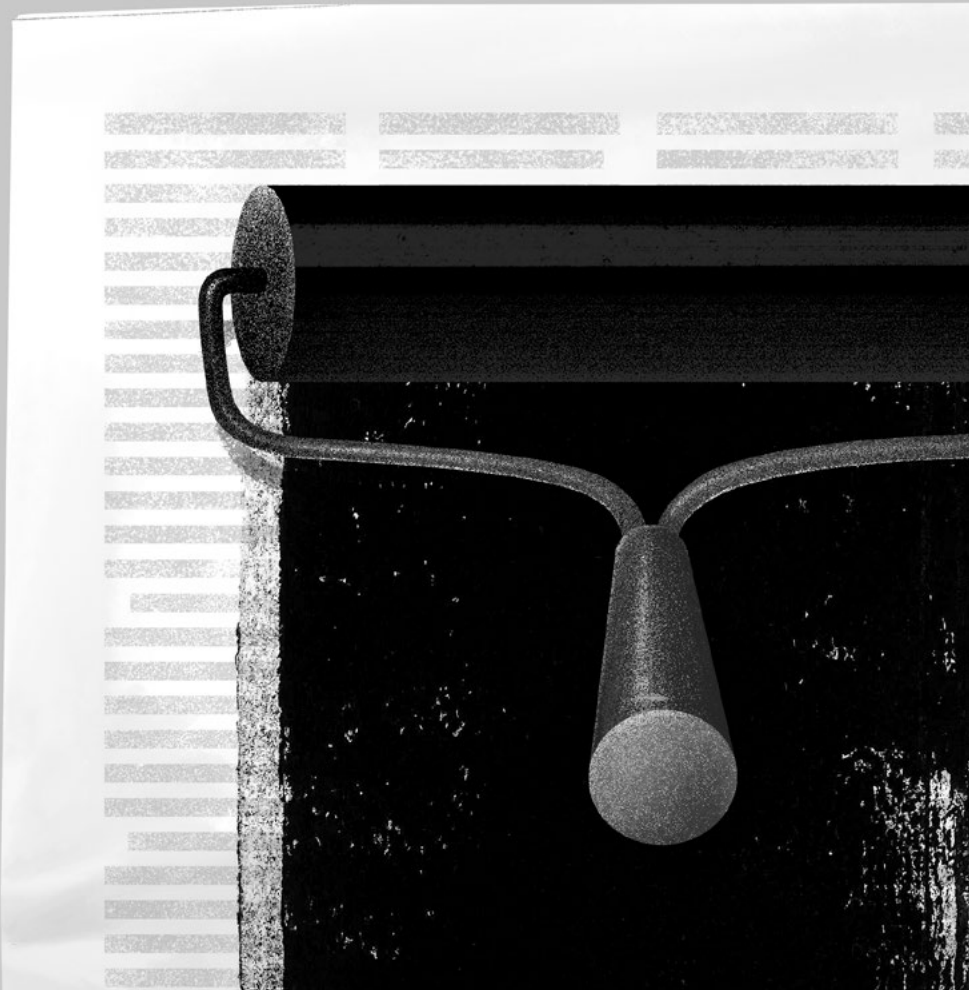


SECURITIZE/ COUNTER-SECURITIZE

The Life and Death of Malaysia's Anti-Fake News Act



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EXECUTIVE SUMMARY

This report presents an analysis of the political struggle over “fake news” in Malaysia during the 2018 runup to the country’s 14th general election (GE14), which took place on May 9, 2018. During this period, Malaysia’s ruling coalition, Barisan Nasional (BN), engaged in a process that security experts call **securitization**—using public statements and media coverage to define “fake news” as a threat to national security as a justification for taking new, extreme measures. In this case, those extreme measures culminated in the passage of the Anti-Fake News Act (AFNA), which criminalized the creation and dissemination of “fake news.” The legislation relied on a broad definition of “fake news” and did little to specify the forms of online disinformation and harassment most prominent in Malaysia.

During the same period, the opposition party, Pakatan Harapan (PH), collaborated with a broad coalition of civil society groups in a **counter-securitization** effort. Rather than contesting BN’s claims about “fake news,” the opposition made its own securitizing moves, claiming that BN’s actions were the real threat to national security. The party argued that the AFNA was created to stifle news coverage of a massive embezzlement scandal, which hinged on Prime Minister Najib Razak’s involvement with the 1Malaysia Development Berhad (1MDB) company. Ultimately, this effort was successful: after BN was defeated in GE14, the AFNA was quickly repealed by the new government.

This report employs a mixed-methods approach of media analysis and in-field interviews to identify how “fake news” was securitized and subsequently counter-securitized. During 2018, BN used its influence over establishment news media to push three related narratives:

- “fake news” was on the rise,
- the upcoming election would be inundated with “fake news,” and
- this “fake news” was a threat.

During the same period, the strategies used to counter-securitize “fake news” included

- constant and open criticism of the AFNA,
- rapid coordination between civil society on public messaging,
- information sharing with between civil society and opposition politicians, and
- the use of strategic attack narratives discrediting the AFNA.

This report documents the success of these counter-securitization messages, alongside alternative avenues for information, structural political changes, and non-legislative measures. But we also argue that the success was supported by many Malaysians’ perception of disinformation and other “cybertrooper” tactics as common features of political life rather than threats to national security. This case not only demonstrates how global fears around “fake news” can be implicated in national struggles over information control but also how counter-securitization can be accomplished even within constrained media environments.

INTRODUCTION

In May 2018, Pakatan Harapan (PH), a political coalition, made history by winning Malaysia's 14th General Election (GE14). For the first time since achieving independence from the British in 1957, Malaysia would be governed by a party other than Barisan Nasional (BN), recently embroiled in scandal and corruption involving its leader, Najib Razak. In the lead-up to this contentious election was a highly visible political struggle over so-called "fake news."¹ Starting as early as 2017, BN ramped up state-sponsored news coverage and public statements on the problem of "fake news," framing the issue as a matter of national security. This rhetorical push culminated in the passage of the Anti-Fake News Act (AFNA) in April 2018, just one month before the election.

AFNA was an extreme information-control tool for the Malaysian state. It was a broad bill that not only criminalized "creating, offering, publishing, etc., fake news or publication containing fake news" but "providing financial assistance for purposes of committing or facilitating" as well.² Its definition of "fake news" was vague and covered "any news, information, data and reports, which is or are wholly or partly false, whether in the form of features, visuals or audio recordings or in any other form capable of suggesting words or ideas." This definition did not account for intent, nor did it require evidence of harm. Conviction under the Anti-Fake News Act included penalties of up to 500,000 ringgit (approximately \$117,966), imprisonment of up to six years, content removal, court-ordered apology, and additional fines of up to 3,000 ringgit a day for continued offenses. And while

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- 1 The term "fake news" first came about in mid-2016 when Craig Silverman of *BuzzFeed* (<https://www.buzzfeednews.com/article/craigsilverman/i-helped-popularize-the-term-fake-news-and-now-i-criinge>) was researching inauthentic news content coming from a town in Macedonia. The term was then popularized by US President Donald Trump who has used it to discredit journalists and news outlets critical of him. The term has since continued to be used by leaders around the world both as a means to propose censorship-enabling legislation and to discredit critical voices
 - 2 *Malaysia: "Anti-Fake News Act,"* ARTICLE 19, April 2018, <https://www.article19.org/wp-content/uploads/2018/04/2018.04.22-Malaysia-Fake-News-Legal-Analysis-FINAL-v3.pdf>; *Anti-Fake News Act 2018, Act 803*, royal assent April 9, 2018, http://www.federalgazette.agc.gov.my/outputaktap/20180411_803_BI.WJW010830%20BI.pdf.

BN had done a lot of work to justify the passage of such a bill, many members of civil society, news outlets, and technology companies decried it as a mechanism for state control over political speech. When the bill was first tabled, Eric Paulsen, co-founder of Malaysian human rights group Lawyers for Liberty, told the BBC: “The bill is 100% intended to muffle dissent... the punishment is extremely high and what amounts to fake news has been loosely defined.”³

Malaysia and the AFNA therefore present an interesting case study. In addition to being one of the first nations to pass a law explicitly criminalizing “fake news” (and in doing so targeting social media and the internet), Malaysia also has a history of politically motivated censorship, from website blocking to intimidation and arrests. Therefore, for Malaysians and like many others governed by an illiberal or authoritarian government, addressing “fake news” is a complicated balancing act. On one hand, eliminating forms of disinformation is important for political progress. On the other, some responses to “fake news” risk expanding state powers, which can further threaten already weakly ensured civil liberties. The passage and subsequent repeal of the AFNA tells both sides of this story.

Ultimately, by labeling content critical of the ruling coalition as “fake news” and then framing “fake news” as a security threat, BN created a tool to sow distrust in both the opposition coalition and social media writ large and to selectively censor online content. For Barisan Nasional, the rhetorical use of “fake news” thus had dual uses: it discredited critical voices and it justified censorship-enabling legislation. The latter purpose, known as **securitization**, is the process of framing an issue as a threat to warrant “exceptional measures.”⁴ In this case, those exceptional measures were the broad provisions of the AFNA.

During the same period, then-opposition coalition PH collaborated with members of civil society to resist BN’s securitization efforts and oppose the passage of the AFNA. Notably, this opposition did

3 “Malaysia Seeks 10 Year-Jail Terms for ‘Fake News’,” *BBC*, March 26, 2018, <https://www.bbc.com/news/world-asia-43538109>

4 Barry Buzan, Ole Wæver, and Jaap de Wilde, *Security: A New Framework for Analysis* (Lynne Rienner Publishers, 1998).

not focus on refuting BN's claims about "fake news." Instead, it took the form of **counter-securitization**, arguing that it was BN itself that was the real threat to democracy and the nation. The opposition believed BN's accusations of "fake news" were actually a cover-up for a massive financial scandal (referred to as "1MDB," short for 1Malaysia Development Berhad, a Malaysian development company wholly owned by the Minister of Finance). We argue that these counter-securitization efforts were successful in part because many Malaysians do not experience "fake news" as a threat to national security. Instead, disinformation and online harassment – often lumped together with "cybertrooper" activities – are seen as an unfortunate but inevitable condition of political life.

This report examines how "fake news" was securitized by the Malaysian government in the lead-up to the 14th general election in 2018 and how it was then counter-securitized by civil society and then-opposition candidates. While there is much contemporary work focused on describing and quantifying the spread of "fake news," disinformation, or media manipulation, this report leaves aside the question of how to define "fake news" and to what degree it is present among Malaysia media.⁵ In part, this is because our content analysis revealed that BN used the label "fake news" primarily as a rhetorical tool, importing the meaning of the phrase from foreign figures and sources, rather than drawing it from conditions in Malaysia. In addition, "fake news" carries different meanings for different people in Malaysia, from inaccurate stories to blatant political maneuvering.

Employing a mixed-methods approach, this study uses media analysis and in-field interviews with Malaysians advocating for freedom of expression, many of them civil society actors. Evidence and analysis from these two primary methods are then compared with government statements and news reporting to trace the development of the AFNA, its repeal, and what lessons this holds for groups resisting governmental

5 Gabrielle Lim, "Disinformation Annotated Bibliography," *Citizen Lab*, University of Toronto, May 2019; Chris Tenove, Jordan Buffie, Spencer McKay, David Moscrop, Mark Warren, and Maxwell A. Cameron, "Digital Threats to Democratic Elections: How Foreign Actors Use Digital Techniques," *Centre for the Study of Democratic Institutions*, UBC, 2018, <https://democracy.arts.ubc.ca/2018/01/18/digital-threats/>; Dipayan Ghosh and Ben Scott, "#DigitalDeceit: The Technologies Behind Precision Propaganda on the Internet," *New America*, 2018, <https://www.newamerica.org/public-interest-technology/policy-papers/digitaldeceit/>.

overreach regarding “fake news” in authoritarian or illiberal states. While we believe the securitization of “fake news” will continue to be a powerful tool for authoritarian regimes to influence narratives and exert control over the public sphere, there are methods and opportunities for resistance—even within a constrained information ecosystem.

SECURITIZATION THEORY AND “FAKE NEWS”

The threat of so-called “fake news” is having ripple effects around the world. As discussion of this threat ramps up, it can be used by those in power as justification for new forms of political violence. The Committee to Protect Journalists’ 2018 annual report noted that the number of journalists imprisoned that year on charges of false news rose to 28 (compared with 9 two years ago) and attributed the increase to “heightened global rhetoric about ‘fake news.’”⁶ The use of such heightened rhetoric by states to justify new forms of power is a form of securitization, a common technique of ruling regimes, one that can be attempted by both formal and informal means. One of the benefits of analyzing state efforts through the lens of securitization is that it helps explain how such moves can be resisted. This report draws the concept from Barry Buzan, Ole Wæver, and Jaap de Wilde’s book, *Security: A New Framework for Analysis*, which describes how a state rhetorically transforms an issue or event into a security threat, allowing for extraordinary measures to protect “things that are seen to be existentially threatened and that have a legitimate claim to survival.”⁷ Frequently, as is the case with Malaysia, the object in need of protection is national security and public order, which the state may then deliver, if need be, through its “legitimate use of physical force”

6 Elana Beiser, “Hundreds of Journalists Jailed Globally Becomes the New Normal,” *Committee to Protect Journalists*, December 13, 2018, <https://cpj.org/reports/2018/12/journalists-jailed-imprisoned-turkey-china-egypt-saudi-arabia.php>.

7 Buzan, Wæver, and de Wilde, *Security: A New Framework for Analysis*, 36.

as Max Weber puts it.⁸ Security is therefore not always a universal good, but rather context dependent.

In the case of “fake news,” BN’s securitizing moves relied heavily on images and rhetoric from abroad—much of which has been developed in English-language media from the US and Europe since 2016. Despite the frequent evocation of “fake news” by BN and state-sponsored media, there has never been a clear legal or public sense of what constitutes “fake news” in Malaysia. False and misleading content is already criminalized under other legislation in Malaysia, but this has not previously been organized by the specific term “fake news.” According to a 2018 Ipsos survey, 62% of Malaysians consider “fake news” to mean “stories where the facts are wrong,” but 50% also define it as biased reporting and another 48% as a term for politicians and media to discredit news they don’t like.⁹ Participants from this study also stressed the nebulous quality of the term and that many Malaysians consider “fake news” a part of modern life, not a threat to national security.

By capitalizing on global concerns over disinformation and national security, BN could therefore borrow a mask of credibility to justify the AFNA. For example, Najib, leader of BN, cited American media outlets that had written about disinformation as evidence that social media and fake news were security threats.¹⁰ Malaysia is not the only country to securitize “fake news” by echoing foreign discourse. Regarding Singapore’s recently passed Protection from Online Falsehoods and Manipulation Act, Cherian George, a Singaporean media scholar, describes its passing as an act of “legislative opportunism, riding on

8 Andreas Kalyvas, “Revisiting Weber’s Concept of the Political,” in *Democracy and the Politics of the Extraordinary: Max Weber, Carl Schmitt, and Hannah Arendt* (Cambridge: Cambridge University Press, 2008), 29–45; Giorgio Agamben, in his book *State of Exception*, defines this as the sovereign’s ability to expand state power in supposed times of crisis. During these times, constitutionally guaranteed rights may be diminished or superseded in the name of the public good. Giorgio Agamben, *State of Exception* (University of Chicago Press, 2005).

9 “Malaysians’ Susceptibility Towards Fake News,” Ipsos, October 10, 2018, <https://www.ipsos.com/en-my/malaysians-susceptibility-towards-fake-news>.

10 “Don’t Be Fooled by Fake News, PM Tells Netizens,” *The Star*, November 9, 2017, <https://www.thestar.com.my/news/nation/2017/11/09/dont-be-fooled-by-fake-news-pm-tells-netizens-najib-social-media-vulnerable-to-abuse>.

the global alarm about so-called fake news.”¹¹ The bill, which like the AFNA aims to address “fake news” and disinformation, was widely criticized by rights groups and journalists alike.¹² The law has since been enforced, and Facebook has complied with labeling content deemed “false” by the Singaporean government and linking to government-approved websites. Nigeria has also proposed a law that uses the same language as Singapore’s bill.¹³

Resistance to securitization can take many forms. In the case of Malaysia and the AFNA, rather than refute the securitizing moves of the state, members of the opposition made counter-claims about what the real threat to national security was. These opposing actors largely left the question of “fake news”-as-threat aside, in favor of focusing on the perceived corruption and censorship of BN as a more fundamental threat. We argue that this was a form of what political theorists Holger Stritzel and Sean C. Chang call “counter-securitization.”¹⁴ Although the term has yet to be fully defined within critical security studies, it has been applied to a variety of responses to securitization. Political economist Juha Vuori used the term to refer to Chinese students’ response to the People’s Republic of China’s crackdown on student protests in 1989,¹⁵ while Stritzel and Chang use counter-securitization to illustrate the Taliban’s framing of the government of the Islamic Republic of Afghanistan and NATO as an existential threat to the Afghan people.¹⁶ Counter-securitization therefore resists state claims regarding the dangers of a perceived threat by turning attention to the threat of newly concentrated and unaccountable power that new, extreme “security” measures can produce.

11. Cherian George, “Disinformation: A Debate That Needs to Be Better Informed,” *Freedom from the Press*, October 7, 2019, <https://blog.freedomfromthepress.info/2019/10/07/disinformation-2/>.

12. Ping Tjin Thum and Kristin Han, “Singapore’s ‘Fake News’ Bill: The FAQ,” *New Naratif*, April 9, 2019, <https://newnaratif.com/research/singapores-fake-news-bill-the-faq/>.

13. Timileyin Omilana, “Nigerians raise alarm over controversial Social Media Bill,” *Al Jazeera*, December 18, 2019, <https://www.aljazeera.com/news/2019/12/nigerians-raise-alarm-controversial-social-media-bill-191218130631539.html>.

14. Holger Stritzel and Sean C. Chang, “Securitization and Counter-Securitization in Afghanistan,” *Security Dialogue* 46, no. 6 (December 2015): 548–67, <https://doi.org/10.1177/0967010615588725>.

15. Juha Vuori, *Critical Security and Chinese Politics: The Anti-Falun Gong Campaign* (New York: Routledge, 2014), 99.

16. Stritzel and Chang, “Securitization and Counter-Securitization in Afghanistan,” 548–67.

FROM BLOCKING TO BRIGADING: MALAYSIA'S HISTORY OF INFORMATION CONTROLS

Malaysia has a long history of information controls inscribed by the state into formal laws and policies, many of which were inherited directly from British occupiers. With the rise of new network technologies, the state has introduced new laws and new applications of old laws to maintain a measure of control over public discourse. The result is that dissenting voices are often simply blocked or otherwise censored. More recently, political actors in Malaysia are now involved in less formal information controls, which Malaysians often group together under cybertrooper activities—using brigades of anonymous individuals to perform online harassment and disinformation.

From independence, Malaysia has put in place laws that centralize the control of information and enable censorship. This began when Malaysia inherited the Sedition Act 1948 from its British colonizers and the Internal Security Act 1960, which evolved from the 1948 Emergency Regulations Ordinance, also enacted by the British.¹⁷ Originally used by the British to deter communist activities and opposition to colonial rule, these two pieces of legislation have allowed BN and its various leaders throughout the last six decades to intimidate, censor, and imprison individuals and groups they found threatening to their rule. For example, due to the widespread use of the Sedition Act to arrest people, often for content they had posted online (see Figure 1 below), media frequently referred to this as the “Sedition Dragnet.”¹⁸ The act itself is vaguely worded and criminalizes a broad list of acts, including exciting disaffection “against any Ruler or against any Government”

17 Nicole Fritz and Martin Flaherty, “Unjust Order: Malaysia’s Internal Security Act,” *Fordham International Law Journal* 26, no. 5 (2002), <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1899&context=ilj>; Cheah Boon Kheng, “The Communist Insurgency in Malaysia, 1948-90: Contesting the Nation-State and Social Change,” *New Zealand Journal of Asian Studies* 11, no. 1 (June 2009): 132-52, <http://www.nzasia.org.nz/downloads/NZJAS-June09/14.Cheah.3.pdf>.

18 Stuart Grudgings, “With Sedition Dragnet, Malaysia Takes Step Back to Mahathir Era,” *Reuters*, September 7, 2014, <https://www.reuters.com/article/malaysia-sedition/with-sedition-drag-net-malaysia-takes-step-back-to-mahathir-era-idINKBN0H204C20140907>.

or “against the administration of justice in Malaysia or in any State.” The Internal Security Act, before it was replaced in 2012 with the Security Offences (Special Measures) Act, allowed for detention without trial and had been used in the past to target political members of the opposition. Lim Kit Siang, a longtime leader of the Democratic Action Party (DAP) and current member of Parliament, for example, was detained without trial in 1969 and again in 1987.

In addition, there are a number of media-related laws, such as Section 8A of the Printing Press and Publication Act 1984 (PPPA), which penalizes “false news,” and Section 233(1)(a) of the Communications and Multimedia Act 1998 (CMA), which forbids any communication that is “obscene, indecent, false, menacing or offensive.” Both have been used to arrest individuals and censor content. For example, major news source *Malaysiakini* had its website temporarily blocked under Section 233 of the CMA during GE14, when the government alleged “the public, among others, claim that the results or information contained in the website ‘dilihat kurang tepat’ (appear to be inaccurate).”¹⁹ Further tests conducted by the Sinar Project and members of the Open Observatory for Network Interference (OONI) also confirmed that websites, which had published content on the 1MDB financial scandal, such as *Medium*, *Sarawak Report*, and *The Malaysian Insider* were blocked under BN’s rule. Regarding arrests, since 2015, over 148 arrests had been made under CMA Section 233, overwhelmingly for content posted online. As arrests under the Sedition Act declined in 2016, arrests under CMA increased (see Figure 1 below).

19 “MCMC Explains Why It Blocked M’kini’s GE14 Page,” *Malaysiakini*, May 18, 2018, <https://www.malaysiakini.com/news/425559>.

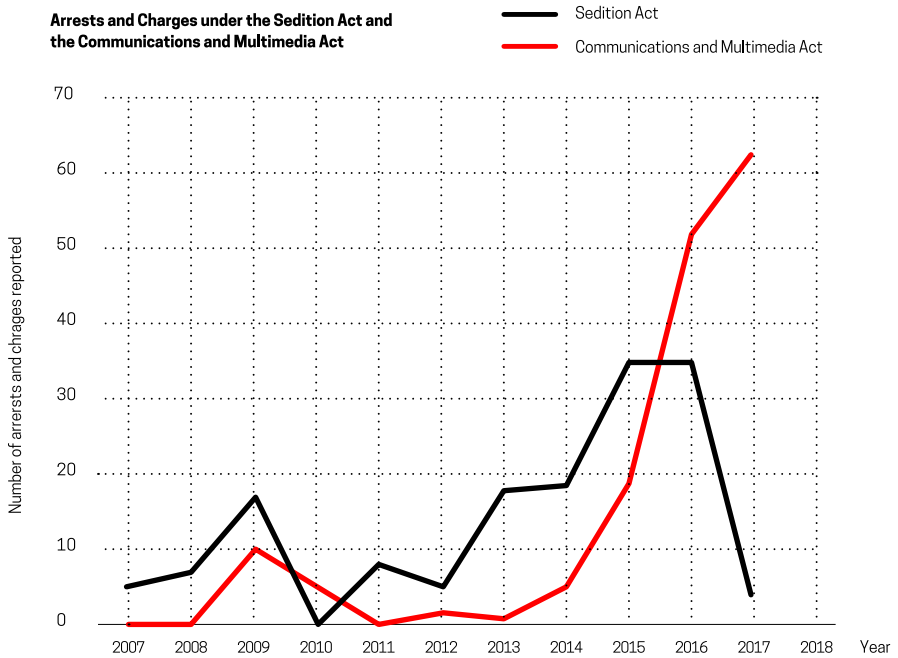


Figure 1: Number of arrests and charges under the Sedition Act and the Communications and Multimedia Act, 2007–2018. Initial dataset was gathered through a search of all articles published by *Bernama* (EN) mentioning “arrest” or “charge” and “Sedition Act” or “CMA.” The dataset was then compared with existing reporting from SUARAM, a local rights monitoring CSO in Malaysia. Where possible, duplicates were removed and unique entries included. Note that this dataset includes only arrests and charges, not investigations.

The rise of cybertroopers

Information controls in Malaysia have expanded to include online tactics. This is likely due to the limited effectiveness of conventional forms of information control; despite the numerous arrests and blocked websites, narratives critical of Barisan Nasional have continued to proliferate, especially over social media, messaging apps, blogs, and both domestic and foreign news outlets.²⁰ Tech-savvy Malaysians, civil society, and independent media have for decades found ways to circumvent censorship, and when stories broken online become too big, mainstream media and politicians have been forced to respond.²¹ As such there has been a noticeable increase in online tactics of information control. These include “brigading” (whereby scores of anonymous or pseudonymous accounts disseminate the same message repeatedly to drown out authentic comments) and distraction (partisan or sensitive content used to divert readers from critical content).

Many in Malaysia see state-sponsored trolling as a near-quotidian activity. According to Tan Meng Yoe, a lecturer in communication at Monash University in Selangor, “The leadership agreed that the major reason why they lost was that they lost the social media war. So after that they poured a lot of money into this so-called cyber-warfare.” This cyber warfare included cybertrooper activity, which in Malaysia refers to the flooding of partisan content in an effort to drown out others or sway public opinion. Cybertroopers are sometimes bots (automated accounts) but also include humans that are politically motivated or working for hire. BN has openly admitted to hiring cybertroopers

20 Ross Tapsell, “The Smartphone as the ‘Weapon of the Weak’: Assessing the Role of Communication Technologies in Malaysia’s Regime Change,” *Journal of Current Southeast Asian Affairs* 37, no. 3 (December 2018): 9–29, <https://doi.org/10.1177/186810341803700302>; Merlyna Lim, “Sweeping the Unclean: Social Media and the Bersih Electoral Reform Movement in Malaysia,” *Global Media Journal* 14, no. 27 (2016), <http://www.globalmediajournal.com/open-access/sweeping-the-unclean-social-media-and-the-bersih-electoral-reform-movement-in-malaysia.php?aid=83245>; Samsudin A. Rahim, “What Can We Learn About Social Media Influence in the Malaysian 14th General Election?” *Journal of Asian Pacific Communication* 29, no. 2 (August 2019): 264–80, <https://doi.org/10.1075/japc.00033.rah>.

21 Jo-Ann Ding, Lay Chin Koh, and Jacqueline Ann Surin, *Mapping Digital Media: Malaysia*, Open Society Foundations (2013), <https://mediamalaysia.net/wp-content/uploads/2013/09/20130617-mapping-digital-media-malaysia.pdf?page=54>.

in the thousands and incorporating them into its elections strategy.²² One of the more famous cases involved Syarul Ema, nicknamed “Queen of Dragons” for her role in running pro-Barisan information operations. Although now pro-PH, Ema admitted to running a seven-year “misinformation operation” for BN. She claimed to have managed 80 cybertroopers and thousands of fake social media accounts, stoking racial or religious anger to distract from 1MDB or discredit the PH candidates.²³

Indeed, while the majority of participants felt that “fake news,” as described by BN, was not a national security threat and were against any legislative solutions, most agreed that disinformation and targeted online harassment need to be addressed.²⁴ However, participants overwhelmingly also agreed that disinformation, “fake news,” and cybertroopers are here to stay, are “incurable,” and have become normalized as part of daily life and politics. As one participant put it, “I think it’d be a problem anywhere. Yes. Like I said, we got all these fault lines in Malaysia. And so we are always susceptible to fake news. We’re always going to be stuck with fake news.” Cybertrooper activity has thus become a regular fixture in domestic politics—an ongoing “propaganda war” as another participant put it.

Recent studies confirm the ubiquity of online information operations in Malaysia. In an analysis of “fake news” and cybertrooper activity, researcher Gulizar Hacıyakupoglu found that bots and cybertroopers are pervasive elements of political discourse in Malaysia on both sides, citing the use of anti-PH campaigns run by Twitter bots and allegations that the DAP (a PH coalition party) was running its own cybertroopers, known as the Red Bean Army (though this has been refuted by the

22 M.F. Darwis, “Saifuddin: Cybertroopers, Social Media Key to BN’s GE13 Success,” *The Malaysian Insider*, October 14, 2012, <http://www.themalaysianinsider.com/litee/malaysia/article/saifuddin-cybertroopers-social-media-key-to-bns-ge13-success>; R. Anand, “BN Turns to 10,000 Cyber-Troopers,” *Malay Mail*, June 6, 2012, <https://web.archive.org/web/20120616115147/http://www.mmail.com.my/story/bn-turns-10000-cyber-troopers>.

23 Peter Guest, “‘Queen of Dragons’: The Inside Story of Malaysia’s Election Fixer,” *Wired*, May 9, 2018, <https://www.wired.co.uk/article/election-malaysia-2018-general-fake-news-day-2008-syarul-ema>.

24 While the majority of participants were against legislation targeting “fake news,” two said that they would like to see civil action as a means of redress for those who had been harmed by false and misleading information.

DAP and one journalist interviewed for this study).²⁵ A 2018 report by Oxford's Computational Propaganda Project also identified the use of social media influence operations by government agencies, politicians and political parties, and private contractors in Malaysia.²⁶

Several participants also responded that they or their organizations have been targeted by cybertrooper tactics. While some found the comments amusing, others felt unsafe, engaged in self-censorship, or shut down their social media accounts. According to one participant who was attacked both off- and online following her reporting on a BN event:

I was personally targeted by cyber troopers and fake accounts somewhere in March [2019] where I reported on an event involving our former premier [Najib]. During the event, a group of protesting students were assaulted and I myself was assaulted. After the whole fiasco went viral, the comment section and online networking sites (Twitter, Facebook) went nuts. ... I also kept a minimal online presence during that time and locked all my social media accounts to avoid being recognized and harassed further. My physical activities were also limited as I was worried that I might be attacked physically whilst being out.

Another journalist and editor also spoke of aggressive cybertrooper activity. Following the publication of a piece about then-Prime Minister Najib, they were harassed and threatened online:

[It] was scary because [the cybertroopers] were talking about bomb threats and such, and [name omitted] and I were legit checking under our cars in the morning that week. Like, we know the chances were almost zero (or they could have just jumped us), but the paranoia gets the better of you.

25 Gulizar Hacıyakupoglu, "The 'Fake News' Label and Politicization of Malaysia's Elections," *NATO Strategic Communications* 5 (Autumn 2018): 87-128, <https://doi.org/10.30966/2018.RIGA.5.3>; "How About Investigating Red Bean Army First? Kit Siang Asks Putrajaya," *Malay Mail*, February 7, 2018, <https://www.malaymail.com/news/malaysia/2018/02/07/how-about-investigating-red-bean-army-first-kit-siang-asks-putrajaya/1572177>.

26 Samantha Bradshaw and Philip N. Howard, "Challenging Truth and Trust: A Global Inventory of Organized Social Media Manipulation," *Oxford Internet Institute*, 2018, <http://comprop.oi.ox.ac.uk/wp-content/uploads/sites/93/2018/07/ct2018.pdf>.

Other participants confirmed this activity across multiple platforms and stressed that there was little to no recourse from the social media platforms. One journalist interviewed said that her Instagram account was “bombarded by hate comments, with many originating from either cyber troopers or those egged on by cyber troopers,” while her Twitter account was targeted with “mass spamming by bots.” She eventually shut down her Facebook account due to the lack of recourse from Facebook. Another editor and journalist interviewed also found that any attempts to flag hate speech or harassment were futile:

They can basically write, kill Jew, [bunuh yahudi] in Malay. But nothing will happen. Because they don't have the AI to flag, this one is hate speech. So from my perspective that's the frustration because [the social media companies] go on about how we're fighting again these right-wing elements on our platform. But it's very European and America centric. Yeah I know the language barrier and everything but there should be a more concentrated effort to do that in our region.

The journalists and editors interviewed also noted that their outlets' mastheads and branding had been spoofed to spread false information or their articles were re-contextualized to mislead readers. The participants' responses varied case by case. One editor noted that they would usually alert their readers if such activity was going on. Another would try to respond or clarify within the comments and correct any false information that was being posted. Regarding false information being posted on their website, one editor also noted that they felt it was part of their job:

In these situations, I just take it as being part of the job. I usually try to respond/clarify in the comments, but it's for the sake of unsuspecting readers rather than the OP [original poster] itself. In most instances, the attacks aren't personal except for two instances — my articles on Islam, and an article I wrote about Najib's National Special Operation's Force which incurred the wrath of pro-army nuts.

However, despite the harassment, disinformation, and activity attributed to cyber troopers, the participants generally felt that traditional censorship is still more detrimental to freedom of expression than cyber trooper activity, especially given the history of arrests and

intimidation under the various media and security-related laws. Yet, as the interviews also show, the impacts of online tactics are still harmful and may have a chilling effect on public expression. This raises questions over how individuals and vulnerable groups are to navigate a highly contested public sphere where censorship continually shifts between old and new information controls. Populations living under authoritarian or illiberal regimes must face difficult constraints when asking for online safety and security lest they invoke government overreach.

SECURITIZING “FAKE NEWS”

Amid historical information controls and new online tactics, BN attempted to create a public narrative that established “fake news” as a threat to national security. While BN imported much of this securitizing rhetoric from US and European media, it focused its attacks on independent domestic news and social media content. In recent years, Malaysians have increasingly shifted their news consumption from legacy news outlets, traditionally under the influence of BN coalition parties, to alternative sources on social media, messaging apps, and independent websites and blogs.²⁷ In this section, we track the public statements of BN focused on “fake news” and security to show how the party used these efforts to try and win an election, deflect from a scandal, and discredit its opposition.

BN’s use of global concerns over “fake news” in 2018 was a continuation of a long-running cyberwar rhetoric. Following the 12th general election in 2008, for example, BN blamed the loss of its two-thirds majority in Parliament on its losing the “internet war.”²⁸ In 2013,

27 Ross Tapsell, “Malaysia’s Government Silencing Dissent,” *East Asia Forum*, March 30, 2016, <https://www.eastasiaforum.org/2016/03/30/malaysias-government-silencing-dissent>.

28 Ross Tapsell, “The Smartphone as the ‘Weapon of the Weak,’” 9-29.

Najib described GE13 as Malaysia's first "social media election."²⁹ And in 2017, Najib called on BN cyber activists to go on the offensive: "We have long been in defensive mode. Enough. It is now time to attack!"³⁰ Najib also stated that GE14 would be the "mother of all elections" and that one of the main conflicts would again be over cyberspace—a battle he conceded that his party, the United Malays National Organization (UMNO), had lost in both the 12th and 13th general elections.³¹

During the 2018 runup to the 14th general election, BN pushed several securitizing narratives through state-controlled media and public political statements. In an analysis of five government-influenced news outlets, we identify three primary narratives:

- "fake news" is a threat to Malaysia's safety, public order, and security;
- "fake news" is proliferating across social media; and
- "fake news" will increase as the election nears.

These narratives were disseminated over mainstream media with the number of articles sharply increasing in the six months prior to the election (see Figure 2). The outlets analyzed for this study are *Bernama* (English), *Bernama* (Malay), *The Star* (English), *The New Straits Times* (English), and *Berita Harian* (Malay). *Bernama* was chosen because it is the government's news agency and is under the control of the Ministry of Communications and Multimedia, thus it has the most direct relationship with the ruling administration. *The Star*, *The New Straits Times* (NST), and *Berita Harian* are majority-owned by BN coalition members. For more information on the news outlets analyzed and the methods used, see Appendices 1 and 2.

29 Mohd Azizuddin Mohd Sani, "The Social Media Election in Malaysia: The 13th General Election in 2013," *Kajian Malaysia* 32, supp. 2 (2014): 123–47, https://www.researchgate.net/publication/282909553_The_social_media_election_in_Malaysia_The_13th_general_election_in_2013; Yvonne Lim, "PM: GE13 Will Be Malaysia's 1st 'Social Media Election,'" *The Star*, February 27, 2013, <https://www.thestar.com.my/news/nation/2013/02/27/pm-ge13-will-be-malysias-1st-social-media-election>.

30 "Najib Tells BN Cyber Activists to Go on the Attack," *Malaysiakini*, April 14, 2017, <https://www.malaysiakini.com/news/379297>.

31 Alyaa Azhar, "PM: GE14 'Mother of All Elections,'" *Malaysiakini*, November 4, 2017, <https://www.malaysiakini.com/news/400766>.

I conducted two sets of content analysis on the news media dataset: the first quantified how often these articles contained the terms “fake news” and either “social media” or “election” or all three terms; the second quantified how often the term “fake news” appeared alongside security terms, such as “national security,” “public order,” or “threat.” Tables 1 and 2 show the article counts for each outlet and the percentage containing the terms.

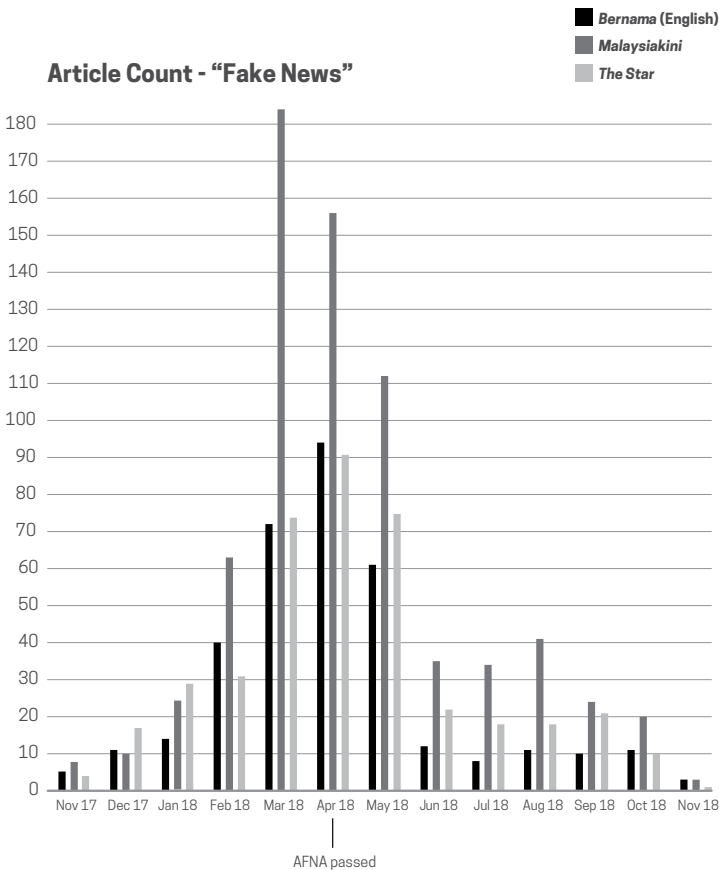


Figure 2: The number of articles published that contain the keywords “fake news” for Bernama (English), the government’s official news agency, *The Star*, owned by a BN coalition party, and *Malaysiakini*, an independent media outlet. Further details and analysis, including the other outlets, can be found in [Appendix 2](#).

Outlet	"Fake news" and "social media" articles (%)	"Fake news" and "election" articles (%)	"Fake news," "social media," and "election" articles (%)
<i>Bernama</i> (EN)	117 (55.0%)	117 (55.0%)	59 (27.8%)
<i>Bernama</i> (BM)	119 (45.6%)	81 (31.0%)	44 (16.9%)
<i>Berita Harian</i>	93 (56.7%)	74 (45.1%)	42 (25.6%)
<i>The Star</i>	113 (40.4%)	109 (38.9%)	51 (18.2)
NST	74 (60.2%)	71 (57.7%)	33 (26.8%)
<i>Malaysiakini</i>	115 (23.1%)	290 (58.2%)	75 (15.1%)

Table 1: Article counts for each outlet showing the percentage of the articles containing "fake news" that also included the terms "social media," "election," or both "social media" and "election."

Outlet	"Fake news" and "threat" articles (%)	"Fake news" and "national security" articles (%)	"Fake news" and "public order" or "public disorder" articles (%)
<i>Bernama</i> (EN)	19 (9.0%)	17 (8.0%)	18 (8.5%)
<i>Bernama</i> (BM)	23 (8.8%)	26 (10.0%)	21 (8.0%)
<i>Berita Harian</i>	23 (14.0%)	25 (15.2%)	8 (4.9%)
<i>The Star</i>	27 (9.6%)	34 (12.1%)	22 (7.9%)
NST	17 (13.8%)	16 (13.0%)	8 (6.5%)
<i>Malaysiakini</i>	51 (10.2%)	54 (10.8%)	32 (6.4%)

Table 2: Article counts for each outlet showing the percentage of the articles containing "fake news" that also included the terms "threat," "national security," or "public order" or "public disorder."

Narrative 1 "Fake news" is on the rise and overwhelming the internet

Throughout 2018, the five news outlets of the Barisan Nasional coalition repeatedly linked "fake news" with the ubiquitous use of social media, painting online platforms, such as Facebook and Twitter, as untrustworthy and inundated with false information. On the day of GE14, for example, *The Star* published a piece with the headline, "Beware of tsunami of fake news."³² The author warned readers about

32 Philip Golangai, "Beware of Tsunami of Fake News," *The Star*, May 9, 2018, <https://www.thestar.com.my/news/nation/2018/05/09/beware-of-tsunami-of-fake-news-dont-let-what-you-hear-over-messaging-apps-cloud-your-better-judgment/>.

specific forms of potential misinformation, such as false reports of violence or election outcomes. *Bernama* published a similar piece titled, “Prime Up For Defamation Deluge, UMNO IT Machinery Told.”³³ In another article, Malaysian Communications and Multimedia Commission Chief Operating Officer Mazlan Ismail is quoted as saying that the number of fake news reports detected by *Sebenarnya.my* (a government-run fact-checking portal) had increased by almost 100%.³⁴ *Sebenarnya.my*, however, has also been accused of distorting facts and biasing reporting.

Those articles promoting the rising “fake news” narrative also explicitly named Facebook and Twitter, calling them out for propagating politically motivated false information, slander, and gossip. They also targeted WhatsApp, which is the most widely used messaging app in Malaysia, and where an increasing number of Malaysians get their news.³⁵ Shortly after the AFNA was passed, for example, the news outlets examined here published articles with headlines like “Admin Kumpulan Whatsapp perlu Bendung Ahli Sebar Fitnah” (“Whatsapp Group Admin Needs to Block Slander”)³⁶ and “Audio Content On Whatsapp Relating To Rosmah Fake News.”³⁷

Narrative 2 GE14 will be inundated with “fake news”

A second narrative common across all BN-influenced outlets was that GE14 coverage, in particular, would be filled with “fake news,” primarily from then-opposition coalition, PH. Various articles allege an ongoing cyberwar with PH’s cybertroopers. Headlines like “Fake news surging in GE14”³⁸ and “Opposition Pro-Fake News”³⁹ argue

33 Nor Baizura Basri, “Prime up for Defamation Deluge, Umno It Machinery Told,” *Bernama Daily Malaysian News*, May 9, 2018.

34 Beatrice Nita Jay and Mohd Nasaruddin Parzi, “Fake News Surging in GE14,” *New Straits Times*, May 4, 2018, <https://www.nst.com.my/news/politics/2018/05/365442/fake-news-surging-ge14>.

35 Zaharom Nain, “Malaysia – 2018,” *Reuters Digital News Report*, <http://www.digitalnewsreport.org/survey/2018/malaysia-2018/>.

36 “Admin kumpulan Whatsapp perlu bendung ahli sebar fitnah,” *Berita Harian*, April 27, 2017.

37 Kamarul Irwan Alias, “Audio Content on Whatsapp Relating to Rosmah Fake News – PMO,” *Bernama*, April 26, 2018.

38 Jay and Parzi, “Fake News Surging in GE14,” *New Straits Times*.

39 Nurul Huda Ahmad Lutfi, “Opposition Pro-Fake News – Ahmad Bashah,” *Bernama*, April 4, 2018.

not only that GE14 will be surrounded by “fake news” but that the primary creators of it will be PH. In “Opposition Pro-Fake News,” published by *Bernama*, the author alleges that PH’s promise to repeal the Anti-Fake News Act is proof that it is actually an advocate of “fake news.” In another article, Najib is quoted as saying, “Use social media wisely and do not be like the opposition, which spreads fake news through #TsunamiPHitnah, which can jeopardise the country’s harmony.”⁴⁰ Other pieces called PH coalition member DAP a “slander factory”⁴¹ and alleged that it is engaging in “psy-war.”⁴²

Narrative 3 “Fake news” is a security threat

The final primary narrative to emerge from the BN-influenced outlets is that “fake news” is a security threat that requires legislation. These articles used the language of national security as well as frequent references to Western concerns regarding disinformation. As shown in the content analysis (see Appendices 1 and 2), some articles containing the term “fake news” also included terms like “threat,” “national security,” and “public order.” These articles presented the idea that social media and disinformation are a threat to democracy—arguments that have been frequently published across Western news outlets and academic scholarship. For example, the *Washington Post*,⁴³ *Forbes*,⁴⁴ Omidyar Foundation,⁴⁵ the *Guardian*,⁴⁶ and the *Economist*⁴⁷ have all published articles arguing that disinformation and social media are

40 Suzanna Pillay, “PM: Put People First,” *New Straits Times*, May 3, 2018, <https://www.nst.com.my/news/politics/2018/05/364920/pm-put-people-first>.

41 “Najib: DAP a Slander Factory,” *New Straits Times*, May 7, 2018.

42 “Opposition Creating Victory Illusion,” *New Straits Times*, 9 May 2018.

43 Robert Gebelhoff, “Here’s How Social Media Could Threaten Democracy — Even Without the Help of Russians,” *The Washington Post*, September 11, 2019, <https://www.washingtonpost.com/opinions/2019/09/11/heres-how-social-media-could-threaten-democracy-even-without-help-russians/>.

44 Kalev Leetaru, “A Reminder Than Social Media Platforms Are Now The Greatest Threat To Democracy,” *Forbes*, April 25, 2019, <https://www.forbes.com/sites/kalevleetaru/2019/04/25/a-reminder-than-social-media-platforms-are-now-the-greatest-threat-to-democracy/>.

45 Pierre Omidyar, “Is Social Media a Threat to Democracy?” *The Omidyar Group*, October 9, 2017, <https://www.omidyargroup.com/point-of-view/>.

46 John Naughton, “Social Media Is an Existential Threat to Our Idea of Democracy,” *The Guardian*, December 23, 2018, <https://www.theguardian.com/commentisfree/2018/dec/23/social-media-existential-threat-idea-democracy>.

47 “Do Social Media Threaten Democracy?” *The Economist*, November 4, 2017, <https://www.economist.com/leaders/2017/11/04/do-social-media-threaten-democracy>.

a threat to national security. Similarly, these arguments have been shared among scholars and US politicians alike.⁴⁸

BN's news coalition made a lot of use of the global (and often Western-led) discourse on disinformation and social media. For example, then-Deputy Prime Minister and Home Minister Ahmad Zahid Hamidi, was quoted in *The Star* and *NST* as saying, "Fake news is harmful to the country and it is the responsibility of the Government to neutralise the danger it poses," and "It raises the question of how far the security and defence establishments should evolve and respond."⁴⁹ Azalina Othman Said, the minister who tabled the AFNA, was also quoted in *The Star*: "As technology advances with time, the dissemination of fake news becomes a global concern and more serious in that it affects the public."⁵⁰

Disinformation and "fake news," though a decades-old problem that has been documented in Malaysia and confirmed by participants, was not generally seen as a national security threat until after 2016 when US President Donald Trump popularized the term and fears of foreign influence operations increased among government officials, scholars, and political commentators. When the AFNA was first tabled, Fadhlullah Suhaimi Abdul Malek, a senior official with the Malaysian Communications and Multimedia Commission, stressed that "fake news has become a global phenomenon, but Malaysia is at the tip of the spear in trying to fight it with an anti-fake news law.

48 Maggie Miller, "House Dems Introduce Bill to Fight Social Media Disinformation," *The Hill*, October 11, 2019, <https://thehill.com/policy/national-security/465464-house-dems-introduce-bill-to-fight-social-media-disinformation>; Sabrina Siddiqui, "Half of Americans See Fake News as Bigger Threat Than Terrorism, Study Finds," *The Guardian*, June 7, 2019, <https://www.theguardian.com/us-news/2019/jun/06/fake-news-how-misinformation-became-the-new-front-in-us-political-warfare>; Rand Waltzman, *The Weaponization of Information: The Need for Cognitive Security* (Santa Monica, CA: RAND Corporation, 2017), <https://www.rand.org/pubs/testimonies/CT473.html>.

49 Hidir Reduan and Che Wan Badrul Alias, "Zahid Deems GE14 as 'Crazy Season' for Fake News, Labels It a Threat to National Security," *New Straits Times*, April 17, 2018, <https://www.nst.com.my/news/nation/2018/04/358461/zahid-deems-ge14-crazy-season-fake-news-labels-it-threat-national>; Farik Zolkepli, Austin Camoens, and Justin Zack, "Govt Wants to Stop 'Fake News,'" *The Star*, April 18, 2018, <https://www.thestar.com.my/news/nation/2018/04/18/govt-wants-to-stop-fake-news-dpm-measures-put-in-place-not-to-silence-critics-but-for-awareness>.

50 Hemananthani Sivanandam and Tarrence Tan, "Anti-Fake News Bill Tabled in Dewan Rakyat," *The Star*, March 26, 2018, <https://www.thestar.com.my/news/nation/2018/03/26/anti-fake-news-bill-tabled-in-dewan-rakyat>.

When the American president made ‘fake news’ into a buzzword, the world woke up.” According to Gayathry Venkiteswaran, a former journalist in Malaysia and assistant professor of media and politics, “fake news” is not an established problem in Malaysia and its effects are likely exaggerated.⁵¹ However, this moment of legislative opportunism allowed BN to capitalize on the rising tide of global fears concerning false information and social media.

Malaysiakini Similar trends but critical narratives

Malaysiakini, the sole independent news outlet included in this study, exhibited similar trends in the number of articles published and the content analyzed. Like the government-controlled outlets, content analysis shows similar percentages regarding the terms analyzed (except for “social media,” which was far lower). However, there were key differences in the types of narratives and perspectives presented. While there were articles regarding the proliferation of “fake news” across social media and in the upcoming election, *Malaysiakini* was more likely to publish criticism of the AFNA by providing coverage to PH candidates and rights’ groups calling for the repeal of the act. In the months preceding GE14, for example, the independent news outlet published articles and letters from Lawyers for Liberty,⁵² opposition candidate Lim Kit Siang,⁵³ the Malaysian Bar Council,⁵⁴ local human rights organization Suara Rakyat Malaysia (SUARAM),⁵⁵ and Amnesty International.⁵⁶

51 Gayathry Venkiteswaran, “Fake News Still a Crime in Malaysia,” *The Star*, September 23, 2018, <https://www.thestar.com.my/news/nation/2018/09/23/fake-news-still-a-crime-in-malaysia-in-this-transition-period-where-rules-are-constantly-being-negot/>.

52 Eric Paulsen, “How to Not Draft a Fake News Law,” *Malaysiakini*, March 31, 2018, <https://www.malaysiakini.com/news/417834>.

53 Lim Kit Siang, “An Open Letter to the 15 Million Voters Before May 9,” *Malaysiakini*, May 7, 2018, <https://www.malaysiakini.com/news/423555>.

54 George Varughese, “The New Government Must Prioritise Law Reform,” *Malaysiakini*, May 7, 2018, <https://www.malaysiakini.com/letters/423583>.

55 Anusha Arumugam, “Press Freedom in Malaysia — Whither Rule of Law?” *Malaysiakini*, May 3, 2018, <https://www.malaysiakini.com/news/422919>.

56 Amnesty International Malaysia, “GE14: Next Government Must Prioritise Human Rights,” *Malaysiakini*, May 7, 2018, <https://www.malaysiakini.com/letters/423465>.

Headlines like “How to not draft a fake news law”⁵⁷ and “Stop all fake news charges pending review, says lawyers’ group”⁵⁸ provided viewpoints from advocates of freedom of expression, while articles like “Wan Azizah: Harapan will do away with laws restricting media freedom”⁵⁹ provided coverage of PH’s promise to repeal the AFNA should it win the election. Furthermore, *Malaysiakini* mounted a legal challenge against the AFNA, arguing the bill was unconstitutional and in violation of Malaysia’s constitution, in particular Articles 5 and 10, which concern liberty of the individual and freedom of speech.⁶⁰

Ultimately, although *Malaysiakini* utilized the term “fake news” in its reporting, its overall perspective offered a more critical viewpoint of the AFNA and, as I show later, an avenue for counter-securitizing efforts for civil society and PH politicians—namely by framing the AFNA as a means to cover up 1MDB, as a tool for censorship and a threat to freedom of expression, and as BN’s “last desperate attempt” before GE14 to try and control the narrative. Furthermore, while “fake news” was certainly covered by *Malaysiakini*, other issues like 1MDB were afforded far more coverage. In the six months prior to GE14, *Malaysiakini* published 1,064 articles mentioning 1MDB, compared to 498 containing “fake news.”

WEAK SECURITIZATION IN A COMPETITIVE AUTHORITARIAN STATE

Based on the analysis of mainstream media’s articles containing the term “fake news,” public statements from members of BN, and

57 Paulsen, “How to Not Draft a Fake News Law.”

58 “Stop All Fake News Charges Pending Review, Says Lawyers’ Group,” *Malaysiakini*, April 30, 2018, <https://www.malaysiakini.com/news/422283>.

59 “Wan Azizah: Harapan Will Do Away with Laws Restricting Media Freedom,” *Malaysiakini*, May 3, 2018, <https://www.malaysiakini.com/news/422886>.

60 Hafiz Yatim, “Malaysiakini Mounts Constitutional Challenge Against Anti-Fake News Act,” *Malaysiakini*, April 27, 2018, <https://www.malaysiakini.com/news/421823>.

participant interviews, the term “fake news” appears to have performed two functions for BN: (1) to discredit critical and opposition voices and (2) to legitimize the passing of the AFNA, which could then be selectively used for censorship. BN in effect borrowed the term “fake news” from President Trump to discredit opponents, adapting the concerns of Western scholars, journalists, and politicians in order to brand social media-based news as a national security threat. However, BN’s efforts to securitize “fake news” were unsuccessful for a variety of reasons: national security fatigue, the declining credibility of establishment news outlets, alternative narratives and concerns that likely dwarfed BN’s securitizing moves, and the loss of GE14. When the AFNA was repealed following GE14, there was close to no public pushback, further indicating that the issue of “fake news” had not been successfully securitized. The Malaysian public, in effect, had not accepted its framing as a threat warranting special measures.

Most of the participants interviewed are aware that disinformation, harassment, and cybertrouper activity are a problem, but most are also against criminalizing “fake news.” Even after GE14, with PH having won control of the government and repealed the AFNA, participants are still wary of any legislation on the issue, for fear that it would be used in the future, either by PH or BN, to silence critical voices. For the participants interviewed, as with much of the world, addressing the harms of disinformation, “fake news,” and online harassment without enabling future censorship remains elusive.

National security fatigue

Due to decades of censorship in the name of national security and public order, participants and PH candidates viewed the securitization of “fake news” as a ruse to silence criticism of BN, Najib, and 1MDB. BN has previously used the Sedition Act and the Communications and Multimedia Act to silence criticism.⁶¹ Similar to these laws, the AFNA was passed under the pretense that it would serve national security. But like the boy who cried wolf, the term “national security” may have lost some of its rhetorical power. As one participant put it:

61 Grudgings, “With Sedition Dagnet, Malaysia Takes Step Back to Mahathir Era”; “Bersih Claims Sedition Dagnet a Red Herring from GST, Redelineation,” *Malay Mail*, September 5, 2014, <https://www.malaymail.com/news/malaysia/2014/09/05/bersih-claims-sedition-dagnet-a-red-herring-from-gst-redelineation/740475>.

You cannot dump everything as a national security issue and that is a problem. So nothing happened when they came out with the Anti-Fake News Act. Nothing destabilized the country anyway. So what are you talking about? Nothing has happened. Nothing. The only thing that happened is a change in government because people didn't trust you. And that's it. So this whole entire argument is, I, I wouldn't buy it.

Other participants felt similarly, that such securitizing moves were merely for political interests. Regarding the use of censorship in Malaysia, one participant responded: “When you ask the then government, the answer is almost always national security.” Another participant stressed that the AFNA was just another in a long line of censorship-enabling legislation: “The fake news law is just one extra bit on top of an already large cake on top of all the other stuff that they can use.” In general, the participants felt that the AFNA was simply “another one on top of the onslaught” of laws for controlling the flow of information and intimidating would-be dissidents. An editor of a prominent independent news site noted this, stressing that the security rhetoric may have backfired:

I mean the main aim is to intimidate everybody. To spook everybody. Maybe not to go and arrest somebody ... but it is in a sense to tell people that look, don't speak out, you know, fear the government kind of thing. I think that was the intention. Now of course, as I say by that time people are no longer—they already lost their fear. So I think, you know, it didn't have the intended results.

Furthermore, BN's claims lacked concrete examples applicable to Malaysia. Instead, BN tended to crib directly from existing Western discourse of “fake news” and disinformation. Najib, for example, cited the *Economist* when referring to “fake news” and “social media” as a threat.⁶² Communications and Multimedia Minister Salleh Said Keruak, similarly, cited German, French, and British counter-disinformation efforts as justification that Malaysia needed to address

62 “Don't Be Fooled by Fake News, PM Tells Netizens,” *The Star*.

“fake news.”⁶³ Lacking any meaningful evidence that “fake news” was indeed a threat to Malaysia’s security, these claims of national security and allusions to Western concerns were especially unconvincing to PH candidates and the participants.

Declining credibility of mainstream media

Compounding the unconvincing narrative that “fake news” is a threat, BN-influenced mainstream news outlets had been declining in trustworthiness over the years. According to the 2017 and 2018 *Reuters Digital News Reports*, only 29% and 30% surveyed reported trusting local news media due to political and state influence and profuse propaganda.⁶⁴ *Malaysiakini*, which is still generally trusted by Malaysians, is the most visited online news source, with 44% of respondents saying they had used the service in the last week, compared with just 32% and 24% for *The Star* and *Berita Harian*.⁶⁵ The low credibility of these sources is likely to have negatively impacted the audience’s reception of BN’s securitizing moves. One participant noted that anyone using the term “fake news” would likely be seen as a fool: “So no one takes them seriously. So when they use [the term ‘fake news’], it just makes him more comical.”

Opportunities for attack

BN’s securitizing moves also opened it up to attack from civil society organizations and PH politicians (further detailed in the next section). Several participants noted that the flooding of mainstream media with talk of “fake news” and the AFNA invoked a backlash that allowed BN’s legitimacy and credibility to be questioned. One participant, for example, felt that the AFNA may have instead made people angrier, deepening their resolve against BN:

63 Salleh Said Keruak, “Salleh Said: Fake News Undermines Democracy,” *The Star*, April 2, 2018, <https://www.thestar.com.my/news/nation/2018/04/02/salleh-said-fake-news-undermines-democracy/>.

64 Zaharom Nain, “Malaysia – 2017,” *Reuters Digital News Report*, <http://www.digitalnewsreport.org/survey/2017/malaysia-2017/>; Nain, “Malaysia – 2018.”

65 Nain, “Malaysia – 2017,” and Nain, “Malaysia – 2018.”

I think it only fueled the anger even more, and people like, you know, it just, you know, [they just said] screw this. You know, I've had enough and more than anything I think people wanted, you know what, it's really overdue that we have a change of government regardless of what it is. ... So I think if anything, you just feel the resolve to—it just worked against the previous government.

Meanwhile, PH politicians jumped on the AFNA as a means to frame BN as intolerant of dissent and desperate to cover up anything pertaining to corruption or 1MDB. PH politician and longtime critic of BN Lim Kit Siang called the Anti-Fake News Act a “Save Najib from 1MDB Scandal” and said that “Malaysia would have made world history in discovering a new weapon to cover-up corruption, in particular the 1MDB corruption and money-laundering scandal.”⁶⁶ Mahathir, on his personal blog, called on UMNO members to reject Najib and the AFNA, calling the act a means to block 1MDB-related content and chastised UMNO members for supporting an “illegal government” should BN win GE14.⁶⁷

COUNTER-SECURITIZING “FAKE NEWS”

As BN continued to securitize “fake news” through mainstream media and public statements linking the phrase to social media and national security, civil society and PH politicians worked to combat this narrative and the AFNA. The following section details these efforts and is based on participant interviews and public statements from PH politicians and civil society organizations.

66 Kenneth Tee, “Kit Siang: Dr M Would Have Been First Malaysian Charged Under Anti-Fake-News Act if BN Still in Power,” *Malay Mail*, September 24, 2019, <https://www.malaymail.com/news/malaysia/2019/09/24/kit-siang-dr-m-would-have-been-first-malaysian-charged-under-anti-fake-news/1793773>.

67 Mahathir Mohamad, “Anti ‘Fake News’ Law,” *Chedet*, March 27, 2018, <http://chedet.cc/?p=2822>.

Notably, the opposition's narratives – coordinated between members of civil society and PH politicians – did not refute claims that “fake news” is harmful or a threat. Instead, opponents of the AFNA engaged in counter-securitization by framing Najib and BN as corrupt individuals who threaten the civil liberties of everyday Malaysians. Few, if any, attempts were made to diminish the harms of “fake news,” which many of the participants did say was an issue (though perhaps not at the level of national security). Rather, civil society and PH politicians attacked the motivations of the BN government, the 1MDB scandal, and the AFNA as a threat to freedom of expression. These challenges were disseminated over the internet, through a legal challenge, in public events, and in the news.

Constant and open criticism of the AFNA

The majority of participants described having publicly spoken out against the AFNA, generally without fear of reprisal. As one participant said, “We seem to have crossed some kind of Rubicon,” referring to the relative openness in 2018 compared to the years before when the Sedition and Internal Security Acts were used to surveil, intimidate, arrest, and censor individuals. Now, even with the threat of arrest hanging in the air, criticism of BN was comparatively open and frequent. And despite the arrests of prominent activists and journalists, news regarding 1MDB, Najib, and BN proliferated throughout independent news sites, blogs, and social media. One participant, a journalist and columnist, said that the fear that once gripped Malaysians in the past had subsided, especially with the youth:

We have all these young kids who have not known fear, who don't know how to be afraid. They don't know how to be afraid. So and you have the older generation, not just their parents, but politicians who're like, “Why aren't they listening to us? Why can't we tell people what to say anymore? Why can't we shut this down? Why can't we make this disappear?”

Many of the participants published op-eds, spoke on radio and TV, and provided comments to media outlets both foreign and domestic. Those with a personal platform (e.g., news column, blog, social media presence) used their clout to publish criticism. For example, one participant, a longtime journalist, published in his column criticism of how the AFNA would affect journalists while alluding to IMDB coverage as examples that could be considered “fake news.” Steven Gan, founder and editor of *Malaysiakini*, wrote of the dangers of the AFNA to freedom of expression, comparing Malaysia to George Orwell’s *1984* and warning that “[The AFNA] is meant to be the final nail in the coffin of our already floundering democracy.”⁶⁸

Rapid response coordination by civil society

There was also quick coordination among civil society organizations, which culminated in a joint statement signed by 16 groups in March 2018. This statement was published shortly after Said that the government was looking at legislation to “combat fake news because it threatens national security.”⁶⁹ One of the participants who helped spearhead this statement noted that because the AFNA was rushed through so quickly, they did not have much time to engage in lobbying but that the joint statement was still useful as it raised awareness of the AFNA’s potential harms to freedom of expression.

You know it’s kind of a very reactionary action as well because [the AFNA] was rushed through. So you don’t really have time to go and lobby anybody. ... Yeah, I mean at the time we didn’t have our legal analysis yet, but our joint statement was enough to debate in the parliament.

Furthermore, the signatories of the joint statement came from a broad background, not strictly those working to protect freedom of expression. Some, for example, worked on women’s rights, access

68 Steven Gan, “Anti-Fake News Law – Najib’s Shock and Awe,” *Malaysiakini*, April 3, 2018, <https://www.malaysiakini.com/news/418121>.

69 Anith Adilah, “Azalina: Law to Curb Fake News for National Security,” *Malay Mail*, February 7, 2018, <https://www.malaymail.com/news/malaysia/2018/02/07/azalina-law-to-curb-fake-news-for-national-security/1572295>.

to information, or anti-corruption. This statement was also widely covered by media, both mainstream and independent, even including those news outlets under BN's influence.⁷⁰

Information sharing with the opposition

Two participants spoke of coordinating with PH politicians by providing them with information about the AFNA and its effects on freedom of expression. This would prove crucial as the actual repeal of the AFNA would fall upon PH after GE14. According to one participant: "We actually sent some of the includes — the points to discuss and to debate — to the opposition then, which is the government now."⁷¹

From the beginning, both PH and civil society organizations were in agreement regarding the threat the AFNA posed to freedom of expression and uncovering corruption. According to one participant, "You immediately see the opposition and the civil society already speaking out about it. And so I'd say that contributes to public education and public awareness of the danger of that law if it were to be enforced." The consistency in narratives used likely helped strengthen the case against the AFNA.

That PH and civil society were able to coordinate is no surprise. Because BN had been in power for so many decades, civil society organizations and PH had typically been united in political action. Many of the individuals had protested together, supported one another when they felt an arrest or action taken against them had been unjust and were generally pro-freedom of expression. After GE14, many

70 ARTICLE 19 and 13 NGOs, "Proposed 'Fake News' Bill a Threat to Freedom of Expression," *Malaysiakini*, March 23, 2018, <https://www.malaysiakini.com/news/416813>; "Human Rights Groups Say 'Fake News' Law May Stifle Whistleblowing," *The Star*, March 23, 2018, <https://www.thestar.com.my/news/nation/2018/03/23/human-rights-groups-say-fake-news-law-may-stifle-whistleblowing/>.

71 At time of publication, a new government has taken over after Mahathir's resignation and the PH coalition has become fractured. The King of Malaysia has thus chosen Muhyiddin Yassin from UMNO (a BN party) to be the prime minister. This is still highly contested and has been met with open criticism that the new prime minister and his administration is anti-democratic and a "backdoor government." Jonathan Head, "How Malaysia's government collapsed in two years," *BBC*, March 5, 2020, <https://www.bbc.com/news/world-asia-51716474>.

members of civil society joined the newly formed PH government.⁷² One participant, for example, started out as an activist but is now a member of Parliament and the PH coalition.

Use of strategic attack narratives

As mentioned, civil society organizations and PH contested the AFNA through a process of counter-securitization, whereby instead of reframing “fake news” as harmless, BN and the AFNA were framed as the real threat to Malaysia. In effect, there was no denying that “fake news” could be dangerous or harmful, but rather that BN, with the AFNA at its disposal, was a bigger one. This process of counter-securitization was carried out using strategic narratives that attacked BN’s motivations. The following details how these narratives – the AFNA as a threat to expression, as a 1MDB cover-up, and as BN’s “last desperate attempt” before GE14 – were built out and disseminated.

The AFNA as a threat to expression: In public statements published by civil society and PH-aligned politicians, the AFNA was routinely framed as a means to silence criticism. The head of Asia Programme at ARTICLE 19, Matthew Bugher, explicitly called it a “bold-faced attempt to silence critics.”⁷³ Similarly, Lawyers for Liberty’s Paulsen warned that “Freedom of speech, info & press will be as good as dead in Malaysia.”⁷⁴ Other local groups, like SUARAM, the International Commission of Jurists, and the Centre for Independent Journalism, also published parallel warnings.⁷⁵ SUARAM, for example, published a statement titled “Anti-Fake News Bill: A Hatchet against Dissent.” In a show of civil society solidarity, another joint public statement

72 “Fortify Rights Legal Director Named Malaysia’s Representative to ASEAN Intergovernmental Commission on Human Rights,” *Fortify Rights*, January 14, 2019, <https://www.fortify-rights.org/malaysian-government-appoints-eric-paulsen-to-senior-human-rights-post/>.

73 “Human Rights Group Calls for Repeal of Anti-Fake News Act,” *Malaysiakini*, April 25, 2018, <https://www.malaysiakini.com/news/421491>.

74 Eric Paulsen (@EricPaulsen101), Twitter post, March 25, 2018, 8:08 PM, <https://twitter.com/EricPaulsen101/status/978106491927318528>.

75 “Anti-Fake News Bill Threatens Freedom of Expression and May Lead to the Suppression of Critical Speech — ICJ & SUARAM,” *Malay Mail*, March 27, 2018, <https://www.malaymail.com/news/what-you-think/2018/03/27/anti-fake-news-bill-threatens-freedom-of-expression-and-may-lead-to-the-sup/1608575>; “Malaysia: Civil Society Calls on New Government to Reform Laws Restricting Freedom of Expression and Access to Information,” ARTICLE 19, May 22, 2018, <https://www.article19.org/resources/malaysia-civil-society-calls-on-new-government-to-reform-laws-restricting-freedom-of-expression-and-access-to-information/>.

denouncing the AFNA and its implications for freedom of expression was signed by 16 local organizations and stressed that the AFNA is “yet another attempt to stifle debate and criminalise those who speak out against corruption and human rights violations.”⁷⁶

Notably, *Malaysiakini* attempted to contest the AFNA in court by filing a judicial review application to challenge its constitutionality.⁷⁷ In his supporting affidavit to the application, *Malaysiakini*'s CEO and director, Premesh Chandran, explicitly stated that the AFNA would place an “insurmountable burden” on *Malaysiakini* to ensure every single article and opinion piece published is completely true. This burden, he argued, would affect their rights under Malaysia’s constitution, specifically Article 10, which guarantee freedom of speech and expression.

The AFNA as a 1MDB cover-up: The AFNA was almost immediately tied to the 1MDB scandal in public statements and news media. Although the 1MDB company was created with the goal of fostering long-term economic growth, beginning in 2015, several investigative exposés alleged that Najib and others had siphoned hundreds of millions of dollars from the company.⁷⁸ When I asked participants their initial thoughts about the AFNA, one replied, “We always assumed, suspected the main reason why it was passed very quickly at the Parliament, was just so they can use that law to basically censor anything that has to do with 1MDB.” Lawyers for Liberty also warned that the AFNA would be used to “cover up issues of corruption and abuse of power like 1MDB.”⁷⁹ Linking the AFNA to 1MDB as well as corruption, another participant, a veteran journalist, said, “This Anti-Fake News Act was because too much was coming out in social media on Najib’s activities. Right. His bank accounts, his spending, and everything else.”

76 “Malaysia: Proposed ‘Fake News’ Bill Is a Threat to Freedom of Expression,” ARTICLE 19, March 22, 2018, <https://www.article19.org/resources/malaysia-proposed-fake-news-bill-threat-freedom-expression/>.

77 Hafiz Yatim, “Malaysiakini Mounts Constitutional Challenge Against Anti-Fake News Act,” *Malaysiakini*, April 27, 2018, <https://www.malaysiakini.com/news/421823>.

78 Cynthia Gabriel, “The Rise of Kleptocracy: Malaysia’s Missing Billions,” *Journal of Democracy* 29, no. 1 (2018): 69–75, <http://doi.org/10.1353/jod.2018.0005>; Lee Long Hui, “‘Stolen’ 1MDB Funds: The DOJ Lawsuit Revisited,” *Malaysiakini*, March 31, 2018, <https://pages.malaysiakini.com/1mdb/en/>.

79 Paulsen, “How to Not Draft a Fake News Law.”

These allegations are not unfounded. In addition to calling unverified information pertaining to 1MDB “fake news,” Deputy Communications and Multimedia Minister Jailani Johari, accused foreign news outlets reporting on 1MDB of peddling “fake news” in a bid to tarnish Najib ahead of GE14.⁸⁰ Furthermore, the government had already previously engaged in outright censorship of 1MDB-related news, such as the blocking of local independent news outlet *Sarawak Report* and publishing platform *Medium* and the arrests of the editors of *The Edge*, another local independent media outlet.⁸¹

During this time, outrage over 1MDB and the sheer scale of corruption had moved beyond BN’s control, and Mahathir, who had by now grown in popularity, was openly criticizing Najib and his involvement in 1MDB. As one participant pointed out:

I think that the main narrative before GE14 was Mahathir’s rhetoric, which was “Najib is a thief.” Perjury, perompak [robbers], he’s a thief, he’s a robber, penyamun [bandit]. It was, I think, the dominant rhetoric of the election. He had one message and he really drove it home. Najib is a thief and a robber and he has robbed our country.

Mahathir, along with other PH politicians and civil society organizations were thus able to link an already contested and unpopular bill (the AFNA) with existing public anger over a corruption case that had weighed heavily over voters since 2015.

The AFNA as BN’s “last desperate attempt” before GE14: The opposition also attacked the timing of the AFNA as a strategic move by BN just before GE14 to silence or discredit narratives it did not approve of. Many of the participants felt that the AFNA was BN’s last-ditch attempt to hold onto power. According to one participant, a longtime human rights and anti-corruption advocate, “I just thought that the Anti-Fake News Act is just another bullet, where they’re just spraying but they don’t know where the target is. Like, ‘They’re

80 “Malaysia’s Deputy Minister Warns Foreign Media Against Spreading ‘Fake News’ About 1MDB,” *The Straits Times*, March 11, 2018, <https://www.straitstimes.com/asia/se-asia/malaysia-deputy-minister-warns-foreign-media-against-spreading-fake-news-about-1mdb>.

81 Amanda Connolly, “Medium Stands by Investigative Journalists as Malaysia Blocks the Site,” *The Next Web*, January 27, 2016, <https://thenextweb.com/media/2016/01/27/medium-stands-by-investigative-journalists-as-malaysia-blocks-the-site/>.

coming at us from all sides, just shoot!” Another participant called the AFNA a “last desperate attempt” by Najib and his government to try and control criticism, particularly regarding 1MDB, being disseminated over social media.

As many participants noted, GE14 was seen to be influenced by social media, which Najib and BN could not completely block or control. One participant who was asked why they thought the AFNA was enacted noted: “If you can infer, the motivation was to help win the election. The previous election was very much shaped by social media. GE14 was very much shaped by social media.” This sentiment was reflected by BN and Najib themselves, who had previously and publicly noted that cyberspace was a battleground for GE14.⁸² As another participant said, “But they don’t know quite how to control what is being shared on these platforms. Therefore the Anti-Fake News Act is – coupled with the Sedition Act, coupled with the Communications and Multimedia Act – just one of the ways to control the platform without having to outright ban it.” By linking the AFNA to GE14, civil society organizations and PH were able to frame the AFNA as a political tool in service of BN.

This framing, combined with the outrage over 1MDB and Malaysia’s history of censorship and intimidation, created a strong counter-securitizing narrative to contest and ultimately repeal the AFNA while attacking BN’s credibility. Furthermore, because by 2018 individuals were willing to speak out despite the threat of arrest, these narratives were widely disseminated by civil society organizations, political elites, and everyday Malaysians over many platforms, including social media, independent blogs, foreign news outlets, and private messaging groups. Lastly, although BN may have had near-total control of mainstream media, its declining credibility in the eyes of Malaysians left it at a disadvantage.

82 Azhar, “PM: GE14 ‘Mother of All Elections.’”

CONCLUSION

Malaysia is only one of many countries that have passed or are considering passing legislation or policies in the name of combating “fake news.” In the last few years alone, Singapore,⁸³ Nigeria,⁸⁴ Taiwan,⁸⁵ Tanzania,⁸⁶ and Russia⁸⁷ have either proposed or passed legislation targeting disinformation and online falsehoods in the name of national security and to the criticism of human rights activists and organizations. Egypt similarly enacted new regulations that allow the government to block websites and accounts for “fake news” without having to obtain a court order—also to the outcry of rights organizations and freedom of expression activists.⁸⁸ Furthermore, research conducted by an Open Technology Fund Information Controls Fellow in 2019 found that the increasing number of digital expression arrests in Egypt were for “publishing false news.”⁸⁹ In these countries, a range of information controls continue to be used, and with “fake news” as a legislative opportunity, the likelihood of crackdowns on expression is increasing.

83 Protection from Online Falsehoods and Manipulation Bill – Bill No. 10/2019, <https://www.parliament.gov.sg/docs/default-source/default-document-library/protection-from-online-falsehoods-and-manipulation-bill10-2019.pdf>.

84 Danielle Paquette, “Nigeria’s ‘Fake News’ Bill Could Jail People for Lying on Social Media. Critics Call It Censorship,” *The Washington Post*, November 25, 2019, https://www.washingtonpost.com/world/africa/nigerias-fake-news-bill-could-jail-people-for-lying-on-social-media-critics-call-it-censorship/2019/11/25/ccf33c54-0f81-11ea-a533-90a7becf7713_story.html

85 Ralph Jennings, “Taiwan Seeks to Rein In Freewheeling Media with Tougher Anti-Fake News Laws,” *Voice of America*, April 22, 2019, <https://www.voanews.com/east-asia/taiwan-seeks-rein-freewheeling-media-tougher-anti-fake-news-laws>.

86 *Tanzania: Electronic and Postal Communications (Online Content) Regulations 2018*, ARTICLE 19, April 2018, <https://www.article19.org/wp-content/uploads/2018/05/Tanzania-Online-Content-Regulations-2018-Final.pdf>.

87 Tom Balmforth, “Russia’s Putin Signs Law Banning Fake News, Insulting the State Online,” *Reuters*, March 19, 2019, <https://www.reuters.com/article/us-russia-politics-fakenews/russias-putin-signs-law-banning-fake-news-insulting-the-state-online-idUSKCN1QZ1TZ>.

88 Samy Magdy, “Egypt Tightens Restrictions on Media, Social Networks,” *AP News*, March 20, 2019, <https://apnews.com/1540f1133267485db356db1e58db985b>.

89 *Digital Authoritarianism in Egypt: Digital Expression Arrests 2011–2019*, Open Technology Fund, 2019, <https://www.opentech.fund/news/rise-digital-authoritarianism-egypt-digital-expression-arrests-2011-2019/>.

As such, populations living under authoritarian and illiberal governments find themselves in a dilemma: how to address “fake news” and disinformation without invoking the national security apparatus. In the case of Malaysia and the AFNA, the success of counter-securitization may very well have less to do with the competing rhetorics of national security and more to do with material changes to the country: the increasing disenchantment with BN, the growing availability of network media, and a historically organized political opposition. The same processes may not work in other countries or contexts without these conditions. However, we believe there were several tactics and factors in the Malaysian case that were most significant.

Resistance as counter-securitization

Because “fake news” can indeed be harmful and have negative consequences, refuting the danger of “fake news” is unlikely to be convincing, especially in a country where the majority of people have seen “fake news” and where cybertrooper activity is well-known.⁹⁰ Instead, groups interested in contesting legislative overreach or the securitization of “fake news” may find attacking the credibility of the securitizing actor and linking their motivations to already existing and salient criticism more effective. In Malaysia, for example, the AFNA was linked to 1MDB, a highly politicized scandal that already weighed heavily on the minds of many Malaysians. Counter-securitizing by attacking the legitimacy of the securitizing actor may therefore offer a more effective means of contesting problematic legislation as opposed to debating whether an issue really is a national security threat or not.

Alternative avenues for information

The dissemination of civil society organizations’ and PH’s counter-securitizing moves, however, could not have happened if not for the relative free flow of information over the internet. Although mainstream media was under the control of BN, alternative viewpoints were still accessible through social media, independent news sites, and private messaging apps. Several of those interviewed stressed that high internet

90 “Malaysians’ Susceptibility Towards Fake News,” Ipsos, October 10, 2018, <https://www.ipsos.com/en-my/malaysians-susceptibility-towards-fake-news>.

penetration coupled with the relatively uncontrollable nature of the internet allowed opposition candidates and civil society organizations a fighting chance against BN. One participant, for example, noted the effect of internet access and information on confounding BN's attempts to monopolize politics:

[BN] have access to national TV, and national newspapers, so they know that they can use that to shape the narrative. But in the previous election, people are moving away from those – it also correlates with things like the internet penetration of Malaysia, and people having more access to smart phones, to cheap data – that they are getting news from their phone, from WhatsApp, forwarded messages from Facebook, Twitter, much more than the old school print media or national TV. So The government knows that, but they don't know quite how to control what is being shared on these platforms.

The internet frustrated BN's attempts to control the flow of information, which allowed the AFNA to be publicly contested alongside criticism of Najib, news regarding 1MDB, and coverage of opposition candidates. However, access to information, though necessary, is insufficient. Information, must to some extent, be channeled over credible platforms. In Malaysia, independent news outlets like *Malaysiakini* not only provided a platform for criticism of the AFNA but lent credibility to the message being shared.

Structural changes in power

Had BN retained power, it's likely the AFNA would have remained, though contested. As such, while all the tactics used by the civil society organizations and PH factored into the counter-securitization of "fake news," the AFNA was ultimately repealed because PH won GE14. This highlights the necessity of a democratic process, even one impinged through years of gerrymandering, malapportionment, and media manipulation. The repeal of the AFNA is thus wrapped up in a much larger and longer story about the evolution of democracy in Malaysia. One participant, for example, stressed the need for structural reform:

What is important for this government is that, at least for me, they bring about institutional reform. And I think that's the most important thing. If they can reform some of the key institutions – the judiciary, the police, civil servants, election commission, the media – all that. Make them independent, make them accountable, make them professional. Then I think we are on the right track. At least you know whoever got elected will not be able to do so much damage because there's balance. ... We make one step forward when it comes to becoming a functional democracy.

Repealing or amending censorship-enabling legislation therefore cannot be separated from larger overarching political movements for democracy, transparency, and accountability. Several participants, like the one quoted above, stressed that while they were pleased that GE14 resulted in a change in government, what they want most is institutional reform and structural change.

Beyond legislation

Lastly, “fake news” and disinformation can be harmful, and most participants agreed that they should be addressed. However, if legislation and top-down government approaches run the risk of further harassment, intimidation, and unnecessary censorship, alternatives to mitigate the spread and harms of false and misleading information should be proposed and explored. When asked how “fake news” should be addressed, participants offered a variety of suggestions: expanding media literacy; adapting content moderation by social media platforms to local languages; ensuring a sustainable and independent news industry; localizing research; and increasing access to government data. The soon-to-be established Media Council may also provide another avenue to defend against false and malicious information operations. One participant involved in the Media Council stressed its role in maintaining a trusted information ecosystem:

We need to have a mechanism where we can actually regulate ourselves. Because the reason why the government has, you know, to bring in all those laws is partly because there are complaints from the public. Then you need to have a complaints mechanism there. You

need to have a code of ethics, that we need to abide by, make sure that we are professional, independent, accountable and all that.

While research into deterring malicious information operations and their negative effects is still nascent, alternatives to legislation are worth exploring, especially in states where the risk of undue censorship is high. Furthermore, bottom-up approaches may also result in empowering local groups that may be better suited to addressing the social conditions that give rise to the proliferation and consumption of false and misleading content. Safety and security need not remain constrained to the remit of national security or law enforcement. As several participants pointed out, instead of a top-down, government-led approach to combating “fake news,” individuals should be entitled to and provided with the tools and know-how to self-regulate and make choices for themselves.⁹¹ Prominent examples include Taiwan’s FactCheck Center and the creation of the Malaysian Media Council.⁹² That being said, media manipulation is a sociotechnical problem. While small states can take steps to address the social side of the issue, the technical conditions (e.g., recommendation algorithms) that give rise to the spread of disinformation remain largely unaddressed and outside their control.

The securitization of “fake news” will likely continue in the near future as states attempt to justify censorship-enabling information controls. This concern, however, is not limited to authoritarian and illiberal regimes but includes developed democracies as well. In recent years, legislation and regulations aimed at addressing “fake news,” deepfakes, and influence operations have been proposed or enacted in the US, the UK, and Canada. Wherever it occurs, the securitization of “fake news” can put populations at risk of censorship and harassment. The life and death of Malaysia’s Anti-Fake News Act exemplifies how borrowed

91 Other research has indicated that media literacy is far from a silver bullet for dealing with problems of disinformation. See: danah boyd, “You Think You Want Media Literacy ... Do You?” *Data & Society Points*, March 9, 2018, <https://points.datasociety.net/you-think-you-want-media-literacy-do-you-7cad6af18ec2>.

92 Alice Su, “Can Fact-Checkers Save Taiwan from a Flood of Chinese Fake News?” *Los Angeles Times*, December 16, 2019, <https://www.latimes.com/world-nation/story/2019-12-16/taiwan-the-new-frontier-of-disinformation-battles-chinese-fake-news-as-elections-approach>; “Cabinet Agrees to Establish Malaysian Media Council, Says Eddin Syazlee,” *The Star*, December 15, 2019, <https://www.thestar.com.my/news/nation/2019/12/15/cabinet-agrees-to-establish-malaysian-media-council-says-eddin-syazlee>.

“fake news” rhetoric can be used to justify new extreme measures in an internet era. However, the counter-securitizing efforts of Malaysia’s opposition demonstrate that there are still opportunities to contest such tactics, even within constrained information environments. The challenge facing all countries is to respond to the legitimate threats of disinformation, harassment, and censorship in each national context without conforming to a single, global narrative of “national security.”

APPENDIX 1: METHODS

To understand how and why “fake news” was securitized and contested, this study employs a mixed-methods approach, combining content and discourse analysis with in-field interviews. A mixed-methods approach was used to both understand how establishment mainstream media was used by Barisan Nasional (BN) to legitimate the Anti-Fake News Act (AFNA), and how counter-securitization was achieved. The findings from these research methods are triangulated with prior research, external datasets, news reporting, and discussions with members of the Malaysian government.

Content and discourse analysis

To understand how BN securitized “fake news,” content and discourse analysis was conducted across five mainstream media news outlets under the control and influence of BN’s member parties: *Bernama* (English), *Bernama* (Malay), *New Straits Times* (NST), *The Star*, and *Berita Harian*. Articles containing the term “fake news” for *Bernama* (English) and NST were obtained through Factiva. Articles for *Berita Harian* and *Bernama* (Malay) were obtained through Nexis Uni. Because *The Star* was unavailable on Factiva or Nexis Uni, the news outlet’s website’s search function was used to return articles containing the term “fake news” and filed under the “Nation” category.

In addition, an independent news outlet, *Malaysiakini*, was also included for comparison. Because they were not available via Factiva or Lexis Uni, results were pulled from the outlet’s website’s search function as well.

Duplicate results for Factiva were removed. Similarly Nexis Uni had duplicates grouped together. *The Star*’s dataset was manually checked for duplicates, which were then removed. This was done to remove entries that may have been re-entered into the dataset due to a minor text update in the article. Details on search terms and background of each outlet can be found in Appendix 2.

In-field interviews

To understand how civil society⁹³ reacted to and mobilized to contest the securitization of “fake news,” 18 in-depth interviews were conducted with individuals involved in promoting or protecting freedom of expression in Kuala Lumpur, Malaysia, regarding their thoughts on the AFNA and how they reacted to it. They were chosen because of their past or current engagement in promoting freedom of expression and internet access and because their lives would potentially be affected by the AFNA (e.g., having their content taken down or being arrested for what they published online). The interviews were semi-structured in order to obtain reliable and comparable qualitative data, while allowing for the opportunity to bring up and discuss new ideas and perspectives. Each interviewee was asked pre-identified questions regarding their views on the AFNA, how they reacted, their thoughts on the past and current government, and their thoughts on the problem of “fake news” in Malaysia. From these questions, interviewees were encouraged to expand on issues they deemed salient to the topic while follow-up questions emergent from their responses were asked.

93 In this study “civil society” is defined as a group of individuals and organizations engaged in various forms of activities aimed at holding the government accountable and promoting civil and human rights. In Malaysia, this tends to center around anti-corruption efforts, promotion of democratic values, monitoring violations of human rights and civil liberties, and advocating on behalf of marginalized groups (e.g., LGBTQ communities, migrant workers, or religious minorities). The term is frequently used by Malaysians and by the nongovernmental groups themselves. For more information on the post-2018 role of civil society see: *Khoo Ying Hooi*, “Civil Society and Democratisation in Malaysia: Between Resistance and Co-optation,” CIVICUS, retrieved March 12, 2020, <https://www.civicus.org/index.php/re-imagining-democracy/stories-from-the-frontlines/3428-civil-society-and-democratisation-in-malaysia-between-resistance-and-co-optation>.

Title or Position	Count	Description
Activist or advocate	6	Works at a local civil society organization. Primary job is advocating on behalf of human rights or civil liberties.
Lawyer	5	Was involved in cases pertaining to freedom of expression (FoE) or information access. Not all worked exclusively on FoE, though, often taking on other civil and criminal cases.
Journalist	3	Currently working for independent media outlets.
Editor or content director	5	Currently working for independent media outlets.
Student	1	Journalism student engaged in FoE.
Blogger	1	Independent blogger.
Member of Parliament	1	MP from the Pakatan Harapan coalition.

Table 4: Titles and positions of interviewees.

Interview subjects were initially recruited through the researcher's professional contacts and through the Open Technology Fund and Data & Society Research Institute networks. From the initial set of participants, snowball sampling (i.e., participants were asked to recommend other interview participants) was used to recruit more interview subjects. Table 4 describes the roles they identify with. Note that the numbers do not add up to 18 as some participants may identify with more than one role (e.g., lawyer and activist).

Before each interview, participants were given time with a consent form where they could ask any questions. They were also reminded that they could stop the interview at any time and that the interviews would remain anonymous.

APPENDIX 2: CONTENT ANALYSIS OF NEWS COVERAGE

To understand how Barisan Nasional (BN) engaged in its securitizing moves, this study conducted an analysis of five government-influenced news outlets and one independent news outlet (see Table 5), along with on-the-record statements by politicians and government agencies six months prior to and following the 14th general election (November 9, 2017, to November 9, 2018). Put in securitization theory terms, the securitizing actor is BN, the referent object in need of protection is public order and national security, and the speech acts under analysis include the news outlets under BN control and the public statements made by BN politicians. Lastly, the target audience of BN's speech acts is the Malaysian public.

Bernama was chosen for analysis because it is the government's news agency, under the control of the Ministry of Communication and Multimedia and thus has the most direct relationship with the ruling administration. Furthermore, because it is a press agency, its content is often re-syndicated across other media outlets. *The Star*, which is majority-owned by the Malaysian Chinese Association (a BN coalition member), is Malaysia's most widely read English-language newspaper.⁹⁴ The *New Straits Times* (NST) is Malaysia's oldest English-language newspaper and under Media Prima Group, which is majority-owned by UMNO, Najib Razak's party.⁹⁵ *Berita Harian* is likewise owned by Media Prima but publishes in Malay. Taken together these outlets represent the largest member parties of the BN coalition (*NST*, *The Star*, *Berita Harian*), as well as the government itself (*Bernama*). All of these government-influenced outlets have been criticized for biased

94 Harold A. Crouch, *Government and Society in Malaysia* (Ithaca, NY: Cornell University Press, 1996), 86.

95 Tarrence Tan, Martin Carvalho, Hemananthani Sivanandam, and Rahimy Rahim, "NST No Longer Friendly with Us, Laments Najib," *The Star*, July 4, 2019, <https://www.thestar.com.my/news/nation/2019/07/04/nst-no-longer-friendly-with-us-laments-najib>.

reporting,⁹⁶ being pro BN,⁹⁷ and even peddling “fake news” themselves. In 2013, for example, NST was forced to publicly apologize to a number of activist groups in Malaysia for “groundless” accusations following the settlement of a defamation suit.⁹⁸ Among other false claims, NST alleged that a number of civil society groups had “received vast sums of monies from foreign elements for the purposes of destabilizing or overthrowing through illegal means the Government of Malaysia.”⁹⁹

Lastly, *Malaysiakini*, one of Malaysia’s oldest and most widely read independent news outlets was also included for comparison.¹⁰⁰ In its more than 20 years of existence, it has endured harassment and intimidation from the government and BN supporters. Its website has also been subjected to blocking¹⁰¹ and distributed denial-of-service (DDoS) attacks,¹⁰² and its founder was arrested over a news story on the 1Malaysia Development Berhad scandal in 2016.¹⁰³

96 Lim Kit Siang, “Straits Times: Credibility of Malaysia’s Mainstream Newspapers at Stake,” *Lim Kit Siang for Malaysia*, June 2, 2013, <https://blog.limkitsiang.com/2013/06/02/strait-times-credibility-of-malaysias-mainstream-newspapers-at-stake/>.

97 Nurul Izzah Anwar, “Who Controls the Media? BN Hypocrisy Exposed,” *Malaysiakini*, November 17, 2016, <https://www.malaysiakini.com/news/363206>.

98 Mei Chu, “Malaysia’s Oldest Newspaper Is Sorry for Baseless Article on Destabilising the Govt,” *SAYS*, November 14, 2013, <https://says.com/my/news/nst-apologises-to-bersih-and-other-ngos-for-plot-to-destabilise-government-report>.

99 “NST Publishes Apology on 15 November 2013,” *BERSIH*, November 14, 2013, <http://www.bersih.org/nst-publishes-apology-on-15-november-2013/>.

100 Zaharom Nain, “Malaysia – 2018,” *Reuters Digital News Report*, <http://www.digitalnewsreport.org/survey/2018/malaysia-2018/>.

101 “Study Confirms Malaysiakini’s GE14 Results Page Blocked,” *Malaysiakini*, May 17, 2018, <https://www.malaysiakini.com/news/425403>.

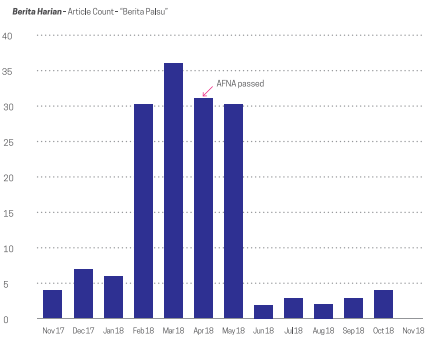
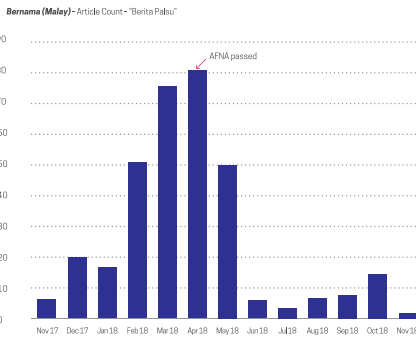
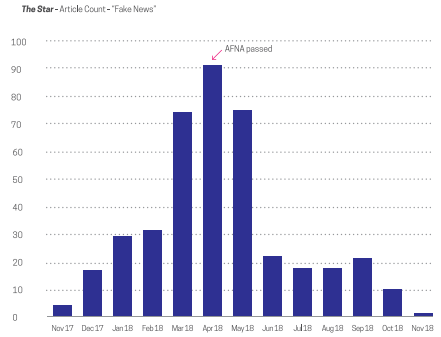
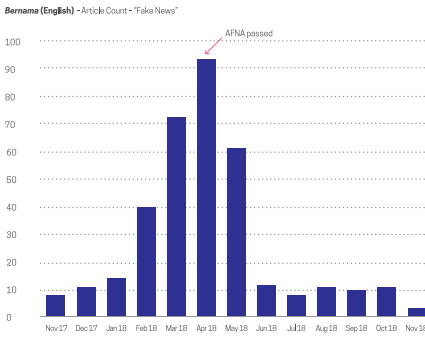
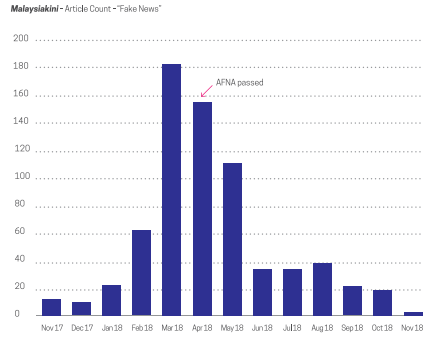
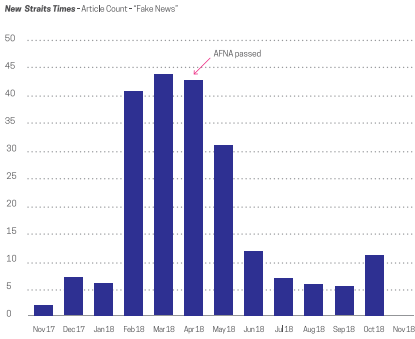
102 “GE13 Censorship of On-line Media in Malaysia,” *Sinar Project*, <https://sinarproject.org/digital-rights/updates/ge13-censorship-of-on-line-media-in-malaysia>.

103 Bhavan Jaipragas, “Editor Charged in Malaysia Over 1MDB Coverage on Eve of Huge Anti-government Rally,” *South China Morning Post*, November 18, 2016, <https://www.scmp.com/week-asia/politics/article/2047318/editor-charged-malaysia-over-1mdb-coverage-eve-huge-anti>.

Media Outlet	Government Affiliation
<i>Bernama</i> (English)	Government-run news agency
<i>Bernama</i> (Malay)	Government-run news agency
<i>New Straits Times</i> (English)	Owned by UMNO through Media Prima
<i>The Star</i> (English)	Owned by Malaysian Chinese Association (MCA)
<i>Berita Harian</i> (Malay)	Owned by UMNO through Media Prima
<i>Malaysiakini</i> (English)	Independent news outlet

Table 5: Media outlets studied and their government affiliation.

I found that in the lead-up to GE14 an increasing number of articles containing the term “fake news” were published online by all five outlets, followed by a sharp drop after May when the election took place. For example, compared to the period before GE14, NST, *Bernama* (English), and *The Star* only published 37.4%, 34.4%, and 28.0% as many articles in the six months following GE14. This trend applied to the independent outlet *Malaysiakini* as well. Figures 3–8 illustrate the month-by-month counts for each outlet. This increase in the use of the term “fake news” before a national election is consistent with recent international trends in politicians using the term as a means to dismiss or disparage opponents and critical content.



Figures 3-8: Month-by-month counts of articles containing “fake news” (“berita palsu” in Malay).

In addition to quantifying how many articles were published in the lead-up to GE14 and the passing of the Anti-Fake News Act (AFNA), we also conducted two sets of content analysis on the dataset to better understand how the term was being used. The first analysis quantified how often these articles contained the terms “fake news” and either “social media,” “election,” or all three terms. The second analysis quantified how often the term “fake news” appeared in the same article as terms traditionally related to security, such as “national security,” “public order,” or “threat.”¹⁰⁴ As expected, we discovered that indeed there was a correlation between “fake news” and “social media” and “election” and between “fake news” and security-related terms, albeit to a lesser extent.

For example, of the 212 articles that contained the term “fake news” published by *Bernama* (English) in the six months prior to GE14, 55.0% also included “social media”; 55.0% “election”; and 27.8% included both terms (i.e., “fake news,” “social media,” and “election” were all present within the same article). For *The Star*, of the published 280 articles containing the term “fake news,” 40.4% also mentioned “social media”; 38.9% “election”; and 18.2% included both terms. Here, *Malaysiakini* stands out. Of the articles published containing the term “fake news,” only 23.1% also included “social media”—far smaller when compared to the other outlets, which range between 40.4% and 60.2%. Table 6 shows the article counts for each set of terms for the outlets analyzed.

104 These words have typically been used in the past to justify other rights-restricting actions by the government, especially when it has come to criticism over the government, royalty, race, and religion.

Outlet	"Fake news" and "social media" articles (%)	"Fake news" and "election" articles (%)	"Fake news," "social media," and "election" articles (%)
<i>Bernama</i> (EN)	117 (55.0%)	117 (55.0%)	59 (27.8%)
<i>Bernama</i> (BM)	119 (45.6%)	81 (31.0%)	44 (16.9%)
<i>Berita Harian</i>	93 (56.7%)	74 (45.1%)	42 (25.6%)
<i>The Star</i>	113 (40.4%)	109 (38.9%)	51 (18.2)
<i>New Straits Times</i>	74 (60.2%)	71 (57.7%)	33 (26.8%)
<i>Malaysiakini</i>	115 (23.1%)	290 (58.2%)	75 (15.1%)

Table 6: Article counts for each outlet showing percentage of the articles containing "fake news" that also included the terms "social media," "election," or both "social media" and "election."

Although security-related terms did not garner as high a percentage as terms like "social media" or "election," there was still a sizeable amount of articles that contained these terms. For example, of the 280 articles *The Star* published containing the term "fake news," 75 also contained a security-related word. Table 7 shows the article counts for "threat," "national security," and "public order" or "public disorder" for the outlets analyzed.

Outlet	"Fake news" and "threat" articles (%)	"Fake news" and "national security" articles (%)	"Fake news" and "public order" or "public disorder" articles (%)
<i>Bernama</i> (EN)	19 (9.0%)	17 (8.0%)	18 (8.5%)
<i>Bernama</i> (BM)	23 (8.8%)	26 (10.0%)	21 (8.0%)
<i>Berita Harian</i>	23 (14.0%)	25 (15.2%)	8 (4.9%)
<i>The Star</i>	27 (9.6%)	34 (12.1%)	22 (7.9%)
<i>New Straits Times</i>	17 (13.8%)	16 (13.0%)	8 (6.5%)
<i>Malaysiakini</i>	51 (10.2%)	54 (10.8%)	32 (6.4%)

Table 7: Article counts for each outlet showing percentage of the articles containing "fake news" that also included the terms "threat," "national security," or "public order" or "public disorder."

It's important to note, however, that while these outlets frequently published articles linking "fake news" to social media and national security, it's unclear how they were consumed by readers relative to

other forms of media during this time. What we can tell, however, is that there was indeed an increase in content associating “fake news” with social media, GE14, and national security.

APPENDIX 3: PUTTING THE AFNA IN CONTEXT

Understanding the securitization of “fake news” and the passage of the Anti-Fake News Act (AFNA) requires an overview of Malaysia’s general political composition, its history of information controls, and the 1Malaysia Development Berhad (1MDB) financial scandal, which came to public notice in 2015.¹⁰⁵ These three dimensions play heavily into how and why Barisan Nasional attempted to securitize “fake news.” Specifically, as BN’s political influence has waned in the last few elections, it has increasingly sought to blame the influence of social media and the internet for changing Malaysian politics. BN’s efforts to censor or control online media sharpened after 2015, when news of the 1MDB scandal began circulating among news sources both domestic and foreign. To the opponents of the AFNA, the law seemed tailor-made to clamp down on revelations of BN’s culpability in the scandal.

Political background and stakeholder mapping

Malaysia achieved independence from British colonial rule in 1957. Since then, the country has held democratic elections but has nonetheless had a single ruling coalition until 2018. As a result, Malaysia has been described as a “competitive authoritarian” state and an “authoritarian Leviathan,” where democratic institutions are viewed as the primary means of obtaining and executing political power and authority, but frequent and extensive violation of those rules by incumbents results in a regime that fails to meet the conventional minimum standards of

105 “How Jho Low & PetroSaudi Schemed to Steal Money from the People of Malaysia via 1MDB,” *The Edge Markets*, July 20, 2015, <https://www.theedgemarkets.com/article/how-jho-low-petro-saudi-schemed-steal-money-people-malaysia-1mdb>.

an established democracy.¹⁰⁶ Several participants also referred to BN's rule as authoritarian, describing its practices as coming from an "old-school authoritarian textbook." Because of this, BN, which is made up of the three largest ethnic groups in Malaysia – the Malaysian Indian Congress (MIC), the Malaysian Chinese Association (MCA), and the United Malays National Organization (UMNO) – had, until 2018, 61 years of uninterrupted political power. And while democratic elections do take place, BN has historically found ways to maintain its consolidated power. For example, in the 2013 general election (GE), because of gerrymandering and malapportionment in favor of rural Malays (UMNO's largest base), BN won 60% of seats with just 47% of the vote.¹⁰⁷ BN was led by Najib Razak, prime minister from 2009 to 2018, who at the time of writing is facing trial for his alleged involvement with the 1MDB scandal (more on this below).

In recent years, BN has received a significant political challenge from opposition coalition Pakatan Harapan (PH). PH was established in 2015 in direct opposition to BN and during the 2018 elections included the People's Justice Party, the Democratic Action Party, Bersatu, and Amanah, and until February 2020, it was led by Mahathir Mohamad and Anwar Ibrahim, two longtime political rivals and ex-BN members who came together to beat Najib and BN.¹⁰⁸ However, in February 2020 the PH coalition had fractured due to an on-going power struggle between Mahathir and Anwar, with Bersatu leaving the coalition, Mahathir resigning as prime minister, multiple defections

106 Steven Levitsky and Lucan A. Way, "Elections Without Democracy: The Rise of Competitive Authoritarianism," *Journal of Democracy* 13, no. 2 (April 2002): 51–65, <https://doi.org/10.1353/jod.2002.0026>; Dan Slater, *Ordering Power: Contentious Politics and Authoritarian Leviathans in Southeast Asia* (New York: Cambridge University Press, 2010), 22; Larry Diamond, "Malaysia's Democratic Breakthrough," *The American Interest*, May 15, 2018, <https://www.the-american-interest.com/2018/05/18/malysias-democratic-break-through/>; Aurel Croissant and Philip Lorenz, "Malaysia: Competitive Authoritarianism in a Plural Society" in *Comparative Politics of Southeast Asia* (Springer, Cham, 2018), 141–176, https://doi.org/10.1007/978-3-319-68182-5_6.

107 Kai Ostwald, "How to Win a Lost Election: Malapportionment and Malaysia's 2013 General Election," *The Round Table* 102, no. 6 (2013): 521–32, <https://doi.org/10.1080/00358533.2013.857146>.

108 Note on Malay naming conventions: Because names are structured as a personal name followed by a patronym, first names are generally used when referring to individuals.

from the People's Justice Party, and the dissolution of the cabinet.¹⁰⁹ Mahathir eventually resigned and Muhyiddin Yassin (an UMNO party member) has been appointed the new prime minister by Malaysia's King, known as the Yang di-Pertuan Agong. This is however contested with many critics calling the appointment anti-democratic and the new administration a "backdoor government."¹¹⁰ At time of writing, this political crisis has yet to be resolved.¹¹¹

Civil society in Malaysia includes a diverse range of individuals and organizations, such as *Malaysiakini*, one of Malaysia's oldest independent news outlets; SUARAM, a rights monitoring and advocacy group;¹¹² and Bersih, a grassroots movement promoting clean and fair elections and endorsed by 56 Malaysian NGOs.¹¹³ They are primarily focused on advocating for marginalized groups; promoting civil liberties, human rights, and democratic values, and anti-corruption; and increasing government transparency and accountability. While not explicitly anti-BN, civil society frequently speaks out against it, criticizing its treatment of opposition candidates, its control over mainstream media, and its role in enabling corruption. Furthermore, due to decades of protesting together and supporting one another, close collaboration and coordination exists between PH and members of civil society.

109 Ted Regencia, "Malaysia's Pakatan Harapan Coalition Backs Anwar as PM," *Al Jazeera*, February 26, 2020, <https://www.aljazeera.com/news/2020/02/malaysia-pakatan-harapan-coalition-backs-anwar-pm-200226103101417.html>; Jon Emont, "Malaysian Prime Minister Mahathir Mohamad Resigns, Cabinet Dissolved," *The Wall Street Journal*, February 24, 2020, <https://www.wsj.com/articles/malaysian-prime-minister-mahathir-offers-resignation-11582531824>; Brian Wong, "Democracy in Crisis: Where Does Malaysia Go from Here?" *The Diplomat*, February 27, 2020, <https://thediplomat.com/2020/02/democracy-in-crisis-where-does-malaysia-go-from-here/>.

110 Jonathan Head, "How Malaysia's government collapsed in two years," *BBC*, March 5, 2020, <https://www.bbc.com/news/world-asia-51716474>.

111 Tashny Sukumaran, "Malaysia's ex-PM Mahathir admits no-confidence vote in Muhyiddin likely to fail," *South China Morning Post*, March 11, 2020, <https://www.scmp.com/week-asia/politics/article/3074632/malaysias-ex-pm-mahathir-admits-no-confidence-vote-muhyiddin>; P. Prem Kumar, "Mahathir vows comeback if government goes wrong," *Nikkei Asia Review*, March 12, 2020, <https://asia.nikkei.com/Editor-s-Picks/Interview/Mahathir-vows-comeback-if-government-goes-wrong>.

112 Suara Rakyat Malaysia (SUARAM), <https://www.suaram.net/>.

113 "Endorsing NGOs," Bersih, October 10, 2019, <https://www.bersih.org/about/ngos/>.

1MDB: “The largest kleptocracy case”

Since 2015, Najib has been under close scrutiny for his involvement in 1MDB, a Malaysian development company wholly owned by the Minister of Finance Inc., a body corporate under the name of Minister of Finance. Although it was created with the goal of fostering long-term economic growth, 1MDB has been the subject of an ongoing investigation alleging wide-scale money laundering, corruption, theft, and fraud.¹¹⁴ Beginning in 2015, several investigative exposés alleged that hundreds of millions of dollars had been siphoned from the company. This reporting was met with severe retaliation from Najib. *Sarawak Report*, an independent news outlet that helped break the story, was blocked in Malaysia, and its founder, Clare Rewcastle Brown, was the target of an arrest warrant alleging her involvement in activities detrimental to parliamentary democracy and the dissemination of false reports.¹¹⁵ Ho Kay Tat, the publisher of *The Edge*, another local media outlet that ran stories on 1MDB, was also arrested for sedition.¹¹⁶ A participant familiar with the issue protested the arrest by calling for a day of solidarity: “I called for a meeting of senior journalists. And we said tomorrow we wear all black. Okay? So we sent out word on Twitter and a lot of journalists wore black but not the editors.”¹¹⁷

The US-based *Wall Street Journal* has also covered the 1MDB scandal, but without direct legal or political instruments, BN and Najib have resorted to repeated attempts to discredit the paper: lambasting it as peddlers of “fake news.”¹¹⁸ Despite BN’s near-total

114 Cynthia Gabriel, “The Rise of Kleptocracy: Malaysia’s Missing Billions,” *Journal of Democracy* 29, no. 1 (2018): 69–75, <http://doi.org/10.1353/jod.2018.0005>; Lee Long Hui, “Stolen 1MDB Funds: The DOJ Lawsuit Revisited,” *Malaysiakini*, March 31, 2018, <https://pages.malaysiakini.com/1mdb/en/>.

115 Ian Burrell, “British Journalist Clare Rewcastle Brown Given Police Protection After Being Followed and Photographed in Hyde Park,” *The Independent*, August 6, 2015, <https://www.independent.co.uk/news/uk/crime/british-journalist-clare-rewcastle-brown-given-police-protection-after-being-followed-and-10441274.html>.

116 “The Edge Publisher, TMI Chief Executive Arrested for Sedition,” *The Star*, March 31, 2015, <https://www.thestar.com.my/news/nation/2015/03/31/tmi-executives-arrested/>.

117 Tashny Sukumaran and Loshana K. Shagar, “Black Day for Journalists After Arrests,” *The Star*, April 2, 2015, <https://www.thestar.com.my/News/Nation/2015/04/02/Black-day-for-journalists-after-arrests/>.

118 Nurul Huda Ahmad Lutfi, “KKMM Warns of Stern Action Against Those Spreading Fake News on 1Mdb,” *Bernama*, March 11, 2018.

control of local mainstream media, however, the documents that were leaked to *Sarawak Report* led to a series of investigations in multiple jurisdictions¹¹⁹ and to what former US Attorney General Loretta Lynch referred to as “the largest kleptocracy case” in US history.¹²⁰ Because the stolen funds were laundered through US financial institutions, the US Department of Justice in 2016 filed lawsuits alleging over US\$3.5 billion had been stolen from 1MDB and that Najib himself received US\$681 million in cash from the fund.¹²¹

Beginning in 2015 and leading up to GE14 in 2018, public outrage increased as information about the extent of corruption surrounding 1MDB emerged from various media reports and further court filings.¹²² Several participants even cited 1MDB as a factor in BN’s loss: “I think the biggest point is to see Najib go down and be prosecuted for what he did.” During this time, PH candidates, including Mahathir, regularly criticized Najib, calling for his and his wife’s arrest. It was during this period of intensifying public critique and public revelations about 1MDB that the Malaysian government began its “fake news” securitizing in earnest—and many connected the two. According to media scholar Gayathry Venkiteswaran: “For most observers, the obvious reason behind [the AFNA] is to keep the scandalous 1Malaysia Development Berhad (1MDB) wealth fund and other financial misappropriations out of the electorate’s focus. This is a punitive law that fails to provide any clarity on the meaning or parameters of ‘fake news,’ but criminalises a wide array of speech online and offline.”¹²³

119 AFP, “Swiss Widen Corruption Investigation Into Malaysia’s 1MDB Fund,” *The Guardian*, April 13, 2016, <https://www.theguardian.com/world/2016/apr/13/swiss-widen-corruption-investigation-malaysia-1mdb-fund>.

120 Randeep Ramesh, “1MDB: The Inside Story of the World’s Biggest Financial Scandal,” *The Guardian*, July 28, 2016, <https://www.theguardian.com/world/2016/jul/28/1mdb-inside-story-worlds-biggest-financial-scandal-malaysia>.

121 “U.S. Justice Department Files Lawsuits in Connection with 1MDB Probe,” *Reuters*, <https://www.reuters.com/article/us-malaysia-scandal-lawsuit/u-s-justice-department-files-lawsuit-in-connection-with-1mdb-probe-idUSKCN1001FA>; “United States Seeks to Recover More Than \$1 Billion Obtained from Corruption Involving Malaysian Sovereign Wealth Fund,” *The United States Department of Justice*, July 20, 2016, <https://www.justice.gov/opa/pr/united-states-seeks-recover-more-1-billion-obtained-corruption-involving-malaysian-sovereign>.

122 Sheridan Mahavera, “Are Malaysia Arrests a Bid to Divert Attention from 1MDB Scandal?” *South China Morning Post*, September 7, 2016, <https://www.scmp.com/week-asia/politics/article/2017127/are-malaysia-arrests-bid-divert-attention-1mdb-scandal>.

123 Gayathry Venkiteswaran, “All the News That’s Fit to Fake,” *New Mandala*, April 10, 2018, <https://www.newmandala.org/news-thats-fit-fake/>.

Indeed, one BN official even confirmed these fears with a public statement in April 2018, stating that any information that had not been confirmed by the government pertaining to the 1MDB financial scandal would be deemed “fake news.”¹²⁴

14th general election: “The mother of all elections”

Between 2015 and 2018, GE14, 1MDB, and the AFNA were intimately connected, and any state attempts to control the narrative, be it over social media or mainstream media during this time, were likely due to the sensitivity surrounding 1MDB and the upcoming election. For Najib, losing GE14 would not only mean losing his role as prime minister but potentially facing criminal charges for his involvement in 1MDB. Ultimately, his and BN’s fears were confirmed in May 2018, when despite the gerrymandering and BN’s influence over mainstream media, PH delivered an upset victory in GE14, wresting power away from BN for the first time since independence.

Although BN’s loss was unprecedented and surprising, it had come on the heels of declining support for the long-ruling coalition. BN lost its two-thirds supermajority for the first time in GE12 (2008), and in GE13 (2013) BN not only lost more seats to the opposition but the popular vote as well.¹²⁵ As for GE14, there were a number of factors that contributed to BN’s loss. In addition to growing discontent over Najib and 1MDB, poor economic performance and an unpopular goods and services tax likely played a part in swaying voters.¹²⁶ Furthermore, the re-emergence of Mahathir as the leader of PH swayed voters and helped coalesce a fractured opposition.¹²⁷

124 Hannah Beech, “As Malaysia Moves to Ban ‘Fake News,’ Worries About Who Decides the Truth,” *The New York Times*, April 2, 2018, <https://www.nytimes.com/2018/04/02/world/asia/malaysia-fake-news-law.html>.

125 Kai Ostwald and Steven Oliver, “Four Arenas: Malaysia’s 2018 Election, Reform, and Democratization,” Association of Asian Studies 2019 conference paper, June 20, 2019, <http://dx.doi.org/10.2139/ssrn.3407667>.

126 Francis E. Hutchinson, “Malaysia’s 14th General Elections: Drivers and Agents of Change,” *Asian Affairs* 49, no. 4 (2018): 582–605, <https://doi.org/10.1080/03068374.2018.1521126>.

127 Chin-Huat Wong and Kee Beng Ooi, “Introduction: How Did Malaysia End UMNO’s 61 Years of One-Party Rule? What’s Next?” *The Round Table* 107, no. 6 (2018): 661–7, <https://doi.org/10.1080/00358533.2018.1545944>; Walid Jumblatt Abdullah, “The Mahathir Effect in Malaysia’s 2018 Election: the Role of Credible Personalities in Regime Transitions,” *Democratization* 26, no. 2 (November 2018): 1–16, <https://doi.org/10.1080/13510347.2018.1552943>.

Following BN's loss at the polls, Najib is now facing multiple corruption charges, including criminal breach of trust, money laundering, and abuse of power.¹²⁸ In addition to prosecuting Najib, PH also campaigned on cleaning up corruption and introducing reform, which included repealing the much criticized AFNA. In August 2018, Malaysia's Parliament, then controlled by PH, came through on this campaign promise and passed a bill to repeal the act. Although blocked by the Senate initially, it was re-tabled in October 2018 and passed.

128 Rozanna Latiff, "Former Malaysian PM Najib Takes Stand in 1MDB Scandal-Linked Trial," *Reuters*, December 3, 2019, <https://www.reuters.com/article/us-malaysia-politics-1mdb-najib/former-malaysian-pm-najib-takes-stand-in-1mdb-scandal-linked-trial-idUSKBN1Y70EM>.

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