

Malaysia: Narrowing public spaces

Malaysia's ruling coalition Barisan Nasional (BN) closed ranks in 2010 amidst signs of an early general election in 2011. The BN, led by Malay party Umno, is looking to wrest control of four Pakatan Rakyat (PR) controlled states and re-establish its two-third majority in Parliament.

A review of 2010 indicates greater state action in controlling all forms of freedom of expression, be it through print, the Internet, radio or television. Instead of promoting a "vibrant, free and informed" media, as Prime Minister Najib Razak promised upon assuming office in April 2009, the government has ramped up efforts to control the flow of information. Both through ministers' statements and action taken against media and online commentators; the BN government has sent a clear message: It is closely monitoring what is being said and will take action against those perceived as threats.

The year has seen authors and bloggers arrested, book-bannings, show -cause letters issued to newspapers, the denial and cancellation of printing permits and interference with television and radio agencies. The Internet has received special attention, perhaps due to a belief that it was instrumental in the BN's worst-ever general election performance in 2008. The purview of the Communication and Multimedia Act 1998 (CMA) was expanded from sites or users that had engaged in harassment, pornography or scams. Actions ranged from investigations against news site Malaysiakini to charging bloggers for articles published online and taking action for statuses posted on social networking site Facebook.

All this perhaps explains Malaysia's drop in Reporters Sans Frontières Press Freedom Index from 131 in 2009 to 141 in 2010, its lowest position in nine years.

Repressive laws

There is no sign that the BN government intends to abolish any of the laws that restrict freedom of expression in Malaysia. The government has a whole host of laws it can use to silence dissent. This includes the Internal Security Act (ISA), which allows for detention without trial and the antiquated Sedition Act, which makes it a crime to "excite disaffection" against the rulers and the government. There is also the Official Secrets Act (OSA), which enables the government to classify documents as "secret" and the Printing Presses and Publication Act (PPPA), which requires the print media to obtain annual permits.

Although Najib proposed to "comprehensively review" the ISA in April 2009, nothing concrete has materialised, more than 18 months after his announcement.

The above Acts are still active, with sedition frequently being used to stifle comment and discussion about the "3Rs" – race, religion and royalty. Politicians and other interest groups frequently fall back on these supposedly "sensitive" issues to silence opponents, narrowing public spaces for discussion and discourse on these important areas. For example, when opposition member Wan Azizah Wan Ismail called for the abandonment of the concept "ketuanan Melayu" or "Malay supremacy", it earned her

the label “political prostitute” from Malay interest group Perkasa. Umno’s legal adviser also called for her to be detained under the ISA, saying her statement challenged the constitution and was not a form of freedom of expression. Numerous police reports have also been lodged against those seen to be “insulting Islam” or “questioning Malay rights”.

Media control

Meanwhile, the PPPA has continued to be wielded in 2010 as a tool to silence criticism of the federal government and its policies. The PPPA requires all print media to have annual printing permits, which can be cancelled at the Home Minister’s discretion. Show-cause letters may be issued by the minister, demanding that newspapers explain certain articles or face suspension or revocation of their permit. For example, a piece of commentary by "The Star" managing editor P. Gunasegaram criticising the whipping of three women for “illicit sex” under Syariah law attracted a show-cause letter from the Home Ministry as well as several police reports accusing him of insulting Islam. "The Star" capitulated by issuing an apology.

The PPPA has also been used to harass federal opposition newspapers. Parti Keadilan Rakyat (PKR) party organ "Suara Keadilan"'s licence was not renewed following complaints about an inaccurate report. The Home Ministry also issued show-cause letters to two other federal opposition newspapers, "The Rocket" and "Harakah". A remark by Deputy Prime Minister Muhyiddin Yassin to students in December 2010 illustrates the government view towards opposition newspapers. “...While there were media supportive of the government, there were others that belonged to the opposition or were pro-opposition, with some of them good at spinning stories,” said Muhyiddin, warning the students to be wary of such media.

Several books were also banned, seized or detained under the PPPA. The Home Ministry withheld Barry Wain’s biography on Malaysia’s fourth prime minister, "Malaysian Maverick: Mahathir Mohamad in Turbulent Times", for almost six months. The books were only released after Mahathir publicly stated that he did not need government protection. The Home Ministry also went on several book seizing raids in 2010. Among the books seized was "March to Putrajaya", a book critical of the BN by writer Yong Thye Chong (who uses the pseudonym Kim Quek), which was subsequently banned. Political cartoonist Zulkiflee Anwar Haque (known as Zunar)’s books were also seized, and Zunar was arrested for sedition on the day of his latest book’s launch. His cartoon collection featured, amongst other topics, the murder of Mongolian Altantuya Shaariibu and the prime minister’s wife Rosmah Mansor.

Judiciary

The Malaysian courts have suffered serious blows to their independence. In 1988, the head of the judiciary, the Lord President was removed in events largely seen to be orchestrated by the executive. In 2007, a video tape emerged showing a lawyer brokering the appointment of judges. Given this history, there is still scepticism about whether the judiciary would truly be able to uphold the people’s rights, especially when the government is involved. Law professor Dr Azmi Sharom observed in an 18 November 2010 article that the Malaysian courts have been steadily abdicating their

duty to protect citizens' rights under the Federal Constitution. The year 2010 does not appear to have brought any significant change to this trend.

The courts famously quashed the Home Minister's ban on the use of the word "Allah" in Catholic weekly "The Herald" at the close of 2009. This decision, however, provoked strong protests, with several churches being fire-bombed. The decision was stayed pending an appeal to the Court of Appeals. However, despite Chief Justice Tun Zaki Azmi's current efficiency drive to speed up cases, no hearing date for the appeal has been set, after almost a year.

The courts also quashed the Home Ministry's ban of Sisters in Islam's book "Muslim Women and the Challenges of Islamic Extremism". However, it upheld the ban on K Arumugam's book March 8 on violence in Kampung Medan in 2001.

The Internet

Malaysians are becoming increasingly active on the Internet. They have been found to be one of the world's heaviest users of social media. The Information, Communication and Culture Ministry recently announced that broadband penetration is now above 50%. As Malaysians become more dependent on the Internet for obtaining and disseminating information, the BN government has stepped up efforts to make its presence felt online, while also making clear that online participants cannot act with impunity.

The CMA has gained prominence as yet another law that can be used to censor political comment. The CMA's section 233 has been utilised several times to charge or arrest online users. This broadly defined section can be used against "offensive comments" intended to "annoy, abuse, threaten or harass" another person. Online news site Malaysiakini and blog Malaysia Chronicle were investigated for their reports on the prime minister's speech at Umno's annual general assembly. A blogger was charged for a satirical post, even though satire is expressly provided for under the CMA's and its regulations.

The government has also set up a "special unit" to monitor the Internet with no less than three Cabinet ministers in the committee. There are plans to draw up new guidelines to govern sedition in cyberspace, with no public consultations to date on what this law would entail.

Pressure on the profession

BN ownership or control of most of the mainstream media poses an additional threat to the independence of the media. Joshua Wong, a senior producer at BN-controlled television network ntv7, resigned in April 2010, citing "unreasonable restrictions" on his programme. He claimed that management interference arose after a text message criticising his show was forwarded to his bosses by the prime minister's wife. Chou Z Lam, a producer at state-owned RTM2, had his contract terminated, also citing political interference.

A radio deejay at Star RFM, Jamaluddin Ibrahim, was sacked in September 2010 along with the station's chief executive officer. Complaints had apparently arisen over

Jamaluddin's interviews with a gay pastor on race relations and with DAP secretary-general and Penang chief minister Lim Guan Eng. Star RFM is owned by Huaren Holdings Bhd, the investment arm of the Malaysian Chinese Association (MCA) – DAP's main political rival and the BN's second largest component party.

The fact that BN component parties own or control most of the mainstream media acts as an automatic mechanism for self-censorship. Bias remains a major problem, with Pakatan Rakyat weaknesses or problems given wide coverage in these newspapers, while setbacks in BN component parties are played down. Anecdotal accounts have also been provided to CIJ of editors routinely being called to the Home Ministry over articles or commentary seen to be critical of the government.

Journalist ethics have suffered as a result of the constraints on the mainstream media. In the face of dwindling readership and advertising revenue, some newspapers have resorted to sensationalist and sexist articles to boost sales. Articles demonising the lesbian, gay, bisexual and transgender community are common. Sexist articles or captions continue to appear, the latest being Chinese-language newspaper "Kwong Wah Yit Poh"'s inappropriate photo captions of synchronised swimmers at the 16th Asian Games. A court case by a television presenter's husband against a man accused of "enticing" his wife into an affair is frequently accompanied by prominent photos of the presenter, despite her not being party to the suit.

Some progress on freedom of expression

On the plus side, there seem to have been some attempts at greater discourse between politicians and the masses, especially through social networking sites. The MCA president organised a meeting with his Facebook fans. Several politicians established an online presence on Twitter, occasionally engaging in debates on current issues. The Selangor and Penang governments have each introduced a Freedom of Information bill, although these bills have been heavily criticised for not going far enough in providing for freedom of information.

Social networking has been increasingly used by citizens to express discontent. A Facebook group protesting the proposed construction of a 100-storey tower in Kuala Lumpur has over 260,000 members. There has been a proliferation of online news sites, although quantity does not automatically indicate better quality or fairness.

Outlook

Although there are encouraging signs of more critical voices emerging. The government, with resources and machinery behind it, has continued efforts to suppress genuine discussion and debate. No significant or genuine steps were taken in 2010 by the BN government to improve the state of freedom of expression in Malaysia. Progress in this area is unlikely, at least until after the next general elections; and even then, only if the ruling party feels secure enough to slightly loosen its grip on media control. However, unless the BN sees a significant need to change its long-held strategy of controlling the media, it is unlikely that a BN government would take concrete measures to dismantle the extensive laws and structures available to suppress freedom of expression.

Until the next elections, the government will likely be performing a delicate balancing act. On the one hand, it will probably continue to take action to control and suppress critical voices to maintain its image. On the other, it may be cautious of not appearing too heavy-handed to an increasingly vocal public.
