

LCQ4: Combat internet messages that are fake and prejudice public safety

Following is a question by the Hon Elizabeth Quat and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (November 6):

Question:

In recent months, radical demonstrators have resorted to various kinds of illegal and violent acts, including hurling petrol bombs, detonating remote-controlled bombs, setting fire at entrances/exits of MTR stations and shops, as well as attacking police officers with corrosive fluid, iron rods and sharpened objects. Some members of the public are concerned that the fact that demonstrators' acts are increasingly violent may be linked to the prevalence of messages on the Internet which are fake, provoke sentiments of hatred and rationalise violence. It has been reported that some countries have enacted legislation to combat the dissemination of messages on the Internet which are fake and jeopardise public safety. For example, Germany enacted the Network Enforcement Act in 2017, France enacted the Law Against the Manipulation of Information and the Law Against False Information in 2018, and Singapore enacted the Protection from Online Falsehoods and Manipulation Bill this year. In this connection, will the Government inform this Council:

(1) whether it will enact legislation to combat the dissemination of messages on the Internet which are fake and jeopardise public safety; if so, of the details; if not, the reasons for that; and

(2) whether it will amend the existing legislation or enact new legislation to specifically combat acts on the Internet of aiding, abetting, counselling or procuring the commission by other persons of any offence; if so, of the details; if not, the reasons for that?

Reply:

President,

Hong Kong residents enjoy the freedom of speech under the Basic Law, but that freedom is not absolute. 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.

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. Therefore, the public should use the Internet lawfully and properly.

Police officers have the statutory responsibility to maintain public safety and public order, as well as safeguard people's life and property, and will strictly enforce the law against lawbreakers committing illegal acts through the Internet.

My consolidated reply to both parts of the question is as follows:

As mentioned above, most of the laws in the real world are applicable to the online world. Any acts inciting others to break the law or relating to online bullying, as long as they involve criminal offences, are regulated by the relevant laws regardless of whether they were committed online. For example, criminal intimidation under section 24 of the Crimes Ordinance (Cap 200) and blackmail under section 23 of the Theft Ordinance (Cap 210) are also applicable to online acts. Furthermore, inappropriate speech published online may also contravene other offences, such as the data protection principles under the Personal Data (Privacy) Ordinance (Cap 486), infringement of copyright, or libel, etc. Publishing information online that might threaten public safety may also infringe the common law offence of incitement to commit public nuisance.

Besides, 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.

Under the existing legal framework, if an act that would be illegal in the real world was committed online, the Police can enforce the law with the relevant legislation. The Government has been paying close attention to acts of committing or aiding and abetting others to commit online offences and their trends.

We are aware of legislation overseas relating to the online publication of information that is false or may prejudice public safety, and will observe closely their effectiveness as well as the enforcement process.

In view of the rapid developments associated with information technology, the computer and the Internet, as well as the potential for them to be exploited for carrying out criminal activities, the Law Reform Commission has established in January this year 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. We will pay close attention to the sub-committee's recommendations.

Since this June, there have been numerous instances of violent protests and vandalising acts in many districts of Hong Kong, including but not limited to criminal damage to property, assaults of the person, riots, and arson, etc. Internet-based platforms have been abused by some to incite protesters to participate in unlawful activities, to promote the use of weapons, and to mobilise protesters to damage targeted properties and injure targeted individuals (in particular police officers). Such acts have seriously breached public safety, and posed a grave danger to life (especially specific target groups such as police or those with particular political views) and property.

The Secretary for Justice, as guardian of the public interest, successfully applied to the Court on October 31 an injunction to restrain persons from unlawfully and wilfully disseminating, circulating, publishing or re-publishing on any internet-based platform or medium any material or information that promotes, encourages or incites the use or threat of violence, intended or likely to cause bodily injury to any person unlawfully or damage to any property unlawfully within Hong Kong. The injunction also restrains persons from unlawfully and wilfully assisting, causing, counselling, procuring, instigating, inciting, aiding, abetting or authorising others to commit any of the aforesaid acts or participate in any of the aforesaid acts.

Over the past few months, a lot of false information has been circulated online and in the social media, especially a vast amount of fake news and baseless accusations that targeted the Police. Most of these unsubstantiated messages twist the facts, create panic in the community, deepen the confrontation and division in society, and disrupt the police-community relation. The Government strongly condemns the wilful spread of these rumours online, and will endeavour to provide the relevant facts and information to dispel the false information. Citizens should remain objective and rational, and should not readily believe fabricated online rumours.

The Police will continue to closely monitor potential criminal activities online, conduct targeted searches professionally on public online platforms for pertinent criminal information, and take enforcement action. The Government will not tolerate any illegal or violent acts, or acts that prejudice public safety or public order, and will take stringent follow-up actions.

Thank you, President.