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By: TA | AP Insight

Is the fear of censorship in South Korea justified?

South Korea's liberal-led legislature on Wednesday passed a bill allowing heavy punitive damages against traditional news and internet media for publishing "false or fabricated information," brushing aside concerns the legislation could lead to greater censorship.

Journalist groups and civil liberty advocates urged President Lee Jae Myung to veto the bill pushed by his Democratic Party.

They say the wording is vague about what information would be banned and lacks sufficient protections for the press, potentially discouraging critical reporting on public officials, politicians and big businesses.

The Democrats, who have failed to pass similar legislation under past governments, say the law is needed to counter a growing threat of fake news and disinformation that they argue undermine democracy by fueling divisions and hate speech.

South Korea's murky information environment was on display during the months of turmoil following the short-lived martial law declaration by jailed former President Yoon Suk Yeol, who promoted unsubstantiated YouTube theories about election fraud to defend his botched power grab and rally conservative supporters against the Democrats.

The bill would allow courts to award punitive damages of up to five times the proven losses against news organizations and large YouTube channels that disseminate "illegal information or false, fabricated information" to cause harm or seek profit.

The bill also would allow damages of up to 50 million won ($34,200) for losses that are difficult to quantify in court.

The country's media regulator would be able to fine outlets up to 1 billion won ($684,000) for distributing information a court confirms to be false or manipulated more than twice.

Liberals play down concerns over chilling effect on media

The bill passed the National Assembly by a vote of 170-3 with four abstentions after many lawmakers from the main conservative opposition People Power Party boycotted the vote.

The vote was delayed after a 24-hour filibuster by PPP, during which lawmakers from both parties debated the bill.

PPP lawmaker Choi Soo-jin said during the filibuster that the bill fails to define the degree of inaccuracy for information to be banned, warning it could be broadly applied to content containing minor errors or general claims and used as a tool to silence critics with the threat of lawsuits.

> What the law targets is not legitimate criticism but the malicious and deliberate dissemination of false information - Democratic Party

The Democrats argue punitive damages would apply only when there is clarity that false information has been deliberately spread for harmful or profit-seeking purposes and causes actual damage, while routine allegations or claims would not be penalized.

They note the law prohibits filing damage claims with the purpose of "obstructing just criticism or oversight conducted in the public interest," although legal experts and journalist groups have criticized the provision as vague and unrealistic.

"What the law targets is not (legitimate) criticism but the malicious and deliberate dissemination of false information," Democratic Party spokesperson Park Soo-hyun said. "(The bill) is based on the requirement of intent and also exempts satire and parody, clearly distinguishing (what should be respected as) freedom of expression."

Activists want Lee to veto the bill

The People's Solidarity for Participatory Democracy, one of South Korea's biggest civic groups, demanded Lee veto the bill, saying it would pose a threat to democracy by potentially infringing on freedom of expression and the public's right to know.

It is not ideal that the country is "relying mainly on punishment" to address problems related to media and information - Han Sang-hie

The group also warned the legislation could give excessive powers to remove content to private technology companies operating online platforms, such as YouTube.

Criminal complaints and indiscriminate lawsuits will be filed over expression that people in power deem unfavorable, while news organizations will be silenced or pressured into avoiding contentious issues, the group said.

"By maintaining or even expanding a system of state-led administrative reviews while granting even private platform companies sweeping powers to delete content and block accounts, the law is likely to result in the blanket suppression of controversial expression," the group said.

The National Union of Media Workers and other journalist groups issued a joint statement urging Lee's government and the Democrats to clearly reaffirm the law would target only a tiny portion of content that is "false or fabricated information."

They called on the government to "carefully define the law's scope" in the enforcement ordinance spelling out the law's application.

The legislation may not significantly impact legacy media outlets immediately, although many YouTube channels have been accused of spreading disinformation for profit and could face a greater risk of lawsuits, said Han Sang-hie, a law professor at Seoul's Konkuk University.

Still, it is not ideal that the country is "relying mainly on punishment" to address problems related to media and information, he said.