

ASEAN Civil Society In The Digital Era; Are We Moving Backwards?

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Abstract—One of the impacts of technological development is the shifting of people's interaction from offline to online and borderless, from the citizen to the netizen. There is a negative side to the interaction change, which is the potential for malicious activity in the virtual world by state and non-state actors to create instability and mistrust. One of the most common threats is the spread of hoax news addressed to the government. The impact is massive enough that it can create mass action and even threaten the sovereignty with the wave of revolution that led to the fall of government. In Indonesia, the action 414 and 212 in 2016 and then became the starting point of the fall of the governor of Jakarta. Meanwhile, a wave of protests and revolutions that occurred in the Arab country in 2010 (Arab spring events) has been able to bring down governments in the countries of the Middle East such as Egypt, Libya, Tunisia and Syria. ASEAN as a region with considerable racial and population diversity should be wary of similar threats. Base on the problem below, this paper tries to get solution using the library research with statue and case approach. The researchers argue that ASEAN countries need to create a system of legal protection for their communities in interacting in cyberspace. The constitutional rights of ASEAN people need to be protected from cybercrime attacks that can threaten the sovereignty of each country.

Keywords—ASEAN Civil Society, Digital Era, Legal Protection

I. Introduction

The ASEAN civil society has a huge resource, not only about the wide area but also the population and natural wealth and resources. Based on data released by the United Nations, as of January 2018, the ASEAN population is 652,498,699 people with a total area of 4,340,700 km2. This condition makes ASEAN civil society occupy the third largest area with the most population in Asia. In addition, ASEAN civil society is also equipped with a variety of ethnicities, cultures, languages, religions and so on. With this diversity, ASEAN civil society has grown and developed into an area calculated in all aspects globally.

One of the developments and effects of globalization that is becoming mainstream, which also has an impact in the ASEAN region is related to technological developments. The development of technology certainly has two sides, namely positive and negative. This condition is a challenge for countries in the ASEAN region, which incidentally is still dominated by developing countries. Changes in interaction patterns due to the influence of technology also change people's perspectives and lifestyles. All community needs can be met through gadgets at hand. Including crimes and driving factors for the occurrence of crime, can also be done from each gadget [1].

There is a negative side to the interaction change, which is the potential for malicious activity in the virtual world by state and non-state actors to create instability and mistrust. One of the most common threats is the spread of hoax news addressed to the government. The impact is massive enough that it can create mass action and even threaten the sovereignty with the wave of revolution that led to the fall of government. In Indonesia, the action 414 and 212 in 2016 and then became the starting point of the fall of the Governor of Jakarta, Basuki Tjahaja Purnama/Ahok. Meanwhile, a wave of protests and revolutions that occurred in the Arab country in 2010 (Arab Spring events) has been able to bring down governments in the countries of the Middle East such as Egypt, Libya, Tunisia and Syria. In Europe, social media and the internet are used as tools to garner support, such as referendum on the exit of Britain from the European Union (Brexit) in 2016 and referendum of Catalonia in 2017.

This condition is often triggered because there is no control and tends to abuse the internet and social media, especially for crimes such as human trafficking, the spread of hoax news, hacking, data breach, especially banks, and other cyber-crimes. The extent of the impact of the development of the internet was described by Nicholas Negroponte in his paper entitled "Being Digital" where he stated that computing is not about computers anymore, it is about living. Negroponte tries to portray computers (the internet) not only seen as the interaction between computers and computers, but more so than the digitalized human



interactions [2]. Computer (internet) has become the second life (cyberspace) that coexists directly with the real world [2].

Rikke Frank Jorgensen in his paper entitled Internet and Freedom of Expression contended that Internet has moved from the free anarchistic vision to the reality of commercial interests, tools and power. The private sector has realized the potential in the new information market and the increasingly commercial focus is changing some of the initial "rules" of cyberspace, for instance the initial separation between access and content providers and the vision of a free public sphere with unlimited access to information [3]. Private entities, the system sphere, are taking over an increasingly large part of cyberspace, with the result that still more interactions are mediated by the systems media (money and power) and still more subsystems are created to deal with this complexity [3].

Frank La Rue, former UN special pioneer for independence Expressions in 2008-2014, in a report dated May 16, 2011 view the internet as the most powerful instrument in the 21st century. According to him, the internet in the 21st century can be used to increase transparency in monitoring the government, providing access to information through a mechanism for public information disclosure, and can also be used as a means to facilitate citizens to participate in building a democratic society. The internet is not only able to enable a person to exercise the right to express freely, but also to voice human rights, encourage community progress towards a better direction, and play a role in fulfilling the right to truth. Therefore, ensuring universal access to the Internet must be a priority for all countries. This indication was corroborated by a resolution issued by the UN Human Rights Council in July 2012 concerning Promotion, protection and enjoyment of human rights on the Internet, which places internet access as part of human rights.

Unfortunately, the opinion and consensus about the internet is not too a reference for governments in ASEAN countries. Because, many reports from NGOs and the public related to human rights violations committed by the government in each ASEAN country related to restrictions on freedom of expression and voicing opinions through the internet, especially on social media. So that, through this paper the author wants to study related to the problematic of the constitutional rights of the ASEAN civil society in cyberspace; and mechanism for the establishment of a legal protection system on the constitutional rights of ASEAN civil society in cyberspace.

II. FREEDOM OF EXPRESSION PROBLEM IN ASEAN CIVIL SOCIETY

The shift in the function and purpose of using social media starts from the Arab Spring in 2011. At that time, social media began to experience a shift in function, from what was originally used only to find friends, exchanging messages, uploading images or videos, becoming tools to seek support, voicing freedom to oppose government policies. This condition continues to expand, not only in the Arab region, but also spread throughout the world.

Indeed, there is no doubt that the Internet and social media have opened up a whole new horizon not only for information sharing, but also for the advancement of the right to freedom of expression and opinion [4]. More and

more human rights activists, dissidents, as well as marginalized and vulnerable groups are utilizing the Internet to get their voices heard, especially in countries where traditional media are not free and the government limits or blocks the use of certain social media. This condition developed so rapidly and spread almost to all corners of the world, including to ASEAN. Moreover, media and internet also became one of whole factor that caused democratic transition in ASEAN [11].

Seeing this phenomenon, the government does not remain silent. They then imposed massive and measurable restrictions on the use of social media and the internet. For example, in China, the government has adopted an extensive system – dubbed "the Great Firewall", which combines URL filtering with the censoring of contents on the Internet that contain keywords such as "human rights" and "democracy". China's elaborate and sophisticated efforts to censor the Internet have already set precedence for other Asian countries: For example, in India – commonly referred to as "the world's largest democracy" – the Delhi High Court in India has recently warned Internet service providers that it could order measures of censorship similar to that of China if they failed to protect religious sensitivities in the country [4].

In ASEAN, restrictions and all efforts to be responsive to activities in cyberspace and social media are carried out by the government in each country through several instruments and policies presented in the following table. 1: [5]

TABLE I. THE SOCIAL MEDIA INSTRUMENTS AND POLICIES IN ASEAN [5]

Country	Cases				
Cambodia	The government cracked down heavily on				
	independent radio in September, revoking				
	the license of Mohan kor Radio and its				
	affiliates, which broadcast Voice of				
	America (VOA) and Radio Free Asia				
	(RFA), and closing the independent radio				
	station Voice of Democracy (VOD).				
	Authorities also forced the closure of RFA's				
	bureau, and a court charged two former RFAjournalists with espionage in				
	November. The journalists, who face up to				
	15 years in prison if convicted, remain in				
	pretrial detention at time of writing. Other				
	radio stations broadcastingVOA or RFA				
	have come under pressure from the				
	government and stopped broadcasting in				
	August. Almost all domestic broadcast				
	media is now under government control.				
Indonesia	On July 12, President Jokowi issued a				
	decree amending the law that regulates				
	nongovernmental organizations, enabling				
	the government to fast-track the banning of				
	groups it considers "against Pancasila or promoting communism or advocating				
	promoting communism or advocating separatism." Pancasila, or "five principles,"				
	is Indonesia's official state philosophy.				
	Days later the government used the decree				
	to ban Hizbut ut-Tahrir/Hizbut Tahrir				
	Indonesia (HTI), a conservative Islamist				
	group that supports the creation of a Sharia-				
	based Islamic caliphate.				
	The government issued the amendment of				
	ITE Act that punished some citizen into				
	prison with the reason of hate speech,				
16.6	spreading hoax and blasphemy				
Malaysia	The Communications and MultimediaAct				
	(CMA) has been used repeatedly to				
	investigate and arrest those who criticize				



section 233(1) of the CMA provides criminal penalises of up to one year in prison for a communication that "is obscene, indexen, false, mensing of offensive in character with intent to amony." On Fabruary 20, apprilse arists Fabrin Rear was sentenced to a month in prison and a fine of RM3/1000 (US\$7.675) for posting an online carricature of Najih wearing clown makeup In August, authorities used Malaysia's restrictive falin Censorship Act to require the prison of the state of the police of the police of the air in March, April, August implication for lives and the police of the air in March, April, August Maloysian in the trafficking of Robingya girls. Authorities also banned in its entirety Kakoma Can Dance, a fifth by a Swedish filmmaker about reduces the police of the po		government officials on social media.			topics. The law was amended in 2017 to
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for her internet posts.				
Laos' media is defined by a fully state-controlled press and broadcast sector, a high level of self-censorship among journalists who actively avoid covering controversial issues, and limited Internet penetration-conditions that earned Laos Freedom House's 2013 press status as 'Not Free' [6]. The country's 32 television stations and 44 radio stations are government affiliated by the government, leaving Lao people with almost no choice of media providing independent or alternative viewpoints [7]. Currently, there are no media advocacies or human rights organizations in Laos to advance freedom of expression issues [8].				
The Broadcasting Act requires Internet				
service providers and Internet café				
operators to register with the Director of				
Broadcasting. Internet service providers are advised to monitor content [8].				

The case example shows that almost all ASEAN countries have cases of violations of their citizens' freedom of expression on the internet, especially on social media. Government preventive efforts in the ASEAN region towards the activities of their citizens on the internet, make constitutional rights to be free of opinion to be limited. Prison sentences and fines are powerful tools to limit and scare the public into voicing their ideas on social media and the like.

III. LEGAL PROTECTION SYSTEM ON THE CONSTITUTIONAL RIGHTS OF ASEAN CIVIL SOCIETY IN CYBERSPACE

Seeing the problematic violation of the constitutional rights of citizens of ASEAN countries in their online cyberspace activities, a protection mechanism that is based on the law needs to be made. Several stages and methods can be carried out by countries in the ASEAN region to overcome the many cases of violations, including:

- a. Hold discussions at the ASEAN Regional Forum (ARF) or other ASEAN summits and discuss the importance of legal protection for citizens' constitutional rights in cyberspace [9].
- b. Making joint legal products in the ASEAN region related to legal protection of citizens' constitutional rights in opinion and opinion in cyberspace. Regulations are made integrally and must be ratified by all ASEAN members [4].
- c. Prioritizing coaching efforts rather than repressive actions such as imprisonment or fines [10].

IV. CONCLUSION

Based on discussion and result above, we conclude that there are so many cases about freedom of expression in this digital era that happen in ASEAN, a region with considerable racial and population diversity. Some citizens are jailed to the prison and fined. This makes ASEAN civil society experience a setback in this digital era. Because, constitutional rights related to freedom of expression in cyberspace are limited.

Problematic that mentioned below are so serious. To overcome this problem, ASEAN countries need to create a

system of legal protection for their communities in interacting in cyberspace. So, it is necessary to form an integrated legal protection model system, by conducting discussions, making legal products integrated and prioritizing the pattern of guidance compared to imposing prison sentences and fines to protect the constitutional rights of ASEAN people.

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