

Abuse of "false information" rhetoric and laws in Southeast Asia

- I will be opening the discussion today on **Trends in freedom of expression regulations**
- I'm from Singapore but as I've been working on **Southeast Asia will speak to the region**
- In Southeast Asia at least, it is very clear to us that countries are increasingly adopting a **securitisation approach** to expand rights violations online and offline.
- They are using "national security" as a key justification, and **abusing both laws and technologies** to advance political aims rather than to legitimately protect "national security"
- This **is not surprising** to us because, for decades – Southeast Asia has not had a stellar record in protecting rights –
- And the language of "national security" and "public order" has been relied on before.
- This is exactly the same now for COVID-19.
- But the pandemic has just **accentuated** this language of **"fighting threats"**.
- And in particular, we see in this region how governments are abusing the narrative of **"fighting false information online"** to restrict rights and extend their own dominance – both online and offline.

On "false information" laws and rhetoric

- This is not just a problem in this region
- It is a **global challenge now** that reflects the digital world we live in
- For the first time in human history:
 - Most people in the world can access the most amount of info they have ever done;
 - And most people can share the most amount of info they have ever done
- But at the same time – There is **increasing inequality** and **deterioration of public trust** in government
- And **tech companies** are having disproportionate control on what kind of information gets circulated online

- So there is a **societal crisis** on whether to trust the vast amounts of information online
- This is the case even in countries with free media and democratic safeguards
- So **of course in Asia**, this is going to be a problem.
- And, in this **volatile context**, you throw in a pandemic – Governments start to see the lack of trust of their people and their fear translate publicly and openly online
- It becomes the **perfect opportunity** for governments to use “false information” as a reason to clamp down on criticism

- And what we have seen is that **COVID-19** has provided a **disingenuous** justification for “false information” laws to be implemented to **advance political aims rather than protect people**

In Thailand, for example:

- People have been arrested for apparently releasing false information on COVID-19 online under ***the Emergency Decree***
- And the ***Computer-related Crimes Act*** also impose fines and imprisonment terms for this criminal act
- But **at the same time**, there is a crisis in COVID-mismanagement in Thailand
- The government has been **severely criticized** for not manufacturing and rolling out the vaccine fast enough, and there are increasing numbers of cases and deaths across the country
- Meanwhile, **protests are also raging** in the country against the government – and the authorities are using water cannons and rubber bullets against its people.
- **Instead** of listening to public uproar, the government is clamping down on criticism by claiming all of it is “fake”
- Artists, students and opposition politicians have been charged under the ***Computer-related Crimes Act*** and ***lese-majeste*** law increasingly
- Not only because they have criticised the vaccine roll-out but because they have been expressing dissent to the government in general

- Meanwhile, the government **is not** providing its people with trusted information on the virus or the truth about how it is managing the crisis

Similarly in **Cambodia**:

- In 2020 and 2021, there was a **hike** in arrests of people for supposedly posting “false information” online
- The majority of those arrested were former political opposition party members for information they had posted on Facebook or other social media platforms
- But they haven’t just arrested opposition members for supposed “false news”
- A 14-year-old girl was arrested when she had shared on social media that she was concerned about COVID-19 cases in her school and province
- And journalists (eg. Sovann Rithy) have been charged for incitement
- Now, under the ***Law on Measures to Prevent COVID-19***, people can be imprisoned for up to 20 years for “posting false information online”
- Earlier this year, three individuals were prosecuted under this law for TikTok videos that criticised the use of Chinese-made vaccines.
Korng Sambath, Nov Kloem, and Pann Sophy

- It’s **not just COVID** that has been used as a “proxy” argument

In Malaysia:

- The **Anti-Fake News Act** was brought into force **even before** COVID – **and before** the unprecedented elections which saw the ruling party voted out in 2018 after decades of power.
- The law was then repealed in 2019 after lots of pushback that the law would violate free expression and be open to abuse by the State
- **Fast forward to 2021** – That administration fell apart, and in the middle of government turmoil and turnover, the new government introduced an **Emergency Ordinance (No. 2)** which criminalises the creation, publication and dissemination of “fake news” online.
- **This time** it was focused on COVID-19 – but the provisions were clearly from **AFNA**
- And both times – previously with AFNA and this new Ordinance “fake news” –

- The laws were introduced where administrations were unstable; and when the law could potentially be used to target criticism.
- It was not when public support was broadly behind the government in power

- Many states are also using the “**national security**” rhetoric and adopting **securitisation** approaches to “combat” false information
- When what they mean is “combat” critical dissent
- In **Singapore**, the **Protection against Online Falsehoods and Manipulation Act (POFMA)** was brought into force before we even knew a pandemic of this proportion can hit us;
- And very recently the state brought into force the **Foreign Interference (Countermeasures) Bill – or FICA** – an overbroad law that can allow the Minister for Home Affairs to broadly censor information online and target any expression they deem impermissible
- **Very recently – just yesterday actually** – POFMA – the fake news law – was used against **an activist** for reporting on FICA – the foreign interference one – on Twitter
- **Twitter** has also now been given a POFMA order
- So you can see here laws reinforcing each other to target dissent
- **Taskforces are also** being set up across the region
- **Thailand** set up its **Anti-Fake News Centre** to monitor and surveil speech online well before the pandemic, and is stepping up regulations to control and increase state oversight of content posted on social media platforms
- The targets are clearly student activists and other dissenters
- **Laos** meanwhile in May created a “**special taskforce**” – including the police and the ministry of communications - to track and combat “fake news” on social media platforms

- What is clear is that in most countries in this region
- “False information” laws do not meet international legal obligations

- They do not meet the requirements of **legality, necessity or proportionality**
- **Criminal sanctions** are disproportionate and only make people more fearful of sharing information
- And states should be **focusing instead on** providing **clear, trusted, timely** updates on the pandemic to everyone without discrimination
- And beyond COVID:
- States should allow journalists, researchers, civil society, opposition politicians, and health professionals to do their professional duties
- This **free communication of ideas** is what nurtures and strengthens civic discussion and political vibrancy
- And individuals can then feel empowered to speak to the State and be sure they listen to them
- If States allow for that, there would be no need for “false information” laws in the first place
- Because **public trust** in their governments and public institutions is there
- **Lack of trust and fear** is what fosters rumours and false information to thrive
- And when the **state is itself actively denying** people of information – people will turn to other sources
- And in some countries, the **states themselves are the ones actively spreading false information online** to gain brownie points in elections or win votes

- What they need to be doing:
 - People-centred social programmes and investment;
 - Listen to their population and actually act on their concerns;
 - Reduce corruption;
 - Build the digital literacy and education of their people;
 - Be transparent and rights-centred in their entire mode of governance.
 - But this is not what we have seen in Southeast Asia.
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