

LCQ12: Spreading rumours on Internet

Following is a question by the Hon Wong Ting-kwong and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (March 18):

Question:

It is learnt that some people have been spreading rumours on the Internet recently, claiming that there might be a shortage of essential livelihood commodities due to the novel coronavirus epidemic. As a result, some members of the public snapped up and stockpiled commodities such as rice and toilet paper, making the rumours come true. On the other hand, the Court of Final Appeal handed down a judgment on an appeal case in April 2019, ruling that as the acts of the respondents had not involved access to another person's computer, the respondents had not committed the offence under section 161(1)(c) of the Crimes Ordinance (Cap 200) (i.e. the offence of obtaining access to a computer with a view to dishonest gain for himself or another). Some members of the legal sector have pointed out that as a result of the said judgment, the authorities might no longer be able to prosecute rumour-mongers by invoking the said provision. In this connection, will the Government inform this Council:

(1) whether any legislation is currently in place to prosecute persons who wilfully spread false information which is likely to give rise to panic among members of the public; if so, of the details, as well as the number of prosecutions instituted in the past five years and the penalties imposed on the convicted persons; and

(2) whether it will, on the premise of safeguarding freedom of speech, study the enactment of dedicated legislation to combat acts of wilful spread of such information; if so, of the details; if not, the reasons for that?

Reply:

President,

Hong Kong residents enjoy the freedom of speech and communication, but these freedoms are not absolute. According to Article 30 of the Basic Law, the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences; while according to the International Covenant on Civil and Political Rights as applied to Hong Kong and the Hong Kong Bill of Rights Ordinance (Cap 383), the exercise by anyone of the right to freedom of expression carries with it special duties and responsibilities, and may therefore be subject to certain restrictions as provided by law as necessary for (1) respect of the rights or reputations of others, or (2) the protection of national security or of public order, or of public health or morals.

Even though there is currently no specified criminal offence in Hong

Kong targeting the deliberate dissemination of false information, the Internet is not an unreal world that is beyond the law. As far as the existing legislation in Hong Kong is concerned, most of the crime-prevention laws in the real world are applicable to the online world. Any acts inciting others to break the law, as long as they involve criminal offences, are regulated by the relevant laws regardless of whether they were committed online. According to Section 89 of the Criminal Procedure Ordinance (Cap 221), any person who aids, abets, counsels, or procures the commission by another person of any offence shall be guilty of the like offence. Under common law, inciting others to commit any substantive offence is also itself an offence. In short, any act of inciting others to commit an offence is already an offence.

As for "access to computer with criminal or dishonest intent" under section 161 of the Crimes Ordinance (Cap 200), it covers any person who obtains access to a computer (a) with intent to commit an offence; (b) with a dishonest intent to deceive; (c) with a view to dishonest gain for himself or another; or (d) with a dishonest intent to cause loss to another. Given that the facts of each case are different, there is no hard-and-fast rule on how to handle the relevant cases. When handling Internet-related cases, Police would determine the charge(s) to be laid with regard to the evidence of individual cases, and, where necessary, the Department of Justice (DoJ)'s advice would also be sought before prosecution. In considering each case, DoJ would make relevant prosecutorial decisions based on the actual facts, evidence, the Prosecution Code, and the applicable laws and cases.

In view of the potential for information technology, the computer and the Internet to be exploited for carrying out criminal activities, the Law Reform Commission has established in January 2019 a sub-committee to study the topic of cybercrime. In the course of its study, the sub-committee will identify the challenges arising from such rapid developments, review existing legislation and other relevant measures, examine relevant developments in other jurisdictions, and recommend possible law reforms (if any). We will pay close attention to the progress of the sub-committee's review.

As mentioned above, should any remarks published involve illegal acts, regardless of whether such acts occur online, as long as they involve criminal offences, they would be regulated by the relevant legislation. As messages could be disseminated rapidly through the Internet, and especially via social networks and communications software, this presents unique challenges to law enforcement agencies. Furthermore, the proposal to introduce specific legislation targeting deliberate dissemination of rumours would involve many complicated and controversial issues, such as human rights protection, how to define certain speech as rumours, how to define a rumour's impact on the community and ascertain its degree of impact, how to prove that the persons who disseminated the false information did so deliberately with the intent to disrupt public order, and whether the introduction of a specified criminal offence would be the most effective measure in tackling the issue, etc. These questions must be considered and thoroughly discussed by the community.

As for the malicious act of spreading rumours when the city was fighting

against the epidemic, leading to panic buying of goods such as rice and toilet paper, the Government had issued a press release at once to condemn those rumour mongers. The Government had stressed that the measures in disease prevention and control would not affect the freight services between the Mainland and Hong Kong, and that the supply of food products remained normal and there was no shortage of food. There was no need for the public to worry. In fighting of the virus, we appeal to members of the public to be vigilant against rumours and pay attention to information released by the Government, so as to avoid being misled by rumours.