2012,**
- **National Film Development Corporation (Finas) Act 1981,**
- Other problematic defamation and national security-related provisions under the **Penal Code.**

There should be a **moratorium** on the use of these laws while undergoing reform initiatives.

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



- e. Uphold and support academic and artistic freedom.
  - f. **Ratify** all outstanding **international human rights treaties** and its optional protocols.
- 2) Recommendations to the Malaysian Government on Strengthening Media Freedom**
- a. Create an enabling environment for the media to function with independence and with no fear of repercussion for carrying out their reporting functions.
  - b. Drop all investigations and pledge to stop all future acts of intimidation and adverse actions against the media and journalists.
  - c. Review, amend and repeal repressive laws which restricts media freedom, specifically:
    - the Printing Presses and Publications Act (PPPA) 1984,
    - the Official Secrets Act (OSA) 1972,
    - the Sedition Act 1948, and
    - Section 233 of the Communications and Multimedia Act (CMA) 1998,
  - d. Move ahead with the establishment of 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](#).

**3) Recommendations to the Malaysian Government on Combating Disinformation and Online Hate Speech**

- a. Set up an independent **multi-stakeholder commission** to review the root causes of hate speech and to develop recommendations to combat hate speech in line with international standards, including the **Rabat Plan of Action**.
- b. Collaborate with existing initiatives to improve independent inoculating measures and fact-check mechanisms, to effectively debunk false and misleading narratives before they become viral.
- c. Focus on education and dissemination of public information countering the alleged mis/disinformation, and not merely on prosecution.
- d. Engage with social media platforms and with multi-stakeholder experts, to strengthen the current social media standards and mechanisms to ensure effective response in situations of disinformation and hate speech.