

2011 Southeast Asia Civil Society Statement on Internet Governance

Firstly, we applaud and welcome the report by UN special rapporteur on freedom of expression, Mr Frank La Rue, at the 17th session of the UN Human Rights Council, which affirmed human right in the internet. Nothing the important role that the internet played during times of political unrest, the report affirmed it as “an indispensable tool for realising a range of human rights, combating inequality, and accelerating development and human progress”. We, too, agree that there is enormous potential in the internet in all aspects of human development – from economic and social, to commerce, finance, business, innovation, mobilisation and the attainment and exercise of freedoms. And since the Internet as a source of information is especially crucial in the context of the repressive situation many Southeast Asian countries still find themselves in, we are heartened by Mr Frank La Rue's call that *"ensuring universal access ... should be a priority for all states."*

In keeping with the agenda of the 2011 Asia-Pacific Regional Internet Governance (APrIGF) Roundtable in Singapore for an inclusive multi-stakeholder dialogue on the internet, we civil society representatives from the Southeast Asia region, wish to offer our perspectives on a few developments as well as concerns.

Digital divide

There remains much to be done about the digital divide. The fact that the APrIGF is being held in Singapore after Hong Kong in the previous year – with both states on the extreme positive end of the spectrum – gives an indication of the gap and we look forward to the day when this meeting can be held in a country at the other end of the spectrum, such as Cambodia, Myanmar & Timor Leste.

Internet censorship

We are concerned by increasingly sophisticated blocking or filtering mechanisms used by states for censorship. The lack of transparency surrounding these measures also makes it difficult to ascertain whether they are truly necessary for the purported aims put forward by states. The problem is further compounded by the various definitions across the region to internet censorship, because of the differing levels of democracy and standards for rule of law. While international human rights laws allow the State to impose restriction on freedom of expression, including those in the internet, however, these measures must meet, (a) the test of the principles of predictability and transparency as it must be provided by law; (b) the test of principle of legitimacy as it must pursue the purposes of protecting the rights of reputation of others and to protect national security or public order, or of public health or morals; and (c) the test of the principles of necessity and proportionality as it must be proven necessary and proportionate in addressing the problem. Furthermore, these legislative restrictions must be applied by an independent body with adequate safeguards against abuse, including the possibility of challenge and remedy against its abusive application.

Cyber security

We note with dismay that websites of human rights organisations, critical bloggers, and other individuals or organisations that disseminate information that is critical to the State or the powerful have increasingly become targets of cyber-attacks. Although determining the origin of cyber-attacks and the identity of the perpetrator is often technically difficult, it should be

noted that states have an obligation to protect individuals against interference by third parties that undermine the enjoyment of the right to freedom of opinion and expression. There needs to be a global framework to address the issue of government-sponsored cyber-attacks and the establishment of an international programme that provides support and resources to victims of cyber-attacks. We should also be on guard against justifications for state surveillance arising from valid security concerns such as hacking and data theft, and the public-private partnerships toward this end, which usually consist of non-transparent institutions.

Internet Privacy

While users can enjoy relative anonymity on the internet, states and private actors have access to technology to monitor and collect information about individuals' communications and activities on the Internet. Such practices can constitute a violation of internet users' right to privacy, and undermine people's confidence and security on the internet, thus impeding the free flow of information and ideas online. Thus, it is in the interest of all for states to adopt effective privacy and data protection laws in accordance with article 17 of the International Covenant on Civil and Political Rights and the Human Rights Committee's general comment No. 16. This includes laws that clearly guarantee the right of all individuals to ascertain in an intelligible form whether, and if so what, personal data is stored in automatic data files, and for what purposes, and which public authorities or private individuals or bodies control or may control their files.

In conclusion, we would like to stress that the nature of the IGF as a multi-stakeholder meeting should be reiterated with a view to representativeness in terms of nationality, interest and gender. We thank you for your attention.

Hereby signed by:

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