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Malaysia: Anti-fake News Bill a dangerous crackdown on freedom of expression

Amnesty International is deeply concerned by the Anti-Fake News Bill that the Malaysian government tabled before Parliament on 26 March 2018. The Bill, which combines vague and broad definitions with severe punishments and arbitrary arrest powers for police, is an assault on freedom of expression in Malaysia. Amnesty International strongly urges the Malaysian authorities to withdraw the Bill and for parliament to reject it.

The Bill's definition of 'fake news', as "any news; information, data or reports which are wholly or partly false"; is vague and broad, and could easily include honest or marginal mistakes, as well as statements that may be a matter of opinion. Acts falling under this definition would be punished severely, with a fine of RM 500,000 or by up to 10 years imprisonment, or both. By defining all offences under the Bill as seizable offences, the Bill allows police to arrest persons suspected of such acts without a warrant.

The Bill appears to be designed so as to open opportunities for the government to crack down on journalists, human right defenders and government critics, in order to further protect it from peaceful criticism. The Bill could be used to intimidate and punish those expressing views on alternative media and online portals. Whatsapp group administrators, and Facebook users that may have been previously targeted by other restrictive laws, such as the Communications and Multimedia Act, could now be subject to harsher punishment.

In addition, the Bill seeks to prosecute individuals regardless of their nationality, citizenship or location at the time of the offence as long as the "fake news" concerns Malaysia or if the person affected is a Malaysian citizen. As such, it is a clear attempt to control the behaviour of Malaysians living abroad, including those who may have left because of the inability to exercise their right to freedom of expression inside Malaysia.

This latest attack on freedom of expression in the country is taking place ahead of general elections, which are expected to be called within weeks. In tabling the Anti-Fake News Bill, Malaysia leads in the efforts of a number of ASEAN governments, including Philippines, Singapore and Indonesia, to criminalize content that is deemed as 'fake news' by the government. Amnesty International reiterates its call to the Malaysian government to withdraw this Bill immediately, as it will not protect individuals' reputations or prohibit hate speech but rather shield the government from peaceful criticism. Failing the withdrawal of the Bill, the organization urges Parliament to vote against it, in order to safeguard freedom of expression, and prevent the entry of another restrictive law in the country.

Background

The Malaysian government has used a wide range of criminal laws to target peaceful government critics, journalists and human rights defenders, since authorities lost the popular vote in the last elections in 2013. Repressive laws used for such targeting include the Sedition Act 1948, the Communications and Multimedia Act 1998, the Peaceful Assembly Act 2012, and the Security Offences and Special Measures Act 2012. The colonial-era Sedition Act allows for the arrest without warrant and imprisonment of critical voices, while Section 9(5) of the Peaceful Assembly Act 2012, a relatively recent piece of legislation, has been increasingly used to target and criminalize peaceful protesters for organizing rallies in the country. All these laws have overbroad, vague definitions of offences which can be and are exploited to stifle peaceful dissent.