

**LACIGF11**  
**Threats to Freedom of Expression in the Digital Environment: Disinformation**  
**Campaigns**

Buenos Aires, Argentina

Tuesday, 31 July 2018.

4:30 pm - 6:00 pm

**Moderator:**

- Vladimir Cortes (Article 19)

**Panelists:**

- Gonzalo Navarro (ALAI)
- Danya Centeno (R3D)
- Agustina del Campo (CELE)
- Mónica Guise Rossina (Facebook)
- Natalia Quevedo González (CRC)

Opening remarks

- Vladimir Cortes (Moderator)

The moderator began the session by illustrating some recent examples of misinformation that took place in different parts of the world. Likewise, he mentioned the Resolution by David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning the regulation of user-generated online content, which raises some concerns on the regulation of content as well as government and company regulations which, in the words of the moderator, use very general wording on extremism, blasphemy, defamation, offensive speech, fake news and propaganda, often serving as a pretext for asking companies to suppress legitimate expression. In the moderator's opinion, States are increasingly targeting the content of online platforms and many use disinformation and propaganda tools to limit the reliability of independent media.

Finally, the moderator commented on the case of Cambridge Analytica and raised several questions to trigger discussions:

- A) What do we mean by disinformation and propaganda?
- B) What effect do they have on society? Should they be regulated?
- C) What actions can be taken? Can disinformation campaigns affect the outcome of an election?
- D) Should we talk about fabricated news, highly biased news and so on? In other words, should we create a taxonomy instead of simple talking about fake news?

**Panelists:**

- Natalia Quevedo González

The panelist began by saying that the Colombian Communications Regulations Commission (CRC) is not a content regulator, but that it has conducted research on the negative impact of the Internet on Colombian society. In this sense, they have identified three fronts that need to be addressed: the extensive use of screens, online anonymity, and fake news.

The panelist noted that, before recommending whether regulations were needed or not, they had mentioned some cases that took place in Colombia in relation to the dissemination of fake information. She added that certain local sarcastic and/or humorous news portals became popular thanks to these cases.

The panelist presented the concept of post-truth, noting that it has existed for many years. She then observed there are three fronts that must be attacked to combat this type of information:

- A) At individual level: through public policy, with an education policy that includes a commitment to teach citizens how to verify news sources.
- B) At media level: the media should self-regulate, and their editorials should include more important topics or filters.
- C) At network/platform level: using algorithms and people, as an algorithm on its own would not be able to understand irony or humor.

- Gonzalo Navarro

**First question:** What are the conceptual complexities when trying to design solutions to address disinformation campaigns?

The panelist began his presentation by saying that, although disinformation campaigns or other Internet phenomena are long-standing issues, they involve several aspects that exclusive to the Internet, and can be attributed to the speed of technological changes. Thus, old phenomena such as disinformation campaigns, which were already seen years ago in traditional media, are not actually new topics. However, their widespread dissemination is a major factor.

He also underlined that, when referring to disinformation campaigns both through traditional mechanisms or through different platforms, the education factor and what users understand from these campaigns is extremely important. Furthermore, he emphasized that the generational component is also very important because certain age groups find it more complex to insert themselves than digital natives, for whom technology seems easier and more understandable.

He then commented that there are two key elements: a topic that has always been relevant and that now responds to other technical components, and other essential elements such as users' education and understanding about platforms.

To conclude, he noted that online disinformation campaigns are relatively new and that they may have emerged more strongly after the United States presidential elections. He stressed that, while Internet disinformation campaigns are new, solutions have quickly been

developed, providing quantitative answers that are in line with expectations, i.e., taking into account the nature of the service and respect for human rights.

- Mónica Guise Rossina

**First question:** The role of intermediaries has been a key element in the dissemination of these disinformation campaigns, mainly to influence elections. Faced with this reality, Facebook has implemented a series of measures to deal with such campaigns, including changes to their algorithms and alliances with fact-checking organizations, among others. What lessons has Facebook learned from this whole process? How has this worked for providing answers that do not affect other rights?

The panelist began by saying that the company's policy is that this issue cannot be addressed in isolation. Facebook does not pretend to develop an answer to a problem as complex as this by working in isolation. The panelist added that this issue is so complex that even the academic sector, which is already studying the phenomenon, cannot yet determine its magnitude. In this sense, the panelist mentioned that Facebook is working to preserve freedom of expression, recognizing that combating fake news and preserving freedom of expression is not an easy task, due to the cultural diversity and size of Facebook. Given these characteristics, the panelist commented that they have been working with civil society, academia, and more recently with fact-checking agencies.

The panelist added that this has three pillars: identifying fake accounts, detecting them, and removing them, as a large part of fake news on the platform involve fake profiles or accounts. Thus, an important part of the problem can be attacked. Also, she noted that Facebook does not remove fake news or accounts that disseminate fake information, as they are trying to maintain a delicate balance.

She then mentioned that fake news has vulgar content and are mostly generated during election years. Likewise, she added that Facebook is working against fake news to reduce their circulation, together with fact-checking agencies. There already are 14 countries in Latin America that are using Facebook fact-checking program to check news that tend to be fake. It was also observed that Facebook receives reports from the community, which are sent for members to verify the facts (not opinions or interpretations). The reach of posts that are marked as fake by Facebook fact-checkers is reduced and users receive a notification that their news has been determined to be fake. They are then asked if they want to post it anyway (users have the last word).

Finally, the panelist commented that she has worked together with partners from the academic sector to create education programs and that soon there will be a project for the younger public, involving interactive videos and texts to inform Internet users in general about the existence of fake news and that there are tools to be better informed and make a more conscious use of the Internet.

- Agustina del Campo

**First question:** States and governments have also taken measures to regulate disinformation campaigns. In the area of freedom of expression and within the framework of human rights, what are the challenges posed by disinformation campaigns in this context?

The panelist began her presentation by saying that the main issue when talking about disinformation is how we define it, as this is the starting point for any analysis and solutions to specific problems.

She then mentioned that there has been major confusion and that many different things have been grouped under the term disinformation, particularly during the past year. In this sense, she noted that there are in fact some extremely long-standing issues and that some of them are strictly related to disinformation, while others have to do with fake news that may affect people's privacy, such as defamation and libel, which are regulated by a different legal framework.

She added that, if we focus on how governments have responded to these issues, the problem lies in their definition. For example, in her opinion, the French case is strictly about electoral disinformation and the impact that political propaganda has on the elections in the country, offering a specific framework for fake news in electoral contexts.

The panelist then noted that the president of the Supreme Court of Justice of Argentina recently commented on various legislative bodies in this regard, including Malaysian law (which penalizes fake news), German law (which regulates intermediaries), and French law (which regulates fake news in an electoral context).

The panelist went on to observe that German regulations establish the obligation of intermediaries to control news circulation and impose extremely high penalties for non-compliance. In her opinion, this involves the active control of social media, which includes the obligation to monitor and delete content at high speed.

Likewise, she noted that Malaysian law regulates fake news in general, establishing a criminal penalty for anyone who invents fake news (this applies to any speaker, media and context.)

She added that these examples show different aspects of the concerns regarding fake news, which can vary significantly. On the one hand, they may involve an attempt to protect the public discourse at the time of the election; on the other, they may be the result of an attempt to protect the honor of a person at a given time, public health, the content circulating at the time of a natural crisis, politics, etc.

Finally, she noted that three of these examples share a common issue: the impact on freedom of expression, where penalties, intermediary liability and other measures result in a censorship effect. For example, in the Malaysian legislation there is a great disproportion between the expression and the corresponding penalty; in the French legislation there is also a disproportion in the state's interference when demanding the deletion of content and imposing sanctions; and in the German legislation there is an enormous incentive for intermediaries to delete more content than necessary because of strict deadlines.

- Danya Centeno

**First question:** What role do non-regulatory responses play in Latin American contexts, particularly in Mexico?

The panelist began her intervention by saying that it is extremely important to understand the phenomenon before looking for solutions. She went on to mention that the issue is not new. In the past, there was a monopoly on information control and dissemination; now, however, thanks to the new technologies, this monopoly no longer exists. This has led to a greater plurality of information, which in turn has led to lower entry barriers for information that is not reliable, without alternatives for finding reliable information.

The then panelist observed that traditional media and official communication channels have abused this monopoly, and that this has led to a loss of trust in these sources of information and the search for alternative means to access information. She explained that since there is so much available information, it is difficult to distinguish what is reliable and what is not. She highlighted the importance of the role assumed by the media and information sources, and presented the example of what happened during the Mexican earthquake, when there was a gap between actual needs and available information. In this sense, she mentioned the role played by several Mexican civil society groups which covered this gap, and emphasized the value of accurately capturing and disseminating this exercise. She also mentioned that a similar exercise was implemented with more organizations during the elections, and that this had shown people's interest in having access to alternative sources of reliable information.

She added that the media and information sources must play a more active role and have greater responsibility in creating greater trust among users, i.e., increased transparency in their editorial policies as well as in their policies for content removal and greater accountability so that users will know that any information they publish is reliable, but avoiding over-regulation as this may encroach on other rights, such as access to information and freedom of expression.

To conclude, she underlined that it is necessary to find a middle ground and generate greater confidence among users.

- Gonzalo Navarro

**First question:** What should be the scope of regulations or public policy? Should there be something in this regard or should different fronts be opened?

The speaker began by noting that the common-sense answer is that disinformation should be fought with information. However, in order not to affect fundamental rights or individuals, different alternatives have been presented, such as fact-checking agencies, so that users themselves can decide which information is true without the need of having a third party make that decision for them. He added that this type of practical, non-regulatory solutions create a balance between access to information and freedom of expression, contextualizing the work carried out by platforms, which serve as places for the exchange of information but do not determine what is right or not on the Internet.

He then noted that people have access to information like never before in the region. There are disinformation campaigns, but now people in Mexico have access to vast amounts of information thanks to the Internet. Also, thanks to tools like Verificado, they also have access to reliable information.

He concluded by saying that education must be a state policy and a joint effort of all Internet stakeholders.

- Monica Guise Rossina

**First question:** Facebook has implemented different actions and measures. How else has this platform addressed this phenomenon and how is Facebook informing users about these actions?

The panelist noted that presence is needed in this type of forums to engage in dialogue with civil society and provide information. She also noted that there is greater interest in generating links to inform about this type of campaigns.

As regards the removal or elimination of material, she added that Facebook it will continue to eliminate anything that is against the company's policies, such as fake accounts. In this sense, investing in machine learning, artificial intelligence and teams to address these issues is a way of attacking disinformation campaigns.

The panelist stressed that disinformation is fought with more information. In this sense, they have worked, among other things, on disseminating information through different media in Latin America by offering ten tips through a partnership with academia.

To conclude, she noted that certain historical moments —such as elections— require greater attention because of the level of polarization they generate. For example, in Brazil, given the local electoral context, the collaboration of fact-checking agencies is being supported to increase efforts to check facts and news during elections.

- Agustina Del Campo

**First question:** What aspects should be taken into consideration when initiating a legislative process? How is this seen from the point of view of freedom of expression and human rights?

Both public and private initiatives must address the same factors. From the point of view of freedom of expression, best practices in this area suggest that one must first be careful when thinking about regulating expression. Freedom of expression is protected by many factors, including personal autonomy, which is essential in any democracy and instrumental for the exercise of other rights.

Abuses are interpreted restrictively, not arbitrarily. This is why its regulations are not absolute but admit careful limitations. The legality test, where a restriction is clearly anticipated, is fundamental. Certain laws can be ambiguous, leaving room for interpretation and an

enormous margin of discretion. Proportionality is also relevant: it must not be disproportionate to the purpose.

This also applies to the self-regulation of the private sector, as there are many initiatives with multiple options, and all of them have flaws, advantages and disadvantages. All solutions, both private and public, must be critically analyzed.

For example, fact-checking is a much less restrictive measure than automatically deleting content. However, even the latter option should be taken into account, considering that there are not many organizations that perform this type of fact-checking, that it is performed by data journalists but that many other types of journalists also exist, that fact-checkers are not available in every country, and that the impact of the fact-checking performed by Facebook is the same in all countries, so when the news is categorized as fake it stops circulating. This type of measure which affects the circulation of discourse must also be measured according to where it is implemented and the magnitude of the phenomenon.

- Danya Centeno

**First question:** What has been your experience with chain messages? What is your experience with the "Break the Chain" project?

The dissemination of information which is not verified via WhatsApp became an issue in Mexico, since the use of this platform does not require a paid data plan and therefore it is impossible for the person receiving the information to verify it. Having identified this issue, several organizations created "Break the Chain" to create a space where they could counteract disinformation chains. The project created a mailbox and an online number to where chains could be sent and a "counter-chain" would be sent once the information was verified. This exercise was useful for understanding the phenomenon, its circumstances, and the type of information that was being disseminated. The analysis continues to gain a better understanding of the phenomenon and propose a possible solution for addressing the problem at its root.

### **Questions from the floor**

- 1) Can countries such as France, Germany and Malaysia be described as "dictatorships" because of their legislation on so-called fake news? Is it possible to establish a difference in this legislation if it is applied to social networks or to the Internet? What is level of responsibility do operators, companies or service providers have in relation to fake news? What guarantees are offered to end users with regard to the content they publish? (Alexis Santeliz)
- 2) This issue is of considerable concern, because certain measures are being taken to a great extent. For example, on Facebook, measures could compromise freedom of expression and protected rights. When Facebook says it excludes or removes fake profiles, are there any accounts which were opened without identifying who opened them? In Brazil, there is the obligation to store the data of those who connect and adhere to the platform for at least six months. Brazil, however, also protects pseudonyms, an important tool for protecting freedom of expression. Is this balance

in the proportionality of rights analyzed when eliminating fake accounts? Which criteria are applied? Don't you believe that expressions such as "low-quality news" are extremely subjective? What are low-quality news for Facebook? (Flávia Lefèvre Guimarães)

- 3) Generally speaking, I am quite surprised by the fact that the word monopoly has not been mentioned. How can citizens contrast information if they do not know who owns telecommunications when a multimedia starts to disseminate fake news. A more effective way to mitigate the impact of fake news would be to guarantee, by means of laws and regulations, a certain proportion of community media licenses and limit the expansion of multimedia corporations. (Jesica Giudice)
- 4) In Guatemala, there are profiles that disseminate fake news for humorous purposes, unbiased media outlets may also distribute fake news, and there is no way to verify information coming from outside Guatemala City. Are there any tools, techniques or experiences that allow us, as users, to distinguish the different types of information so that we can be empowered and resist the great wave of information? (Linda)
- 5) If the problem already exists, aren't users inclined to receive this information? How can a user tell which information is true and which is fake if it isn't validated by third parties? Who are these third parties? What happens if these third parties become a "big brother" who decides what users should or should not read because they believe they are in possession of the truth or of some version of the truth? (Erick Iriarte)
- 6) In relation to major platforms with significant market power such as Facebook, I believe that when global criteria are used, these criteria apply to consolidated structures. When we talk about multiple profiles created from a single IP address, if these profiles are using a public access point with a single IP address, then we will think that someone is disseminating fake news, and that the community is going to find out. Can that shift the curve? How does Facebook know—even if it's a small thing— if something was a mistake? What happens when dealing with such small spaces?

## Answers

- Agustina del Campo

The responsibility of the content generator is regulated. Freedom of expression is not an absolute right: there are limits set forth by law, as well as grounds for civil and criminal liability for those who express themselves. However, criminal liability can often be disproportionate. Under the inter-American system, fake information is not prohibited per se, but only when certain conditions are met, because the error that can lead to fake news is protected.

Regarding the responsibility of technological intermediaries, they should not be held responsible for third-party content, as those who express themselves already have an attached responsibility, and because establishing a responsibility might generate a funnel that would require constant monitoring or an incentive for deleting content.



She considers these problems are complex and occur whether in a dictatorship or not. Countries such as France, USA and Argentina, among others, are discussing their liability systems and limits to freedom of expression, which are not static. It is important to have these debates, precisely because we live in a democracy.

- Mónica Guise Rossina

The doors of Facebook remain open and we take these issues to other spaces for debate and discussion. In relation to fake accounts, Facebook has a real-name policy, as the company believes that people using their real names will use the platform in a more responsible manner. The numbers on the removal of fake accounts are obtained from investigations and the proactive work conducted by the Facebook Team, comprised of more than 20,000 employees, seeking to identify malicious attempts to use the platform. For example, the use of the same IP address to create different profiles can be used as an indicator of malicious behavior, such as clickbait dissemination.

Partnerships with fact-checking agencies, accredited agencies that comply with international regulations. They are required to undergo annual audits and may be discredited if they do not comply with the requirements. These agencies have expertise and meet rigorous standards to ensure that checks are as objective as possible. The result is that certain contents are marked and their reach is reduced; however, they are not removed from the platform and remain on the profile where they were shared. The person who shared the post is informed that a fact-checking agency has reported that the content is fake. The user can then decide whether they will still share the content. Fake news are not deleted; instead, their reach is reduced.

- Gonzalo Navarro

The important thing is that two years ago we did not have solutions. Now, we are discussing solutions and we can debate whether they are balanced or not. At this stage of the discussion, the solutions that involve fact-checking agencies place the responsibility of determining whether content is true or not on the user. The important thing is that no platform determines what is true or not, the information is not eliminated. This is in contrast with fake accounts, which are covered by different policies.

Without entering into a debate on the existence of traditional media monopolies, the Internet exceeds the traditional notion of media, as it allows greater access to more information and this is a great advantage.

Fact-checking agencies meet suitability, independence, impartiality and other criteria. Their conclusions may or may not be fallible, but the important thing is that the information remains accessible to users. When the State is responsible for identifying what is true and what is not, there is the risk that the State will determine what content is allowed and what is not. Artificial intelligence, machine learning and other technologies will possibly allow better solutions.

- Mónica Guise Rossina

In my experience, this is not an automatic process, as cases that fall outside the usual curve are also considered. When we talk about warning signs, e.g. one IP address originating multiple upload attempts, we are talking about thousands of accounts. This is indeed a warning signal, but the investigation is much more complex.

Our help center offers these 10 tips to identify fake news and we will try to continue to expand the scope of these programs and our alliances as much as possible.