

Digital Rights in Southeast Asia:

Conceptual Framework and Movement Building

Agenda

- **Introduction**
 - About the researcher and the study
- **Conceptual framework of digital rights**
 - Four spheres of digital rights
- **The digital rights movement in Southeast Asia**
 - Areas of work
 - Challenges faced
 - Recommendations from digital rights activists

About the Researcher

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About the Study

- Part of a book project by SHAPE-SEA, titled “Exploring the Nexus between Technologies and Human Rights: Opportunities and Challenges in ASEAN/Southeast Asia”
- SHAPE-SEA is a programme, a collaboration between two academic networks based in Southeast Asia: AUN-HRE (30 member universities) and SEAHRN (22 members)
- SHAPE-SEA = Strengthening Human Rights and Peace Research and Education in ASEAN/Southeast Asia
- Book was published in December 2019

Research Objectives

- To build a conceptual framework of digital rights based on insights from digital rights advocates in Southeast Asia
- To understand the gaps in work and challenges faced in digital rights advocacy within the region, and gather recommendations on how to improve the movement

Research Methodology

Data collection sessions	Location	No. of respondents
Regional focus group	Manila	5
Philippine focus group	Manila	7
Malaysian focus group #1	Kuala Lumpur	2
Malaysian focus group #2	Kuala Lumpur	4
Thai focus group	Bangkok	5
Supplementary interviews	Bangkok	1 (Regional)
Total number of respondents:		24

- Data collection was held in July 2019
- Focus group discussions, sessions lasted an average of 3 hours
- Questions can be divided into two main sections:
 - Digital rights (definition, and digital rights issues in the region/country),
 - The digital rights movement (areas of work, challenges, strategies, and recommendations)

Importance of a Conceptual Framework for Digital Rights

- **The problem of blind men describing an elephant**
- **For advocacy**
 - Building strategy that is proactive and not reactive
 - Mapping existing work and identifying gaps
 - Working together as a movement
 - Communicating our work to our stakeholders and funders

Importance of a Conceptual Framework for Digital Rights

- **For Research and Theory-building**

- Digital rights has not emerged as an academic field of its own, because most academic writing on it is not anchored in strong theoretical frameworks, but drawn mainly from empirical observations (Joergensen & Marzouki, 2015, cf. Dheere (2017))

- **Current research on digital rights:**

- Drawing from and analysing Internet charters, resulting in a laundry list of rights (Gill, Redeker, & Gasser, 2015; Redeker, Gill, & Gasser, 2018), or
- Picking 2-3 most important rights (e.g. freedom of expression, privacy, access) and moving on with research (Daskal, 2018; Hope, 2011; Kumar, Prasad, & Maréchal, 2017)
- Indices or rankings such as Ranking Digital Rights and the Freedom on the Net Reports – the focus is on indicators and not theory building

Building a Conceptual Framework

A. Overarching statements

1. Human rights as it is effected in digital space and technologies
2. Ensure human rights online are same as offline
3. Civil, human, labour, consumer rights in the digital environment
4. Digital rights are human rights
5. Basic principles protecting representational entities in digital spaces
6. Protecting the analogue by protecting the digital
7. My rights (currently given and fighting for) being reorganised on the Internet and other ICTs
8. Based on the Internet Rights & Principles Coalition, Philippine Declaration on Internet Rights and Principles
9. Rights by design

B. Specific rights and issues

1. Access to government and other services online
2. Access to information
3. Access the Internet
4. Access to hardware/software
5. Right to assemble
6. Freedom of expression online
7. Privacy and data security
8. Control and ownership over personal and organisational information
9. Consumer rights added to digital devices
10. Robust copy left/right understanding, and more access to porn
11. Right to seek joy and pleasure
12. Right to be consulted on policy issues
13. Informed consent on participation
14. Safety to participate
15. Right to exist free from violence
16. Digital governance
17. Right not to be discriminated
18. Right to information (fair use)
19. Access for all
20. Right to understand, know, access, create, control the digital (environment, infrastructure, things)
21. Privacy from the onset
22. Right to publish without interference or fear of reprisal
23. Right against hateful speech, harassment
24. The right to know how our data is used
25. Data flow
26. Digital inclusion
27. Data protection
28. Freedom from surveillance

During the data collection process, we did a workshop-style session in the focus groups for respondents to define digital rights. The above are some of the post-its collected on what digital rights mean to people, organised into A. and B.

Key points that arose from the discussions

- **Distinction between “digital” and “online” is not always clear:**
 - Digital doesn't mean online – i.e. digital rights is not only human rights online
- **Two ways of viewing the digital**
 - Digital as spaces which stand separate from spaces that are analogue, or offline
 - Digital as data representation of physical entities
- **Two more types of rights that are developmental:**
 - Access to the digital
 - Participation in the governance of the digital

Four Spheres of Digital Rights

Paradigm	Digital Paradigms		Developmental Paradigms	
Sphere	Conventional rights in digital spaces	Data-centred rights	Access to the digital	Governance of the digital
Description of sphere	Rights of individuals in digital spaces / on the Internet	Digital data that represent physical entities	Access to digital spaces and meaningful participation	Digital and Internet governance
Examples of rights	<ul style="list-style-type: none"> • Rights to freedom of expression, association and assembly online • Right to consumer protection • Right to seek joy and pleasure • Right to exist free from violence, hateful speech, and harassment • Right to not be discriminated • Right to have informed consent on participation 	<ul style="list-style-type: none"> • Right to data privacy • Right to freedom from digital surveillance • Right to data ownership and control • Right to data security and protection 	<ul style="list-style-type: none"> • Right to access state and other services online • Right to access the Internet • Right to access information and content • Right to access hardware/ software 	<ul style="list-style-type: none"> • Right to participate in digital governance processes or be consulted on Internet policy issues

1st Sphere: Conventional rights in digital spaces

Paradigm	Digital Paradigm
Sphere	Conventional rights in digital spaces
Description of sphere	Rights of individuals in digital spaces / on the Internet
Examples of rights	<ul style="list-style-type: none">• Rights to freedom of expression, association and assembly online• Right to consumer protection• Right to seek joy and pleasure• Right to exist free from violence, hateful speech, and harassment• Right to not be discriminated• Right to have informed consent on participation

- UDHR / other human rights frameworks in digital spaces
- State and corporate rights violations in these spaces
- Particularities of digital technologies that bring challenges to human rights
- Law enforcement may not understand digital spaces to apply existing law

2nd Sphere: Data-centred rights

Paradigm	Digital Paradigms
Sphere	Data-centred rights
Description of sphere	Digital data that represent physical entities
Examples of rights	<ul style="list-style-type: none">• Right to data privacy• Right to freedom from digital surveillance• Right to data ownership and control• Right to data security and protection

- A digital clone of you, in data format
- Data models of entities used to in an inappropriate / illegal / unethical way to change user behaviour or for surveillance
- Not only limited to individuals – e.g. smart homes and cities
- Surveillance capitalism (Zuboff, 2015) – new way of capitalising data in order to change behaviour

3rd Sphere: Access to the digital

Paradigm	Digital Paradigms
Sphere	Access to the digital
Description of sphere	Access to digital spaces and meaningful participation
Examples of rights	<ul style="list-style-type: none">• Right to access state and other services online• Right to access the Internet• Right to access information and content• Right to access hardware/ software

- About 60% of SEA is connected to the Internet, albeit unevenly
- Access can be discussed from different levels, e.g.
 - No Internet access because of lack of infrastructure
 - Internet/website shutdowns
 - Technologies not designed for people with disabilities
 - No access to software/hardware that you bought unless you agree to Terms of Use
 - No access to state services unless you have an ID

4th Sphere: Participation in digital governance

Paradigm	Digital Paradigms
Sphere	Participation in digital governance
Description of sphere	Participation in the governance of digital spaces
Examples of rights	<ul style="list-style-type: none">• Right to participate in digital governance processes or be consulted on Internet policy issues

- Practice of establishing and implementing policies, procedures, and standards for proper development, use, and management of the digital
- Involving multiple state and nonstate actors, at multiple levels, e.g.
 - FoE and privacy violations can happen across the entire value chain of the ICT industry
 - Internet governance: whose version of the Internet? Beijing? Silicon Valley? Washington D.C? Brussels?

The Digital Rights Movement in Southeast Asia

- **Uneven activity in different countries within the region**
- **Weak advocacy as a region**
 - Language barriers due to cultural diversity
 - No viable platform to advocate for digital rights policy
- **Movement building (e.g. COCONET) has started but is still not very strong**
- **Digital rights is not mainstreamed within the rest of civil society**
 - Different issue areas mobilise different sectors of civil society
 - Scarce attention on digital rights as an umbrella issue

Areas of work

- **Main areas of focus**

- Online freedoms of expression and information
- Online safety (gender-based violence online, cyber-bullying, trolling, digital security)

- **Being discussed**

- Data collection and retention – due to massive data breaches
- Digital surveillance – mainly anecdotal and based on hearsay, no substantial evidence to base advocacy on
- Discussions on access have moved beyond basic Internet access

- **Not addressed enough**

- Technical attacks on civil society
- Artificial intelligence and big data
- Matters shrouded in state or corporate secrecy, e.g. surveillance, biometrics and national identification systems, organised astroturfing, arbitrary website/account takedowns, etc.

Challenges Faced

- **Lack of understanding on what digital rights is**
 - Within civil society and also by the general public
 - Digital rights work has an “inconsistent constituency” - participation in advocacy is ad-hoc and reactive
 - Lack of digital rights advocates -
 - Some advocate on digital rights issues without seeing themselves as advocates of digital rights
 - Digital rights issues are fragmented, those who are working on specific issues don't see the connection between issues, and collaborate across issues
 - Digital rights advocates find it difficult to communicate their work
 - Some violations do not bring immediate consequences
 - DR advocates tend to “shortcode” their communication, e.g. value of privacy or the importance of data protection, which may not relate to stakeholders outside of the movement

Challenges faced

- **Lack of digital hygiene and literacy within civil society**
 - HRDs continue using third party platforms with problematic privacy and data policies, inadvertently contributing to state and corporate surveillance
 - Lax attitudes towards personal and organisational digital security – systems/devices compromised = themselves and their stakeholders compromised
 - HRDs and their funders end up perpetrating practices such as indiscriminate collection of stakeholder data without a data retention policy or a data security plan

Challenges faced

- **Lack of technical expertise**

- Most advocates come from civil society and not from a technical background, and do not have the technical capacity to deal with the digital aspect of digital rights
- Advocacy work stagnates at a level of obtaining low hanging fruit e.g. conducting digital security training workshops (with outsourced trainers) or networking events on topical issues
- No ability for defense or offense in technical attacks

Challenges Faced

- **Language barriers**

- English is used for cross-border work – civil society forums, or dealing with platforms when reporting problems, or when accessing digital security helplines set up by international organisations
- Technical jargon makes it hard to participate in digital or Internet governance
- Even within countries are different languages and dialects, fragmenting communication

Challenges Faced

- **Access to funding**

- Digital rights as a field has been attracting donor funds for the past five years
- However CSOs appear to have difficulties accessing these funds
 - Sometimes funding is offered in an amount that surpasses the managerial capacity of smaller organisations
 - Funding is usually project-driven and there is lack of core or operational funding

Challenges Faced

- **General challenges faced by civil society in the region, e.g.**
 - Difficulties in registering and running an organisation
 - Politics within civil society
 - Narrowing civic space in general
 - Difficult to attract good talent
 - CSOs get entrenched in their legacy issues and are slow to move towards newer issues like digital rights
 - People in the region are more interested in bread and butter issues, relegating civil freedoms to a lower priority

Recommendations from DR Advocates

- **To communicate the relevance of digital rights issues to the wider civil society and other stakeholders**
 - Framing violations in a manner and language that can relate the issues to the wider civil society and stakeholders
 - Reaching out to communities who are likely to be sympathetic towards digital rights issues, e.g.
 - Activists who are power users of social media for their causes
 - Communities who are interested in digital media (e.g. hackers, gamers, free and open source software enthusiasts)

Recommendations from DR Advocates

- **To push for a wider education of digital literacy and digital rights to the public.**
 - In universities, courses such as philosophy and politics of technology, so that the younger generation can think critically about the issues
 - Education of older generations – power holders, and the less savvy
- **To have more movement building and collaborations at the regional level**
 - Knowledge transfer and capacity sharing
 - Support from the international community during crises
 - Activists should learn from each other as their governments are learning from each other too

Recommendations from DR Advocates

- **To improve access to funding**

- Funding structures need to be diversified, to include core funding
- Regional or bigger organisations can work on getting bigger grants and breaking them down to smaller sub grants to channel funding to local partners
- Recognising that some aspects of digital rights work (e.g. digital literacy) may not have immediate impacts that can be measured
- Recognising that some digital rights advocates do not register their organisation due to over-stringent requirements or bureaucracy – barring them from receiving funding

Recommendations from DR Advocates

- **To increase the involvement of the tech community within the digital rights movement**
 - Tech community has the expertise –
 - Knowledge of the technicalities of digital rights
 - Tech support upon cyber attacks
 - Building tools to support digital rights work
 - More outreach to the tech community
 - To sensitise them to human rights, and to entice them to contribute their skills into the area
 - E.g. the hacktivists in Taiwan

Recommendations from DR Advocates

- **To increase the technical capacity within the digital rights movement**
 - For policy advocacy and research - lack of technical capacity is a major gap, to propose or oppose policy directions
 - For capacity building within civil society
 - Possible solutions:
 - CSOs should hire their own tech personnel, which would be a basis of putting together a collective of tech professionals within civil society
 - CSOs can organise themselves into a membership organisation or cooperative which offers support for technical needs

Recommendations from DR Advocates

- **To support digital rights organisations with capacity building on the administrative and financial management aspects of running their organisations**
 - New organisations being set up to advocate for digital rights need support and training in terms of managing projects, human resources, cash flow, and so on
 - Possible solutions:
 - Incubators
 - Pooling of secretarial resources, in order to ease organisations from administrative bureaucracy and enable them to focus on their advocacy work

Recommendations from DR Advocates

- **To increase the amount of research focusing on advocacy strategies that originate from within the region**
 - Most reports are generated by international organisations which touch on realities within the region
 - Advocates want regional-based reports and studies which focus on improving advocacy work
 - Homegrown research would be able to better incorporate Southeast Asian cultural and political contexts into building concrete strategies
 - Those who attend international conferences should also bring the insights back to the local communities

Recommendations from DR Advocates

- **To seek out more platforms for the mainstreaming of digital rights, such as:**
 - National Human Rights Institutions (NHRIs) at the country level, and the ASEAN Intergovernmental Commission of Human Rights (AICHR)
 - Free trade agreements and negotiations may be good transborder platforms
 - Multistakeholder platforms such as the Internet Society, ICANN, IETF – to insert digital rights into web standards and hard coding ethical considerations into the Internet’s architecture

Future Work

- **Applying the conceptual framework**
 - To other regions
 - To map out digital rights work in the region in a more comprehensive manner, and identify gaps and potential collaborations
- **Ideas?**

Questions? Comments?

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