

# Government must not violate our freedom of expression and privacy online

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**Media Statement, 12 January 2016**

Persatuan Kesedaran Komuniti Selangor (EMPOWER) is gravely concerned over a statement by the Inspector-General of Police (IGP) Tan Sri Khalid Abu Bakar on 12 January 2016. He claimed the police “have no choice but to beef up efforts to monitor social media as many Internet users in the country abuse the platform by issuing insensitive comments”.<sup>[1]</sup>

The Malaysian government routinely justifies restrictions and criminalization of freedom of expression in the name of “public order and national security”. However, the slew of investigations and prosecutions against honest and rational discussions on important national issues has raised reasonable concerns over the impartiality of the police and ill-defined interpretations of “public order and national security”.

The many recent cases on the criminalization of legitimate expression include the prosecution of University of Malaya law lecturer, Azmi Sharom, over an academic opinion on the Perak constitutional crisis, and the absurd 14 charges against activist Khalid Ismath under Section 233 of the Communications and Multimedia Act 1998 and the Sedition Act 1948 for statements he made online. It appears that the right to freedom of expression can be limited at the whim of public officials.

We are especially concerned that the IGP specifically cited WhatsApp as one of the “social media” platforms to be monitored. WhatsApp is an instant messaging application intended for exchanges between users, not a social media platform. To monitor WhatsApp would constitute spying on private communications between individuals, a violation of the rights to privacy and protection against arbitrary interference.

It remains unclear how the police and Malaysian Communications and Multimedia Commission (MCMC) intend to ‘monitor’ the expressions and activities of social media and instant messaging users in Malaysia, and how the data collected will be used. Facebook alone has 40 million users in the country. Questions as to the scale and scope of the monitoring, the methods (cyber-stalking, communication interception, malware etc.), the storage and protection of data collected must be answered to the satisfaction of the people of Malaysia.

Monitoring by public officials, or state surveillance, is one of the biggest threats to online freedoms and a severe invasion of privacy. In a world where most of our daily social and economic life have migrated online, the right to privacy has become inalienable. It is an essential right that enables people to think and speak freely without the fear of being watched, and to associate with one another without restrictions imposed by the state.

Over the years, online spaces has become an extension of the struggle for human rights and democracy in our physical world. Most significantly, access to the internet has helped level

the playing field and offers a free space for us to come together on social, political and economic issues; and to freely express and exchange our ideas, thoughts and aspirations for ourselves and our country. The Bersih rallies relied heavily on the Internet for information dissemination and mobilisation, in particular Facebook and Twitter. Politweet, a research firm that analyses social media, documented that over the two-day Bersih 4 rally on 29 and 30 August 2015, 111,879 users tweeted about the event using the hashtag #Bersih4. <sup>[2]</sup>

The government has been reminded repeatedly that our rights are clearly inked under the Universal Declaration of Human Rights and the Federal Constitution. Given that our lives are intrinsically linked to the digital world, it is natural that human rights should be protected online too. The Human Rights Council resolution 20/8, adopted on 5 July 2012, affirms that human rights accorded offline must also be protected online, in particular freedom of expression. <sup>[3]</sup>

EMPOWER urges the police and Malaysian Communications and Multimedia Commission (MCMC) to uphold our rights to freedom of expression and privacy both online and offline, and to end the criminalization of legitimate expression.

Janarthani Arumugam

President

Persatuan Kesedaran Komuniti Selangor (EMPOWER)

<sup>[1]</sup> <http://www.themalaymailonline.com/malaysia/article/igp-immature-internet-users-forcing-cops-to-crack-down-on-social-media>

<sup>[2]</sup> <https://politweet.wordpress.com/2015/09/02/twitter-statistics-and-crowd-measurement-of-the-bersih-4-rally/>

<sup>[3]</sup> <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G12/153/25/PDF/G1215325.pdf?OpenElement>