

Call to Malaysian government: End threats to press freedom and freedom of expression online

**Joint Statement by the Association for Progressive Communications (APC) and
Persatuan Kesedaran Komuniti Selangor (EMPOWER)**

19 August 2015

Persatuan Kesedaran Komuniti Selangor (EMPOWER) and the [Association for Progressive Communications \(APC\)](#) denounce proposed reforms that would require online news portals in Malaysia to be registered. The proposed changes announced on 6 August by the newly appointed Communications and Multimedia Minister Datuk Seri Dr Salleh Said Keruak would empower the Malaysian Communications and Multimedia Commission (MCMC) to block sites deemed as “threats to national security and stability”, contributing to the crackdown on free expression in Malaysia. On 17 August, Dr. Salleh also instructed the MCMC to meet Facebook, Google and Twitter to seek their cooperation in blocking false information and rumours on their platforms.

According to Dr. Salleh, proposed reforms come in response to the need to tackle issues such as pornography, online gambling and Islamic State (IS) threats, among others. However, they must be viewed within the current political environment in Malaysia, where freedom of expression and peaceful assembly and association is under attack. It is highly unlikely that this move is intended for anything other than shutting down criticism and bringing into line what is left of the free press.

Maria Chin Abdullah from EMPOWER reminded the authorities that “internet freedom is an indispensable component of a democratic society as it enables participation by the people and encourages freedom of expression and freedom of information – without which accountability and transparency are not possible.” Maria added that “the proposed changes appear to be political in character as they strike to the core of the allegation of political corruption by the Prime Minister Najib Razak.”

The current legal and political environment in Malaysia is one in which repressive laws keep getting worse, including by targeting online activity. Since 2008, the Malaysian government has increasingly turned to regulation of the internet as a means to stifle dissent, as evidenced by the passing of the Prevention of Terrorism Act; amendments to the Sedition Act, which permit removal of online content and the ability to prohibit the use of ANY electronic devices by a person who has published seditious materials for an indefinite period of time; and the increasing use of Section 124 of the Penal Code.

Taken together with police surveillance of social media and recent developments regarding the MCMC’s warning against the circulation of “misinformation” on the IMDB scandal on social media, the suspension of The Edge weekly, the blocking of Sarawak Report and the issuance of a warrant against Clare Rewcastle-Brown, it is virtually certain that online news portals will self-censor; they already face the threat of the Sedition Act and other laws.

Dr. Salleh's comments come in the context of the government's announcement that it is looking to introduce amendments to the Communications and Multimedia

Act 1998 (CMA) and the Communications and Multimedia Commission Act 1998 (CMCA) in October. But the broad provisions in the current CMA already give the MCMC more than enough legal muscle to effectively shut down any website.

Section 211 of the CMA on "Prohibition on Provision of Offensive Content" and Section 233 on "Improper Use of Network Facilities or Network Service, etc." provide that a person commits an offence if he or she posts any content deemed obscene, indecent, false, menacing or offensive in character with the intention to annoy, abuse, threaten or harass another person. In addition, other pieces of legislation further restrict the right to freedom of expression.

Furthermore, the proposed registration of online portals mirrors misguided legislation requiring that print publications apply for a permit, which is in itself repressive. With the Printing Presses and Publications Act 1984, the government has the power to grant or deny applications for a permit, as well as to withdraw licences, at any time without the possibility of judicial review. The Home Ministry has the authority to issue "show cause" letters to newspapers and other publications, under which they must explain the offending article or face suspension/revocation of their permits.

"We have already seen the crippling effect of licensing on traditional media through suspensions and withdrawals of licensing. This move expands an archaic, top-down, heavy-handed regulatory measure to control, choke and restrict our right to information and to our online spaces that we have invested in and shaped through our vibrant and dynamic participation," said Jac sm Kee from APC.

The Malaysian government has the obligation to protect freedom of expression, including press freedom, online and offline. As the former UN Special Rapporteur on freedom of expression noted, attempts by governments to restrict, control, manipulate and censor content disseminated via the internet on the basis of broad and ambiguous laws and/or in a manner that is clearly unnecessary and/or disproportionate to achieving the intended aim are clearly incompatible with states' obligations under international human rights law, and often create a broader "chilling effect" on the right to freedom of opinion and expression.

In the face of police and government crackdowns and revelations that the Malaysian government purchased spyware, a free media is more important than ever to bring the authorities to account for their actions and to disseminate information on people/CSO-led initiatives that advance government transparency and accountability, such as the Governance, Integrity, Accountability and Transparency (GIAT) Coalition and the Coalition for Clean and Fair Elections (BERSIH 2.0).