

Chapter 6

Seeking Legitimation in Political Uncertainties: Reforming the Media



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Abstract The media in Malaysia have long been controlled by censorship laws, and media bias has long been identified as a key hindrance to progressive discussion in the public sphere, as the government traditionally controls the media. The former Pakatan Harapan (PH) government made media reform promises in their election manifesto, which covered the repeal of laws deemed oppressive and a threat to free speech, and importantly, the support for self-regulation mechanisms through a media council. The Malaysian Media Council (MMC) was formed in December 2019 with 17 pro-tem committee members. Yet, the future of media reform is uncertain because systemic barriers remain. Besides the continued existence of censorship laws, some media organisations retain patronage by political parties and different sectors of society have distinct expectations of policy outcomes. Moreover, the fate of media reform is unclear after the Perikatan Nasional (PN) government came to power in late February 2020. This chapter employs a content analysis of press releases and news articles, supplemented by participant observation, to explore the legitimization of media reform. It first provides an overview of progress on media reform, and then analyses the challenges and barriers faced by members of the MMC and activists who fight for media reform. This chapter suggests that Malaysia is expected to continue to witness policies that limit media freedom rather than those that pursue media reform.

Keywords Pakatan Harapan · Perikatan Nasional · Malaysian Media Council · Media freedom · Media reform

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6.1 Introduction

Since the British colonial period, media freedom has been restricted and it persists even after Malaysia achieved independence in 1957. Since then, Malaysia has been known as an electoral authoritarian regime with semi-competitive elections. A number of scholars (Case, 1993; Mandal, 2004; Moten, 2009) recognised that the Malaysian political system is closely aligned with ethnicity, due to the Malaysia's multi-ethnic society. The institutional hindrances of electoral authoritarianism (Ufen, 2012) were prevalent to prevent the discourse on social issues to be translated into party political and parliamentary conflict. Such racialisation (Mandal, 2004) is said to have sustained Barisan Nasional's (BN) hegemony for decades and helped to sustain it against the opposition's challenges (Wong, 2018).

With the mixed nature of democracy and authoritarian system, media bias has long been identified as a key hindrance to progressive discussion in the public sphere, as the government traditionally controls the media. One of the explanations of the source of media bias is the legal framework that oversees the mass media in Malaysia. The Official Secrets Act 1972 (OSA) for instance, prohibits the publication of any information that the government deems as confidential or sensitive unless explicitly authorised. The Printing Presses and Publications Act 1984 (PPPA) is another legal framework that selectively constrains media reporting critical of the government. At the same time, the ownership structure of Malaysia's traditional mass media¹ continues to be uneven because most of the major newspapers are either owned by Barisan Nasional (BN) or closely linked to key BN figures, which indirectly put these media organisations under the control of BN. As a consequence of the legal environment and ownership structure, media freedom was compromised and biased in favour of BN (Ostwald, 2017).

However, the 14th general elections held in May 2018 changed the media landscape in Malaysia. The election marked Malaysia's unprecedented political change after 61 years under BN. The country saw a new government formed by Pakatan Harapan (PH), a coalition that used to be the main opposition bloc before the election. The PH government was however short-lived. After a week-long political impasse in February 2020, the PH government collapsed and Muhyiddin Yassin was appointed as the 8th Prime Minister of a new coalition named Perikatan Nasional (PN). PN consists of Malaysian United Indigenous Party (Bersatu), United Malays National Organisation (UMNO), Malaysian Islamist Party (PAS), and People's Justice Party (PKR) faction, supported by Gabungan Bersatu Sabah (GBS) and Gabungan Parti Sarawak (GPS).

In their GE14 election manifesto, PH made media reform promises, ranging from the repeal of laws deemed oppressive and a threat to free speech, to the support of self-regulation mechanisms for local journalists by a media council, an idea that was mooted almost 40 years ago (Bernama, 2019). The Malaysian Media Council (MMC) was formed during the PH government's term with a total of 17 pro-tem committee members to bring forward media reforms including a bill to recommend that all members of the media industry be entitled to be members of the council.

Through the method of content analysis, supplemented by the first author's participant observation during a national consultation session² on the formation of the MMC in March 2019, this chapter explores media reform progress and the challenges and barriers that were faced by the MMC and the media reformists in seeking legitimization of their aspiration within the context of administrative change. Various sources were used for content analysis such as reports, formal decisions, public statements, press releases and news articles dated until July 2020.

6.2 Media Freedom in Malaysia

There are three reasons why media reforms are necessary in Malaysia. First, media in Malaysia have long been controlled by censorship laws. Second, political and economic developments have resulted in controversial political ownership in the media landscape. Third, there are different views on the role of the media and the value of the press in Malaysian society. These three reasons will be elaborated through a historical overview and the development of media freedom in Malaysia.

6.2.1 *British Colonial Rule: The Beginning of Media Control*

Media regulation started in the 1800s when the Governor of Penang issued a licence to the first English newspaper called *Prince of Wales Island Gazette (PWIG)*, which was owned by an entrepreneur named A. B. Bone who wanted to improve his fortune by publishing a commercial newspaper targeting colonialists. Back then, there was no law governing newspapers. Bone later requested that each issue of the *PWIG* be censored by the British government before publication and this is considered the beginning of the links between the state and the press in Malaysia (Dhari, 1992; Mohd Safar, 1996). The press control that started with *PWIG* was not formalised until 1874 when Britain extended its political and administrative control beyond the Straits Settlements (Mustafa, 2003).

The colonial government amplified press control as there had been increased publication of Malay, Chinese and Tamil newspapers in Malaya. The emergence of Malay newspapers for instance was linked to an Islamic reformist movement amongst the Malays that had heralded a growing control of the press during the colonial period. Upon returning to Malaya after World War II, the British colonial government had to face advancing Malay nationalism and insurrection led by the Communist Party of Malaya (Mustafa, 2003). This led to the introduction of a variety of laws to suppress the spread of communism (Pak, 2014), such as the Sedition Ordinance 1948 and the Printing Presses Ordinance 1948. This established the foundation for Malaysia's legal framework to restrict media freedom.

6.2.2 After Independence: Media in the Young Nation

Press freedom was institutionalised in the Federal Constitution at independence in 1957 (Mohd Sani, 2008). However, press freedom was increasingly restricted under several censorship laws. In 1962, UMNO as the biggest political party that represented Malay rights, orchestrated a takeover of Utusan Melayu Press Bhd to ensure the company's Malay daily- *Utusan Malaysia*- would portray the party and BN administration in a favourable light (Gomez, 2004). This triggered protests by the Malay daily's journalists as they called for editorial independence that was in line with the newspapers' original philosophy of fighting for "race, religion and homeland" (Mustafa, 2003). Despite the 93-day strike staged by the journalists and other workers, UMNO ignored the resistance (Mohd Safar, 1996). This recorded the first incident of the ruling political party controlling a newspaper in the country.

The Alliance government, later BN, inherited restrictive media laws from the British, as it perceived that the media's role was to disseminate information and ideology to help the government maintain harmony within the existing multi-ethnic and multi-religious social structure. Hence, the role of media was reshaped to serve nation-building after independence. Under this concept, the press was not encouraged to criticise the government but only to present positive impressions of the state. Press freedom in Malaysia was further constrained after the ethnic riots of 13th May 1969. Apart from suspending publication of all newspapers for two days, the government introduced censorship laws and banned the circulation of certain foreign magazines. A series of amendments to the Federal Constitution were made, which prohibited the public, including the media to question sensitive issues including the power and status of the Malay rulers, and Malay special rights and privileges (Means, 1991; Mustafa, 2003).

Three years after the May 13 riots, the BN government had also classified many official documents as "official secrets" under the Official Secrets Act 1972 (OSA) and this denied the public access to government documents. The Printing Presses Act 1948 was further amended to ban foreign ownership of Malaysian newspapers. This amendment resulted in "monopolisation of Malaysia's mainstream press by ruling political parties and their economic allies" (Mustafa, 2003). As the government launched the New Economic Policy (NEP) in 1971 as one of the remedies to improve inter-ethnic relations, the quota systems under the NEP resulted in the controversial ownership structure of local media. For instance, in 1972, the Straits Times Press Group, was bought over by a national corporation—Pernas—and later sold to an investment company which UMNO owned called Fleet Holdings (Mustafa, 2003).

6.2.3 Mahathir and the Muzzled Media

Press freedom in Malaysia was further eroded during Mahathir Mohamad's first administration in 1981. His administration took a series of actions to suspend the

permit of critical local and foreign publications. One of the steps was to repeal the old Printing Presses Act 1948 and enact the Printing Presses and Publications Act (PPPA) in 1984 to give the Home Minister absolute power to grant and revoke publishing permits.

In 1987, more than 100 people including social activists, opposition politicians, academics and members of civil society were detained under a major crackdown called Operasi Lalang. As “punishment” for reporting this political clampdown on the front page the next day, three newspapers—*The Star*, *Sin Chew Jit Poh* and *Watan*—had their publishing permits suspended under the PPPA for six months. The result of this suspension was that the printed media became more servile and compliant with less critical reportage (Wang, 2001).

The privatisation concept introduced by Mahathir became a tool that allowed the ruling elite and business acquaintances of BN to invest in the media industry (George, 2007; Gomez, 2004; Mustafa, 2014). Whilst privatisation may be strategic in the macroeconomic context, this policy does not include an open tender system in Malaysia (Mustafa, 2014). For instance, the TV3 television station that was owned by an assortment of BN component parties was the first private station that received a broadcast licence. By the end of the 1990s, the component parties of BN were already controlling or having substantial interests in major English, Malay and Chinese-language newspapers via their investment arms and political affiliates. For instance, UMNO owned a media conglomerate—*Utusan Melayu* Group—that published various Malay-language newspapers and magazines which had high circulation and readership in the Malay-dominant rural areas, also known as election strongholds for UMNO. This kind of corporate control created the public perception that the BN-owned media were “muzzled” and biased in their reporting.

6.2.4 *Reformasi and the Rise of Alternative Media*

The development of the Internet in the late 1990s changed the media landscape in Malaysia. In 1996, Mahathir’s main project, the Multimedia Super Corridor (MSC) was launched. In a bid to attract foreign investors from the information technology sector, Mahathir promised no-censorship on the Internet (Zaharom & Mustafa, 1998). This meant that bloggers, online writers and news portals benefited from this no-censorship guarantee. Since then, Malaysia saw the emergence of online news portals such as *Malaysiakini.com* during the Reformasi, following the sacking of the then deputy Prime Minister Anwar Ibrahim. Tens of thousands of Anwar’s supporters rallied at street protests. Most of the traditional media reports on the *Reformasi* demonised Anwar. Subsequently, public demand for alternative media was strong (Khoo, 2003; Steele, 2009). Although news portals were unlicensed and not regulated under censorship laws such as PPPA, these entities were still being monitored under different sets of regulations including the Communications and Multimedia Act 1998, the OSA 1972 and the Sedition Act 1948.

Online news related to politics were photocopied and distributed in the rural areas that had no internet access then. Some younger voters also shared alternative news reports with their parents who did not know how to browse the Internet. Besides, Malaysia also witnessed a boom in online dissent as political bloggers who were critical of the government, contributed to various discussions in the public sphere (George, 2007).

6.2.5 *Najib and the Fall of BN*

The 12th general election in 2008, also popularly labelled as “political tsunami” denied the BN a two-thirds majority in Parliament. This is partly attributed to the rise of online media. One year after the “political tsunami”, Abdullah Badawi ended his relatively short prime ministership and handed over power to Najib Razak. Similar to his predecessors, Najib tried to build an image of moderation by promising better press freedom when he first took over the government. However, freedom of speech was further curtailed under his administration. For instance, whilst the PPPA was further amended in 2012 so that publications no longer needed to renew licences annually, the Home Minister still holds power to revoke or deny publishing permits and printing licences (Mustafa, 2014). Najib also promised to scrap the British colonial-era Sedition Act. However, he broke the promise after BN suffered from poor election results in the 2013 general elections. An amendment was made to increase the penalty of the Sedition Act and to allow the government to remove seditious material online. As a result, in 2015 alone, at least 91 individuals who were mainly rights activists, artists, journalists, lawyers, academicians and opposition members were either arrested, charged or investigated for sedition (Amnesty International, 2016).

As the online media continued to expose the 1Malaysia Development Berhad (1MDB) financial scandal, media freedom was further curtailed. For instance, in 2016, the editors of the online news portal *The Malaysian Insider* (TMI) were arrested and its website was blocked by the Malaysian Communications and Multi-media Commission (MCMC). The continuous reporting of 1MDB also resulted in the passing of the Anti-Fake News Bill 2018 in Parliament. The broad definition of “fake news” under the Act was criticised by the opposition parties, saying that this enactment would be misused to muffle dissent. Nevertheless, as the voters were frustrated due to various reasons ranging from economic issues, a financial scandal to political contestation, this then resulted in the end of the 60-year-old regime under BN in the 14th general elections in 2018. BN’s hegemonic rule had made it difficult for the media to act independently, however, the struggle for media freedom continues and the process of media reform is seen to be even more important in the years that follow (Voltmer, 2013). PH replaced BN as government but its rule was short-lived. In late February 2020, Perikatan Nasional (PN) took over the government. That sets a different direction on the journey of media reform.

As the country experienced political uncertainties after the establishment of the MMC, and with PN as government, questions of legitimization are as PN did not gain

power through elections (See Lee, Chap. 12). Being legitimate is important to any government. Without it, it could be potentially difficult to exert influence over others based solely upon the possession of power (Tyler, 2006). As the legitimacy of the PN government continues to be questioned, how does the MMC itself seek legitimization under these political uncertainties and move forward the reform agenda?

6.3 Legitimation and Delegitimation

Legitimation refers to the activity of either seeking or granting legitimacy (Bexell, 2014). As defined by Hurd (1999, p. 381), legitimacy is “the normative belief by an actor that a rule or institution ought to be obeyed”. As Reus-Smith (2007, p. 44) puts it, legitimacy is “the lifeblood of the politics of legitimation” and it may or may not contribute to an institution’s legitimacy in the eyes of the relevant stakeholders. In this chapter, we look into the question of legitimacy in the formation of the MMC and its advocacy. By using the method of the first author’s participant observation during the national consultation session for the MMC, we explore the potential legitimacy of the MMC and its media reform agenda. Legitimacy also contributes to compliance with rules and decisions by providing internal reasons for actors to follow them (Hurd, 1999). There are arguably many sources that can contribute to legitimacy. For Scholte (2011), elements such as efficiency, legality, democracy, morality and charismatic leadership are important to be taken into consideration in the discourse on legitimacy. Hurrell (2005) proposes procedural, substantive, efficiency-based, specialist-based and reason-giving legitimacy.

Political authorities and institutions lose legitimacy when they do not adhere to procedural fairness norms (Farnsworth, 2003; Gangl, 2003; Murphy, 2004). Delegitimation refers to a process of contestation that undermines existing institutions’ legitimacy (Steffek, 2009). The concept of delegitimation is important to be mentioned in this chapter, as the PN government’s legitimacy continues to be debated. The legitimacy of MMC is also ambiguous as it was established to fulfil the manifesto of PH. It triggers the question of whether media freedom as discussed by the MMC will continue to be taken into serious consideration. In this chapter, the concept of delegitimation is employed by looking into the strategies by the MMC and also media activists, whether their involvement in governance processes has a legitimating effect (Scholte, 2007).

6.4 Media Reform Progress

Media reform is defined as an ongoing struggle over the unequal distribution of communicative resources whereby the process essentially involves changes and shifts in institutions, values and practises and the outcomes ideally focus on achieving public policies that encourage media independence and diversity (Freedman &

Obar, 2016; McChesney, 1998; Pickard, 2015; Voltmer, 2013; Waisbord, 2010). Media reform is sometimes also considered a type of social movement because the purpose of media reform is similar to social movements' purposes of challenging the distribution and uses of power by employing planned strategies, and eventually, the aim is to force a policy change (Laclau & Mouffe, 1985; McAdam, 1982; Pickard, 2015). The outcome of media reform is often a result of a compromise reached by competing actors- the government, civil society, media owners, media practitioners, academicians and the general public.

Discussions about media reform in Malaysia was first raised in 1973. One of the key suggestions was to form a national press council (Mohd Safar & Ahmad Murad, 2002). The idea was initiated by the second Prime Minister, Abdul Razak Hussein, who later formed a high-level committee for a press council comprising of the representatives from the government and media industry. However, there was no final decision on the press council as the members could not reach a consensus. Following that, the same top-down media reform approach had been discussed several times between 1983 and 2016 without any conclusive decision (Mohd Safar & Ahmad Murad, 2002; Shuaib & Haron, 2016). There are two reasons that contribute to the failure in materialising the press council. First, the media fraternities disagreed with the existing laws over the press by demanding the repeal of the media laws. Second, the government's active involvement in the council was perceived as a form of media control.

The sacking of the then deputy Prime Minister Anwar Ibrahim in 1998 was a watershed moment for media reformists in Malaysia (Steele, 2009; Tapsell, 2013; Tong, 2004). The Reformasi coincided with the emergence of the Internet and this encouraged independent journalism and vibrant media freedom advocacy groups. By the end of 1998, at least 30 anti-government sites were established and some of them saw several million hits in early 1999 (Kelly, 2003; McCargo, 2003). This marked a milestone for the bottom-up media reform approach started by the media activists and journalists in media reform history. When the alternative media gained increasing popularity and support, media reformists were optimistic that the Internet would allow individuals to abandon biased reporting and look for independent news. Some mainstream media journalists too began to push for reforms. One of the achievements was the mobilisation of 951 journalists to sign a petition calling for the repeal of the PPPA in May 1999 (Tapsell, 2013). However, the government did not take into account what was urged in the petition but instead, it launched a series of clampdowns against the media (Abbott, 2004; Funston, 2001).

Journalists who joined the media reform movement were side-lined in the mainstream media newsrooms. Different ideologies existed within the media fraternities. Other journalists did not support their reformist colleagues. The reform process was also hindered by the position taken by the National Union of Journalists (NUJ), the only journalist's union in Malaysia:

NUJ continued to see its main role as advocating for better pay conditions of mainstream journalists. As a result, they needed the support of the government and the major media owners. This meant they were reluctant to criticise those in power; those who also hindered the freedom of the press.

(Tapsell, 2013, pg. 10)

The situation did not improve when Mahathir stepped down and the prime ministership was taken over by Abdullah Badawi in 2003. According to Zaharom (2008), Abdullah Badawi did not materialise his promises of reform as all censorship laws stayed. However, the media reformists continued to challenge the government by setting up more independent news portals and publications. These publications included magazines like *Off the Edge*, news websites such as *The Nutgraph* and *The Malaysian Insider* that appealed to the young English-speaking, urban elite, and a Chinese-language independent news website—*The Merdeka Review*. In the 2008 general election, BN recorded its worst election results as it lost a two-thirds majority. Abdullah Badawi confessed that they have certainly lost the “internet war” (AFP, 2008) and media reformists saw the Internet through independent news ventures as important for pushing wider change in the media industry.

6.4.1 Media Reform After May 2018

The concept of media reforms was sharpened after the change of government as a result of GE14. The PH government, which was filled with self-proclaimed reformists, initiated the formation of the media council in 2018. In March 2019, a national consultation session which gathered more than 70 participants including journalists, editors, representatives from the civil society and the PH government was held to work out a roadmap for the self-regulation of Malaysian media. PH leaders had consistently promised to support the idea that local journalists would be self-regulated by a media council, with a pro-tem committee formed in January 2020. This was the first time the government was not included directly in the working committee of the media council. On 3 February 2020, the pro-tem committee outlined the following six principles for its draft bill:

- (1) The scope of the council shall cover all forms of media including print, broadcast and online and shall cover private as well as public-owned media;
- (2) The media council will not cover individual speech on social media or blogs, for which other laws currently or should cover;
- (3) That participation in the council will be on a volunteer or opt-in basis and that there will have to be sufficient benefits and incentives for the media industry to participate;
- (4) Laws that curb press freedom or inhibit good journalistic practises will have to be abolished;
- (5) The council will have a code of conduct for media as well as a proper grievance procedure; and
- (6) The council will also look into the overall sustainability of the media industry, improving journalism standards and media literacy.

However, less than a month after the announcement of MMC's six principles, the country experienced an unprecedented political turmoil which saw most of the former BN leaders taking over the government through the formation of the PN government in February 2020. This raises the question if the new ruling coalition would view MMC's reform agenda seriously because the pro-tem committee was formed under the aegis of PH. The media industry undergoes reforms and transformations during political transitions (Price et al., 2002). The system of media and news institutions evolve, especially when the state is experiencing changes in the political system. When there is a political transition, media are expected to play a significant role in presenting history to the local and global audience. But what is more important to examine is whether the media are "able to take on the pivotal role in supporting the transition, or to impede the democratic process" (Voltmer, 2013). In the case of Malaysia, the political transition which saw the return of the old regime had posed a great challenge to media reform.

Whilst the change of government in GE14 had arguably opened the door for media reform especially with the establishment of MMC, challenges exist when it comes to the PN government. That raises the question on how the MMC seeks legitimization under this political uncertainty and moving forward the reform agenda, when PN itself is questioned of its own legitimacy. There are arguably many sources that can contribute to legitimacy ranging from efficiency, legality, democracy, morality and charismatic leadership (Scholte, 2011). Do these elements exist in the current media reform in the MMC? In the next section, we will explore the opportunities and barriers in the media reform agenda in this period of political uncertainties.

6.5 Opportunities and Barriers

Whilst there has been media reform progress as highlighted in the above section, particularly with the establishment of the MMC, the direction of media reform is however uncertain as it shifts between legitimization and delegitimization due to four reasons. First, existing structural and political barriers. Second, censorship laws are still in place. The full repeal of repressive laws as promised earlier is controversial as the government has been reluctant to commit to full transparency and freedom of speech. Third, some traditional media organisations are still economically and structurally owned by political parties and their business allies. Fourth, the internal tension amongst the MMC members and the media reformists on different ideologies on press freedom and the role of media in Malaysia.

6.5.1 Existing Structural and Political Barriers

As an electoral authoritarian regime with semi-competitive elections, the authoritarianism feature arguably guaranteed large parliamentary majorities for the ruling

coalition. This is then enhanced by Malaysia's centralised system with control of financial means, as well as the bureaucracy, judiciary and media channels that open the door to the sustainability of the ruling coalition, which is used to curtail civil liberties, (Ufen, 2012, p. 451) particularly the freedom of speech, association and assembly and constraints on the opposition to effectively channel social grievances including the impact on press freedom. The institutional hindrances of electoral authoritarianism (Ufen, 2012) are prevalent to prevent press freedom. The restriction in media freedom has laid the foundation that enables the growth of online media where it provides increased access to alternative sources of information and opened a space for the vibrant exchange of political views (Tapsell, 2013). Whilst online media is also subject to some of the same restrictions as the print media, however online news portals such as *Malaysiakini* established after Reformasi provides more options to Malaysians that enable them to read the other side of the story. For many, the mainstream media are no longer a trusted source of information due to their strong bias. Thus, they use the Internet as an alternative medium of information (Radue, 2012).

6.5.2 Censorship Laws Are Still in Place

In April 2020, Malaysia recorded the greatest improvement in Reporters without Borders (RSF) global index (Lim, 2020a) by ranking 101st amongst 180 countries. According to RSF, press freedom in Malaysia experienced a breath of "fresh air" after a surprising first-ever defeat of BN in GE14, resulting in a more relaxed environment for journalists. As a result, self-censorship declined and the print media offered a fuller and more balanced range of political viewpoints. As such, this increased the legitimacy of media reform and also the MMC itself. However, RSF also noted that anachronistic and draconian laws remain in Malaysia as a continuing threat to press freedom. To date, the legal environment in Malaysia does not encourage independent media or critical reporting. Whilst there is a constitutional guarantee for freedom of expression, freedom of speech and press freedom, there are also limitations on grounds of national security, public order and morality, contempt of court, defamation as well as the protection of other constitutional provisions related to the special positions and privileges of the monarchy, the Malays and indigenous communities (Faruqi, 2008; Federal Constitution of Malaysia, 2010).

The full repeal of repressive laws as promised earlier is controversial as the PH coalition at that time was reluctant (Centre for Independent Journalism, 2018, 2019) to commit to full transparency and freedom of speech. The-then PH government back-pedalled on its moratorium on the use of the Sedition Act 1948 by citing the excuse that it was needed (Bernama, 2018) in cases related to national security, public order and ethnic relations. When the PH government was replaced, the country was also facing an unprecedented public health crisis caused by the COVID-19 pandemic. Citizens had to follow a movement control order (MCO) and subsequently conditional movement control order (CMCO) imposed by the new

PN government. Not surprisingly, journalists faced more restrictions when covering news about the pandemic. For instance, journalists were reportedly barred from an open court hearing of UMNO president Ahmad Zahid's daughter who breached the MCO (Palansamy, 2020). Besides that a correspondent for the *South China Morning Post* was investigated (Teh & Perimbanayagam, 2020) by the police over her news report of Malaysian authorities arresting undocumented migrants during a raid. Her article questioned the need for a large scale raid and quoted human rights activists as saying that this would prevent illegal immigrants from coming out to be tested for COVID-19, as they fear being deported.

These instances show that regulations and policies can be abused by the state or designed to benefit the old and new power holders, or emerging interest groups (Milton, 2001; Peruško, 2013). At present, the legal reform as championed by some of the MMC committee members will not be materialised without the political will of lawmakers to repeal censorship laws.

6.5.3 Media Owned by Political Parties and Business Allies

The state was instrumental in allowing government-linked companies (GLCs), the ruling political parties and their business associates to run the media industry. This political ownership was greatly challenged after GE14. Before the elections, the media organisations that were owned by BN component parties and allies were struggling to survive financially. The media industry including public listed companies witnessed more serious financial losses and the axing of employees on a large scale after GE14. For instance, Media Prima, a media conglomerate suffered losses up to RM104.5 million for its fourth quarter ended 31 December 2019, and has gone through several restructuring exercises, including staff retrenchment (Malek, 2020). *Utusan Malaysia* that was previously owned by UMNO, was forced to cease operations in October 2019 after it defaulted on its loans and failed to pay its employees their salaries (Palansamy, 2019). The period since the elections has also seen the closing of pro-BN Tamil language newspaper, *Tamil Nesan*, due to financial issues in February 2019.

These financial struggles paved the way for business acquaintances of Mahathir, to re-enter the scene through ownership of the media. The most prominent move was by business tycoon Syed Mokhtar Al-Bukhary, who has business interests in power generation, rice, sugar, plantations and auto assembly and is a known acquaintance of Mahathir. Syed Mokhtar acquired controlling stakes in both Media Prima and *Utusan Malaysia* after the elections (Loheswar et al., 2019), making him one of the major media owners in the country, alongside the state and other large corporations also owned by political parties or pro-establishment businessmen.

To date, most of the traditional media organisations are still economically and structurally owned by political parties and their business allies. The concentration of media ownership and unequal distribution of communicative resources have been challenging for media reformists to confront formidable change, to reshape media

policy which could review the ownership structure of the media industry. However, the process of media reform can be complex because the financial struggles of news outlets are not only caused by the controversial ownership structure but also changes in media consumption patterns. The noticeable shifts of audiences' interest towards social media had resulted in major newsrooms reducing the printing of physical copies in 2020. For instance, local Chinese-language newspaper *Oriental Daily* stopped its weekend editions and reduced the newsstand price (Lim, 2020b). Earlier, another local Chinese-language daily, *Sin Chew Daily*, stopped printing physical copies of its night edition from 1 April 2020, citing various reasons that were difficult to overcome. On 21 April 2020, the leading business and financial publication *The Edge Financial Daily* (FD) also decided to operate fully digitally due to Malaysia's "shift to digital news and the current lockdown of the economy because of the COVID-19 pandemic". In response to this, the MMC pro-tem committee reiterated the importance of looking into the overall sustainability of the media industry, improving journalism standards and media literacy amongst the readers and audience, which is one of the six principles included in the MMC's draft bill (Chan, 2020).

6.5.4 Internal Tension Amongst MMC Members and Media Reformists

The legitimization discourse amongst the MMC members and the media reformists is called into question as they faced challenges in reaching consensus amongst themselves on the direction of media reform. Findings from the participant observation show the stakeholders presented different proposals and focussed on different priorities during the national consultation session held in March 2019. The MMC pro-tem committee saw different actors representing the government, civil society, academics and media industry fighting for dominance. One of the civil society representatives in the committee is the Centre for Independent Journalism (CIJ) which has been advocating press freedom. Comparatively, the nature of media group representatives is more diverse such the NUJ which was once accused of being a labour union that has been "largely subject to nepotism and cronyism for journalists who did not want to make changes from within the industry" (Tapsell, 2013, p. 7). However, the position of the NUJ has not been consistent. The labour union responded to curtailing press freedom differently, depending on the ideologies and beliefs upheld by the committee members. For instance, NUJ has been outspoken against the recent banning of journalists in the courtroom.

Other media groups' representatives in the MMC committee include the Malaysian Press Institute (MPI), a media training institute. The National Press Club Malaysia is said to have close ties with Mahathir who contributed a clubhouse (The National Press Club Malaysia, n.d.) to it, whilst the Foreign Correspondents Club Malaysia (FCCM) is a networking association for journalists who work with the

foreign newsrooms based in Malaysia. There are also other advocacy groups formed by journalists and editors who uphold the value of press freedom that have been appointed to join the pro-tem committee. These groups are mainly represented by the Institute of Journalist Malaysia (IoJ) and Gerakan Media Merdeka (Geramm), which were both established in 2013.

All these associations, unions and advocacy groups have different ideologies and expectations of media reforms. The nascent stage of MMC formation under the PH government has been marred with the exclusion of some media groups. In 2019, NUJ, IoJ, Geramm, FCCM and Sabah Journalists Association issued a joint statement (*The Star, 2019*) to condemn that a proposal for MCC was submitted to the government by a group of publishers and media owners without consulting them:

While we welcome the formation of a media council, neither the contents of this proposal were made public or shared with all journalists, nor were we invited to take part in its consultative process. We cannot endorse any submitted proposal that has not been seen or reviewed in detail by journalists at all levels of the industry.

(*The Star, 2019*)

In addition, CIJ and the other media advocacy groups reiterated that to achieve successful media reform, the PPPA 1984 must be abolished before or when the media council is set up because having both the PPPA and the media council co-exist would defeat the purpose of having a self-regulatory body to regulate media standards (Centre for Independent Journalism, *2020*). To date, this proposal has not received a response from the government. Meanwhile, other media representatives want to prioritise the issues of journalistic transgressions and punitive actions against “irresponsible journalism”. This shows that one of the challenges of media reform is to incorporate the interests of various stakeholders (*Yong, 2020*).

This section listed four opportunities and barriers: existing structural and political barriers; existence of censorship laws, structural issues involving some traditional media organisations as they are owned by political parties and their business allies; and internal tension amongst the MMC members and media reformists on different ideologies of press freedom and the role of media. Based on these four elements, the question of legitimisation is raised due to the political uncertainty and the lack of political will in making media reforms by the policy-makers.

6.6 Conclusion

Structural, technical and legislative changes are essential for holistic media reform. For instance, trust needs to be rebuilt amongst the government machineries with the abrupt change of government from PH to PN. The legislative changes promised, such as the proposed draft bill on the establishment of the Malaysian Media Council, which amongst others aims to uphold and promote media freedom and to create a conducive legislative and regulatory environment have not been implemented. This chapter reiterates that the country is expected to witness delays in the policy relating

to media reform. This then directly imposes challenges to the sustainability of the MMC that has been established, starting from its legitimacy.

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Notes

1. Traditional media stated in this research includes newspapers, magazines, radio stations and television stations.
2. The national consultation session was first initiated by media advocacy groups and supported by PH government representatives. The two-day conference also saw stakeholders presenting different proposals and media reform agendas. Source: <https://www.thesundaily.my/local/steering-committee-set-up-to-discuss-forming-malaysia-media-council-AE644561>

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