

Malaysia: Anti-Fake News Bill is a form of suppression of rights to freedom of expression, opinion and press freedom

(Bangkok, 4 April 2018) - The Asian Forum for Human Rights and Development (FORUM-ASIA) strongly condemns the decision of both Houses of the Parliament to pass the Anti-Fake News Bill 2018 yesterday. The Bill, which was proposed by the Government of Malaysia to the Lower House of the Parliament on 26 March 2018, was passed with 123 voting in favour and 64 against in the lower house of the Parliament (*Dewan Rakyat*) and by the majority voice vote in the upper house of parliament (*Dewan Negara*).¹² FORUM-ASIA sees it as another attempt by the Government to restrict the rights to freedom of expression and opinion, and press freedom in the country.

Under the Bill, fake news is defined as ‘any news, information, data and reports, which is or are wholly or partly false, whether in the form of features, visuals or audio recordings or in any other form capable of suggesting words or ideas.’ The Bill can be used to prosecute people who are deemed to be ‘maliciously’ contributing to fake news concerning Malaysia and/or Malaysians. If proven guilty, the alleged offenders, regardless of their nationality or physical location, can be fined up to 10,000 Ringgits, imprisoned for a term not exceeding six years, or both.

The vague definitions of ‘fake news’ and ‘maliciousness’ introduced in the Bill allow for multiple interpretations and grant the Government the liberty to interpret the terms according to its political purposes, especially when it comes to the 14th General Election planned for August 2018.

Despite some changes made during the second reading, the spirit of the Bill is to serve the economic or security interests of the Government of Malaysia and encourages unnecessary restrictions on freedom of expression and opinion, and press freedom. The Bill also grants the Government extraterritorial application powers, which make it possible for the alleged offenders to be prosecuted regardless of their nationality or physical location. This hints at the extent to which a Government can abuse a law to suppress freedom of expression and opinion across borders, and sets a precedent through the extraterritorial application of the Bill. The consequence of this Bill may prove particularly debilitating for press freedom within and outside the country.

According to the Joint Declaration on Freedom of Expression and ‘Fake News’, Disinformation and Propaganda issued on 3 March 2017 by the UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and People’s Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, it should be noted that ‘the human right to impart information and ideas is not limited to ‘correct’ statements, that the right also protects information and ideas that may shock, offend and disturb, and that prohibitions on disinformation may violate international human rights

¹<https://www.nst.com.my/news/nation/2018/04/352180/anti-fake-news-bill-passed-parliament>

² <http://www.theedgemarkets.com/article/dewan-negara-passes-antifake-news-bill-0>

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standards.³ Therefore, the Bill, in addition to numerous laws that already exist to suppress freedom of expression and opinion,⁴ can be seen as a violation of international human rights standards.

FORUM-ASIA strongly urges the Parliament of Malaysia to postpone the entry into force of the soon-to-be Anti-Fake News Law as it will severely suppress the rights to freedom of expression and opinion inside the country and beyond its borders. FORUM-ASIA would also like to echo the calls made by SUHAKAM which 'strongly suggests that a parliamentary committee be set up to consider plausible measures to address the issue of fake news'⁵ and to reiterate the recommendations of the Universal Periodic Review for the Malaysian Government to take effective measures to ensure the full realisation of the rights to freedom of expression and press.⁶ The Government of Malaysia should see constructive criticism as an essential part of democracy, and create an enabling environment for its citizens to exercise their fundamental freedoms and liberties.

About FORUM-ASIA:

FORUM-ASIA is a regional human rights group with 58 member organisations in 19 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta, Geneva and Kathmandu. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expression, assembly and association, human rights defenders, and democratisation.

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³ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21287&LangID=E>

⁴ Other laws that have been used to curb freedom of expression and opinion in the country such as the Sedition Act 1948, the Communications and Multimedia Act 1998, the Printing Presses and Publications Act 1984 and Security Offences (Special Measures) Act 2012.

⁵ <https://www.borneotoday.net/suhakam-anti-fake-news-law-can-inspire-an-authoritarian-form-of-govt/>

⁶ Malaysia took note of the recommendations from US, Austria, Poland and Denmark to take effective measures to ensure the full realization of the right to freedom of expression, by reviewing the Printing Presses and Publications Act, the Sedition Act and the Evidence Act. See at https://www.upr-info.org/sites/default/files/document/malaysia/session_17_-_october_2013/recommendations_and_pledges_malaysia_2014.pdf