

Forum: The Legal Committee (GA6)

Issue: Discussing legal measures on information disorder and its influence on democratic elections

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INTRODUCTION

Information disorder, or fake news, is a challenge that human societies have been facing since their creation. In fact, there were people in classical Athens who benefited from the spread of fake news and took such actions to their advantage. Thus it is not a new or an unprecedented phenomenon.

However, the evolution of modern societies has exacerbated information disorder, which is mainly manifested in the field of technology. 21st century societies, firstly due to their submission to technology and social media which play a pivotal role in modern-day politics, secondly to the fact that many of their citizens are technologically illiterate, and thirdly to their relative inability to keep up with the speedy development of the already vast digital world, have aggravated even more the problem. In addition, the abundance of information available today exceeds every proof-checking ability that we have developed so far, which explains why this issue was held at bay in the past.

So severe is the problem of information disorder today that it impedes normal democratic functions of various states, as many entities interfere with elections exploiting the opportunities technology offers them as well as the loopholes that exist in the current legal framework regarding information and technology. There have been numerous instances where information disorder had severely affected the elections' outcome making it one of the biggest problems of our time.

DEFINITION OF KEY TERMS

Fake News

Fake News is a term often used to describe the phenomenon of information disorder. It refers to the production and diffusion of inaccurate information either on the internet or on other sources. That being said, this term is inadequate to fully describe the issue.

Information Disorder

Information Disorder is an umbrella term that refers to the general information "pollution." In other words, it describes the modern-day phenomenon of the spread of information that may be purely inaccurate and accidentally or purposefully diffused. It may also refer to real, private information being illegally released to the public in order to harm an individual. Information disorder became ubiquitous with the sudden upsurge of the use of social media in the 21st century

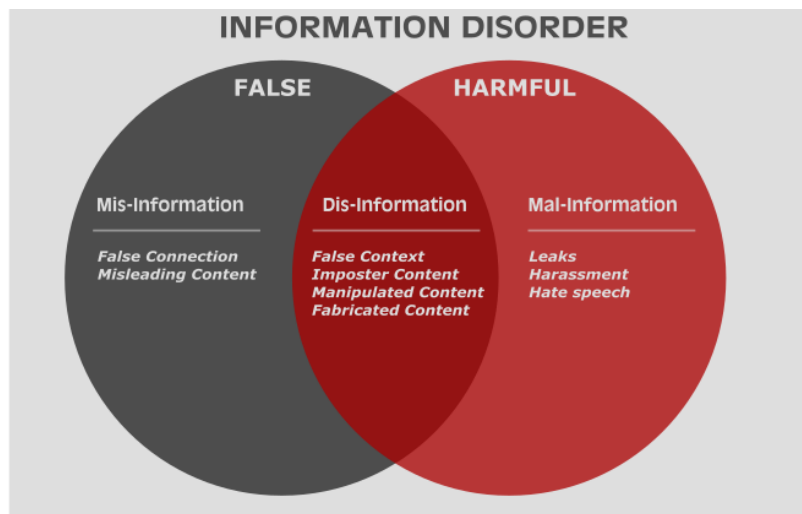


Figure 1: A graph briefly explaining information disorder and its categories.

where everyone can post anything.

Mis-information

Mis-information itself is a type of information disorder referring to the diffusion of false information provided that there are no harmful intentions. In 2017, for example, during the terrorist attack in Champs Elysees in Paris, a rumor that a second police officer had been killed spread at an unprecedented rate. While the diffusion of mis-information does not have an extremely negative impact, its spread should still be contained.

Dis-Information

Dis-information is another type of information disorder referring to the diffusion of knowingly false information published solely to cause harm. During the 2017 French Presidential elections, when a digital newspaper, imitating the Belgian Le Soir, claimed that the then candidate Emmanuel Macron was receiving financial aid by Saudi Arabia. The information proved false in both cases, and yet it is still plausible —since little has been done to refute information disorder— that many voters were utterly influenced by these hoaxes.

Mal-Information

Mal-information is the third and last type of information disorder referring to cases when *“genuine information is shared to cause harm, often by moving information designed to stay private into the public sphere.”*¹ Just prior to the run-off vote, a number of Macron’s personal emails were leaked to the press and quickly millions of people had access to them. Those who issued this kind of private information did so in their attempt to harm the candidate of La Republique En Marche.

Propaganda

Propaganda is the dissemination of information aiming to influence public opinion. The information used is always manipulated in more than one way and emphasizes emotion rather than reason.

Eco-Chambers

An eco-chamber is *“a situation in which people only hear opinions of one type, or opinions that are similar to their own.”*² In the digital world, people are trapped in such chambers when they are exposed to content that only validates their views.

Filter Bubbles

Filter Bubbles are sets of algorithms that social media and search engines use in order to filter content that is not similar to the user’s beliefs and likes. Through filter bubbles, users often find themselves trapped in eco-chambers.

¹ Wardle, Claire and Hossein Derakshan. “Information Disorder: Towards and Interdisciplinary Framework for Research and Policymaking.” Council Of Europe, Council of Europe, September 27, 2017, <https://rm.coe.int/information-disorder-report-version-august-2018/16808c9c77>.

² “Eco Chamber.” Cambridge English Dictionary, Cambridge University Press, <https://dictionary.cambridge.org/dictionary/english/echo-chamber>.

Post-Truth Era

Post-truth is a term “relating to a situation in which people are more likely to accept an argument based on their emotions and beliefs rather than one based on facts”³. In our post-truth era, objectivity has an extremely diminished value and argumentation relies more on emotion than on reasoning. Facts and accurate information appear useless giving rise to information disorder. Politics has also moved to the digital realm.

Fabricated Content

The fabricated content is an entirely fictional construction. For instance, in the context of the US Presidential elections, fake news websites falsely reported that Pope Francis would officially endorse Donald Trump.

Imposter Content

Imposter content refers to real, credible sources logos being used in order to present deliberately false information as authentic. Imposter content frequently appears in election periods, while the intent to harm is crystal clear. For instance, Figure 3 depicts an advertisement that circulated on Twitter using Hillary Clinton’s official campaign logo for the US Presidential elections in 2016 and claiming that her voters could vote via sms, a service for which Clinton had paid.



Figure 3: The false ad that went viral on Twitter, asserting that Clinton voters could vote via sms.



FIGURE 2: TWITTER POST DEPICTING A BROKEN VOTING MACHINE IN OHIO DURING 2018 US MIDTERMS CLAIMING IT IS VOTER FRAUD.

False context

³ According to “Cambridge English Dictionary”, Cambridge University Press, <https://dictionary.cambridge.org/dictionary/english/post-truth>.

False context describes information being used out of context or misrepresented. This type of information disorder is particularly difficult to be unveiled, as technically it is authentic. A striking example of such false context information disorder is an incident that occurred in the US midterm elections in 2018, where a voter documented his attempt at voting in a dysfunctional voting machine, posted the video on Twitter and claimed that this was another voter fraud (*Figure 2*).⁴

BACKGROUND INFORMATION

Social Media, the Internet and Information Disorder

The hectic rhythms of today's society have increased the demand for instant information rendering cross-checking impossible. What is more, not all online sources are to be trusted, while social media have allowed for the unrestricted and immensely fast diffusion of information around the world. As a result, the original source of information does not seem to possess any value nowadays, which has given way to information disorder, as many individuals blindly trust any information.

Moreover, information disorder is aggravated by the chaotic nature of the Internet and social media. Being immense in size, they contain unimaginable amounts of data and are accessed by billions of users. This provides their users with a certain kind of anonymity, as it is easy to be invisible inside the huge amount of information, and, since constitutional and human rights guarantee freedom of speech and expression to all, tracing news sources that are specifically made for spreading disinformation is an almost impossible task.

Another technological element that is conducive to information disorder is personalized services. Companies, in their attempt to provide a better user experience, customize the services available to each user. To make this possible, they collect user data by tracking users' web activity through cookie profiling. Then, using filter bubbles, they filter content that is not compatible with the users' profile. As a result, the latter are not exposed to any content but the one that matches their profile and validates their views and beliefs, thereby being trapped in "eco chambers". This creates the illusion of a "trust network" that allows for the spread of false and/or malicious content among users convinced by such information and not willing to criticize it. In other words, because filter bubbles block content irrelevant to their profiles, the information they receive via social media or the Internet is not at all challenged by other sources, and within this sphere of "comfortable" and easy information sharing, algorithms may suggest to them disinforming content always relating to their ideas.

⁴ Lytvynenko, Jane. "Election Officials Asked Twitter to Remove a Video Falsely Claiming Voter Fraud, but the Company Refuses." *Buzz Feed News*, Buzz Feed, November 7, 2018, <http://web.archive.org/web/20190906164857/https://www.buzzfeednews.com/article/janeltyvnenko/elections-officials-asked-twitter-to-remove-a-video-falsely>. Accessed May 12, 2020. (This source was archived in 2019).

In sum, each individual tends to “live” in an isolated digital “village” occupied by people with shared beliefs and political views. A striking example is the 2016 US Presidential

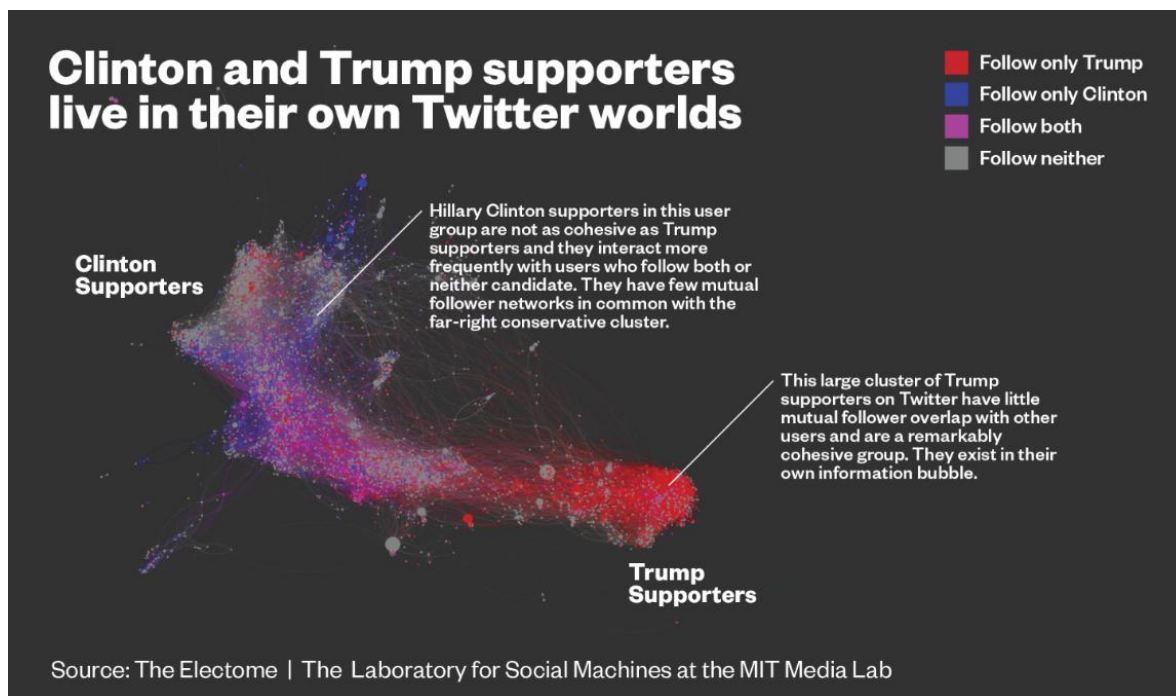


Figure 4: Graph representing the social network of Trump and Clinton supporters. Notice how Trump supporters have social networks on Twitter among them, while extreme Clinton supporters appear diverse.

elections. The two groups of voters, pro-Clinton and pro-Trump, both belonged to cohesive groups and appeared to have a Twitter social circle that included accounts similar to their own profiles. Figure 4 is indicative of this situation. There was no mutual exposure and overlap between the two sides. Apparently, Trump supporters' use of Twitter was so limited that it included minimal elements of the opposing side, thereby being isolated in their own cluster.

Such isolated “information bubbles” are the ideal places for information disorder, as users are not being exposed to opposing views and thus being the possible victims of false information. Even though information disorder has its origins in these clusters, false information can be very easily transmitted outside these closed circles, spread around the world and affect individuals who, though not situated in an echo-chamber, do not possess the skills required to discern false information. This has been observed in the Brazilian 2018 Presidential elections, when 40% of the information circulated amongst extreme supporters of Jair Bolsonaro was marked as false by fact-checkers.

Information disorder and elections

In the past, electoral processes were monitored and guaranteed in terms of their fairness. In today's digital era, political advertising is now conducted almost solely through social media and rarely originates from credible sources. Many supporters launch their own posts with political content. Recent research shows that during election times users are more likely to post exaggerated or manipulated content.

What plays an important role in the dissemination of such political advertising is the fact that users view the customized to their personal history content that is presented to them and no longer wish to search for it. This often leads to the trapping of the users in eco-chambers as they constantly see the same political content. Platforms are unable to clearly separate factual political posts from opinion-oriented or false. The fact that filter bubbles prevent inaccurate content from “exiting” the close circle of individuals at whom the content is aimed and where objections will rarely be raised, makes the task of tackling such false political advertising all the more difficult.

The lack of legal framework relating to proper digital electoral behavior has led to the purposeful dissemination of false information on the Internet by the political candidates themselves. Using SEME (Search Engine Manipulation Effect), candidates manage to rank the order of appearance of search results, which requires collusion with the search engine management. SEME can influence up to 20%, if not higher, of the voters.

What also appears during elections is the targeted messaging of voters. This essentially refers to campaign groups harvesting user data and using it in order to create political advertisements that appeal to specific groups. Content highlighting the political action of a candidate on “wedge” issues (i.e. immigration, abortions, etc.) is diffused to the appropriate groups. In essence, targeted messaging means that a group of people has access to some data regarding a candidate while another group has access to different information, which results in the exclusion of specific demographics from campaign information. This tactic is rumored to having been used in the Brazilian 2018 presidential elections when one of the candidates used political advertisements in the form of personal messages on WhatsApp.

Propaganda

Political candidates, or other parties, will frequently use propaganda either to directly promote themselves or to revile others. Through the spread of disinformation, candidates attempt to create a profile for themselves that will attract specific demographics. For example, the fake endorsement of Trump by Pope Francis could be considered as part of propaganda in favor of the former trying to attract religious Catholics in the USA. Similarly, attempts at defaming other candidates could also be considered as part of a propaganda strategy.

The Cambridge Analytica Scandal

The Cambridge Analytica (CA) scandal is perhaps the most infamous case of targeted messaging and mal-information simultaneously in recent history.

In 2018, it was discovered that personal information of approximately 50 million Facebook users were leaked, or harvested, by CA, a political data group hired by the then Republican candidate for the US Presidency in 2016, Donald Trump. CA had already been using Facebook user data for some years for research purposes, notably on psychological profiling and psychometric methods. In 2016, the Trump campaign management hired CA, as it already had connection with the Republican Party, for its campaign purposes. Later it was discovered that CA had the ability to map users’ personal data, which were then later used for targeted messaging of political advertisements in favor of Donald Trump. In this way, they attempted to influence the voting behaviors of millions of citizens. However, there was no typical data breach, as Facebook frequently gave researchers access to users’ personal information and in fact

the users had already consented when creating their Facebook accounts and accepted the terms and conditions of use.

Laws and Legal Framework

Not long ago, electoral campaign regulations were established in order to ensure that elections were free and fair. Numerous rules regarding campaign funding and expenditure, political advertising, etc. were in place.

The effectiveness and applicability of these rules in the post-truth era are strongly challenged. Objectivity is nearly impossible to maintain. The fact that users can distribute self-made political advertisement —part of which may be fallen into the category of a disinformation strategy— or reproduce the original one defies law regarding fair media coverage. Owing to filter bubbles and targeted messages, there cannot be a fair distribution of political content as intermediaries are not legally obliged to ensure it. Similarly, they are not obliged to prevent targeted messaging.

The ethical framework under which journalists worked cannot be applied in the digital world. Even though fact-checking can be conducted through some algorithms being in place, this procedure would not, by law, extend to political advertisements

Moreover, curtailing information disorder is a particularly challenging task due to the vastness of the online world and the fact that intermediaries cannot be held liable for the content they share within their platforms, while they are under no obligation to prevent the spread of inaccurate information. They are, however, required to take the necessary steps once made aware of false content, which is of course a task difficult to achieve, since content is shared faster than checked.

The digital world is also anonymous. There is no legal framework under which intermediaries are required to remain transparent regarding their spending and funding, or actions relating to information disorder, targeted messaging and personal data.

MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

United States of America

The USA is one of the countries that have been evidently affected the most by information disorder. The latter reportedly influenced the outcome of 2016 United States presidential election, while the problem remains prevalent even today, especially in widely used social media, like Facebook or Twitter.

Russia

While not a country where information disorder has been openly accused of having an effect on domestic elections, it is suspected that it has tried to exploit information disorder in order to influence foreign elections and shift their outcome to its benefit. Russia is said to be behind a number of hoaxes.

Finland

Finland is perhaps the country that has been most aware of information disorder, at least since 2014, when a massive adult and student education program aiming to improve media and information literacy rate was launched.

France

The French government has also been significantly active since the wide-spread disinformation campaigns during the last presidential election. It has attempted, through various panels of experts and national laws, to increase the applicability of the legal framework to the digital world.

Council of Europe (CoE)

In recent years, the Council of Europe has taken a very active stance on the issue of the relationship between information disorder and elections. It has issued various reports and guidelines for states to combat information disorder and the effect of social media on democratic elections.

United Nations Education Scientific and Cultural Organization (UNESCO)

Faced with the crisis caused by information disorder and recognizing the imminent dangers, UNESCO has developed training programs for journalists to help eliminate it.

European Union (EU)

Following the CA scandal and the Brexit referendum, where information disorder was reportedly ubiquitous, the EU has also taken a strong stance against information disorder, with its most important action being the adoption of the GDPR. It has also founded the EU Disinformation Lab where scientists and activists of the field are actively engaged in the fight against information disorder.

TIMELINE OF EVENTS

DATE	DESCRIPTION OF EVENT
1992	Sufficient evidence supports the contention that we live in a post-truth world.
February 2004	Facebook is founded.
21 March 2006	Twitter is founded.
23 June 2016	The Brexit referendum takes place.

8 November 2016	The US Presidential elections take place.
Early 2018	The Facebook-Cambridge Analytica data scandal breaks out.
25 May 2018	The EU's GDPR enters into force.

RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

Joint Declaration on 'Fake News,' Disinformation and Propaganda

A document drafted by the UN Special Rapporteur on Freedom of Opinion and Expression and his counterparts at the Organization of American States (OAS), the Organization for Security and Cooperation in Europe (OSCE) and the African Commission on Human and Peoples' Rights (ACHPR). It briefly outlines specific guidelines on how states should address, among other issues, disinformation when it comes to legal frameworks.

Foreign electoral interference and disinformation in national and European democratic processes (2019/2810(RSP))

A resolution adopted by the EU Parliament in 2019 recognizing the consequences of information disorder and its effects on elections, while offering basic principles that states should adhere to when discussing the issue.

Information Disorder: Toward an Interdisciplinary Framework for Research and Policymaking

Published by the CoE, it is one of the main documents describing in detail the phenomenon and proposing solutions for policymaking.

PREVIOUS ATTEMPTS TO RESOLVE THE ISSUE

Digital World

One of the most important measures taken to combat information disorder is third-party fact-checking. Administrators are able to predict where false information may originate from and then refer it to independent cross-checking organizations which will decide upon its accuracy. Users may also inform platforms of false information. However, this measure is time-consuming as it requires up to 3 days until the moment of its **reproduction**. Additionally, platforms have increased the findability of credible sources. Various intermediaries are taking down illegitimate accounts with malicious intentions that are often responsible for the diffusion of fake news. Lastly, Facebook has been extending regulations and now requires bought ads to include all the information related to the buyer. Apart from that, in cooperation with the EU, several online platforms have agreed to self-regulation, which remains ambiguous.

Media and Information Literacy

Another major field, where a number of measures have been taken in order to fight information disorder, is Media and Information Literacy (MIL). This term refers to all the technological, media and thinking skills required for digital citizenship in the 21st century. The Council of Europe has launched the Digital Citizenship Education Project (DCE), which aims at preparing teenagers for their future digital citizenship. UNESCO has also designed curriculums and accumulated helpful resources to instruct people. It has also launched the Global Alliance for Partnership on Media and Information Literacy (GAPMIL) which strives to ensure that all children have equal access to MIL. Apart from that, Finland has shown its motivation to fight information disorder by introducing MIL courses not only in schools but also for journalists and the general public.

State Legislations

There are some states that have taken measures towards the elimination of information disorder. Notably, France has passed several laws, which limit the effect of information disorder on elections, and redefined regulations regarding political campaigning in the digital world. This set of laws allows the French state to take down information that is reportedly false, while it obliges online platforms to be as transparent as possible with sponsored content. Secondly, China is considered to be the country with the strictest laws regarding information disorder. These laws, however, are somewhat too restrictive and, according to many, undermine freedom of speech. The EU has also recently published an Action Plan against Disinformation, but has remained at that without pursuing further legislation.

Measures taken against information disorder have received criticism as many remain cautious. The assertion that fighting information disorder may easily be exploited and used as an excuse by governments or other entities involved in such activities to control the information that is diffused online to their own benefit, especially in authoritarian or totalitarian countries, is partly arguable.

POSSIBLE SOLUTIONS

- Educating voters in proper electoral behavior on social media and the Internet as well as equipping them with the skills necessary for the digital citizenship of tomorrow.
- Ensuring that social media platforms and search engines equally inform all the users of the danger of information disorder on elections and more generally on all other matters where disinformation is imminent so that they are aware that fake news spoils the digital ecosystem and extra careful with the information they receive, especially when it relates to matters sensitive to disinformation.
- Making filter bubbles, which are largely responsible for the diffusion of false information, an optional characteristic of the use of social media.
- Exploiting new technologies in order to locate social media users trapped in echo-chambers, inform them of this situation and attempt to reverse it.
- Providing credible alternatives to articles reproduced widely on social media.

- Enforcing stricter controls on the relationship between candidates and their campaigns with search engines and social media so that electoral campaigns' fairness is ensured.
- Creating non-governmental organizations with the aim of improving MIL rates and offering fact-checking services as well as instructions on content creation and information sharing on-line.
- Internationally criminalizing and nationally penalizing purposeful disinformation strategies launched by political candidates.
- Preventing collusion between candidates and the administration of various intermediaries.

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