



NEW GOVERNMENT, OLD TACTICS

LACK OF PROGRESS ON REFORM COMMITMENTS UNDERMINES
FUNDAMENTAL FREEDOMS AND DEMOCRACY IN MALAYSIA

ARTICLE 19



EXECUTIVE SUMMARY

The victory of the Pakatan Harapan coalition in general elections held on 9 May 2018 signalled a seismic shift in Malaysia's political environment. Malaysians voted for leaders whom they expected to implement wide-ranging reforms and undo the damage done to democracy and human rights during 61 years of rule by the Barisan National (National Front) coalition. Indeed, Pakatan Harapan's leadership invited these expectations. The coalition's campaign manifesto included strong commitments to repeal repressive legislation, reform public institutions and ratify human rights treaties.¹

Many of the government's actions during its first months in power were encouraging. In a joint statement published after the new government's first 100 days in office, ARTICLE 19 and CIVICUS applauded the formation of the Institutional Reform Committee, which was tasked with making recommendations to the new government on priorities for legislative and structural reforms.² In August 2018, Malaysia's lower house of Parliament also passed a bill—later rejected by the Senate—to repeal the Anti-Fake News Act, a repressive law adopted by the previous government in the run-up to elections.³ Authorities took steps towards ending criminal proceedings against human rights defenders, political activists and critics of the former regime. Among those benefiting from dropped charges or acquittals were human rights lawyers Surendran⁴ and Eric Paulsen, Socialist Party activist S. Arutchelvan,⁵ political cartoonist Zunar,⁶ former Batu MP Tian Chua,⁷ former Jelutong MP Karpal Singh,⁸ and the #KitaLawan protesters.⁹ One week after the election, former opposition leader Anwar Ibrahim was released from prison.¹⁰

However, after one year in power, the Pakatan Harapan government has made little progress on many of the promises made in its manifesto, and has backtracked on other commitments made since taking power. Notably, the government reversed course on its decisions to ratify the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and Rome Statute of the International Criminal Court after coming under pressure from conservative groups.¹¹

- 1 Pakatan Harapan Manifesto for the 14th General Election 'Rebuilding Our nation, Fulfilling Our Hopes', 8 March 2018, https://kempen.s3.amazonaws.com/manifesto/Manifesto_text/Manifesto_PH_EN.pdf.
- 2 ARTICLE 19, "Malaysia: Lack of progress on human rights commitments during government's first 100 days", 16 August 2018, <https://www.article19.org/resources/malaysia-lack-of-progress-on-human-rights-commitments-during-governments-first-100-days/>.
- 3 ARTICLE 19, "Malaysia: Repeal of Anti-Fake News Act must be followed by broader legislative reform efforts", 16 August 2018, <https://www.article19.org/resources/malaysia-repeal-of-anti-fake-news-act-must-be-followed-by-broader-legislative-reform-efforts/>.
- 4 The Star Online, "Zunar, Surendran and Sivarasa acquitted and discharged of all sedition charges", 30 July 2018, <https://www.thestar.com.my/news/nation/2018/07/30/zunar-surendran-and-sivarasa-acquitted-and-discharged-of-all-sedition-charges/>.
- 5 Malay Mail, "Prosecution drops sedition cases against PSM's Arul, lawyer Eric Paulsen", 15 August 2018, <https://www.malaymail.com/news/malaysia/2018/08/15/prosecution-drops-sedition-cases-against-psms-arul-lawyer-eric-paulsen/1662642>.
- 6 Amnesty International, "Malaysia: Acquittal of Zunar and others must lead to repeal of draconian sedition law", 30 July 2018, <https://www.amnesty.org/en/latest/news/2018/07/malaysia-acquittal-of-zunar-and-others-must-lead-to-repeal-of-draconian-sedition-law/>.
- 7 Malaysiakini, "Tian Chua freed of sedition charge", 23 November 2018, <https://www.malaysiakini.com/news/453050>.
- 8 Malaysiakini, "Apex Court sets aside the late Karpal's sedition conviction", 29 March 2019, <https://www.malaysiakini.com/news/470049>.
- 9 The Star Online, "Maria Chin, two others, acquitted in #KitaLawan rally case", 3 August 2018, <https://www.thestar.com.my/news/nation/2018/08/03/maria-chin-two-others-acquitted-in-kitalawan-rally-case/>.
- 10 Human Rights Watch, "Malaysia's Anwar Ibrahim Finally Freed", 16 May 2018, <https://www.hrw.org/news/2018/05/16/malaysias-anwar-ibrahim-finally-freed>.
- 11 The Star Online, "Malaysia withdraws from the Rome Statute", 5 April 2019, <https://www.thestar.com.my/news/nation/2018/11/24/govt-not-ratifying-icerd-we-will-continue-to-defend-federal-constitution-says-pms-office/>; <https://www.thestar.com.my/news/nation/2019/04/05/malaysia-withdraws-from-the-rome-statute/>.

The government has also failed to take concrete steps towards the ratification of other human rights treaties, including the International Covenant on Civil and Political Rights. Furthermore, the government has failed to reform repressive legislation, including the Sedition Act 1948, Communications and Multimedia Act 1998, Printing Presses and Publications Act 1984 and Peaceful Assembly Act 2012. Instead, authorities have used these laws to harass, investigate and prosecute human rights defenders, activists and others exercising fundamental freedoms. The government's failure to address reprisals against activists by non-state actors and anti-rights groups, which are increasingly becoming an obstacle to human rights reforms, also gives cause for concern.¹²

Not long after the elections, civil society groups called on the government to ensure transparency in legislative and institutional reform processes and to provide opportunities for meaningful participation by civil society and other stakeholders.¹³ However, reform initiatives have been anything but transparent, with civil society having few opportunities to provide input. Tellingly, the government placed the Council of Eminent Persons' report—which includes the recommendations from the Institutional Reform Committee—under the Official Secrets Act (OSA), preventing its release to the public.¹⁴

These failures and shortcomings clearly demonstrate a lack of political will by the Pakatan Harapan government to follow through on its commitments and take the kind of decisive action need to protect and promote human rights in Malaysia.

The CIVICUS Monitor—an online platform that tracks threats to civil society—has continued to categorise civic space in Malaysia as “obstructed” a year after the change in government.¹⁵

ARTICLE 19 and CIVICUS call on Malaysia authorities to act with principle and resolve, and to follow through on their human rights commitments without delay.



- 12 Free Malaysia Today, “No choice but to axe ICERD after unrest threats, says activist”, 23 November 2018, <https://www.freemalaysiatoday.com/category/nation/2018/11/23/putrajaya-right-in-axing-icerd-ratification-says-intellectual/>; Malay Mail, “Sedition Act repeal not possible without Rulers’ consent, forum told”, 20 October 2018, <https://www.malaymail.com/news/malaysia/2018/10/20/sedition-act-repeal-not-possible-without-rulers-consent-forum-told/1684918>.
- 13 ARTICLE 19, “Malaysia: Civil society calls on new government to reform laws restricting freedom of expression and access to information”, 22 May 2018, <https://www.article19.org/resources/malaysia-civil-society-calls-on-new-government-to-reform-laws-restricting-freedom-of-expression-and-access-to-information/>.
- 14 The Star Online, “CEP 100-day report is a secret document”, 29 March 2019, <https://www.thestar.com.my/news/nation/2019/03/29/cep-100day-report-is-a-secret-document/>.
- 15 CIVICUS Monitor, “Malaysia country page”, 2 May 2019, <https://monitor.civicus.org/country/malaysia/>.

FREEDOM OF EXPRESSION



Article 10(a) of Malaysia's Federal Constitution guarantees the right to freedom of speech and expression. The Pakatan Harapan manifesto committed the government to reforming or repealing repressive British colonial-era laws as well as "tyrannical laws that were enacted by UMNO and Barisan Nasional", including the Sedition Act 1948, Printing Presses and Publications Act 1984, Communications and Multimedia Act 1998 and Penal Code (Promise 27).¹⁶ On 24 October 2018, the *de facto* Law Minister in the Prime Minister's Department promised that the Government will review, amend or repeal 113 pieces of legislation, including the aforementioned laws.¹⁷

Despite these commitments, the government has made remarkably little progress on reforming laws that unjustifiably restrict the right to freedom of expression during its first year in power.

One of the government's first reform initiatives was the attempted repeal of the Anti-Fake News Act, a law passed by the previous government without meaningful consultation shortly before the elections.¹⁸ On 16 August 2018, Malaysia's House of Representatives passed a bill to repeal this repressive law.¹⁹ However, the repeal bill was rejected by the Senate, which is controlled by the opposition, on 13 September 2018.²⁰ Opposition senators held that the law addressed a pressing need and should be reformed rather than repealed. Government officials have stated that they intend to repeal the Anti-Fake News Act after one year, when the repeal bill can be passed without the Senate's approval.²¹

In March, during the review of the outcome of its Universal Periodic Review (UPR) at the 40th Session of Human Rights Council in Geneva, the Malaysian government accepted recommendations to review problematic legislation, but only accepted *in part* more specific recommendations to amend these laws, citing the ongoing work of a Special Committee tasked with making recommendations on legal reform as a reason for not fully accepting these recommendations.²²

Given the lack of transparency around the government's legislative reform efforts, little is known about current plans to amend or repeal these laws.

Not only have government authorities failed to repeal repressive laws, they have continued to use them to restrict the right to freedom of expression and to prosecute activists and others. In particular, the Sedition Act 1948 and Communications and Multimedia Act 1998—longstanding tools of repression wielded by the previous government—have continued to be used against activists, journalists and human right defenders.

16 Pakatan Harapan manifesto, Promise 27: Abolish oppressive laws, p. 61.

17 The Star Online, "113 laws need to be updated, including on the death penalty, says Liew", 24 October 2018, <https://www.thestar.com.my/news/nation/2018/10/24/113-laws-need-to-be-updated-to-abolish-death-penalty/>.

18 ARTICLE 19, "Malaysia: Anti-Fake News Act should be repealed in its entirety", 24 April 2018, <https://www.article19.org/resources/malaysia-anti-fake-news-act-repealed-entirety/>.

19 ARTICLE 19, "Malaysia: Repeal of Anti-Fake News Act must be followed by broader legislative reform efforts", 16 August 2018, <https://www.article19.org/resources/malaysia-repeal-of-anti-fake-news-act-must-be-followed-by-broader-legislative-reform-efforts/>.

20 ARTICLE 19, "Malaysia: Senate's rejection of bill abolishing Anti-Fake News Law a backwards step", 13 September 2018, <https://www.article19.org/resources/malaysia-senates-rejection-of-bill-abolishing-anti-fake-news-law-a-backwards-step/>.

21 The Star Online, "Another year for fake news Act", 13 September 2018, <https://www.thestar.com.my/news/nation/2018/09/13/another-year-for-fake-news-act-opposition-dominated-dewan-negara-says-no-to-repeal/>.

22 ARTICLE 19, "Malaysia: Fulfill UPR commitments, end attacks on freedom of expression", 14 March 2019, <https://www.article19.org/resources/malaysia-fulfill-upr-commitments-end-attacks-on-freedom-of-expression/>.

THE SEDITION ACT 1948

The Sedition Act 1948 is a British colonial-era law that criminalises any conduct with a “seditious tendency”, the utterance of “seditious words” and import or distribution of “seditious publications”. First time offenses are punishable by up to three years’ imprisonment, and subsequent offenses by up to five years’ imprisonment.²³ The law was frequently used by the previous regime to suppress dissent and silence opponents.²⁴

One of the key campaign promises made by the Pakatan Harapan coalition was to abolish the Sedition Act.²⁵ However after coming to power, the government almost immediately raised concerns about the sincerity of its commitment by initiating criminal proceedings under the law. In June 2018, police investigated Kadir Jasin, a veteran journalist and media advisor to the Prime Minister, under the Sedition Act in relation to a blog post concerning the expenditures of former King Sultan Muhammad V.²⁶ The following month, activist Fadiyah Nadwa Fikri was investigated under the Sedition Act and Communications and Multimedia Act for allegedly disrespecting the monarchy in an article she published titled, “Don’t Kiss the Hand that Beats You”.²⁷



Human rights lawyer, Fadiyah Nadwa Fikri probed for sedition, 11 July 2018, Pic credit: Malaysia Muda

In the later part of 2018, Malaysia’s Cabinet sent mixed messages concerning its intentions towards the Sedition Act. On 8 October 2018, the Communications and Multimedia Minister Gobind Singh Deo stated that the Sedition Act would be repealed during the December 2018 Parliament seating. However, the following day, the Prime Minister stated the Sedition Act would remain in place and that the Government had not set a timeframe for repealing the law.²⁸ On 11 October 2018, the Communications and Multimedia Minister announced that the Cabinet had agreed to a moratorium on the application of the Sedition Act.²⁹ However, disappointingly, in November 2018, the government lifted the moratorium in response to violence that took place at a Hindu temple in the state of Selangor, stating that the law would only be used in relation to matters of national security, public order and race relations.³⁰

Since the lifting of the moratorium, officials have continued to initiate criminal proceedings under the Sedition Act. In December 2018, Sevan Doraisamy, the Executive Director of SUARAM, a Malaysian human rights organization, was called for an investigation under the law because he serves as an advisor to a group which posted Fadiyah Nadwa’s July 2018 article on its website.³¹

23 ARTICLE 19, “Memorandum on the Malaysian Sedition Act 1948”, July 2003, <https://www.article19.org/data/files/pdfs/analysis/malaysia-sedit.03.pdf>.

24 ARTICLE 19, “Malaysia: Sedition Act upheld in further blow to free expression”, 6 October 2015, <https://www.article19.org/resources/malaysia-sedition-act-upheld-in-further-blow-to-free-expression/>.

25 The Star Online, “Dr M: Pakatan to repeal controversial laws, including fake news act”, 3 April 2018, <https://www.thestar.com.my/news/nation/2018/04/03/dr-m-pakatan-to-repeal-controversial-laws-including-fake-news-act/>.

26 The Star Online, “IGP: Kadir Jasin to be investigated for sedition (updated)”, 7 June 2018 <https://www.thestar.com.my/news/nation/2018/06/07/igp-kadir-jasin-to-be-investigated-for-sedition/>.

27 ARTICLE 19, “Malaysia: Drop investigation of human rights defender, repeal repressive legislation”, 12 July 2018, <https://www.article19.org/resources/malaysia-drop-investigation-of-human-rights-defender-repeal-repressive-legislation/>.

28 The Star Online, “Sedition Act will continue to be applied for now, says Dr M”, 9 October 2018, <https://www.thestar.com.my/news/nation/2018/10/09/pm-no-timeline-to-repeal-law-sedition-act-will-continue-to-be-applied-for-now-says-dr-m/>.

29 The Star Online, “Cabinet agrees to impose moratorium on Sedition Act”, 11 October 2018, <https://www.thestar.com.my/news/nation/2018/10/11/cabinet-agrees-to-impose-moratorium-on-sedition-act/>.

30 Human Rights Watch, “Malaysia: Keep Moratorium on Abusive Laws”, 5 December 2018, <https://www.hrw.org/news/2018/12/05/malaysia-keep-moratorium-abusive-laws>.

31 The Star Online, “Suaram chief probed under Sedition Act over article on rulers”, 6 December 2018, <https://www.malay-siakini.com/news/455011>.

In January 2019, three individuals—Eric Liew Chee Ling, Azham Akhtar Abdullah and Nur Alia Astaman—were arrested and investigated for allegedly insulting the former King Sultan Muhammad V following his resignation.³²

Between January and April 2019, the authorities continued to use the Sedition Act against individuals who made comments on social media allegedly insulting the Malaysia royalty and for alleged racially inflammatory remarks. On 10 January 2019 the *de facto* Law Minister announced that the authorities were considering new legislation or legal amendments to provide stronger punishments for those insulting the Malaysian royalty.³³

In March 2019, the Sedition Act was once again deployed to investigate the organizers of an International Women's Day march that included participants from LGBTI groups.³⁴

In total, between June 2018 and April 2019, more than 20 individuals have been called by the police for investigations under the Sedition Act, with at least eight individuals arrested under the law. (See Appendix 1: Application of the Sedition Act 1948, May 2018 – April 2019.)



SUARAM director and human rights defender, Sevan Doraisamy hauled for questioning under the Sedition Act, December 2018. *Pic credit: Suaram*

THE COMMUNICATIONS AND MULTIMEDIA ACT 1998

Along with the Sedition Act, the Communications and Multimedia Act 1998 was one of the primary laws used by the previous regime to target human rights defenders and political opponents. Many provisions within the law are incompatible with international human rights law and pose a particular threat to freedom of expression.³⁵ Section 233 of the Act provides criminal penalties of up to one year imprisonment and a fine for the use of “network facilities or network service” to transmit communications that are “obscene, indecent, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass another person”.

Although the Pakatan Harapan manifesto promised amendments to the Communications and Multimedia Act, it is unclear what progress the new government has made toward this goal. On 20 September 2018, the Communications and Multimedia Minister stated that his ministry was looking into amending Section 233 of the Act and was considering including new provisions.³⁶ The following week, the Minister confirmed that the ministry had completed the proposed amendments to Section 233 and signalled that it would seek feedback from concerned stakeholders.³⁷ However, ARTICLE 19 and CIVICUS have yet to see the proposed amendments to the law, raising concerns about the government's intentions and the lack of transparency of the reform process.

32 Malaysiakini, “Three held for sedition over alleged insults on former Agong”, 9 January 2019, <https://www.malaysiakini.com/news/459521>.

33 ARTICLE 19, “Malaysia: Proposal to reform laws to protect royals’ reputation threaten freedom of expression”, 11 January 2019, <https://www.article19.org/resources/malaysia-proposal-to-reform-laws-to-protect-royals-reputations-threaten-freedom-of-expression/>.

34 Amnesty International, ARTICLE 19 and CIVICUS, “Malaysia: Attacks on women’s day march inconsistent with the government’s stated commitment to fundamental freedoms”, 18 March 2019, <https://www.article19.org/resources/malaysia-attacks-on-womens-day-march-inconsistent-with-the-governments-stated-commitment-to-fundamental-freedoms/>.

35 ARTICLE 19, “Legal Analysis: The Communications and Multimedia Act, 1998”, 24 March 2017, <https://www.article19.org/resources/malaysia-communications-multimedia-act/>.

36 New Straits Times, “Ministry to look into amending Communications and Multimedia Act section said to stifle freedom of expression”, 20 August 2018, <https://www.nst.com.my/news/nation/2018/08/403504/ministry-look-amending-communications-and-multimedia-act-section-said>.

37 The Edge Markets, “Gobind: Amendment to Communication and Multimedia Act completed”, 28 September 2018, <https://www.theedgemarkets.com/article/gobind-amendment-communication-and-multimedia-act-completed>.

Meanwhile, the Pakatan Harapan government has continued to use the Communications and Multimedia Act to investigate and prosecute individuals for communications on social media platforms such as Facebook or Twitter. In a 3 March statement, the Malaysian Communications and Multimedia Commission stated that it had opened 47 investigations under the Act since the beginning of 2018, while signalling that Section 233 was still being “reviewed and fine-tuned”.³⁸ The Commission also noted that it had worked with social media platforms to remove thousands of accounts and posts under the authority of the law.³⁹

Between May 2018 and April 2019, ARTICLE 19 and CIVICUS recorded 20 cases involving 23 individuals investigated under Section 233 of Communications and Multimedia Act, leading to at least four convictions. (See Appendix 2: Application of the Communications and Multimedia Act 1998, May 2018 – April 2019.) Of the 20 cases, 12 related to alleged insults to Islam, the royal institution and Prophet Muhammad. The other cases related to alleged racially sensitive remarks, spreading pornographic or vulgar content, and threats or insults to the Prime Minister. In one particularly worrying case, a Facebook user who allegedly made posts insulting the Prophet Muhammed pled guilty to charges under the Communications and Multimedia Act and multiple counts of Penal Code violations and received a sentence of 10 years and 10 months in March 2019.⁴⁰

MEDIA FREEDOM

On 22 May 2018, Pakatan Harapan affirmed that the government was fully committed to promoting a free and independent media that would be able to report without fear of reprisal. The Communications and Multimedia Minister Gobind Singh Deo also stated that the government will look into plans to enhance media freedom, including by considering the formation of a self-governing media council and reviewing the Printing Presses and Publications Act 1984, Anti-Fake News Act 2018 and other laws that impede independent reporting.⁴¹



In February 2019, Kadir Jasin, a former journalist serving as special advisor to the Prime Minister on media affairs, reaffirmed the government's position on the formation of a media council,⁴² and in March the Centre for Independent Journalism (CIJ) and the Malaysian Centre for Constitutionalism and Human Rights (MCCHR) held a national consultation on the establishment of a media council.⁴³

While ARTICLE 19 and CIVICUS welcome these developments, the organisations remain concerned about the lack of progress in reforming the Printing Presses and Publications Act 1984, Sedition Act 1948, Sections 211 and 233 of the Communications and Multimedia Act and Official Secrets Act (OSA), which impede press freedom and the ability of journalists to report without fear of judicial harassment and criminal penalties.

38 Malaysian Communications and Multimedia Commission, “MCMC Displays Agility In Addressing Social Media Abuse Which Distracts Racial And Religious Harmony”, 3 March 2019, <https://www.mcmc.gov.my/media/press-releases/mcmc-displays-agility-in-addressing-social-media-a>.

39 Ibid; see also New Straits Times, “MCMC takes action on 2,823 false accounts on social media”, 30 March 2018, <https://www.nst.com.my/news/nation/2019/03/474251/mcmc-takes-action-2823-false-accounts-social-media>.

40 Malaysiakini, “10 years, 10 months jail for FB post insulting Islam, Prophet”, 9 March 2019, <https://www.malaysiakini.com/news/467204>.

41 The Star Online, “Media freedom will be a priority, says Gobind”, 22 May 2018, <https://www.thestar.com.my/news/nation/2018/05/22/media-freedom-will-be-a-priority-says-gobind/>.

42 Malaysiakini, “Recommendations for media council to be presented to gov't in two months”, 21 February 2019, <https://www.malaysiakini.com/news/465093>.

43 “Outcome from the National Consultation on a Malaysian Media Council”, 6 March 2019, <http://msiamediacouncil.website/outcome-from-the-national-consultation-on-a-malaysian-media-council/>.

FREEDOM OF PEACEFUL ASSEMBLY

Article 10(b) of the Malaysian Constitution guarantees the right to peaceful assembly.

In 2012, the government passed the Peaceful Assembly Act, which eliminated the requirement to obtain a police permit prior to holding an assembly and repealed some of the more draconian elements of the Police Act. However, Section 9(5) of the law requires organisers to provide the police with 10 days' notice before any assembly, along with detailed information about the proposed rally. While the requirement of notification is not, of itself, inconsistent with international standards, onerous requirements, such as the need to provide detailed information about the planned event or organisers, fall short of international standards and infringe on the right to peaceful assembly. Further, anyone who organises an assembly without giving the required notice can be charged with a criminal offence carrying a fine of up to RM10,000 (approximately US\$2,500). It is also problematic that the right to assemble under the Peaceful Assembly Act does not extend to street protests, and that the law makes it an offence to participate in such a protest.⁴⁴

After its enactment, the Peaceful Assembly Act was often used by the previous regime to arrest and prosecute individuals for organising and participating in peaceful protests. In its election manifesto, the Pakatan Harapan coalition included the Peaceful Assembly Act in a list of laws that should be amended to address “draconian provisions” (Promise 27). The Act was also included in a list of laws to be repealed or amended that was published in August 2018 by Minister in the Prime Minister's Department Liew Vui Keong.⁴⁵

In March 2019, Deputy Minister Mohd Azis Jamman reiterated that the law would be amended.⁴⁶ In the same month, the government responded to four recommendations concerning the Peaceful Assembly Act during the review of the outcome of the Universal Periodic Review before the Human Rights Council, fully accepting recommendations to review the law, but only partially accepting more concrete recommendations to revise it in line with international standards.⁴⁷ However, at the time of writing, the government has yet to share proposed amendments or consult civil society with regards to changes to the law.

Since May 2018, a number of protests have been held without restriction or interference, including environmental protests in Penang against hillslope development in the state in November 2018,⁴⁸ the mass rally against the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination in December 2018,⁴⁹ and the protest outside Parliament calling for the establishment of a police oversight body in April 2019.⁵⁰ Activists who had been previously charged under the law for leading or participating in peaceful protests were acquitted by the courts.⁵¹

44 CIVICUS and Pusat Komas, “Joint Submission on Malaysia to the UN Universal Periodic Review 31st Session of the UPR Working Group”, 29 March 2019, http://www.civicus.org/images/Joint_CIVICUS_Pusat_Komas_UPR_Submission_Malaysia_2018.pdf.

45 Document on file with ARTICLE 19 and CIVICUS.

46 Free Malaysia Today, “10-day requirement for peaceful assembly to be amended”, 12 March 2019, <https://www.freemalaysiatoday.com/category/nation/2019/03/12/10-day-requirement-for-peaceful-assembly-to-be-amended/>.

47 Malaysia, “Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review”, Human Rights Council, UN Doc. No. A/HRC/40/11/Add.1, 18 February 2019.

48 New Straits Times, “NGOs continue protests against Penang's hill slope mega projects”, 9 November 2018, <https://www.nst.com.my/news/nation/2018/11/429517/ngos-continue-protests-against-penangs-hillslope-mega-projects>.

49 Free Malaysia Today, “Anti ICERD rally a ‘political show of strength’ says Kadir”, 5 December 2018, <https://www.freemalaysiatoday.com/category/nation/2018/12/05/anti-icerd-rally-a-political-show-of-strength-says-kadir/>.

50 Malay Mail, “NGOs march to parliament demanding immediate set up of the IPCMC”, 8 April 2019, <https://www.malaymail.com/news/malaysia/2019/04/08/ngos-march-to-parliament-demanding-immediate-set-up-of-ipcmc/1740946>.

51 The Star Online, “Maria Chin, two others, acquitted in #KitaLawan rally case”, 3 August 2018, <https://www.thestar.com.my/news/nation/2018/08/03/maria-chin-two-others-acquitted-in-kitalawan-rally-case/>.

Despite these positive developments, ARTICLE 19 and CIVICUS also documented a number of protests that were disrupted by the police, who arrested and interrogated protesters. On 8 September 2018, two student activists, Asheeq Ali Sethi Alivi and Siti Nurizzah Tazali, were arrested by the police over a sit-in protest at the Education Ministry. The students were part of a group demanding that the Education Minister Maszlee Malik reject his appointment as the International Islamic University Malaysia (IIUM) President. They were subsequently charged under Section 447 of the Penal Code, for alleged “criminal trespassing”.⁵²



Eight student activists arrested during a Malaysia Day protest rally in Kota Kinabalu, September 2018. Credit: Private

On 16 September 2018, eight student activists were arrested during a Malaysia Day protest rally in Kota Kinabalu, in the state of Sabah. Protesters made ten demands of the state and federal government, including equal education rights, better public transportation services and job opportunities for Sabahans. They were taken in for questioning at the Karamunsing police station and were released that evening after police completed recording their statements.⁵³

Indigenous “Orang Asli” activists have also faced threats and intimidation for holding protests against land encroachment. On 26 August 2018, the authorities dismantled a blockade set up by the indigenous community in Gua Musang in Kelantan state against encroachment by loggers and durian plantation farmers. The operation was reportedly carried out by over 300 members from federal and Kelantan enforcement agencies, including the police, Federal Reserve Unit and Forestry Department.⁵⁴ In Perak state in March 2019, authorities allegedly threatened the indigenous community from Kampung Tasik Asal Cunex in Grik, including with rifles after they set up a blockade against logging.⁵⁵ The community claimed the logging company brought in machinery in December 2018, damaging pipes that supplied water.⁵⁶

A women’s march was held on 9 March 2019 calling for an end to violence based on gender and sexual orientation; banning child marriages; destroying patriarchy in society; ensuring women’s rights over their own bodies and lives; and ensuring a minimum wage of RM1,800 (USD 450). According to the organising committee, during the march several participants were allegedly harassed by a group of men, while others were attacked on social media, including civil society groups All Women’s Action Society Malaysia (AWAM) and Justice for Sisters.⁵⁷



52 Malay Mail, “In Putrajaya, students stage sit-in protest over Maszlee’s appointment as IIUM president”, 7 September 2018, <https://www.malaymail.com/s/1670301/in-putrajaya-students-stage-sit-in-protest-over-maszlees-appointment-as-iiu>; Malaysiakini, “Harapan minister, deputy slam arrest of student protesters”, 8 September 2018, <https://www.malaysiakini.com/news/442268>.

53 The Star Online, “Eight arrested for protesting on Malaysia Day in Sabah”, 16 September 2018, <https://www.thestar.com.my/news/nation/2018/09/16/eight-arrested-for-protesting-on-malaysia-day-in-sabah/>.

54 Malay Mail, “Lawyers Group: What New Malaysia if Orang Asli lands rights trampled?”, 29 August 2018, https://sg.news.yahoo.com/lawyers-group-malaysia-orang-asli-080756410.html?soc_src=social-sh&soc_trk=tw.

55 Kosmo, “Orang Asli halang pembalakan diugut dengan senapang”, 7 March 2019, <http://www.kosmo.com.my/negara/orang-asli-halang-pembalakan-diugut-dengan-senapang-1.855531>.

56 Free Malaysia Today, “Perak govt has encroached onto our land, claim Orang Asli”, 6 February 2019, <https://www.freemalaysiatoday.com/category/nation/2019/02/06/perak-govt-has-encroached-onto-our-land-claim-orang-asli/>.

57 Malay Mail, “After Women’s March, participants harassed online and offline”, 10 March 2018, <https://www.malaymail.com/news/malaysia/2018/03/10/after-womens-march-participants-harassed-online-and-offline/1595223>.

After the rally, some news outlets criticised the march,⁵⁸ disproportionately focusing their reporting on the lesbian, gay, bisexual, transgender and intersex (LGBTI) groups who participated in it and using disparaging language in their headlines. Subsequently, government officials accused the organisers of participating in an illegal assembly. Mujahid Yusof Rawa, the Minister in the Prime Minister's Department for Religious Affairs, stated that the march was "a misuse of democratic space" because of the participation of LGBTI groups.⁵⁹

On 14 March 2019, the organisers announced that they were being investigated⁶⁰ under Section 4(1) of the draconian Sedition Act 1948, as well as Section 9(5) of the Peaceful Assembly Act 2012. On 18 March 2019, the police questioned three organisers of the march.⁶¹



Political activist Arulchelvan called for questioning by the police after handing over a memorandum to government at a protest outside the Prime Ministers' office, September 2018, Credit: PSM

Activists have also claimed they faced harassment after holding peaceful protests. In October 2018, Suara Rakyat Malaysia (SUARAM) executive director Sevan Doraisamy reported that he had been questioned three times by the Dang Wangi district police headquarters for a rally organised before the May 2018 elections. Political activist S. Arulchelvan has been called for questioning by the police after handing over a memorandum to Pakatan Harapan leaders at a protest outside the Prime Ministers' office in September 2018.⁶²

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- 58 CIVICUS, "Attacks on women's day march in Malaysia inconsistent with the government stated commitment to fundamental freedoms", 18 March 2019, <https://www.civicus.org/index.php/media-resources/news/3798-joint-statement-attacks-on-women-s-day-march-in-malaysia-inconsistent-with-the-government-s-stated-commitment-to-fundamental-freedoms>.
- 59 ARTICLE 19, "Malaysia: Attacks on women's day march inconsistent with the government's stated commitment to fundamental freedoms", 18 March 2019, <https://www.article19.org/resources/malaysia-attacks-on-womens-day-march-inconsistent-with-the-governments-stated-commitment-to-fundamental-freedoms/>.
- 60 Malaysiakini, "Cops investigating Women's March organisers under Sedition Act", 14 March 2019, <https://www.malaysiakini.com/news/467955>.
- 61 Malay Mail, "Three quizzed over Women's Day march", 18 March 2019, <https://www.malaymail.com/news/malaysia/2019/03/18/three-quizzed-over-womens-day-march/1733912>.
- 62 Free Malaysia Today, "Police intimidation worse under PH, claim rights groups", 26 October 2018, <https://www.freemalaysiatoday.com/category/nation/2018/10/26/police-intimidation-worse-under-ph-claim-rights-groups/>; Free Malaysia Today, "Berang diugut 'Datuk', penduduk Kg Bukit Kuda serah memo kepada PM", 5 September 2018, <https://www.freemalaysiatoday.com/category/bahasa/2018/09/05/berang-diugut-datuk-penduduk-kg-bukit-kuda-serah-memo-kepada-pm/>.

FREEDOM OF ASSOCIATION

While Article 10(c) of the Malaysia Constitution guarantees the right to the freedom of association, the previous government regularly used legal restrictions to prevent the formation of associations and threatened to suspend, close or obstruct CSOs and movements that were not formally registered.

The legal framework governing the operations of CSOs remains unduly restrictive and heavily burdensome. In particular, the Societies Act 1966 prohibits the formation or operation of unregistered groups. Organizations that have attempted to register with the Registrar of Societies (ROS) have experienced excessive waiting periods, as there is no fixed time period in the law to decide upon a registration application. Further, the ROS has broad powers to refuse registration and absolute discretion to declare a society illegal. As a result, many CSOs in Malaysia register as companies, which presents legal and bureaucratic restrictions on their ability to recruit members and raise funds.⁶³



Malaysian parliament

The Pakatan Harapan manifesto recognized civil society as “important elements of a modern country” and affirmed that they “play an important role in complementing the role of the government” (Promise 54). It promised to simplify the process of establishing non-governmental organisations and ensure that the process for obtaining tax exemptions would be more transparent, easier and free from abuse or interference of political power. It also committed to establish a Commission on Charities and Non-Profit Organisations to take over the responsibilities of the Registrar of Societies.⁶⁴

Despite these commitments, ARTICLE 19 and CIVICUS are not aware of any progress with regards to these reforms and no consultation has been held with civil society on strengthening freedom of association.

While the repression against human rights defenders and activists in Malaysia, particularly those engaged on human rights issues, has lessened since the change of government, LGBT activists continue to face discrimination, harassment and intimidation by the authorities both online and off.

In August 2018, the portraits of two lesbian, gay, bisexual and transgender (LGBT) activists, Nisha Ayub and Pang Khee Teik, posing with the Malaysian flag were taken down at an exhibition in Penang after a directive from the government prohibiting the “promotion of LGBT culture”.⁶⁵ In the same month, the government announced they were planning to conduct online surveillance and monitoring of LGBT content.⁶⁶ In April 2019, gay rights activist Numan Afifi was summoned for questioning by the police after giving a statement concerning the government’s policies on gender identity and sexual orientation before the UN Human Rights Council in Geneva.⁶⁷ According to civil society groups, those supporting

63 CIVICUS and Pusat Komus, “Joint Submission on Malaysia to the UN Universal Periodic Review 31st Session of the UPR Working Group”, 29 March 2019, http://www.civicus.org/images/Joint_CIVICUS_Pusat_Komas_UPR_Submission_Malaysia_2018.pdf.

64 Pakatan Harapan Manifesto for the 14th General Election ‘Rebuilding Our nation, Fulfilling Our Hopes’, 8 March 2018, https://kempen.s3.amazonaws.com/manifesto/Manifesto_text/Manifesto_PH_EN.pdf.

65 The Star Online, “Portraits of LGBT activists taken down”, 9 August 2018, <https://www.thestar.com.my/news/nation/2018/08/09/portraits-of-lgbt-activists-taken-down-mujahid-says-they-dont-comply-with-govt-policy/>.

66 Malaysia Insight, “Jakim, MCMC monitoring LGBT content on social media, says Mujahid”, 13 August 2018, <https://www.themalaysianinsight.com/s/87315>.

67 The Star Online, “Activist Numan Afifi investigated over LGBT speech at United Nations”, 16 April 2016, <https://www.thestar.com.my/news/nation/2019/04/16/activist-numan-afifi-investigated-over-lgbt-speech-at-united-nations/>.



Women's day rally in Kuala Lumpur, March 2019. Credit: Suaram

the human rights of LGBT persons have been subjected to doxxing or dissemination of personal information or photos without their consent, hateful and violent messages and threats, and vilification and demonisation in the media.⁶⁸

While officials from the Pakatan Harapan government have at times affirmed the need to reject any form of discrimination against LGBT individuals,⁶⁹ they have also on occasion contributed to the marginalization of this community. For example, on 22 September 2018, Prime Minister Mahathir Mohammad dismissed LGBT culture and same-sex marriage as “Western values” that are unacceptable in Malaysia,⁷⁰ comments that have been echoed by other senior government officials.⁷¹ During the review of the outcome of its Universal Periodic Review in March, the Malaysian government also failed to accept numerous recommendations concerning the rights of the LGBT community, citing religious belief and “moral consensus” in Malaysia.⁷²

68 Justice for Sisters, “LGBTIQ: We are the experts of our lives”, 10 August 2018, <https://justiceforsisters.wordpress.com/2018/08/10/lgbtiq-we-are-the-experts-of-our-lives/>.

69 New Straits Times, “LGBT rights protected but must abide by Malaysian laws, says minister”, 23 July 2018, <https://www.nst.com.my/news/nation/2018/07/393500/lgbt-rights-protected-must-abide-malaysian-laws-says-minister>.

70 The Star Online, “LGBT or same-sex marriage not for Malaysia, says Dr M”, 22 September 2018, <https://www.thestar.com.my/news/nation/2018/09/22/lgbt-or-samesex-marriage-not-for-malaysia-says-dr-m/>.

71 New Straits Times, “No place for liberalism in the promotion of LGBT lifestyle, says Mujahid”, 29 November 2018, <https://www.nst.com.my/news/nation/2018/11/435764/no-place-liberalism-promotion-lgbt-lifestyle-says-mujahid>.

72 ARTICLE 19, “Malaysia: Fulfill UPR commitments, end attacks on freedom of expression”, 14 March 2019, <https://www.article19.org/resources/malaysia-fulfill-upr-commitments-end-attacks-on-freedom-of-expression/>.

INTERNATIONAL HUMAN RIGHTS COMMITMENTS

Malaysia is a laggard in terms of ratification of international treaties. Of the core international human rights treaties, Malaysia has only ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC) and Convention on the Rights of Persons with Disabilities (CRPD). Moreover, Malaysia has registered significant reservations to all three treaties, subordinating key treaty provisions to Syariah law, the rulings of Syariah courts and other national laws and policies. Malaysia has neither signed nor ratified the remaining six core international human right treaties, including the International Covenant on Civil and Political Rights (ICCPR), the foundational treaty protecting the rights described in this briefing.

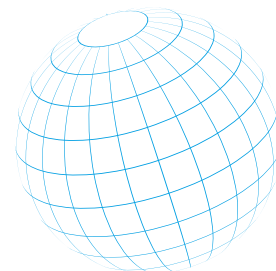
The Pakatan Harapan coalition campaign manifesto stated: “Suitable international conventions that are not yet ratified will be ratified as soon as possible, including the International Convention [sic] on Civil and Political Rights” (Promise 26). After coming to power, the Prime Minister and other senior government officials reiterated these commitments, including before the UN General Assembly in September 2018.⁷³ The Ministry of Foreign Affairs also held preliminary discussions in August 2018 about potential stakeholder meetings as a first step towards Malaysia’s ratification of international conventions.



Malaysian delegation at Universal Periodic Review session in Geneva, Credit: UN Web TV

However, in the intervening months, progress on treaty ratification has stalled. Notably, in November 2018, facing the threat of mass protests, the government backed away from commitments to ratifying ICERD, with government officials and elected members of parliament admitting that they had underestimated public resistance to the action. More recently, in April 2018, Malaysia reversed course by withdrawing its accession to the Rome Statute of the International Criminal Court, filed only a month earlier.

During its Universal Periodic Review before the UN Human Rights Council in November 2018, Malaysia made commitments to “studying the feasibility of Malaysia acceding to the remaining six human rights instruments”, but stopped short of setting a timeframe for such review or making a firm commitment to ratification.⁷⁴ During the review of its Universal Periodic Review outcome in March, the government noted, but did not accept, explicit recommendations to ratify remaining human rights treaties, adopting the approach of the previous government during Malaysia’s prior Universal Periodic Review.⁷⁵



At present, the government has not established any clear process or timeline for treaty ratification, nor provided any mechanisms for collecting civil society feedback on the issue. ARTICLE 19 and CIVICUS are concerned that the government’s treaty ratification initiative has stalled, perhaps reflecting insufficient political will in the face of strident opposition from conservative groups.

73 New Straits Times, “Dr M pledges to uphold UN principles in New Malaysia”, 28 September 2018, <https://www.nst.com.my/news/nation/2018/09/415933/dr-m-pledges-uphold-un-principles-new-malaysia>.

74 Malaysia, “National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21”, Human Rights Council, 23 August 2018, UN Doc. No. A/HRC/WG.6/31/MYS/1.

75 Malaysia, “Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review”, Human Rights Council, UN Doc. No. A/HRC/40/11/Add.1, 18 February 2019.

RECOMMENDATIONS

ARTICLE 19 and CIVICUS urge the Malaysian government to undertake a comprehensive and inclusive process of legislative and institutional reform in order to promote and protect fundamental rights and freedoms. To this end, authorities must ensure that any processes to review and reform legislation is fully transparent and facilitate the full and effective participation of all concerned stakeholders, including civil society.

ARTICLE 19 and CIVICUS further believe that it is essential for Malaysia's reform process to be informed by relevant international human rights standards, and therefore call on the government to take concrete steps to ratify core human rights treaties, including the International Covenant on Civil and Political Rights.

Without prejudice to broader sets of recommendations provided to Malaysian authorities by ARTICLE 19 and CIVICUS,⁷⁶ the organisations suggest that the government prioritise the following reforms relating to freedom of expression, peaceful assembly and association:

FREEDOM OF EXPRESSION

- Repeal in their entirety the Sedition Act 1948, Official Secrets Act 1972 and Anti-Fake News Act 2018;
- Review and amend the Printing Presses and Publications Act 1984 and the Communications and Multimedia Act 1998 in order to ensure compliance with international human rights law and standards; and
- Drop all criminal proceedings and quash all convictions of individuals targeted simply for exercising the right to freedom of expression.

FREEDOM OF PEACEFUL ASSEMBLY

- Amend the Peaceful Assembly Act to guarantee fully the right to the freedom of peaceful assembly as provided by international law and standards;
- Halt the judicial harassment of demonstrators, community activists and human rights defenders for exercising their right to the freedom of peaceful assembly; and
- Instruct all police departments that it is their duty to facilitate peaceful assemblies, rather than hinder them.

FREEDOM OF ASSOCIATION

- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit the right to association;
- Remove all undue restrictions on the ability of civil society organisations to be established in line with best practices articulated by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association;
- Review the Societies Act to guarantee that undue restrictions on the freedom of association are removed and the Act is brought into compliance with article 21 and 22 of the ICCPR; and
- Take necessary measures to protect lesbian, gay, bisexual, transgender and intersex persons, in law and in practice, against any form of violence, harassment or discrimination and ensure the full enjoyment of all their fundamental human rights and freedoms.

⁷⁶ See, for example, ARTICLE 19, et al, "Joint submission to the Universal Periodic Review", 4 April 2018, <https://www.article19.org/resources/malaysia-joint-submission-universal-periodic-review/>; CIVICUS and Komas, "Joint Submission to the Universal Periodic Review", 29 March 2018, https://www.civics.org/images/Joint_CIVICUS_Pusat_Komas_UPR_Submission_Malaysia_2018.pdf; ARTICLE 19, "Submission to the Committee on Institutional Reforms", 4 June 2018, <https://www.article19.org/resources/malaysia-submission-to-the-committee-on-institutional-reforms/>.

APPENDIX 1: APPLICATION OF THE SEDITION ACT 1948, MAY 2018 – APRIL 2019

No.	Name	Date of questioning, arrest or charge	Subject matter of allegation	Current status as of April 2019
1	Datuk A Kadir Jasin~veteran journalist and media advisor to the Prime Minister	Questioned on 7 June 2018 ⁷⁷ and 16 January 2019. ⁷⁸	Blog posts concerning Yang DiPertuan Agong (King) Sultan Muhammad V and Kedah ruler Sultan Sallehuddin Sultan Badlishah.	Police recorded statements; ⁷⁹ no further action taken.
2	Fadiah Nadwa Fikri ~human rights defender	Questioned on 11 July 2018. ⁸⁰	Article titled, “Don’t Kiss the Hand that Beats You” on the blog Malaysia Muda criticising Pakatan Harapan leader Anwar Ibrahim for kissing the hand of Sultan Ibrahim Sultan Iskandar; also investigated under the Communications and Multimedia Act (CMA) 1998.	Police recorded statement; no further action taken.
3	Asheeq Ali Sethi Alivi ~Student rights activist	Questioned on 14 August 2018. ⁸¹	Alleged insult to the former King Muhammad V by expressing support for Fadiah Nadwa; also investigated under the Communications and Multimedia Act (CMA) 1998.	Police recorded statement; no further action taken.
4	Azman Noor Adam ~UMNO member and younger brother of UMNO Supreme Council member Lokman Adam (below)	Arrested on 2 October 2018. ⁸²	Alleged sharing of unflattering images of the Prime Minister.	Police recorded statement; released on bail on 3 October 2018. ⁸³

77 News Straits Times, “Police open probe on Kadir Jasin over claims on Agong’s expenditure”, 7 June 2018, <https://www.nst.com.my/news/crime-courts/2018/06/377747/police-open-probe-kadir-jasin-over-claims-agongs-expenditure>.

78 Malaysiakini, “Cops grill Kadir Jasin again over blog post on royalty”, 16 January 2019, <https://www.malaysiakini.com/news/460495>.

79 Free Malaysia Today, “Police record Kadir Jasin’s statement in sedition probe”, 20 June 2018, <https://www.freemalaysiatoday.com/category/nation/2018/06/20/police-record-kadir-jasins-statement-in-sedition-probe/>.

80 Malay Mail, “Activist under sedition probe defends article critical of royalty”, 11 July 2018, <https://www.malaymail.com/news/malaysia/2018/07/11/activist-under-sedition-probe-defends-article-critical-of-royalty/1651266>.

81 Free Malaysia Today, “Cops seize activist’s phone in probe over ‘insulting’ Agong”, 14 August 2018, <https://www.freemalaysiatoday.com/category/nation/2018/08/14/cops-seized-activists-phone-in-probe-over-insulting-agong/>.

82 Malaysiakini, “Umno man cries foul over Harapan’s ‘silence’ after brother nabbed for sedition”, 2 October 2018, <https://www.malaysiakini.com/news/445644>.

83 Malay Mail, “DR. M : I don’t mind being insulted by anybody”, 4 October 2018, <https://www.malaymail.com/news/malaysia/2018/10/04/dr-m-i-dont-mind-being-insulted-by-anybody/1679236>.

No.	Name	Date of questioning, arrest or charge	Subject matter of allegation	Current status as of April 2019
5	Papagomo Wan Muhammad Azri ~blogger and UMNO youth member	Arrested on 30 November 2018. ⁸⁴	Inflammatory video allegedly posted on Facebook page after Seafeld temple riots in Subang. ⁸⁵	Released on bail on 3 December 2018.
6	Four unnamed individuals: Seafeld temple riots	Investigation opened in November 2018. ⁸⁶	Unspecified connection to Seafeld riots.	No further information is available.
7	Sevan Doraisamy ~SUARAM Executive Director	Questioned on 6 December 2018. ⁸⁷	Investigate for allegedly questioning the royal institution based on the article that was written by Fadiyah Nadwa on July 2018 and published on the website of Malaysia Muda, of which Sevan serves as adviser.	Police recorded statement; no further action taken.
8	Eric Liew Chee Ling, Azham Akhtar Abdullah and Nur Alia Astaman	Arrested on 8 January 2019. ⁸⁸	Alleged insults to the former King Sultan Muhammad V following his resignation.	Eric Liew Chee Ling charged under section 233(1)(a) of the Communications and Multimedia Act 1998 on 12 February 2019. ⁸⁹
9	Lokman Adam ~UMNO Supreme Council member	Arrested on 10 January 2019. ⁹⁰	Remarks that the government tried to protect those who killed firefighter Muhammad Adib Mohd Kassim during the riots that took place at the Seafeld temple in November 2018.	Released on bail on 11 January 2019.
10	Unnamed Facebook user	Arrested on 2 February 2019. ⁹¹	Alleged insult to Yang di-Pertuan Agong Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah Ibni Sultan Ahmad Shah Al-Musta'in Billah Shah in a Facebook post.	Police recorded statement; no further information available.

84 Malay Mail, "IGP confirms Papagomo nabbed over provocative video", 30 November 2019, <https://www.malaymail.com/news/malaysia/2018/11/30/igp-confirms-papagomo-nabbed-over-provocative-video/1698704>.

85 Malaysiakini, "Violence as devotees scuffle over relocation of Seafeld temple", 26 November 2018, <https://www.malaysiakini.com/news/453399>.

86 The Sun Daily, "Temple riots: Police open four investigation papers under Sedition Act", 2 December 2018, <https://www.thesundaily.my/local/temple-riots-police-open-four-investigation-papers-under-sedition-act-DI192647>.

87 Malaysiakini, "Suaram chief probed under Sedition Act over article on rulers", 6 December 2018, <https://www.malaysiakini.com/news/455011>.

88 Malaysiakini, "Three held for Sedition over alleged insults on former Agong", 9 January 2019, <https://www.malaysiakini.com/news/459521>.

89 The Star Online, "Man charged with insulting Sultan Muhammad V", 12 February 2019, <https://www.thestar.com.my/news/nation/2019/02/12/man-charged-with-insulting-sultan-muhammad-v/>.

90 Malaysiakini, "Lokman Adam arrested under Sedition Act", 11 January 2019, <https://www.malaysiakini.com/news/459751>.

91 The Star Online, "Trader arrested for Sedition after allegedly insulting the King", 2 February 2019, <https://www.thestar.com.my/news/nation/2019/02/02/trader-arrested-for-sedition-after-allegedly-insulting-the-king/>.

No.	Name	Date of questioning, arrest or charge	Subject matter of allegation	Current status as of April 2019
11	Datuk Seri Nazri Aziz ~Secretary General of Barisan Nasional	Questioned in February 2019. ⁹²	Racially sensitive remarks during a campaign event for the Semenyih by-election.	Police recorded statement; no further action taken.
12	Women's Day March organisers and participants	Investigated in March 2019. ⁹³	Alleged failure to give 10 days' notice of assembly; allegation disputed by organisers, who claim they complied with Peaceful Assembly Act. ⁹⁴	Police recorded statement from nine people including from three identified as organisers. ⁹⁵
13	Sharil Chain ~Facebook user	Arrested on 15 March 2019. ⁹⁶	Online comments concerning the Yang di-Pertuan Agong, Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah; also investigated under the Communications and Multimedia Act 1998.	Charged on 22 March 2019 under the Section 233(1)(a) of CMA, pled not guilty; ⁹⁷ on 8 April 2019 changed mind and pled guilty. ⁹⁸
14	Sabah Sarawak Merdeka Facebook page	Investigation opened in April 2019. ⁹⁹	Alleged insults to Yang di-Pertuan Agong Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah.	Facebook has blocked the Sabah Sarawak Merdeka page; no further information available. ¹⁰⁰
15	Panellists of Forum on Rome Statue including Attorney General Tommy Thomas	Investigation opened in April 2019. ¹⁰¹	Comments alleged to be critical of the monarchy.	Panellists likely to be called for questioning.

92 Malay Mail, "IGP: Nazri under Sedition investigation", 26 February 2019, <https://www.malaymail.com/news/malaysia/2019/02/26/igp-nazri-under-sedition-investigation/1727016>.

93 Malaysiakini, "Cops investigating Women's March organisers under Sedition Act", 14 March 2019, <https://www.malaysiakini.com/news/467955>.

94 Malaysiakini, "IGP: Women's March organisers did not give notice within 10-day timeframe", 15 March 2019, <https://www.malaysiakini.com/news/468056>.

95 Malaysiakini, "Women's March: Police record statements from three more", 18 March 2019, <https://www.malaysiakini.com/news/468499>.

96 Bernama, "Sharil Chain' Facebook account owner arrested for insulting Agong", 15 March 2019, <http://www.bernama.com/en/news.php?id=1705609>.

97 The Sun Daily, "Gardener, customer service personnel charged with insulting king", 22 March 2019, <https://www.thesundaily.my/local/gardener-customer-service-personnel-charged-with-insulting-king-FB715979>.

98 Free Malaysia Today, "Gardener changes mind, pleads guilty to insulting King on FB", 8 April 2019, <https://www.freemalaysiatoday.com/category/nation/2019/04/08/gardener-changes-mind-pleads-guilty-to-insulting-king-on-fb/>.

99 Malaysiakini, "Insulting the King: 91 police reports lodged", 13 April 2019, <https://www.malaysiakini.com/news/472120>.

100 The Star Online, "Facebook blocks Sabah-Sarawak Merdeka account for insulting Agong", 14 April 2019, <https://www.thestar.com.my/news/nation/2019/04/14/facebook-blocks-sabah-sarawak-merdeka-account-for-insulting-agong/>.

101 Malaysiakini, "Police open sedition probe on forum attended by academicians, AG", 29 April 2019, <https://www.malaysiakini.com/news/474157>.

APPENDIX 2: APPLICATION OF THE COMMUNICATIONS AND MULTIMEDIA ACT 1998, MAY 2018 – APRIL 2019

No.	Name	Date of questioning, arrest or charge	Subject matter of allegation	Current status as of April 2019
1	Unnamed Facebook user	Arrested on 16 May 2018. ¹⁰²	Alleged insult to Islam and Prime Minister Mahathir Mohammad in Facebook posting.	No further information available.
2	Unnamed member of Pekida (Islamic Propagation and Welfare Organisation of Malaysia)	Arrested on 2 June 2018. ¹⁰³	Facebook post containing alleged threat to shoot Prime Minister Mahathir Mohammad; also investigated under Section 506 of the Penal Code.	No further information available.
3	Fadijah Nadwa Fikri ~human rights defender	Questioned on 11 July 2018. ¹⁰⁴	Article titled, “Don’t Kiss the Hand that Beats You” on the blog Malaysia Muda criticising Pakatan Harapan leader Anwar Ibrahim for kissing the hand of Sultan Ibrahim Sultan Iskandar; also investigated under Sedition Act.	Police recorded statement; no further action taken.
4	Cheah Leong Huat ~member of Democratic Action Party	Arrested on 12 October 2018. ¹⁰⁵	Facebook post asking DAP members to reject two DAP candidates: DAP Perak Chairman Nga Kor Ming and adviser Datuk Ngeh Koo Ham; also investigated under Section 507 of the Penal Code.	No further information available.
5	Mohd Hannan Ibrahim ~Fish delivery worker	Sentenced on 26 October 2018. ¹⁰⁶	Facebook post concerning death of two policemen in an accident on the East Coast Expressway (LPT) in October 2018.	Pled guilty and sentenced to six months imprisonment.

102 The Star Online, “Man arrested for allegedly insulting Dr M and Islam on Facebook”, 17 May 2018, <https://www.thestar.com.my/news/nation/2018/05/17/man-arrested-for-allegedly-insulting-dr-m-and-islam-on-facebook/>.

103 The Sun Daily, “Pekida member arrested over death threat against PM “, 4 June 2018, <https://www.thesundaily.my/archive/pekida-member-arrested-over-death-threat-against-pm-AUARCH552476>.

104 Malay Mail, “Activist under sedition probe defends article critical of royalty”, 11 July 2018, <https://www.malaymail.com/news/malaysia/2018/07/11/activist-under-sedition-probe-defends-article-critical-of-royalty/1651266>.

105 New Straits Times, “I don’t want to chop up Nga and Ngeh”, 13 October 2018, <https://www.nst.com.my/news/crime-courts/2018/10/420921/i-dont-want-chop-nga-and-ngeh>.

106 ‘Bernama, “Six months jail for insulting the death of policemen”, 26 October 2018, <http://www.bernama.com/en/news.php?id=1658219>.

No.	Name	Date of questioning, arrest or charge	Subject matter of allegation	Current status as of April 2019
6	Eric Liew Chee Ling ~Former sales manager	Charged on 12 February 2019. ¹⁰⁷	Alleged insult to the former King Sultan Muhammad V following his resignation.	Filing appeal at the High Court on constitutional grounds. ¹⁰⁸
7	Wai Foo Sing ~unemployed senior citizen	Charged on 27 February 2019. ¹⁰⁹	Facebook post with offensive caricature of Prophet Muhammad; also charged under 298A of the Penal Code.	Pled guilty; denied bail; court hearing fixed for June 17 and 18; ¹¹⁰ claimed he was beaten up at the Sungai Buloh prison. ¹¹¹
8	Facebook user "Bakakuk"	Arrested on 3 March 2019. ¹¹²	Facebook post insulting Prophet Muhammad and the Prophet's wife; police received 15 police reports against his Facebook posting.	No further information available.
9	Chow Mun Fai ~construction site supervisor	Charged on 8 March 2019. ¹¹³	Tweets about the Prophet Muhammad; also charged under Section 298A of the Penal Code.	Pled not guilty; court date set for 26 April.
10	Danny anak Anton ~convenience store worker	Charged on 8 March 2019. ¹¹⁴	Facebook posts insulting the Prophet Muhammad, Islam and PAS president Abdul Hadi Awang; also charged under Section 298A of the Penal Code.	Court date set 26 April.
11	Mohamad Yazid Kong Abdullah ~unemployed	Charged on 8 March 2019. ¹¹⁵	Facebook post insulting Prophet Muhammad and Islam.	Pled guilty; sentenced to 7-month jail term and fined RM 10,000. ¹¹⁶

107 The Star Online, "Man charged with insulting Sultan Muhammad V", 12 February 2019, <https://www.thestar.com.my/news/nation/2019/02/12/man-charged-with-insulting-sultan-muhammad-v/>.

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No.	Name	Date of questioning, arrest or charge	Subject matter of allegation	Current status as of April 2019
12	Alister Cogia ("Ayea Yea")	Sentenced on 8 March 2019. ¹¹⁷	Facebook posts insulting Prophet Muhammad and Islam; also charged under Section 298A of the Penal Code.	Pled guilty; sentenced to 10 years and 10 months imprisonment; de facto Deputy Law Minister said that he can appeal the excessive jail sentence; ¹¹⁸ appeal date twice extended for mental examination and hospital observation. ¹¹⁹
13	Sharil Chain ~Facebook user	Arrested on 15 March 2019. ¹²⁰	Online comments concerning the Yang di-Pertuan Agong, Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah; also investigated under Sedition Act.	Charged on 22 March 2019, pled not guilty; ¹²¹ on 8 April 2019 changed mind and pled guilty; ¹²² sentenced to 2 months imprisonment.
14	Zambri Bin Abdul Razak ~ex-photographer	Charged on 15 March 2019. ¹²³	Facebook post insulting Hinduism.	Pled guilty, then reversed plea to not guilty; hearing on 23-24 April; ¹²⁴ no further information available.
15	Jufazli Shi Ahmad ~former DAP member	Arrested on 16 March 2019. ¹²⁵	Facebook video insulting the Prime Minister; ¹²⁶ also investigated under Section 504 of the Penal Code.	Released on 22 March after court rejected further remand application by police. ¹²⁷

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No.	Name	Date of questioning, arrest or charge	Subject matter of allegation	Current status as of April 2019
16	Razlan Rafii ~Former UMNO youth leader	Questioned on 20 March 2019. ¹²⁸	Social media comments suggesting that DAP members should be “shot”; also investigated under Section 505(c) of the Penal Code.	Police recorded statement on 20 March 2019. ¹²⁹
17	T. R. Thurkai Devi	Charged on 22 March 2019. ¹³⁰	June 2018 Facebook post insulting the Yang DiPertuan Agong.	Court date fixed for 8 April.
18	Karitikesoo Valu ~Lorry driver	Charged on 22 March 2019. ¹³¹	“Hate message” posted on social media.	Denied bail; court date set for 23 April 2019; no further information available.
19	Three unnamed individuals	Arrested and questioned in March 2019. ¹³²	Offensive and pornographic content sent on WhatsApp.	No further information available.
20	Facebook users ‘Auni Zaara’ and ‘Faadhillah Abdulhamid’	30 April 2019. ¹³³	Facebook posts insulting Islam, the Prophet Muhammad and the Prophet’s wife Aisyah.	No further information available.

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NEW GOVERNMENT, OLD TACTICS

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