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FREEDOM OF THE PRESS

Malaysia

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Press freedom remained restricted in Malaysia in 2012, with both positive and negative developments in the legal sphere and a number of attacks on journalists who attempted to document large protests. The ruling Barisan Nasional (BN) coalition made minor improvements to two existing laws affecting the press, but it also passed an amendment to another law that expanded liability for illegal internet content.

The constitution guarantees freedom of expression under Article 10, but allows for a host of limitations to this right. The Sedition Act and harsh criminal defamation laws are regularly used to impose restrictions on the press and other critics of the government. Violations of these laws are punishable by several years in prison. In August 2012, a blogger and opposition politician was sentenced to three months in jail for contempt of court in connection with articles that were deemed to have defamed a government minister. An amendment (114A) to the Evidence Act that took effect in July drew particular criticism from media freedom activists, as it made those who own, host, edit, or administer websites, blogs, and online forums liable for content published through their services, including seditious comments. Opposition to the amendment led to the designation of August 14, 2012, as "Internet Blackout Day," in which a host of news websites, bloggers, and civil society organizations, including the highly respected Malaysian Bar Council, pledged to either take down their websites for the day or support a pop-up window to promote the Stop 114A campaign.

In July 2012, Prime Minister Najib Razak kept a promise made in the wake of a July 2011 rally for free and fair elections to repeal the Internal Security Act (ISA), which allowed detention without trial and had been used in the past against members of the press and opposition figures. However, the ruling BN replaced the ISA with the new Security Offenses (Special Measures) Act (SOSMA). The new law grants suspects the right to a fair trial, but it nevertheless permits 28 days of initial police detention, after which the attorney general must decide whether to prosecute.

Although the opposition-controlled states of Selangor and Penang passed freedom of information laws in 2011, Malaysia has no federal law with such guarantees, and officials remain reluctant to share even innocuous information with journalists—including the content of bills to be tabled—for fear of being charged under the Official Secrets Act (OSA). In July 2012, blogger Syed Abdullah Hussein al-Attas was detained under the OSA after a group of 30 people complained about his controversial posts on the sultan of Johor. Some of the posts included documents supporting the blogger's claim that part of the fortune left by the late Sultan Iskandar, who died in 2010, was embezzled.

In keeping with another promise by the prime minister, the BN reviewed existing media licensing and censorship laws in 2012. An amendment to the 1984 Printing Presses and Publications Act (PPPA) that took effect in July repealed a provision that had required all publishers and printing firms to obtain an annual operating permit. However, the revision left all other restrictions in place, including the government's authority to grant or deny license applications and to revoke the required licenses at any time without judicial review. The Home Affairs Ministry may likewise continue to issue "show cause" letters, which require newspapers to explain certain articles or face suspension or revocation of their permits. In February, the ministry issued such a letter to the *Star*, an English-language daily, for publishing a photograph of singer Erykah Badu that included a tattoo of the Arabic word Allah. The letter was issued despite the fact that the paper had already removed the photograph from its website and apologized. Two editors were indefinitely suspended as a result, and the singer's concert was canceled. The 1988 Broadcasting Act allows the Information Ministry to decide who can own a broadcast station and what type of television service is suitable for the Malaysian public, leading to considerable self-censorship among broadcast journalists.

In October, a Malaysian High Court ruled against the Home Affairs Ministry's refusal to issue a publishing license to the news website Malaysiakini, in effect giving the outlet permission to publish a daily print edition. The ministry had argued that the license was "a privilege," not a right, but High Court judge Abang Iskandar ruled that the ministry's decision was "improper and irrational" and exceeded the limits of its jurisdiction. The judge also noted that the right to a permit was a freedom of expression issue and as such was "a fundamental liberty enshrined in

2013 SCORES

PRESS STATUS

Not Free

PRESS FREEDOM SCORE

64

LEGAL ENVIRONMENT

24

POLITICAL ENVIRONMENT

23

ECONOMIC ENVIRONMENT

17

the constitution.” Malaysiakini’s attorney called the decision “very, very significant,” adding that the ruling will make it more difficult for the government to refuse license applications, as officials will be required to show that a proposed publication would be immoral or a threat to public order or national security. The ministry appealed the ruling.

Physical harassment and intimidation are usually less of a danger for journalists in Malaysia than arbitrary arrest or threats of legal action. However, several instances of physical harassment were noted in 2012, including attacks on two journalists in Penang who were covering a public protest against the construction of a rare-earth-metals plant in the state of Pahang by Australian mining company Lynas Corporation. Adam Chew and Lee Hong Chun of the local Chinese-language daily *Kwong Wah Yit Poh* were both injured in anti-Lynas demonstrations held in February. Another journalist was attacked while covering a protest on the same issue in November. The Center for Independent Journalism (CIJ) noted that during an April 28 rally by Bersih, the opposition-backed coalition calling for clean and fair elections, journalists appeared to be targeted by the police, and counted 12 cases of assault. One of these, an attack on Radzi Razak of the *Sun* newspaper, resulted in hospitalization. Wong Onn Kin, a photographer for the Chinese-language newspaper *Guang Ming Daily*, had his camera confiscated and was beaten and briefly arrested by security forces. Also during the Bersih protest, Harry Fawcett of Qatar’s Al-Jazeera television network reported that police assaulted his camera crew and damaged its equipment, while Koh Jun Lin, a photojournalist with Malaysiakini, was temporarily detained.

Although the media industry is for the most part not under outright state control, the majority of both print and broadcast outlets are controlled either by political parties in the ruling coalition or by businesses with political connections. The largest media conglomerate, Media Prima, which owns half of the Malay and English-language newspapers as well as many television channels, is believed to be closely linked to the United Malays National Organization (UMNO), the leading party of the BN. Huaren Management, which is associated with another BN member, the Malaysian Chinese Association, monopolizes Chinese-language newspapers. Despite the BN’s insistence that mainstream newspapers are impartial, owners’ political and business interests often lead to self-censorship by journalists. Foreign print media are occasionally censored or banned.

The internet remains a bright spot in the media landscape, with the government formally committed to a policy of refraining from direct online censorship, through Section 3(3) of the Communications and Multimedia Act (CMA) and the Multimedia Bill of Guarantees. With around 66 percent of the population accessing the internet in 2012, Malaysia is home to many news websites and blogs that offer competing points of view. Although not all of these internet news organizations are politically independent—many have suspected affiliations with politicians from either the opposition or the ruling coalition—they nevertheless offer an array of political opinions that cannot be found in the traditional media, and play a growing role in the media landscape. Social-networking sites such as Facebook continued to flourish in 2012, hosting vigorous debates on political issues and government policies. The internet has also been a place to challenge corruption and other human rights concerns, though existing laws require bloggers to tread carefully.

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