

CHAPTER ONE

INTRODUCTION

A. Background of Research

In this modern era, internet has become an essential aspect of human's daily lives. The presence of the internet has made human life easier by providing many positive advantages. In the era of globalization surrounded by technological developments, Internet has become one of the fundamental rights that every human being must possess. The Internet has become an indispensable tool for conducting various human rights including fighting the injustice, and accelerating human development and progress. Hence, ensuring (availability) of access to the Internet should be a priority for all human being in every nation.¹ Therefore, having access to internet has now become part of freedom that should be possessed by all human being. This freedom is known as internet freedom. Internet freedom is a sort of freedom of expression and opinion in which everyone has the right to share and get information as well as communicate with one another in order to further their personal and societal development.

As an implementation of United Nation efforts to protect internet freedom in the world, on July 4 2018 in Geneva, the UN succeeded in passing

¹ Human Rights Council, 2011, "Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression", *the United Nations High Commissioner for Human Rights*.

a resolution related to internet freedom.² The United Nations Human Rights Council passed a new resolution (A/HRC/38/L.10/Rev.1) on the promotion, protection, and enjoyment of human rights on the Internet, emphasizing online freedom of expression and privacy. This also praises UNESCO's continued working on Internet Universality Indicators, which aids in the advancement of online human rights and the achievement of the SDG. One of the main point that consist in the resolution states that, "*that rights that people have offline must also be protected online*".³ The resolution reiterates that the same rights that people have offline must also be protected equally online, particularly to freedom of speech, expression and opinion. The Resolution also highlights the importance of preserving journalists' safety in the digital era and condemns online attacks on them that violate their right to freedom of opinion and expression.

Internet has become a stepping stone for humans to access information and communication and towards a high-tech life.⁴ However, in real life, there are still many people who do not get internet freedom in the world. The freedom of the internet is not always fully guaranteed and protected by the government as some government enforce large-scale restrictions on the freedom and rights of the internet. There are many cases of violations and restrictions of freedom

² UNESCO, 2018, "UNESCO welcomes new UNHRC Resolution highlighting online freedom of expression and noting UNESCO Internet Universality Indicator Framework", taken from: <https://en.unesco.org/news/unesco-welcomes-new-unhrc-resolution-highlighting-online-freedom-expression-and-noting-unesco> accessed on June 1st, 2021 at 11.00.

³ The United Nations Human Rights Council Resolution on the Promotion, Protection, and Enjoyment of Human Rights on the Internet.

⁴ Daniela V. Dimitrova, Richard Beilock, "Where Freedom Matters; Internet Adoption among the Former Socialist Countries", *The International Journal for Communication Studies*, Vol. 67, No. 2 (2005).

of internet that occur in this world. Nowadays, the most famous case of restrictions of internet freedom in the world is in China. The freedom of internet in China is not fully protected by the government, where many government policies are detrimental to its citizens.

China's economic reforms have resulted in unprecedented economic growth since the 1980s, transforming the country into one of the world's largest economies.⁵ Moreover, it turns out that the Chinese government continues to oppress its citizens' right to freedom of expression and thought. Besides being famous for The Great Wall, China is also known as The Great Firewall. The nickname was pinned because the country carried out massive censorship of internet access for its citizens. People in China are still struggling to have freedom of the internet. In 2019, China was named the worst country for internet freedom in the world. According to a survey conducted by Freedom House on the rankings of countries with the best internet freedom worldwide, China, the world's largest communist country, has been ranked as having the lowest internet freedom for four years in a row.⁶

There are many policies made by the Chinese government which are considered as forms of restrictions on internet freedom such as internet blackout, blocking websites, banning applications from outside of China, hiding posts on social media, the arrest of journalists who are active on the internet, blocking

⁵ Lei Pan, Vinod Mishra, "Stock Market Development and Economic Growth: Empirical Evidence from China", *Economic Modelling Journal*, Vol. 68, No. 13 (2017).

⁶ Freedom House, 2019, "Freedom on the Net 2019", taken from: https://freedomhouse.org/sites/default/files/201911/11042019_Report_FH_FOTN_2019_final_Public_Download.pdf, accessed on August 22th, 2020 at 13.45.

thousands of contents and others.⁷ The government does this to suppress the aspirations and protests against the government, Chinese Communist Party. From these data, it can be concluded that Chinese citizens have not thoroughly enjoyed the freedom of the internet. On the other hand, the government has not fully protected its citizens from any restrictions regarding internet freedom in China.

Internet restrictions in China are very strict and unimaginable. In early 2016, it was noted that China had blocked more than 6,500 different domains, including nearly 150 of the top 1,000 domains on the Web.⁸ Many expats in China are forced to pay for VPN services to access various websites whose centers have been blocked by the government. VPNs are also widely used by journalists to discover global events, students studying abroad, and business people to communicate with their clients outside. Furthermore, China has blocked certain search terms that are thought to provoke negative reactions from the public. The Chinese government has blocked various search terms in order to avoid spreading unwanted information. One of the most famous examples is the term “3T” which means Taiwan, Tiananmen, and Tibet. These three search terms are a compassionate issue in China.⁹ Hence, the government blocked all

⁷Lilleby, Caroline Syversen, “The Right to Freedom of Expression in China and the West: China's Right to a Cultural Specific Freedom of Expression Orientation”, *Norwegia University of Life Science*, Vol. 7, No. 4 (2016).

⁸ Council on Foreign Relations, 2017, “Media Censorship in China”, taken from: <https://www.cfr.org/backgrounder/media-censorship-china>, accessed on August 22th, 2020 at 20.40.

⁹ Calhoun Craig, “Revolution and Repression in Tiananmen Square”, *LSE Research*, Vol. 26, No.6 (1989).

information about these three keywords including the dark truth relating to these three terms. So the government will only show the bright side of them.

In July 2009, China once turned off all internet connectivity in China, precisely when Xinjiang Uyghur Autonomous Region was hit by ethnic riots that caused nearly 200 people's death.¹⁰ The blockade and restriction measures were taken after rampant violence between Muslim Uighurs and Han ethnic groups.¹¹ As a result of this incident, the government firmly closed all Internet access for the entire province and restored it until almost a year later. The government considers terrorists, separatists, and religious extremists use the internet and SMS to spread rumours that led to violence in July. As a result, nearly 20 million people in the province are paralyzed due to lack of internet access. All on activities were paralyzed, including the Chinese people's internet-related businesses.¹² Xinjiang residents who wish to access the internet for business purposes must go to neighbouring provinces.

The government also supervises internet activities carried out by Chinese citizens. The government will arrest people suspected of using the internet to protest against the government. One example is the case in 2012 where China detained a blogger named Zhai Xiaobing. The blogger has made jokes that are considered offensive to certain groups referring to the Chinese

¹⁰ Michael Clarke, "China, Xinjiang and the Internationalisation of the Uyghur Issue" *Global Change, Peace and Security*, Vol. 22, No. 2 (2010).

¹¹ Richard Stone, "Internet Blockade in Xinjiang Puts a Strain on Science", *American Association for the Advancement of Science*, Vol. 326, No. 5959 (2009).

¹² Bei Qin, David Strömberg, Yanhui Wu, "Why Does China Allow Freer Social Media?: Protests versus Surveillance and Propaganda", *Journal of Economic Perspectives*, Vol. 31, No. 1 (2017).

Communist Party.¹³ He wrote, “An earth-shaking debut will be seen at the global premiere on Nov. 8!” The date written by Zhai coincided with the Chinese Communist Party's 1st-week congress. A few days later, he was arrested by the Chinese police and underwent an investigation to account for his actions on charges of spreading terrorism information. Zhai Xiaobing's supporters signed the petition and asked him to be released because what he wrote was intended as a joke.¹⁴ Zhai is just one example of a number of similar cases in China, as they have detained many dissidents and activists for spreading controversial content online.

There are some previous researches discussed this issue, for instance; Zainuddin Muda¹⁵ in his paper on "Internet Freedom in Asia: Case of Internet Censorship in China". The paper intends to describe the relationship between internet censorship practices imposed by the Chinese government and internet freedom for Chinese citizens. Then, the paper entitled "How to Create International Law: The Case of Internet Freedom in China" By Katherine Tsai.¹⁶ The paper discusses a theory that describes the application of the cooperative state with the creation of international law as an effort to realize internet freedom in China. In comparison, this paper discusses the problem in a

¹³ BBC, 2012, “Online Protests after Chinese Twitter User Arrested”, taken from: <https://www.bbc.com/news/technology-20427139>, accessed on August 23th, 2020 at 14.50.

¹⁴ Daily Mail UK, 2012, “Blogger Faces Five Years in Chinese Jail after Tweeting a Joke about Communist Party Delegates Dying”, taken from <https://www.dailymail.co.uk/news/article-2236305/Blogger-faces-years-Chinese-jail-tweeting-joke-Communist-Party-delegates-dying.html>, accessed on August 23th, 2020 at 19.30.

¹⁵ Zainuddin Muda Monggilo, “Internet Freedom in Asia: Case of Internet Censorship in China”, *Journal of Government and Politics*, Vol 7, No 1 (2016).

¹⁶ Katherine Tsai, "How to Create International Law: The Case of Internet Freedom In China", *Duke Journal of Comparative & International Law*, Vol. 21, No. 2 (2011).

comprehensive-manner by analysing the forms of restriction of internet freedom in China and how the failure of government in protecting the freedom of its citizens. Aside of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Universal Declaration of Human Rights (UDHR), the paper also discusses the national regulation about internet freedom in China.

Since the early 90s, China has played an active role in upholding the international human rights system. The International Covenant on Economic, Social and Cultural Rights (ICESCR) is one of conventions that has ratified by China in 2001. Countries that have ratified this treaty are obliged to fulfilling the economic, social, and cultural rights of individuals that must be fully protected and respected by the government. Nevertheless, based on the actions that the Chinese government has committed, China has violated UDHR and also Conventions which they ratified. Besides, the Chinese government has also violated the 1982 Chinese Constitution that regulates the internet's freedom by blocking thousand websites, internet blackout, massive censorship, arresting journalist and citizens who active on internet, and restricting various activities related to the internet. Based on those facts, the paper is intended to analyse the restrictions of internet freedom in China and how the implementation of UDHR and other related regulations in China.

B. Problem Formulation

Based on the addressed issue on background above, the author formulates discussions to be answered, namely what are the forms of restrictions on internet freedom in China and how is the perspective &

implementation of International Human Rights Law on the restrictions of internet freedom in China.

C. Objective of Research

The Objective of Research is to know the concept of internet freedom and how International Human Rights Law perspective in the case of restrictions on internet freedom in China.

D. Benefits of Research

There are some benefits of the research, namely:

1. Theoretical Benefit

The research provides a better understanding on what is the concept of Internet Freedom in China and how is the implementation of International Law on the restrictions of internet freedom in China. Moreover, the research provides an in-depth theoretical understanding of internet freedom and its protection under the International Law.

2. Practical Benefit

The research gives benefits to deeply understand on how implementation of International Law works for the case of restrictions on internet freedom in China.