

Freedom of the Internet in Malaysia

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Abstract: Social media has been hugely popular among the youth through mediums such as Blogs, Facebook, Twitter and Youtube. Online news portals have become very dominant and mainstream in Malaysia overtaking the print and broadcasting media. Thus, the internet has given more democratic space to the people expression for and against the government and opposition. This study, studies about freedom of the internet in Malaysia, specifically in examining the political speech. Malaysia practises the policy of free cyberspace but still, there are many mechanisms to restrict political speech online. Some restrictions are justifiable such as on pornography and hate speech. There is a concern that the government restricts more than it should be. Ultimately, freedom of the internet is crucial for a more democratic Malaysia.

Key words: Freedom of the internet, political speech, social media, regulation, Malaysia

INTRODUCTION

The strength of the internet is that it can also open up a new public sphere and challenge or be the alternative to other mass media such as print and broadcasting media. Further, it can be employed to threaten the intellectual life through debate which is offered by especially, the print media (Habermas, 2006). In addition, the internet can bring negative aspects to society such as the spread of pornography, hate speech and subversive elements such as propaganda on terrorism and cybercrime. Hence, there are significant impacts brought by the Internet to society which give the government justifications to restrict and regulate the Internet, particularly for the purpose of protecting 'national security'. This invites scholars to question the role of the state in this matter.

The aim of this study is to examine the role of Malaysian authorities in regulating online political speech. The Communications and Multimedia Act 1998 (CMA) through the Multimedia Super Corridor (MSC) Bill of Guarantees is the act by which the state refrains from an outright censorship of online content, whilst simultaneously filtering online political speech through other legal measures. It starts with a theoretical explanation regarding the political speech. Unlike, the print and broadcasting media, the Internet has allowed more space for the people to engage with the state in the public sphere. Afterwards, this study will examine a discussion of Internet regulation in Malaysia and the important role of the Internet as an alternative channel of communication. The third part examines the Malaysian authorities' attempts to regulate public discursive sphere

on the Internet. This is followed by an analysis of the laws that are directly responsible to regulate the Internet in Malaysia and their implications on freedom of political speech online.

POLITICAL SPEECH IS ESSENTIAL FOR DEMOCRACY

Political speech, even though, it is crucial for democracy, raises complex questions about how it is worthwhile and not turns to be destructive for democracy. Meiklejohn (1965) in developing his theory of absolute freedom for political discussion, declares that the United States (US) constitution applies protection only to speech that directly or indirectly bears upon issues with which voters have to deal and relates to matters of public interest. He also argues that freedom of political speech should be absolute, with no restrictions and that it is the only speech that should be protected by the constitution. For this reason, it should not be abridged even on grounds of national security. Political speech merits heightened protection because it is vital to a democratic society. Meiklejohn (1965) derives this notion from his understanding of American democracy that the constitution only protects political speech for the purpose of self-government. Meiklejohn compares the function of self-government to that of a debate in a town meeting where voters before deciding community issues are informed on political issues by means of free and robust discussion. Non-political speech or private speech is not protected by the constitution and therefore may legitimately be regulated and abridged by the law where there are good grounds to do so.

In assessing these arguments, one question that must be raised here is how can one draw a clear and valid distinction between public political speech and private non-political speech? Sunstein (1993) believes that art and literature help individuals deliberate about social norms in general. He avoids Meiklejohn (1965)'s problem which requires a direct and significant relationship between protected speech and government processes. Nevertheless, he justifies the special protection of political speech on the grounds of government's greater incentives for self-interested political action. When the government regulates political speech it is most likely to be biased or to be acting on the basis of illegitimate, venal or partial considerations. Moreover, 'government is rightly distrusted when it is regulating speech that might harm its own interests; and when the speech at issue is political, its own interests are almost always at stake'. Although, Sunstein (1993) requires that both speaker and receiver must understand that the speech is political in his sense, he does not press this point too hard. It is enough if 'a few' understand it as such. It is not even necessary that the artist herself understands or intends her work to be 'political', at least in the ordinary sense of that word. It is plausible to argue that political speech occupies the entire range of speech and that no speech is private in the sense applied to the term here (Balkin and Sunstein, 1995).

Although, freedom of political speech performs an integral role in the democratic process, the question that needs to be asked here is whether regulation of political speech can in some respects still be justified? This is a highly controversial issue. The importance of political speech for the democratic system means that we need protection from political speech as well as protection for it and both are consistent with the ideal of freedom of speech. Lichtenberg (1987) explains that the commitment to freedom of speech has two different strands. The first is an opposition to censorship, based on a belief that 'one should not be prevented from thinking, speaking, reading, writing or listening as one sees fit'; the second, equally fundamental is our conviction that the purposes of freedom of speech are realised when expression and diversity of expression flourish. While, government intervention seems to intrude upon the first principle, it may advance the second. Based on this argument, the state has a duty and responsibility to protect the right to political speech. However, restrictions or regulations in these areas are only permitted, if they are prescribed by law and are necessary in a democratic society. The restrictions must also pursue a legitimate aim and be proportionate to the public interests pursued.

This study considers whether political speech deserves special constitutional protection because of its essential role for democracy. Meiklejohn's views on absolute protection for political speech are not entirely plausible in that there are many types of political speech that are worthless and harmful to the society and do not deserve protection by democratic constitution. As, we have seen, the notion of absolute protection has been rejected by Sunstein (1993) who argues that although restrictions on political speech may be politically biased and have the distinctive feature of impairing the channels for political change and thus have damaging effects on public debate, not all forms of political speech should be protected by the constitution. Perjury, attempted bribery, threats, misleading or false advertising, criminal solicitation and libel of private persons are not entitled to constitutional protection. For the sake of democratic stability and the public good of society, a distinction between 'good' and 'bad' political speech must be invoked. Bork (1971) too, shares this view, stating that speech that advocates for the forcible overthrow of the government is excluded from the category of political speech and should be prevented and thus has no right to constitutional protection.

REGULATION OF INTERNET CONTENT IN MALAYSIA

Regarding the Internet in Malaysia when former Prime Minister, Mahathir Mohamad launched the ambitious Multimedia Super Corridor (MSC) project in 1996 to attract the world's leading Information Technology (IT) companies, the government came up with the MSC Bill of Guarantees which included a commitment that the Malaysian government would never censor the Internet. This policy continues today and opposition and civil society movements have benefited from this policy through the creation of an independent and new public sphere which thrives through the Internet as an alternative means to the mainstream broadcasting and printed media which is traditionally hostile to their aims (George, 2006).

In Malaysia, the Internet regulation is part of general law which is enshrined in the federal constitution under the terms of freedom of speech. Freedom of speech is formally assured by Part II of the Federal Constitution under Article 10 (1) entitled 'Freedom of Speech, Assembly and Association'. Article 10 (1) says that:

- Every citizen has the right to freedom of speech and expression
- All citizens have the right to assemble peaceably and without arms

- All citizens have the right to form associations. However, although citizens have a right to freedom of speech, Section 2 of the article limits the right by the parliament

Article 10 (4) of the constitution explains the reason for restricting freedom of speech. The provision of Article 10 (4) was part of the amendment of the Federal Constitution in 1971 and was enforced on 10 March 1971 as a reaction to the racial conflict of 13 May 1969. In this incident, the Perikatan blamed the opposition of using freedom of speech to inflict racial sentiments and dissatisfaction among non-Malays, particularly Chinese and Indians, over the special rights of Malays with respect to particular occupations and higher posts in the public sector (Comber, 1983). A state of emergency was declared after the racial clash. Thus, the federal constitution had been amended to prohibit citizens and non-citizens alike including MPs during Parliamentary sessions, from questioning Part III of the Federal Constitution on Citizenship, Article 152 on National Language, Article 153 on Malay special rights and Article 181 on Saving for Rulers' sovereignty (Rais, 1995).

In addition to the justification for restricting freedom of speech in the constitution, Part XI under Article 149 lists subversive conducts and activities in detail. Article 149 gives parliament the power to create law as a response to subversive actions with or without a state of emergency being declared. Mohamed *et al.* (1987) argues that in the event of serious subversion or organised violence, parliament may pass laws that are repugnant to the fundamental rights safeguarded elsewhere in the constitution. Laws which intend to stop and prevent subversive acts are legal even though they are against certain provisions in the constitution under Article 5 (personal freedom), Article 9 (prohibit citizens from expelled and freedom of movement), Article 10 (freedom of speech, assemble and establish an association) or Article 13 (right to have property) and its out from parliament legislative power.

The right to freedom of speech is exercisable by Malaysians subject to the laws that may be enacted by parliament which it deems necessary or expedient in the interest of the security of the country, to secure friendly relations with other countries, public order and morality and to protect the privileges of parliament or any legislative assembly and against contempt of court, defamation and incitement to any offence. As highlighted by Judge Raja Azlan Shah in the case of (Public Prosecutor v OoiKeeSaik wherein his lordship quoted the passage from AK Gopalan v State of Madras AIR (1950) SC 27 with approval).

There cannot be any such thing as absolute or uncontrolled liberty wholly free from restraint; for that would lead to anarchy and disorder. The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed to be essential to the safety, health, peace and general order and morals of the community. What the constitution attempts to do in declaring the rights of the people is to strike a balance between individual liberty and social control (Advisory Division Attorney General's Chambers, 2008).

This position is further affirmed in the case of *SivarasaRasiah v BadanPegum Malaysia* and *Anor* where the Court of Appeal held, 'A close scrutiny of Article 10 (1) which begins with (1) subject to clause (2-4) clearly reveals that all the rights mentioned therein are not absolute rights because they are qualified by the clauses mentioned above'.

There are generally no government blocks or filters on websites except for sites which violate national laws governing pornography. The lack of clear legal provisions authorising the filtering of online content in Malaysia may not be equated with total freedom of online speech. This is because the state may rely on other laws or adopt different methods of silencing opinions expressed online. Malaysia maintains its free cyberspace policy through the CMA. For instance, in July 2008, the Malaysian Communications and Multimedia Commission (MCMC) blocked the access to many websites and blogs including the controversial Malaysia Today website. In September 2008, the government came down hard on owners of blogs and news portals. All 21 Internet Service Providers (ISPs) in the country blocked the Malaysia Today website. The ISPs were acted under a directive of the MCMC. The notices were sent out on 26 September 2008 in accordance with Section 263 of the CMA. This means that MCMC is allowed to block any particular website which has committed acts that contravene the local laws of the country, for example, sedition. Access to the Malaysian Today website via its domain name system (DNS) (<http://www.malaysia-today.net>) has been barred on 26 September 2008. The Malaysia Today website was targeted because it has been accused of publishing libel, racial and religious hatred materials and due to the running battle between its owner, Raja Petra Kamarudin and several prominent personalities including the then Deputy Prime Minister Najib Abdul Razak and his wife. Supporters of Najib have been pushing for tougher action to be taken against Raja Petra and his ilk, arguing that the same rules which bind the mainstream media should be applied on the online media.

However, Raja Petra claimed that the government will never able to block any website including the

Malaysia Today. The block of access to the Malaysia Today was only a partial shutdown limited to Streamyx users. Raja Petra clarified that readers who are overseas and those who subscribe to other ISPs such as Maxis are still able to access the Malaysia Today website normally. He also managed to set up an alternative blog site (<http://mt.harapanmalaysia.com>) and passed the word of the new DNS address through text messages. Therefore, any attempt to block the website is useless because there is always another method or mechanism to access the website. This view catches on in a government which is at a loss on how to counter the influence of blogs and websites. Due to this, minister of energy, water and communications, Shaziman abu Mansor, announced on 11 September 2008 that websites and blogs will no longer be blocked, even if they are deemed as threats to the country. He argued that freedom of cyberspace should be restored as it was important that the people should not be discouraged from using the Internet. Further, he believed that there were other enough laws such as the Sedition Act (SA) Penal Code and Official Secret Act (OSA) to control irresponsible dissemination of information over the Internet and bring those behind irresponsible websites and blogs to book. The decision by the minister also means that access to the Malaysia Today has been reinstated with immediate effect. Although, there is no policy to curb or block the websites, Section 211 and Section 233 of the CMA provides for the prohibition of offensive content and improper use of network facilities and network services. Section 263 of the CMA requires ISPs to use their best endeavour to prevent unlawful usage of the network. In addition, there are other laws that can be used to prevent and limit the freedom of the internet.

The SA under Sections 3 (1) and 4 (1) have been used to tighten the government's control of political opposition and Section 9 (1), control of the press. Under Section 4 (1) of the Sedition Act any person who does or attempts to do, or makes any preparation to do any act which has or which would, if done, have a seditious tendency; utters any seditious words; prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication; or imports any seditious publications; shall be guilty of an offence and shall on conviction be liable to a fine not exceeding RM5,000 or to imprisonment not exceeding three years or to both. Section 9 (1) states that anyone can be prosecuted for publishing material considered by the Court as seditious. Furthermore, Section 298 and 298A of the Penal Code provides for the offending act on grounds of religion. Section 292 of the penal code provides for the offending act on grounds of advertising, distributing, hiring and selling of obscene materials.

Section 499 and 500 of the penal code provides for the offending act on defamation. Another essential law that can regulate the Internet is the OSA. The act of communicating directly or indirectly of any official secrets is an offence under section 8 of the OSA.

FREEDOM OF THE INTERNET IN DOUBT

The broadcasting and print media were controlled through ownership of close-linked companies and bias for the ruling Barisan Nasional (BN) against the Pakatan Rakyat (PR) in the 13th General Election in 2013 (GE13). This led Malaysia to fall 23 places in reporters without borders' 2013 world press freedom index to 145th out of 179 countries which is the country's worst showing in the benchmark, since 2002 (Table 1). The position is even lower than Southeast Asian neighbours such as Brunei, Indonesia and Cambodia. New media like the Internet becomes more popular in Malaysia because of the credibility concern on the traditional media which is less popular. For instance, the two main Malay-language newspapers which are Berita Harian (weekend edition Berita Minggu) and Utusan Malaysia (weekend edition Minguang Malaysia), have suffered a decline in circulation from 1,147,126 in 2008 to 890,446 in 2012. Similarly, English-language newspapers such as the New Straits Times, Star and Edge saw their combined circulation drop from 936,664 in 2008-813,994 in 2012.

Social media like the Facebook, Twitter and Youtube has become trendy, cheap and easy to access especially for the youths. Realising on how essential the young voters in the election, no wonder Prime Minister Najib Razak said that the GE13 was the Malaysia's first social media election. After launching the Malaysia Social Media Week 2013 summit on 27 February 2013, Najib emphasised that 'Of course, it (social media) will not be the biggest factor in the elections but it is certainly increasing the tempo of political debate'.

Internet usage monitoring website, Internet World Stats recorded that, up to June 2012, the total number of

Table 1: Press freedom ranking for malaysia

Years	RSF press freedom Malaysia's ranking
2002	110
2003	104
2004	122
2005	113
2006	92
2007	124
2008	132
2009	131
2010	141
2011-2012	122
2013	145

Malaysiakini (2014)

Internet users in Malaysia is estimated to be 17,723,000, representing 60.7% of the country's population. According to the Asian correspondent website, the level of Internet Penetration rate in Malaysia has been increased by 300%, since 2008. Meanwhile, the total number of active Facebook users in Malaysia is 13,354,900 which is the 20th highest in the world. There are 1,128,000 Twitter users in Malaysia (Noordin, 2013). As proven that the Internet provided the advantage for parties and the candidates to win over the voters. The trend in 2013 indicates that almost all parties and candidates have been building up websites, blogs and social media accounts like Facebook, Twitter or Youtube where the opposition dominated the public sphere.

Among the BN leaders who embrace the social media in order to reach out the electorates are the Prime Minister Najib Razak, former Prime Minister Mahathir Mohamad, Home Minister Hishammudin Hussein and Umno Youth Chief Khairy Jamaluddin. On the PR side, opposition leader Anwar Ibrahim, Pan-Islamic Party (PAS)'s spiritual head Nik Abdul Aziz Nik Mat and his deputy Haron Din and Democratic Action Party (DAP)'s Publicity Secretary Tony Pua have become the attractions. Internet monitoring site Socialbakers (www.socialbakers.com) recorded that Najib's Twitter handle (@NajibRazak) is having the most number of followers in Malaysia with 1,510,127. Najib's Twitter followers are the 11th highest in the world under the politicians' category. After Najib, in the same category, it is Hishamuddin (@HishamuddinH2O) with 477,893 followers, Anwar (@anwaribrahim) with 278,535 followers, Khairy (@Khairykj) with 264,734 followers and Tony Pua (@tonypua) with 59,090 followers (Noordin, 2013). Looking onto political parties on Twitter, the PR fares better where people Justice Parti (PKR) has 27,000 followers; DAP with 27,000 followers and PAS with 1,200 followers. The BN on the other hand has 24,000 followers (Gomez, 2013).

On Facebook's fan page, Najib Razak is in the second position of the highest for the most liked one with 1,633,812 'Likes', after Mahathir with 2,085,034 'Likes'. Nik Abdul Aziz is in the third place with 917,785 'Likes'. Meanwhile, Haron is in the 4th and Anwar is in the 5th positions with both recording 672,546 and 582,839 'Likes' respectively (Noordin, 2013). Ahmed Kamal as the founder of Politweet, a non-partisan research company that specialises in the analysis of interactions of Malaysians using social media, argued that 'The social media usage has definitely increased. We have one to two million Twitter users in Malaysia and over 13 million Facebook users with over 9 million of those above 21 year old. In 2008, people mainly turned to blogs for political information. Today, the conversation seems to have moved to Facebook and Twitter' (Asohan, 2013).

Ahmed Kamal believed that social media will play a major role in the GE13, especially in urban areas as well as in semi-urban and rural areas. He explains that 'Urban areas have the most users and candidates in these areas will benefit the most from using social media. But, many people work in townships and have families staying in small towns and kampungs (villages). They will bring home whatever political message they acquired in the city. It's not easy to measure that sort of real-world impact. Having said that, it's worth pointing out that social media enables us to be more connected with like-minded people. It hardens the mind-set of people who are leaning towards either BN or PR (the opposition), making it harder to convert people from the other side. When, it comes to socializing with each other, we tend to live in our own bubble online' (Asohan, 2013).

Moreover, news portals still give significant impact to influence people's views on political parties and candidates. According to the Malaysian Digital Association's (MDA) February 2012 report, websites of the mainstream media such as thestar.com.my, utusan.com.my and bharian.com.my, attracted 2,221,763, 1,171,578 and 769,772 unique browsers, respectively. Alternative news websites such as malaysiakini.com and themalayinsider.com attracted 1,858,649 and 1,117,124 unique browsers, respectively in the same period, demonstrating strongly their comparative strength. Premesh Chandran, Malaysiakini's Chief Executive Officer, expected that 'over 15-20 million unique devices, about 80% of adult Internet users to access Malaysiakini during the election period, up from 2.8 million on normal days' (Asohan and Singh, 2013). On the polling day, 5 May 2013, over 4.3 million users visited Malaysiakini. About 3 million of them accessed Malaysiakini's live report page on its website and another 1.3 million accessed it through Malaysiakini's mobile version. A further 1.3 million users visited Malaysiakini's undi.info which provides information on seats and candidates. According to Google analytics, at the height of the vote count, Malaysiakini's readership hit 500,000 users per min. Since, letting the website go free on April 17, Malaysiakini's daily readership has doubled to 500,000.

No wonder that the Internet and social media are becoming so popular and tools to disseminate political speech and political information. However, as a multiracial and multireligious society in Malaysia, it sees that many issues are deemed sensitive and should be dealt appropriately in order to maintain political harmony in the country. Issues considered potentially sensitive in Malaysia according to Freedom House include 'Islam's official status, race, royalty and the special rights enjoyed by Bumiputera (sons of soil) who are ethnic Malays and

other indigenous people as opposed to the ethnic Chinese and Indian minorities. Discussing these topics can lead to prosecution and some Internet users exercise self-censorship’.

All social media such as Youtube, Facebook, Twitter and international blog-hosting services as well as other social media platforms are freely available. But, the government used to consider proposals to ban Facebook in order to curb online abuse in August 2014. In October 2014, this proposal was later shot down after public and civil society complaints (Arukesamy and Bernard, 2014).

Prime Minister Naji bused to pledge in 2013 to abolish the SA. Instead of abolishing the law, he widened the scope of the sedition law with new amendments in April 2015 by allowing the government to block electronic content considered seditious and strengthening penalties. The new amended law allows the penalty of 7 year imprisonment, unlike 3 year previously. A penalty of up to 20 year is also included for seditious activities that result in physical harm or destruction of property. Recently, the police arrested numerous online users under the SA for remarks against the government and its policies, royalty, or Islam. Some also faced charges for allegedly stoking racial tensions in the country through their tweets or Facebook postings.

Malaysia has no specific law on hate speech but the provision on hate speech is part of the category of sedition in Malaysian laws. However, the meaning of sedition covers broadly including criticising the government and government’s institution. According to EMPOWER, a Selangor-based non-governmental organisation, it recorded 44 cases from January 2014 to March 2015. Among others, the SA was cited in 18 cases mostly for religious offences related to religion, seven cases under the CMA, six cases under the penal code and one case under the Educational Institutions (Discipline) Act 1976. Some of the more prominent arrests under the SA as explained by Centre for Independent Journalism are described.

In June 2014, Facebook users Gopinath Jayaratnam and Hidayat Muhamad were charged for allegedly insulting Islam and Hinduism. Their cases are pending. In August 2014, a 15 year old student was investigated for ‘liking’ a Facebook page called ‘I Love Israel’. No further action has been taken against him. On September 2, 2014, academic Azmi Sharom was charged over his online article in a news portal relating to a political crisis in the country. His trial is ongoing. He faces a jail term of up to 7 year or maximum MYR 5,000 (US\$1,040) fine or both if found guilty. On September 3, 2014, opposition politician David Orok was charged with sedition for allegedly insulting

Islam and the Prophet Mohamed on his social media page. On February 5, 2015, lawyer and activist Eric Paulsen was arrested over a tweet stating that the Malaysian Islamic Development Department (Jakim) was spreading extremism through their Friday sermons. He is now out on bail but his trial is ongoing. Paulsen was detained for the second time for sedition on March 22, 2015 but released without charge after questioning. Popular cartoonist Zunar was arrested and charged with sedition over his pro-Anwar tweet which questioned the Malaysian judiciary. He was released on bail but the charge is pending. On March 30, 2015, the police arrested three editors from the Malaysian insider news portal along with the publisher and the chief executive the following day, over a report on Islamic criminal laws. The police investigation centered on complaints that the news portal had carried a false report about the Malay Rulers, hereditary monarchs of the nine Malay states, objecting against the implementation of Islamic laws in a state in Malaysia. The rulers denied objecting and the five journalists were held overnight for questioning before being released without charge. The news portal subsequently apologized for the report which was attributed to an unnamed source’.

Minister of Communications and Multimedia Minister Ahmad Shabery Cheek also informed in October 2014 that over 1,400 websites have been blocked by the MCMC following complaints by internet users in Malaysia. Meanwhile in 2013, the head of MCMC Monitoring and Enforcement Division, Zulkarnain Mohd Yasin announced that 2,753 websites were blocked by the MCMC from January to October including 2,611 phishing sites, 103 sites with pornographic content, 10 sites with contents violating the CMA, 15 websites for infringing the Syariah Criminal Offences Enactment, two for the OSA, two for the penal code, one for the SA and nine under other unidentified legislation. However, the reasons of such blocked or filtered websites were unknown. However, according to EMPOWER, there were accusations that the Malaysian government has secretly blocked a number of sites for political reasons or carried out actions amounting to a block. In April 2013, users of a number of Malaysian ISPs could not access websites with content critical of the government. This includes Malaysiakini, an independent news portal. A number of Youtube videos with political content were also blocked. This was verified by Access, an international human rights organisation working on digital rights. A few days before the GE13 in May, a citizen election observation initiative, the BERSIH claimed that their site was blocked by major ISPs and the presence of a blocking filter was confirmed (EMPOWER, 2015).

CONCLUSION

The Malaysian government's wish to maintain its MSC project means that its official position is to guarantee a free flow of information. The lack of clear legal provisions sanctioning online content censorship in Malaysia results in the use of various legal means to silence radical Internet citizens. However, a range of online content has been successfully excluded from the domestic flow of information. The enforcement of the law on radical speakers in the Internet communities also has the potential to create a chilling effect on freedom of speech as other speakers become more reluctant to distribute their view in fear of prosecution. Accordingly, the utility of the Internet as a new and uninhibited platform of public discourse in Malaysia must be viewed with these qualifications in mind. An important question which both societies need to ask themselves is to what extent the regulation of online content should be allowed, so as to maintain a balance between the safeguard of freedom of speech as an important democratic value and the protection of other public interests such as national security and morality. This question represents a difficult task which requires the consideration of nation's social, cultural and legal backgrounds. Nonetheless, these differences which are unique that must be viewed within a common framework which is the democratic governance, to which Malaysia subscribe to.

Therefore, Malaysia may have to rethink their policies on online content filtering and regulation so that freedom of speech on the Internet would be enjoyed by its citizens and be appropriately protected. Any regulation of political speech must be reasonable and justified. The government should not solely define and determine whether political speech is worthwhile or worthless. It should be decided by the people through public deliberation. In the case of Malaysia laws, the term seditious should be more well-defined but hate speech should have its specific law to be introduced. It is clear that it is difficult to regulate political speech online when Malaysia practises free cyberspace. A legitimate mechanism should also be in place to ensure online contents could be regulated legally, fairly and legitimately for the public good. Above all, there should not be any

restriction on social media such as Facebook and Youtube because it would be a counter-productive for Malaysia's development and democracy.

REFERENCES

- Arukesamy, K. and C. Bernard, 2014. Govt not in favour of Facebook ban. *The Sun Daily*, Kuala Lumpur, Malaysia.
- Asohan, A. and K. Singh, 2013. GE13: Politweet aims to make sense of social media noise. *Digital News Asia*, Vol. 16
- Asohan, A., 2013. GE13: Eyes on the media too. *Digital News Asia*, Vol. 5
- Balkin, J.M. and C.R. Sunstein, 1995. Populism and progressivism as constitutional categories. *Yale Law J.*, 104: 1935-1990.
- Bork, R.H., 1971. Neutral principles and some first amendment problems. *Indiana Law J.*, 47: 1-35.
- Comber, L., 1983. May 1969: A historical survey of sino-Malay relations. Heinemann Asia, Kuala Lumpur, Malaysia.
- George, C., 2006. Contentious Journalism and The Internet: Towards Democratic Discourse in Malaysia and Singapore. Singapore University Press, Singapore, Pages: 259.
- Habermas, J., 2006. Habermas acceptance speech in the Bruno Kreisky prize for the advancement of human rights. *Viennese Paper Standard*, 22: 10-11.
- Lichtenberg, J., 1987. Foundations and limits of freedom of the press. *Philosophy and Public Affairs*, 16: 329-355.
- Meiklejohn, A., 1965. Political Freedom: The Constitutional Power of the People. Oxford University Press, New York, USA., Pages: 166.
- Mohamed, S., A.M.B.A. Latif and R.B. Omar, 1987. *Mengenal Perlembagaan Malaysia*. Dewan Bahasadan Pustaka, Kuala Lumpur, Malaysia, Pages: 556.
- Noordin, A.I.M., 2013. The New Media's Profound Influence in GE13. *Bernama*, Vol. 30.
- Rais, Y., 1995. Freedom Under Executive Power in Malaysia: A Study of Executive Supremacy. Endowment Sdn Bhd, Kuala Lumpur, Malaysia, Pages: 434.
- Sunstein, C.R., 1993. Democracy and the Problem of Free Speech. *The Free Press*, New York, USA., Pages: 300.