

Anti-Hate Speech law must be balanced with right to speech, say lawyers

By [Luqman Hakim](#) - September 21, 2023 @ 2:07pm



The Anti-Hate Speech law must be properly drawn up without rushing it. - NSTP file pic

KUALA LUMPUR: The apparent cases of hate speech in Malaysia, especially in the digital era, have called for the need to enact the Anti-Hate Speech law, said lawyers and crime watchdog.

The law, however, must be properly drawn up without rushing it while also considering the existence of the right to speech and expression as well as avoiding any form of double standards.

They said this in response to a [Dewan Negara member](#) who urged the government to expedite the enactment of an Anti-Hate Speech law to put an end to hate speeches in the country.

Prominent lawyer Nizam Bashir Abdul Kariem Bashir questioned how the provisions would be formulated and balanced with the right to speech and expression.

He said a new law may not necessarily be the solution to address the cases of hate speech.

"The most important thing, to my mind, is the prosecution should come up with prosecutorial guidelines and ensure clarity to the law and how it is applied.

"Defences must also be carved out. For example, one can and should be allowed to speak on issues which affect one's race particularly when it impacts adversely on that race.

"The sensible way forward is to consult relevant stakeholders and civil society organisations. That way, objections and concerns can be addressed early on and we can attempt to avoid any unnecessary overlap with existing Acts or provisions," he said.

Contrary to those who called for the urgent enactment of the Anti-Hate Speech law, Nizam said it may not be an imperative specifically because there are existing provisions.

"More to the point, I prefer to encourage speech (even those that may offend) and, broadly speaking, would only draw the line when there is an incitement to violence.

"We do have various tools at hand to foster unity and mould social cohesion. Social media, culture, art and religion should be the first port of call. Remind people of what is right and true.

"One can be race-conscious but one most assuredly should not be a racist or a demagogue."

Malaysian Corruption Watch president Jais Abdul Karim said the enactment of such a law must involve legal experts, human rights activists, and representatives of the community to better understand the perspectives of various stakeholders which is crucial to producing better legislation.

"In enforcing this law, it is important to ensure that there is no double standard. Regulations and penalties should be applied fairly and impartially to all individuals, including members of the public and those within the government.

"The situation regarding hate speech cases in Malaysia is becoming increasingly critical, especially in the era of social media, which facilitates the rapid spread of fake news and divisive rhetoric.

"This may contribute to the urgent need for stricter laws to address these issues and ensure the safety and unity of Malaysian society," he told the New Straits Times.

He said while there are laws related to 3R issues (race, religion, and royalty), the existing laws may not be sufficient to address the increasingly complex cases of hate speech in the digital era.

"Therefore, it is important to ensure that this new law is comprehensive and relevant to current challenges.

"I agree that such a law should be enacted if it can ensure harmony and safety within society. We need to consider changes in social and technological conditions that may lead to more instances of discrimination and hate."

Prominent lawyer Datuk Geethan Ram Vincent said the anti-hate speech law should be introduced soonest without delay, but not hastened.

This is considering that Malaysia already has the Sedition Act 1948 as well as the Communications and Multimedia Act 1998, he said.

"The Anti-Hate Speech law is undoubtedly necessary, but what is more important is its enforcement."