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# Movement Control Order (MCO) - A Viable Legal Mechanism in the Management of COVID-19 Pandemic in Malaysia?

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## ABSTRACT

COVID-19 has caused a global health disaster accompanied by economic and social unpredictability. This study evaluates the legislative measures implemented in Malaysia throughout Phases 1 through 7 of the Movement Control Order in an effort to battle the pandemic and stem its spread. The narrative review applies a socio-legal analysis with reference to primary sources, including Malaysian legal documents and legislation. Findings suggest that the law complements other preventive efforts implemented by the government to break the chain of virus transmission, especially the Prevention and Control of Infectious Diseases Act of 1988. This study illustrates that the public interest must trump individual rights in order to not only respond to this crisis, but also recover and prosper in the fight against the pandemic. In addition, it is recommended that enforcing a clearer set of international MCO laws within regional security cooperation will contribute to the development of a stronger global community with a shared future, as well as promote international law and neighborhood diplomacy.

## KEYWORDS

COVID-19, Law Enforcement, Lockdown, Movement Control Order (MCO), Prevention and Control of Infectious Diseases Act 1988, Act 342, Malaysia, Public Health

## INTRODUCTION

"Like science, emerging viruses know no country" (Morse, 1993). No one foresaw that the coronavirus disease (COVID-19) would spread rapidly across the globe in 2020 (Zhou, 2020). The COVID-19 pandemic caught many countries off guard. The terms "isolation" and "quarantine" were used every day. The pandemic had serious impacts on public health services, economies, social interactions,

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and social security. Business activities were interrupted and stalled. Recession is knocking on every country's door.

COVID-19 was first recorded in Wuhan, District of Huabei, China, in December 2019. On January 30, 2020, the World Health Organization (WHO, 2020) declared that the outbreak constituted a public health emergency of international concern. On March 11, 2020, it was announced that COVID-19 would be categorized as a pandemic.

Elbe (2006) and Lakoff (2015) noted that infectious diseases were "a threat not only to public health, but to social, economic, and political stability." During the early stages of the pandemic (December 2019), COVID-19 recorded more than three million cases and more than 230,000 deaths worldwide in less than four months. The number of casualties increased every day. In several nations, lockdowns and quarantines were enacted in response to the rising number of cases, stoking public anxiety. On January 25, 2020, China restricted the movement of its 56 million people. This was the same day that Malaysia recorded its first case of the virus.

A strong public health system can "address massive health threats with the collective responses they require" (De Ceukelaire & Bodini, 2020). As the pandemic unfolded, many public health systems were predicted to fail due to a privatisation of public health, which lacks coordination and adequate collective responses. For example, in the early stages of the pandemic, Italy was working to strengthen its health system through the regionalisation of healthcare. This effort to privatise its national healthcare service actually led to significant delays in adopting a coherent measure to contain COVID-19 (De Ceukelaire & Bodini, 2020).

Lessons learned from the H1N1 influenza pandemic highlighted that vulnerable groups were most affected. This includes populations with co-morbidities like diabetes, obesity, asthma, and chronic obstructive pulmonary disease (COPD).

Apart from the importance of strong, resilient public health services, the enforcement of public health law is also vital to break the chain of infection. Under public health, the role of law can be viewed as a proactive, preventive, or reactive measure (McKibbin & Fernando, 2020). The WHO report, "Advancing the Right to Health: The Vital Role of Law," aimed to raise awareness about the role of public health laws in reforming the law. Improving access to vaccinations and contraceptives was one preventive measure. The reactive role of public health law includes facilitating access to treatment and using emergency powers in reaction to disease outbreaks (McKibbin & Fernando, 2020). For example, in the United Kingdom, movement control (or lockdown) "constituted a key feature of governmental efforts" to cope with the initial stages of COVID-19. This effort required a high level of public compliance (Halliday et al., 2022). Even when legal compliance was primarily on the legitimacy of the law, there were concerns due to the public sense of obligation and personal health vulnerability among others (Halliday et al., 2022). Malaysia was no exception to this impacted aftermath.

In some instances, governments attempt to utilise the legislation to alter the customary behaviour of an entire society during times of crisis. It is crucial to understand the effects of such enforcement and evaluate compliance with existing legal frameworks. In contrast to earlier research, which tends to examine adherence to behavioural restraints or variables that inspire the general population to comply with the law, the current analysis focuses on how lockdown was influenced by the existing legal framework. Thus, by exploring the role of law and legal culture in Malaysia, this work contributes to the overall research endeavour of determining the effect of legal measures on the public during the lockdown.

However, the conceptualisation of "legal" compliance is critical. In other words, regardless of whether this is correct from a doctrinal position, the researchers analyse the adaptation and situational use of existing legal measures. This was necessary from a methodological standpoint because there was a great deal of public confusion about the legal standing of the new regulations in Malaysia, even if the constraints during the first lockdown were a combination of hard legislation and soft government instruction.

This article, which is the result of wider research on legislation and compliance during COVID-19, is based on content analysis and the narrative evaluation of secondary data collected when Malaysia's first lockdown had become commonplace. Although the first lockdown's extreme rigour was considerably relaxed, the laws nevertheless required the general populace to drastically alter their pre-pandemic routines (albeit with a small degree of variation between the states in Malaysia).

Therefore, it was imperative that some form of legal measure be implemented in Malaysia to combat the pandemic. The purpose of this study is to catalogue and assess the rules implemented in Malaysia in response to COVID-19 with respect to both domestic and international legal obligations. The narrative study will determine the axiology and utility of legal orders of states of emergency in Malaysia. It examines the situation in Malaysia during the first seven phases of the movement control order (MCO), which commenced on March 20, 2020. Legislative action will be reviewed in the discussion.

## METHOD

A qualitative research methodology was selected according to the study's research plan. Numerous analysis techniques (i.e., phenomenology, hermeneutics, grounded theory, ethnography, phenomenography, and content analysis) can be utilised in qualitative research (Burnard, 1995). In contrast to quantitative research approaches, qualitative content analysis has fewer requirements and is not associated with a certain field. As a result, philosophical concepts and dialogues are less likely to result in misunderstandings (Bengtsson, 2016).

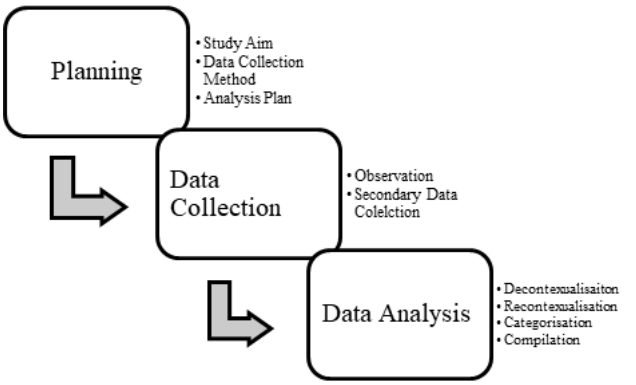
The study uses content analysis to accomplish predetermined research goals as demonstrated by Haba and Dastane (2019). Written text is the most common data source for content analysis (Krippendorff, 2018). The sophistication of content analysis methods in the legal industry spans from simple keyword scoring to more complex algorithms that apply Bayesian probabilities to assess the likelihood that high-scoring themes would use a specific collection of words in a particular order (Landauer & Dumais, 1997). However, most of these types are motivated by experimental (rather than conceptual) considerations.

Emergent coding, another method of content analysis, is set between models that are constructed theoretically and empirically. This method is founded on the concept of grounded theory in qualitative research (Oktay, 2012). Specifically, it is possible to begin an analysis without a preconceived hypothesis and, in turn, use the given data to construct one. Using this notion, additional data is then assessed. Few studies evaluating the mission statements of a large number of institutions give evidence for this strategy (Stemler, 2000). During the design and analysis phases of this type of content analysis, the researcher must examine their "pre-understanding" to reduce bias caused by personal influence (Long & Johnson, 2000). Prior knowledge of the subject and familiarity with the site may be useful if it does not affect the informants or interpretation of results.

The researcher must maintain a qualitative perspective throughout the entire process for employing the above methodology. The greatest challenge is to acquire the rigour and credibility required to provide results that are both trustworthy and feasible (Stemler, 2000). The researcher cannot employ the same concepts when analysing qualitative data using qualitative approaches as when conducting quantitative research (Long & Johnson, 2000). These parameters are considered to guarantee the accuracy of content analysis.

Figure 1 provides an overview of the steps that are followed to conduct the content analysis. Initially, the objective of the study was decided during the planning phase. The secondary qualitative data collection was the chosen technique for data collection. Then, the plan for analysis was developed and the data collection phase commenced. The researchers consulted pertinent legislative papers and legislation from Malaysia, as well as press articles and the official website of the Malaysian Ministry of Health. In addition, the researchers utilised their knowledge and observations. Finally,

**Figure 1. Framework for Content Analysis**




the data analysis was divided into four sub-steps: (1) decontextualization; (2) recontextualization; (3) categorization; and (4) compilation.

The content analysis was accompanied by a narrative review of prior significant acts and their implementation. Narrative reviews are the most popular genre of publication within the legal literature. The only fixed research question (or search method) in narrative reviews is an interest in the topic. Such reviews lack organisation and a clear protocol; however, there are both consensus and critical reviews within narrative reviews.

A group of academics created a consensus review or best practice panel based on their expertise and study of scientific literature. Due to their familiarity with the evidence and regularity of publication, these experts were enlisted to assist with the evaluation. Narrative review refers to an attempt to synthesise the literature in a manner that is not explicitly systematic. The minimum standard for the term "systematic" relates to the literature search method. In a broader sense, it includes a specific research question and an exhaustive summary of all studies.

Research has demonstrated the use of combined qualitative methods in the field of legal and compliance studies (e.g., Menkes, 2012; Aman, Said, & Dastane, 2022). The SANRA scale was implemented to assure the quality and validity of the narrative review. The scale includes components like the justification of the article's significance, a statement of objectives, a description of literature research, citations, scientific reasoning, and an adequate presentation of facts (Baethge et al., 2019).

In conclusion, the methodology used is a content analysis that applies the socio-legal approach with reference to primary sources (i.e., relevant legal documents and statutes of Malaysia) and secondary sources (i.e., newspaper reports and the official website of the Ministry of Health Malaysia). The MCO phases under review were 1 through 7. The Prevention and Control of Infectious Diseases Act of 1988 [Act 342] was also analysed in depth as the subject's primary law. The discussion is based on the most recent laws and enforcement at the time this article was released; therefore, the authors did a narrative review as opposed to a systematic review.

## ANALYSIS AND FINDINGS

### Law Enforcement

This sub-section discusses the enforcement of the law in combating COVID-19 in Malaysia. COVID-19 was first detected in Malaysia on January 25, 2020. As positive cases accumulated, the Prevention and Control of Infectious Diseases Act 1988 [Act 342] was enforced to control and prevent its spread

in Malaysia. Malaysia imposed the MCO on March 18, 2020. Two deaths were, in fact, reported one day before the enforcement of the MCO.

The Prevention and Control of Infectious Diseases Act 1988 [Act 342] is the principal piece of legislation governing the course of action taken during the management of the pandemic. Supplemental laws included the Police Act 1967 [Act 344], Penal Code [Act 574], and Communications and Multimedia Act 1998 [Act 588]. These laws are statutes passed in the Parliament of Malaysia. A statute is a codified piece of legislation and a written source of law under the Malaysian legal system. There are five sources of written law in Malaysia: (1) the federal constitution (the highest law); (2) federal law; (3) state constitution; (4) state law; and (5) subsidiary legislation. Subsidiary legislation includes by-laws, orders, or regulations derived from its parent law (either federal or state law). Article 4(1) of the federal constitution states that it is the supreme law of the federation. Any law that is inconsistent with the federal constitution is void. The federal constitution consists of several provisions in relation to the following: states and federation; jurisdiction and powers; citizenship; elections; judiciary, legislative, and executive powers; and, most importantly, provisions on fundamental liberties.

Provisions on fundamental liberties are provided in part II of the federal constitution. According to article 5(1), "No person shall be deprived of his life or personal liberty save in accordance with law." This means that all persons are equal under the law. In addition, freedom of speech, employment, livelihood, and movement are protected under the law.

The MCO exercised under Act 342 limits the movement of the people. Act 342 is, in fact, an exception to the fundamental liberty of freedom of movement under Article 9(2) of the federal constitution.

It would be apt to highlight the jursidiction of the federal and state governments on medical and health matters under the ninth schedule of the federal constitution. However, it is necessary for public interest to prevail over individual rights in responding to crisis and recovering and thriving in combating COVID-19.

## Act 342

This sub-section provides a narrative review of the Prevention and Control of Infectious Diseases Act 1988 [Act 342] and findings of the content analysis in the context of legal measures in Malaysia to prevent the spread of infection. Historically, Act 342 was tabled and debated in Parliament in 1988 and enforced on April 1, 1989. Act 342 is applicable throughout Malaysia. It was drafted to consolidate laws relating to the prevention and control of infectious diseases in Malaysia for the purpose of uniformity and compliance of international health regulations (WHO, 2020). Act 342 has 33 sections. Its six parts include provisions on administration, prevention of the importation of infectious disease, control of the spread of infectious disease, offences and penalties, and miscellaneous. See Table 1.

Infectious disease under section 2 of the Act means "any disease specified in the First Schedule." Specifying an infectious disease in the First Schedule enables Act 342 to regulate the prevention and control of such infectious disease. The Act empowers the minister of health to prevent and control the spread of infectious disease in Malaysia. Section 2 of Act 342 defines an "authorized officer" as any medical officer of health, health inspector, or officer appointed by the minister of health under section 3. The authorized officer is deemed to be a public servant according to the penal code. The individual is not personally liable to any action, liability, claim, or demand arising from their duties. Section 5 of the Act provides that the police, customs, immigration, and officers from other government departments and agencies shall render assistance as requested by the authorized officer.

Section 11 of Act 342 confers the minister of health of Malaysia with the power to declare an infected local area if they feel there is an outbreak of an infectious disease in any area in Malaysia. Malaysia was declared an infected area from March 18 through March 31, 2020, under Phase 1 of the Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) Regulations 2020. Phase 2 took place from April 1 through April 14, 2020. Phase 3 was enforced April 15 through April 28, 2020. Phase 4 was declared April 29 through May 12, 2020.

**Table 1. Legal Provisions of the Prevention and Control of Infectious Diseases Act 1988 (Act 342)**

| Part | Section | Title |
|---|---|---|
| I - LONG TITLE & PREAMBLE | 1 | Short title, application, and commencement. |
| | 2 | Interpretation. |
| II - ADMINISTRATION | 3 | Appointment of authorised officers. |
| | 4 | Limitation of liability. |
| | 5 | Police assistance, etc. |
| III - PREVENTION OF IMPORTATION OF INFECTIOUS DISEASE | 6 | Declaration of infected area. |
| | 7 | Entry into and examination of vehicles and the measures thereafter. |
| | 8 | Time for examination. |
| | 9 | Importation or exportation of human remains and pathogenic organism or substance. |
| IV - CONTROL OF THE SPREAD OF INFECTIOUS DISEASE | 10 | Requirement to notify infectious disease. |
| | 11 | Declaration of an infected local area. |
| | 12 | Infected persons not to act in a manner likely to spread infectious disease. |
| | 13 | Control of contaminated articles and infected animals. |
| | 14 | Isolation of infected persons and suspects. |
| | 15 | Observation or surveillance of contacts. |
| | 16 | Order for examination of corpse. |
| | 17 | Disposal of the dead. |
| | 18 | Disinfection and closure of premises. |
| | 19 | Destruction of structures. |
| | 20 | Selling or letting contaminated buildings. |
| | 21 | Power to order disinfection of certain vehicles. |
| V - OFFENCES AND PENALTIES | 22 | Offence generally. |
| | 23 | Prosecution. |
| | 24 | General penalty. |
| | 25 | Compounding of offences. |
| VI - MISCELLANEOUS | 26 | Requisition of premises. |
| | 27 | Seizure and disposal of contaminated articles, etc. |
| | 28 | Recovery of costs and expenses. |
| | 29 | Exemption. |
| | 30 | Power to vary Schedule. |
| | 31 | Power to make regulations. |
| | 32 | Amendment. |
| | 33 | Repeals and savings. |

By virtue of these regulations, "infected local area" is any area declared to be an infected local area under the Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) Order 2020 under section 11 of Act 342. Border controls have since been imposed, including interstate and inter-district movements. This legal measure has come to be known as the MCO. Each MCO may be extended by the government based on the situation at the time.

During the enforcement of the MCO, it is lawful for an authorized officer to direct any person or class or category of persons living in an infected area to treatment or immunisation, isolation,

observation, or surveillance. The authorized officer may use force, with or without assistance, as may be necessary to employ such methods as may be sufficient to ensure compliance of the MCO as provided under sections 11(3) and (4) of Act 342. Accordingly, under section 11(5) of Act 342, any person who refuses to comply with the MCO commits an offence.

Under section 10 of Act 342, it is the duty of every adult occupant of a house or in the company of and every person not being a medical practitioner attending on a person suffering from or who has died of the infectious disease to notify the nearest district health office, government health facility, police station, or nearest head village as soon as they become aware of the existence of such disease. This also applies to any person in charge of a boarding house. Any medical practitioner who treats or becomes aware of the existence of any infectious disease on any premises must immediately notify the nearest medical officer of health. A medical officer of health is an "authorized officer" appointed by the minister of health under section 3 of Act 342. This also applies to any police officer of the village head who receives such notification.

It is an offence if a person contravenes section 10. The accused person shall be presumed to have known of the existence of the infectious disease or to have had reason to believe that an infectious disease existed unless they show to the satisfaction of the court that they did not know and could not, with reasonable diligence, have obtained knowledge or that they did not have reason to believe that an infectious disease existed.

It is also an offence for those who have been asked to stay in isolation but neglected to do so as provided under section 12 of Act 342. A person who knows or has reason to believe that they are suffering from an infectious disease shall not expose other persons to the risk of infection by their presence or conduct in any public place or any other place used in common by persons other than the members of their own family or household or do any act which they know or have reason to believe is likely to lead to the spread of such infectious disease unless for the purpose of obtaining medical treatment.

In the context of Act 342, isolation is the separation of that person or group of persons from other persons to prevent the spread of infection. This includes the treatment of that person or group of persons. Observation is the segregation of any contact or person suspected of suffering from any infectious disease for the purpose of ascertaining whether they are suffering from any infectious disease. This includes the treatment of that person. A quarantine station is any place where isolation or observation is carried out. This includes an infectious disease hospital and any place declared by the minister of health to be a quarantine station. Section 14 requires a person who is infected or whom they have reason to believe to be infected to be removed to a quarantine station for treatment. The individual may be detained until they can be discharged without danger to the public by an authorized officer. Section 15 provides that an authorized officer may order for the observation or surveillance of contacts and may use necessary force to ensure compliance of the order.

On the other hand, section 16 provides for the order to examine the corpse of a person that has died of an infectious disease. Section 17 provides for the disposal of the dead. No person shall bury or cremate such corpse otherwise than in accordance with the directions of the authorized officer. Any person who contravenes this provision commits an offence. Meanwhile, under section 18, the authorized officer may, at any time, examine or cause to be examined any person or premises or order the premises to be disinfected, disinfected and derated, or closed until the premises have been thoroughly disinfected, disinfected and derated, or do any other acts to prevent the outbreak or the spread of any infectious disease. The authorized officer is also empowered to order the disinfection of vehicles as provided under section 21.

Section 20 provides that no selling or letting of contaminated buildings. Individuals who contravene section 20 have committed an offence. General offences are provided under section 22. A person commits an offence if they: (1) obstruct or impede or assist in obstructing or impeding any authorized officer in the execution of their duty; (2) disobey any lawful order issued by any authorized officer; (3) refuse to furnish any information required for the purposes of this Act or any regulations

made under this Act; or, (4) upon being required to furnish any information under this Act or any regulations made under this Act, gives false information.

If there is no specific penalty, the general penalty is applicable as provided under section 24 as follows: (1) in respect of a first offence, imprisonment for a term not exceeding two years or to fine or to both; (2) in respect of a second or subsequent offence, imprisonment not exceeding five years, a fine, or both; and (3) in respect of a continuing offence, a further fine not exceeding RM200 for every day during which such offence continues.

Offences under Act 342 can be compounded for a sum of money not exceeding RM1,000, as provided under section 25. The Government of Malaysia may recover the costs and expenses charged or incurred by way of civil proceedings as a debt due. This is provided under section 28 from the owner of any vehicle (or their agent or servant), any cost and expenses charged or incurred by the government for the following: (1) the removal, medical attendance, and maintenance of any person who is or is suspected to be suffering from an infectious disease and who is removed to any hospital or place from such vehicle for medical treatment or for isolation or observation; (2) the burial or cremation of any person who dies of infectious disease on such vehicle or who dies of infectious disease after removal to hospital from such vehicle; (3) the cleansing, disinfection, and derating of such vehicle or of any part thereof; and (4) the disposal of contaminated articles or infected or contaminated animals on such vehicle.

Section 31 gives power to the minister of health to make regulations on the following matters: (1) establishing and maintaining of facilities on land or sea or at the common frontier of contiguous territories for health measures to be applied to local and international traffic; (2) regulating the entry and movement of any vehicle and prescribing the measures to which the vehicle shall be subject to prevent the outbreak of infectious diseases; (3) regulating (i) the entry of persons into, their movements within, and their departure from Malaysia; (ii) the importation and exportation of articles; (iii) the importation and exportation of human remains, human tissues, or part thereof; (iv) the importation and exportation of pathogenic organisms and substances; (4) regulating the sanitary standards required for ships and aircraft registered in Malaysia; (5) regulating the sanitary standards required for ships and aircraft coming into Malaysia; (6) the duties to be performed by commanders and other persons who are or have been on board any vehicle or who are desirous of boarding the vehicle to prevent the spread of infectious diseases; (7) regulating the sanitary standards required for ports, airports, and their surroundings and the health standards of persons employed; (8) regulating quarantine procedures and the management of quarantine stations; (9) the detention, isolation, and observation in a quarantine station of persons suffering from or suspected to be suffering from an infectious disease; (10) regulating the cleansing and disinfection of premises (i) where there has been a case or suspected case of infectious disease or (ii) are suspected of being contaminated with the agents of infectious disease; (11) regulating the removal and disinfection or destruction of articles that have been or are suspected to have been contaminated with the agents of infectious disease; (12) the prevention and control of the spread of infection by insects, rodents, or other animals; (13) prescribing sanitary standards and sanitary facilities for premises; (14) the inspection of premises and articles therein; (15) the collection and transmission of epidemiological and health information and the compulsory reporting of infectious diseases; (16) prescribing the fees to be paid under this Act and the regulations made under this Act; (17) the payment to the government of any costs and expenses charged or incurred for the medical attendance and maintenance of persons removed to hospitals or quarantine stations; (18) prescribing offences that may be compounded and the procedure for compounding; (19) prescribing the forms to be used under this Act and the regulations made under this Act; and (20) other matters as may appear to the minister advisable for the prevention or mitigation of infectious diseases.

Accordingly, the minister of health, after being satisfied that all states and federal territories in Malaysia are threatened with an infectious disease, namely COVID-19, declared Malaysia an infected area under section 11 of Act 342 via the Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) Order. This Order was extended through August 31, 2021.

The MCO was enforced in several phases to break the chain of transmission and reduce the number of COVID-19 cases. The regulations applicable during the MCO phases implemented pursuant to Act 342 are the Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) Regulations and the Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) Order. The narrative review of the phases and findings of the content analysis in the form of themes are presented.

### Phase 1 of the MCO

Phase 1 was March 18 through March 31, 2020, under the Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) (No. 1) Regulations 2020. Restrictions on movements and gatherings were imposed. Only essential services could operate. Schools, higher institutions, and government and private premises were closed (except for essential services). Essential services include water, electricity, power, telecommunications, postal, transportation, irrigation, oil, gas, fuel, lubricants, broadcasting, finance, banking, health, pharmacy, fire, prison, port, airport, security, defence, cleaning, retail, and food supply. Malaysian borders were closed to tourists and visitors. Malaysians who had just returned from abroad were required to self-quarantine for 14 days.

### Phase 2 of the MCO

Phase 2 was April 1 through April 14, 2020, under Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) (No. 2) Regulations 2020. During Phase 2, the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 2) Regulations 2020 and the Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) (Extension of Operation) Order 2020 PU(A) 98/2020 (Order No.2) took effect. Like Phase 1, all states in Malaysia were declared infected.

Under this Order, restrictions of movement were limited to certain purposes. A person was permitted to travel from one place to another within a limit of not more than 10 km from the person's residence to: buy food, daily necessities, medicine, or dietary supplement; supply or deliver food, daily necessities, medicine, or dietary supplement; seek healthcare or medical services; and/or perform any official duty or duty in relation to any essential services.

Essential services were further limited in Phase 2. Services related to fire, postal, prison, immigration, customs, and wildlife (listed as essential services in Phase 1) were omitted. On the other hand, movement to carry out works on infrastructure related to essential services, which if not carried out would affect the safety and the stability of the infrastructure, was allowed.

In addition, a person was not allowed to be accompanied by another person unless it was reasonably necessary. If it was necessary for a person to travel from one place to another beyond the specified boundaries, such a person had to obtain written permission from the police station nearest to their residence prior to the journey. No person was allowed to gather or be involved in any gathering on any premises. The owner, operator, or person responsible for a business selling food could only operate by way of a drive-through, take away, or delivery. In respect of citizens, permanent residents of Malaysia or expatriates returning from overseas had to undergo the requisite health examination upon arrival in Malaysia before proceeding for immigration clearance at any point of entry. In addition, they were required to comply with any direction of an authorised officer. Those who contravened any of the provisions of the regulations or any direction of the director-general or an authorised officer would be committing an offence and shall, upon conviction, be liable to a fine not exceeding RM1,000 or imprisonment not exceeding six months or both.

### Phase 3 of the MCO

Phase 3 was April 15 through April 28, 2020, under Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 3) Regulations 2020. During Phase 3, the Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) (Extension of Operation)

(No. 2) Order 2020 P.U. (A) 116 extended the operation of the Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) Order 2020 [P.U. (A) 87/2020].

Generally, the provisions of Phase 3 are governed by the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 3) Regulations 2020 P.U. (A) 117. It sets the standard operating procedures on control of movement, conditions of movement, movement due to special and particular reason, control of gathering, movement to carry out works on infrastructure, the requirement to undergo health examination upon arrival in Malaysia, directions of the director general, offences, and list of essential services. Consequently, the provisions Phase 2 are equally enforceable to this phase. The list of essential services is also similar, apart from the addition of item 14: "[a]ny services, works, or industry as determined by the Minister after consultation with the authority regulating the services, works or industry."

## Phase 4 of the MCO

Phase 4 was April 29 through May 3, 2020, under Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 4) Regulations 2020. During Phase 4, by virtue of the Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) (Extension of Operation) (No. 3) Order 2020 P.U. (A) 132, the operation of the Prevention and Control of Infectious Diseases (Declaration of Infected Local Areas) Order 2020 [P.U. (A) 87/2020] was extended from April 29 through May 12, 2020. However, this was revoked by the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 5) Regulations 2020 P.U. (A) 136, effective May 4, 2020. Thus, Phase 4 was only effective through May 3, 2020. It was known as the Conditional Movement Control Order (CMCO).

The operation of Phase 4 was pursuant to the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 4) Regulations 2020 P.U. (A) 133, which mirrored the provisions in Phase 3, save for regulation 4(1)(ii). The additional regulation allowed two persons from the same household to move from one place to another within a radius of 10 km (as compared to Phases 1, 2, and 3, which restricted movement to one person).

## Phase 5 of the MCO

Phase 5 was May 4 through May 12, 2020, under Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 5) Regulations 2020. Generally, Phases 4 and 5 are referred to as CMCO, as almost all economic sectors of businesses were allowed to start operating with certain requirements and were subject to prior approval from the government. Social activities that did not involve mass gatherings were also permitted. A relaxed version of the MCO, the CMCO still revolved around movement control. Border controls remained in place; however, most economic and social activities could resume in a controlled, cautious manner.

The MCO Phase 5 listed 13 prohibited activities related to crowd gathering, including entertainment, leisure and recreational activities, religious, cultural and art festivities, activities at labour quarters, hostels or dormitory, fitting of clothes, trying fashion accessories in stores, services in barber and salons, creative industries like filming and advertisements, and cruise ships and tourism. Business activities that may cause crowds to gather, such as the financial services industry and commercial activities involving sales and marketing not within the premises of the financial institutions or businesses, were also prohibited. However, the list excluded food businesses like food courts, hawker centres, food stalls, food trucks, and the like. The negative listing was markedly restrictive and specific in nature, which raised the question of whether activities that did not fall within those that were prohibited would, by inference, be allowed.

## Phase 6 of the MCO

Phase 6 was May 13 through June 9, 2020, under the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 6) Regulations 2020. Phase 6 continued with some

flexibility. Travelling from one infected local area to another remained prohibited, including control over gatherings and processions. However, commencing May 23, 2020, a limited number of people were allowed to pray at places of worship subject to the directive of the director-general of the ministry of health. Private vehicles could carry passengers from the same house. The number of passengers was not limited to three persons as instructed, but according to the maximum number of passengers as regulated under the Road Transport Act 1987 [Act 333] for each vehicle.

### Phase 7 of the MCO

Phase 7 was June 10 through August 31, 2020, under the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) Regulations 2020. Currently, Malaysia entered the Recovery MCO (RMCO), its initial recovery stage. The RMCO implemented fewer restrictions (except in terms of movement regarding infected local areas under enhanced MCO by virtue of section 11(3) of Act 342). The requirement to undergo a health examination upon arrival in Malaysia was still enforced. However, the compulsory requirement at quarantine stations was lifted pursuant to the Revocation of Declarations of Quarantine Stations 2020 P.U.[B] 275, which was gazetted on June 9, 2020.

Eleven prohibited activities were listed in the Schedule to Regulation 3, including organised sports events and tournaments, contact sports, swimming pools (except in private residences, private use, and training of national athletes), outbound from Malaysia by citizens and inbound for foreign tourists, activities in karaoke centres, playgrounds in shopping malls and family entertainment centres, pubs, fitting rooms, trying on of fashion accessories, reflexology and massages, cruise ships, and any other activities that may be difficult for social distancing.

On July 1, 2020, the government, via the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) (Amendment) Regulations 2020, lifted prohibited activities as listed in the Schedule under Regulation 3 of the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 7) Regulations 2020. This did not include the following: the organising of and involvement in sports events and tournaments; contact sports; outbound tour activities for citizens and inbound activities for foreign tourists to Malaysia, except the countries as specified by the minister (the countries were not yet declared at the time of this writing); pubs and nightclubs activities, except restaurant businesses at such premises; cruise ships; and any crowds that would be difficult to ensure social distancing. During this phase, effective June 27, 2020, the fee for the COVID-19 test was chargeable against citizens and foreigners under the Prevention and Control of Infectious Diseases (Fee for Coronavirus Disease 2019 (COVID-19) Detection Test) Regulations 2020.

Due to the high number of positive COVID-19 cases in some places in Malaysia, the government also implemented an enhanced MCO (EMCO). For example, in Kluang, Johor, 61 positive COVID-19 cases were identified (WHO 2020). Under EMCO, residents of Kluang were restrained from leaving their homes per a 14-day quarantine. Visitors were not allowed to enter the area, effective March 27, 2020.

## DISCUSSION

This section discusses the outlook and perspective of effective law measures toward infectious diseases. Infectious disease under Act 342 means any disease "specified in the First Schedule." However, the First Schedule has not been amended to include COVID-19. Consequently, COVID-19 has been included as an infectious disease at item 17A of the Malay text and 3A for the English text via Prevention and Control of Infectious Diseases Act 1988, Prevention and Control of Infectious Diseases (Amendment of First Schedule) Order 2020 P.U.A(179).

Observation was also made on the list of essential services that are allowed to be in operation. Accordingly, the MCO is under the power of the minister of health. For example, item 14 on the list of essential services in the MCO Phase 3 provides "any services, works, or industry as determined by

the Minister after consultation with the authority regulating the services, works, or industry." Here, the Minister means the minister of health. Therefore, it is the power of the minister of health to allow the services, works, or industry to be in operation after consultation with the minister in charge of other services, works, or industry, respectively. The minister in charge of the related services, works, or industry does not have the power to allow or approve the operation of those services, works, or industry.

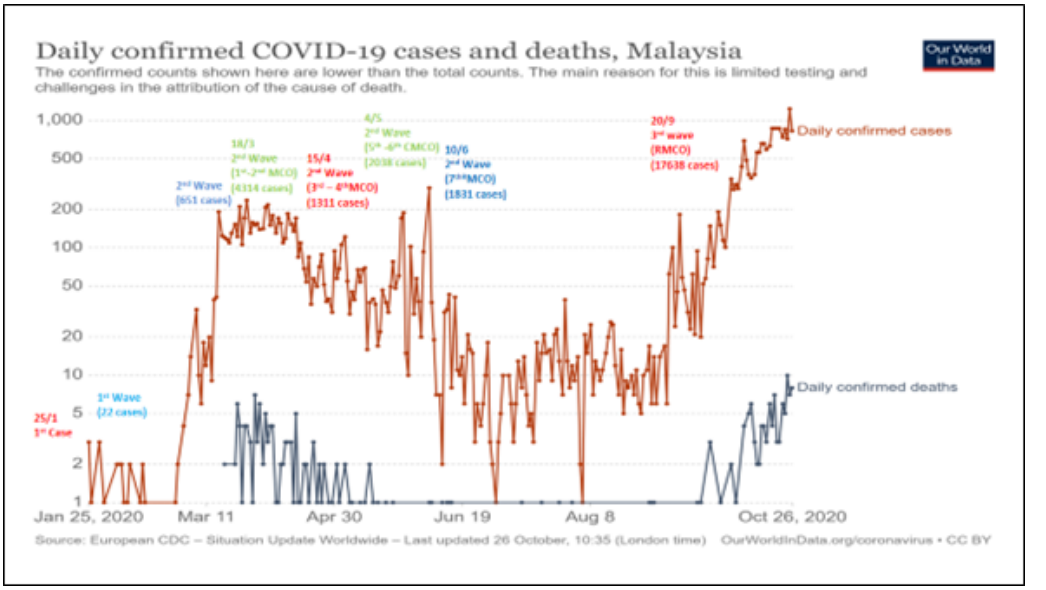
After the implementation of the MCO in Malaysia on March 18, 2020, it was evident that infection rates slowed as the number of cases of recovery outnumbered new cases. The declining trend of daily infections was due to the proactive, aggressive actions by the ministry of health in detecting COVID-19 cases (Ministry of Health Malaysia, 2020). The implementation of the MCO phases was effective in breaking the infection chain during the first and second waves of COVID-19 (see Figure 2).

## CONCLUSION

This study aimed to catalogue and assess the rules implemented in Malaysia in response to COVID-19 with respect to both domestic and international legal obligations. The narrative study determined the axiology and utility of legal orders of states of emergency in Malaysia. The findings provided reasons for the formulation of additional changes, if necessary. The narrative and analysis also aided comprehension of the Malaysian government's use of legal measures and compliance practices. The research included an evaluation of Malaysia's institutional and normative preparedness for the declaration of a state of emergency (civil emergency), as well as the observance of legal restrictions. The shutdown restriction ran afoul of Malaysia's legal obligations under both Malaysian and international law. The subsequent findings were reached.

The MCO is essential because, in times of crisis, public interest trumps individual rights. The decreasing number of new cases from Phase 1 to Phase 7 demonstrates the efficiency of the MCO (see Figure 2). The MCO was still in effect at the time of this study; it was due to terminate in August 2021. It is anticipated to be prolonged with increased flexibility of restricted mass gatherings and mobility restrictions.

**Figure 2. Daily Number of Cases and Death in Relation to MCO Implementations**



COVID-19 is most effectively combated by breaking the chain of transmission. Future research should concentrate on building a regional, more precise collection of terminology. It should explicate the legal mechanism necessary to comprehend the primary roles of international law in the context of the pandemic. Future research can also investigate the impact of such an order on the public, as well as the aspects that motivate compliance from the public. The causes for and effects of such an order on other government agencies and businesses can be investigated. The duty of experimentally verifying the adequacy and effectiveness of the law to prevent and regulate COVID-19 in Malaysia and abroad, where relevant, is deferred until a later date.

It is essential to recognise the limitations of empirical research. First, the greatest fault in a narrative review is the potential for bias in the conclusion. The selection process that initiates an evaluation may be biased. Second, despite the prevalence of this method in the fields of criminology and public health, the content analysis is based on secondary (rather than empirical) data. It is probable that some individuals overstated their compliance with laws due to social desirability, particularly regarding a pandemic. Third, the study did not analyse the variables that motivate the public to comply with enforcement in the absence of legal certainties, such as personality or larger views, which have been discussed in the research on public health. The study did not investigate the perceived legitimacy of public authority, which was investigated by Van Rooji et al. (2020). Therefore, it is likely that the current study incorporates unreported variables. Fourth, the study concurs that many pandemic restrictions in the UK were qualified in the sense that they occasionally permitted behaviours that were typically forbidden (e.g., visiting someone in their home to provide care). Lastly, the study is applicable solely to Malaysia. The researchers, therefore, make no claims regarding the generalisation of these findings to other nations.

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## CONFLICT OF INTEREST

There is no conflict of interest among authors.

## AUTHOR CONTRIBUTION

All authors contributed significantly to the development of this manuscript.

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