

**REALISING ACCEPTED UPR RECOMMENDATIONS:
CHALLENGES AND REALITIES IN MALAYSIA'S COMMITMENT TO
ENFORCE FREEDOM OF EXPRESSION © Σ**

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ABSTRACT

Malaysians were optimistic after the 14th General Election of 2018 (GE14) was concluded, as freedom of expression was expected to progress significantly under Pakatan Harapan (PH). It was hoped that the era of the “New Malaysia” would result in increased commitment toward realising accepted UPR recommendations. Unfortunately, Malaysia’s political climate has since experienced incidences of uncertainty and instability, which has seen three different Prime Ministers and yet another change in government administration since 2018. This has placed significant challenges on human rights reforms and impeded the process of democratisation. The objective of this study is to evaluate Malaysia’s enforcement of freedom of expression regarding the relevant UPR recommendations. It has identified certain improvements which should be supported and continued, as well as setbacks and restrictions which impede the implementation of fundamental liberties and pose added risks to the democratic rights of all Malaysians.

Keywords: human rights, human rights enforcement, freedom of expression, reform, Universal Periodic Review (UPR)

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**MEREALISASIKAN CADANGAN UPR YANG DITERIMA:
CABARAN DAN REALITI DALAM KOMITMEN MALAYSIA UNTUK
MENGUATKUASAKAN KEBEBASAN BERSUARA**

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ABSTRAK

Rakyat Malaysia optimis pasca Pilihan Raya Umum Ke-14 2018 (PRU14), dengan jangkaan bahawa kebebasan bersuara akan berkembang dengan ketara di bawah Pakatan Harapan (PH). Era "Malaysia Baharu" diharap akan menghasilkan lebih banyak usaha ke arah merealisasikan cadangan Semakan Berkala Sejangat (UPR) yang diterima oleh kerajaan. Walau bagaimanapun, krisis politik di Malaysia telah menimbulkan keraguan dan ketidakstabilan apabila negara menyaksikan tiga Perdana Menteri yang berbeza dan satu lagi perubahan dalam pentadbiran kerajaan sejak 2018. Ini merupakan cabaran besar terhadap reformasi hak asasi manusia dan menghalang proses demokrasi. Objektif kajian ini adalah untuk menilai penguatkuasaan kebebasan bersuara di Malaysia berhubung cadangan UPR yang berkaitan. Ia telah mengenal pasti penambahbaikan tertentu yang harus disokong dan diteruskan, serta sekatan yang menghalang pelaksanaan kebebasan asasi dan membawa risiko tambahan kepada hak demokrasi semua rakyat Malaysia.

Kata Kunci: *hak asasi manusia, pelaksanaan hak asasi manusia, kebebasan bersuara, reformasi, Semakan Berkala Sejangat*

Introduction

Article 10(1) of Malaysia's Federal Constitution guarantees that every citizen has the right to freedom of speech and expression, the right to assemble peacefully, and the right to form associations. Similar to many other States, these prescribed rights are not absolute. According to Articles 10(2), (3), and (4), freedom of speech, assembly, and association may be limited by Parliament through law in the interest of security, friendly relations with other countries, public order or morality, restrictions designed to protect the privileges of Parliament or any Legislative Assembly, or to provide against contempt of court, defamation, or incitement to any offence.

Courts in Malaysia have long acknowledged that while the greatest latitude must be given to freedom of expression, freedom of speech is not absolute (*Skrine and Co v. MBF Capital Bhd and Anor and Other Appeals*) and restrictions are a necessary part of the right (*Public Prosecutor v. Ooi Kee Saik and Ors*). Nevertheless, it has been acknowledged that Parliament is not free to impose any restriction on freedom of speech. The courts (if called) have the power to examine whether restrictions imposed are reasonable (*Muhammad Hilman Idham and Ors v. Kerajaan Malaysia and Ors*).

The Malaysian Government has participated in the 3rd Universal Periodic Review (UPR) to improve the condition of human rights in the country as well as address weaknesses that affect its successful implementation (Mohd Amin *et al.* 2016, 18). It is important to note that any reforms intended to fulfil the accepted recommendations received from other United Nations Member States must be in line with the spirit of the Federal Constitution. There are three accepted recommendations specific to freedom of expression which obligates Malaysia to 1) afford greater media freedom and ensure its protection; 2) enact legislation to guarantee the public's right to information, and 3) accelerate consultation for the review of certain laws which restrict freedom of expression.

Unfortunately, the nation's political and administrative scenario has affected human rights reforms. Malaysia has witnessed several changes in government in a short period, with no less than three different administrations and Prime Ministers since May 2018. This began with the Pakatan Harapan (PH) coalition before it was replaced by the Perikatan Nasional (PN) coalition in February 2020 and then the Barisan Nasional (BN) coalition in August 2021 (Mohamed Noor 2021). These political and administrative changes against the backdrop of a public health crisis due to COVID-19 have placed significant challenges on the enforcement of freedom of expression. Nevertheless, our analysis focuses primarily on the political and legal development of civic and media rights in Malaysia prior to the 15th Malaysian General Election (GE 15).

Recent Issues and Controversies

Since Malaysia's 3rd UPR cycle in 2018, many incidents courting controversies have taken place, which have elicited responses from different quarters, namely from the Government, civil society organisations (CSOs), and the general public. In this paper, we analyse major controversial events which are divided into two major parts. The first illustrates restrictions on media freedom, and the second elucidates speech and publications matters. Nonetheless, these issues have tested the extent of the rights

guaranteed under Article 10 (Malaysian Federal Constitution), and are important to reflect on in the assessment of Malaysia's track record in implementing accepted UPR recommendations on freedom of expression.

Restrictions on Media Freedom

Freedom of expression can be enjoyed and exercised more meaningfully when media freedoms are protected; both are inseparable from one another. In April 2020, Reporters Without Borders (RSF) announced Malaysia's significant improvement in standing in the 2020 World Press Freedom Index, leaping 22 spots from its previously held 123rd place to 101st place (*RWB* 2022), and placing first in the ASEAN region (*NST* April 23, 2020). RSF noted that press freedom was receiving a "breath of fresh air in Malaysia" after the change of government in May 2018. RSF also observed that "the general environment for journalists is much more relaxed, self-censorship has declined dramatically and the print media are now offering a fuller and more balanced range of viewpoints" (*RWB* January 19, 2022). This is a step in the right direction towards realising the UPR recommendation to ensure a free, independent, pluralistic media landscape.

Unfortunately, media freedom began facing significant challenges in 2020. The PN Government, under the leadership of the 8th Prime Minister, Muhyiddin Yassin, came into power against a volatile backdrop with the outbreak of the COVID-19 pandemic in Malaysia. The PN Government needed to respond to a national health crisis while simultaneously facing questions about its legitimacy. Following the government change, there was an uptick in crackdowns on the media, investigation of journalists as well as a wave of troubling measures in response to publications of certain views critical of the new Government or its handling of issues during the pandemic. In addition, Malaysia's standing in the 2021 World Press Freedom Index slid down 18 rungs from its previous 101st place down to 119th place (*NST* April 23, 2020) with RSF stating that "the restoration of more authoritarian rule in 2020 has led to prosecutions, police searches, expulsions and flagrant violations of the confidentiality of journalists' sources" (*RWB* 2022).

An example of this can be seen in the strong measures taken against media reports that questioned the country's treatment of migrant workers amid the COVID-19 pandemic. A South China Morning Post reporter was called in for questioning by the authorities on her article "Coronavirus: Hundreds arrested as Malaysia cracks down on migrants in Covid-19 red zones" following a mass May Day immigration raid in 2020 (Yusof and Perimbanayagam May 3, 2020). Multiple civil society members denounced the probe, including *Amnesty International Malaysia* (*AI* April 5, 2020), Article 19 (*ARTICLE 19* May 4, 2020), and PEN Malaysia (*PEN I* May 5, 2020).

Another example can be seen in the aftermath of Al Jazeera's documentary "Locked Up In Malaysia's Lockdown" (*Al Jazeera* July 3, 2020), which investigated Malaysia's detention of migrant workers during the movement control order. Action against those involved in the documentary was swift, with Al Jazeera journalists being called in for questioning by the authorities (*SCD* July 10, 2020), as well as having its Kuala Lumpur office raided and computers seized (*NST* August 4, 2020). This incident raised questions as to whether Government action was appropriate or proportionate.

Measures were also taken against an online news portal, Mkini Dotcom Sdn Bhd (Mohd July 2, 2020), and its editor-in-chief Steven Gan, for comments made by third-

party online subscribers on the sites which were deemed to be offensive, inappropriate, disrespectful, and contemptuous of the judiciary. Contempt proceedings were initiated by the Attorney General in the Federal Court on the basis that the comments "threaten public confidence in the judiciary and are aimed at tarnishing the administration of justice by the judiciary" (Yatim February 19, 2021). Leave to commence contempt proceedings was allowed based on Section 114A of the Evidence Act, *Malaysiakini* and Gan were presumed to have published the comments because the impugned remarks appeared on *Malaysiakini's* news portal (*Pegum Negara Malaysia v. Mkini Dotcom Sdn. Bhd. & Anor*). Both *Malaysiakini* and Gan took the position that the news portal should not be held responsible for readers' comments on its website and that the decision of the case would have a huge impact on media organisations and social media users.

In February 2021, the majority panel of the Federal Court found that *Malaysiakini* had failed to rebut the presumptions in Section 114A of the Evidence Act. Thus, *Malaysiakini* was found to be liable as the host of the publication of the comments and guilty of contempt, fining *Malaysiakini* RM500,000.00. Steven Gan, however, was found not guilty of contempt, as the same presumptions could not be extended to him (*Pegum Negara Malaysia v. Mkini Dotcom Sdn. Bhd. & Anor*).

Considering the case of the *Malaysiakini*, arguably the liability on *Malaysiakini* is justified under the existing laws because freedom of speech does not extend to offensive, inappropriate, disrespectful, and contemptuous comments made against the judiciary. It should be highlighted here that the offensive nature of these comments was not disputed by *Malaysiakini* in court. As such, the responsibility lies with *Malaysiakini* as the host who published these comments. *Malaysiakini* must take measures to prevent the publication of comments which exceed the limits of free speech—a restriction we find reasonable and necessary under Article 10(2)(a) of the Federal Constitution.

Simultaneously it is argued here that there may be some restrictions on media freedom where national security or public interest is concerned and trends of intimidation, investigations, raids, and prosecution against media organisations and practitioners are worrying. The pandemic has also been used as a justification to limit media access and participation in the name of public health. In October 2020, the Malaysian Parliament announced that press coverage of the parliamentary sessions from 2 November 2020 - 23 December 2020 would only be limited to 15 media organisations; others were not allowed access to the proceedings. Journalists decried the decision (NST October 17, 2020), and the IFJ together with its affiliate the National Union of Journalists Peninsular Malaysia (NUJM) called for the re-evaluation of the decision (IFJ October 19, 2020). This decision was maintained for the Parliamentary proceedings in 2021, with a minor change in the list of allowed media organisations to cover Parliamentary proceedings from 12 September 2021 – 13 October 2021. Objections to these continued restrictions were similarly raised (*Aliran* September 17, 2021). The next part assesses the existing legal framework for freedom of expression in Malaysia.

Assessment of Legal Framework on Freedom of Expression

It would be difficult to implement accepted UPR if the problems within the current legal framework are not identified and addressed appropriately. As such, we briefly examined the frequently used of national laws that limit freedom of expression; namely the Sedition Act 1948, the Printing Presses & Publications Act 1984, the Peaceful Assembly Act 2012, and the Communications and Multimedia Act 1998.

Sedition Act 1948

As stated above, the Constitution allows Parliament to make laws that may place reasonable restrictions on freedom of expression to protect certain interests. The Sedition Act 1948 (hereafter known as the SA) is one of the laws which has long been contested due to the nature of its legal provisions, which tend to be vague and uncertain. Instead of repealing the SA, as BN had initially intended, amendments to the SA were made and passed in 2015. This was concerning for many reasons; among others was to prescribe a mandatory, 3-year term of imprisonment for anyone found guilty of sedition (see Murni and Shahir 2017). Although the Amendment Act has never been gazetted, some of its amended provisions represent the concerning values of the previous BN administration of the Prime Minister Najib Razak.

Here, we argue not to reject the SA (though it has been presently abolished). Events preceding Merdeka Day in 1957, and the latest developments indicate that sensitive matters touching on royalty, as well as racial and religious issues of our multicultural communities have great potential to divide our society. The SA has served as a platform that has, to a certain extent, kept these threats at bay. However, amendments to the SA should be made to review and remove ambiguous provisions which tend to be misused and abused. Indeed, we propose a pragmatic solution, an amendment to the SA that would include more specific drafting, proper definitions of key terms, and usage of illustrations to better explain what they mean (see also Murni and Shahir 2017). The discussion of this article now studies Malaysia's accepted obligation of UPR recommendations to accelerate consultations for the reviews of particular laws which impinge on the freedom of expression.

Printing Presses & Publications Act 1984

Section 7 of the Printing Presses and Publications Act 1984 (hereafter known as the PPPA) has been scrutinised and criticised due to the subjective control the Executive has been granted on matters of printing, distributing, producing, and reproducing materials. It is expressly stated that the Minister has absolute discretion in deciding whether a license should be granted or renewed (Section 3(3) & Section 13A of the Printing Presses and Publications Act 1984 [Act 301]). This means that the Executive's decision can hardly be reviewed, which increases the concern that the Minister may abuse the privilege given to him. Even if a license were to be approved, the Minister has extensive powers to impose conditions or restraints that must be followed for the license to be given.

Notwithstanding these wide-ranging powers given to the Minister, a recent Court of Appeal (COA) ruling has acted to temper these powers. In April 2019, the Islamic Renaissance Front (IRF) (*Islamic Renaissance Front Berhad v. The Minister of Home Affairs*) published three articles that were subsequently banned by the Ministry of Home Affairs, upon the advice of the Department of Islamic Development Malaysia (JAKIM), by referring to Section 7 of the PPPA. At the High Court, Judge Nordin Hassan considered the grounds of the ban and dismissed the Judicial Review brought by the IRF. The Judge explained at length, how the articles affected public policy and opined the ban was lawful, as all the relevant measures were taken (the Minister had referred to JAKIM). The case was brought to the COA, which quashed the High Court's decision because the appellant (IRF) had a right to be heard by the Minister before the ban could be decided. From this decision, we can gather that the COA judges felt that the rule of law would be

better served if the Minister would provide the opportunity (right to be heard) to the person in question before the Minister makes his decisions on the outcome of the proposed ban. It is interesting to note that the decision of the COA was purely on technical grounds, and did not delve into the issue of freedom of expression or religion. However, this decision has been praised by many parties as a pivotal step in protecting these fundamental rights (*ARTICLE 19* February 17, 2020).

Furthermore, there continue to be some instances where investigations are brought under Section 8 of the PPPA, including the raid against *Al Jazeera* and the publication of books allegedly insulting the Malaysian coat of arms, etc. Under the Act, any publication that the Minister considers to be an "undesirable publication" according to his absolute discretion, may be prohibited or subject to restrictions as the Minister deems fit (Section 7 of the Printing Presses and Publications Act 1984 [Act 301]). The researchers understand the need for reasonable restrictions on publications that are prejudicial to important interests such as public order, morality, and security. However, there should be clearer legal guidelines as to what amounts to "prejudicial", for the ambiguous nature of the provisions could open the possibility of various interpretations and abuse of power by the executive branch of the government. Consulting with relevant stakeholders and accelerating the review of this law is a move that would bring Malaysia closer to fulfilling its obligations based on the accepted UPR recommendation.

Peaceful Assembly Act 2012

The Peaceful Assembly Act 2012, (hereafter known as the PAA) enacted by former BN administration before 2018, was improved during the time of PH to enhance the people's right to conduct street protests. This is a welcome development for the nation, particularly when it was previously an offence if three or more people "assemble" in a manner that is deemed in contravention with the Police Act, and street protests were often dispersed using water cannons and tear gas (Alibeyoglu April 28, 2012). Notably, the latest amendments to the PAA have resulted in street protests no longer being an offence (Section 4 of the Peaceful Assembly Act 2012 [Act 736]). However, organisers that seek to conduct an assembly must submit a notification to the authorities. The time frame for the said notification was formerly 10 days, but the latest amendments to the PAA has reduced the time to five days before the date on which the planned assembly is to take place.

Another significant change has allowed for certain offences that may be compoundable under the PAA, instead of incurring a fine or imprisonment. When certain offences are made compoundable, they are no longer criminal offences, and there will be no criminal record. This can be seen as a means of allowing street protests and watering down offences by making them compoundable. In addition, the police are now required to respond faster to organisers when a notification to conduct an assembly is submitted, which is three days instead of the previous five. The police are also required to inform the assembly organisers regarding any restrictions and conditions, if any. In this regard, we welcome the Government's commitment to affording greater freedom of expression to the people by way of assembly. The recent amendments are welcome, as they indicate Malaysia's commitment to carrying out the accepted UPR recommendation to review certain laws which limit freedom of expression.

Notwithstanding the above, the police have opened several investigations against organisers of assemblies and participating individuals, particularly in 2021. This is despite the peaceful nature of protests, such as UNDI18 to push the implementation of

lowering the age of voting to 18 years (*ICJ* April 2, 2021), the #lawan demonstration calling for the resignation of the Prime Minister under the PN administration (Palatino August 1, 2021), the #hartal contract doctors' movement (Camoens July 26, 2021), and more. Some of these assemblies were deemed to be in contravention of Section 9(5) of the PAA, due to non-compliance with requirements regarding notification of the said assemblies. Furthermore, the situation in which the assemblies took place must also be noted. Most of these assemblies were in contravention of laws enacted to minimize and mitigate the spread and effect of COVID-19—such as the Prevention and Control of Infectious Diseases Act 1988. The researchers support necessary measures taken to ensure public health and safety, particularly in the current climate of COVID-19. Nevertheless, the authorities should work with the organisers to ensure the public can engage in peaceful dialogue and protest, whilst conforming to health and safety measures.

Communications and Multimedia Act 1998

The Communications and Multimedia Act 1998 (hereafter known as the *CMA*) was also enacted during the administrations of the BN, and the subsequent PH and PN have used this Act to restrict certain forms of expression deemed an improper use of network facilities or network service. Among the ways “improper” is referred to is when one’s communication over any network facility or service is obscene, indecent, false, menacing, or offensive in character with the intent to annoy, abuse, threaten or harass another person. Interestingly, intent (knowingly) is required to be proven under this section, which is something lacking in certain other provisions that may restrict freedom of expression. This is a safeguard for laws that restrict speech: allowing certain categories of speech to be prohibited only if the necessary *mens rea* (criminal intent) is proven.

However, the CMA has particular weaknesses that need to be addressed. The current provision may have the effect of criminalising any expression, even if it is to merely annoy another person. The previous Minister of Communications and Multimedia, Gobind Singh Deo, had expressed PH’s intention to amend Section 233 of the CMA in 2018. He reiterated PH’s commitment to review draconian laws, including the CMA, which currently suffers from the same problem as other Acts restricting freedom of expression: its application is so broad that it may allow for abuse of power (Eusoff September 28, 2018). PH’s term ended abruptly after the infamous *Langkah Sheraton* in February 2020. As a result, the power shift and composition of members from various political parties during reigns of Muhyiddin Yasin and Ismail Sabri have opted not to proceed with these amendments.

At the time of the writing, when PN took over in early 2020, many incidents that occurred resulted in the enforcement of the CMA. Action against the media has also been taken for comments perceived as “insulting” or “provocative”. For instance, in April 2021, a burger seller was issued a compound of RM50,000.00 for operating his stall outside permissible hours during a nationwide lockdown (*Al-Jazeera* July 3, 2020). During this time, one news presenter from Astro Awani made a brief negative comment on the authorities’ decision while on the air. This led to a police probe of the newscaster under Section 504 of the *Penal Code* and Section 233 of the *CMA* for abuse of network facilities (Rahim May 1, 2021). It was reported that such comments could be slanderous and lead to public hatred towards the police (*Malaysiakini* May 1, 2021).

Given this legal polemic and inconsistent interpretation that may violate the fundamental of universal civil rights, we argue that amendments should be made to improve the weaknesses in the present laws analysed above. At the very least, there

should be a clearer and higher threshold in place in restricting freedom of expression. In addition, the categorisation of offences should be made according to the circumstances and severity. The categorisation of punishments should also be enacted accordingly. This may greatly reduce instances of arbitrary prosecution, and disproportionate punishments.

The unreasonable implementation of the CMA is a setback to Malaysia's acceptance of the UPR recommendation to enact legislation that ensures access to information. It would also increase fear of governmental action against the media and the public when sharing information and expression—all of which brings Malaysia further from implementing the previously accepted UPR recommendation to create a free, independent, pluralistic, and diverse media landscape.

Conclusion

As much as the incidents which took place test the extent to which freedom of expression is applicable and enforced in Malaysia, this is not to say there are no encouraging developments in the media and information freedom. Malaysia has witnessed the positive and negative transformations in the political scene since the GE 14 (2018). The relatively increased freedom provided to citizens for the right to assemble, express themselves, and for the right to receive and impart information is indicative of our continued progress towards achieving a vibrant and functioning democratic state and society.

Within the media sector, major progress in the expansion of media platforms can be observed, especially in the existence of numerous platforms that provide independent of media. Many new independent media has mushroomed since 2018 and has been readily accepted and welcomed by the public. Well-established mainstream media have also expanded into other social media and digital platforms to engage different target audiences. With the rise of independent media and increased platforms and opportunities for public engagement with media, there is an increase in diversity in the perspectives offered, in addition to bolder media practices. This contributes to a more plural and diverse media landscape. No doubt that the latest battle between media and existing legal framework have mutated into a digital realm. Recent alleged and viral incident of hate speech incitement through TikTok application is clearly a persistence of the exiting legal woes and freedom rights after the 15th GE (Razali and Muhamad Luqman Hakim 2022). The presence of the Malaysian Communication and Multimedia Commission (MCMC) enforcement against digital hate speech and fake news in social media cannot be isolated from the conundrum of the past Malaysian legal and political polemics. This brings more unprecedented challenges over the implementation of the UPR agreed recommendation.

Additionally, it can be argued that the growing critical mass in the public opinion and investigative journalist activism in Malaysia has seen vibrant growth with the rapid use and engagement of social media, given that more members of society have broader access to digital technology and the internet politics. As such, a more interactive relationship can be observed between media channels and public opinion. There has also been some progress in certain areas, such as the collaboration between government bodies with civil societies toward providing the public the right to information. However, we note that while the previous PN administration has still acted in some cases, such as *Malaysiakini* and *Al Jazeera* incidents, there is also some level of state policing over comments left by the local internet citizens (netizens). This ultimately suggests that the media is not entirely free from the state control and regulative apparatus, and thus, the merit of media independence or freedom of information may be influenced by the concern of plausible legal action taken against the media.

There is a slight improvement to the legal framework affecting freedom of expression during the administration of both PH and PN. Upholding the values of human rights was an important aspect of PH's electoral manifesto, and in the short years of PH's governance, several reforms to policies and laws were made. It is also notable to mention that the former Education Minister, Maszlee Malik pushed for greater political rights for university students. Although this legal development did not specifically result in a law that would guarantee access to information, it was indirectly upholding that right by empowering the youth through increased democratic participation, particularly in political matters. In addition, efforts to repeal problematic laws such as the Anti-Fake News Act 2018 were said to have encouraged greater respect for freedom of expression.

It can be also observed that there is a decline in the number of arrests and cases that reach the court on the grounds of laws that exceed freedom of expression, compared to the situation under the BN Government before 2018. Nevertheless, problems still occurred during both PH and PN administrations, which might bring the government's commitment to upholding human rights into question. For example, the highly contentious SA and CMA were still used to investigate statements made by persons from the Opposition (Ram July 12, 2019). This indicates that the present legal framework, which should protect freedom of expression, has weaknesses that may hinder freedom of expression from being enforced effectively. Ultimately this remains a contentious challenge to implementing the UPR agreed recommendation.

Moreover, there is delayed legal reform related to human rights in general and freedom of expression in particular. While there were some promises regarding legal reform about human rights and freedom of expression that the PH and the PN administrations did not or could not implement, this could be attributed to the lack of political will to carry out the intended reforms. PN's focus had understandably been invested in addressing and managing the COVID-19 pandemic and its impact on the country. Unfortunately, freedom of expression was not considered one of PN's main priorities. As such, our fieldwork findings have confirmed a present and significant challenge to Malaysia's commitment to the UPR recommendation to 1) review controversial laws which may have the effect of unreasonably limiting FOE; 2) create an environment for a free and diverse media with minimal political influence; and 3) facilitate access of information to the public.

Simultaneously however, it is worth considering that the UPR and global neoliberal mantra for human rights governance also lacks local clarity and is often deemed inappropriate to the local context. As such, human rights reforms are misunderstood, which lead to political controversies (Othman *et al.* 2018; Ramli *et al.* 2012). This can be seen in the public backlash against particular human rights initiatives, such as the withdrawal from ratifying the Rome Statute (see Hamid 2019). Among the reasons this initiative could not proceed was the widely public misconception and limited legal literacy that the ratification of the Rome Status would threaten the position of the monarchy and the special position of Malays (CNA April 5, 2019). This politicisation of legal framework of national human rights persisted throughout the administration of both PH and PN and has transcended in the present age of the *Madani's* unity government of the Anwar Ibrahim.

Nevertheless, the assessment of FOE and Malaysia's commitment to fulfilling accepted UPR recommendations is rather legally complicated, and politically cannot be answered immediately. While there is commendable progress and must be continued,

some setbacks in the enforcement of FOE cannot be underestimated. As such, political will is necessary to push legal enforcement changes. Politicians and those in authority must work hand-in-hand with relevant stakeholders in fulfilling commitments to improving the human rights framework of this country. Policies, laws, and reforms must be carefully considered, planned, and drafted to reflect universal human rights values and shared local diversities of the Malaysian social fabric. This may result in increased appreciation for and better enforcement of human rights and freedom of expression.

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