

# REPORTERS WITHOUT BORDERS

FOR FREEDOM OF INFORMATION

December 3, 2019

Governor Augustus Jaspert  
Governor's Office  
Road Town, Tortola  
British Virgin Islands  
VG1110

Dear Governor Jaspert,

Reporters Without Borders, an international organization that advances press freedom, is deeply concerned about recent legislation passed by the British Virgin Islands' Parliament and its impact on the rights of journalists, especially those who do investigative reporting. The Computer Misuse and Cybercrime Act 2019, which is currently awaiting signature into law, would have the effect of chilling journalism on the islands and we therefore ask that Section 14A is rewritten so it is in line with international free speech standards, and that 14B and 14P be repealed from the legislation.

While the contents of this bill predominantly create sanctions targeting individuals who commit crimes online, including child pornography, child sex trafficking and child abuse, RSF is concerned that Sections 14A, 14B and 14P could be used to criminalize the actions of journalists and others in the general population who publish and disseminate digital information, as similar laws have been used to control the press in other countries.

Section 14A of this bill criminalizes "sending offensive messages through a computer," which includes "information that is grossly offensive or has menacing character," "information which he or she knows is false," or sending "electronic mail or an electronic message for the purpose of causing annoyance or inconvenience." Any person who commits an offense under this provision is liable to a fine up to \$200,000 and/or a prison term not exceeding seven years. Section 14B criminalizes "electronic defamation," and establishes a punishment of up to \$100,000 and a prison term not exceeding three years. Section 14P permits police officers to arrest without a warrant any person suspected of committing these offenses.

The offenses outlined under Section 14A are vaguely defined and sets up a wide dragnet we fear could be used to catch any person posting on social media or sending an electronic message. Specifically, we are concerned this clause could be used to prosecute journalists in the course of their work, which could include contacting sources for comment or publishing information of public interest. Thus, the offenses outlined in Section 14A should be clarified, and the criminalization of sending false information removed. Section 14B would criminalize electronic defamation at a moment in history when many countries around the region have been

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moving in the opposite direction. The penalties for this offense are draconian and can foster self-censorship among journalists. Meanwhile Section 14P could open up opportunities for police to indiscriminately arrest journalists as a consequence of their reporting.

The Organization of Eastern Caribbean States, of which the British Virgin Islands is a member, plummeted 15 places to 50<sup>th</sup> out of 180 countries in RSF's 2019 World Press Freedom Index. The OECS region is now considered "problematic" in its level of press freedom, due in part to political influence over media companies' revenues and police intimidation that causes journalists to self-censor. Sections 14A, 14B, and 14P could similarly intimidate journalists into self-censorship in the British Virgin Islands.

We strongly urge your excellency to ensure Section 14A of the Computer Misuse and Cybercrime Act 2019 is rewritten so it is line with international free speech standards, and that 14B and 14P are removed from the Act before signing it into law. Thank you in advance for your consideration.

Sincerely,



**Dokhi Fassihian**  
Executive Director  
North America Bureau