

Singapore: Parliament must reject internet regulation bill that threatens freedom of expression

4 April 2019

Today, the ICJ urged Singapore's Parliament not to pass the Protection from Online Falsehoods and Manipulation Bill 2019 ('Online Falsehoods Bill'), which was tabled on Monday, 1 April.

The ICJ said that the bill, if passed into law, would result in far-reaching limitations on freedom of expression, opinion and information in Singapore, and could be wielded to curtail important discussion of matters of public interest, including content critical of the government.

"This bill, if passed, would make the government the sole arbiter of what information is permissible online and what is not, creating a real risk that the law will be misused to clamp down on opinions or information critical of the government," said Frederick Rawski, ICJ Director for Asia and the Pacific.

The bill authorizes ministers to direct individuals, owners or operators of online platforms, digital advertising and internet intermediaries to remove, make corrections to, disable or block access to a "false statement of fact", if such action is deemed to be "in the public interest". Such ministerial directions can be made even if a false statement "has been amended or has ceased to be communicated in Singapore".

The bill does not provide any real definition of "false statement of fact" and does not clarify what constitutes "public interest". The bill also fails to provide for exceptions or defences such as honest mistake, parody, artistic merit, or public interest. Executive discretion is also not subject to judicial review or oversight under its provisions.

Criminal penalties for non-compliance with the law are severe, and include hefty fines and up to ten years' imprisonment for violations. These may be imposed on individuals and/or owners or operators of online platforms, as well as intermediaries who facilitate the communication of such statements, including social networking services, search engine services, internet-based messaging services and video-sharing services. The bill is also clear that communications through SMS (Short Message Service) and MMS (Multimedia Messaging Service) fall under its remit.

"The spread of misinformation online is a complex problem that cannot be effectively addressed by simply granting broad discretion to government officials to censor online expression," said Rawski. "A multi-pronged approach that protects the rights to free expression, opinion and information is required, beginning with better media literacy education and free access to information, including to opinions critical of the government."

On 3 March 2017, the UN Special Rapporteur on Freedom of Opinion and Expression issued a joint declaration on 'fake news', disinformation, and propaganda. The declaration noted that the "right to impart information and ideas is not limited to 'correct' statements" and highlighted the "importance of unencumbered access to a wide variety of both sources of information and ideas, and opportunities to disseminate them, and of a diverse media in a democratic society, including in terms of facilitating public debates and open confrontation of ideas in society, and acting as a watchdog of government and the powerful."

Contact

Frederick Rawski, ICJ Asia Pacific Regional Director (Bangkok), e: [frederick.rawski\(a\)icj.org](mailto:frederick.rawski(a)icj.org)

Background

On 1 April, the [Online Falsehoods Bill](#) was tabled before the Singapore Parliament. This followed a [report](#) presented in September 2018 by the Select Committee on Deliberate Online Falsehoods, appointed to study the phenomenon of “online falsehoods” and look into measures to address it.

Under international law and standards, any restrictions limiting freedom of expression and opinion must be clearly provided in law and may only be those strictly necessary for a narrow range of purposes, such as protection of national security or the rights or reputation of others. This bill falls short in a variety of respects, including in respect of legality, and the failure of the restrictions to meet the requirements of necessity, proportionality and/or legitimate purposes.

Overbroad and Vague Definition of False Statements. The bill criminalizes the communication of any “false statement of fact” made with knowledge or reason to believe that such statement would be, *inter alia*, “prejudicial to the security of Singapore”, “public tranquility”, “influence the outcome of an election” or “diminish public confidence in the performance of any duty or function of, or in the exercise of any power by, the Government, an Organ of State, a statutory board”.

A clear definition of what amounts to a “false statement of fact” is absent from the bill. The overbroad terms of ‘national security’ and “public tranquility” are also left undefined. Conditions that information shared online should not “influence elections” or “diminish public confidence” in government authorities also give rise to the risk that critical comment or dissent could be subject to criminal penalties. The bill also does not include provisions for exceptions or defences such as honest mistake, parody, artistic merit, or public interest.

The scope of the bill is wide – various types of “statements” fall under its remit, and a range of persons or bodies can be held liable for violations of its provisions. “False statements” can include “any word (including abbreviation and initial), number, image, sound, symbol or other representation, or a combination of any of these”. This could include nearly every form of online expression – written, spoken and visual.

Limited Avenues for Appeal. The bill does not provide adequate avenues of recourse for an aggrieved party. An appeal can be filed to the High Court to challenge a ministerial direction only after an appeal to the minister in question. As an application to the High Court is subject to time limits under the Rules of the Court, a delay from the minister beyond this time frame can result in the prospect of no recourse at all provided to an aggrieved party.

Provisions in the bill meanwhile explicitly allow for charges to be brought under other laws in relation to the same statement(s) being prosecuted under this law. This allows for potential defamation suits – including civil and criminal suits – or charges for contempt of court to be mounted at the same time against statements deemed critical of the government.

Codes of Practice. The bill also allows, under Part 7, for a Competent Authority to issue one or more “codes of practice” to digital advertising intermediaries or internet intermediaries to “enhance disclosure of any paid content that is directed towards a political end, that is communicated in Singapore”. A “political end” is defined as

“promoting the interests of a political party or other group of persons organized in Singapore for political projects”, “to influence the outcome of an election”, “to influence public opinion on a matter which is a matter of public interest or controversy” or “to seek to bring about changes of the law or influence the legislative process in Singapore”.

These codes of practice can “give prominence to credible sources of information” or “not give prominence to a declared online location” or online location that contains “false statements” as determined under the bill. Such codes of practice can be varied, revoked or waived by the authority without any judicial review or oversight.

These provisions under Part 7 of the bill are particularly problematic as the vague and overbroad definitions of information “directed towards a political end” can result in the misuse of the law by government authorities to order intermediaries to censor all content deemed critical of the government, particularly during periods of time when such information is particularly crucial, such as in the lead-up to elections or following the introduction of a new bill, law or policy that requires public debate and deliberation.

Penalties. Severe penalties of fines of up to S\$100,000 or ten years’ imprisonment or both for individuals and fines of up to S\$1 million for non-individuals, and continuing fines of up to S\$100,000 per day or part of day of a “continuing offence”, can be imposed on parties deemed to have violated the law.