

Day 3 | Session 5: Speaking up: Exploring SEA laws on protecting freedom of expression

Date: Wednesday, 22 September 2021 [3:30 am - 5:30 am UTC]

Resource Person: Wahyudi Djafar

Freedom of expression is the bedrock of any democracy. In the current, polarized, political times, our communication and political conversations are increasingly shifting online. The internet is a critical enabler and a tool for citizens, activists and journalists to express themselves. It is therefore important to know the laws and regulations that protect our speech, and the laws and regulations that limit them.

Accordingly, this unit seeks to familiarize participants with the different laws protecting freedom of speech and expression across Southeast Asia, and the restrictions on freedom of expression that are common in these legal systems. The session will also look at the brief history of these laws and restrictions, and how they surface both off-line and on-line in contemporary times.

Key points of discussion:

- What are the guarantees for freedom of expression in Southeast Asian countries?
- What standards guide the restriction of freedom of expression including international instruments?
- What are the key laws that regulate freedom of expression online?
- What are the kinds of expressions that are commonly criminalised in the region?
- What laws are used to target these forms of expression and what are the distinctions in the provisions?
- What are the judicial standards and pronouncements on these provisions?

Session exercise:

This session will have four breakout groups of 6 participants each. Groups will be pre-assigned by the organising team.

Exercise 5: Groups 1-4: Understanding laws used to curtail freedom of expression

The groups will be made of persons from different countries. Participants from each group will identify the most commonly used laws against freedom of expression, and discuss how these laws are used and the different concerns with how they are used.

Group 1 Exercise Sheet

Group 2 Exercise Sheet

Group 3 Exercise Sheet

Group 4 Exercise Sheet

Reference materials:

1. Table 3 - Laws and regulations governing the ICT ecosystem in Southeast Asian countries
2. Table 4 - Resources and databases on ICT and jurisprudence
3. Table 5 - International human rights law landscape
4. Table 2 - Constitutional guarantees

Additional references:

1. Comparison of the Constitutional Guarantee of the Freedom of Expressions in the Southeast Asian Countries
2. Comparison the Participation of Southeast Asian Countries in Human Rights Treaties and the Material of the Protection of Freedom of Expression
3. Challenge of the Freedom of Expressions in Southeast Asia: Law Comparison
4. Three Part Test of the Limitation of Freedom of Expressions

Suggested readings:

1. Unshackling expression, 2017 report, Unshackling Expression: A Study on Laws Criminalising Expression Online in Asia, *GISWatch 2017 (Association for Progressive Communications)*
2. Unshackling Expression: the Philippines Report 2020 (*Association for Progressive Communications*)

3. Dictating the Internet: Curtailing Free Expression, Opinion and Information Online in South east Asia, International Commission of Jurists
4. Irine Putranto, Sharly Chan and Siena Anstis, On/offline: Multidimensional threats faced by the environmental human rights defender in South East Asia
5. Klonick, Kate. 2018. "The New Governors: The People, Rules and Processes Governing Online Speech." *Harvard Law Review* 131: 73.
6. Wired.com, *The Quest to Topple Science-Stymying Academic Paywalls* (April 2019)
7. Columbia Journalism Review, *Infection and Repression* (September 2020)

Session Presentation

Read Day 3 Summary Here

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