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**Contribution by Reporters Without Borders (RSF)
on the situation of the press freedom
in Malaysia**

An independent international NGO that defends press freedom, Reporters Without Borders (RSF) has consultative status with the United Nations, UNESCO and the Council of Europe. Created more than 30 years ago and headquartered in Paris, it carries out its work through 12 regional bureaux and a network of correspondents in 130 countries.

Press freedom has failed to progress for many years in Malaysia. In fact, it has deteriorated since the setback that the ruling Barisan Nasional coalition suffered in the 2013 legislative elections. Malaysia is ranked 144th out of 180 countries in RSF's 2017 World Press Freedom Index, below most of its Southeast Asian neighbours.

In a media landscape marked by widespread self-censorship and dominated by the power elites, the Malaysian government aims to control independent websites and bloggers. To that end, the authorities have legislative weapons that allow them to suppress dissent and gag the Internet.

Malaysia showed a desire to reform after its Universal Periodic Review (UPR) in 2009 and to comply with the UPR recommendations, amending the 1984 Printing Presses and Publications Act and repealing the 1960 Internal Security Act. However, these efforts were soon followed by a major reversal, with the adoption of new laws that were even more repressive after a decline in voter support for the Barisan Nasional coalition's leading party, the United Malays National Organisation (UMNO), which came close to costing the party its reelection.

1. Media under state control

Malaysia's traditional media are largely concentrated in the hands of the ruling élites. The Barisan Nasional coalition, in power since independence in 1957 and led by the UNMO, has

relied on newspapers, television and radio for getting out its message and ensuring its reelection. Studies¹ show a clear pro-government bias in the traditional media's coverage of

Malaysian politics. The Malaysian government has given itself control over the traditional media by means of the 1984 Printing Presses and Publications Act, which allows it to grant and revoke licences. Consequently, the press and broadcast media tend to censor themselves for fear of being prosecuted under laws that restrict free speech and press freedom.

2. Repressive legislation aimed at journalists and bloggers, exploited by the prime minister

The Malaysian government has at its disposal a number of legislative tools that it can use to intimidate and muzzle the media, and to threaten critics with harsh punishment: the 1998 Communications and Multimedia Act, the 1984 Printing Presses and Publications Act, the 1972 Official Secrets Act, and the 1948 Sedition Act, amended in 2015.

The 1960 Internal Security Act, which was repealed in 2012, has been replaced by the National Security Council Act, which came into force in 2016. This measure, an additional tool for intimidating journalists, grants the authorities wide-ranging powers, among them arrests without warrant in specific areas where the government may declare a state of emergency, notably during demonstrations. Under the 2012 Security Offences (Special Measures) Act, suspects may be held without charges for up to 28 days. Moreover, the Prevention of Terrorism Act, signed into law in 2015, allows indefinite arbitrary detention.

During its UPR in 2013, Malaysia received many recommendations (146.48, 146.49, 146.157, 146.158., 146.162, 146.168., 146.169.) urging it to bring the Sedition Act, the Official Secrets Act and the Printing Presses and Communications Act into conformity with international human rights standards, and to amend the law on evidence, in order to strengthen freedom of expression. Regarding the Printing Presses and Publications Act, it was recommended that Malaysia amend that law in order to ensure adequate judicial oversight of the issuance and revocation of licences, and also that an independent press regulatory body be established. Nevertheless, although Malaysia took note of these many recommendations, it has not put any of them into practice, and the repression of press freedoms has subsequently intensified.

¹ Ostwald Kay, "Malaysia's electoral process: the methods and costs of perpetuating UMNO rule," in: *Trends in Southeast Asia*, 2017, No. 19, ISEAS Yusof Ishak Institute

The Sedition Act, which should have been repealed as Prime Minister Najib Razak promised, has been amended, but only to strengthen its repressive aspects regarding the freedom to inform. The penalty for sedition has gone from three to seven years in prison to as much as 20 years for some offenses.

The Official Secrets Act, as well as the Printing Presses and Communications Act, have not been amended. Consequently, the home affairs minister is the sole authority empowered to grant or cancel licences.

Following the decline in votes and the loss of several seats in parliament in the 2013 legislative elections, and above all in the wake of the 1MDB financial scandal implicating Prime Minister Najib Razak, the government stepped up its harassment of journalists and critics, especially political cartoonists:

- The caricaturist **Zulkifli Anwar Ulhaque**, better known as Zunar, has been charged with sedition and faces the possibility of 43 years in prison for nine cartoons sent out on Twitter about Malaysian government corruption. In December 2017, a thousand of Zunar's books were seized by the police, causing a financial loss of around 20,000 euros. He was arrested by the police again for taking up a collection in order to cover those significant losses. He was previously imprisoned twice for his drawings, in 2005 and 2015, and since 2016 he has been forbidden to leave the country.
- The cartoonist **Fahmi Reza** was sentenced in February 2018 to a month in prison and fined 30,000 ringgits under the Communications and Multimedia Act for portraying Prime Minister Razak as a clown in a Facebook post.
- In August 2015, the Malaysian authorities issued a warrant for the arrest of Clare Newcastle-Brown, the British editor of the London-based *Sarawak Report*, which had published allegations about embezzlement of 1MDB funds implicating Prime Minister Razak.
- **Susan Loone**, a journalist at *Malaysiakini*, was arrested in the city of Penang and charged with sedition in September 2014 for interviewing the leader of an organization considered to be illegal. She was released on bail.
- Three reporters for *Malaysian Insider*, plus editor **Jahabar Sadiq** and director **Ho Kat Tat**, were arrested in March 2015 on the same charge for publishing an article about royal opposition to stricter enforcement of Islamic law. They were all released.

3. Pressure on independent media

Najib Razak and his government have launched a war on independent media that previously managed to circumvent government control thanks to Internet. The authorities now block access to sites that are considered too critical or that have published articles about the 1MDB scandal, such as the *Sarawak Report*, the *Malaysia Chronicle* and the *Malaysian Insider*.

- The *Malaysian Insider* has been blocked indefinitely by Internet access providers at the request of the Malaysian Communications and Multimedia Commission after it published an article reporting that the Malaysian Anti-Corruption Commission had proof of Najib Razak's involvement in the 1MDB scandal. That blockage led to financial ruin for the news site, one of the country's largest, and it had to close down in 2016.
- The *Malaysiakini* website, another well-known independent outlet, was denied a licence by the government. After years of being harassed, persecuted and threatened by the authorities, including the prime minister in person, *Malaysiakini* was fined 350,000 RM (75,000 euros) in January 2018 on appeal for libelling an Australian mining company, although it had won the case in a lower court. The fact that appeal court judges are named by the prime minister casts serious doubts on the independence of the judiciary, which in turn raises questions about its use by the government for weakening independent media.

4. A proposed new law against “fake news,” for use in muzzling the press

The debate over “fake news” has been taken over by the Malaysian government. Although provisions against the publication of false information already exist in the Communications and Multimedia Act and the Printing Press and Publications Act, a new specific law banning what the government defines as “fake news” has been in preparation since January 2018. On 30 January, the authorities set up a working group, composed of several ministers as well as representatives of the police, the National Security Council, the Malaysian Communications and Multimedia Commission (MCMC) and the Public Prosecutor's office, for the purpose of drafting new legislation penalizing the publication of information judged to be false. Despite the reservations of the legal profession, which considers the existing legislation to be sufficient, Najib Razak's office insists on the need for new legislation against “fake news” that “would threaten political stability and public order.” A bill to this effect was introduced in parliament on 26 March 2018.

The MCMC meanwhile announced in February 2018 that it wanted stiffer sentences for publishing false information, ranging from a fine of 50,000 RM and one year in prison to a fine of 500,000 RM and up to ten years in prison. Encouraged by the government, the MCMC has also set up a “news verification” website that evaluates and corrects the “false news” put out by the media and the social networks.

RSF’s recommendations:

- End criminal proceedings against independent journalists and cartoonists and free journalists held arbitrarily.
- Sign and ratify the International Covenant on Civil and Political Rights.
- Stop blocking independent news websites and guarantee online freedom of the press and freedom of expression.
- Repeal the 1948 Sedition Act, amended in 2015.
- Withdraw the fake news bill.
- Eliminate prison sentences and disproportionate fines for press offenses, especially for defamation.
- Amend the Printing Presses and Publications Act, particularly articles 3.3, 6.2, 9A, 13.1 on revoking and suspending operating licences, and article 13A, which does not allow any appeal.
- Create an independent media regulatory body, so that the concession and revocation of licences is no longer under the government’s sole control.
- Amend the Prevention of Terrorism Act and the National Security Council Act of 2015 in order to protect journalists from arbitrary detention and warrantless arrest under a state of emergency.
- Repeal the Official Secrets Act of 1972, which punishes whistleblowers instead of protecting them.

RSF contacts:

- Sophie Busson
Head of advocacy
+33 1 4483 6055
sbusson@rsf.org
- Daniel Bastard
Head of the Asia-Pacific desk

REPORTERS WITHOUT BORDERS

FOR FREEDOM OF INFORMATION

+33 1 4483 8470

asia@rsf.org

Reporters sans frontières – CS 90247 75083 Paris Cedex 02, France
Tel : (+33) 1 44 83 84 84 -