

# State of Disruption: Assessing the Impact of Malaysia's COVID-19 laws on civic space



FORUM-ASIA



Suara rakyat  
malaysia  
**SUARAM**  
working for human rights

# State of Disruption: Assessing the Impact of Malaysia's COVID-19 Laws on Civic Space



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## STATE OF DISRUPTION: ASSESSING THE IMPACT OF MALAYSIA' S COVID-19 LAWS ON CIVIC SPACE

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 85 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond. It has consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with offices in Jakarta, Geneva and Kathmandu. [www.forum-asia.org](http://www.forum-asia.org)

Pusat KOMAS is a human rights organisation in Malaysia which was established in 1993. Pusat KOMAS actively promotes equality and the elimination of all forms of racial discrimination in Malaysia.

Since its inception, Pusat KOMAS has conducted human rights workshops, forums and conferences to promote social cohesion and national unity in Malaysia. Pusat KOMAS leads the national campaign to ratify the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) in Malaysia. To advocate for the ratification of ICERD, Pusat KOMAS has been engaging the federal, state and local government and conducted dialogues with the grassroots to increase knowledge and awareness on the issue of Racial Discrimination in Malaysia and the importance of ratifying ICERD.

Pusat KOMAS has been working in close collaboration with Jaringan Kampung Orang Asli Semenanjung Malaysia (JKOASM) since 1993. JKOASM is a network of indigenous villages in Peninsular Malaysia that advocates the issues of the Orang Asli and empowers the communities on their ancestral rights and basic human rights.

Pusat KOMAS is also the co-secretariat of 2 large NGO networks, the CSO Platform for Reform and COMANGO. In addition, KOMAS is also an accredited member of AICHR and a member of CIVICUS, ASPBAE. <https://komas.org/memberships/>

SUARAM is a non-governmental organization established in 1989. In 1987, Malaysia witnessed one of its darkest moments in history when Operasi Lalang was unleashed. The crackdown resulted in 106 persons being detained without trial under the Internal Security Act (ISA). Not only did this cause grave distress to the detainees and their family members, Operasi Lalang also generated a sense of indignation among many Malaysians who uphold human rights. After their release, several of these ISA detainees and their family members, lawyers, and social activists came together in 1989 to found SUARAM with the vision to protect and promote human rights in a society that is just, equal, and democratic.

SUARAM specializes in civil and political rights such as educational programs and trainings on freedom of expression, peaceful assembly, and association; right to fair trial; freedom from torture, extra-judicial killings, and cruel punishment; public accountability and genuine democracy-building. Together with other civil organisation and group partners who work on economic, social, and cultural rights in Malaysia, we are able to collectively and comprehensively address all human rights.

SUARAM vows to continue to campaign for civil rights, rule of law, freedom of expression, association and assembly, mother tongue education, freedom of religion and the ratification of international human rights treaties, such as the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

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## LIST OF ABBREVIATIONS

ABIM = Angkatan Belia Islam Malaysia  
AFNA = Anti-Fake News Act 2018  
BN = Barisan Nasional  
CMA = Communications and Multimedia Act 1998  
CSO(s) = Civil Society Organisation(s)  
EO = Executive Order(s)  
EPF = Employees' Provident Fund  
IDEAS = Institute for Democracy and Economic Affairs  
KLNFR = Kuala Langat North Forest Reserve  
JKKK = Jawatankuasa Kemajuan dan Keselamatan Kampung  
NGO(s) = Non-governmental Organisation(s)  
MCO = Movement Control Order  
MoU = Memorandum of Understanding  
MP(s) = Member(s) of Parliament  
MUDA = Malaysian United Democratic Alliance  
PAS = Malaysian Islamic Party  
PCID Act 1988 = Prevention and Control of Infectious Diseases Act 1988  
PKR = Parti Keadilan Rakyat  
PH = Pakatan Harapan  
PHSKLU = Pertahankan Hutan Simpan Kuala Langat Utara  
PSM = Parti Sosialis Malaysia  
PN = Perikatan Nasional  
SOPs = Standard Operating Procedure(s)  
SSR = Sekretariat Solidariti Rakyat  
SUARAM = Suara Rakyat Malaysia  
SUHAKAM = Human Rights Commission of Malaysia  
UMNO = United Malays National Organisation

# EXECUTIVE SUMMARY

## Purpose of the Report

As with other governments in the region, Malaysia's Perikatan Nasional (PN) government imposed strict measures to combat the spread of COVID-19 in 2020. Following a series of targeted Movement Control Orders (MCO), the country was placed under the National State of Emergency on 12 January 2021, to last until 1 August 2021. Civil society characterised this period by the exacerbation of human rights violations and suspension of parliamentary democracy due to the Government striving to hold on to power.

The Emergency Ordinance's legal provisions, which were overbroad and did not meet international human rights standards, were widely employed against persons who criticised the Government's handling of the pandemic. Likewise, individuals and social activists were questioned by the police or penalised with hefty compounds under the Government's repressive methods.

The purpose of this report is to assess the impact of Malaysia's COVID-19 laws on civic space, as well as on marginalised and vulnerable communities and civil society organisations.

## Methods used

FORUM-ASIA undertook desk research which included accessing information from the few independent media organisations in Malaysia, and from government official websites. This was supplemented by in-depth interviews conducted between August and October 2021, with five Malaysian civil society members working on different aspects of human rights, to understand their experiences.

In October 2021, Pusat KOMAS organised a National Policy Dialogue in order to validate the preliminary findings of FORUM-ASIA research and collected comments for potential recommendations. Examining the impacts of laws and policies implemented during COVID-19 on human rights and examining good practices by either the Government or Civil Society Organisations (CSOs) in responding to the rise of authoritarianism were among the topics discussed.

The National Policy Dialogue featured the participation of 17 individuals, including three Members of Parliament and two commissioners (both have since stepped down) from the Human Rights Commission of Malaysia (SUHAKAM) that is the National Human Rights Institution (NHRI) of Malaysia which has the mandate of promoting human rights education, advise on legislation and policy, and conduct investigations.



Through this discussion, FORUM-ASIA was able to get feedback from the participants on the confirmation of the research results and to better understand how this relates to the wider human rights situation in Malaysia.

The output of the October 2021 National Policy Dialogue is incorporated in this research.

## **Main findings**

The research on Malaysia covers the period of its National State of Emergency from 12 January 2021 to 1 August 2021 and incorporates new development until August 2022. It complements research on the Philippines, looking at the impact of COVID-19 laws on fundamental freedoms. In Malaysia's case, the research led to the following findings:

- **Contrary to its stated aim to curb the impact of COVID-19, the State of Emergency initiated by the Government served as a 'political' means to reinforce its hold on power.** The state of emergency and the previous measures that the Government has imposed since it came to power have been used as a pretext to preserve former Prime Minister Muhyiddin Yassin's government power and prevent challenges to its rule. It justified the worsening crackdown against human rights defenders and the curtailment of civic space. The postponement of elections further ensured that there would be no challenge to its power.
- **The restrictive policies undertaken to counter COVID-19 do not meet the standards of legality, necessity, proportionality, and non-discrimination.** While countering the spread of COVID-19 and safeguarding public health remain key priorities, civil society groups agree that this could have been accomplished through a rights-based and evidence-based approach that protected public health while ensuring respect for human rights. Under Muhyiddin Yassin, the Malaysian Government has failed to establish the need for a consolidated and over-encompassing national emergency declaration. Policies undertaken by the Perikatan Nasional government, such as a fake news ordinance, only further curtailed the flow of information and proved detrimental to countering the pandemic. Muhyiddin Yassin's government also imposed disproportionate and ineffective measures such as the full suspension of parliament, and the criminalisation of dissenters. These restrictions also contributed to the increase in poverty and the widening of the inequality gap in Malaysia.
- **The policies initiated under COVID-19 will have a long-term impact on the political situation and the human rights environment in Malaysia.** These policies served to dismantle reforms initiated by the Pakatan Harapan government, closing spaces for engagement that were starting to open, and once again limiting the meaningful engagement and political participation of civil society. It has also sought to attack institutions that are key to upholding accountability, such as the independent media and artists, building distrust, and severing access to information to the public.

The period has served to cement legislation used against human rights defenders, including the 1998 Communications and Multimedia Act (CMA), Sedition Act, and Peaceful Assembly Act. Throughout the period, Muhyiddin Yassin's government has sought to normalise surveillance and the suppression of dissent through the systematic judicial harassment of human rights defenders, civil society and media.

- **Malaysia's political situation will have a spillover effect on the regional stability and state of human rights in the region.** Once seen as the region's hope for democratic reform, the political turmoil and Muhyiddin Yassin's takeover in 2020 with very little condemnation from the ASEAN bloc and the international community serves to reassure neighbouring authoritarian leaders that they will not be held accountable for violations of rights. This further emboldens leaders to disrespect and disregard existing institutions meant to provide checks and balances in power. Malaysia's tenure in the Human Rights Council further highlights a lack of accountability for the current government's disregard for international human rights mechanisms.
- **The pandemic and the steps taken to combat it have affected civil society's ability to connect, engage and advocate for fundamental freedoms on various levels.** The closing of Parliament, and the continuous use of repressive legislation, has limited venues for engagement with policymakers. Restrictions on protests and the arrests of peaceful protesters have served to intimidate human rights defenders.<sup>19</sup> Clearly, to send a message to the public about possible reprisals they may face should they speak up. These have particularly affected the access of marginalised and vulnerable communities to policymakers and stakeholders, and once again relegated their issues and concerns.
- **It has disproportionately affected minorities and vulnerable groups.** Government policies and rhetoric that blamed the spread of the virus on migrant and refugee groups (including the Rohingya) may have surfaced and reinforced existing discriminatory xenophobic tendencies, which can have further implications later on for policies affecting them. It can further justify the heightened use of discriminatory immigration policies, refoulement, as well as surveillance.
- As with authoritarian governments in Asia, the Malaysian Government, under both Muhyiddin Yassin and Ismail Sabri Yaakob, has used the pandemic response and Malaysia's many repressive laws to its own advantage, consolidating power and suppressing fundamental freedoms. Nevertheless, the efforts to counter COVID-19 have remained disorganised, ineffective, and insufficient. Civil society, while finding spaces for engagement, continues to face challenges of access and participation. These changes are particularly stark in Malaysia as it represents a return to authoritarianism that it once rejected, and it further highlights the continuing need for civil society to advocate for democracy.

## **Conclusion**

When the Pakatan-Harapan coalition fell apart in February 2020, power was given to the Malay-dominated Perikatan Nasional coalition. Comprising the main Barisan Nasional components headed by Muhyiddin Yassin, significant regression in human rights was seen with a continuous clampdown on activists and critical voices.

Authorities have used domestic legislation such as the Sedition Act 1948, the Communications and Multimedia Act 1998, and the Peaceful Assembly Act 2012 to suppress critique, target civil society members, hinder press freedom, and discourage peaceful assemblies.

Along with existing domestic laws, the imposition of a nationwide state of emergency for six months in 2021 signalled a further erosion of fundamental freedoms. Indeed, no elections were held during this time period, and parliament did not convene due to public health concerns.

The subsequent introduction of the Fake News Emergency (Essential Powers) (No. 2) Ordinance 2021 (EO), which came into force as a result of powers granted under the emergency, raised public suspicions that Malaysia's former Prime Minister Muhyiddin Yassin was ultimately exploiting the COVID-19 crisis to shore up his position and silence political opposition.

This repression resulted in a significant impact on democracy, fundamental freedoms, and vulnerable groups.

After Muhyiddin Yassin and his government resigned after 17 months in office, the situation did not improve under his replacement, Ismail Sabri Yaakob, appointed by the King in August 2021. Rather, the trend of restricting fundamental freedoms, particularly freedom of expression and peaceful assembly, along with zero tolerance for criticism or dissenting opinions has continued.

# RINGKASAN EKSEKUTIF

## Tujuan Laporan

Pada tahun 2020, sama seperti kerajaan lain di rantau ini, Malaysia di bawah kerajaan Perikatan Nasional telah mengenakan langkah-langkah pencegahan yang ketat bagi membanteras penyebaran COVID-19. Berikutan beberapa siri Perintah Kawalan Pergerakan (PKP) yang disasarkan, salah satu daripadanya merupakan Proklamasi Darurat pada 12 Januari 2021 sehingga 1 Ogos 2021. Masyarakat sivil menggambarkan tempoh ini sebagai tempoh yang buruk dimana berlakunya pelbagai pelanggaran hak asasi manusia, sekaligus pergantungan demokrasi berparlimen. Perkara ini dilihat sebagai usaha pihak Kerajaan untuk terus memegang tampuk kekuasaan.

Peruntukan undang-undang di bawah Ordinan Darurat yang melampaui batas dan tidak memenuhi piawaian antarabangsa hak asasi manusia, seringkali digunakan terhadap individu-individu yang mengkritik cara Kerajaan mengendalikan pandemik. Malahan, mereka turut disoal siasat oleh pihak polis atau didenda dengan kompaun besar di bawah peruntukan yang menindas ini.

Justeru, tujuan laporan ini adalah untuk menilai impak undang-undang COVID-19 di Malaysia terhadap ruang sivil, termasuklah komuniti terpinggir dan rentan serta organisasi masyarakat sivil.

## Metodologi Penyelidikan

FORUM-ASIA menjalankan penyelidikan di mana maklumat diperolehi daripada beberapa organisasi media bebas di Malaysia dan juga laman web rasmi kerajaan. Hasil sumber tersebut dilengkapi dengan temu bual mendalam diantara bulan Ogos hingga Oktober 2021 bersama-sama lima orang ahli masyarakat sivil. Kesemuanya bekerja dalam aspek hak asasi manusia yang berbeza-beza bagi memahami pengalaman mereka.

Pada Oktober 2021, Pusat KOMAS telah menganjurkan Dialog Dasar Kebangsaan bagi mengesahkan penemuan awal kajian FORUM-ASIA dan mengumpul pandangan yang berpotensi untuk dijadikan cadangan penambahbaikan. Antara topik yang dibincangkan adalah mengkaji impak undang-undang dan dasar yang dilaksanakan semasa COVID-19 serta amalan baik sama ada oleh Kerajaan atau Organisasi Masyarakat Sivil (CSO) dalam memberi respon terhadap kebangkitan autoritarianisme.

Dialog Dasar Kebangsaan menampilkan penglibatan 17 individu, termasuklah tiga Ahli Parlimen dan dua pesuruhjaya dari Suruhanjaya Hak Asasi Manusia (SUHAKAM). Kini, kedua-duanya menamatkan perkhidmatan.

SUHAKAM merupakan sebuah Suruhanjaya yang mempunyai mandat untuk mempromosikan pendidikan hak asasi manusia, menasihati perundangan dan dasar, serta menjalankan siasatan. Melalui sesi dialog tersebut, FORUM-ASIA berjaya mendapat maklum balas daripada peserta berkenaan pengesahan keputusan kajian dan pemahaman yang lebih baik tentang perkaitan perkara tersebut dengan situasi hak asasi manusia di Malaysia dalam konteks yang lebih luas.

Justeru, dapatan daripada Dialog Dasar Kebangsaan Oktober 2021 turut disertakan di dalam kajian ini.

### Dapatan Utama

Kajian di Malaysia ini meliputi dari tempoh Proklamasi Darurat pada 12 Januari 2021 hingga 1 Ogos 2021 dan menggabungkan perkembangan baru sehingga Ogos 2022. Ia melengkapkan kajian di Filipina dengan melihat kepada kesan undang-undang COVID-19 terhadap kebebasan asasi. Bagi situasi di Malaysia, kajian ini telah menemukan beberapa dapatan:

- **Bertentangan dengan tujuan yang dinyatakan iaitu untuk menghalang impak COVID-19, Tempoh Darurat dilakukan oleh Kerajaan dilihat sebagai tindakan ‘politik’ bagi mengukuhkan pegangan kuasa.** Tempoh darurat dan langkah-langkah terdahulu yang dikenakan oleh Kerajaan sejak mereka memegang kuasa telah digunakan sebagai helah untuk mengekalkan kuasa kerajaan mantan Perdana Menteri Muhyiddin Yassin serta mencegah sebarang halangan sepanjang pemerintahannya. Perkara ini dapat dijustifikasikan dengan tindakan keras yang semakin kerap terhadap pembela hak asasi manusia dan juga penutupan ruang sivik. Perkara ini dikuatkan lagi dengan penangguhan pilihan raya bagi memastikan bahawa tiada halangan terhadap tampuk kekuasaannya.
- **Dasar sekatan yang diambil untuk menentang COVID-19 tidak memenuhi piawaian kesahihan undang-undang, keperluan, perkadaran dan tanpa diskriminasi.** Walaupun pencengahan penularan COVID-19 dan menjaga kesihatan awam adalah keutamaan, kumpulan masyarakat sivil bersetuju bahawa ini boleh dicapai melalui pendekatan berasaskan hak dan bukti bagi melindungi kesihatan awam di samping memastikan penghormatan terhadap hak asasi manusia. Di bawah pimpinan Muhyiddin Yassin, kerajaan telah gagal mencari alasan untuk mendeklarasi darurat. Dasar-dasar yang diambil oleh kerajaan Perikatan Nasional seperti ordinan berita palsu hanya terus menyekat aliran maklumat malah terbukti lebih memudaratkan lagi dalam memerangi wabak ini. Kerajaan Muhyiddin Yassin juga mengenakan langkah yang tidak seimbang dan tidak berkesan seperti penggantungan penuh parlimen, dan menjenayahkan penentang. Sekatan ini juga menyumbang kepada peningkatan kemiskinan dan melebarkan jurang ketidaksetaraan di Malaysia.

- **Dasar-dasar yang diadakan semasa COVID-19 akan mempunyai kesan jangka panjang terhadap situasi politik dan persekitaran hak asasi manusia di Malaysia.** Kesemua dasar ini diadakan untuk memansuhkan reformasi yang dimulakan oleh kerajaan Pakatan Harapan, menutup ruang penglibatan yang sudah bermula terbuka dan sekali lagi menghadkan penglibatan bermakna dan penyertaan politik dalam kalangan masyarakat sivil. Ia juga telah berusaha untuk menyerang institusi yang penting untuk menegakkan akauntabiliti, seperti media dan artis bebas, membina ketidakpercayaan dan memutuskan akses kepada maklumat kepada orang ramai. Tempoh tersebut telah memperkukuh undang-undang yang digunakan terhadap pembela hak asasi manusia, termasuk Akta Komunikasi dan Multimedia (CMA) 1998, Akta Hasutan dan Akta Perhimpunan Aman. Sepanjang tempoh tersebut, kerajaan Muhyiddin Yassin telah berusaha untuk membiasakan pengawasan dan mencengkam penentang melalui gangguan kehakiman yang sistematik kepada pembela hak asasi manusia, masyarakat sivil dan media.
- **Situasi politik di Malaysia akan memberi kesan limpahan kepada kestabilan serantau dan keadaan hak asasi manusia di sekitarnya.** Dahulunya, rantau ini dilihat sebagai harapan kepada reformasi demokratik dan pengambil alihan Muhyiddin Yassin pada tahun 2020 dengan kecaman yang sangat sedikit daripada blok ASEAN dan komuniti antarabangsa mengukuhkan semula pemimpin autoritarian di negara jiran di mana mereka tidak bertanggungjawab bagi pelanggaran hak. Ini seterusnya mendorong pemimpin untuk tidak menghormati dan menghiraukan institusi sedia ada bagi menyediakan semak dan imbang dalam kuasa. Tempoh Malaysia dalam Majlis Hak Asasi Manusia menyerlahkan lagi kekurangan akauntabiliti terhadap pengabaian kerajaan pada masa tersebut terhadap mekanisme hak asasi manusia antarabangsa.
- **Pandemik dan langkah-langkah yang diambil untuk membanterasnya telah menjejaskan keupayaan masyarakat sivil untuk berhubung, melibatkan diri dan melakukan advokasi untuk kebebasan asasi di pelbagai peringkat.** Penutupan Parlimen dan penggunaan undang-undang menindas yang berterusan telah menghadkan ruang untuk penglibatan dengan pembuat dasar. Sekatan ke atas protes dan penangkapan peserta perhimpunan aman dilakukan sebagai intimidasi kepada pembela hak asasi manusia. Perkara ini jelas melalui mesej yang ingin disampaikan kepada orang awam sekiranya mereka terus bersuara, tindakan balas akan dihadapi. Kesemua ini sememangnya menjejaskan akses komuniti terpinggir dan rentan kepada pembuat dasar dan pihak berkepentingan seterusnya mengabaikan isu dan kebimbangan mereka.

- **Ia memberi kesan tidak seimbang kepada kumpulan minoriti dan rentan.** Dasar kerajaan dan retorik yang menyalahkan penyebaran virus ke atas kumpulan migran dan pelarian (termasuklah Rohingya) telah menimbulkan dan memperkukuh kecenderungan diskriminasi xenofobik di mana ia akan memberi implikasi secara langsung kepada dasar terhadap mereka. Perkara ini selanjutnya mewajarkan lagi penggunaan dasar imigresen yang mendiskriminasi, penghantaran pulang paksa serta pengawasan terhadap kumpulan ini.
- Seperti juga kerajaan autoritarian di Asia, Kerajaan Malaysia, di bawah Muhyiddin Yassin dan Ismail Sabri Yaakob telah menggunakan respon kepada pandemik dan banyak penindasan dalam undang-undang demi keuntungan mereka sendiri, mengukuhkan kuasa dan menindas kebebasan hak asasi. Namun begitu, usaha untuk menentang COVID-19 masih tidak teratur, berkesan dan mencukupi. Masyarakat sivil terus menghadapi cabaran kepada akses dan penyertaan dalam mencari ruang untuk penglibatan bersama. Perubahan ini amat ketara di Malaysia kerana ia seperti kembali kepada authoritarianisme yang pernah ditolak sebelum ini, justeru menyerlahkan lagi keperluan yang berterusan bagi masyarakat sivil untuk memperjuang demokrasi.

## Kesimpulan

Apabila gabungan Pakatan-Harapan jatuh pada Februari 2020, kuasa telah diberikan kepada gabungan Perikatan Nasional yang didominasi oleh kaum Melayu. Komponen utamanya terdiri daripada Barisan Nasional yang diketuai oleh Muhyiddin Yassin, dimana perkara yang dapat dilihat adalah kemerosotan signifikan dalam hak asasi manusia dengan kawalan ketat berterusan terhadap aktivis dan suara-suara kritis.

Pihak berkuasa menggunakan undang-undang seperti Akta Hasutan 1948, Akta Komunikasi dan Multimedia 1998 dan Akta Perhimpunan Aman 2012 bagi mengekang kritikan, menasarkn kepada ahli-ahli masyarakat sivil, menyembunyikan kebebasan media dan tidak menggalakkan perhimpunan-perhimpunan aman.

Berikutan dengan kewujudan undang-undang tersebut, peneraan perintah darurat di seluruh negara selama enam bulan pada tahun 2021 menandakan hakisan berterusan kepada kebebasan asasi. Tentu sahaja, pilihan raya tidak dapat diadakan dalam tempoh berkenaan dan tiada persidangan di Parlimen berikutan kebimbangan terhadap kesihatan awam.

Lanjutan kepada pengenalan Ordinan Darurat (Kuasa-Kuasa Perlu) (No.2) 2021 – Antiberita Palsu (OD) yang mula berkuatkuasa hasil daripada mandat yang diberikan semasa darurat, menimbulkan keraguan kepada orang awam bahawa mantan Perdana Menteri Malaysia, Muhyiddin Yassin sememangnya mengeskplotasi krisis COVID-19 bagi menyokong kedudukannya dan mendiamkan pembangkang politik.

Penindasan ini mengakibatkan kesan yang ketara ke atas demokrasi, kebebasan asasi dan kumpulan rentan.

Selepas Muhyiddin Yassin dan kerajaannya meletakkan jawatan selepas 17 bulan memegang tampuk kekuasaan, situasi ini tidak banyak berubah di bawah penggantinya, Ismail Sabri Yaakob yang telah dilantik oleh Agong pada Ogos 2021. Sebaliknya, trend menghalang kebebasan asasi terutamanya kebebasan bersuara dan perhimpunan aman serta tiada toleransi terhadap kritisme atau perbezaan pendapat masih terus berlaku.



## INTRODUCTION

Prior to the implementation of a nationwide emergency, Malaysia was applauded by the international community as one of the few countries that has relatively contained the number of COVID-19 infections and mortality rate.<sup>1</sup>

Malaysia's commendable effort and progress deteriorated following the power struggle that occurred in the state of Sabah, forcing the incumbent Chief Minister (of that time) and Warisan President Shafie Apdal to dissolve the State Legislative Assembly for a fresh election in September 2020. This came after several elected lawmakers from the Shafie-led state government defected to support previous Chief Minister Tan Sri Musa Aman in an attempt to destabilise the Parti Warisan Sabah state government.

This decision of having elections without guaranteeing that they were handled in a secure and safe manner has resulted in the predicted outcome. Flights ferrying political campaigners and voters in and out of Sabah rapidly increased the number of COVID-19 infections.<sup>2</sup> The Federal Government's decision to eliminate a critical measure – quarantining persons entering the Peninsular from Sabah<sup>3</sup> and vice-versa – caused the infection rate to spiral out of control, forcing for implementation of multiple 'total lockdown' periods.

Consequently, the position of former Prime Minister Muhyiddin Yassin became conspicuously unstable as the majority of the masses and politicians irrespective of factions or alliances pointed fingers at him for his lackadaisical approach to handling the COVID-19 pandemic. Many parts of civil society, including individuals and organisations, urged the prime minister in office at the time to take responsibility by resigning from being the premier.

In the face of such socio-economic uncertainty and political turbulence, Muhyiddin Yassin swiftly proposed a proclamation of National Emergency as a necessity in confronting the pandemic, arguing that it might help to stabilise the country's political condition.

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1 Muhammed Abdul Khalid, COVID-19: Malaysia Experience and Key Lessons, MIT Press Direct, 2021, See [https://doi.org/10.1162/asep\\_a\\_00801](https://doi.org/10.1162/asep_a_00801)

2 James Chai, Malaysia: From COVID role model to a mini-India, Aljazeera, 2021, See <https://www.aljazeera.com/opinions/2021/8/3/malaysia-from-covid-role-model-to-a-mini-india>

3 John Bunyan, Putrajaya says no quarantine for voters returning from Sabah; Covid-19-positive cases not allowed to vote, Malay Daily, 2021, See <https://www.malaymail.com/news/malaysia/2020/09/22/putrajaya-says-no-quarantine-for-voters-returning-from-sabah-covid-19-posit/1905556>

The King, convinced by Muhyiddin Yassin's suggestion, consented to the immediate effect of the Emergency proclamation.

On 12 January 2021, the Government of Malaysia declared a nationwide State of Emergency to last until 1 August 2021.<sup>4</sup> The Emergency (Essential Powers) Ordinance 2021 which underpinned this State of Emergency provided sweeping powers to the Government. It suspended Parliament, increased the powers of the executive to pass regulations, and provided additional powers to the armed forces, all with the stated aim of stemming the pandemic.<sup>5</sup> Under a state of emergency, parliamentary and State elections were put on hold.

As a result, Malaysians have been denied access to the country's two most significant democratic avenues: parliament and streets. Critics were skeptical of the justifications, believing the move was an attempt to sustain the Government's dwindling political authority and ruling power.

Scores of legal challenges<sup>6</sup> were mounted against Muhyiddin Yassin and his Perikatan Nasional government. On 2 February 2021, six prominent civil society organisations<sup>7</sup> pressed public interest litigation at the High Court on issues related to the Emergency (Essential Powers) Ordinance 2021.<sup>8</sup> The group contended that the Government already had adequate authority and flexibility to address the COVID-19 outbreak and that the suspension of parliament through the Emergency Ordinance was unnecessary and excessive.

Two months later, on 11 March 2021, using the powers obtained through the state of emergency, the Government passed Emergency (Essential Powers) (No. 2.) Ordinance 2021, a legislation criminalising the creation and dissemination of fake news on COVID-19 and the state of emergency.

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4 Rozanna Latiff, Joseph Sipalan, Malaysia declares emergency to curb virus, shoring up government, Reuters, 2021, See <https://www.reuters.com/article/us-health-coronavirus-malaysia-idUSKBN29H06G>

5 See <https://www.bloomberg.com/news/articles/2021-01-12/malaysia-declares-state-of-emergency-as-pandemic->

6 Hidir Reduan Abdul Rashid, PM seeks to strike out suit over emergency advice, Malaysiakini, 2021, See <https://www.malaysiakini.com/news/563341>

7 Coalition for Clean and Fair Election (Bersih 2.0), Suara Rakyat Malaysia (SUARAM), Center for Independent Journalism (CIJ), Aliran Kesedaran Negara (ALIRAN), Kuala Lumpur and Selangor Chinese Assembly Hall (KLSCAH), Pergerakan Tenaga Akademik Malaysia (GERAK) and Save Rivers. A separate lawsuit was also headed by PKR president Anwar Ibrahim and individuals like Khairuddin Abu Hassan. Dayak Daily NGOs ask courts to consider the role of judiciary parliament in ensuring checks-balances during emergency, 2021, See <https://dayakdaily.com/ngos-ask-courts-to-consider-role-of-judiciary-parliament-in-ensuring-checks-balances-during-emergency/> 8 Ibidem, 2021, See <https://dayakdaily.com/ngos-ask-courts-to-consider-role-of-judiciary-parliament-in-ensuring-checks-balances-during-emergency/>

This ordinance adapted parts of the repealed Anti-Fake News, which was repealed under the Pakatan Harapan government, narrowing its focus to COVID-19 and the state of emergency.

Human rights groups, critics and opposition politicians have raised the detrimental impact of these laws on human rights, particularly at a time of political tension in the country.

Muhyiddin Yassin, who was facing challenges to his authority prior to the enactment of the state of emergency, and later continued to lose support in parliament was accused of leveraging the emergency declaration to retain his position.<sup>9</sup>

The impact of restrictions against COVID-19 on fundamental freedoms in Malaysia was documented from the enactment of the National State of Emergency until its termination, including new developments through August 2022, by Asian Forum for Human Rights and Development (FORUM-ASIA) with its partners. This research could not have been carried out without the participation of our Malaysian members, Pusat KOMAS and Suara Rakyat Malaysia (SUARAM), key stakeholders interviewed, and the participants of the National Policy Dialogue.

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<sup>9</sup> Zsombor Peter, Motivation Behind Malaysia's State of Emergency Questioned, 2021, Voice of America, See <https://www.voanews.com/east-asia-pacific/motivation-behind-malaysias-state-emergency-questioned>

## TIMELINE OF MALAYSIAN POLITICAL MAKEOVERS AND COVID-19 HEALTH CRISIS

May 2018	Bar (PH) coalition wins Malaysian general election.
25 January 2020	Malaysian Authorities confirm three cases of coronavirus infections.
March 2020	Muhyiddin Yassin took power in March 2020 after initiating the collapse of the reformist government of Pakatan Harapan.
16 March 2020	Following the spike in COVID-19 cases in Malaysia, the Malaysian Prime Minister announced a Restriction of Movement Order (the Order) as a measure to curb the outbreak. This Order will last for two weeks, starting from 18 March 2020 to 31 March 2020. Since its implementation, it has been expanded and loosened into several phases between 2020 and 2021.
May 2020	Harassment against vulnerable communities reaches a peak, especially against Rohingyas.
12 January 2021	Malaysia's King, Al-Sultan Abdullah declares a state of emergency across the country to curb the spread of COVID-19 until 1 August 2021. During the period, the Parliament and State legislative assemblies would not sit until a time decided by the King upon the advice of the Prime Minister. No elections were allowed to be held. The Emergency Ordinance was gazetted two days later, on 14 January 2021.
2 February 2021	Six civil society organisations filed a public interest suit at the High Court against Prime Minister Muhyiddin Yassin and the Malaysian government seeking declarations on issues related to the Emergency (Essential Powers) Ordinance 2021. Individuals like PKR President Anwar Ibrahim and Khairuddin also filed separate lawsuits against the Government regarding the Emergency proclamations.
15 February 2021	The Emergency (Prevention and Control of Infectious Diseases) (Amendment) Ordinance 2021 was passed and came into force on 11 March 2021. The new law amended the Prevention and Control of Infectious Disease Act 1988 (PCIDA 1988).

11 March 2021	The Government passes the Malaysian Emergency (Essential Powers) (No. 2) Ordinance 2021 (the 'Fake News Ordinance' or 'Ordinance').
31 March 2021	A new law allows the Finance Ministry to approve any supplementary expenditure or withdrawals from the Federal Consolidated Fund without having to get Parliament's approval.
June 2021	Under the 'Fake News Ordinance' which took effect in March, 10 people have been detained.
21 July 2021	Despite the increasing outbreak, the Malaysian Government announced that the Emergency Ordinances intended to combat the COVID-19 pandemic had been revoked.
26 July 2021	Parliament reconvenes for four days (originally planned for five days but has been cut short after a COVID-19 case was reported in the Parliament. The prime minister and other ministers briefed the MPs on the country's COVID-19 response.
29 July 2021	Malaysia's King, Al-Sultan Abdullah Ahmad Shah expresses disappointment with the revocation of six Emergency Ordinances without his consent and without following constitutional procedure.
16 August 2021	Malaysia's Prime Minister Muhyiddin Yassin and his cabinet submitted their resignation to the King after his ruling coalition, the Perikatan Nasional (PN), lost its majority in parliament due to infighting. However, he agrees to remain as caretaker premier until a new prime minister who commands a majority can be appointed.
20 August 2021	Malaysia's King Al-Sultan Abdullah Ahmad Shah named Ismail Sabri Yaakob as the country's new prime minister.
20 August 2022	Marks the 365th day Ismail Sabri Yaakob has been in Office. Human rights organisations continued to raise concerns about the same patterns observed during the Perikatan Nasional administration of Muhyiddin Yassin.
10 October 2022	Malaysia's Prime Minister, Ismail Sabri Yaakob, upon approval of the King, dissolved the Parliament and called for an early election. Malaysia held the general election on 19 November 2022.

## IMPACT ON HUMAN RIGHTS

This section scrutinises the impact of COVID-19 measures on democracy and human rights.

### **Impact on Democracy**

For civil society representatives, the foremost impact of the State of National Emergency was the suspension of Parliament, and with it, the dismantling of institutional checks and balances that define a democracy.

Critics and opposition lawmakers argued the emergency was a tactic that allowed embattled former Prime Minister Muhyiddin Yassin to maintain his hold on power. Muhyiddin has faced challenges to his rule since he was appointed as Prime Minister in March 2020, following a political upheaval that saw the ruling Pakatan Harapan (PH) government collapse.

Prior to the declaration of the national emergency, two lawmakers from the former ruling party, United Malays National Organisation (UMNO), had withdrawn their support from Muhyiddin Yassin, making him lose support from the majority. Lawmakers were questioning his legitimacy in the Parliament where his party held only a slight majority. Several UMNO representatives reiterated calls for a snap election.

Former Human Rights Commission of Malaysia (SUHAKAM) Commissioner, Jerald Joseph, described this period as a term of “political fluidity” caused by a power conflict between the incumbent Pakatan Harapan (legitimate government) and the combined forces of opposing political factions. The former SUHAKAM commissioner argued that the state of democracy was not tarnished or affected due to COVID-19 but primarily because of unprincipled politicians hopping from one party to another, hinting at the path taken by Perikatan Nasional (PN) to form the new government.

‘The democratic weaknesses got to do with party hopping, it is a system that never can give meaning or wake to vote or voters in Malaysia,’ Joseph commented.

The State of Emergency, announced in January 2021, suspended Parliament and elections until 1 August 2021, ensuring Muhyiddin Yassin would stay in power until then.

‘It was more to suspend Parliament, it was very much on trying to consolidate power and prevent any attempts by removing any oversight of Parliament,’ said Josef Benedict, from CIVICUS, a global alliance working to strengthen civil society.

'The suspension of Parliament made it impossible to unseat this government or to check whether the current government still has the majority support,' Yap Swee Seng from BERSIH, a coalition calling for electoral reform, said.

Sungai Buloh constituency Member of Parliament (MP), Sivarasa Rasiah said the Members of Parliament (MPs) were mainly impacted by the closing of Parliament through Executive Orders (EO) and lamented the implementation of EO is complete hypocrisy. It is because, for Rasiah, the former Prime Minister's majority was not transparently established. Muhyiddin Yassin only managed to obtain a slim majority when tabling the 2021 budget. That incident, according to the Sungai Buloh MP, raised a prominent question of whether Muhyiddin Yassin still held the majority when certain MPs from the ruling coalition PN withdrew their support.

The view was shared by the other interviewees. For Watshlah Naidu, from Centre for Independent Journalism (CIJ), despite the Government's rationale, it was never about the pandemic.

'It's not because of COVID-19 management or dealing with a health crisis on how we came about to a state of emergency. It's how it became a tool for use by the state to stay in power,' the activist from the organisation advocating for press freedom and expression said.

The closure of Parliament guaranteed there would be no scrutiny against Muhyiddin Yassin's leadership, and the decisions made by the former government, such as the passing of new policies and decisions around budgets.

Joseph commented that the 'Suspension of Parliament was a strange concept because we have examples from other parts of the world that parliament was functioning,<sup>10</sup> without spreading COVID-19. The suspension of Parliament closed the doors to interacting with MPs and the governments who were brought in illegitimately.'

'We had the ordinances that really gave a lot of powers to this one sole person, this person who is now making decisions unchallenged because you don't have the necessary checks and balances. You have powers now to enact laws that are not debated in the Government. You have the power to take action that goes unchecked,' Naidu shared.

In February 2021, the Government said it would be amending the Prevention and Control of Infectious Diseases Act 1988 (PCID Act 1988) to increase penalties against repeat offenders. The amendments came into force on 11 March 2021.

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10 Germany, Lithuania, and to cite a few. John Curtis, Richard Kelly, Coronavirus: How are parliaments worldwide working during the pandemic?, UK Parliament, 2020, See <https://commonslibrary.parliament.uk/coronavirus-how-are-parliaments-worldwide-working-during-the-pandemic/>

Under the amended PCID Act 1988, any authorised person may order anyone infected with COVID-19, any person suspected of having the disease, or contact with that person, to wear a tracking device.

The law also gave powers to the Director General of Health to issue directions for the purpose of preventing or controlling any disease, with penalties for those who contravene such directions. A new provision under the law introduces liability for corporate heads responsible for offences under the law unless they are able to prove that the offences were conducted without their knowledge or consent. Under the amended law, every punishable offence is a 'seizable offence' allowing authorised persons to arrest suspected individuals without the need for a warrant.

To Rasiah, the two laws: (i) National Security Act; and (ii) PCID Act 1988; provide sufficient powers to combat COVID-19. Mobilising private sectors, military and other necessary resources through the National Security Council, were cited as some examples by the Sungai Buloh MP.

Joseph argued that the additional law [or regulations] using the Emergency Ordinance<sup>11</sup> was excessive since the PCID Act 1988 itself was powerful in the context of an ongoing pandemic.

Yet, Azrul Mohd Khalib from Galen Centre for Health and Social Policy felt PCID Act 1988 itself was abused to the benefit of certain parties. The amendments of PCID Act 1988 allowed much more widening curtailments and restrictions, which arguably went unchecked. A lack of oversight, Mohd Khalib suggested. This comes in tandem with the issue of privacy and data protection. Mohd Khalib expressed his concern about data protection and questioned the data ownership available through and in the *MySejahtera* application, a mobile application developed by the Malaysian Government to facilitate contact tracing efforts in the wake of the COVID-19 outbreak in Malaysia. He questioned whether the Personal Data Protection Act (PDPA) 2010 applies in the context of *MySejahtera* application.

On 11 March 2021, with the Parliament closed, the Government passed the Malaysian Emergency (Essential Powers) (No. 2) Ordinance 2021 (the 'Fake News Ordinance' or

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<sup>11</sup> The Perikatan Nasional government enacted Emergency (Essential Powers) (No. 2) Ordinance 2021 (the 'Ordinance') using powers conferred by a January 2021 Emergency Proclamation. The Ordinance establishes a number of criminal offences relating to 'fake news' about the COVID-19 pandemic and the Emergency Proclamation, which was promulgated for the stated purpose of combatting the COVID-19 pandemic and is effective until 1 August 2021. The new offences include the creation, publication, or dissemination of so-called 'fake news' and the failure to take down publications containing content deemed as 'fake news', Malaysia: Repeal 'fake news' emergency ordinance, ARTICLE 19, 2021. See <https://www.article19.org/resources/malaysia-fake-news-ordinance/>



'Ordinance'), which it argued would tackle misinformation on COVID-19 and the state of emergency.

On 31 March 2021, the Government passed a new law, allowing the former Prime Minister, Chief Minister or the Menteri Besar to pass a supplementary budget or use consolidated funds without getting approval from the legislature during the state of emergency.

With parliamentary debates suspended, Members of Parliament and civil society could not participate and hold their leaders accountable for the passage of such legislation. 'They increased their budget. No one is able to check and balance, no one is able to see where you are taking the money from,' shared Naidu.

'One of the biggest impacts of suspending parliament is the physical access to parliament for the public, CSOs, activists, individuals to discuss matters of the State were no longer available in the Parliament,' Rasiah echoed.

'We do not have the right to representation and the right to be part of public affairs with our elected representatives not able to perform their duty in Parliament,' Swee Seng added.

Under Article 54(1) of the Federal Constitution, vacancies in the Dewan Rakyat and Dewan Negara had to be filled within sixty days. With the suspension of elections, several constituencies whose MPs had passed away were left without a representative.

It also led to the delay in the passage of much-needed legislation, including those aimed at protecting individual freedoms. Naidu shared that discussions and decisions that were supposed to be tabled including on the media council legislation and the right to information legislation, which had already faced delays because of the change of government, were further delayed.

In July 2021, parliament sessions resumed after six months of suspension, but things struggled to get back to normal. The public, civil society organisations, and political parties (mostly the oppositions) used the transition to normalcy as a platform for interaction with elected MPs, authorities, and stakeholders to express their worries, dissatisfactions, and proposals on a broad spectrum of issues. Despite the general impression that the people finally had access to public (democratic) space, access to it was constantly restricted, forbidden, or met with retaliation.

By the time the Government lifted the state of emergency on 1 August 2021, Malaysia was experiencing its worst outbreak of COVID-19 yet. Two weeks later, after losing majority support in the lower House of Parliament, the former Prime Minister Muhyiddin Yassin and his cabinet submitted their resignation. On 20th August 2021, Ismail Sabri Yaakob of UMNO, who served as Deputy Prime Minister under Muhyiddin Yassin's leadership, was appointed as the country's new prime minister, the third in three years, and the second to be declared without being elected.

Petaling Jaya MP Maria Chin pointed out that Muhyiddin Yassin's appointment as prime minister came under scrutiny after cancelling two by-elections planned in recent times, and switching off Sarawak's by-election when the state declared an emergency while Malacca's by-election went ahead as planned. Hence, she questioned the administration's willpower as to where and when they wanted to switch to democracy.

Halmie Azrie Abdul Halim from Institute for Democracy and Economic Affairs (IDEAS) expanded the discussion about the regression of democratic spaces in Malaysia. The member of the research institute focusing on the promotion of an inclusive Malaysia cited the repeated rejection of registration attempts of Malaysia United Democratic Alliance (MUDA)<sup>12</sup> and a constant delay to the UNDI18's agenda. MUDA is a Malaysian youth movement that successfully advocated in 2019 for the amendment of Article 119(1) of the Federal Constitution to lower the minimum voting age in Malaysia from 21 to 18 years old, until the change of leadership.<sup>13</sup>

Joseph added the attack on critical journalists and journalism resumed in the new government with the formulation of the Fake News ordinance under the Emergency powers. The Sungai Buloh MP nevertheless acknowledged that the Fake News ordinance automatically ended when the EO expired and that the current government will be facing strong resistance if the law is repealed during PH's governance is tabled in the Parliament.

For a country that had undergone a drastic political change in the country in so little time, the appointment of Ismail Sabri Yaakob, who was linked to the BN coalition that has systematically repressed its people, only left questions about the state of the country's democracy.

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12 MUDA was finally allowed to register their party after winning their lawsuit against the Government for rejecting the party's registration. Yiswaree Palansamy, Syed Saddiq says Muda officially registered, Malay Mail, 2021, See <https://www.malaymail.com/news/malaysia/2021/12/29/syed-saddiq-says-muda-officially-registered/2031802>

13 The Election Commission (EC) initially proposed a postponement on the implementation of Undi18 citing technical and logistic difficulties. EC delays Undi18 to next year, youths under 21 likely can't vote in GE15, Malaysiakini, 2021, See <https://www.malaysiakini.com/news/568071>

## Impact on Fundamental Freedoms

The dismantling of institutional checks and balances have further exacerbated the existing violations of fundamental freedoms in the country.

‘There has been a systematic pattern of restrictions on civic space since March 2020,’ shared Benedict. In March 2020, the PH government collapsed after less than two years in power. Muhyiddin Yassin’s rule, for many, has been defined by backsliding in reforms that PH had tried to initiate.

Spaces for civil society that had been slowly starting to open were once again eradicated. ‘Slowly the doors were shut down again. There were more crackdowns and there was continued and increased use of repressive laws,’ Naidu shared.

These repressive laws were wielded against human rights defenders, the media, and critics. These included the Sedition Act (1948), the 1998 Communications and Multimedia (CMA), Societies Act (1966), and the Peaceful Assembly Act (2012) amongst others. Under the UMNO/Barisan Nasional (BN) Government which lasted decades, the Government used these laws to systematically close spaces for dissent and to crack down on fundamental freedoms. PH, which was elected in 2018, committed to reviewing and repealing its laws.

For Benedict, the CMA 1998 “was the weapon of choice.” ‘There is a provision in the law that allows one to go after any form of criticism and you see it used systematically. Section 233 of the law criminalises the ‘improper use of network facilities or network service’, a broad provision that had been vaguely defined to target critics,’ Benedict said.

Under Muhyiddin Yassin’s leadership, journalists faced a renewed onslaught of critical reporting including on the pandemic. Tashny Sukumaran of the South China Morning Post faced investigation under Section 504 of the Penal Code, and Section 233 CMA for covering the mass arrest of migrant workers as part of the efforts to contain the pandemic.<sup>14</sup> Journalists claimed that they have been deprived of access to pertinent information from the Government. Peaceful protesters criticising the economic impact of COVID-19 were questioned and arbitrarily detained.

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<sup>14</sup> Anne Dorall, Malaysian Journalist Under Police Investigation Added To Intl Info Hero List, The Rakyat Post, 2020, See <https://www.therakyatpost.com/news/malaysia/2020/06/16/malaysian-journalist-under-police-investigation-added-to-intl-info-hero-list/> or CIVICUS MONITOR Updates, See <https://monitor.civicus.org/updates/2020/08/05/malaysian-authorities-ramp-persecution-journalists-and-activists-stifle-criticism/>

These changes were reflected in Malaysia's score in the 2021 World Press Freedom Index which dropped 18 places, the biggest drop observed, among countries surveyed.<sup>15</sup>

Placing 119th out of 180 countries surveyed, the report noted that changes instituted by Muhyiddin Yassin since March 2020, against freedom of expression, led to its much-lower score. Following PH's election, its press freedom had drastically improved only to drastically deteriorate following the political upheaval in 2020.

COVID-19 and the state of emergency only accelerated Muhyiddin Yassin's government's crackdown on fundamental freedoms. It enabled an environment that fostered further abuse of human rights. 'It is creating a landscape which makes it easy for them [government] to use the existing laws on us,' Naidu shared.

Nalini Elumalai, of ARTICLE 19, a human rights organisation advocating for freedom of expression, has faced this systematic repression. She has been summoned for participating in protests and for speaking out against the crackdown. 'Critics or anyone who has been criticising this government has been targeted and that affected freedom of expression,' she said. In April 2021, she joined a solidarity gathering, along with other human rights defenders calling for the release of artist Fahmi Reza,<sup>16</sup> who was detained over sedition charges. She, along with seven others, was later called in for questioning under the country's Peaceful Assembly Act. She was again called in for questioning for a Labour Day rally highlighting workers' rights.<sup>17</sup>

She has decried the increased powers given to the police. 'The most worrying thing is the amount of power that the Government gave to the police, they were already a powerful institution in Malaysia. Police are using their power against human rights defenders, politicians, and media,' Elumalai shared.

Civil society, peaceful protesters, and human rights defenders faced questioning from the police, under charges such as violations of the emergency decree, CMA, and other offences.

'The tactic by the police is to call them for questioning, and tell them, we will follow up after, so in a way, it's a form of judicial harassment. This has bred a culture of fear amongst all,' Benedict shared.

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15 MP 'congratulates' PN govt, minister on press freedom decline 'success', Malaysiakini, 2021, See

<https://www.malaysiakini.com/news/571472>

16 Nicholas Chung, Fahmi Reza arrested, being probed under Sedition Act, Free Malaysia Today, 2021, See

<https://www.freemalaysiatoday.com/category/nation/2021/04/23/fahmi-reza-arrested-being-probed-under->

17 Jason Thomas, PSM leader puzzled as police call in those at May 1 rally, Free Malaysia Today, 2021, See

<https://www.freemalaysiatoday.com/category/nation/2021/05/10/psm-leader-puzzled-as-police-call-in-those-at-may-1-rally/>

Article 4 of the Fake News Ordinance made it a criminal offence to ‘create, offer, publish, print, distribute, circulate and disseminate’ false information in relation to the COVID-19 pandemic or to the state of emergency, with the intent to cause, or which is likely to cause fear or alarm to the public, or to any section of the public. Under the ordinance, individuals having possession of material containing fake news must remove content within 24 hours after being informed by an authorised officer. Failure to remove content is punishable by up to a RM 100,000 fine for each day that the material is up. For continuing offences, the fines are RM 300,000 per day or imprisonment for a term not exceeding three years or both, if found guilty. The law also requires individuals and corporations including social media companies to provide access to ‘computerised data’, with penalties of fines up to RM 100,000, a year of imprisonment or both for failure to comply. Civil society criticised the Ordinance as part of the Government’s onslaught on the already-deteriorating situation of freedom of expression in the country.

For the civil society groups, this was a return to the Anti-Fake News Act 2018 (AFNA) which was passed by the BN government and repealed by PH in December 2019.<sup>18</sup> ‘In itself, this is like a 70 or 80 per cent model of the fake news law, the act that was repealed but they brought it back,’ Naidu shared.

With the Parliament closed, there was no way to officially question and revoke the law.

This ordinance added to the arsenal of laws being used against the Government’s critics. ‘For many years, the Government had used CMA and Sedition Act very widely and now in addition to it, we have the fake news ordinance with the excuse to fight the COVID- 19 misinformation...initially, in Malaysia, no one cared about the emergency because nothing was happening around us and now when the government passed the Emergency Ordinance laws, the people, in general, started to understand it,’ Elumalai shared.

As of June 2021, 21 investigations commenced under the ‘fake news’ legislation, and at least 10 were arrested. From March 2020, a total of 254 investigation cases on fake news were opened by Bukit Aman CID’s Special Investigation Unit, including cases filed under CMA.<sup>19</sup>

‘These were not just aimed at activists but anyone commenting online who are criticising the handling of the pandemic and so forth,’ Benedict added.

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18 Finally, Dewan Negara approves repeal of Anti-Fake News Act, The Star, 2019, See

<https://www.thestar.com.my/news/nation/2019/12/19/finally-dewan-negara-approves-repeal-of-anti-fake-news-act>

19 Farik Zolkepli, IGP: 10 detained under Emergency Ordinance over fake news, The Star, 2021, See

<https://www.thestar.com.my/news/nation/2021/06/01/igp-10-detained-under-emergency-ordinance-over-fake-news>

For civil society, Muhyiddin Yassin's government represented a return to the BN form of government. While the Government continued to insist that the fake news legislation was necessary towards curbing the spread of misinformation, for civil society, it only added another layer of repression by the Government and increased its power.

'It was supposed to prevent and impose action against the spread of fake news related to COVID-19, which could potentially jeopardise the Government's efforts to fight the pandemic. However, this ordinance was framed so broadly that dissenting views of government measures relating to the pandemic or the proclamation of emergency may be construed as causing fear or alarm and land the person in trouble,' said Swee Seng.

'If you want to curb fake news, you really have to take different measures. If the law is effective in curbing fake news, then Malaysia should be free of corruption; however, this is not the case, and the law is not the solution,' Naidu shared.

It was a move towards a systematic crackdown and the stifling of all forms of dissent, instilling a culture of censorship and fear. 'So there really is no space for us to speak out; if you speak out you come under attack, if you challenge, you come under attack; if you question, you come under attack; and you come under attack because you have this law that you can use,' Naidu further elaborated.

Besides political rights, the Petaling Jaya MP, Maria Chin argued for the relevance of economic rights to capture the layers of discrimination and the voices of the people who suffered due to the pandemic which she affirms is an unspoken issue amongst civil society.

'The impact on workers, in general, is that they lose their wages or are remunerated merely with half-wages,' Chin added. She also noted that compensation by the Government was not really enough. She also stated the working condition has deteriorated; some were reduced from full-time to part-time or left with no work.

Chin also emphasised that many workers were retrenched and none of the assistance/compensation actually reaches them (shared by those who come to her office). Some of them do not even have any sort of retrenchment benefits.

Chin said that it is necessary to talk about the workers (working class) affected by the pandemic. She also espoused that different workers are affected differently. Criticising the Employees Provident Fund (EPF) withdrawal,<sup>20</sup> she commented that the Government should have taken a more proactive role as the Employees' Provident Fund (EPF) was the people's savings.

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20 Bernama, RM145b EPF savings withdrawn under Covid-related withdrawal programmes, New Straits Times, 2022, See <https://www.nst.com.my/news/nation/2022/08/820516/rm145b-epf-savings-withdrawn-under-COVID-related-withdrawal-programmes> / <https://www.thesundaily.my/local/unwise-to-have-more-epf-withdrawals-NE9327294>

Chin even relayed that the challenges of women workers, especially in informal sectors, are different and significant to be recorded. The women workers (cleaners, vendors, hawkers, etc.) and people who cannot convert their work digitally are severely affected. The current system, Chin said, does not support childcare or elderly care.

### **Impact on Marginalised Groups: Minorities and Refugees**

Marginalised groups were disproportionately affected by both the pandemic and imposed measures against it.

On 16 March 2020, based on the Prevention and Control of Infectious Diseases Act 1988 and the Police Act 1967, the prior Prime Minister of Malaysia issued a Movement Control Order (MCO), which included countrywide quarantine and cordon sanitaire measures, as well as restrictions on movement, assembly and travel. The implementation of the MCO was expanded and loosened to several phases between 2020 and 2021. Citing COVID-19 concerns, Ministers took steps that have led to further marginalisation of vulnerable groups.

In May 2020, the Government rounded up more than 500 undocumented migrants which included Rohingya refugees and detained them in the capital. In justification, the Minister said it was to curb the spread of COVID-19.<sup>21</sup>

In February 2021, just as the Myanmar military was unleashing violence over the population, the Malaysian government deported back more than 1,000 people to Myanmar, including Rohingya refugees, defying a court order instructing the Government to halt the process of deportation.<sup>22</sup>

‘You’ve literally given the Home Minister unfettered powers the way the Immigration is rounding up migrant workers, and the way that despite a court decision to stay, the boat got deported. The emergency has allowed him to exercise his powers unchecked and the emergency and the political turmoil is also creating this environment,’ Naidu shared.

Speaking of the detention of the Rohingyas, SUHAKAM’s former commissioner Joseph witnessed prisoners who were detained for more than a year at Immigration Facilities. He argued this detention was useless because the refugees cannot be deported.

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21 Kaamil Ahmed, Malaysia cites Covid-19 for rounding up hundreds of migrants, The Guardian, 2020, See

<https://www.theguardian.com/global-development/2020/may/02/malaysia-cites-COVID-19-for-rounding-up-hundreds-of-migrants>

22 A. Ananthalakshmi, Rozanna Latiff, Defying court order, Malaysia deports more than 1,000 Myanmar nationals. (Reuters, 23 February 2021).

The Immigration Facilities are temporary holding facilities to facilitate deportation to the home country. The detentions are carried out without giving them [Rohingyas] access to UNHCR which is the only agency facilitating and verifying the legitimacy of their refugee status – whether they qualify for a UNHCR card.

Joseph addressed the Immigration detention centres experiencing a 30 per cent overcrowding thus alluding that these unnecessary operations yielding in detentions should be halted for the time being.

It showed, says Joseph, the inconsistencies in COVID-19 handling, especially with the Home Ministry continuing to flex its muscle through immigration offences. Cluster outbreaks happen every time raids happen.

Civil society had called on the Government to provide protection to the refugees.

A civil society representative, who does not want to disclose his/her identity, therefore from here on we will call him/her the anonymous civil society representative, shared that under COVID-19, they faced difficulties tracing what had happened to the deported. 'We were not able to have any information or ask questions, we do not know how many of them were asylum seekers or refugees. We tried to hold the deportation, but the immigration centre started the process of deportation of 1,086 people. Until now we do not know where the rest of the 114 left behind and we do not have information on the 1,086 deported,' the anonymous civil society representative said.

The Parliament's closure meant they could not seek accountability for the Government's actions to deport the Myanmar nationals. 'The role covered by the Parliament was a very important space to raise issues and put pressure on the Government for accountability and responsibility. So, we are lacking information about refugees and asylum seekers,' the anonymous civil society representative added.

Malaysian law does not distinguish between undocumented migrants and refugees.<sup>23</sup> As a result, refugees remain vulnerable to arrest for immigration offences. Those who are awaiting registration may be detained, prosecuted, whipped, and deported. Lacking fluency in the local language, some refugees at times faced difficulties explaining to the police and were held in police stations for days before being fined and released.

This representative shared the new challenges faced by refugees and asylum-seekers in Malaysia, under a government that was not a signatory to the Refugee Convention and lacked the structural protective mechanisms for them. 'There was increased harassment by authority figures, questioning on documentation, and threatening them.

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23 Yap Tzu Ging, Can you tell the difference between a refugee and an illegal immigrant?, Malay Mail, 2015, See <https://www.malaymail.com/news/malaysia/2015/06/16/can-you-tell-the-difference-between-a-refugee-and-an-illegal->



The United Nations High Commissioner for Refugees (UNHCR) is recognised to some extent; however, the authorities do not always recognise those documents,' the anonymous representative relayed some concerns.

A Malaysian organisation (wanting to remain anonymous) working on the ground documented cases where refugees and asylum seekers walking with masks were stopped by the police. 'They [police] would ask them to remove the mask to recognise them and verify their identity. Then saying you were not wearing a mask, so I am going to fine you unless you pay me [police officer],' the organisation's representative said.

The lockdown also meant the UNHCR was unable to renew the documentation. The anonymous civil society representative said that while it had a Memorandum of Understanding with authorities to consider documentation as valid even after the date of expiry, they still saw police arresting and harassing asylum seekers. 'So, the police arrested a lot of people. Police require them either to pay the fine or go to jail and in many cases, asylum seekers or refugees cannot afford to pay the fine and they jail them. In addition to the offence, they can be sent to the immigration centre. Therefore, access to justice has been really affected by the COVID-19 and the emergency made it harder to question these,' the anonymous civil society representative mentioned.

Additionally, the restrictions on movement also magnified their visibility in public life. 'What we noticed [anonymous civil society representative's organisation] is the restriction of freedom of movement. The refugees are not recognised in Malaysia, and they are treated as illegal migrants and with COVID-19, they become more fearful to step out,' the civil society representative explained.

'The Health Director-General should utilise the powers within his means to check on the Immigration Director-General and Malaysian Police force for raiding the immigrant communities as the actions of the other authorities have been resulting in the outbreak of COVID-19 cases,' the former SUHAKAM Commissioner, Joseph said.

He further emphasised the distinct impact experienced by vulnerable communities such as the Rohingyas. 'The commission's [SUHAKAM] visitation enlightened the fact that many from the Rohingya community were evicted from their rental places due to the fear of raids and growing hatred (xenophobia) against them. Some of them even squatted at plantation estates for a few hours, to avoid getting detained,' Joseph added.

Sabah Reform Initiative activist Nelson Dino raised a critical point about the vaccination process in particular to the undocumented or the stateless communities in Sabah.

He criticised '...the roguish and unruly attitudes of the authorities, in 'seizing' the undocumented or stateless folks in Sabah despite the Government's order to refrain from arresting them.'

According to Dino, in 2021 detention continued to happen and the detainees were held in different forms of detention centres (police lockups, immigration detention centres etc.).

These arrested communities are only released if they are able to settle the compounds issued by the authorities. He alleged that the authorities were taking advantage of the matter of statelessness in Sabah with the COVID-19 situation where unnecessary detention was widespread all over Sabah, not only in urban cities such as Sandakan or Kota Kinabalu.

Due to these uncertainties, 'The undocumented/stateless people are restraining themselves from visiting vaccination centres because they're told that they aren't eligible for vaccination and, in certain cases, they are detained,' Dino claimed.

Irene Xavier from Persatuan Sahabat Wanita Selangor (Selangor Women's Friends Association), a women workers' support group which aims to build a society based on equality and justice for all, regardless of their class or gender, also acknowledged the challenges are quite similar in West Malaysia, especially in getting undocumented workers to be vaccinated because of differing views between Home Affairs and the Health Ministry. The Health Ministry aimed to assure a widespread vaccination campaign to contain the pandemic, whilst the Home Ministry went on the offensive with the intention of detaining the undocumented employees.

The Sarawak Deputy Police Commissioner said they detained 1,152 undocumented migrants<sup>24</sup> between 1 January and 15 August 2021, for various offences under the Immigration Act 1959/63 and the Prevention and Control of Infectious Diseases Act 1988 (Act 342) throughout Sarawak.

Even prior to the mass detention and the turning away of boats, civil society was noticing the shifting narrative for the refugees. While Malaysia is neither a signatory to the 1951 Refugee Convention nor its Protocol, it has traditionally been seen as a friendly place for Rohingya. It hosts the highest number of Rohingya refugees in Southeast Asia, and its previous leaders had reiterated it would remain a welcoming place for them. COVID-19 was threatening a shift.

Hate speech and inciting rhetoric started spreading on social media, targeting the Rohingya and accusing them of spreading the coronavirus. Speech calling for violence against Rohingya and other undocumented migrants spread widely online, including from public officials. A post shared by Malaysian Armed Forces Headquarters asked the public to be its "ears and eyes" and report undocumented migrants.

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24 Police: 1,152 undocumented migrants arrested in Sarawak so far this year, Malay Mail, 2021, See <https://www.malaymail.com/news/malaysia/2021/08/15/police-1152-undocumented-migrants-arrested-in-sarawak-so-far- this-year/1997894>

Another post, which has been widely reshared from a page calling itself the Military Royal Intelligence Corps, stated that undocumented migrants “will bring problems to all of us.”<sup>25</sup> The post was later removed after receiving public backlash.

Adli Zakuan from Angkatan Belia Islam Malaysia (ABIM), a CSO that represents the progressive Islamic youth movement in Malaysia noticed an increased anti-migrant propaganda orchestrated by government agencies. In the first year of the pandemic, Zakuan explained, a rapid spike of xenophobic sentiments or rhetoric of the Malaysian public towards migrants and refugees were noticeable. He concluded the public’s growing xenophobic response was an effect of effective propaganda carried out by the Government.

A recurring message particularly targeting migrants or refugees was predominantly visible, for example, in the social media comment sections during the former prime minister Muhyiddin Yassin’s press conferences, Zakuan lamented. Joseph too affirmed the growth of xenophobia and incitement of hate speeches against foreigners blaming them for the rise of COVID-19 cases.

The Rohingya minority particularly endured a difficult time. Due to the former government's restrictions on movement, many people have lost their jobs and are unable to maintain their families.<sup>26</sup>

‘I think last year it reached a peak. It was particularly bad in May, and everything was happening at the same time. After that, we heard cases where people in the neighbourhood called the immigration officers to arrest them. There was a lot of disinformation and what we found out is that private groups on Facebook and WhatsApp spread fake news about the community. Many human rights non-governmental organisations (NGOs) asked social media to take down posts or reported them. They coordinated and targeted hate speech because the messages that spread were the same. Even the media and journalists last year gave space to this misinformation,’ Elumalai shared.

This was compounded by Rohingyas and refugees bearing the brunt of the economic downturn. The anonymous civil society representative said they saw “a massive loss of jobs” in areas populated by the Rohingya.

‘The Rohingyas have had to really struggle to stay alive with the pandemic and be able to survive while facing an increasing level of xenophobia within society.

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25 Reuters, Anti-Migrant Sentiment Fanned on Facebook in Malaysia, Voa News, 2021, See <https://www.voanews.com/east-asia-pacific/anti-migrant-sentiment-fanned-facebook-malaysia>

26 Rohingya face discrimination and hostility in Malaysia, Uca News, 2021, See <https://www.ucanews.com/news/rohingya-face-discrimination-and-hostility-in-malaysia/93653#>

This environment has been fueled by the Government's anti-migrant narrative and online messages,' said Benedict.

For marginalised groups, seeing the spate of arrests of defenders and civil society only heightened fears of speaking out.

'Prior to these events, refugees and asylum seekers were already afraid to speak out about their situation and now seeing Malaysian citizens speaking out on their behalf being attacked has created an environment of fear,' shared the anonymous civil society representative.

The anonymous civil society representative discussed the charges against activist Heidy Quah<sup>27</sup> who faced charges under Section 233 (1)(a)<sup>28</sup> of CMA. Quah had posted on Facebook in the year 2020 about the experience of someone who had been detained in an immigration centre, detailing the poor conditions there. Quah was summoned and questioned by police as a result of her post, which an anonymous civil society representative described as a "clear violation of her right to freedom of expression."

Eventually, Elumalai and the anonymous civil society representative saw the tide against refugees slowly reversing. Both observed that the public has started questioning injustices, including those affecting disadvantaged communities. The anonymous civil society representative added, the prior administration was doing well at the start of the lockdown, the numbers were dropping, and people were optimistic about how things were going. However, when the situation worsened and people got tired of the ordinances, the public's mindset began to shift, and people began to step out, the anonymous representative explained.

Elumalai noticed that citizens started to react to the non-welcoming post on Rohingya, published by the Immigration Department on their social media accounts. 'Some people on social media, especially on Twitter, reacted by asking them to take down the post because it was inappropriate. This was asked not only by us but also by ordinary netizens. This is a positive thing I saw recently and did not see last year,' she said.

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27 Subsequently, Heidy Quah filed a civil lawsuit at the High Court seeking a court order to 'rule the words offensive and annoy in Section 233 invalidated for being unconstitutional'. Heidy Quah sues govt over law criminalising offensive online comments, Malaysiakini, 2021, See <https://www.malaysiakini.com/news/590119>

28 Under Section 233(1)(a): a person makes, creates or solicits, and initiates the transmission of any online comment which is "obscene, indecent, false, menacing or offensive" with "intent to annoy, abuse, threaten or harass another person" commits an offence. IDA LIM, Activist files court challenge against Malaysian law criminalising 'offensive', annoying online comments, Malay Mail, 2021, See <https://www.malaymail.com/news/malaysia/2021/09/06/activist-files-court-challenge-against-malaysian-law-criminalising-offensiv/2003224>

While they [Elumalai and the anonymous civil society representative] hope the discriminatory attitudes against refugees would eventually die down, there remain concerns about what this period had brought on, not just in the national conversation but also within communities where Rohingyas and refugees continued to live in the margins.

In regards to the COVID-19 recovery measures, Datuk Dr Madeline Berma, former Malaysian Commission of Human Rights (SUHAKAM) commissioner, suggested they must be culturally appropriate. 'Current recovery policies are one size fits all. Most of them are assumed to suit the rural people as it does urban areas,' she commented.

'The restriction order by the Government, for example, restrained the access of the indigenous community to farming and fishing grounds – denying food and economic resources. This condition caused food security to be affected and indigenous communities were forced to rely on the assistance of food baskets provided by NGOs and politicians,' Dr Madeline commented.

'The indigenous community have to travel two (2) to four (4) hours to get police clearance since the banks and most of the basic facilities are located in urban places, far from their habitat,' Dr Berma elaborated on the problems of movement control orders for the indigenous communities.

## THE ROLE OF CIVIL SOCIETY: CHALLENGES, OPPORTUNITIES, WAYS FORWARD

The pandemic and the Government's measures against it have posed new challenges to civil society's ability to operate, either online or offline space, in an already repressive environment.

Civil society organisations, despite significant hurdles, did not give up. A perfect example is a loose coalition made up of Malaysian youth and civil society organisations called Sekretariat Solidariti Rakyat (SSR) entering the political fray during this time of uncertainty and organised a series of democratic dissent against the Muhyiddin-led Perikatan Nasional government.

The SSR has organised four protests so far: the #Undi18Now, #BukaPuasaBukaParlimen protests, the #BerayadiJalanRaya, and #Lawan campaigns.

SSR's pinnacle, which saw thousands of youngsters on the streets, was the #Lawan protest,<sup>29</sup> held at the heart of Kuala Lumpur on 31 July 2021. This protest, which adhered to Standard Operating Procedures (SOPs) left a significant imprint on Malaysians who had neither participated nor witnessed a public assembly in a COVID-19 setting.

Given the perseverance of civil society, a pattern of intimidation towards members of civil society, human rights defenders, journalists and the general public have emerged as a whole. Indeed, the Malaysian police force appeared to have developed (or revived) a method of 'visiting' the homes or offices of identified protesters and participants of peaceful public assemblies. In the case of #Lawan, the police not only sent their officers after probing most of the key organisers and identifying protesters at the police station, but they also photographed and interrogated some of the family members. The organiser, SSR, condemned the police's action as an "unethical intimidation."<sup>30</sup>

The Malaysian authorities repeatedly targeted people who stated their critical opinions. Among them, we can recall Fahmi Reza, who has been doing activism and political graphic design with the intention of helping citizens make a change for the country and Shakila Zen, an environmental activist, who was harassed and threatened for both her activism and gender. She also experienced sexual harassment.

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29 Alyaa Alhadjri & Ng Xiang Yi, The faces of #Lawan, Malaysiakini, 2021, See <https://www.malaysiakini.com/news/589097>

30 Cops visit homes of #Lawan participants, organiser decries 'unethical intimidation', Malaysiakini, 2021, See <https://www.malaysiakini.com/news/585853>

Shakila halted her activism on the advice of her family after becoming traumatised by the seriousness of the threatening messages.<sup>31</sup>

Additionally, in September 2021, the Pertahankan Hutan Simpan Kuala Langat Utara (PHSKLU) activists and journalists were, for instance, denied access to the Selangor state government office to handover a memorandum demanding that the Menteri Besar (Chief Minister) cease attempts to de-gazette a portion of Kuala Langat North Forest Reserve (KLNFR).<sup>32</sup> Massive police roadblocks established along the roads heading into the office prevented the activists and participants from entering. A heavy police presence was spotted around the state government's office although the Chief Minister himself later received the memorandum after allowing a handful of representatives to enter. It raises the question of whether the intention of the police force was to facilitate the activists and participants to safely deliver their memorandum or if it was an intimidation act. This practice has become the norm, leaving many people wondering if it may deteriorate into something much worse in the coming days.

A similar pattern of police response to the #Lawan public assembly and the PHSKLU's memorandum submission was reflected, as anticipated, in future events of public expression too, albeit on a larger scale. Activist Lalitha Kunaratnam exposed the alleged involvement of Malaysian Anti-Corruption Commission (MACC) chief, Azam Baki,<sup>33</sup> in a shareholding scandal prompting nationwide unrest regarding the institution's credibility in uprooting corruption practices, resulting in the #TangkapAzamBaki protest. The Malaysian Police force was quick to intensify their force to ensure the masses' participation in this protest is restricted.<sup>34</sup>

Overall, it was possible to observe the use of double standards by the state governments and authorities. On the one hand, they used an iron fist to repress opposition and individuals who voiced critical opinions; while on the other hand, their attitude toward private developers was assertive and permissive at the expense of socially and economically vulnerable groups like the working-class farmers and indigenous community.

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31 UM student union in solidarity with activist under threat, Malaysiakini, 2021, See <https://www.malaysiakini.com/news/589646>

32 Alex Woon, Heavy police presence bars NGOs trying to submit KLNFR memo, Malaysiakini, 2021, See

<https://www.malaysiakini.com/news/590490>

33 Alena Nadia, Cops quiz Azam Baki whistleblower, Malaysiakini, 2022, See <https://www.malaysiakini.com/news/609389>

34 Arjun Mohanakrishnan, #TangkapAzamBaki takes to streets despite road closures, police presence, The vibes, 2022, See

<https://www.thevibes.com/articles/news/52660/live-malaysians-stage-street-protest-against-embroiled-azam-baki>

For instance, in Perak, a group of farmers and activists from Parti Sosialis Malaysia (PSM) were arbitrarily detained by the police force when they tried to prevent a forced eviction at Chepor Impian.<sup>35</sup> The Penan community in Sarawak was forced to build their own barricade to protect the forest area from a timber company that wanted to conduct logging operations with legal permission although it disadvantages the indigenous community.<sup>36</sup>

Repression and measures aimed at halting the spread of COVID-19 prompted civil society to become more active in the online arena, forcing it to modify tactics and adopt new strategies.

'To be honest, we are still struggling from last year [2020] and many activities such as reactionary campaigns and protests on the ground, are now done entirely online. It is quite challenging to use social media but we are attempting and continue to do so in order to raise awareness,' Elumalai shared.

It has limited the ability to do crucial work. 'With greater restrictions, it is hard to carry out advocacy work and civil society really struggles when you cannot have meetings with the Government. If you cannot go to the ground, you cannot talk to the people. So, there's an impact on research. You can do online research, but it cannot replace offline research or on-the-ground research,' Benedict shared.

The anonymous civil society representative echoed Benedict's concern about difficulties gathering information on the experience of refugees, who were rendered more vulnerable during this period. 'We are finding it extremely difficult to conduct research not only because we are unable to be physically present, but also because individuals are afraid of being arrested or detained if they come out and speak,' the anonymous source acknowledged.

The systematic targeting of local defenders through judicial harassment has further limited their ability to react. For Elumalai, it has placed civil society in a fight for survival. 'Right now, we end up fighting for our survival. At the same time, we also continue to educate and empower people. It takes a lot of energy because we must come up with a strategy on how to educate people on what is going on by relying mostly on social media, and considering the situation where we are unable to travel unlike before,' Elumalai shared.

Amidst these challenges, civil society seized whatever opportunities they could by maximising the online space and honing their interventions: 'With the lockdown, we are virtually reliant on virtual communication.

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35 B Nantha Kumar, Eight arrested for allegedly blocking eviction of Perak farmers, Malaysiakini, 2022, See <https://www.malaysiakini.com/news/617945>

36 Penan community blocks timber company's entry into disputed forest area, Malaysiakini, 2021, See <https://www.malaysiakini.com/news/591231>



The way we promote our messaging is still limited. At the same time, we're sharing more areas and conversing with more people. We are clearer than ever that our messaging has to come bottom-up,' Naidu shared.

'The move towards online activities makes it easier to disseminate information and now it is possible to reach a larger number of people. We increased our social media presence,' the anonymous civil society representative shared.

With mass demonstrations prohibited, civil society and individuals explored creative ways to promote advocacy. Elumalai shared how low-income citizens joined the white flag movement by flying white flags to express their dissatisfaction with the economic hardships they have faced because of the lockdowns. Individuals also joined the black flag movement which urged social media users to share pictures of black flags on various platforms to protest the Perikatan Nasional government's failure to contain the pandemic.

For Naidu, moving from the PH government where civil society was starting to be able to participate, to a more repressive environment allowed them to rethink their strategies. 'We had to rethink our strategies which were so driven around the reform agenda, that we needed to rethink, to what extent do we engage with the Government, to what extent do we see an opportunity. Where do we spend our energy? We started mobilising amongst ourselves, going to the ground, taking our comms to the ground. We worked within different coalitions,' Naidu said.

For Swee Seng, it meant learning about working with different parties. 'I think our advocacy has been successful so far to reopen the Parliament and we did so in a different way than in the past. The ruling party has had an absolute majority in parliament in the past, thus BERSIH's strategy was to mobilise protests and rallies but as the Muhyiddin Yassin's party was very vulnerable with a slim majority in parliament, the organisation has decided to engage with both sides of the political divide to demand parliamentary and electoral reform,' Swee Seng explained.

While it has allowed for greater visibility of their work through their social media presence, the anonymous civil society representative reflected on the personal risks. 'It is a double-edged sword in terms of risk management. There is more outreach, but there is also a bigger risk of being scrutinised,' the anonymous civil society member said.

It has also facilitated a reflection on the much-needed role of civil society and the continuous need to adapt and connect with those left behind. While online means have allowed easier access for many, marginalised groups, including those living outside urban centres, continued to be left out of wider conversations.

'The challenge is how you reach those grassroots that may not be connected and include those marginalised into the larger discussion. I think there is more work to be done around that area,' Benedict said.

For Naidu, there remain conversations that civil society still needed to delve into, particularly sensitive issues. 'Race, royalty and religion – that is the one thing that we don't talk about enough but that influences every single policy that we have,' she shared.

In conversations with the human rights defenders involved in the research, they agreed that there needed to be a continued push from civil society to fight back amidst continuing challenges to human rights.

Dr Berma, who particularly spoke about poverty alleviation and the security of data, believes that in Malaysia, the biggest challenge in poverty alleviation is whether you are captured or not in the database. Most of the indigenous communities are unaware (uninformed) that they must be registered in the database.

For example, one central data system is *eKasih*, a database system that was developed to assist the Government of Malaysia to be better able to plan, implement and monitor poverty eradication programmes at the national level. In order to qualify for [any kind of] support, one needs to be in that database. However, an indigenous person may be unaware of this database, she mentioned.

Dr Berma described Malaysia's poverty database as static.

'The process requires one to fill up a form and to wait for about three (3) to 12 (twelve) months to get verified. By the time they get verification, people may have already lost their jobs and subsequently income. Since their database is unavailable in *eKasih*, it is quite possible the waiting tenure could extend to a year before any decent assistance reaches them,' Dr Berma explained.

She emphasised the concept of 'Free, Prior and Informed Consent' due to a trust issue between indigenous people and government officials. In Sarawak, people isolated themselves as the communities were frightened.

The suggestion was not to overlook or underestimate the role of cultural/indigenous knowledge and leaders. Jawatankuasa Kemajuan dan Keselamatan Kampung (JKKK) or "Village Security and Development Committees" is not the only body, she asserted. Community leaders and religious leaders such as Traditional Healers are vital links to reaching the rural community.

## ANALYSIS ON HUMAN RIGHTS COMPLIANCE

International human rights standards state that emergency decrees on COVID-19 must abide by the principles of legality, necessity, proportionality and non-discrimination.<sup>37</sup> They must be 'provided by law' and the law must not be arbitrary or unreasonable. They must be necessary for the protection of public health and measures taken should be proportional towards the interest being protected. They must also not discriminate against anyone.

While derogations are allowed under international human rights law, guidelines state that measures must be limited in 'scope, duration and substantive basis'.<sup>38</sup> The Government must ensure transparency in the implementation of these measures. Any state of emergency must be 'subjected to adequate legislative scrutiny'. To ensure emergency decrees adhere to principles, regular review mechanisms by the legislature must be in place.

These criteria were further expounded by the Special Rapporteur on Freedom of Peaceful Assembly and of Association (FoAA) as it applied to the right to freedom of assembly and association. These guidelines stated that:

*New measures must respect human rights, any emergency is not used as a pretext to curtail rights and that democracy could not be indefinitely postponed. There should be guarantees for inclusive civil society participation, for the respect of online FoAA, as well workplace rights to FoAA. CSO participation in multilateral institutions must be ensured and international solidarity must be respected. The future implications of COVID-19 must be addressed.*

Malaysia's emergency decree and the COVID-19 measures it has imposed have failed to comply with these standards. The measures imposed, as recognised by civil society, were all-encompassing, broad and arbitrary, and violated rights to fundamental freedoms with no just cause. They also served to restrict civil society participation and dissent.

The Emergency Ordinance suspended the Parliament, effectively stifling any form of opposition towards government actions, and depriving the people of transparency on how new laws are drafted. Civil society expounded on how these also prevented them from participating in political decisions, and in holding their leaders accountable for their decisions. While standards state that emergency decrees must be limited in scope,

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<sup>37</sup> OHCHR, Emergency Measures and COVID-19: Guidance, 2020, See

[https://www.ohchr.org/Documents/Events/EmergencyMeasures\\_COVID19.pdf](https://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf)

<sup>38</sup> Ibidem, See [https://www.ohchr.org/Documents/Events/EmergencyMeasures\\_COVID19.pdf](https://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf)

Malaysia's Emergency Ordinance allows for the passage of new laws -- the content and substance of which are decided merely by the Government. It demonstrated this when it passed a law against fake news, with overbroad definitions of 'fake news' and disproportionate policies.

Emergency decrees should not be used as a pretext to stifle or clamp down on freedoms. In 2019, civil society pushed for the repeal of the 2018 Anti-Fake News Act (AFNA), arguing that it will be used to stifle freedom of expression, and shut down dissenting voices. The Government has used the emergency decree to once again invoke aspects of this fake news legislation, focusing on COVID-19. While the AFNA criminalised only 'malicious behaviour', observers noted that the fake news ordinance included 'intent to do public harm' when assessing a violation, the definition of which is to be decided by authorised officials.<sup>39</sup> The Government also used this period to clamp down on freedom of assembly and on freedom of expression, relentlessly questioning and harassing human rights defenders and peaceful protesters.

Malaysia's emergency decree provided additional powers to the former Prime Minister and his Cabinet. The military is provided with additional policing powers, to contain COVID-19. The fake news ordinance and the amendments to the PCID Act 1988 contain seizeable offences, allowing authorised officials to arrest individuals without a warrant. The fake news ordinance also provided authorising individuals immunity from lawsuits and legal proceedings.

While Malaysia was facing a public health crisis which called for an immediate and effective response, the measures imposed by the previous government went beyond what was necessary. Its restriction of protests and its systematic judicial harassment served to instil a culture of fear, rather than to protect individuals.

Its measures discriminated against marginalised communities such as refugees, worsening the existing structural violence these communities experience. These have extended beyond hate speech and inciting rhetoric, which is facilitated and enabled, towards policies that have compromised the security of refugees.

While COVID-19 constitutes a grave threat to public health, it must not be used as a pretext towards justifying human rights violations. The emergency decree has allowed this in Malaysia. Its vague and open-ended nature when announced in January 2021, precluded the possibility of more substantial scrutiny of the law.

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39 Dr. Lasse Scholdt, The rebirth of Malaysia's fake news law – and what the NetzDG has to do with it, *VerfassungsBlog*, 2021, See <https://verfassungsblog.de/malaysia-fake-news/>

With the Parliament in suspension and elections withheld until the end of the state of emergency, the Government effectively was given the authority to function without oversight.

All these enable an environment of impunity, where the Government invoked the emergency decree to exert control while depriving its people of transparency and avenues for recourse. While the former Prime Minister assured the people that the state of emergency was not a 'military coup', and that a civilian government would continue to function during his announcement of the State of Emergency, the ordinance instead, has allowed for disproportionate and unjustified powers to the Government.

## THE LONG VIEW: WHAT COMES AFTER

By August 2021, amid increasing political instability, former Prime Minister Muhyiddin Yassin, who had wrestled power through the Sheraton Move<sup>40</sup> when the PH Government internally crumbled, had been replaced by Ismail Sabri Yaakob, UMNO vice president, after Muhyiddin Yassin conceded that he had lost the majority in the Parliament.

For the second time, the King's intervention was perceived as a viable recourse to re-establish Malaysia's political stability. On August 20, 2021, Ismail Sabri Yaakob was ultimately named Malaysia's ninth prime minister by the King, ending the country's ongoing political crisis with the support of a thin majority of 114 Members of Parliament.<sup>41</sup>

Malaysia's socio-political landscape experienced consecutive changes in terms of COVID-19-related measures and democratic expression **under** Ismail Sabri Yaakob's leadership. The third quarter of 2021 saw fewer COVID-19 cases, allowing for far more relaxed protocols. The movement lockdown was replaced with the National Recovery Plan<sup>42</sup>, which features a modified set of SOPs and four **different** phases. By August 2021, most of Malaysia's states had graduated to Phase Three (**relatively safer**), which shows the resumption of major socio-political, **cultural**, and economic activities.

In any case, COVID-19 and its measures exposed the frail acceptance of vulnerable groups, such as refugees and the Rohingya, under the **premiership** of both Muhyiddin Yassin and Ismail Sabri Yaakob. As the Rohingya faced genocide in Myanmar, their governments demonstrated the persistence of malicious narratives against them, with devastating results.

Despite the fact that COVID-19 measures were eased beginning in mid-2021, the country was not progressing under the leadership of Ismail Sabri Yaakob.

As a result, Malaysia's Parliament dissolved on October 10, 2022, paving the way for a general election on November 19, 2022, nearly a year ahead of schedule. A planned move by Ismail Sabri Yaakob in the hope of strengthening his party's mandate and stabilising the country's tumultuous political landscape in recent years.

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40 Muhyiddin Yassin, upon the intervention of the Malaysian Constitutional Monarch was appointed as the prime minister on 12th February 2020. Muhyiddin becomes Malaysia prime minister, Mahathir vows to fight, Aljazeera, 2020, See <https://www.aljazeera.com/news/2020/3/1/muhyiddin-becomes-malaysia-prime-minister-mahathir-vows-to-fight>

41 Rebecca Ratcliffe, Ismail Sabri Yaakob appointed as Malaysian prime minister, The Guardian, 2021, See <https://www.theguardian.com/world/2021/aug/20/ismail-sabri-yaakob-appointed-as-malaysian-prime-minister>

42 Priya Sunil, SOPs for Phase Three of Malaysia's National Recovery Plan (August 2021), Human Resources, 2021, See <https://www.humanresourcesonline.net/sops-for-phase-three-of-malaysia-s-national-recovery-plan-august-2021>

On November 19, 2022, Malaysia held its 15th general election (GE15), which resulted in a hung parliament for the first time in its history, with no coalition (100 seats by Pakatan Harapan, 38 seats by Perikatan Nasional, or 58 seats by Barisan Nasional) gaining a majority to form a government.

During this period of uncertainty, as inter-coalition negotiations to form the government were intense, Malaysia's King Al-Sultan Abdullah was revealed to be a viable solution once more as he consented to appoint Pakatan Harapan (PH) chairman Datuk Seri Anwar Ibrahim as Malaysia's 10th prime minister five days after the 15th general elections. An unanticipated alliance between Pakatan Harapan and Barisan Nasional contributed to forming a "Unity Government." Consequently, on November 24, 2022, Anwar Ibrahim was sworn in as Malaysia's Prime Minister.

There were many expectations after he was sworn in about the next chapters in Malaysia and how long the damage done by the Muhyiddin Yassin and Ismail Sabri Yaakob administrations to Malaysian institutions would last. It also raises the question of whether the current government could reverse the regressive changes made by the previous ruling regimes.

Malaysia made notable progress under the first term of the PH government, which lasted from 2018 to 2020. For example, when the Anti-Fake News Act 2018 ("Repeal Bill") was repealed on October 9, 2019, it signalled to the civil society in Malaysia and the region that it was bucking a trend of governments using repressive laws against freedom of expression.

In its two years, PH faced criticism for its failure to follow through with many of its promises, but civil society acknowledged that the move to repeal the AFNA reflected a change and a hope for a different kind of governance.

Anwar's election victory marked a remarkable political comeback, as he has been regarded as one of Asia's most outspoken proponents of democracy and reform. Malaysian democratic activists have reacted positively and are encouraged by his and PH's victory; a second chance to implement long-awaited democratic reforms, or '*Reformasi*', which was the rallying cry in 1998 following his altercation with Dr Mahathir Mohamad.

It is becoming more prominent, especially now that Malaysia serves on the UN Human Rights Council for 2022-2024, which calls for human rights standards among its members. Malaysia's membership in the United Nations Human Rights Council (UNHRC) allows it to set a precedent for ASEAN and the international community. Anwar's administration, however, is not free from controversy.

On January 2023, the Prime Minister made a public comment stating that the LGBTIQ community and communism will never be acknowledged in the country, inciting reactions from civil society organisations and the public to denounce this.<sup>43</sup> This is an example that requires scrutiny and attention from civil society and the public, to hold the new government accountable for its commitment to international human rights standards and norms.

To conclude, Malaysia can be a beacon of democracy to its authoritarian ASEAN neighbours, and Malaysian civil society has the opportunity to extend democratic gains and advance the prospects for a free and open society within other ASEAN countries.

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43 <https://www.scmp.com/week-asia/politics/article/3210329/malaysians-accuse-anwar-government-pandering-conservatives-banning-lgbtq-books>



## RECOMMENDATIONS

FORUM-ASIA and Malaysian civil society's recommendations include:

### **For the Malaysian Government:**

- Repeal repressive laws, including the CMA, Sedition Act and SOSMA, and end the use of these laws against human rights defenders, civil society and the media;
- Recognise the role of civil society and human rights defenders, and formulate and implement Human Rights Defenders' protection mechanism;
- Address inequalities and systemic issues, such as poverty and health inequity, that have been brought to light by the pandemic;
- Attend to the concerns raised by Contract Doctors in the public healthcare system;
- Simplify the process of unionisation as a protection mechanism for the employees;
- Refrain from inciting fear and hatred campaign towards migrants, refugees, and asylum seekers;
- Establish a broad interaction with the progressive society that does not exclude critical groups, as everyone must be represented at the table for a meaningful engagement;
- Ratify the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and address issues of discrimination in the country;
- Refrain from subjugating or permitting state-sponsored witch hunts against Malaysia's LGBTIQ community;
- Future post-recovery policy programmes to include vulnerable people in drafting or formulating the policies. Participation of the vulnerable communities must be multifold and specifically in terms of formulation, implementation, monitoring and evaluation. Most of the policies formulated are elitist and by the elites in the society.
- Provide avenues for the public and organisations to voice their concerns, share their views, and provide feedback to their elected representatives;
- Promote transparency and accountability in governance by providing a platform for open dialogue and exchange of ideas between MPs, civil society and communities;
- Accede to the 1951 Refugee Convention and its 1967 Protocol, and ensure the country fully complies with international refugee protection standards.

**For the Human Rights Commission of Malaysia (SUHAKAM):**

- Ensure stronger protection for human rights defenders and civil society;
- Promote research on the impact of government policies on human rights and civic space;
- Improve the performance and impact of their work and effectively fulfil their mandate of human rights promotion and protection:
- Submit the findings of SUHAKAM to the parliament for debate.

**For civil society:**

- Ensure that marginalised communities, including migrant workers, refugees, and communities in non-urban settings, are represented and take leading roles in advocacy efforts;
- Emphasise the universality and interconnectedness of all human rights;
- Keep a close eye on hate speech and human rights violations, especially those directed towards Human Rights Defenders (HRDs), activists, minorities, and vulnerable groups, and report to Special Procedures mandate holders to stay informed about the present situation in Malaysia;
- Ensure a continuous discussion of race, royalty and religion and how that affects policies and perspectives on issues;
- CSO activists have much to offer in understanding these issues better, having a common position and debating them in the Dewan Rakyat (House of Representatives) to increase the awareness level amongst opposition MPs.

**For the media:**

- Uphold media independence, make sure the role of the media is transformative and that it does not become complicit in undermining human rights, particularly those of migrant workers and refugees;
- Recognise and continue its role as the fourth estate in protecting and strengthening the nation's democracy;
- Facilitate the emergence of underprivileged, marginalised, and oppressed voices in the public sphere.

**For ASEAN and the international community:**

- Spotlight violations and hold the Government accountable for its violations against human rights and attacks on democracy in Malaysia, particularly as Malaysia is currently serving in the Human Rights Council for the 2022 - 2024 term;
- Ensure that human rights and fundamental freedoms, such as freedom of expression, association, and peaceful assembly, are respected;
- More decisive action is needed in response to the military junta in Myanmar's execution of pro-democracy activists.

**Appendix 1: A brief table of the recent pattern of police action pursued in every other public gathering or act of civil disobedience**

Date	Event	Police Action
23 April 2022	The annual Labour Day celebration which was organised in Kuala Lumpur had two primary demands: (i) an increase in the minimum wage and; (ii) the abolition of the contract system of employment.	Parti Sosialis Malaysia (PSM) deputy chairperson, Arutchelvan; May Day Organising Committee's Kohila Yanasekeran; PSM Subang member, T Mohan Ellen; and SUARAM's coordinator Wong Yan Ke were called in for police questioning. <sup>44</sup>
26 April 2022	A candlelight vigil was held in solidarity with death row inmate Nagaenthran Dharmalingam who was sentenced to death for drug-related offences.	Malaysian Bar Council Human Rights Committee member, New Sin Yew and colleague, Yohendra Nadajan were asked by the police to give their statements. <sup>45</sup>
17 June 2022	The Walk for the Independence of the Judiciary or Walk of Justice was a march organised by the Malaysian Bar Council to defend the judiciary's autonomy and from alleged intimidation.	Identified lawyers were called in by the police for allegedly violating COVID-19 standard operating procedures as outlined under the National Recovery Plan. <sup>46</sup>

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44 See <https://www.malaysiakini.com/news/619779>

45 See <https://www.malaysiakini.com/news/619516>

46 See <https://www.malaysiakini.com/news/625123>

4 July 2022	The key organisers of the #Turun protest were called in for police investigation after announcing their protest scheduled on 23 July 2022.	Amanah members Fadzli Faiz, Sany Hamzan, Bukit Katil assemblyperson Adly Zahari and Selangor Exco member Izham Hashim, <sup>47</sup> PKR members Adam Adli, Syamil Luthfi, Afiq Ayob and Farah Arianna were called in for police questioning under Section 9(5) of the Peaceful Assembly Act 2012. <sup>48</sup>
05 July 2022	A price hike protest at Bandar Mentakab on 2 July 2022 led by Johor PKR Women's Chief Napsiah Khamis along with the NGO Pertubuhan Kebajikan Bidadari Malaysia.	Napsiah Khamis was summoned for questioning under Section 9(5) of the Peaceful Assembly Act 2012. <sup>49</sup>
23 July 2022	About 100 protesters participating in the #Turun Movement's protest raised five demands, namely the revival of subsidies and inflation control.	Protesters were denied from marching to Dataran Merdeka by the police who formed a human barricade. <sup>50</sup>  About 30 protesters have been summoned by the police to have their statements recorded. <sup>51</sup>  On 18 August 2022, Hasbie Muda from Amanah, Muhammad Sabda from PKR and the International Islamic University Malaysia (IIUM) student union president Aliff

47 See <https://www.malaysiakini.com/news/627067>

48 See <https://www.malaysiakini.com/news/627104>

49 See <https://www.malaysiakini.com/news/627185>

50 See <https://www.malaysiakini.com/news/629363>

51 See <https://www.freemalaysiatoday.com/category/nation/2022/07/23/police-to-summon-30-over-turun-malaysia-protest/>

		Naif were charged in the Magistrate's Court under the Peaceful Assembly Act (PAA) 2012. <sup>52</sup>
14 Aug 2022	The alleged loss of public monies is linked to previous and current Ministers who were involved in the approval of the LCS project, first awarded to BNS in 2011 through direct negotiation. <sup>53</sup>	District Police Headquarters, Dang Wangi have called in 13 individuals who participated in the LCS protest. <sup>54</sup>

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52 See <https://www.malaysiakini.com/news/632540>

53 See <https://www.malaysiakini.com/news/632074>

54 See <https://www.malaysiakini.com/news/632351>

**Appendix 2: Major socio-political events, numerous civil society/political/political parties' actions and the repressive methods embarked on by the State and its apparatuses from August 2021 to August 2022.**

NO.	DATE	TITLE	SUMMARY OF EVENT/INCIDENT	LINK
1	04 August 2021	SOPs for Phase Three of Malaysia's National Recovery Plan (August 2021)	All economic activities will be allowed to operate, except high-risk activities in the 'negative' list. Public service and private sector workplaces can also operate at 80% in-person attendance; except high-risk activities listed in the 'negative' list, such as spas, pedicure and manicure providers, and pubs and night clubs. Cross-district travel will also be allowed throughout the Phase, while cross-state travel will remain banned.	<a href="https://www.humanresourcesonline.net/sops-for-phase-three-of-malaysia-s-national-recovery-plan-august-2021">https://www.humanresourcesonline.net/sops-for-phase-three-of-malaysia-s-national-recovery-plan-august-2021</a>
2	05 Aug 2021	Malaysia: Police visits to the homes of peaceful protesters are excessive	<p>Police visited the home or office of at least 15 individuals who participated in Saturday's #Lawan rally in Kuala Lumpur. The #Lawan protesters, who faced police obstruction during their assembly called for the resignation of Prime Minister Muhyiddin Yassin, a full Parliament sitting, and a moratorium on the repayment of all loans.</p> <p>Among those visited by police are SUARAM Executive Director Sevan Doraisamy, SUARAM Coordinators Muhammad Alshatri and Azura Nasron, Undi18 co-founder Qyira Yusri, and the Malaysia United Democratic Alliance co-founders Amir Abdul Hadi, Dr Thanussha Francis Xavier, and Dr Mathen Nair.</p>	<a href="https://www.article19.org/resources/malaysia-police-visits-to-homes-peaceful-protesters-excessive/">https://www.article19.org/resources/malaysia-police-visits-to-homes-peaceful-protesters-excessive/</a>

3	20Aug 2021	Malaysia: Arrest of vigil attendees is the Government's latest act of harassment against Lawan protesters	Malaysian authorities arrested 31 protesters who attended a candlelight vigil organised by Sekretariat Solidariti Rakyat under the #Lawan banner to mourn the lives taken by COVID-19. Less than one hour into the event at Dataran Merdeka, police obstructed the vigil, arrested 17 men and 14 women - who were mostly youths - and confiscated their identity cards and phones. This is not the first #Lawan gathering to be obstructed by authorities.	<a href="https://www.article19.org/resources/malaysia-arrest-vigil-attendees-governments-latest-harassment-against-lawan-protesters/">https://www.article19.org/resources/malaysia-arrest-vigil-attendees-governments-latest-harassment-against-lawan-protesters/</a>
4	29 Aug 2021	New cabinet to be sworn in tomorrow afternoon	A total of 31 ministers and 38 deputy ministers in the new cabinet will take their oath of office, loyalty and secrecy at the Istana Negara tomorrow (Aug 30).  Cabinet line-up was announced by Ismail Sabri Yaakob last Friday, seven days after he took the oath of office as the ninth prime minister	<a href="https://www.malaysiakini.com/news/589128">https://www.malaysiakini.com/news/589128</a>
5	31 Aug 2021	Blasting Muhyiddin's human rights record, group calls for changes under new PM	International rights group Human Rights Watch (HRW) has called on new Prime Minister Ismail Sabri Yaakob to commit to respecting the rights to free speech and peaceful assembly, which it said declined under his predecessor Muhyiddin Yassin.  "Malaysian authorities over the past year have taken a very heavy-handed approach to any criticism of the	<a href="https://www.malaysiakini.com/news/589328">https://www.malaysiakini.com/news/589328</a>



			Government by harassing and prosecuting peaceful protesters, journalists, and activists.	
6	27 Oct 2021	Malaysia: IPCC bill is a step backwards for police accountability	<p>Amnesty International Malaysia, ARTICLE 19, CIVICUS: World Alliance for Citizen Participation and Human Rights Watch - call on Members of Parliament in Malaysia to reject the deeply flawed Independent Police Conduct Commission (IPCC) bill and move quickly to table a bill to establish a police accountability mechanism that is truly independent and capable of ensuring adequate police oversight.</p> <p>The bill fails to address widespread public concerns about police misconduct, ongoing misuse of power against government critics, and custodial deaths. If passed, the bill would not, as the Government states, promote accountability, but rather shield police officers from scrutiny and independent oversight.</p>	<a href="https://www.article19.org/resources/malaysia-ipcc-bill-step-backwards-for-police-accountability/">https://www.article19.org/resources/malaysia-ipcc-bill-step-backwards-for-police-accountability/</a>
7	02 Sept 2021	UM student union in solidarity with activist under threat	The Universiti Malaya student union (KMUM) in solidarity with young environmental activist Shakila Zen has condemned alleged threats and intimidation intended to stop her from speaking up.	<a href="https://www.malaysiakini.com/news/589646">https://www.malaysiakini.com/news/589646</a>
8	08 Sept 2021	Heavy police presence bars NGOs trying to submit KLNFR memo	Representatives from the Defend Kuala Langat North Forest Reserve (PHSKLU) coalition were barred from reaching the Selangor state government office today after	<a href="https://www.malaysiakini.com/news/590490">https://www.malaysiakini.com/news/590490</a>

			<p>police set up roadblocks along the main road leading to the location. Journalists and representatives from the coalition were also stopped by the police who cordoned off a junction at Persiaran Sultan, citing security concerns.</p> <p>Police eventually allowed five representatives from PHSKLU coalition to go through and submit their memorandum.</p>	
9	09 Sept 2021	Media groups want freedom to cover Dewan Rakyat sitting	Media advocacy groups today urged the Parliament to stop restricting press coverage of Dewan Rakyat sittings, after only 16 media agencies were allowed to cover the upcoming session that will start next week.	<a href="https://www.malaysiakini.com/news/590704">https://www.malaysiakini.com/news/590704</a>
10	13 Sept 2021	Detailing CSA deal: Here is what Pakatan Harapan and the Government agreed to do	<p>Prime Minister Ismail Sabri Yaakob's government and Pakatan Harapan today inked a Memorandum of Understanding on Transformation and Political Stability.</p> <p>The Government agreed not to dissolve Parliament before 31 July 2022.</p>	<a href="https://www.malaysiakini.com/news/591196">https://www.malaysiakini.com/news/591196</a>
11	14 Sept 2021	Penan community blocks timber company's entry into disputed forest area	Around 40 people from the Penan community in Sarawak have set up a blockade at a logging road in Long Ajeng to prevent timber industry giant Samling Group's bulldozers from entering a disputed forest area.	<a href="https://www.malaysiakini.com/news/591231">https://www.malaysiakini.com/news/591231</a>

			The act is the latest in a series of tussles between the local indigenous communities in the upper Baram region who want the forest land left untouched and Samling Group which claimed it has legally obtained permission to conduct logging operations there.	
12	14 Sept 2021	PM's Malaysian Family torn apart by the Government's appeal against citizenship ruling'	The Government filed an appeal to the Court of Appeal against the 9 September Kuala Lumpur High Court decision which ruled that Malaysian women have the same right as Malaysian men to confer citizenship to their overseas-born children.	<a href="https://www.malaysiakini.com/news/591286">https://www.malaysiakini.com/news/591286</a>
13	22 Sept 2021	Crossdressers, transgenders forbidden from Perlis mosques	The Perlis state fatwa committee has declared that men who appear like women, such as crossdressers or transgender individuals, are forbidden from entering mosques while not in gender-conforming appearances.	<a href="https://www.malaysiakini.com/news/592350">https://www.malaysiakini.com/news/592350</a>
15	04 Oct 2021	Fahmi Reza detained for satirical poster on 'Keluarga Malaysia'	Graphic artist Fahmi Reza was arrested over a satirical poster he made on "Keluarga Malaysia", the tagline of Prime Minister Ismail Sabri Yaakob's government.	<a href="https://www.malaysiakini.com/news/594032">https://www.malaysiakini.com/news/594032</a>
16	30 Nov 2021	Police prevent Kg Gatco settlers from meeting MB	About 40 settlers from Kampung Serampang Indah, better known as Kampung Gatco, in Jempol were stopped and escorted home by the police while on a bus heading to meet Negeri Sembilan Menteri Besar Aminuddin Harun this morning.	<a href="https://www.malaysiakini.com/news/601238">https://www.malaysiakini.com/news/601238</a>

			When contacted, PSM deputy chairperson S Arutchelvan criticised the police for abusing their power and arbitrarily detaining the settlers for approximately 90 minutes without good reason.	
17	18 Dec 2021	Landslide win for GPS coalition as it retains power in Sarawak state polls	<p>The Gabungan Parti Sarawak (GPS) coalition coasted to a landslide victory in Sarawak's 12th state election on Saturday (Dec 18), winning 75 of 82 seats in the state legislature.</p> <p>Opposition party Parti Sarawak Bersatu (PSB) won four seats while the Democratic Action Party (DAP) won two seats, according to the Election Commission (EC).</p> <p>As of midnight, the result of one seat has yet to be announced.</p>	<a href="https://www.channelnewsasia.com/asia/sarawak-state-polls-gps-coalition-wins-dec-18-2388631">https://www.channelnewsasia.com/asia/sarawak-state-polls-gps-coalition-wins-dec-18-2388631</a>
18	04 Jan 2022	Groups condemn police questioning over reporter's flood report	<p>Several media advocacy groups and the Malaysian United Democratic Alliance (Muda) have condemned the authorities for opening investigations over a Free Malaysia Today report regarding the Government's tardy response to flooding in Selangor on 17 December last year.</p> <p>According to The Rakyat Post, FMT reporter Sean</p>	<a href="https://www.malaysiakini.com/news/605612">https://www.malaysiakini.com/news/605612</a>

			Augustin has been summoned for questioning tomorrow over the report published on 21 December that year.	
19	18 Jan 2022	Tangkap Azam Baki rally organisers outline three demands	The organisers of the #TangkapAzamBaki rally this Saturday has outlined three demands – the arrest of MACC chief commissioner Azam Baki, for the legal process against Azam to start immediately as well as the restructuring of the anti-graft agency, which should then be placed under the purview of Parliament.	<a href="https://www.malaysiakini.com/news/607361">https://www.malaysiakini.com/news/607361</a>
20	21 Jan 2022	Cops diverting traffic, closing train stations over Azam protest tomorrow	Police will be setting up six diversions all around Kuala Lumpur in anticipation of a street protest against Malaysian Anti-Corruption Commission (MACC) chief Azam Baki tomorrow.  Several train stations in the area will be temporarily closed.	<a href="https://www.freemalaysiatoday.com/category/nation/2022/01/21/cops-diverting-traffic-closing-train-stations-over-azam-protest-tomorrow/">https://www.freemalaysiatoday.com/category/nation/2022/01/21/cops-diverting-traffic-closing-train-stations-over-azam-protest-tomorrow/</a>
21	28 Jan 2022	Malaysia massive floods result in RM6.1 billion losses, Selangor worst hit	The flooding that affected several Malaysian states in late December and early January resulted in overall losses of RM6.1 billion (US\$1.46 billion), said the Department of Statistics on Friday (28 January).	<a href="https://www.channelnewsasia.com/asia/malaysia-floods-2021-2022-losses-statistics-department-2465656">https://www.channelnewsasia.com/asia/malaysia-floods-2021-2022-losses-statistics-department-2465656</a>
22	03 Feb 2022	Cops quiz Azam Baki whistleblower	Whistleblower Lalitha Kunaratnam gave her statement at Bukit Aman today over two stories she wrote that blew	<a href="https://www.malaysiakini.com/news/609389">https://www.malaysiakini.com/news/609389</a>

			<p>open a shareholding scandal that implicated MACC chief Azam Baki.</p> <p>She said she was being investigated under Section 233 of the Communication and Multimedia Act 1998 and Section 505 of the Penal Code.</p>	
23	17 Feb 2022	Activist Fahmi charged for satire jabbing PAS over beer ban	<p>Graphic designer Fahmi Reza claimed trial today over a Facebook post linked to the 2020 beer ban issue.</p> <p>Today's fresh charge before the Kuala Lumpur Sessions (Cyber) Court came a week after he was earlier charged over an alleged obscene Twitter post that targeted a Minister.</p>	<a href="https://www.malaysiaini.com/news/611036">https://www.malaysiaini.com/news/611036</a>
24	18 Feb 2022	Cleaning Workers staged protest	Unpaid wages over 3 months, thus picket	<a href="https://twitter.com/pemudaPSM/status/1494622641323266050?t=7u01SoxYYJCjiF36B4p6Rw&amp;s=08">https://twitter.com/pemudaPSM/status/1494622641323266050?t=7u01SoxYYJCjiF36B4p6Rw&amp;s=08</a>
25	20 Feb 2022	Windsor Estate Workers' picket	Forced eviction by Malakoff Corporation Sdn Bhd	<a href="https://twitter.com/pemudaPSM/status/1495349766720417796?t=NQNP Rmf5hSKwLNx-9gaw5Q&amp;s=08">https://twitter.com/pemudaPSM/status/1495349766720417796?t=NQNP Rmf5hSKwLNx-9gaw5Q&amp;s=08</a>

26	22 February 2022	Malaysia: High Court lifts ban on 'Gay is OK! A Christian Perspective'	<p>Kuala Lumpur High Court <a href="#">quashed</a> a ban imposed by the Minister of Home Affairs on a book entitled 'Gay is OK! A Christian Perspective' by author Ngeo Boon Lin.</p> <p>The Minister imposed the ban pursuant to section 7(1) of the Printing Presses and Publications Act 1984 claiming that reproduction of the book was likely to be prejudicial to public order, morality, and public interest. The High Court found no evidence that the book was prejudicial to public order. The High Court also held that the total ban of the book without giving the publisher, Gerakbudaya Enterprise, and book's author, Ngeo Boon Lin, the right to be heard before imposing the ban was an irrational decision, expressing procedural fairness concerns.</p>	<a href="https://www.article19.org/resources/malaysia-high-court-lifts-ban-on-gay-is-ok-a-christian-perspective/">https://www.article19.org/resources/malaysia-high-court-lifts-ban-on-gay-is-ok-a-christian-perspective/</a>
27	29 Mar 2022	Pekerja pembersihan sekolah Sabak Bernam beraksi di Pejabat PM – Tuntut pembayaran gaji tertunggak 4 bulan	Unpaid wages over 4 months for school cleaning workers.	<a href="https://sosialis.net/2022/03/29/pekerja-pembersihan-sekolah-sabak-bernam-beraksi-di-pejabat-pm-tuntut-pembayaran-gaji-tertunggak-4-bulan/">https://sosialis.net/2022/03/29/pekerja-pembersihan-sekolah-sabak-bernam-beraksi-di-pejabat-pm-tuntut-pembayaran-gaji-tertunggak-4-bulan/</a>
28	13 Apr 2022	Eight arrested for allegedly blocking eviction of Perak farmers	Two Parti Sosialis Malaysia (PSM) activists and six farmers were arrested by the police after allegedly trying to prevent the eviction of farmers in Chepor Impian, Perak, today.	<a href="https://www.malaysiakini.com/news/617945">https://www.malaysiakini.com/news/617945</a>

			Agastim Mariasosai, 63 and Kesavan Vijayan, 29 were initially detained by police while trying to prevent the eviction of the eight farmers.	
29	24 April 2022	Ill-treated' refugees should leave Malaysia if they want freedom: Hamzah	<p>The Home Ministry has explained that authorities placed arrested refugees under prolonged detention in immigration depots to serve as a "lesson" for other migrants to not enter the country illegally.</p> <p>Hamzah insisted Malaysia treated refugees well in the spirit of humanity by providing food and shelter, and that they could "leave the country" if they are unhappy here.</p>	<a href="https://www.malaysiakini.com/news/619085">https://www.malaysiakini.com/news/619085</a>
30	24 Apr 2022	Labour Day protesters want minimum wage hike, end to contract system	Labour Day protesters want minimum wage hike, end to contract system	<a href="https://www.malaysiakini.com/news/619051">https://www.malaysiakini.com/news/619051</a>
31	29 Apr 2022	Police summon four for questioning over May Day rally, PSM claims	<p>Police have summoned four people for questioning over the May Day rally in Kuala Lumpur last week, according to Parti Sosialis Malaysia (PSM) deputy chairperson S Arutchelvan.</p> <p>Apart from himself, he said the other three are Kohila Yanasekaran from the event's organising committee, T</p>	<a href="https://www.malaysiakini.com/news/619779">https://www.malaysiakini.com/news/619779</a>



			Mohan Ellen from Subang PSM, and Suaram's coordinator Wong Yan Ke.	
32	28 Apr 2022	Cops reportedly probing Nagaenthran candlelight vigil participants	<p>The police are reportedly probing the participants of a candlelight vigil on Tuesday, organised by the Malaysian Bar Council, held in solidarity with Nagaenthran Dharmalingam, a Malaysian death row inmate in Singapore.</p> <p>Malaysian Bar Council Human Rights Committee member New Sin Yew claimed this on Twitter last night, adding that he had been asked to provide his statement at the Dang Wangi district headquarters next week.</p>	<a href="https://www.malaysiakini.com/news/619516">https://www.malaysiakini.com/news/619516</a>
33	17 Jun 2022	Police probing lawyers for violating SOP on rallies	Police are investigating lawyers for standard operating procedure (SOP) violations after they gathered in Kuala Lumpur today to march for judicial independence which was aborted after authorities prevented them from marching.	<a href="https://www.malaysiakini.com/news/625123">https://www.malaysiakini.com/news/625123</a>
34	01 July 2022	Rome Statute opponent to chair Suhakam	Legal expert Rahmat Mohamad who co-authored a paper which convinced the Conference of Rulers in rejecting the Rome Statute, is the new chairperson of the Malaysian Human Rights Commission (SUHAKAM).	<a href="https://www.malaysiakini.com/news/626817">https://www.malaysiakini.com/news/626817</a>

35	03 July 2022	PM cites 'freeloading' foreigners to justify reduced chicken subsidy	<p>Prime Minister Ismail Sabri Yaakob said the reduced chicken price subsidy is to enable the money to be channelled directly to the rakyat through the Bantuan Keluarga Malaysia (BKM) cash aid.</p> <p>He explained that the current chicken price subsidy is not only benefiting Malaysians but also foreigners.</p> <p>This meant that non-citizens working in this country are also benefiting from the chicken price subsidy that is only supposed to be enjoyed by Malaysians, Ismail Sabri Yaakob said.</p>	<a href="https://www.malaysiakini.com/news/626995">https://www.malaysiakini.com/news/626995</a>
36	20 July 2022	Rights groups fume over migrant worker's 'wrongful' whipping	<p>Forty-five human rights groups have expressed their shock that an Indonesian migrant worker, Sabri Umar, was whipped at Tawau Prison last month on 23 June.</p> <p>The whipping was carried out despite a pending appeal at the High Court concerning Sabri's sentence from the Sessions Court.</p>	<a href="https://www.malaysiakini.com/news/628940">https://www.malaysiakini.com/news/628940</a>
37	23 July 2022	Authorities halt Turun protesters from marching to Dataran Merdeka	<p>The authorities have stopped the crowd of over 100 street protesters from marching to Dataran Merdeka.</p> <p>The group that calls itself the Turun Movement, has gathered outside of the Sogo shopping complex today</p>	<a href="https://www.malaysiakini.com/news/629363">https://www.malaysiakini.com/news/629363</a>

			demanding that Putrajaya springs into action to deal with the hike in prices of goods.	
38	29 July 2022	Passing of anti-hopping bill a political transformation, say party leaders	<p>He said the Constitution (Amendment) Bill (No. 3) 2022, passed with the support of 209 of the 220 MPs, proved their commitment and ability to implement political transformation under the leadership of Prime Minister Ismail Sabri Yaakob.</p> <p>“I believe this will restore the people's confidence in the electoral system and indirectly be the main reason for Keluarga Malaysia (the Malaysian Family) to vote in the next general election,” Arthur Joseph said and expressed his thanks and congratulations to the prime minister.</p>	<a href="https://www.malaysiakini.com/news/630026">https://www.malaysiakini.com/news/630026</a>
39	18 Aug 2022	Amanah Youth chief among 3 charged over protest on rising inflation	<p>Three individuals were charged in the Kuala Lumpur Magistrate’s Court today over their involvement in various protests last month against the rising inflation, including the Turun protest on 23 July.</p> <p>Amanah Youth chief Hasbie Muda, Batu PKR Youth division chief Muhammad Sabda Suluh Lestari Yahya and International Islamic University Malaysia (IIUM) student union president Aliff Naif were charged under the Peaceful Assembly Act (PAA) 2012.</p>	<a href="https://www.malaysiakini.com/news/632540">https://www.malaysiakini.com/news/632540</a>

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