

Feedback on Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023

Summary:

Democracy requires open debate which can only exist in an environment where the free exchange of information and opinions is allowed.

All individuals have the right to discern truth from falsehood through reason and conscience, as per the UN's Universal Declaration of Human Rights.

Where governments have legislated against the free exchange of information and curtailed the right of the individual to discern the truth for themselves, abuses of power have inevitably ensued and have resulted in some of the worst tragedies in the history of humanity.

The proposed Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023 should be rejected in its entirety.

The essence of democracy lies in open debate, free expression, and the pursuit of truth. Legislation banning so-called 'misinformation' and 'disinformation' has the potential to stifle free speech and suppress alternative voices. While proponents argue that such laws are necessary to combat the spread of 'harmful falsehoods', history provides numerous cautionary tales of the dangers inherent in granting governments the power to control information and silence opposing viewpoints, and modern dictatorships likewise provide a clear warning.

Examining historical dictatorships and current totalitarian regimes can shed light on the dire consequences of such legislation and emphasize the vital importance of protecting open debate and truth-seeking in Australia.

1. Italy under Benito Mussolini.

Benito Mussolini's fascist regime tightly controlled the media and suppressed any criticism of the government. The regime's laws restricted freedom of the press and punished journalists who opposed the fascist party.

The Law for the Defence of the State (1926) stated: "Anyone who spreads false news that is likely to disturb public order shall be punished by imprisonment."

This law aimed to suppress critical reporting and control information. It provided authorities with the power to punish individuals and shut down news outlets who spread

what the government considered false news, leading to a climate of self-censorship and fear among media professionals and thereby suppressing alternative narratives and opinions.

2. Chile under Augusto Pinochet.

The Decree Law 77 (1973) stated: "Anyone who spreads false or tendentious news or malicious rumours, knowing that they are false or with reckless disregard for the truth, shall be punished with imprisonment."

This law was enacted shortly after the military coup led by Augusto Pinochet. It aimed to suppress information and control the narrative by punishing the spread of false or misleading news, giving the government broad powers to silence dissent and control information flow.

3. Germany under Adolf Hitler.

The Law against the Misuse of Radio Receivers (1933) stated: "Whoever listens to foreign radio stations or spreads their news... will be punished with imprisonment."

This law aimed to control the dissemination of information and limit access to foreign sources of news. It sought to prevent the German population from accessing alternative perspectives and counter-narratives that could challenge the Nazi regime.

Furthermore, Adolf Hitler and his party utilized the Reich Press Law of 1933 to silence opposition and control information. The law allowed the government to shut down publications that were critical of the Nazi regime or promoted ideas deemed contrary to Nazi ideology.

The White Rose resistance group, composed mainly of university students and professors, distributed anti-Nazi leaflets and were eventually arrested and executed in 1943 for spreading "subversive" information.

4. Soviet Union (Russia) under Joseph Stalin.

The Soviet Union under Stalin's rule is infamous for its strict censorship laws. The Soviet government controlled the media and prohibited any criticism of the Communist Party or its leaders. The Soviet Penal Code, Article 58 (1927), criminalised a wide range of so-called "counter-revolutionary activities" including anti-Soviet propaganda, criticism of the government, and any perceived threats to the Communist regime.

The vague and broad language of the article allowed authorities to interpret any form of criticism or dissent as a threat to the state. Countless individuals, including intellectuals, artists, writers, political activists, and ordinary citizens, were arrested, imprisoned, or executed based on their expression of views that contradicted the official government narrative. The fear of being labelled "counter-revolutionary" or "anti-Soviet" stifled open debate and genuine discussions of ideas, as individuals feared the severe consequences that could result from expressing dissenting opinions.

Control over information allowed the government to shape public perception and maintain a facade of stability and progress while concealing the human toll of policies such as forced collectivization, purges, and mass executions, with some historians attributing 20 million deaths to Stalin's rule.

5. Cambodia under Pol Pot.

The Khmer Rouge regime, led by Pol Pot, sought to establish an agrarian communist state and executed a genocidal campaign against perceived enemies, intellectuals, and dissenters. The regime imposed strict censorship, shutting down newspapers, radio stations, and universities. Intellectuals and educated individuals were targeted and often executed for possessing "bourgeois" knowledge or expressing opposing views. Mass executions and forced labour camps leading to the deaths of an estimated 1.7 million people, approximately 25% of the Cambodian population at the time.

Leadership issued directives and orders that outlined their policies and instructions. These documents were not widely distributed and were often kept confidential within the party leadership. The Cambodian example underscores that when governments are granted unchecked authority to determine what constitutes misinformation, they risk abusing that power to consolidate control, suppress criticism, and curtail citizens' rights.

6. China (current).

The Chinese Communist Party maintains a strict control over the nature and sources of information the citizens of China have access to. Censorship laws heavily regulate online content, social media, and traditional media outlets, and the Great Firewall of China prevents access to many international websites and platforms, limiting access to alternative perspectives.

The Criminal Law of the People's Republic of China (Article 181 – 1997) states:

Whoever fabricates or deliberately spreads false information to disturb public order or disrupt social stability is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control; and may also be sentenced to a fine.

This and similar legislation can be broadly interpreted, allowing authorities to target and suppress a wide range of information and punish journalists and individuals who share or access that information. Law enforcement agencies and a complex, interconnected Social Credit System, provide the framework for behaviour control and self-censorship among the citizenry. One clear example of the result of these 'misinformation' laws and their enforcement is the Chinese Communist Party's persecution of Falun Gong practitioners, where countless individuals have been arrested, tortured, and even killed for promoting beliefs that the government deems "subversive."

Further, the "Regulations on De-Extremification" and the "Counter-Terrorism Law" (2017) are examples of laws that have been used to justify the suppression of information in the name of combating extremism and terrorism. These laws can be interpreted broadly to

target any content deemed to promote "extremist" or "separatist" ideas. This approach extends to religious content and has been applied to expressions of Uighur identity, culture, or religious practices. Indeed, the Chinese authorities have been accused of detaining Uighurs and other Muslim minority groups in what they refer to as "re-education centres" or "vocational training centres." International organizations, human rights groups, and media outlets have reported on allegations of widespread human rights abuses, including forced labour, forced assimilation, mass surveillance, religious suppression, and even torture within these centres.

7. Myanmar (current).

In Myanmar, the military junta has implemented severe restrictions on media and internet access, making it challenging for citizens to access independent information and challenge the government's narrative. Further, legislation has been enacted to control information, with vague language that has been exploited to suppress legitimate expressions of speech and dissent.

The Penal Code (Section 505A – 2013) states:

Whoever makes, publishes or circulates any statement, rumour or report with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity shall be punished with imprisonment which may extend to two years or with fine or with both.

Myanmar is now the world's second biggest jailer of journalists, after China. Authorities operating under the Penal Code arrest those who attend and attempt to cover public protests, while intelligence services routinely track down and imprison journalists who may have reported unfavourably on government actions. Journalists, such as Wa Lone and Kyaw Soe Oo, were imprisoned in Myanmar for their reporting on the military's actions against the Rohingya minority. The same legislation has also been used to withdraw broadcasting licences from independent news organisations, further restricting and delegitimising any alternative points of view.

8. North Korea (current).

The Democratic People's Republic of Korea is one of the most repressive regimes in modern history. The state exercises complete control over media and communications, using censorship laws to restrict access to information and suppress dissent.

The Criminal Code (Article 62 – 2015) states:

A person who has spread incitement or propaganda with a purpose against the nation shall be sentenced to a term of reform through labour of less than 5 years. In particularly grave cases, he or she shall be sentenced to a term of reform through labour of more than 5 years and less than 10 years.

In addition, the Criminal Code prohibits listening to foreign radio broadcasts or possessing publications from South Korea or other foreign countries. Violators face severe punishments, including incarceration in forced labour camps and, according to reports from defectors, torture and execution. The government utilizes fear and violence to maintain control, creating a climate where alternative viewpoints are virtually non-existent, and citizens are isolated from the outside world.

These historical and current examples demonstrate what can happen when a country implements legislation banning 'misinformation' and 'disinformation.' Individuals have been incarcerated, tortured, or even killed, sometimes *en masse*, for expressing their views or seeking the truth. When governments possess the authority to define what constitutes 'truth' or 'misinformation,' dissenting voices are silenced, and those in power are further empowered to manipulate public perception.

The United Nation's Universal Declaration of Human Rights (1948), Article 1, states: "All human beings are... endowed with reason and conscience and should act towards one another in a spirit of brotherhood." Article 19 states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." Together, these Articles highlight the fundamental right to share information and opinions, and to reach understandings via reason and conscience, making it clear that *the responsibility to discern truth from falsehood lies with the individual, and not with the State.*

Instead of imposing draconian measures that risk suppressing legitimate discourse, Australian society must foster critical thinking and media literacy to counter misinformation. Existing legal structures already protect against dangerous speech, such as incitement to violence or libel. Further restrictions lead down a dangerous path towards an Orwellian 1984-style dystopia, in company with China, Myanmar and North Korea, where a centralized authority decides what is 'acceptable' information.

History serves as a stark warning of the dangers of legislation that seeks to ban 'misinformation' and 'disinformation.' From Stalinist purges to modern-day totalitarian regimes, the suppression of information has resulted in catastrophic consequences for countless individuals. Instead of stifling free speech, the open exchange of ideas must be cherished and defended as a fundamental pillar of a democratic society. Instead of allowing any political authority to define the truth, it must remain the inalienable right of every human being to seek for themselves what is true. A society built on open debate and truth-seeking is one that can learn from its mistakes and progress toward a more just and informed future.

The proposed Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023 should be scrapped outright to maintain a free and open society, to sanctify the individual right to reason and conscience, and to avoid the potential for disaster to be brought by any successive Australian government.