

FREEDOM OF ASSEMBLY AND ASSOCIATION ONLINE IN MALAYSIA

OVERVIEW AND CASE STUDIES



FREEDOM OF ASSEMBLY AND ASSOCIATION ONLINE IN MALAYSIA

Prepared by:



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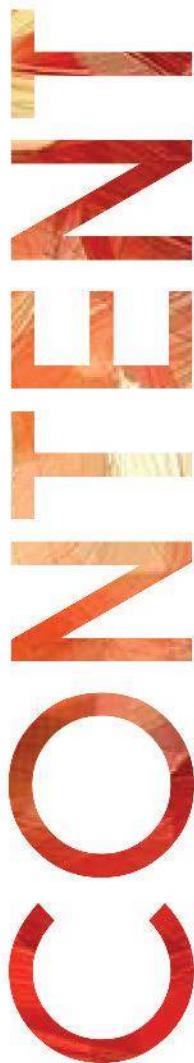
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Executive Summary

Freedom of assembly and association (FoAA) is a fundamental right recognized in Article 20 of the Universal Declaration of Human Rights (UDHR). FoAA online refers to the exercise of civil rights in peaceful assembly and association enhanced by the use of ICT (Venkiteswaran, 2016).

There are three objectives of this report:

First, it seeks to deepen understanding about the context in which FoAA online in Malaysia exists. For this, some background is provided on the historical context of FoAA in Malaysia and its transition towards the digital realm, as well as the legal restrictions on FoAA online.

Secondly, it aims to capture the creativity and richness of campaign strategies enhanced by the use of ICT in civil society movements in Malaysia.

Lastly, it relates the exercise of FoAA online to the broader struggles of human rights in the country, through deriving observations from the campaign case studies as well as challenges and threats faced by the cyber activists in Malaysia.

The research framework is structured into two main sections:

An overarching view looking at the policy context and practice of FoAA online in Malaysia, and five case studies which delve into a diverse set of Malaysian campaigns that have used online media extensively as part of their campaign strategy. Case studies chosen include:

- 1) The Bersih 4 rally demanding for the stepping down of Prime Minister Najib Razak,
- 2) student activism in defense of academic freedom in #Solidarity4AzmiSharom,
- 3) the transgender community's online campaign to expand discussions of gender identity,
- 4) the indigenous people's fight to protest against Baram Dam
- 5) and #KitaSemuaPenghasut, an unintended viral campaign which used a clown caricature to criticise the clampdown on civil society due to reports of high level corruption.

Research methods used include desk research and expert interviews.

Malaysia government has long limited the civil freedoms of its citizen by demarcating issues related race, religion, and royalty as "sensitive" and out of bounds. This was achieved by enacting draconian laws restricting freedom of expression, association and assembly; and by exercising strong control over media freedoms through state ownership of news organisations. The availability of the internet from 1990s onwards triggered an erosion of the government's monopoly on media and information, the significant decline in votes for the ruling political party in the 12th and 13th General Elections in 2008 and 2013 was attributed to online media and blogging platforms. However, this

study finds that the internet's power as a democratic space is gradually shrinking due to the government's co-option of the vibrant socio-political blogosphere, the employment or deployment of cybertroopers¹ and recent clampdowns on online spaces through state intimidation, as well as a wide range of legal instruments.

Observations on the case studies conducted for this research highlight four main ways in which civil society in Malaysia uses the internet:

- a) for organisational and logistical purposes,
- b) direct expression of dissent and protest,
- c) identity formation and reinforcement,
- d) information dissemination.

Threats and challenges faced while doing online activism and exercising the right to FoAA online include:

- 1) The inherent weaknesses of the internet as a space for interaction such as clicktivism, and increased polarisation of opinions;
- 2) state harassment and social media policing, enabled by laws and active monitoring of social media by the police;
- 3) increased censorship and legal instruments leading to self-censorship, contrary to the Malaysian government's initial commitment to not censor the internet;
- 4) overt and covert surveillance and privacy violations by the state;
- 5) hacking and other cyber attacks in which perpetrators are not easily traceable;
- 6) online violence and hate speech; and
- 7) misinformation and the spread of propaganda through cybertroopers.

In conclusion, while civil society enjoyed relative freedom in the early years of the internet in Malaysia, the government's increasingly authoritarian approach has in recent years also been extended to online spaces.

¹ "Cybertroopers" is a common term in Malaysia used to describe digital activist operating in a structured and organised manner focusing on protecting or attacking one political party or another.

INTRODUCTION



1 Introduction

This report is a part of a project entitled APC-IMPACT (India, Malaysia, Pakistan Advocacy for Change through Technology). The project aims to address restrictions on the internet by promoting and protecting internet rights.

The project, a joint initiative of the Association for Progressive Communications (APC) and its members and partners – Digital Empowerment Foundation (India), Persatuan Kesedaran Komuniti Selangor (EMPOWER) (Malaysia) and Bytes for All (Pakistan) – works specially to advance freedom of expression, freedom of information, freedom of assembly and association as enabler of human rights and democratisation.

A regional report on freedom of assembly and association (FoAA) online has been published by APC (Venkiteswaran, 2016), focusing on how the internet and digital technology have had an impact on the exercise of FoAA in India, Pakistan and Malaysia. The regional report also highlighted the threats and risks to users from surveillance, privacy invasion, and other forms of harassment or intimidation.

This is a follow up report, to comprehensively analyse the policy and practice of the right to FoAA online in the context of Malaysia.

At the regional level, civil society groups, human rights defenders, marginalised groups, political parties and youth are major users of the internet for digital activism. With a combination of online and offline tools, activist groups with scarce resources are able to mobilise bigger crowds and get their messages to a wider audience quickly. For marginalised groups who fear or suffer from persecution, the internet provides safer spaces to congregate and to interact. However, with the opportunities brought by the internet, also come some challenges. Both state and non-state actors also utilise the same tools and spaces to disrupt online social movements, target individuals over their identities and beliefs, and even intensify offline threats. Across the three countries, common threats include surveillance, censorship, filtering, network shutdowns, cyber bullying, stalking, gender-based violence, hacking, privacy violation, corporate control, and misinformation.

Based on the findings of the regional paper, the researcher noted that stories on the ground need to be captured to illustrate the experiences of multiple groups exercising their FoAA rights online. Taking into account the country context, EMPOWER set out to build knowledge and understanding on the context and practice of FoAA online across communities and on groups in Malaysia, with a gender perspective grounded in the Feminist Principles of the Internet by APC.

Therefore, at the country level, the key research objectives of this report are:

1. To deepen understanding of the context in which FoAA online in Malaysia exists, based on the broader historical context of FoAA in Malaysia, the use of the internet in Malaysia, the legal framework that restricts FoAA online, as well as other threats and challenges to FoAA online;
2. to capture the creativity and richness of campaign strategies enhanced by the use of ICT in civil society movements in Malaysia, as well as the engagement and interaction of stakeholders in five campaigns representing a diverse set of communities and causes; and
3. to relate the exercise of FoAA online to the broader struggles for human rights.

1.1 Assumptions and Definitions

The UN General Assembly (UNGA) and UN Human Rights Council (UNHRC) have passed more than a dozen resolutions affirming that rights and protections enjoyed offline should also be afforded online. This is echoed in the thematic reports from the UN Special Rapporteurs. The guarantees in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) provide the overarching framework in which these rights are to be applied offline and online (Venkiteswaran, 2016).

The assumptions and definitions used within the regional paper are adopted for this paper. Firstly, the exercise of FoAA online as explored in this paper is not solely confined to association and assembly on the internet, reflecting the conventional behaviour of people moving seamlessly from the online realm to the offline, and vice versa. The organisation of social movements may originate online or offline, and the use of internet and other digital devices are pervasive in interpersonal communications, transactions, and other aspects of everyday life.

Secondly, the exercise of rights to FoAA online is studied independently of whether the movements were considered successful or not, as the process is the focus, and not the results.

Thirdly, the study assumes a minimum level of access and digital literacy for the organisation of movements to take place, but does not assume widespread capacity in digital activism.

The key terms are defined within Table 1.

Table 1 Definition of key terms

Term(s)	Definition
FoAA online	“refers to the rights of all persons to express their opinions on, and engage in activities related to civil, political, economic, social, and cultural rights, and be part of, or form associations, where these rights are enabled or enhanced through new technologies, including the internet, and where the limitations to these rights must be permitted by international human rights law.”
Internet/online	“are used interchangeably to refer to the network or interconnected information and communication technologies including the web, social media, mobile based internet, cloud computing, big data. In relation this, the term digital activism is also used where the internet and mobile tools are used in organising actions and movements.”
Association	“refers to the act of forming groups, including informal ones, online, with or without moderators/group leaders. [...] Association refers, inter alia, to civil society organisations, clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations or even online associations as the internet has been instrumental, for instance, in ‘facilitating active citizen participation in building democratic societies’”.
Acts of peaceful assembly online	“refers to an ‘intentional and temporary gathering in a private or public space for a specific purpose’ that includes the acts of coordinating, organising, gathering, planning or meeting on platforms available online such as instant messaging, voice over internet protocol, chat applications, email groups and mailing lists, among others.”

1.2 Research framework

This country report has two main focus; first is overarching issues, which have been touched in the regional paper, but will receive a deeper scrutiny, particularly on the broader historical context of FoAA in Malaysia and its evolution along with the introduction of the internet, the legal framework that supports and restricts FoAA online, as well as threats and challenges to FoAA online beyond legal restrictions. The second looks at five case studies of different groups and communities exercising their FoAA online, illuminating experiences and narratives at the campaign level.

The chosen cases are:

- **Bersih 4:** The fourth rally organised by the Coalition for Clean and Fair Elections (BERSIH 2.0), which saw an attendance of about 500,000 protestors to demand for the stepping down of Prime Minister Najib Razak, and institutional reforms for a stronger democracy in Malaysia.
- **#Solidariti4AzmiSharom:** A student-initiated protest to protect academic freedom and demand that academician Dr. Azmi Sharom be clear of sedition charges, the first student-lecturer collaborative demonstration for a joint cause.
- **Be a Trans Ally:** The transgender community's utilisation of online spaces to broaden understanding about gender identity.
- **Anti-Baram Dam:** The struggle of indigenous people against one of twelve mega dams slated for Sarawak, the Baram Dam, drawing international attention to a local problem.
- **#KitaSemuaPenghasut:** A clown-faced caricature of the Prime Minister that went viral, bearing the message "In a country full of corruption, we are all seditious".

The cases are chosen based on three criteria:

- 1) the diversity of communities and causes represented,
- 2) the variety of uses of ICT in furthering their campaigns, and
- 3) the impact or significance of the campaign with regards to FoAA online.

With each case, the aim is to uncover how individuals and groups use the internet to exercise their FoAA rights and whether the use of online spaces have enhanced those rights and provided opportunities for engagement and advocacy, or otherwise, as well as identifying the challenges and threats faced.

For both macro and micro aspects of the study, data for analysis was collected through interviews, literature review and secondary data collection. Eleven interviews were conducted, seven face-to-face, two through email and two through Skype because of geographical and time constraints.

BACKGROUND OF FOAA ONLINE IN MALAYSIA

2 Background of FoAA online in Malaysia

Malaysia's political system has been referred to as a "pseudo democracy" (Case, 2004).² Although democratic processes of elections and civil participation do exist, the strong state is kept in power by authoritarian laws and underlying systems of patronage and nepotism. The country has had the same ruling coalition (Barisan Nasional) in the government since its independence from the British in 1957, resulting in an uninterrupted political regime of almost 60 years till the time of writing in November 2016. Within this period, Malaysia experienced high economic growth and relative political stability because of the continuity of its long term national plans. At the same time however, the lack of political oversight led to an erosion of the checks and balances on the country's institutions, and in recent years senior politicians have been implicated in corruption scandals of mammoth scale.

The utmost importance of the nation building of Malaysia's multicultural populace has always been used to justify the demarcation of issues that are considered "sensitive". These issues have conventionally included the "3R's": race, religion, and royalty. Unfortunately, these broad areas are also tightly intertwined with the social, political, economic, and cultural foundations of the country. To conduct public discourse on these issues or to form an association to challenge this demarcation resembles navigating a room trying to avoid multiple elephants in it.

Article 10 of the Federal Constitution does guarantee every citizen civil rights to freedom of speech, assembly, and association, but such rights are not absolute. The parliament is permitted by law to impose restrictions on these rights in the interest of the security of the Federation, friendly relations with other countries, public order, morality, to protect the privileges of Parliament, to provide against contempt of court, defamation, or incitement to any offence.³ Limitations on civil liberties when it comes to "sensitive" issues are compounded by the control on print and broadcast media by the government. Media freedom is mainly shackled in two ways: ownership by the state or pro-establishment parties, or overly restrictive laws that lead to self-censorship. The internet, since its advent in Malaysia in the mid 1990s has been a lifeline for activists and voices of dissent.

² Case, W. (2004). Testing Malaysia's pseudo-democracy. In E. T. Gomez (Ed.), *The State of Malaysia: Ethnicity, Equity and Reform* (pp. 29–48). Great Britain: RoutledgeCurzon/Taylor and Francis Group.

³ Centre for Independent Journalism (September 24, 2010) "Article 10 of the Federal Constitution", accessible at <http://bit.ly/1XmRQI2>

2.1 Historical context of FoAA

Peninsular Malaysia achieved independence from the British in 1957, amidst a communist insurgency that started in 1948 and ended in 1960. The Federation of Malaysia itself was established in 1963 following the independence of Sarawak and Sabah from British rule. The background of counter-terrorism put in place a host of laws to prioritise national security over political freedoms, such as Sedition Act 1948 that punishes incitement of hatred that is defined broadly, or the (now defunct) Internal Security Act 1960 which enables detention without trial, which essence still lives in other laws at the current time. The country's multicultural profile has led to race-based violence in the past, which has been used as a justification by the state to clamp down on civil society; race-based politics remains a staple in Malaysian politics although governance and corruption have become a stronger platform for civil society movements due to recent events. Table 2 contains a list of notable chronological events in Malaysia that has impacted upon freedom of assembly and association. It is not exhaustive, but provides an idea of the ebb and flow of political action in the country's short history after its formation.

Table 2 Significant events or incidents for FoAA in Malaysia

Year	Event/incident	Elaboration	Significance for FoAA
1961	Utusan Melayu Strike	Utusan Melayu journalists go on strike to protest the takeover of the newspaper by ruling party United Malays National Organisation (UMNO). The protest was unsuccessful and Utusan Melayu (later Utusan Malaysia) has since become a government mouthpiece.	This was the first and only time that journalists in Malaysia have gone on strike to protect media freedom and freedom of expression. The government's takeover of Utusan Malaysia also marks the precedence of editorial independence sacrificed for government expediency.
1969	May 13 Incident	Racial riots happened in Kuala Lumpur after the 1969 General Election, killing hundreds of Malaysians, mostly ethnic Chinese-Malaysians. ⁴ A national state of emergency was	Several laws were introduced that restricted civil liberties, including Official Secrets Act 1972 (OSA), and Universities and University Colleges Act 1971 (UUCA) which was amended in 1975 to restrict student activism (Khoo, 2013). The May 13 incident also provided the basis of

⁴ Time (May 23, 1969) "Race war in Malaysia", accessible at <http://bit.ly/20WzOUH>

		declared and the country was ruled for two years by the National Operations Council before the Parliament resumed running as normal in 1971.	race-based political fear mongering and clampdown on civil freedoms for the next few decades.
1981	Amendment to Societies Act 1966 and subsequent civil society protests	The government amended Societies Act 1966 to include broad provisions to limit political societies. A coalition of 115 organisations across different sectors campaigned against the amendments and collected nearly 80,000 signatures for its petition.	Although the government eventually kept most of the amendments, the protest was a significant mobilisation of civil society, considered "a refreshing episode of noncommunal political action in a political system long scarred by communal cleavages" (Barraclough, 1984, p.461).
1987	Operasi Lalang (also known as Ops Lalang)	The Malaysian police detained without trial 106 politicians and social activists under the Internal Security Act, in the name of national security and prevention of racial riots. Publication licenses of newspapers <i>The Star</i> (including <i>The Sunday Star</i>), <i>Sin Chew Jit Poh</i> , and <i>Watan</i> were revoked.	Ops Lalang is considered one of the biggest crackdown on civil society in Malaysian history. The Printing Presses and Publications Act (1984) was amended to tighten media control, and amendments were made to the Police Act to make a police permit mandatory for any assembly of more than 5 people, 14 days in advance. Public rallies for electoral campaigns were outlawed.
1998	Reformasi	Thousands protested across Malaysia after the sacking and subsequent arrest of former Deputy Prime Minister Anwar Ibrahim.	The Reformasi incident drew significant civil society reactions, and led to the strengthening of the opposition. Anwar Ibrahim transitioned to the opposition as the de facto leader. <i>Malaysiakini</i> , the first alternative online news portal was born a year after Reformasi.

2007	First Bersih demonstration	40,000 people took to the streets to demand for a clean and fair electoral process.	The first Bersih rally was the biggest rally since Reformasi. Originally a coalition of political parties and civil society groups, Bersih transformed into a civil society-only coalition after the first rally, and has been successful for the other four mass mobilisations organised so far, in 2011, 2012, 2015, and 2016.
2008	12 th General Election	BN failed to obtain a two-third majority in parliamentary seats, a historical win for the opposition.	The gain by the opposition was widely attributed to its strategic use of the internet, and the blossoming of a vibrant socio-political blogosphere. Prime Minister Abdullah Badawi claimed that the government had lost the cyber war. This event also triggered the formation of UMNO's Unit Media Baru, a group known to train cybertroopers sympathetic to the ruling party.
2015	1MDB financial scandal revelation	Prime Minister Najib Razak was accused of channelling over RM2.67 billion from 1MDB, a government-run strategic development company, to his personal bank accounts. As a direct response to the scandal, PM Najib consolidated his political power through a cabinet reshuffle, and interfered with the investigation of the incident through replacing then Attorney General	After the Prime Minister was implicated in the scandal of siphoning billions from 1MDB, the government worked quickly to crack down on media freedom and freedom of expression blocking online news portals such as <i>Sarawak Report</i> and <i>The Malaysian Insider</i> , and strengthening its usage of draconian laws such as Sedition Act 1948 on social media postings. Some have likened this crackdown to Ops Lalang in 1987. The 1MDB revelation also triggered a strong reaction from the public, such as Bersih 4 where 500,000 people attended a 34-hour

		Abdul Gani Patail, and through co-opting four of the investigators in the Public Action Committee into his cabinet.	rally; and the Citizens' Declaration, where former PM Mahathir Mohamad worked with the opposition and civil society to jointly demand for Najib to step down and for institutional reforms to curb corruption.
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2.2 Development of FoAA Online in Malaysia

A. Asohan, a technology journalist marked that the entry of the internet into Malaysia as "one of the most visionary moves in Malaysian history". In 1992, a few years after the internet was released for public use in the United States, the Malaysian government launched the internet under its first Internet Service Provider Jaring (full name "Joint Advance Research Integrated Networking"), which was formerly the RangKom project started by networking universities. According to Asohan, when the internet was launched in Malaysia for the public, there was already pent up demand for the service because of the tech media coverage at that time. To further develop the knowledge economy, Malaysia launched the Multimedia Super Corridor (MSC) in 1996 to attract investments and innovation in internet and multimedia technologies. Along tax breaks and other incentives, the MSC Bill of Guarantees also came with the promise of no internet censorship. This conducive environment for freedom of expression led to the development of a vibrant online public sphere.

Twenty years since the MSC was launched, access to the internet in Malaysia is fast-growing. Recognising the economic and social benefits brought by the internet, the Malaysian government has been proactive in providing infrastructure and supporting the communications and multimedia industry in the country, as well as providing capacity training. The Universal Service Provision (USP) initiative for example had allocated 1.68 million units of netbooks to the poor since 2010, and the 1Malaysia Wireless Village programme had enabled WiFi hotspot services in 4,737 selected villages nationwide.⁵ As a result, by the end of 2015, the number of active internet users in the country had exceeded 20.1 million, and broadband penetration had achieved 72.2%. 16.8 million of the internet users were also active on social media.⁶

Liu (2011) argues that the internet space in Malaysia is a "democratic enclave", where "the authoritarian regime's writ is substantively limited and is replaced by an adherence to recognizably democratic norms and procedures". Four

⁵ Borneo Post Online (June 30, 2014) "1.2 million 1Malaysia netbooks given out – ministry", accessible at <http://bit.ly/1sQSREC>

⁶ The Sun Daily (October 28, 2015) "Malaysia has over 20.1m internet users", accessible at <http://bit.ly/1TffRZa>

characteristics qualify the internet space in Malaysia as a democratic enclave. Firstly, the political regime of the country inclines towards authoritarianism with draconian laws that reinforce a strong state, creating the need for a democratic space. Secondly, the internet space had been left uncensored mostly (at least up till the publication of Liu's paper in 2011), as the government had made the decision to keep the space uncensored to attract more foreign investments. Thirdly, the alternative media within this uncensored space are independent and vibrant, and compete with the government-controlled traditional media. Lastly, the internet community can morph into large scale mobilisations offline when needed, such as in the case of the Bersih rallies.

However, in the recent years, the landscape of online activism has increased in complexity and new developments encroach upon the freedom of the internet space that some consider as the final frontier to civil liberties in Malaysia. As internet penetration achieves new heights, state and non-state political actors focus on reining in the power of the "new media". This section explores the evolution of the internet and online activism in Malaysia, tracing major trends from when the internet was introduced, to the current time when it is considered a cyber war zone by political forces.

The broadening of civil society space online

Social activists and journalists did not take long to turn to the internet after it was introduced in 1992. One of the early pioneers was the late M.G.G. Pillai who founded the mailing list-based discussion forum, *Sang Kancil*, which became a platform for people of like mind to group together and to share dissenting views not covered by traditional media.

Wong (2001) described the vibrant online landscape in the late 1990's in Malaysia. When Reformasi occurred, there were about 80 pro-Anwar websites, which is a considerable number considering that the number of Malaysian websites was not high. *Malaysiakini* was launched in 1999, and remains till today one of the most popular alternative news sources in Malaysia. Many NGOs, such as the Consumer Association of Penang used GeoNet, FidoNet, GreenNet and PeaceNet to share information and mobilise campaigns. Information on political detainees under ISA in Malaysia and Singapore in 1987 were circulated to human rights groups and the Malaysian and Singaporean diaspora. The indigenous people in the state of Sarawak received global attention for their struggles and marginalisation, becoming a "constant embarrassment" to the Malaysian government (Wong, 2001, p.384). White collar workers downloaded alternative news and pamphlets with internet connection at work, and distributed them widely in street markets and public rallies. News was also distributed through video CDs which were sold on the streets. While the government had the stronghold on traditional media, ordinary citizens worked around the tight media control and low internet penetration to get alternative news out (*ibid*).

Liu (2011) attributes the success factors of online activism at that time to a combination of good timing and the capacity of civil society actors to take advantage of the internet boom. The power struggle amongst the political elites leading to the sacking and arrest of then Deputy Prime Minister Anwar Ibrahim fractured the strength of the ruling coalition and opened up liberalising possibilities. The MSC Bill of Guarantees promised no censorship, and the government did leave the internet space mostly alone until 2008 when they woke up to the importance of the space in forming public opinion. Furthermore, those who took up the internet as a media platform consciously did it in a professional and journalistic manner, with platforms such as *Malaysiakini* and (now defunct) *The Nut Graph* leading as role models and establishing credibility as they are and were run by veteran journalists.

With the advent of weblogs in the 2000s, the sociopolitical blogging scene in Malaysia flourished, with bloggers breaking news and giving political commentaries with their newfound platforms. The lost ground by the ruling coalition in the 12th General Election was often attributed to vibrant opposition online. The blogosphere that was originally individual-centric became more politically organised as some vocal critics such as Jeff Ooi and Tony Pua joined the opposition party Democratic Action Party (DAP). At least five of the prominent opposition bloggers eventually won parliamentary seats (Liu, 2011). On the other hand, it appears that the government had won over a significant faction of the sociopolitical blogosphere by 2011, evidenced by a high level blogging conference hosted by a previously anti-establishment bloggers' alliance, which included PM Najib Razak as a keynote speaker and the theme as "Blogging Mindfully and Responsibly" (Hopkins, 2012).

However, by this time, another development was usurping the importance of the sociopolitical blogosphere. Social network sites such as Facebook and Twitter had risen in popularity in political activism globally, and Malaysia was no exception. From 800,000 Facebook users and 3,429 Twitter users in 2008, the number of social media users rose exponentially to 13,220,000 and 2,000,000 respectively in 2013 (Gomez, 2014). The barrier of entry for political participation lowered significantly, as ordinary citizens were also able to act as agents of change through sharing content with ease, and expressing themselves through their social media accounts. The availability of social media enabled rapid organisation and communication for mass mobilisations such as the second Bersih rally. During the 13th General Election in 2013, and the opposition was able to win the popular vote (but not the majority of the parliamentary seats), the first time since 1969, and this was attributed to social media strategies by the opposition and active public participation online (Mohd. Azizuddin, 2014).

Cyber warfare and cybertroopers

It is clear that both the incumbent and opposition political parties have taken the internet very seriously as a political tool since the 12th General Election (GE12) in 2008. This is exemplified by the fixation on so-called "cybertroopers",



or digital activists operating in a structured and organised manner focusing on protecting or attacking one political party or another. The term "cybertrooper" was popularised after the historic loss of the two-third majority of parliamentary seats of Barisan Nasional in 2008. Then Prime Minister Abdullah Badawi attributed this to a strategic error of relying on government-controlled media for its campaigns, and neglecting the online media. "We certainly lost the internet war, the cyberwar," he said.⁷ It was implied that if a party can win the online battle, the battle is won in general. This presumption, to a certain extent, has lived on until today.

After GE12, the incumbent started pouring resources into training cyber activists. In a news report published before the 13th General Election (GE13) in 2013, it is stated that UMNO's cybertrooper organisation Unit Media Baru (translated: New Media Unit, also known as UMB) was set up in 2009, and within four years it had trained some 2,300 cyber activists. UMB had been involved in more than 150 programmes nationwide by then to raise awareness and increase capacity in the political use of new media. Before GE13, a side campaign "Gempak" was launched, to "counter the 'propaganda lies' of the opposition by highlighting the unkept promises by opposition leaders, focusing on opposition-led states."⁸

It was after the GE13 when reports surfaced that opposition party DAP was commanding a cybertrooper army called Red Bean Army (RBA) of about 200 people to attack pro-BN individuals on social media sites. According to UMNO-owned Utusan Malaysia, DAP was allegedly paying RM3,000 monthly to the RBA members, and spent around RM1.5 million a month to fund the operation over the six year period before GE13. The RBA was alleged to be operating from Concorde Hotel in Kuala Lumpur and Komtar in Penang. Another figure came from a memorandum received by Putrajaya from 130 NGOs that claimed that the RBA was supporting 300 to 3,000 cybertroopers with a budget between RM100 million and RM1 billion in the past six years.⁹ DAP has vehemently denied the existence of any paid cybertrooper, saying that those politically active on social media supporting the opposition had done so with their own resources and time, and explained it as "participatory politics".¹⁰

The introduction of the RBA to the popular imagination (whether it exists or not) also introduced a convenient straw man that was often used by those in the incumbent, mostly in two ways: first, to imply that news and allegations unfavourable to the Prime Minister or the ruling party were untrue rumours spread by the opposition's cybertroopers; and second, to justify the ruling

⁷ The New York Times (March 25, 2008) "Malaysian leader admits ignoring Internet was a mistake", accessible at <http://nyti.ms/1X1Umwm>

⁸ The Star Online (March 31, 2013) "GE13: Taking on the opposition in their home ground", accessible at <http://bit.ly/25DULuj>

⁹ Malay Mail Online (July 3, 2013) "DAP visits 'Red Bean Army HQ'", accessible at <http://bit.ly/1P91zDc>

¹⁰ The Star Online (June 9, 2013) "No Red Bean Army manning online campaign, reiterates DAP", accessible at <http://bit.ly/1sQZuXC>

coalition's own cybertroopers as a valid form of self-defense. Cybertroopers were attributed a reputation of being rumour-mongers and sock puppets, and so the logic was that one had no choice but to counter propaganda with propaganda.

Table 3 shows a compilation of cybertrooper teams that have been reported within the media, and their objectives. The list is not exhaustive, and only includes initiatives that are publicly announced by their political owners, and excludes those that are speculated to exist but denied by their supposed owner, such as the RBA. Most that have been announced (or at least, those that have been found by this researcher) are aligned with the ruling coalition, except one by Pemuda Pas (Parti Islam Se-Malaysia). The earliest organised cybertrooper group, Unit Media Baru (UMB) by UMNO Youth appears to focus on spreading the awareness about new media and engaging the youth, but those that were announced after the GE13 (2013) seem to take a much more defensive role to counter allegations, defend their party, and even to tackle "political gangsterism" online.

Table 3 A compilation of cybertrooper teams as reported by the media

Year of establishment	Political entity/ Name of cyber trooper group	Objectives as reported in the media	
1	2009	UMNO Youth/Unit Media Baru	To raise awareness among other party engines about the use of new media and social media networks to deliver information and effectively engage youth who are already exposed to the media. ¹¹
2	2014 (April, suggested, no follow up found)	Barisan Nasional (BN) Publicity and Information Bureau/Blue Wave Army	To counter allegations from the opposition's Red Bean Army (RBA), and to provide explanations to the community on issues that were frequently distorted by the opposition such as the Goods and Services Tax (GST). ¹²
3	2014 (November)	Puteri UMNO/Fire Ant Front	To defend UMNO, religion, and race; to counter propaganda, lies and slander being spread on social media ¹³
4	2015 (October)	Pemuda PAS/Mujahiddin Cyber Troopers	To fight and counter all forms of untrue accusations and slander online ¹⁴
5	2015 (December)	Parti Tenaga Rakyat Sarawak (TERAS)/No name given	To promote the party's activities, handle criticisms and tackle 'political gangsterism' ¹⁵
6	Unknown, as early as February 2014	Pahang State Government/Pahangku Media	To counter false information spread by irresponsible social media users, to spread accurate information, and to promote the state's tourism industry in conjunction with Visit Malaysia Year 2014 ¹⁶

¹¹ The Star Online (March 31, 2013) "GE13: Taking on the opposition in their home ground", accessible at <http://bit.ly/25DULuj>

¹² The Star Online (April 13, 2014) "Set up "Blue Wave Army" to counter "Red Bean Army", says Ahmad Maslan", accessible at <http://bit.ly/1Zi6rM3>

¹³ The Star Online (November 27, 2014) "Fire Ant unit fights falsehood in the cyber front" accessible at <http://bit.ly/1Uj37vS>

¹⁴ Sinar Online (October 7, 2015) "Pemuda Pas tubuh unit baharu tangkis fitnah", accessible at <http://bit.ly/1r4L8If>

¹⁵ Borneo Post Online (December 13, 2015) "Teras to counter 'political gangsterism' with own cyber troopers", accessible at <http://bit.ly/1TSI7D8>

¹⁶ The Star Online (February 24, 2014) "Cyber troopers told to be more aggressive on irresponsible social media users", accessible at <http://bit.ly/1RSTfqN>



Groups not directly affiliated with political parties have also surfaced in media reports, forming voluntary cybertrooper groups. One such group named Sensible and Ethical Malaysians United Troopers (Semut) is said to have recruited "hundreds" of volunteers in a bid to "promote healthy use of social media".¹⁷ One of its methods was to police social media posts, and the group had lodged two police reports against two Facebook users for posting "sensitive" comments about the Yang di-Pertuan Agong and Prophet Muhammad in 2013. The then Communication and Multimedia Minister, Ahmad Shabery Cheek lauded their efforts, stating that it would help the police's efforts in monitoring cyberspace.

A few weeks before the Bersih 4 rally in August 2015, Prime Minister Najib Razak urged UMNO members to turn to the internet to counter "false views" about the party and himself. He said,

"Open Facebook and Twitter accounts. If you can't be bloggers, being Facebook and Twitter practitioners is enough. When you see false views, you can counter them. When you see the party president being attacked, you can attack them back. [...]

Should all three million of UMNO members be active on social media, the party would "dominate social media and defeat the Red Bean Army and all, because we have the strength."¹⁸

Indeed, the mobilisation for Bersih 4 had led to a high level of political activity on social media, which the government observed with some trepidation. Barisan Nasional strategic communications director Abdul Rahman Dahlan admitted that there was a need for the ruling coalition to consolidate their cyberwar efforts, pointing out that there were "too many poorly coordinated initiatives" by the BN cybertroopers. He mentioned that the coalition was considering an online fact check database to quash misleading accusations by opposition cybertroopers and alternative news media.

State clampdown on internet and social media

"Gone are the days when the narratives of our society are dictated by the government. Keyboard warriors, cybertroopers and even news portals have made the online world their 'playground', constructing their own version of 'reality' with clickbait headlines that serve their own agendas.

This is an unhealthy practice of journalism." ¹⁹

¹⁷ BBC (July 30, 2013) "Malaysia: Vigilantes 'monitoring cyberspace'", accessible at <http://bbc.in/25DWDDa>

¹⁸ Free Malaysia Today (August 8, 2015) "Najib declares war against Red Bean Army", accessible at <http://bit.ly/1X1WiVH>

¹⁹ Malaysiakini (February 26, 2016), "PM lumps news portals with cybertroopers, slams 'unhealthy' journalism", accessible at <http://bit.ly/1Xn5BAa>

The above quote from a blog post of PM Najib in February 2016 is one of the many statements made by government officials to vilify so-called keyboard warriors and cybertroopers as a collective entity, though the previous section has made it clear that the establishment welcomes cybertroopers if they support or work for the incumbent. At the same time when the government was beefing up its cyberstrooping efforts, it was also tightening up controls on this space. This can be observed through a spike in arrests and investigations, as well as amendments to laws linked to internet and social media activity. The sections on law (Section 2.3) and challenges (Chapter 5) provide deeper insights while this section gives an overview.

Beyond GE13, the government moved from covert cyber operations to overt legal crackdown on opposition voices (Freedom House, 2015). This intensified after the revelation of a massive financial scandal involving the alleged involvement of PM Najib and the 1MDB state fund in 2015, triggering swift government action to control media freedom. In July 2015, whistleblower website *Sarawak Report* was blocked for its reporting on 1MDB under the Communications and Multimedia Act 1998,²⁰ and online media editors were warned not to republish its content or they might suffer the same consequence.²¹ The publishing permits of financial news daily *The Edge* and *The Edge Weekly* were suspended for three months for their reporting on the topic.²²

Colonial era law Sedition Act 1948 was used with alarming frequency, with 220 uses in 2015 (206 investigations, 11 charges, 3 convictions), from 2014's 44 cases and 2013's 18 cases (Suaram, 2015). The same law which the government promised to repeal in 2009 was instead reinforced to extend its powers to the digital realm. Media reports also surfaced on proposed amendments to the Communications and Multimedia Act (1998) to register news portals and socio-political bloggers, which watchdogs warned would lead to self-censorship. The police turned to policing Twitter and Facebook, and the number of detentions and arrests due to online activity shot up.

In January 2016, the government set up the Special Committee to Combat Abuse of Social Media, chaired by Communications and Multimedia Minister Salleh Said Keruak. Members included personnel from the Royal Malaysia Police, Malaysian Communications and Multimedia Commission (MCMC) and the Attorney-General's Chambers. The objective of the Special Committee was "to ensure firm action is imposed on those who use the social media to sow hatred against the government institution and to prevent the social media from sparking chaos via the dissemination of lies, hatred and religious extremism",

²⁰ The Star Online (July 19, 2015) "MCMC blocks access to Sarawak Report website", accessible at <http://bit.ly/1VAIL6v>

²¹ Malaysiakini (July 24, 2015) "Repeat SR claims and face action, warns MCMC", accessible at <http://bit.ly/22BDqN2>

²² The Star Online (July 24, 2015) "Home Ministry suspends The Edge's publishing permits for three months", accessible at <http://bit.ly/1r4LOHa>

according to the Deputy Minister of Communications and Multimedia.²³ In the first meeting, the coordination of enforcement action was discussed, and it was decided that the police would lead the ministry's enforcement unit.²⁴ Within two months after the setting up of the Special Committee, MCMC had blocked 52 websites and investigated 14 social media abuse cases.

Some of the blocked websites were related to reports and discussions on 1MDB, such as Medium.com which was blocked for hosting an article²⁵ posted by a user named "Sarawak Report" that alleged that PM Najib was planning his exit from Malaysia amidst the 1MDB scandal. In February, another prominent alternative news website *The Malaysian Insider* (TMI) was blocked after publishing an article citing an anonymous source from the Malaysian Anti-Corruption Commission (MACC), who said the agency had accumulated enough evidence to charge Najib through investigations into SRC International, a firm owned by the Finance Ministry.²⁶ After eight years of operation, TMI ceased operation, citing financial difficulties partially related to the block.²⁷

Civil society reacted strongly to the concerted clampdown on freedom of expression, the unfolding events that opposition parliamentarian Tony Pua had likened to "the dark days of Operasi Lalang" when the government suspended three newspapers *The Star*, *Sin Chew Jit Poh* and *Watan*, and conducted a mass crackdown on civil society through arrests and detention without trial.²⁸ Multiple campaigning efforts resulted from the crackdown, such as #AtTheEdge in solidarity with the suspended *The Edge* where more than 300 journalists and activists protested the clampdown on media freedom,²⁹ and the #KitaSemuaPenghasut campaign in which the message was "in a country full of corruption, we are all seditious" (Case Study 5).

²³ Bernama (March 8, 2016) "MCMC Blocks 52 Websites Since January", accessible at <http://bit.ly/1U1m3U3>

²⁴ New Straits Times Online (January 20, 2016) "Communications and Multimedia Act review will give it more bite", accessible at <http://bit.ly/1r4MeNG>

²⁵ Sarawak Report (January 17, 2016) "Najib Negotiates His Exit BUT He Wants Safe Passage AND All The Money! EXCLUSIVE DISCLOSURE", Medium.com, accessible at <http://bit.ly/1t5nqXS>

²⁶ The Straits Times (February 27, 2016) "Police call up staff of Malaysian Insider", accessible at <http://bit.ly/22BEkJA>

²⁷ Malaysiakini (March 16, 2016) "Home Ministry, MCMC discuss tighter online regulations", accessible at <http://bit.ly/1UkNBQ3>

²⁸ Malaysiakini (February 25, 2016) "TMI block signifies darkest day since media crackdown in 1987", accessible at <http://bit.ly/1Xn7ahu>

²⁹ The Sun Daily (August 8, 2015) "#AtTheEdge march for media solidarity", accessible at <http://bit.ly/1XUJ788>

2.3 Legal framework restricting FoAA online

The international frameworks that affirm that rights offline must be also protected online are addressed in the regional paper, covering main UN resolutions related to the internet and human rights as well as FoAA, the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR) (Venkiteswaran, 2016). This section looks at the national level, and focuses on federal laws of Malaysia impacting upon FoAA online.

In the Federal Constitution, Malaysians are guaranteed the rights to freedom of speech, assembly, and association. However, these rights may be restricted in the interest of the security of the Federation, friendly relations with other countries, public order, morality, to protect the privileges of Parliament, to provide against contempt of court, defamation, or incitement to any offence.

As a result of the overly broad restrictions, most attempts to challenge laws that restrict civil freedoms as being unconstitutional have failed. On FoAA online, the existing controls on freedom of assembly and association in the offline realm apply. Because of the internet's use mainly as a communications tool, restrictions on freedom of expression, both online and offline, also have a large impact on how people organise and connect. On top of that, there are other laws which actively discriminate against marginalised segments of society such as the LGBT community. Table 4 provides a list of laws and their restrictions on FoAA online.

Table 4 List of draconian laws and their restrictions

Area	Law	Examples of Restrictions
Freedom of Peaceful Assembly	Penal Code	Section 124B on unlawful assemblies was newly introduced in 2012, used for first time in 2015. It states that "whoever, by any means, directly or indirectly, commits an activity detrimental to parliamentary democracy shall be punished with imprisonment for a term which may extend to twenty years." (Venkiteswaran, 2016, p.20). Section 143 has also been used for the charge of unlawful assembly. (Suaram, 2015)
	Peaceful Assembly Act 2012 (PAA)	The PAA replaced provisions in the Police Act (1967) to regulate public assemblies. It recognises the people's right to assembly, but imposes many restrictions on this right. It forbids so-called "moving" assemblies, allows the police to impose broad and arbitrary conditions on

		proposed events, and strictly limits appropriate rally sites that organizing a legal gathering in an urban setting is difficult. The law makes it an offense for children under 15 to attend rallies and for adults to bring children to assemblies, effectively restricting both children and caregivers from exercising their rights to assembly. ³⁰
	Public Order (Presevation) Act 1958 (POPA)	The Home Minister may temporarily declare any area where public order is seriously disturbed or seriously threatened to be a restricted area for a certain period of time. Within this restricted area, the police can close roads, erect barriers, impose curfews, and to prohibit or regulate processions, meetings or assemblies of five persons or more. ³¹
Freedom of Association	Societies Act 1966	Organisations with seven or more members need to register with the Registrar of Societies (ROS). The ROS is answerable only to the Minister of Home Affairs who has "absolute discretion" to declare a society illegal (Human Rights Watch, 2015). Multiple NGOs considered to be political or activist-oriented have had difficulties registering their organisation under the Societies Act. ³² Some eventually turn to registering their non-profits under the less restrictive Registrar of Companies.
	Trade Unions Act 1957	The Trade Unions Act empowers the Director General of Trade Unions to refuse official registration on arbitrary, unjustified or ambiguous grounds, and there is no recourse to a refusal. Trade unions are also restricted from affiliating with any consultative body outside of Malaysia (ITUC, 2010) ³³ Certain categories of

³⁰ Human Rights Watch (March 2013) Universal Periodic Review Submission, accessible at <http://bit.ly/1WYyWID7>

³¹ Malaysia Today (August 22, 2015) "Laws on Freedom of Assembly", accessible at <http://bit.ly/1Pr9bGD>

³² The Sun Daily (March 17, 2006) "Are Malaysians guaranteed freedom of speech, assembly and association?", accessible at <http://bit.ly/25BB2YE>

³³ ITUC (2010) The ITUC Global Rights Index: Malaysia, accessible at <http://bit.ly/24mtjuY>

		workers are restricted from joining unions, including those in pioneer industries such as the electronics sector and public-sector workers who are considered to be "confidential, managerial and executive."
	Industrial Relations Act	Industrial unions are prohibited from organising employees in managerial and executive positions. Trade unions must apply for recognition from the employer for a ruling on the representativity of the union. Collective bargaining is restricted to certain activities, such as making provisions for training to enhance skills, for an annual review of the wage system and for a performance-related remuneration system, and does not include hiring and firing, transfer and promotion, dismissal and reinstatement. (ITUC, 2010) ³⁴
	Universities and University Colleges Act 1971 (UUCA)	The UUCA had made it illegal for students to join political parties or take part in political campaigning and protests until Section 15 was declared unconstitutional. Although the act was amended in 2012, a university can still stop students from participating in activities that are "unsuitable to the interests and well-being of the students or the university". UUCA also authorises strict disciplinary rules binding students when they enter the university. In the case of Universiti Malaya for instance, the university rules prohibit students from actions such as to "hold, organise, convene or call" a meeting of more than five people, distribute any document without permission of the vice chancellor within or outside the campus, post anything related to university life anywhere, or use loudspeakers within the campus without the vice chancellor's approval. ³⁵
Freedom of	Communications	Section 211 of the CMA criminalises the

³⁴ ITUC (2010) The ITUC Global Rights Index: Malaysia, accessible at <http://bit.ly/24mtjuY>

³⁵ The Malaysian Insider (November 5, 2014) "In solidarity with the UM8 – Lee Hwok Aun", accessible at <http://bit.ly/1ZjMVyL>

Expression	and Multimedia Act 1998 (CMA)	dissemination of information considered "indecent, obscene, false, menacing, or offensive in character with intent to annoy, abuse, threaten, or harass any person". Section 233 penalises those who misuse the network facilities to disseminate the content.
	Sedition 1948 Act	"Seditious tendency" is defined under Article (3)(1) in an overly broad and vague manner, with wordings such as "bring into hatred or contempt or to excite disaffection against any Ruler or against any Government" and "to raise discontent or disaffection" amongst the population. The Sedition Act was amended in 2015 to include electronic media and sharing, and to increase penalties to imprisonment of between three and seven years. Among the sensitive areas demarcated are religion, rulers, race, secession, special rights of Bumiputera, and the status of the national language. (Amnesty International, 2015)
Other laws	Securities Offences (Special Measures) Act 2012 (SOSMA)	SOSMA was introduced to replace the now-defunct and controversial Internal Security Act 1960. Section 4 endows police officers with special power of arrest and detention over persons whom they have reason to believe is involved in high-risked security offences. The Act allows for detention without trial of up to 28 days, and an electronic tracking device placed on released suspects. Other provisions that enable privacy violation by the state include the ability of the police to intercept and listen to any message or conversation transmitted or received in any form. ³⁶
	Prevention of Terrorism Act 2015 (POTA)	POTA relates to terrorism, and also provides for detention without trial of up to 59 days. ³⁷ A five-to-eight member Prevention of Terrorism Board will have the

³⁶ Astro Awani (February 8, 2013) "What is the Security Offences (Special Measures) Act 2012?", accessible at <http://bit.ly/1sv44UM>

³⁷ The New York Times (April 7, 2015) "Malaysia Resurrects Detention Without Trial, Alarming Government Critics", accessible at <http://nyti.ms/1U4gfss>

		power to order two-year detention or five-year restriction orders that can be renewed indefinitely. Individuals under the restriction order must wear an electronic monitoring device to ensure that he or she remains in permitted areas or does not enter prohibited areas. ³⁸
	Evidence Act 1950	Section 114A of the Evidence Act which was amended in 2012 holds internet account holders and intermediaries liable for any content published or shared through their services (such as ISPs, cafes offering broadband connections and website owners). If an anonymous person posts content deemed offensive using another person's account or services, it will be the latter who will be responsible for the content, unless they can prove otherwise.
	National Security Council Bill (NSC) 2015	The NSC allows the Prime Minister to declare a state of emergency on the advice of the National Security Council which consists of the Deputy Prime Minister, the Minister of Defence, the Minister of Home Affairs, the Inspector-General of Police and an unspecified General of the Armed Forces. Within declared "security areas", security forces have wide discretion to arrest, search, seize property, declare curfew and use lethal force against perceived threats if they deem necessary. Any 'negligence' or excessive use of force would not be subjected to any form of prosecution, inquiry or inquests (Suaram, 2015).

The general climate with regards to civil freedoms in general had improved after the stepping down of former PM Mahathir Mohamad, followed by one term of prime ministership of Abdullah Badawi. The succession of PM Najib Razak had looked promising initially in the further expanding of freedoms, however the country's political liberalisation appears to have regressed in the recent years, with PM Najib's administration passing new laws and amendments on old laws with extended and broad provisions for state control.

³⁸ Straits Times (March 30, 2015) "Highlights of Malaysia's new anti-terror laws", accessible at <http://bit.ly/1UBq2W5>

For example, Security Offences (Special Measures) Act 2012, Prevention of Terrorism Act 2015 (POTA), Peaceful Assembly Act 2012 (PAA), and National Security Council Bill (NSC) were passed during PM Najib's regime. Table 5 indicates the heavy use of draconian laws in Malaysia in 2015, described by Suaram as "a dreadful year for human rights" (Suaram, 2015, p.3).

Table 5 Draconian laws impacting on FoAA online and their use in 2015

Law	Use of law in 2015
Security Offences (Special Measures) Act 2012 or SOSMA³⁹	46 documented investigations (as of September 2015, and is likely higher than this figure) under Part VI or Part VII of the Penal Code and detention under SOSMA.
Prevention of Terrorism Act 2015 (POTA)	Gazetted in 2015, no cases documented yet.
Peaceful Assembly Act 2012 (PAA)	AGC continued to pursue its cases against various individuals under Section 9(1) of the PAA.
National Security Council Bill (NSC)	Was passed on the 3 rd of December 2015, no instances of use yet.
Prevention of Crime (Amendment and Extension) Act 1959 or POCA	975 arrests and investigations under POCA between 2nd April 2014 to 1st October 2015. From this number, 143 were to undergo detention; 480 are under police surveillance; 68 to be monitored through electronic monitoring, 28 were supposedly charged in court; 131 released after investigation while 193 remain under investigations.
Sedition Act 1948	220 involved in 2015 – (206 investigations, 11 charges, 3 convictions). This is contrasted with 2014's 44 cases and 2013's 18 cases.
Communications and Multimedia Act 1998	37 total cases in 2015 (23 investigated, 10 arrested and/or detained, 3 charged, 1 sentenced).
Printing Presses and Publications Act 1984 (PPPA)	Suspension of The Edge's publishing permit for publishing articles related to 1MDB for 3 months.

(Compiled from Suaram (2015))

³⁹ It should be noted that the provisions of SOSMA does not include any criminal offences, it is a procedural law that is applied in place of the Criminal Procedure Code in the event that there is an arrest for offence found under Part VI and Part VII of the Penal Code. As such, it is noted that the detention made under SOSMA is not necessarily detention without trial, but can be considered as detention and punishment before sentencing as there can be no bail for those detained under SOSMA and those detained will be in custody until the completion of all hearings and exhausted all appeals.

CAMPAGN CASE STUDIES



3 Campaign case studies

The era of networked communities and ubiquitous social media usage is a boon to social movements, which typically work with scarce resources and multiple limitations. The civil society in Malaysia has taken up social media with the same fervour and intensity as their counterparts in other parts of the world. Global revolutions and uprisings are increasingly supported by the use of online platforms such as Facebook and Twitter. Combined with pervasive tools such as email and mailing groups, as well as mobile apps for messaging, low cost photographing and videographing, mass mobilisations happen with greater ease and efficiency.

However, social media and other communication tools exist within specific cultural contexts, and should not be seen in isolation from offline activities and lobbying. They should not be seen as a panacea that automatically expand policy space and civil society movements. Concurrent with the developments of digital activism is the tightening state control over internet communications and other challenges, as the shadier side of the internet manifests in online bullying, hacking, and the spreading of misinformation.

The following five case studies are snapshots of different segments of civil society fighting for various causes, and their incorporation of online tools in their strategies as well as threats and challenges faced. As mentioned earlier in the research framework, the cases have been chosen based on significance of the campaigns, diversity of communities and causes represented, and the variety of ICT usage in furthering campaign causes.

3.1 Bersih 4: Mass Mobilisation for Better Democracy

The Bersih (translated: "clean") rallies and their sea of yellow t-shirts have become a symbol of people power in contemporary Malaysia. The first Bersih rally was held in 2007 organised jointly by leaders from political parties, civil society groups and NGOs, to reform the electoral process that was argued to be skewed towards the ruling coalition. In 2010, the group was relaunched as BERSIH 2.0 to be wholly formed and run by civil society, unaffiliated with any political party. (From here onwards, "Bersih" will be used to mean BERSIH 2.0, the coalition that is run by civil society.) Since then, four other Bersih rallies have been organised in 2011, 2012, 2015, and 2016, mobilising hundreds of thousands of demonstrators in the streets of Kuala Lumpur and also the Malaysian diaspora in many cities across the world. This case study focuses on Bersih 4, the demonstration in 2015 that was held spanning 34 hours, from 2pm of August 29th to midnight of the 30th. In terms of scale and prominence, it is one of the biggest rallies ever held in Malaysia, with an estimated attendance of 500,000 protestors according to the organiser.

A month before the rally, the steering committee of Bersih issued a press release announcing the demonstration to be held in Kuala Lumpur, Kuching,

and Kota Kinabalu. The announcement was expressly triggered by Prime Minister Najib Razak's interference in the 1MDB investigations, including his actions of:

- 1) Removing the Attorney General Abdul Gani Patail who was involved in the investigation;
- 2) co-opting four out of 13 members of the Public Accounts Committee (PAC) into the administration by giving them executive positions; and
- 3) intensifying power concentration through cabinet reshuffle, retaining himself the position of Finance Minister, and appointing Home Minister Zahid Hamidi (a known supporter) as Deputy Prime Minister.

As a result of these developments, Bersih demanded for the resignation of PM Najib and for the implementation of ten institutional reforms to end "prime-ministerial corruption".⁴⁰

The main objectives of the Bersih 4 rally were to advocate for the following in Malaysia:

- 1) Clean elections
- 2) Clean governments
- 3) Right to dissent
- 4) Strengthening parliamentary democracy
- 5) A strengthened economy

The campaign and the rally

After the first three demonstrations, the Bersih branding and messaging have been firmly established. In the month before Bersih 4, the campaigners focused on persuading the public to attend the rally. A poster competition was launched for this purpose, with prize money (RM1,000, RM500 and RM200) offered by Bersih to the top three winners.⁴¹ About sixty posters were submitted to the contest, and many others were inspired to design their own outside of the contest. These posters were then circulated via Facebook, Twitter and Whatsapp, and kept the agenda consistently fresh in social media. Other tactics included encouraging people to change their profile pictures on Facebook and Twitter to indicate their support visibly to their online social network, for instance with selfies donning yellow t-shirts or editing their pictures with Bersih logo overlays through services such as Twibbon.com. Because of the strong Bersih brand, local and international media gave it adequate coverage; the campaign also spread through word-of-mouth in day-to-day political discussions. On top of that, road shows were conducted by the Bersih secretariat all over the country.

⁴⁰ BERSIH 2.0 (29 July 2015) "Media Statement - BERSIH 4: The Time Has Come", accessible at <http://bit.ly/1Mo8CsT>

⁴¹ Poster collection can be accessed here: <http://bit.ly/288lFrN>

According to Politweet, a research firm specialising in politics and social media usage in Malaysia, 111,879 users made 583,338 tweets about Bersih from July 28th till August 30th 2015. 86.6% of the total users were active and 76.6% of total tweets were made during the rally.⁴² Twitter usage for Bersih 4 is remarkably higher than Bersih 2 and 3, as can be seen in Figure 1. This does not indicate support, but rather awareness of the event, as people who were anti-Bersih were also using Bersih hashtags to discuss the event. According to Mandeep Singh, secretariat manager of Bersih 2.0 and interview respondent for this case, during the 34 hours of Bersih 4, Bersih's official Facebook page reached 3.2 million users.

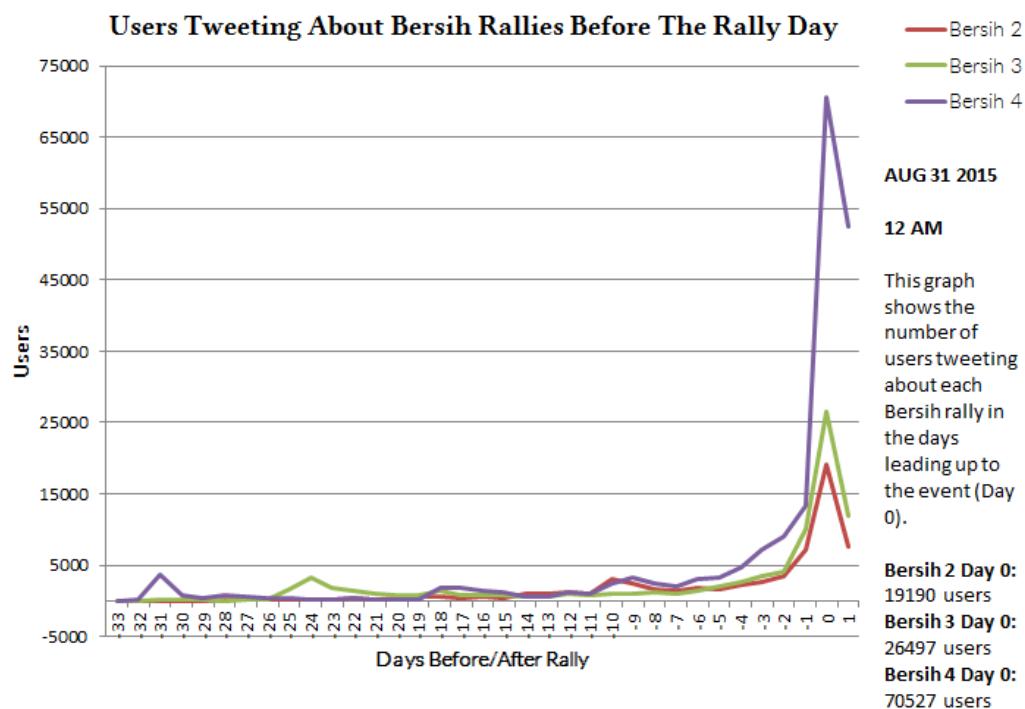


Figure 1 Users tweeting about Bersih Rallies before the Rally Day

(Source: Politweet)

Pre-rally, the Bersih secretariat managed to collect RM2.6 million through crowdfunding within three weeks. Indeed, within 24 hours, the appeal for donations had reached 1 million users on Facebook, 12,000 shares, and RM300,000 in the bank account. Considering that the initial target was RM200,000, they had achieved ten times more than they were asking for. Post rally, they gave an audited account of all that was spent, revealing a RM1.9 million surplus after spending RM664,052 for expenses before and during the rally. About 27,000 people showed their support and donated to the cause.⁴³ According to Mandeep, social media was a key factor in the success of the donation drive, as the secretariat did not go on the ground to collect donations.

⁴² Politweet (2 September 2015) "Analysis of Support for Bersih 4 by Twitter Users in Malaysia", accessible at <https://politweet.wordpress.com/tag/bersih-4/>

⁴³ Straits Times (October 6, 2015) "Bersih declares accounts, challenges Najib to do the same over political donation", accessible at <http://bit.ly/1P9W0V3>

The donations mostly came into a bank account number spread on social media, and walk-ins to the Bersih office.

For logistical arrangements, e-mail was used mostly to notify partners and update them with information. Some days before the rally, the Bersih official websites were blocked, making it difficult for the public to access logistical information such as frequently asked questions, instructions and guidelines. For this, information had to be diverted through other channels, such as the official Facebook and Twitter accounts. Besides the online logistical arrangements, a lot of groundwork offline were also done, with town hall meetings and roadshows arranged, as well as many phone calls made, to persuade grassroots leaders to mobilise their people to attend the rally.

The use of information and communication technologies intensified during the rally. For the organisers, walkie talkies were used in case of clogged or jammed cellphone networks. Firechat, a mobile app for wireless mesh networking for peer-to-peer internet connection which was popular in mass demonstrations in Iraq and Hong Kong to counter network shutdowns, was used by some of the demonstrators hence the Bersih secretariat registered an account to engage with the users. Bersih also collaborated with *Malaysiakini* to encourage the use of Prime, a mobile app that registered thousands of downloads for Android users to receive live updates before, during and after the rally. With these tools, as well as the conventional Facebook, Twitter and WhatsApp usage, information spread very quickly even though the PA system was not able to reach everyone. As people were in groups, information that reached one person would reach the entire group.

During the rally, there was a dedicated media officer monitoring Facebook and Twitter, who was stationed somewhere outside of the rally to do social media posting through receiving information from the organisers and rally goers. Social media channels were therefore consistently updated, as the Bersih official websites were blocked. Protestors and people on the ground were checking these channels constantly, as evidenced by the fact that the use of vuvuzelas noticeably decreased when Bersih made an announcement against vuvuzela use through Facebook as it was already late at night and the protestors who were on the streets needed to rest. For security, there were more than a thousand volunteers to ensure that safety of the public; in any case the public remained disciplined and civil, creating no untoward incidences.

Bersih 4 was a mega rally, with hundreds of thousands of people attending, with a diverse range of demands and dissatisfactions towards the government. With posters and placards during the rally, and photographs and selfies hashtagged #Bersih4, regular citizens expressed their hopes and wishes for a better home and a better Malaysia. An example given by Mandeep is the Orang Asli community who attended the rally to protest their marginalised and invisible position. As #bersih4 was trending on social media, many parties took

the opportunity to hold substantive discussions on the direction of the country's development.

In conjunction with the rallies happening in Malaysia, the Malaysian diaspora also held smaller demonstrations across 74 cities in the world, and posted pictures and videos of those rallies online, creating a strong sense of solidarity.⁴⁴ As images can speak a thousand words, protestors narrated their own experiences of the event through posting images on social media. For instance, criticisms of the rally being too dominated by Chinese participants were countered with pictures of different ethnicities helping each other, such as Chinese people offering water for Muslims to clean themselves before doing their Solat prayers. Besides creative costumes and posters, other examples of inventive self-expression could be found, such as those illustrated in Box 1.

⁴⁴ Channel New Asia (August 30, 2015) "In photos: Bersih 4.0 rallies around the world", accessible at <http://bit.ly/1F7lCgc>

Examples of creative self-expression in Bersih 4

The Emo Protestor

A protestor, Belveen Singh, rose to fame when his series of "emo protestor" memes got popular. Humorous one-liners overlaid on a photograph depicting a depressed-looking Belveen with the backdrop of the Bersih rally were widely circulated on social media. Figure 2 for example was shared 180 times.⁴⁵



Figure 2 Emo Protestor Meme

(Source: Belveen Singh, Facebook)

The Yellow Rise Campaign

An "independent initiative mooted by supporters of #Bersih4", the Yellow Rise Campaign encouraged people to hang yellow pieces of cloths from their homes, tie yellow ribbons and flags anywhere outdoors, and wear a piece of yellow clothing daily until the rally day. Before the rally, result pictures of the above actions were uploaded regularly on Facebook to remind people to attend the rally.

The Yellow Trees Project

Eleanor Goroh from Sabah initiated a project called Yellow Trees, where trees are decked with yellow ribbons as a show of solidarity to the Bersih cause. She first decorated a tree in a park in Kota Kinabalu on August 1 2015, which was then emulated by other Bersih sympathisers on several trees in different locations all over Sabah.⁴⁶

⁴⁵ The entire album of Emo Protestor memes can be accessed here: <http://bit.ly/1X2G26N>

⁴⁶ Malay Mail Online (August 28, 2015) "Malaysians get creative for Bersih 4 with 'yellow' trees, 'Les Misérables' revolutionary song (VIDEO)", accessible at <http://bit.ly/1UjqHJ9>

The Balloon Woman

A day after the rally, dancer activist Bilqis Hijjah dropped yellow balloons with words like "Justice", "Media Freedom", and "Democracy" on an event that was attended by Prime Minister Najib Razak and his wife Rosmah Mansor. She was charged with Section 14 of the Minor Offences Act 1955 with a maximum fine of RM100, and decided to fight the charge in court.⁴⁷

Poster Design Campaign by GRUPA

GRUPA is the name of a group of anonymous graphic designers who gathered online five days before Bersih 4 to create posters and placards to be used freely by their fellow protestors. More than 50 local designers and illustrators produced 110 poster designs for the rally within three days.



Figure 3 Collage of Bersih 4 posters designed by art collective GRUPA

Box 1 Examples of creative self-expression in Bersih 4

⁴⁷ Malaysiakini (March 27, 2016) "Bilqis Hijjas, behind the yellow balloon - dance, activism, family", accessible at <http://bit.ly/25EFDwG>

Threats and challenges

Although the Bersih secretariat did give notice to the police about the rally, Bersih 4 was deemed illegal by the Home Ministry for failing to "issue a complete notice to the police", which it emphasised should have included a detailed plan of the routes and venues that would be used. It was reported that the organisers in Kuala Lumpur did not resubmit the notice after the City Hall rejected their applications to use Dataran Merdeka and Padang Merbok as venues for the rally.⁴⁸ In Kuching and Kota Kinabalu, the rallies were also considered illegal.

Citing the illegality of Bersih 4 and concerns over national security and harmony, Malaysian Communications and Multimedia Commission proceeded to block "websites promoting, spreading information and encouraging people to join Bersih 4", including the official websites Bersih.org and GlobalBersih.org.⁴⁹ For this, the Bersih organisers had to rely on the official Facebook and Twitter accounts to relay information. Anecdotally, the rallygoers were aware of counterpropaganda and misinformation, and were savvy enough to verify information received with the official social media channels. This was apparently learnt from past experiences in other Bersih rallies when a lot of misinformation was circulated.

A few days before the rally, the media reported multiple warnings coming from officials from an array of ministries and government institutions:

- Home Minister Ahmad Zahid Hamidi issued an order to declare that the yellow Bersih 4 t-shirt and related printed material and pamphlets illegal, based on the Printing Presses and Publications Act 1984.⁵⁰ He also said that legal action could be taken against organisers of Bersih 4 with the Peaceful Assembly Act, the Sedition Act, the Penal Code and Police Act, among other laws.⁵¹
- Deputy Minister of the Ministry of Foreign Affairs Reezal Merican Naina Merican stated that the Foreign Ministry would gather information on Malaysians participating in the Bersih 4 demonstrations abroad for eventual legal action against them.⁵²

⁴⁸ The Star Online (August 26, 2015) "Cops: Bersih 4 rally illegal", accessible at <http://bit.ly/1UjqTbh>

⁴⁹ Malaysiakini (August 27, 2015) "Gov't to block websites promoting Bersih 4", accessible at <http://bit.ly/1RT5yDM>

⁵⁰ Malaysiakini (August 28, 2015) "Gov't bans wearing of Bersih 4 T-shirts", accessible at <http://bit.ly/1t6rHKJ>

⁵¹ Bernama (August 30, 2015) "Zahid vows action against Bersih 4 mastermind", accessible at <http://bit.ly/1t6s1ct>

⁵² Bernama (August 29, 2015) "Reezal: Gov't identifying M'sian protesters abroad", accessible at <http://bit.ly/1t6rpDl>

- Malaysian Armed Forces (ATM) Chief Zulkifeli Mohd Zin stated that the military would intervene in the rally if a state of emergency was declared.⁵³
- Higher Education Minister Datuk Seri Idris Jusoh advised undergraduate students to stay away from the Bersih rally, as participants risk facing action from the Universities and University Colleges Act 1971 or other laws.⁵⁴
- Deputy Home Minister Nur Jazlan warned that "anarchists" and participants of unknown background might join the Bersih rally in an attempt to provoke the police into using force against protesters.⁵⁵
- Deputy Inspector-General of Police Noor Rashid Ibrahim told reporters that protesters might be stunned with tasers if they riot, become violent or resist arrest.⁵⁶ A day later, he announced that tasers will not be used on the demonstrators, even though the police possessed the weapons and will be using them for crime prevention in general.⁵⁷

Another form of intimidation came in the form of an anti-Bersih demonstration, where a group led by United Malays National Organisation (Umno)⁵⁸ division chief Jamal Yunos held a public display of martial arts, demonstrating their fighting skills hitting each other with wooden sticks and breaking tiles over their heads, threatening potential violence at the Bersih rally. Videos of their antics were widely distributed online, with Jamal Yunos stating that the demonstrators would have a closed door training with machetes and swords. The anti-Bersih group announced that they would bring in 30,000 demonstrators donning red shirts on the same weekend of the Bersih rally, unless Bersih was called off.⁵⁹

Eventually, the red shirts did not disrupt Bersih and held their own rally two weeks later on Malaysia Day with 50,000 participants to show their allegiance to the Prime Minister and to uphold Malay rights.⁶⁰

Unlike the previous Bersih rallies which saw tear gas and water cannons fired at the peaceful rallygoers, no violence happened towards the protesters in

⁵³ Malaysiakini (August 27, 2015) "Military intervention in Bersih 4 if emergency declared", accessible at <http://bit.ly/1r5v9mU>

⁵⁴ Bernama (August 24, 2015) "Minister advises uni students against Bersih 4 rally", accessible at <http://bit.ly/1XoKo95>

⁵⁵ Malaysiakini (August 27, 2015) "Nur Jazlan: Anarchists want cops to use force on Bersih", accessible at <http://bit.ly/288N6mv>

⁵⁶ Malaysiakini (August 24, 2015) "Bersih 4 rally – cops say they may use tasers", accessible at <http://bit.ly/1U2sIx0>

⁵⁷ The Sun Daily (August 25, 2015) "No tasers for Bersih 4.0 rally: deputy IGP", accessible at <http://bit.ly/1VBGRm1>

⁵⁸ UMNO is the largest political party in Malaysia and a member of the ruling coalition Barisan Nasional

⁵⁹ The Star Online (August 26, 2015) "Anti-Bersih Reds prepare to 'fight' yellow-shirted Bersih 4", accessible at <http://bit.ly/24mxjvq>

⁶⁰ Straits Times (September 20, 2015) "Najib praises protesters for 'peaceful red shirt rally'", accessible at <http://bit.ly/1PdKkBn>

Bersih 4. The main problem faced was less visible, and manifested in the form of misinformation. According to Mandeep, the organisers' phones were hacked and false information was transmitted through SMS and WhatsApp with their numbers. Inaccurate information such as the wrong time of dispersal was sent through the mobile numbers of Bersih Chairperson Maria Chin Abdullah, former chairperson Ambiga Sreenevasan or Mandeep, the secretariat manager, and complicated the communication of vital information. It was divulged that even before and after the campaign, there were many instances where messages were sent with the numbers of key people in Bersih without their knowledge, creating a lot of confusion. These hacking instances have happened in several other major protests, to the urgent arrest teams, public figures from the opposition, activists, and so on.

It had also been reported in the media that after Bersih 4 was announced, the numbers of Maria, Ambiga and Mandeep were published in advertisements for prostitution and they received several calls "of sexual nature".⁶¹ The key organisers of Bersih were sure that their phones were being tapped and Mandeep believed that Maria was followed all the time. Beyond the rally, Bersih chairperson Maria and former Bersih vice-chairperson for Sabah Jannie Lasimbang were charged of organising illegal rallies, under Section 9(1) and Section 9(5) of the Peaceful Assembly Act (PAA) 2012. Bersih was also issued an invoice of RM65,000 by the Kuala Lumpur City Hall for cleaning services after the rally, which Bersih decided not pay for and would file a law suit against.⁶²

Current status and recent developments

Almost a year after the Bersih 4 rally, the hashtag is still active in use, mostly for updates such as Bersih's acceptance of the Gwangju Human Rights Award. The Bersih secretariat continues its work on voter education and advocacy. In early 2016, it held the Yellow Mania Festival to raise awareness on democratic reforms, and organised the Bersih Boot Camp in Penang and Johor to train activists.

On 14 September 2016, Bersih's chairperson and steering committee announced the fifth Bersih rally to be held on 19 November 2016. This decision came after the escalating scandals on corruption and abuse of power by the Prime Minister Najib Razak, among others, the civil lawsuits filed by the US Department of Justice on 20 July purporting misappropriation of millions of dollars by "Malaysian Official 1". Many believe "Malaysian Official 1" to be the Prime Minister Najib Razak.⁶³

⁶¹ The Star Online (December 9, 2015) "Maria Chin Abdullah, Ambiga and Mandeep Singh now receiving sexual calls", accessible at <http://bit.ly/1UBgEl2>

⁶² Malaysiakini (September 7, 2015) "DBKL finally delivers cleaning bill to Bersih", accessible at <http://bit.ly/20XoMhQ>

⁶³ Asian Correspondent (September 15, 2016) "Malaysia: Anti-Najib's Rally Set on Nov 19", accessible at <http://bit.ly/2fpGGt9>

3.2 #Solidarity4AzmiSharom: Learning to Protect Academic Freedom

Associate Professor Dr Azmi Sharom, a lecturer at the Faculty of Law at the University of Malaya (UM), is the first academic in Malaysian history to be charged under the Sedition Act 1948. In September 2014, after giving his academic opinion solicited by *The Malay Mail Online* on the Perak constitution crisis that happened in 2009,⁶⁴ Azmi was charged under Section 4(1)(b) and Section 4(1)(c) of the Sedition Act 1948 which carries a maximum fine of RM5,000 or a maximum jail of three years or both, if found guilty. The charges were widely seen as an attack on academic freedom and public discourse, and provoked strong reactions from civil society and the academic community. Immediately after the news spread, UM students and staff began organising awareness campaigns to support Azmi, to protect academic freedom, and to protest against the Sedition Act.

In the process of his case, Azmi and his legal team tried to challenge the validity of Sedition Act 1948, arguing that the Act was unconstitutional. If they won the challenge, existing charges against Azmi and approximately thirty other people being charged for sedition at that time would be dropped, and it would be a landmark victory for freedom of expression in Malaysia. However, the bid was lost, and the Federal Court ruled that the Sedition Act was in fact constitutional. In early 2016, the prosecution of Azmi was closed and he was acquitted of all charges. Although Azmi emerged unscathed, the Sedition Act 1948 continues to be a strong state mechanism to stifle dissent and discourse.⁶⁵

The Campaign

On the day that Azmi Sharom was charged for sedition, a campaign #Solidarity4AzmiSharom was launched by his students and colleagues. The objectives of the campaign were:

- 1) To call for the Prosecution to drop the charges towards Dr Azmi Sharom and to stop selective prosecution of dissenting voices in the country;
- 2) to defend academic freedom for academicians and students; and
- 3) to call for the abolishment of the Sedition Act as promised by Prime Minister Najib Razak⁶⁶

The main event organised was a student strike-cum-rally on 10 September 2014 in UM which has been described as "unprecedented in recent history"

⁶⁴ Malay Mail Online (August 14, 2014) "Take Perak crisis route for speedy end to Selangor impasse, Pakatan told", accessible at <http://bit.ly/1nk7vv4>

⁶⁵ New Straits Times Online (February 19, 2016) "UM's law lecturer Azmi Sharom acquitted of sedition", accessible at <http://bit.ly/1XoQbvi>

⁶⁶ Malay Mail Online (September 5, 2014) "Sedition Act will go, PM promise again", accessible at <http://bit.ly/2fpF4zy>

(Gomez, 2014)⁶⁷ as it was the first time in a long while that a demonstration was held on a university campus because of tight state control on student activism. The rally managed to gather about 500 university students, politicians, and concerned members of the public.⁶⁸ Several student bodies worked together for the campaign including the University of Malaya Student Union (PMUM), Progressive University of Malaya, University Malaya Association of New Youth (UMANY), and Persatuan Mahasiswa Islam Universiti Malaya. This was also the first time that the students had worked with the UM Academic Staff Association for a joint campaign, "as comrades for a common cause", as described by Vince Tan, the interview respondent for this case study. In Penang, the Student Progressive Front of Universiti Sains Malaysia (SPF-USM) held a small demonstration with about 20 attendees in support of their counterparts in UM.⁶⁹

Tan, recent graduate and former secretary general of Progressive University of Malaya who co-organised the #Solidarity4AzmiSharom rally, explained that the organisation of the rally was a learning opportunity and process. Within the span of a week before the rally, there was a flurry of activity, with three main coordinators: for the students (Vince Tan), for the lecturers (Dr. Lee Hwok Aun), and for the media (Fahmi Zainol). The organisers worked together to scout for locations and routes for the rally, and to create a social media buzz as well as to get coverage from traditional media.

Using social media came naturally to the students, who were good at making viral content online on Twitter and Facebook, but they also understood these digital tools had to be used in conjunction with other methods, including press conferences and press statements, and other offline engagements to get to a wider audience outside of their online social network. Emails and WhatsApp were used for logistical coordinations, though it was mentioned that face-to-face meetings were still important because of certain limitations to these tools. For example, the lack of non-verbal cues led to misunderstandings in communication, and the digital trail (such as screenshots of conversations) could be used as ammunition to attack one's character.

For the case of #Solidarity4AzmiSharom, fostering a sense of solidarity among different groups was an important component to the learning process. It was difficult coordinating among multiple groups with different ideologies, backgrounds and interests, even when the cause was the same. Working together on #Solidarity4AzmiSharom set precedence for future collaborations among academics and students, such as in the case of six UM students who were hauled in for a disciplinary hearing on campus for holding a press conference in the university without prior approval. The students were then

⁶⁷ Gomez, T (October 4, 2014) "Unravelling the twisted tale of sedition charges against Azmi Sharom", East Asia Forum, accessible at <http://bit.ly/1Ujt4LU>

⁶⁸ The Rakyat Post (September 8, 2014) "UM students to strike against Sedition Act", accessible at <http://bit.ly/25BLOxX>

⁶⁹ New Straits Times Online (September 10, 2014) "USM joins in solidarity protesting against sedition charge UM law lecturer", accessible at <http://bit.ly/1TNuQ8r>

represented by law lecturers and post graduate students before the disciplinary committee.⁷⁰

Challenges and Threats

There were multiple challenges faced by students in upholding their academic freedom and freedom of speech, but one that is very fundamental lies in the apathy of the student community itself, according to Tan. While some students and staff did rise up in defense of Azmi Sharom, many others did not participate in the rally. There are many reasons for students not attending. Apathy tops the list. For some, it is the fear of exposing themselves or fear of speaking up because of rules that have been put in place to silence university students.

Indeed, public universities in Malaysia have a history of silencing student activists, and UM in particular has often punished students for speaking out on matters of public interest, banned speakers from campus, and blocked student assemblies particularly active, according to Human Rights Watch.⁷¹ Restrictive laws such as the University and University Colleges Act (UUCA) 1971 and the lesser known Statutory Bodies (Discipline and Surcharge) Act 2000 (SBA) control academic freedom of students and staff respectively.

Such is the challenge for a physical assembly where it requires students to identify themselves. While there is no evidence on whether anonymity would lead to more participation from students in the rally, alternate mode of student activism has been on the rise albeit being a slow process. The Malaysian Progressive United Kingdom (MPUK)⁷² was established in 2015 to connect students all over the word through an online platform and to hold discussion on issues pertaining to the state of current affairs in Malaysia. This provides for a certain level of anonymity.

For Tan personally, a source had told him that his phone was tapped by the government intelligence using the cellphone tracker Stingray, putting his voice and SMS conversations under surveillance. However, he did not seem too perturbed as he explained that he had nothing to hide, and that he continued to use his number because that was the number connected to his network. He also divulged that some friends had experienced some cyber bullying and hate comments about being paid to demonstrate for Azmi, but they took this as an opportunity to continue talking about the campaign and to spread the message. Misinformation and counter propaganda do happen and are difficult to manage, but Tan expressed that it is the Progressive University of Malaya's

⁷⁰ Malaysiakini (February 6, 2016) "Six UM students face hearing for 'unauthorised press conference'", accessible at <http://bit.ly/1RT83FW>

⁷¹ Human Rights Watch (February 21, 2016) "Malaysia: Stop Punishing Students for Speech", accessible at <http://bit.ly/1T26yvM>

⁷² Malaysian Progressive United Kingdom website, accessible at: <http://bit.ly/2eFNfLb>

stance that actions speak louder than words, and that is the best way to counter misinformation.

Current status and recent developments

The campaign #Solidarity4AzmiSharom is considered a partial success, as all charges against Azmi Sharom were dropped as of February 2016, achieving one of its three objectives. The Sedition Act 1948 was deemed valid despite Azmi's challenge to its constitutionality, and was even strengthened in 2015. However, the joint struggle to preserve academic freedom and the freedom of a much respected academic brought students and lecturers together, and achieved a breakthrough in student activism as being one of the first demonstrations in a university campus in recent history.

The exercise and expansion of one's freedom of association and assembly is a continuous learning process for the students and civil society in general. In the case of student activists who have graduated from university, as has Tan, they would hand over the torch to the next generation of student leadership and move on to other political platforms and legal advocacy in society.

3.3 Be a Trans Ally: Discussing Gender Identity in a Safer Space

Transgender people in Malaysia face severe challenges and threats to their personal safety in their day-to-day lives. The Malaysian legal system and social norms complicate facets of transgender life that cis-gender (non-transgender) people take for granted, such as finding employment, getting married, and raising children. Gender change surgeries for Muslim trans people are criminalised within the country, while non-Muslims find it extremely difficult to find medical institutions that would conduct sex reassignment surgeries within the country.⁷³

Difficulties in living life with dignity notwithstanding, transgender people are also susceptible to acts of violence linked to their gender identity. An infographic on reported murders between 2007 and 2013 of transgender persons in Malaysia counted at least ten trans women killed with gruesome methods such as "stab wound on the neck", "clobbered with a blunt object before being suffocated with a pillow", "repeatedly hit on the head with a hammer", and so on.⁷⁴ While hate crime is a concern, systematic violence against transgender people sanctioned by the state is where the worse fear lies. As highlighted by the Human Rights Watch (HRW), personnel within the state religious departments and federal police of Malaysia have been perpetrators of violence against the trans community, with abuses "including

⁷³ Tam, S. (March 25, 2015) "Laws to stereotypes: Obstacles faced by transgenders in Malaysia", Coconuts KL, accessible at <http://bit.ly/1UYn8z>

⁷⁴ Justice For Sisters (November 19, 2014) "Reported murders of transgender persons in Malaysia", accessible at <http://bit.ly/1UjtSk0>

arbitrary arrests and detention; sexual assault, torture and ill-treatment; and extortion of money and sex" (Human Rights Watch, 2014, p.4).

Fighting back against targeted persecution and prosecution, the trans community in Malaysia has challenged the constitutionality of the state Islamic law of Negeri Sembilan which prohibited "a man posing as a woman". Three transgender women filed their bid in 2010, arguing that Section 66 of the state Syariah Penal Code violated the Federal Constitution that guarantees life and liberty, equality, non-gender discrimination, freedom of movement, as well as freedom of association, assembly and expression of the trans community. Section 66 stated that "any male person who, in any public place, wears a woman's attire and poses as a woman shall be guilty of an offense and shall on conviction be liable to a fine not exceeding RM1000 or to imprisonment for a term not exceeding 6 months or to both". Similar wording is common in many Syariah enactments across different states in the country.

In a historic victory in November 2014, the Putrajaya Court of Appeal found the Section 66 ban on cross-dressing to be "degrading, oppressive, and inhuman", forcing transgender people to live in "uncertainty, misery, and indignity", thus violating the Federal Constitution.⁷⁵ The triumph was shortlived. In October 2015, Malaysia's highest court reversed the ruling, based on "procedural non-compliance".⁷⁶ Following the decision by the Federal Court, Justice for Sisters released a media statement decrying a rise in raids and arrests within the trans community across different Malaysian states within the month of October 2015, implying retaliation on the part of the authorities.⁷⁷

The Campaign

The #MyTransAlly Campaign, also known as the I AM YOU: Be a Trans Ally Campaign, is a campaign designed to promote understanding, tolerance and acceptance towards trans people. Its main platforms are Facebook, Twitter, Youtube, Instagram, and a blog. While some internet media such as *The Malaysian Insider* and *Malaysiakini* have featured the campaign, they are largely overlooked by mainstream media such as television channels or print newspapers. The campaign was spearheaded by Justice for Sisters, a grassroots group committed to raise public awareness about issues surrounding violence and persecution against the Mak Nyah community in Malaysia. The group also raises funds to finance court cases targeting transgenders who have been charged in Syariah court.

Unlike the other campaigns featured in the case studies, the #MyTransAlly campaign does not use civil disobedience or demonstrations to draw attention

⁷⁵ Human Rights Watch (October 8, 2015) "Malaysia: Court Ruling Sets Back Transgender Rights", accessible at <http://bit.ly/1PrxWT7>

⁷⁶ Reuters (October 8, 2015) "Malaysia court upholds ban on cross dressing by transgender Muslims", accessible at <http://reut.rs/25EMG8E>

⁷⁷ Justice for Sisters (October 26, 2015) "Violence against trans women increase following the decision by the Federal Court", accessible at <http://bit.ly/1RT8jF0>



to its cause. The approach is softer, focusing on education and popular appeal to widen the discussion on gender identity. For this, the array of social media tools enabled them to tell their own stories and construct their own narrative, something that has been mostly denied by the gatekeepers of conventional mass media. Protected by the distance afforded by computer screens and network connections, the transgender community is able to express itself with multimedia and interactive tools that can rapidly distribute content regardless of geographical location.

The "I am You Campaign"/ "MyTransAlly Youtube" channel has been active since May 2013, and has 402 subscribers and 156,080 views as of 1st May 2016. In a series of monologues in the channel, Malaysian trans men and women discussed different facets of their life, including family, employment and career goals, healthcare and sex reassignment surgery, and so on. Another video series featured celebrities explaining why they became supporters of trans people, with the strategy of normalising the idea of the trans identity. Lectures and forums of up to 3.5 hours have also been recorded and uploaded onto the same channel, discussing concepts of gender and sexuality, as well as policies, laws and human rights related to the trans community. In a sister channel, "Chit Chat Bersama Jelita", transgender issues are discussed in a talk show format hosted by a trans woman.

On its Facebook page, the I AM YOU: Be a Trans Ally has about 2,500 followers, where it posts updates and educational content on transgender issues. With the Twitter channel #mytransally, "tweet chats" were hosted to discuss specific matters during scheduled time slots so that members of the public can engage directly with the hosts and experts to understand better the underlying issues to bridge the gap between the trans community and the rest of the society. In times of crisis, these channels are used to spread information about arrests and pleas for help, such as during the arrest of 17 trans women (including a minor) during a wedding in Bahau, in June 2014. Justice For Sisters was able to collect about USD5,000 of bail money on PayPal through crowdfunding for the release of the women.⁷⁸

Nisha Ayub, world-renowned Malaysian transgender activist and the interview respondent for this case divulged that the campaign has been successful in expanding the transgender agenda, reaching out beyond the converted advocates and activists. The campaign attracted the attention of local groups and even local enforcement and governmental agencies, who invited Justice for Sisters to deliver presentations on the issue. The #MyTransAlly campaign has sparked a similar one in the Philippines.

⁷⁸ Malay Mail Online (June 10, 2014), "Negeri Sembilan Islamic department crashes wedding for transgender hunt", accessible at <http://bit.ly/1jhFeDf>

Challenges and Threats

Although the space online is relatively safer, Nisha stressed repeatedly that they keep their discussion limited to gender identity, and avoid topics on religion, politics, and sex. Although there is no religious decree or fatwa against posting videos on Youtube, she quipped, they are cautious to conceal the location and identity of people interviewed to prevent hate crimes. Indeed, Nisha herself was a victim of hate crime in September 2015, when two strangers beat her with an iron rod on her head and slashed her leg in front of her house. A police report was filed but no action was taken. Three weeks after the incident, her Facebook account was hacked and some postings were deleted.

Hate speech online is an issue. Some of the celebrity "trans allies" have been attacked with malicious comments on their own Facebook and Twitter accounts but those have not fazed them much, according to Nisha. On the MyTransAlly youtube videos, comments are disabled because of "disempowering" comments left by religious viewers – "the main focus is not to debate, but to give correct information". On this, misinformation spread by detractors was rampant, but the campaign did not devote any time on tracking down the source of the misinformation and focused on their main objective of normalising the trans identity.

Current status and recent developments

In April 2016, Nisha was awarded the International Women of Courage award by US secretary of state John Kerry, the first time that it had been awarded to a trans woman. The city of San Diego in California also proclaimed April 5 as Nisha Ayub Day to recognise her contributions in the fight for transgender rights.⁷⁹

However, within the same week of the reception of these accolades, another unsavoury blow was dealt onto the transgender community by the religious authorities. The Federal Territories Islamic Department (Jawi) raided a closed-door function in a five-star hotel with two hundred transgender guests, on the grounds that the event violated a religious decree against beauty pageants, which was an erroneous tip as it was a private fundraising dinner. The raid was done without a warrant and unaccompanied by the police, though media personnel were brought in to record it. Ira Sophia, the event organiser and human rights lawyer Siti Kassim were taken to the police station. After almost 24 hours of detention and interrogation, Ira Sophia was informed that she would be charged under Section 9 and Section 35 of the Shariah Criminal Offences (Federal Territories) Act 1997.⁸⁰

⁷⁹ The Star Online (April 6, 2016) "San Diego declares April 5 Nisha Ayub Day", accessible at <http://bit.ly/1N8AhvF>

⁸⁰ Malay Mail Online (April 5, 2016) "Transgender at 'beauty pageant' to be charged with encouraging vice, group says", accessible at <http://bit.ly/1srRWKT>

The transgender community in Malaysia remains one of the most vulnerable groups in Malaysia, and targeted persecutions continue to happen every day. The MyTransAlly campaign continues in the uphill battle to shed light on their lives and their cause.

3.4 Anti-Baram Dam: Bridging the Local and the International

Baram 1 Dam (also known as Baram Dam) is one of the mega dams planned under the Sarawak Corridor of Renewable Energy (SCORE), one of the five economic corridors slated for intensive development by the federal government of Malaysia. SCORE focuses on the provision of cheap energy to pave the path for energy-intensive industries in Sarawak, and have earmarked up to twelve mega dams for this purpose. Baram Dam is the fourth dam to be constructed after three other completed large scale hydroelectric projects which are Batang Ai, Bakun and Murum dams. Besides Baram 1, there are four other mega dams planned in the Baram area, with their statuses unknown because of limited information coming from the authorities.

The construction of Baram Dam would inundate 400km² of land, causing immeasurable environmental damage, and displace about 20,000 people from 26 villages located at the site of the dam and its reservoir.⁸¹ For this, the Baram Protection Action Committee (BPAC) was set up in 2008 to oppose the dam construction. In 2011, a coalition of NGOs and individuals named Save Sarawak Rivers (also known as SAVE Rivers) was formed to coordinate against all the mega dams proposed in Sarawak. While efforts to stop the other mega dams were not successful, in February 2016, the long-running campaign against Baram Dam finally resulted in the official revocation of gazettes that had taken land from indigenous communities for the construction of the dam. In other words, the rights of the 20,000 villagers to the land on which their villages, farms, cemeteries and reserve land stood were reinstated, enabling them to enter and use their land legally, effectively cancelling the construction of the dam on the land.

The Campaign

The campaign against Baram Dam has been a tireless and ongoing effort spanning several years, with the campaigners establishing continuous presence both offline and online. The SAVE Rivers coalition is the central hub of anti-dam information and activism. Its unique position of being active on the ground yet connected to the wider network of worldwide mega dam resistance and indigenous people movements has enabled it to bridge the local and the global seamlessly for an effective campaign.

⁸¹ Forest Peoples Programme (August 18, 2014), "No Consent to Proceed: Indigenous Peoples' Rights Violations at the Proposed Baram Dam in Sarawak" accessible at: <http://bit.ly/2f8F3PG>

Although the affected villages had known about the plans for Baram Dam since much earlier, protests escalated rapidly when the gazette for securing land for the Baram Dam site was published in September 2013. In a month, blockades were set up by villagers in order to stop the construction of the access road to the proposed dam site and preparatory works for the dam. Hundreds of villagers, on a rotation basis, manned the two blockades at KM15 and Long Lama. The blockades have been maintained for more than 2.5 years to date, even after the revocation of the gazettes, for fear that the cancellation of the dam may not be final and the government might repossess the land again.

The immediate measures taken by the villagers to protect their land on the ground are very much enhanced by the availability of communication methods that are relatively cheap, long range, and versatile. Pitted against the powerful government machinery and strong private interests, the indigenous people would not have been able to tell their side of the story if they did not have a viable channel through the internet and information and communications technologies (ICTs). Press releases reporting events on the ground and disputing misinformation were quickly disseminated through Facebook and mailing lists, as well as by sympathetic media outfits. Pictures and videos often accompanied the narratives, making the story more compelling through striking visuals.

The decades of resistance against mega dams and mass deforestation in Sarawak has culminated in a wealth of campaign experience and connections for the Anti-Baram Dam campaign. As the coordinator, SAVE Rivers conducts training for indigenous people on their rights, facilitates legal action against and negotiations with the government, and does other advocacy work with the United Nations, Asian Development Bank, and so on. At the same time, they are supported by their partners in other parts of Malaysia and beyond, who help with the dissemination of information and also in generating content and wider participation. For instance, Borneo Project ran a successful Kickstarter crowdfunding campaign online in 2014 to create a short documentary series on the twelve planned mega dams, collecting USD30,552 from 209 backers. Four films have since been produced, and the overview film "Damming Our Future" won the Juror's Award at the KL Eco Film Festival 2015.⁸²

It is also important to acknowledge the alternative media in Sarawak that supports the dissemination of information on the anti-dam campaigns. Operating from the United Kingdom are *Sarawak Report* and *Radio Free Sarawak*, both founded by investigative journalist Clare Rewcastle-Brown in 2010, which have covered the mega dam issue extensively. *Sarawak Report* in particular achieved widespread attention when its website was blocked by the Malaysian government for its exposés and coverage on 1MDB. It was mentioned by Peter Kallang, the coordinator and the interview respondent for this case that pro-establishment local news organisations are not as receptive

⁸² Kickstarter update #15 of the Borneo Mega-Dam Film Series, "Jury Award, Kuala Lumpur Eco-Film Festival", accessible at <http://kck.st/1UBiv9A>

to the anti-Baram news compared with international media, and hence press releases are more effective than press conferences.

While the internet has been important as an information channel for reaching out beyond the villages, it has also been indispensable in solving smaller logistical problems which result in cost savings for the small organisation. For example, looking for venues for events has become easier to do online, without incurring expensive phone bills as was the case in the 1980s when campaigns were held against logging in Sarawak. Cheaper printing facilities for flyers and t-shirts can be found in bigger cities instead of limited choices in the surrounding towns; volunteers for tasks like translations are also easier to find through the internet.

Access to the internet was a challenge in the rural areas in the jungle with limited infrastructure available. A key part of SAVE Rivers' campaign is to be on the ground, and hence there is a lot of legwork to be done, such as visiting villages and keeping updated with all the happenings on site. Nonetheless, technology still played an important role in allowing documentation of the happenings with photography and videography to be exhibited and propagated back in the cities. The campaigners also bring news and experiences from the outside world to the interior with forums and workshops, as well as the distribution of flyers.

As part of their advocacy, SAVE Rivers published a fact-finding mission report through carrying out interviews in thirteen villages and exposed the multiple violations on indigenous people's rights in the social and environmental impact assessment of Baram Dam and other tactics used to push the project forth (Lee et al., 2014). Other efforts included bringing in foreign experts to explain energy alternatives to the Chief Minister,⁸³ arranging an awareness tour in Switzerland and Norway to confront companies involved with the Baram project, and organising a World Summit on Environment and Rivers in 2015 to share knowledge on mega dams and visit resettlement sites of Bakun and Murum.

The fight against Baram Dam is a local issue rooted to meandering rivers, the age-old jungles, and the ancestral lands of indigenous peoples. However, in the age of cross-border investments and globalised resource grabbing, the indigenous peoples have also made use of available technologies to make their struggles relevant to larger issues such as climate change and natural heritage. Bridging the online and the offline is key in facilitating optimal information flow between the local and the international, focusing on empowerment of the former, and borrowing strength from the latter. SAVE Rivers has been able to navigate this well, and currently also supports other

⁸³ Borneo Post Online (June 29, 2015) "Sarawak may see end of mega dams", accessible at <http://bit.ly/1R5rst5>

anti-dam and indigenous people movements across the world in their fight to retain their land and its biodiversity.

Challenges and threats faced

Although Miri is the second largest city in Sarawak, internet connection is very slow. About 30 to 40 km outside of the city centre, internet access becomes scarce, and in a lot of cases, even cell phone coverage is non-existent. Thus, one of the main challenges is access. Campaigners are cut off from the internet when they travel into the interior, and have to wait until they return to the town or city to be able to send or receive information. To get information into the rural areas, they have to download videos to be viewed offline, prepare printouts, and arrange forums and workshops. For villagers who do have access to the internet, they are not very vocal in their postings as they are aware of the possibility of being arrested for posting subversive content on Twitter and Facebook.

On other challenges, it is reported that government surveillance at events is common, with Special Branch officers recording the happenings. There had been a police report filed against a Facebook posting made on the SAVE Rivers page about Islamisation in Sarawak a few months prior to the interview for this case. Although the police have not approached SAVE Rivers for investigation, the police report was widely published in the local newspaper. Cyberbullying and personal attacks are common for Mr. Peter Kallang (and also his colleagues), who commented that such attacks do not slow him down although they can be "irritating". Although he contemplated legal recourse, he ultimately decided that the energy was better spent on the cause.

Current status and recent developments

Although the gazettes revoking the extinguishment of native customary rights (NCR) land for the Baram Dam project had been issued, the groups against the dam were still worried that the cancellation of the project might be a gimmick to gain political support for the state elections in May 2016. At the time of writing, the revocation of gazettes has not been publicly announced by the Chief Minister of Sarawak, causing the Baram Protection Action Committee to worry about the validity of the cancellation of the project.⁸⁴ In the meanwhile, the blockades remain, and SAVE Rivers remain vigilant on other projects such as the upcoming Baleh Dam.⁸⁵

⁸⁴ Borneo Post Online (April 13, 2016) "Committee says Baram Dam cancellation political gimmick", accessible at <http://bit.ly/1t6DF75>

⁸⁵ Mongabay (March 29, 2016) "Protests continue amid signs that controversial Borneo dam cancelled", accessible at <http://bit.ly/1UBhNt2>

3.5 #KitaSemuaPenghasut: A Clown That Went Viral

The #KitaSemuaPenghasut [translated: we are all seditious] campaign, or "the clown campaign", was mentioned by multiple interview respondents as a notable example of an online campaign in Malaysia that grew from a single image to a collective movement that achieved widespread attention.

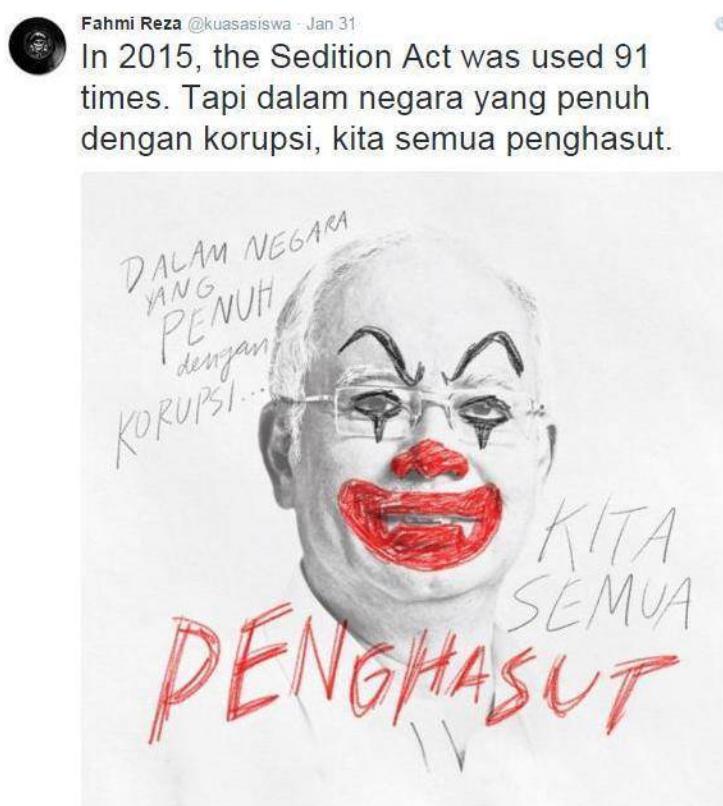


Figure 4 In a country full of corruption, we are all seditious

(Source: Fahmi Reza, Twitter)

On 31st of January 2016, Fahmi Reza, a political graphic designer and activist posted on Twitter a caricature of Prime Minister Najib Razak as a clown (see Figure 4), with the caption "In 2015, the Sedition Act was used 91 times. Tapi dalam negara yang penuh dengan korupsi, kita semua penghasut. [translated: But in a country full of corruption, we are all seditious]". This was a reaction to two issues: the news that the Attorney General cleared the Prime Minister of any corruption relating to the 1MDB scandal, and the Amnesty International report about the use of Sedition Act (1948) in 91 instances by the government to arrest, investigate or charge individuals, in the year of 2015.

Within three hours of the posting, Fahmi received a warning tweet from the Police Cyber Investigation Response Centre (PCIRC), telling him that they had placed his Twitter account under police surveillance. He was warned to use Twitter "dengan berhemah & berlandaskan undang-undang" (prudently and according to the law). The second day, a police report on the matter was lodged against Fahmi by Gerakan Merah, a group aligned with the ruling coalition. It

was written in the police report that Fahmi's actions were "an insult to the prime minister, cause public outrage (sic) and could influence the rakyat to hate the prime minister".⁸⁶ Fahmi reacted to these by writing an open letter to the police on Facebook, asserting his right to freedom of expression as guaranteed by Article 10 of the Federal Constitution. He stated that any action against him would only give extra publicity to political posters, protest art, and subversive ideas that he had amassed in 14 years of graphical activism.⁸⁷ To further show his defiance, he reposted the same clown-faced artwork on Twitter along with the hashtag #KitaSemuaPenghasut.

The Campaign

According to Fahmi, the swift official response and Fahmi's defiant reaction to it piqued considerable public interest. The incident and image went viral. Within days, in solidarity with Fahmi, a collective of anonymous Malaysian graphic designers called GRUPA (see Box 2) released almost a hundred distinct and original poster creations portraying Najib as a clown, under the hashtag #KitaSemuaPenghasut.⁸⁸ These pictures were rapidly shared and distributed on social media channels and WhatsApp, reaching internet users far and wide. Fahmi described this turn of events as "something completely new and out of the ordinary for Malaysia", a single act of defiance that morphed into a social media protest movement led by graphic designers.⁸⁹

⁸⁶ Malaysiakini (February 1, 2016) "Ali Tinju lodges report over 'Najib clown face' sketch", accessible at <http://bit.ly/1Xp03Fl>

⁸⁷ Free Malaysia Today (February 2, 2016) "Arrest me and I'll get more publicity, says artist/activist", accessible at <http://bit.ly/24mGhsK>

⁸⁸ Examples of the posters can be seen here on Says.com: <http://bit.ly/1r5DdnC>

⁸⁹ Connaughton, M (April 5, 2016) "Meet the Artist Facing Off Against the Malaysian Prime Minister and His Cronies", Vice.com, accessible at <http://bit.ly/1WzoKOE>

Who is GRUPA?



Grafik Rebel Untuk Protes & Aktivisme, better known as GRUPA, is a group of anonymous graphic designers who gathered online five days before Bersih 4 to create posters and placards for their fellow protestors. More than 50 local designers and illustrators produced 110 poster designs for the rally within three days, based on a common design brief.

The group aligns itself with other international movements where graphic designers combined forces to create posters for the people's struggle, including Taller de Gráfica Popular in 1940's Mexico, Atelier Populaire in 1960's France, Red Women's Workshop in 1970's England, Taring Padi in 1990's Indonesia, and Justseeds in 2000's America. From the posters published regularly on its Facebook page, GRUPA has mobilised for causes such as opposing the Trans-Pacific Partnership, freeing the media, and protesting the alleged corruption of Prime Minister Najib Razak.⁹⁰

Box 2 Who is GRUPA?

Through his interview, Fahmi emphasised that #KitaSemuaPenghasut did not start out as a campaign, and hence it did not have set objectives. The unintended consequence of posting the image however provided him a platform to spread his message against corruption, and to inspire "the spirit of protest and rebellion against corruption among the younger generation". The incident was widely reported in international media and alternative local media (mostly online), with references back to the prime minister's linkage with 1MDB and subsequent clampdown on civil society, making it a very effective awareness campaign on these issues. However, as noted by Fahmi who was monitoring media reports on the issue, the news was not covered by local mainstream media.⁹¹

⁹⁰ GRUPA (February 3, 2016) "Who is GRUPA?" Facebook, accessible at <http://bit.ly/25EPjaj>

⁹¹ Facebook post of Fahmi Reza, dated 30 March 2016, accessible at <http://bit.ly/1U2GaRH>

Riding on the wave of social media interest and media coverage, Fahmi continued to push his agenda and visual messaging into the offline arena. T-shirts with a striking "Kita Semua Penghasut" clown illustration were printed and sold by 43 D.I.Y. t-shirt printers in cities all over the country, distributing 2,400 t-shirts countrywide within three weeks, with 100% of the proceeds donated to local activist groups. Large posters were plastered on walls and signboards at over 90 locations across 30 towns and cities, with the location of each poster mapped on Google Maps.⁹² Clown-face stickers were also given out or self-printed to be pasted in public places.⁹³

The promotion of all these activities were done through Facebook and Twitter, and the poster design shared through platforms like MediaFire. The clown illustration's physical existence in the offline world were then fed back onto social media via photographs and hashtags. Through Fahmi's Facebook page which to date has more than 46,000 followers and Twitter which has more than 10,000, Fahmi has shared pictures and stories about "sightings" of clown caricatures of Najib, and hashtags has also enabled anyone to share their story on a single channel, keeping the campaign alive.

According to Fahmi, certain factors might have boosted the virality of the campaign. First and most important is his open defiance towards the authorities, which won him a lot of support and solidarity from the online community. Instead of deleting his tweet after receiving the warning, which is a common reaction by Twitter users who are intimidated by police, he proceeded to make the issue bigger, a reaction that the authorities did not expect. He described it as "a game of fear", and constantly putting his neck on the line reinforced the strength of the message. The act of civil disobedience also inspired others to do the same. Secondly, the use of satire and humour was very effective in getting the message across and inspiring participation "in a fun and rebellious way". Fahmi cited the case of Zunar, a cartoonist who has been charged for nine counts of sedition for his political comics, who was considered a threat by the government because of the humour of his artwork. Thirdly, when the incident happened, PM Najib Razak was already unpopular because of his alleged involvement in the 1MDB financial scandal. The clown image resonated with the people's anger and outrage, increasing the shareability of it. Fourthly, the digital files of the original artwork were freely downloadable and interested parties could build on it. Fahmi's nonchalant attitude towards the copyrights of his work meant that anyone could share, distribute, remix and apply his work, thus amplifying the cause.

⁹² See map here: <http://bit.ly/1UBisuv>

⁹³ Tang, R (March 16, 2016) "#KitaSemuaPenghasut Stickers Are Starting To Emerge At Public Places In The Klang Valley", Says.com, accessible at <http://bit.ly/1UjvDh2>

Challenges and Threats

A few weeks after the posting of the initial image, Fahmi Reza was brought in for investigation by the police under Section 233 of the Communications and Multimedia Act 1998 (CMA) for the offence of improper use of network facilities or network service, and Section 504 of the Penal Code for the offence of intentional insult with the intention to provoke a breach of peace. Conviction for the former offense will result in a maximum RM50,000 ringgit fine or a maximum one-year jail term or both, and a further RM1,000 fine for each day of the continuation of the offence after conviction. For the latter, Fahmi is punishable with a maximum two-year jail term or fine or both. At the same time, he was investigated under another image, a parody notice bearing MCMC's logo which was embellished by the clown-face caricature and a warning to stop spreading clown faces or be subjected to CMA.

During the questioning, the police had demanded his username and password to social media accounts including Facebook, Twitter, and Instagram. He refused, and a compromise was reached whereby he would log into his accounts and watch as the investigators retrieved the information that they needed. By law, however, the Section 249 of the Communications and Multimedia Act 1998 (CMA) stipulates that Fahmi must provide enforcement agencies, particularly the Malaysian Communications and Multimedia Commission (MCMC), access to his accounts to facilitate investigations.⁹⁴

Fahmi explained that the direct consequence of the brush with law was a sharp rise in his social media following. Before the controversy he had 16,000 Facebook followers, and at the time of writing (about three months after the incident) the number of followers had risen to 46,000. Upon being probed, he "ran his own solidarity campaign", designing a self-portrait to spread the news of his being investigated under the two laws (Figure 5). The news was widely spread, as he had accumulated a considerable amount of social capital and goodwill through designing solidarity posters for other activists by this time (Figure 6).

⁹⁴ Malay Mail Online (April 2, 2016) "Clown sketch artist says cooperated with cops but refused to give up social media passwords", accessible at <http://bit.ly/1sSVq9d>



Figure 5 Self portrait of Fahmi Reza

(Translated: *Fahmi Reza – Investigated by the police because of a poster criticising corruption of the leadership, under Section 233 of the Communications and Multimedia Act and Section 504 of the Penal Code*)

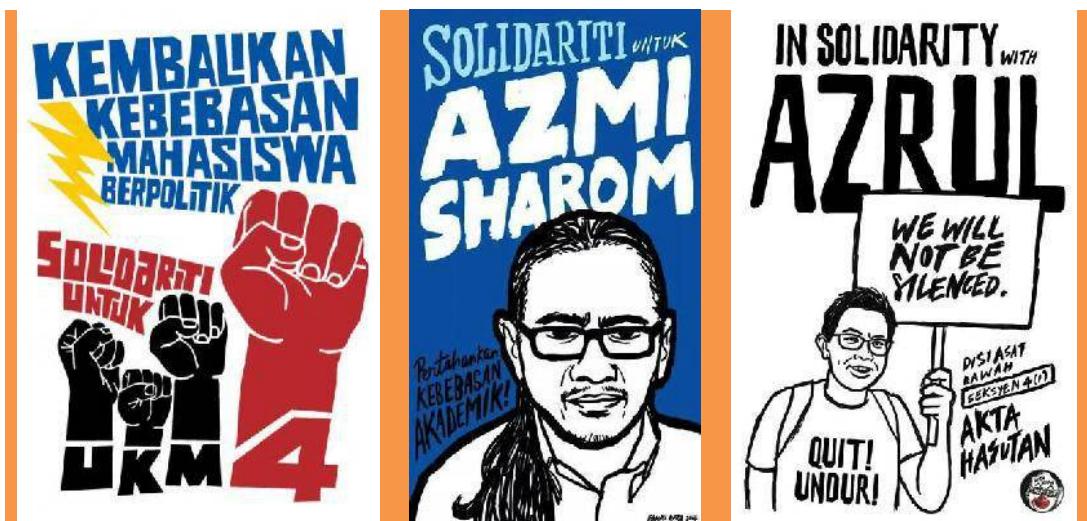


Figure 6 Posters for solidarity by Fahmi Reza

(Left to right, translated: *Return university students' right to participate in politics, Solidarity for UKM4; Solidarity for Azmi Sharom, protect academic freedom; In solidarity with Azrul, investigated under Section 4(1) of Sedition Act*)

On 2nd of April 2016, a 24-year-old activist Muhammad Zhafran Muhammad Zuhdi was arrested for pasting a clown caricature sticker on a patrol car during an anti-goods and services tax rally.⁹⁵ Muhammad Zhafran was detained by the police under Section 504 of the Penal Code, and the police were granted a two-day remand order to investigate him under Section 4(1)(C) of the Sedition Act.⁹⁶ A few weeks later, he was freed by the magistrate's court after paying a RM500 police compound.⁹⁷ The amount was paid by Fahmi Reza's anti-corruption activism fund, which came from compensation money for unlawful arrest by the Kuala Lumpur City Hall (DBKL) from an earlier protest.⁹⁸

Current status and recent developments

At last check on Fahmi's Facebook, he was distributing stencil designs to interested parties, or who he refers to as "geng penghasut" (seditious gang), for more acts of civil disobedience.⁹⁹

In early June 2016, Fahmi was charged with two counts of violating Section 233 (1) (a) of the Communications and Multimedia Act 1988, one for posting the clown-face poster on his Instagram account, and the other for posting the MCMC parody warning on his Facebook account.¹⁰⁰ If charged on both counts, Fahmi can be liable for two years of jail and/or a fine of RM100,000.¹⁰¹ He emphasised that he was charged 'kerana dengan niat menyakitkan hati orang lain' (with the intention to hurt other people's feelings), and started a new hashtag on social media #AktaSakitHati (translated: Act of hurting feelings).

⁹⁵ Malaysiakini (April 2, 2016) "Rally-goer arrested for sticking Najib caricature on police car", accessible at <http://bit.ly/1TZTS6p>

⁹⁶ Malaysiakini (April 3, 2016) "Anti-GST rally-goer remanded for probe under Sedition Act", accessible at <http://bit.ly/1U2GZKe>

⁹⁷ Bernama (April 28, 2016) "Acquitted: Cook Charged With Pasting PM's Caricature On Police MPV", accessible at <http://bit.ly/1srSLn6>

⁹⁸ Malaysiakini (January 28, 2016) "Artist vows to return lawsuit money like Najib, but...", accessible at <http://bit.ly/1srSmB1>

⁹⁹ Facebook post of Fahmi Reza, on 22 April 2016, accessible at <http://bit.ly/1U2Hsw5>

¹⁰⁰ Malaysiakini (June 3, 2016) "Clown-face artist gets two court summons", accessible at <http://bit.ly/25FARPz>

¹⁰¹ Facebook post of Fahmi Reza, on June 3, 2016, accessible at <http://bit.ly/1ZleMhM>

OBSERVATIONS ON THE EXERCISE OF FOAA ONLINE IN MALAYSIA



4 Observations on the exercise of FoAA online in Malaysia

Porta and Mosca (2005) describe the network to be a new resource for social movements. There are four distinct uses of the internet that make it so. First, is its instrumental use for organisational purposes, lowering the cost for logistical arrangements and networking. Secondly, it is used as a tool for direct expression of dissent and protest, where normal citizens can use the medium to set up petitions and demonstrations without an intermediary. Thirdly, the internet is used to facilitate and reinforce the construction of collective identities transcending time and space, which is an important foundation for citizens to exercise their FoAA. Last but not least, is the internet's immense prospect in spreading information quickly, enabling issues of public interest to rise to the surface, and even set the agenda for mass media.

Porta and Mosca's theoretical framework can be utilised to organise the findings and observations from case studies and expert interviews, covered in the sub-sections below.

4.1 Organisational purposes

The instrumental use of ICT in facilitating FoAA lies in its ability to reduce the communication costs of assembly and association, or gather more resources for organising. On reducing transaction costs for organising, Shirky (2009) sums it up concisely in the below quote,

"Running an organization is difficult in and of itself, no matter what its goals. Every transaction it undertakes—every contract, every agreement, every meeting—requires it to expend some limited resource: time, attention, or money. Because of these transaction costs, some sources of value are too costly to take advantage of. As a result, no institution can put all its energies into pursuing its mission; it must expend considerable effort on maintaining discipline and structure, simply to keep itself viable. Self-preservation of the institution becomes job number one, while its stated goal is relegated to number two or lower, no matter what the mission statement says. The problems inherent in managing these transaction costs are one of the basic constraints shaping institutions of all kinds." (Shirky, 2009, p. 60)

Shirky explains that the costs of coordinating the group escalate when it increases in size. The larger the group, the more complex coordination becomes, exemplified by a group of people making a toast and clinking glasses with each other. At some point, one-to-one communication becomes unfeasible. The internet is able to facilitate communication between nodes in a much more efficient manner, enabling not only one-to-one communication, but also one-to-many or many-to-many. The dramatic lowering of transaction costs enables resource-poor social movements to organise more cheaply and

powerfully. This affects a good array of tasks in event management, procurement, networking, logistical arrangements and so on. In this time and age, the internet has become so integrated in work and productivity that these benefits were seldom raised as being noteworthy; however they mark a significant improvement from pre-internet social mobilisation and should not be taken for granted.

Central committee member of opposition party Parti Sosialis Malaysia (PSM) S. Arutchelvan gave some examples on how PSM uses WhatsApp for their organisation. The party uses WhatsApp groups to coordinate different activities, such as a "cyber team" to generate posters for various events and a "media team" to coordinate media engagement of news organisations of different languages. Through a WhatsApp broadcast list, he is able to reach over 2,000 people instantaneously to spread information. In a recent fundraising campaign, the party was able to raise over RM50,000 (approximately USD 12,500) just by using WhatsApp. Although WhatsApp is fast becoming the most important tool used for communication within the party, he explained that different platforms have different utility, and WhatsApp cannot replace mailing lists for instance, for longer and more substantive discussions. While it is true that the internet has made it much easier to spread information and arrange meetings, it has also introduced an element of uncertainty as to how many people will come during the actual event. The low cost of communication has enabled people to spread information widely but that does not equate offline participation. Follow-up phone calls and meetings are still necessary to solicit commitment and actual presence on the day of the event.

Not only can social movements and NGOs work with lower costs, they can also increase their resources, such as money and labour. The success of Bersih in amassing RM2.6mil (approximately USD 650,000) (ten times more than their initial target) within the span of weeks illustrates the power of crowdfunding. The collection of small sums of money from a large group of people does not only bring financial relief. Also important is the implication that a large number of people, in Bersih's case about 27,000 individuals impart their personal funds to the cause. This quantification of people's support can be used by the organisers as political currency while negotiating with the powers that be.

While communication costs have gone down, the phenomenon does not happen at a uniform rate. Those in the urban areas where the internet penetration rate is high are able to enjoy earlier and quicker access, enabling a higher sophistication of online activism from social learning and inexpensive mobilisation. The lower access in rural areas, for example in the case study of the anti-Baram Dam movement, have to work around the lack of access through downloading digital content from networks and physically bringing it to the disconnected communities.

4.2 Direct expression of dissent and protest

The internet as a medium changes the way in which social activism is carried out because of its inherent strengths and weaknesses. Marshall McLuhan's classic dictum of "the medium is the message" applies in this situation. Although the internet democratises direct expression, with the low barrier of entry comes an explosion of information, fragmenting the attention span of the masses. It is no coincidence that the forms of expression for digital activism tend to be rich in attractive visuals, and textual messages are usually short and bite-sized. Infographics, posters, and short videos are popular. Campaign messages need to fit into a reasonable length of a hashtag. Content needs to be appealing, sensational, or at the very least, easy to understand and communicate.

For every campaign that goes viral, there are many more that get lost in the sea of information. For example, as pointed out by human rights lawyer Syahredzan Johan, the Bersih campaign tactics have been emulated in the case of the Anti-Trans Pacific Partnership Agreement (TPPA) movement, but the latter did not gain traction with the masses because the campaign message was much more complicated than Bersih's clear demands and could not ride squarely on the current wave of dissatisfaction against the governance of the country. In the case of #Solidarity4AzmiSharom, campaign organiser Vince Tan agreed that the success of the movement hinged on Azmi's popularity and existing networks, while another academic Dr. Khoo Ying Hooi who was similarly investigated for alleged sedition received much less attention.

The internet affords much room for creative expression and authenticity, and those who wield it well have the upper hand. Fahmi Reza of the clown campaign has been significantly successful in this aspect. The #KitaSemuaPenghasut branding is strong with its instantly recognisable clown-face caricature, and the messaging simple to understand and to spread – "in a country full of corruption, we are all seditious". The virality of the campaign was amplified when the branding became a platform for activist designers creating their own versions of clown faces, and Fahmi further provided tools for non-designers to express themselves with paraphernalia such as posters, t-shirts, and stencils.

The pro-Najib social media campaign #RespectMyPM provides another angle of contemplation. The campaign is composed of a poster with the message "I am [from Malaysian state, or just Malaysian], and I... #RespectMyPM" printed below a Malaysian state or national flag. Netizens quickly came up with parodies of the campaign, or used the hashtag on Facebook and Twitter to explain why they did not respect the Prime Minister. The #RespectMyPM and its parody #SuspectMyPM can be seen in Figure 7. BBC described the lively

exchanges through the trending hashtag as an “online war”.¹⁰² This can be seen as a tool of direct expression which backfired on its original purpose.



Figure 7 #RespectMyPM versus #SuspectMyPM

Another interesting example of direct expression happened when Facebook first expanded its “like” button to a more nuanced range of emojis of “love”, “haha”, “wow”, “sad” and “angry” in February 2016. In an adhoc manner, PM Najib’s Facebook page was overwhelmed by a flood of negative emojis, with its most recent posting of the day attracting some 34,900 “angry” emojis, followed by 7,400 “like”, 347 “love” and 247 “sad” emojis.¹⁰³ As of the time of writing, the negative emoji attacks have died down.

Online petitions are also popular tools of dissent, but there has not been many examples of successes in Malaysia. The most recent high profile online petitioning attempt is Azrul Mohd Khalib’s “Quit! Undur!” petition supporting the Citizen’s Declaration urging PM Najib to resign from his position. As of time of writing, the petition had garnered 52,522 supporters¹⁰⁴ in two months, with the first 30,000 signatures gained within two days of its launch in early March 2016.¹⁰⁵ Azrul was later hauled in for investigation for sedition.¹⁰⁶

¹⁰² BBC (March 7, 2016) “#RespectMyPM: Online war breaks out in Malaysia”, accessible at <http://bbc.in/24mJ0T2>

¹⁰³ The Straits Times (Feb 28, 2016) “‘Angry’ emojis for Najib, Hong Kong’s Leung”, accessible at <http://bit.ly/25zmOY4>

¹⁰⁴ “Petitioning Prime Minister of Malaysia Dato’ Seri @NajibRazak - Quit! Undur!”, published on Change.org in March 2016, accessible at <http://chn.ge/1TeF2IK>

¹⁰⁵ Malaysiakini (March 7, 2016) “Citizens’ Declaration petition notches over 32k signatures”, accessible at <http://bit.ly/1TRq7rN>

¹⁰⁶ The Star Online (April 20, 2016) “Activist investigated for sedition over petition”, accessible at <http://bit.ly/1PnmDLr>

4.3 Identity formation and reinforcement

Identity formation is very important for assembly and association. People gather and organise based on shared causes and common grounds, without which social movements will lose their *raison d'être* for mobilisation.

The case of the #MyTransAlly illustrates the utility of the internet in expressing and normalising one's gender identity. A content analysis on media reports on a murder of a trans woman conducted by Justice for Sisters points out that only one out of 25 reports addressed her correctly by her chosen gender identity. The 24 other reports used terms such as "man dressed as woman", "pondan" (a disparaging Malay term used for men perceived different), "crossdresser" and so on.¹⁰⁷ This exemplifies the inability of the Malaysian media, traditional or otherwise, to assist with identity formation of the transgender community.

For that, the internet is a powerful tool for inclusiveness – anyone who knows how to use it can narrate their own story without relying on an intermediary. The #MyTransAlly campaign and its videos portraying real transgender people explaining different facets of their lives and difficulties faced gives an unadulterated perspective of the community. The ability to tell their own story empowers marginalised communities to preserve the authenticity of their own identity, without the bias of third parties or losing any essence in translation. The ability to stay anonymous online is important in enabling vulnerable communities to participate with their own voice in the public sphere with a lower risk of persecution. They are also able to reach out to others who identify as the same, across space and time restrictions, to reinforce the identity.

Identity construction also involves the specifying of one's affiliation with the community that one identifies with. A common way of Malaysian netizens to express affiliation to a political cause is to change their social media profile pictures to express visible support. During the month before Bersih 4 for instance, changes of profile pictures were widespread and encouraged. Even seemingly apolitical online communities where one identifies as a cyclist or nature lover, for example, can form latent ties that may be later mobilised for protests on critical issues that affect the communities. The Save Bukit Kiara Walk demonstrations for instance taps into Facebook groups of cyclists and nature enthusiasts to urge participation in protests to save the Bukit Kiara forest reserve.

¹⁰⁷ Justice for Sisters (March 10, 2016), "BRIEF MEDIA ANALYSIS – MEDIA REPORTS ON THE VIOLENT DEATH OF A YOUNG TRANS WOMAN ON 9 MARCH 2016 IN SUBANG JAYA, MALAYSIA", accessible at: <http://bit.ly/2fUENHI>

4.4 Information dissemination

One of the most important functions of the internet for activism is undoubtedly information dissemination. While direct expression and identity formation are important, it is the widespread transmission of ideas and activism that achieves the multiplication effect of a collective movement. Prior to the advent of the internet, most media was controlled by the state, or by the rich and powerful. With the internet and the disintermediation of information dissemination, the playing field is slightly levelled between the big and small players. Individuals are empowered to share what they like or deem as important, and highly connected hubs within social networks can help amplify the message remarkably through Facebook shares, retweets, and forwarding of emails and WhatsApp messages.

Although one can post anything they want on the internet, the overload of information means that one needs to compete with millions of other pieces of information vying for people's attention. While with traditional media social activists have to deal with reporters and editors, using social media they have to strategise to work around algorithms that sort information on the internet. An example of what can be done in social media strategy is a "tweet bomb", where people coordinate to use the same hashtag to tweet on the same time and date, so that the topic appears prominently as a trending topic. This tactic has been used by Malaysian activists to push their agenda to the top, according to a few interviewees.

The gains by marginalised communities previously overlooked by conventional media is significant. It was mentioned in at least two case studies, in the campaigns for the transgender people and indigenous people, that the internet enables them to bypass the disinterested or controlled local media and reach the international media instead for coverage. The international media such as BBC and Al Jazeera are freely accessible in Malaysia from their websites, and articles of local concerns do generate interest in Malaysian readers. International media organisations are not subject to local censorship control or laws, enabling the reporting to be more critical.

Another observation that arises from case studies is the positive feedback loop between the online and the offline in some successful campaigns. For example, Fahmi Reza's clown campaign was initiated online with an image, which was widely circulated. T-shirts bearing the image were sold and large posters were erected on walls in towns across Malaysia. Stories about sightings of the t-shirts and posters, or face-to-face interactions involving the clown caricature were then relayed online to the followers of the campaign, thus creating an echo chamber. The movement collects momentum from itself, and more people are encouraged to participate in this loop. A similar concept lies in Facebook event invitations, leading to offline gatherings, and subsequently pictures and follow up discussions happen online after that.

Experiences from the Bersih 4 rally also indicate the usefulness of mobile internet in demonstrations to transmit real time information. In a mass mobilisation of hundreds of thousands, crowd control is vital. As protestors remained civil and disciplined, the dissemination of timely information was enough to ensure that the demonstration went smoothly, such as information on dos and don'ts, time of dispersal, points of gathering, or happenings in various sites within the mega rally. The biggest threat was therefore misinformation, which did happen through hacked phones of the organisers. For this, Bersih rallygoers used the mobile app Prime, and Bersih's official Facebook and Twitter accounts as credible sources of information, as its website was blocked throughout the rally. However, according to PSM's central committee member Arutchelvan, for large events, runners are still needed just in case the technology fails. Quick analogue transmission of information can be accomplished by having a command system and a (human) communication point every ten metres.

Metcalfe's Law states that the value of a network is proportional to the square of the number of connected users of the system (n^2), which explains the power and utility of social networks on popular platforms like Facebook, Twitter, Instagram because of the sheer number of users that they have. All cases studied therefore have social media accounts, and all cite social media as an integral part of their awareness campaign. Though it is not brought up by any of the interview respondents, the reliance on privately owned social media platforms has its risks. For instance, Facebook's algorithm change in what users see on their newsfeed in early 2015 drastically raised reduced the "organic" (non-paying) reach of postings of organisations, unless they pay to boost their posts. Non-profits are one of the most affected groups that rely on the platform to reach their target audience.¹⁰⁸

¹⁰⁸ International Business Times (June 2, 2015) "Facebook Organic Reach Decline Called 'Catastrophic' For Nonprofits As News Feed Visibility Vanishes", accessible at <http://bit.ly/16rbkMC>



THREATS AND CHALLENGES TO FOAA ONLINE

5 Threats and challenges to FoAA online

5.1 Inherent weaknesses of the internet as a medium

All the utility derived from the internet for activism naturally depends on the level of access and capacity of the communities to wield it. While low internet penetration had been mentioned repeatedly during the earlier days of cyber activism, it is gradually becoming less of a problem as digital infrastructure within the country improves. However, as with any medium, the internet also comes with some inherent weaknesses.

Long time activist and central committee member of Parti Sosialis Malaysia (PSM) S. Arutchelvan gave some examples of the weaknesses contrasting social movements pre- and post- internet.

The low cost of communication has led to an activism type known as "clicktivism" or even slacktivism, where people share information because it is convenient, but do not proceed to act upon that information, such as attending a rally. In the recent years, most of the new members for PSM have signed up through online channels, but it is observed by Arutchelvan that the online recruits are also mostly inactive. This has led Arutchelvan to the conclusion that the use of the internet cannot be a shortcut to real organising on the ground, and social movements need to have a range of mechanisms, especially when internet penetration and digital literacy remain relatively low in rural areas.

Interviewees have also expressed concern over the increasing polarisation of the discussions held in the online space. This is partly technological – the concept of a "filter bubble" was brought up as part of the reason, where social media platforms run on algorithms that show the users what they want to see, and therefore they receive information that echo their existing political beliefs and ideology. This existence within a bubble reinforces the views and attitudes of the user, never exposing him to alternative outlooks, and hence his worldview is rendered either black or white, never grey. According to Sonia Randhawa from the Centre of Independent Journalism, the filter bubble creates "digital ghettos", where people of similar opinions gather in clusters, and proceed to preach to the converted and confirm their own biases. The more the online space is ghettoised, the less probable it is that we are able to find a common ground from which the nation-building process of Malaysia can continue. The other part of polarisation is due to the unconducive environment for discussion, because of personal attacks and online bullying based on one's opinions. This is further discussed in Section 5.6.

5.2 State harassment and policing of social media channels

Social media users are constantly reminded that the content that they post or share are monitored by the police and MCMC, and that social media "abuse" will not be tolerated. The vilification of cybertroopers appear to have been extended to social media users in general. Inspector-General of Police Khalid Abu Bakar has stated that Malaysians "are considered the worst when it comes to making comments" on social media, and that "immature" and "overzealous" users are being targeted by the police in case of public unrest.¹⁰⁹ Indeed, Home Minister Ahmad Zahid Hamidi has also claimed that Malaysia is "under threat" by internet users who spew lies, slander and hate, citing the 1969 racial riot as a lesson learnt in communal and religious extremism.¹¹⁰

It appears that the chilling fear hampering free speech has transitioned from the offline to the online. Communications and Multimedia Minister Salleh Said Keruak has warned that individuals and groups who abuse the internet to cause "hatred and disrespect to the various institutions of government and its leadership" would be subject to an array of laws, such as Sedition Act 1948, laws under the Malaysian Penal Code, and the Communications and Multimedia Act 1998.¹¹¹ The boundary of what is considered as sensitive seems to have expanded from race, religion and royalty to include also "hatred and disrespect" towards the government and government leaders, thus curtailing Malaysians' ability to express criticism towards the governance of their own country.

State harassment and policing on social media channels have intensified in the past two years. Inspector-General of the Police (IGP) Khalid Abu Bakar is very active on Twitter, and has been known to scour the platform for sensitive postings on Twitter himself, "patrolling the Twittersphere like a shark in open water", according to Human Rights Watch's Asia deputy director Phil Robertson.¹¹² Figure 8 illustrates an example of IGP Khalid's intimidation towards a Twitter user Dr. Colin Fu, who expressed that Khalid was a "corrupt-not good police" (sic), who protected the Prime Minister and 1MDB. The IGP made a screenshot of the tweet and tagged the official Twitter account of the Royal Police Force, instructing the Police Cyber Investigation Response Centre (PCIRC) to "identify and catch the user who tried to incite the people with accusations that go overboard" (translated from Malay).

¹⁰⁹ The Star Online (January 12, 2016) "IGP: Police targeting 'immature Malaysians' on social media", accessible at <http://bit.ly/1UwRSTm>

¹¹⁰ The Star Online (November 24, 2014) "Zahid: Malaysia under threat from InternetInternetInternet users", accessible at <http://bit.ly/1sqLvrD>

¹¹¹ Bernama (February 19, 2016), "No compromise for cyber criminals, says Salleh", accessible at <http://bit.ly/1UhY0fr>

¹¹² BBC (April 6, 2015) "What is Malaysia's top cop doing on Twitter?", accessible at <http://bbc.in/1GgS98g>



 Khalid Abu Bakar @KBAB51 · Apr 1
PCIRC @PDRMsia kesan dan tkap org ini yg cuba menghasut rakyat dgn tuduhan2 yg melampau.

Figure 8 IGP Khalid Abu Bakar tweets to instruct the police force to arrest Twitter user
(Source: @KBAB51, Twitter)

The actions of the IGP have provoked anti-Sedition Act group, Gerakan Hapus Akta Hasutan to campaign for Twitter users to report him for online abuse. The group uploaded a step-by-step guide on how to lodge reports of harassment against the IGP, citing Twitter's policy that users "may not engage in targeted abuse or harassment", especially if "the reported behaviour is one-sided or includes threats". To this, the IGP responded that even if he was banned, 126,000 other police officers would take over the task of monitoring Twitter (presumably the number given is the total number of police officers in Malaysia).¹¹³ In accordance with the police chief's stance towards social media monitoring, the Police Cyber Investigation Response Centre (PCIRC) was formed in January 2016, with the Twitter handle @OfficialPcirc. The unit tags Twitter users who have posted something deemed sensitive, and warns them that they are being watched or that the police are coming after them. Fahmi

¹¹³ Malay Mail Online (March 25, 2015) "IGP: Get rid of me and 126,000 cops will watch Twitter", accessible at <http://bit.ly/1WybutM>

Reza of the clown campaign fame (Case Study 5) was one of users tagged, after which his posters went viral.

Besides direct policing by the state, regular citizens empowered by broadly-worded and draconian laws are able to lodge police reports on what they consider to be abuse of social media and free speech online. As mentioned earlier, voluntary cybertrooper group Semut had lodged two reports on Facebook users for posting sensitive comments about the Yang di-Pertuan Agong and Prophet Muhammad in 2013. Another example closer to the current date is the incident of Terengganu Umno Youth and three NGOs in Sabah lodging police reports over a Facebook post insulting the Deputy Prime Minister Ahmad Zahid Hamidi in February 2016.¹¹⁴

5.3 Censorship and the blocking of critical websites

Twenty years ago, in 1996, the Malaysian government expressly promised that there would be no internet censorship under the MSC Bill of Guarantees that was designed to propel the nation towards a knowledge economy. For the most part, this promise was kept. However, with the increased politicisation of the online space in the recent years, the state appears to have reneged on its commitment. Censorship or outright blocking of content is increasingly common, and self-censorship is encouraged by the tightening of laws on freedom of expression, association and assembly.

MCMC states that it takes three days to process each complaint for the blocking of websites, and that not all complaints lead to blocks. A news report from 2013 provides an indication of what is blocked. From 2008 to September 2013, 7,522 websites were blocked, out of these 6,256 (83%) were about phishing or scams, 869 (12%) were blocked for pornography, 246 (3%) violated laws such as the Penal Code, 80 (1%) flouted Syariah criminal enactments, while 71 (1%) others included harmful threats and ethnic slurs. At this point, no online news portal had been blocked.¹¹⁵ The record of no news portals being blocked was broken in 2015. A financial scandal of 1MDB that implicated the Prime Minister led to a rapid escalation in the censorship of online news media, including the blocking of the websites of *Sarawak Report*, *Asia Sentinel*, and *The Malaysian Insider* (TMI)¹¹⁶ Medium.com, an online publishing platform, was also blocked because it carried a story by *Sarawak Report*. TMI in particular suffered a fatal blow to its already precarious finances, and ceased operation after the website block after eight years of existence.

¹¹⁴ Bernama (February 25, 2016) "More police reports over Facebook 'insult' of DPM", accessible at <http://bit.ly/1t3OehE>

¹¹⁵ The Star Online (November 3, 2013) "MCMC: It takes three days to block a website", accessible at <http://bit.ly/1TZPVQC>

¹¹⁶ Free Malaysia Today (March 8, 2016) "399 websites blocked by MCMC this year", accessible at <http://bit.ly/285Qs9M>

While internet censorship is now a new reality, self-censorship may be where a darker future lies. The proposed amendments to the Communications and Multimedia Act (1998) to be discussed in the Parliament in late 2016 seem to be leading towards a suffocation of whatever remaining free speech there is in the online space. Among the most worrying amendments proposed are the registration of news portals and political bloggers, enabling the Home Ministry to implement a licensing regime on the online space similar to the Printing Presses and Publications Act 1984 (PPPA) for print media offline, which has and will have a chilling effect on media freedom (see Box 3). Another proposed amendment which will also be very effective in silencing Malaysian netizens is the sharp increase of the fine if one violates Section 233 of the CMA, from RM50,000 to RM500,000.¹¹⁷

It goes without saying that media freedom is closely related to freedom of assembly and association. In all the case studies (Bersih, #Solidarity4AzmiSharom, My Trans Ally campaign, Anti Baram Dam, #KitaSemuaPenghasut), their stories were not covered by local mainstream media, even when it was, the campaigns were reported in negative ways.¹¹⁸ The alternative narrative of these campaigns provided by independent online news portals are important in building social movement and to counter the dominant views painted by the establishment.

¹¹⁷ The Star Online (February 22, 2016) "Amendment to Communication and Multimedia Act 1998 expected to be tabled in March", accessible at <http://bit.ly/285QApQ>

¹¹⁸ A Malay language newspaper, Utusan Malaysia, reported on 30 August 2015 various 'bad behavior' of Bersih 4 participants, among others, gambling, vandalism, promoting LGBT rights. Link to news clip: goo.gl/wH01hP

Reactions of Watchdogs to Possible Blogger/News Portal Registration

Edgardo Legaspi, Executive Director of the Southeast Asian Press Alliance (Seapa)

"We have already seen how in the past printing licences of Malaysiakini and The Edge were withheld by the government. While assuring that the registration is a harmless, easy process, we must ask what happens if a registration of an online news portal is revoked. Introducing a registration regime for online news seem to be clearly targeted at controlling channels of critical news that the printed media has not provided."

Jac SM Kee, Director of Centre for Independent Journalism (CIJ)

"There has been no research, no study, and no evidence anywhere in world to show that compulsory registration of bloggers contributes to [the improving of online content]. In fact, what it has done is to create a much more negative impact on the quality of information, because it has a chilling effect. What it enables is to allow governments to start targeting specific bloggers and control the type of contents that they want to see or hear. If there is anything critical – and the role of the media is to raise critical questions – the government will now have the legal means and instrument to clamp this down."

Eric Paulsen, Executive Director of Lawyers for Liberty

"The authorities must be reminded that real crimes are not to be found online in news websites and blogs and on social media. It would be more prudent for the government to come to terms with the reality of the vast and borderless internet and social media age where anybody, in good faith or otherwise, can write or comment on any issues [...] Let the public and market forces decide whether a particular news website or blog had been credible, useful or otherwise as readers are unlikely to continue visiting these sites if they are filled with unfounded, exaggerated or implausible content."

Box 3 Reactions of Watchdogs to Possible Blogger/News Portal Registration ¹¹⁹

With the current developments towards censorship and self-censorship, the era of the internet as the final frontier for human rights and civil movements seems to have ended. The implications towards civil freedoms are clear, but the longer term effects on the country's digital economy and ability to attract foreign investments are yet unknown.

¹¹⁹ Malaysiakini (March 24, 2016) "CMA amendments will have chilling effect on online media", accessible at <http://bit.ly/1RQJDgt>

5.4 Surveillance and privacy violation

As discussed in Section 5.2 the policing of social media is done overtly with the objective of instilling fear, and government surveillance to some extent is not secret. It is understood that public posts are subject to surveillance, but it has also been suggested that private communications are also monitored. For example, in January 2016, Inspector-General of Police Khalid Abu Bakar had divulged to the media that the police would monitor messaging applications like WhatsApp, which according to him was "widely used by Malaysians to spread incorrect and false information".¹²⁰ Since April 2016, WhatsApp has made end-to-end encryption a default for all its users, potentially complicating the government's efforts in surveilling its content.¹²¹ However, Facebook's ownership of WhatsApp remains a source for concern, given the company's history with data required from governments.

Data from social network platforms are not exempt from government surveillance. Table 6 indicates the government's requests to Facebook for user account data. It is not clear how many user accounts have been surrendered, as the number of accounts per request is not shown and Facebook only gives the percentage of requests where some data is produced to the government. However, as it can be seen, the government has improved on the success rate in obtaining data, from 0% to 76.92% in the span of two years, possibly due to the increased selectiveness of the number of user accounts requested for, which dropped from 197 in the first half of 2013 to less than 25 for each subsequent 6-month periods.

Table 6 Requests from Malaysian government to Facebook for user account data

Timeframe	Total Requests	Users/Accounts Requested	Percentage of requests where some data is produced
Jan 2013-Jun 2013	7	197	0%
Jul 2013-Dec 2013	16	24	18.75%
Jan 2014-Jun 2014	19	24	26.32%
Jul 2014-Dec 2014	17	22	23.53%
Jan 2015-Jun 2015	4	7	75.00%
Jul 2015-Dec 2015	13	18	76.92%

(Source: Facebook)

In 2013, Citizen Lab, a research institute on cyberspace security and governance based in the University of Toronto, found FinSpy Command and Control servers in 25 countries including Malaysia. FinSpy is a malware

¹²⁰ The Star Online (January 12, 2016) "IGP: Police targeting 'immature Malaysians' on social media", accessible at <http://bit.ly/1UwRSTM>

¹²¹ Whatsapp Blog (April 5, 2016) "End-to-end encryption", accessible at <https://blog.whatsapp.com/10000618/end-to-end-encryption>

(malicious software) that is part of a spyware tool kit called FinFisher, marketed by its creator Gamma International as "Governmental IT Intrusion and Remote Monitoring Solutions."¹²² As explained by Citizen Lab,

"Once it has infected your computer, FinFisher is not detected by anti-virus or antispyware software. Some of FinFisher's capabilities are the following: steals passwords from your computer, allowing access to your e-mail accounts; wiretaps your Skype calls; turn on your computer's camera and microphone to record conversations and video from the room that you are in."¹²³

The existence of the FinSpy servers in 25 countries was reported by the *New York Times* and followed up by *The Malaysian Insider*, with the headline "Malaysia Uses Spyware against Own Citizens, NYT Reports". The TMI report was then accused by MCMC as being "speculative and ill-researched", and that the existence of the FinSpy servers could not conclusively indicate that the government was using the malware, and it is also possible that the servers could have been installed by overseas actors, as stated in the Citizen Lab report itself.¹²⁴

However, in Citizen Lab's further reports, a document related to the 13th General Election was found to be boobytrapped with FinSpy. The document named "SENARAI CADANGAN CALON PRU KE-13 MENGIKUT NEGERI" (Translated: List of proposed candidates for the 13th General Election, by state) would infect the victim's computer with FinSpy when he/she opens the file to view the list of candidates.¹²⁵ The Citizen Lab makes the following statements about its findings:

"Our findings so far do not make it possible to say who has put FinFisher in this document, or who is circulating it. But because FinFisher is explicitly only sold to governments we think that it is reasonable to assume that some government actor is responsible.

We do not know how many people were infected and we do not know exactly who the target of this document was. But while we cannot make definitive statements about the actors behind the booby-trapped candidate list, the contents of the document suggest that the campaign

¹²² The Citizen Lab (May, 2013) "Short Background: Citizen Lab Research on FinFisher Presence in Malaysia", accessible at <http://bit.ly/1zNT7Bo>

¹²³ The Citizen Lab (May, 2013) "Short Background: Citizen Lab Research on FinFisher Presence in Malaysia", accessible at <http://bit.ly/1zNT7Bo>

¹²⁴ Bernama (March 15, 2013) "False reporting by local online news portal", accessible at <http://bit.ly/24kKpJH>

¹²⁵ Marquis-Boire, M (2013) *For Their Eyes Only: The Commercialisation of Digital Spying*. Toronto: Citizen Lab and Canada Centre for Global Security Studies, Munk School of Global Affairs, University of Toronto. Accessible at <http://bit.ly/M7omp5>

targets Malay speakers who are interested or involved in Malaysia's 2013 General Elections."¹²⁶

In a separate incident, in 2015, leaked documents from Milan-based surveillance software house Hacking Team indicated that the Malaysian government was one of its customers. Specifically, the Prime Minister's Office (or Prime Minister's Department, depending on the media source), Malaysian Anti-Corruption Commission (MACC) and a Malaysian intelligence body by the name of MYMI are buying the Remote Control Software (RCS) from Hacking Team.¹²⁷ The software performs similar monitoring functions as FinFisher, enabling Hacking Team's clients to "steal photographs and documents from one's devices, as well as to record audio from Skype or phone calls, copy text and WhatsApp chat messages, and even to turn on the location function on one's phone".¹²⁸

Members of the opposition political parties have indicated their concern about the government's alleged procurement of the RCS software. Vice president of Parti Keadilan Rakyat (PKR) Nurul Izzah Anwar stated that it is highly probable that the opposition is the primary target of the RCS, and that Malaysians get no information on the government's spying programmes, and have no recourse against state violation of privacy. Pandan MP Rafizi Ramli, a whistleblower and vocal critic against 1MDB has also expressed his fear that fabricated information can be planted in phones "to frame opposition and NGO leaders", citing past personal experiences of character assassination by UMNO bloggers through fabricated emails and screenshots. Reporters Without Borders (RSF) has listed Hacking Team on its list of "The Enemies of Internet" on surveillance, for allegedly dealing with countries with poor records on democracy and human rights.¹²⁹ Local watchdogs and lawyers have also stated that the use of spyware is unconstitutional as it violates the right to privacy accorded to Malaysians under Article 5 of the Federal Constitution.¹³⁰

Another form of surveillance that is known to be used is in Malaysia is an International Mobile Subscriber Identity (IMSI) Catcher, or Stingray, where the surveillance device masquerades as a cell tower to force all cell phones in its vicinity to connect to it, getting their IMSI or identifying information as well as other information such as location and communication content. This technology has been used on at least one interview respondent who claimed that he was notified by an intelligence officer who was a friend.

¹²⁶ The Citizen Lab (May, 2013) "Short Background: Citizen Lab Research on FinFisher Presence in Malaysia", accessible at <http://bit.ly/1zNT7Bo>

¹²⁷ Digital News Asia (July 16, 2015) "What Malaysia bought from spyware maker Hacking Team", accessible at <http://bit.ly/1RQN4U8>

¹²⁸ Malay Mail Online (July 22, 2015) "After Putrajaya's spyware buy leaked, opposition fears will be made targets", accessible at <http://bit.ly/20Vsqr>

¹²⁹ Malay Mail Online (July 7, 2015) "Info leak lists PMO, MACC as clients of compromised surveillance hackers, accessible at <http://bit.ly/106GjTK>

¹³⁰ Digital News Asia (July 8, 2015) "Malaysian Govt spyware use unconstitutional, call for action", accessible at <http://bit.ly/1r3Sl59>

Through interviews with respondents of this study, there is a general awareness about surveillance, with some of the respondents claiming themselves to be known targets. Although that is the case, the prevailing attitude appears to be one of "nothing to fear if there's nothing to hide".

The "nothing to hide" attitude is problematic. The argument implies that privacy is about secrecy and about hiding a wrong. Researcher at Tactical Tech, Maria Xynou, has argued that the discussion on surveillance should incorporate concerns and considerations of its overall potential to harm societies at large.¹³¹ It is not merely about whether we have something to hide or not; but rather, it is about to what extend we have freedom to secure our personal data and privacy.

5.5 Hacking and other cyber attacks

Hacking generally means the act of seeking and exploiting weaknesses in an information system or network, and covers all types of electronic devices. Because of the scope of what can be considered as hacking, some aspects of it has already been covered in Section 5.4 on surveillance. According to technology journalist A. Asahan, the hacking scene in Malaysia is vibrant, but most experienced hackers in Malaysia are interested in cybersecurity and not hacktivism, or using their hacking skills for activism. In the global scheme of things, Malaysia does not call much attention to itself for hackers. Website defacements do happen, but can be recovered quickly and are not considered to be serious threats.

Not many high profile hacking incidents have been covered within the political arena, though two of the interview respondents have reported that their Facebook accounts had been compromised before. The dangers of being hacked are compounded by the (year) 2012 amendments in the Evidence Act 1950, which holds a person liable "if their name is attributed to the content or if the computer it was sent from belongs to them, whether or not they were the author" (Freedom House, 2015).

During the period before GE13, media reports surfaced that access to alternative news media and opposition websites were disrupted, leading to speculations that some Internet Service Providers (ISPs) may be throttling access to the content. Premesh Chandran, *Malaysiakini*'s Chief Executive Officer and co-founder described in an interview on *BFM Radio* that access to the *Malaysiakini* website appeared to be restricted. Not only the website was inaccessible; users were also having difficulties accessing *Malaysiakini*'s Youtube videos. *Malaysiakini* reported this incident to MCMC, and alerted the ISPs of the possibilities of their systems being hacked. MCMC responded to

¹³¹ Tactical Tech (June 4, 2015) "Nothing to hide? Asking the wrong question (part 3)", accessible at: <http://bit.ly/2gJgivi>

this issue saying that they had received several complaints on the issue, and that there was no indication of ISPs blocking access to the websites. It stated that the cause of the disruption is unclear, and cited several possibilities that could affect quality of service, such as network routing and capacity constraints due to an increase in the number of people accessing those particular websites because of the GE13 period. Distributed Denial of Service (DDOS) attacks might also be a reason.

Human Rights Watch elaborated on the GE13 cyber attacks, pointing out also that several Twitter accounts of *Malaysiakini* were hacked and taken over, and were recovered after a few days. A major DDOS attack brought down the websites of *Radio Free Malaysia*, *Radio Free Sarawak*, and *Sarawak Report* – media outlets have been critical of the federal government and state government of Sarawak. In 3.5 hours, the three websites were overwhelmed by over 130 million hits from computers around the world. *Radio Free Sarawak* in particular also had its shortwave radio jammed with noise, affecting its broadcast to the indigenous people in the Iban language, during the election period. The perpetrator of these attacks are not known, and Human Rights Watch urged the government to investigate and shut down the cyber attacks to ensure the people's access to information and freedom of expression, especially during the politically charged election period.¹³²

5.6 Harassment and hate speech online

A survey of approximately 14,000 school children nationwide conducted by DiGi Telecommunications Sdn Bhd and its CyberSAFE in Schools programme partners have found worrying statistics on cyber-bullying and online harassment in schools. 26% of those surveyed reported that they had been bullied online, with the age range of 13-15 years old at the highest risk. More than 70% of the respondents had at some point inflicted some form of online harassment on others, including calling other children mean names, and posting improper messages and inappropriate photos. The awareness of what constitutes as cyber-bullying is also low, as 64% of the respondents felt that sending improper SMSes, posting inappropriate photos, and pretending to be someone else do not constitute as cyber-bullying.¹³³

In the context of FoAA online, stories of online abuse and harassment surface in many of the interviews, with the respondents themselves or their close counterparts being victims of hate speech online. Such attacks can be politically motivated, or a reflection of wider societal marginalisation of certain communities in the real world. Most have stated that they tolerate or ignore the abuse as virtual battles are very draining and it takes attention away from the

¹³² Human Rights Watch (May 1, 2013) "Malaysia: Violence, cyber attacks threaten elections", accessible at <http://tmsnrt.rs/22Ae9mG>

¹³³ Digital News Asia (September 9, 2014) "Online harassment of schoolkids as high as 70%: Survey", accessible at <http://bit.ly/24kOn55>



cause. Cyber-bullying is problematic from several fronts. Not only does it inflict psychological harm on the victims, a hostile online environment in general also impairs the ability of civil society to have rational political discussions without the fear of being "flamed".

Technology journalist A. Asohan states that the unconducive atmosphere for online discussion exacerbates the polarisation of user opinions. He related his experience of being attacked viciously by "sockpuppet" (or cybertrooper) Twitter accounts when he tweeted his views on English language usage in the tech realm. The cybertroopers started following him on Twitter and attacked him personally; it seemed that these accounts only tweeted to serve the purpose to abuse those who were spoke against their political views. According to Asohan, the attack looked concerted and possibly paid for as the perpetrators seemed to be performing a duty. In any case, a hostile online environment makes it less viable for vibrant discourse to happen. The aforementioned filter bubble also reduces the political discussions of netizens to either being heatedly pro or against an issue, with no room for ambiguity. As explained by Asohan,

"The polarised situation is very sad. It means that people are not talking anymore, and there is no intelligent discourse or exchange. This is happening in the internet beyond Twitter and social media, such as in the comment sections of news sites or Youtube. Suddenly you're put into camps and categorised, and made enemies of.

In Malaysia, the polarisation is also politically motivated. Both BN and Pakatan are making use of this. it is no longer an honest exchange of opinions and views. That we are not having discussions is bad for democracy, and is very unhealthy. This is counterproductive to association and assembly, as people now only gather in complete black or white, with us or against us. The heydays of the internet promoting discussions are gone, especially after GE13."

Anticipating hate speech, the campaigners behind #MyTransAlly closed down the comments section of their YouTube video. Although this protected the trans community from disempowering messages, it also makes their videos a one-way broadcast, taking away the possibilities of related discussions, even for benevolent participants.

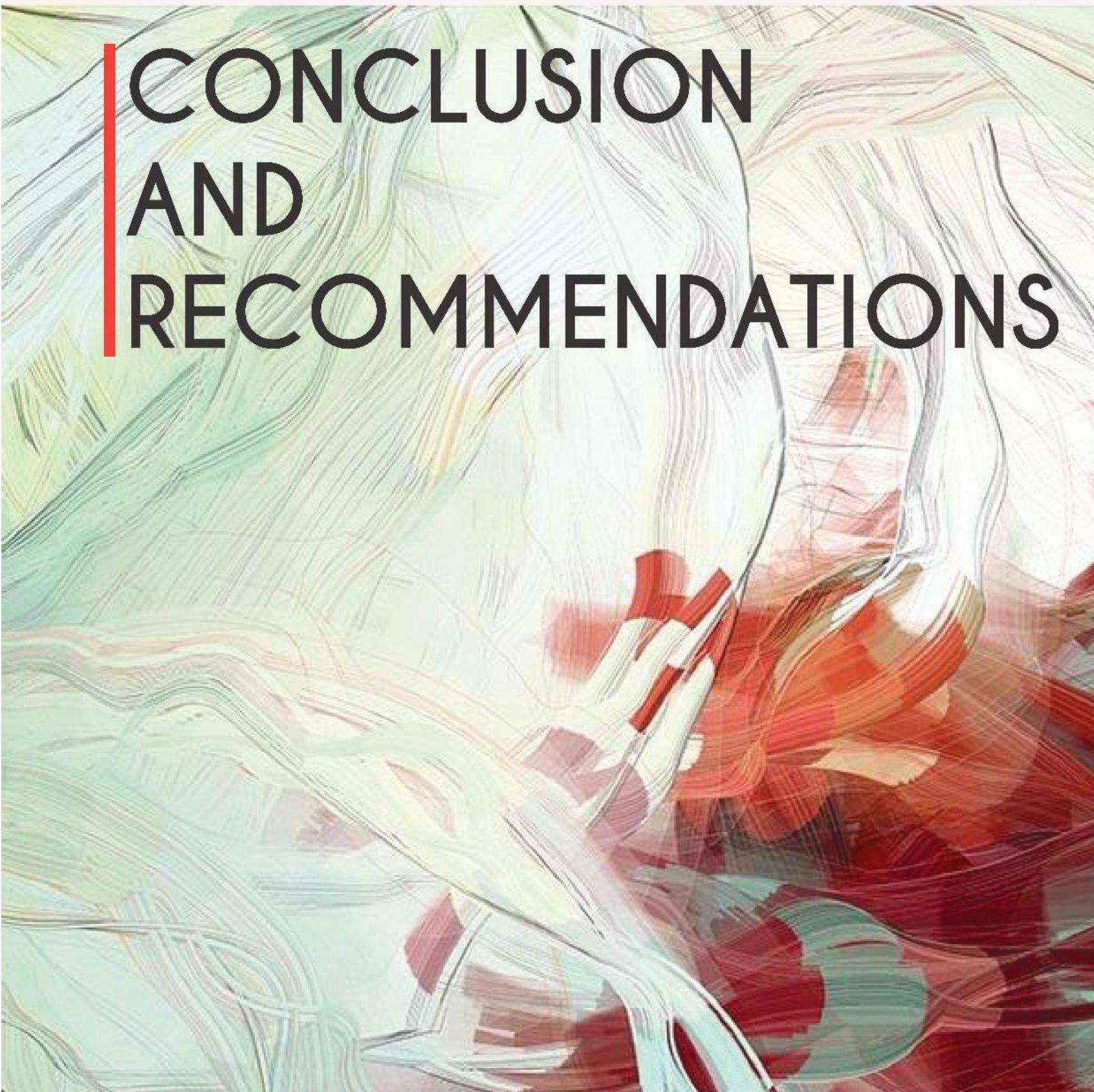
5.7 Propaganda and misinformation

Related to the cyber-bullying section on personal attacks by cybertroopers is the cybertroopers' main function itself of spreading propaganda to manipulate public opinion. This is also known as "astroturfing", defined by *The Guardian* as "the attempt to create an impression of widespread grassroots support for a policy, individual, or product, where little such support exists", usually by creating multiple online identities and fake pressure groups to create the misperception. This also works in the other way around, where misperception is created that the public is against a certain view.

Politically, as explored in the cybertrooper section in Section 2.2, such groups exist sponsored or encouraged by political parties, potentially from both ruling and opposition sides of the political divide. Cybertroopers are considered necessary by political entities and yet at the same time they are vilified as propagators of slander, lies and misinformation. The general effect on the online space is the decreased credibility of public discussions and the diversion of politically charged conversations by accusations of cybertrrooping.

Another form of misinformation comes from messages sent through impersonating community mobilisers or leaders, also known as "spoofing". The example that arises from the Bersih 4 rally is that erroneous logistical messages such as dispersal times were received from the cell phone number of the organisers although they did not send them. Another similar incident has been reported during the Democratic Action Party Socialist Youth (DAPSY) Congress where phone numbers of several DAP leaders were used to send inflammatory and racially motivated messages to those in the vicinity of the area. This is likely a technique that combines the usage of a spoofing software and an IMSI-Catcher (see Section 5.4).

CONCLUSION AND RECOMMENDATIONS

The background of the slide features a dynamic, abstract graphic composed of numerous thin, curved lines in shades of green, yellow, and orange. These lines create a sense of motion and depth. Interspersed among these lighter lines are several thick, vibrant red brushstrokes of varying lengths and orientations, adding a focal point to the design.

6 Conclusion and recommendations

In Malaysia, we have seen the flourishing of civil society in the early years of the internet when there was little censorship and government control. Substantive discussions and direct expression gained some space in the virtual public sphere, loosening the chilling effect of state intimidation and the historical fixation on race-based fear mongering and politicking. Malaysians advanced together with the global technological trends – from early forums and mailing groups, to blogs, to social media. Political activism and self-organisation naturally took to the new media due to remarkable gains in resource efficiency, and rich possibilities for direct expression, identity formation, and information dissemination. The case studies have illustrated the diversity of movements and their usage of ICT to advance their causes.

However, developments in the recent years indicate that the government is increasing its efforts to control online spaces. Early optimism of the internet being a panacea to an authoritarian government is waning, as the state consolidates its machinery to counter the expanding social movement online. Since the last five years, the government has been systematically strengthening its arsenal of tools to counter dissent and control movements. New and existing draconian laws have been added and amended to extend their offline provisions to the online realm. The credibility of online media and their users is eroded with the presence of real and imagined cybertroopers. The government has proven its willingness to shut down dissent and whistleblowing through blocking websites. Surveillance is conducted, either through overt policing on social media, or covert investment in surveillance technology.

Concurrent to these developments, the technology itself has evolved into a medium that encourages polarisation, leading to difficulties in having meaningful discourse and achieving a common ground. Technology journalist A. Asahan went as far to comment that the potential of the internet in terms of enlarging the space for civil freedoms and discourse had “peaked” since the 13th General Election in 2013. Other respondents are less pessimistic, but most note the shrinking space for freedom of expression, assembly and association online.

Some recommendations have been compiled from expert interviews and observations from case studies. Civil society groups can consider some of the following approaches to extend and protect FoAA online:

- To conduct research and awareness building activities to understand the strengths and weaknesses of the digital tools they use and develop an all-rounded approach to FoAA.
- To advocate against draconian laws which overly restrict civil freedoms (such as those discussed in Table 5 in Section 2.3, and lobby for laws preventing public or private surveillance and privacy violation.

- To promote digital literacy and critical thinking, and equip netizens with skills to verify information online.
- To raise awareness about online violence and hate speech and promote a safe and inclusive digital space for all.
- To build capacity of human rights defenders on digital security and secure online communication.
- To leverage on the multi-stakeholder and decentralize approach to internet governance and build strategic alliances with different stakeholders to strengthen protections for FoAA online.
- To engage with the UN human rights instruments and mechanisms to increase pressure on the government, such as submitting shadow reports and communications with UN Special Rapporteurs.

At a time of trust deficit towards the country's governance, it appears that the state has taken the route of clamping down on civil liberties as an immediate way to gain control over public perception; however, this is not a sustainable solution to long term political stability. Empowered public discourse and participation in political affairs, even if contentious and heated, are needed so that citizens of the country can air and discuss issues of public interest in a healthy and robust manner. Without meaningful ways of participation in civil society, we lose our ability to cultivate cultural protocols to manage differences of opinion, and also our ability to collectively imagine a common future where all factions of society can coexist and thrive together.

Therefore, recommendations to the government can stem from the essence of the government empowering its citizenry to participate in public affairs without fear or favour. This is currently impaired by the lengthy list of draconian laws and other means of discouraging active and vibrant public participation. Without significant review of the legal and institutional frameworks that weaken checks and balances and reinforce the status quo of power, there will be limited possibilities of progress to be made from the perspective of the state. Government can consider the following approaches to protect FoAA online:

- There is a need for government to acknowledge that freedom of association and assembly protected under Article 10 of the Federal Constitution apply the same online as they do offline.
- To engage and consult with civil society and human rights experts to review existing laws and policy governing the internet and FoAA to bring them up to international standards.
- Government should follow up on recommendations made at the UPR on improving human rights practices by abolishing draconian laws or provisions and accede to the core international human rights treaties.
- Any limitation on FoAA online and offline should only be imposed within permissible limitations under international human rights standard and with sufficient judicial oversight.

- Human rights education should be integrated into school curriculums to further strengthen respect for and protection of the right to FoAA.

Other stakeholders such as the private sector, with the understanding that restrictions on FoAA online ultimately hurts their financial bottom lines, can join the civil society in their fight. They have done this in the past, such as in the internet Blackout Day #stop114a campaign against the amendment of the Evidence Act, or the solidarity campaign with The Edge #AtTheEdge.

Recommendations for private sectors for further exploration:

- To explore a clearer commitment to human rights standards in business practices based on internationally accepted best practices including the UN Guiding Principles on Business and Human Rights. The Guiding Principles provide guidance to private sector on corporate responsibility to respect human rights and state's obligation to protect the people against violations by third parties.
- ICT companies, particularly those based in the North, should invest in improving engagement and communication with civil society locally when activists are under threat using their platforms.
- Better and more responsive mechanisms need to be put in place by ICT companies to better address online abuse and violence against women and sexual minorities.
- To hold the government to its promise of the MSC Bill of Guarantees of no internet censorship.

In general, the study on FoAA online in Malaysia has shown that the fight for civil rights and human dignity is a hopeful one. The campaigns recorded within this study demonstrate that even after decades of chilling fear, social movements are able to regrow and succeed in attracting popular participation given the right conditions of a freer communication space. Civil society should therefore be very vigilant against the encroachment of the final frontier of internet freedom, and use the space and its tools to organise and fight for the expansion of other civil liberties.

REFERENCE

- Amnesty International. (2016). Critical Crackdown: Freedom of Expression Under Attack in Malaysia. London: Amnesty International.
- Barracough, S. (1984). Political Participation and Its Regulation in Malaysia: Opposition to the Societies (Amendment) Act 1981. *Pacific Affairs*, 57(3), 450-461.
- Freedom House. (2015). Freedom on the Net: Malaysia Report.
- Gomez, J. (2014). Social Media Impact on Malaysia's 13th General Election. *Asia Pacific Media Educator*, 24(1), 95-105. doi: 10.1177/1326365x14539213
- Hopkins, J. (2012). From All-Blogs to Blog House Malaysia: SoPo Blogging, Journalism, and Politics in Malaysia. In J. Hopkins & J. C. H. Lee (Eds.), *Thinking through Malaysia: Culture and identity in the 21st Century*. Petaling Jaya: Strategic Information and Research Development Centre.
- Human Rights Watch. (2014). "I'm Scared to Be a Woman": Human Rights Abuses Against Transgender People in Malaysia.
- Human Rights Watch. (2015). Creating a Culture of Fear: The Criminalization of Peaceful Expression in Malaysia.
- Lee, T., Jalang, T., & Wong, M.-C. (2014). No Consent To Proceed: Indigenous Peoples' Rights Violations At The Proposed Baram Dam In Sarawak. Miri, Sarawak: Save Sarawak Rivers Network (SAVE Rivers).
- Liu, Y. (2011). Crafting a Democratic Enclave on the Cyberspace: Case Studies of Malaysia, Indonesia, and Singapore. *Journal of Current Southeast Asian Affairs*, 30(4), 33-55.
- Mohd Azizuddin, M. S. (2014). The Social Media Election In Malaysia: The 13th General Election In 2013. *Kajian Malaysia*, 32(2), 123-147.
- Porta, D. D., & Mosca, L. (2005). Global-net for Global Movements? A Network of Networks for a Movement of Movements. *Journal of Public Policy*, 25(1), 165-190.
- Shirky, C. (2009). *Here Comes Everybody: The Power of Organizing Without Organizations*. New York: Penguin Group.
- Suaram. (2015). Human Rights Report: 2015 Overview Civil and Political Rights.
- Venkiteswaran, G. (2016). Freedom of assembly and association online in India, Malaysia and Pakistan: Trends, challenges and recommendations: APC Impact.
- Wong, L. (2001). The Internet and Social Change in Asia. *Peace Review: A Journal of Social Justice*, 13(3), 381-387.
- Khoo, Y. H. (2013). The NGO-Government Relations in Malaysia: Historical Context and Contemporary Discourse. *Malaysian Journal of Democracy and Election Studies*, 1(1), 76-85.



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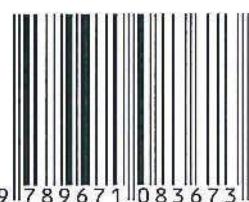


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