

: Conference Report

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sef: Session at the Deutsche Welle Global Media Forum 2022

The false fight against fake news – Anti-disinformation laws and press freedom

Ingo Nordmann

During the Covid-19 pandemic, many governments have used crisis response as a pretext for restricting civil rights and freedom of expression. They have in many cases enacted strict anti-disinformation laws, allegedly to fight the sharp increase of “fake news”. However, in several countries these laws have also been abused to crack down on free press. At this year’s sef: session at the Deutsche Welle (DW) Global Media Forum, Janjira Sombatpoonsiri, Assistant Professor at Chulalongkorn University in Bangkok, and Barbara Trionfi, Executive Director of the International Press Institute in Vienna, discussed

how journalists can deal with these challenges. The session was moderated by DW senior correspondent Frank Hofmann.

Janjira Sombatpoonsiri explained that in the beginning of the pandemic, at least 37 countries enacted or amended a law to curb the spread of disinformation, according to civil rights organisation CIVICUS. Even before that, at least 24 such laws had been passed in South and Southeast Asia under the pretext of combating “fake news”. They usually do not or only vaguely define what exactly constitutes “fake news” and “disinformation”. Essentially, this gives governments the power to outlaw any content unfavourable to them as untrue and criminalise those spreading it.



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The securitization of disinformation

Many governments, including Thailand, Myanmar, Vietnam, Cambodia and the Philippines, have framed the spread of disinformation as a national security issue and anti-state activity. They have introduced very severe punishments for alleged perpetrators. Barbara Trionfi argued that such allegations were mostly unfounded, as anti-disinformation laws in these countries were “never used on what we would understand as disinformation or fake news”.

Instead, they are introduced to clamp down on journalists or activists who publish anything that is

considered “anti-state”. For example, the Russian government passed a law that made it illegal to publish “blatant disrespect for the state”. What exactly that means is, conveniently, defined by the state itself. The law has been used against government-critical outlets such as the Dozhd, one of the last independent news channels in Russia.

Getting “SLAPPED” in the face – the danger of strategic lawsuits

The panellists agreed that a global rise of authoritarianism has led to an increase of harassment against journalists, of which allegations of spreading dis-



Barbara Trionfi and Frank Hofmann (Moderator), in the background Janjira Sombatpoonsiri

information are just a part. Journalists and activists have frequently been charged with additional, serious crimes such as defamation, high treason or terrorism.

As Sombatpoonsiri explained, repressive governments deliberately use SLAPPs, “Strategic Lawsuits Against Public Participation”, to intimidate and silence unwanted voices. For example, a prominent activist in Thailand has been “slapped” with 30 lawsuits, including one for spreading false information online. These accumulated lawsuits force the accused to spend all their money, time and energy on legal defence. Even if they might win their cases years later, they are in most instances bankrupt, damaged in their reputation and unable to do their job, which means the government has succeeded in silencing them.

Social media and the monetisation of fake news

The panellists also highlighted the responsibility of large tech companies such as Facebook and Twitter. In digital spaces, sensationalist and emotional content – often including false information – spreads particularly fast due to its high user engagement. This is lucrative for the companies, which in many instances make money through the circulation of fake news. Both panellists agreed that this business model is harmful to societies and must be stopped – but the question is how.

An example given by Sombatpoonsiri showed that when governments exert power over tech companies, free speech is often restricted: The Thai government forced Facebook and other social media to close accounts which were allegedly spreading fake news. In fact, these accounts were run by activists and journalists that had been critical about the Thai monarchy – an offense that is strictly persecuted in the country.

It therefore remains a challenge for democracies to curb in the spread of disinformation, while at the same time protecting their citizens’ freedom of speech and digital rights. Trionfi argued that this should be done not by curating content, but by legally forcing companies to make their algorithms transparent and to clearly separate them from monetisation. In this way, democratic governments could rail in Big Tech and hold them accountable for content shared on their platforms, without reverting to autocratic methods.

The search for truth in an open society

Another challenge, Trionfi added, is the fact that the terms “disinformation” and “fake news” are not clearly defined in international law, which can make it difficult to identify them. Nevertheless, it is a good thing that in open societies, spreading fake news or disinformation is not generally forbidden. In history, ideas that people thought were wrong often turned out to be correct, and vice versa. Who should decide what is the truth and what is not? As democratic societies, Trionfi summarised, we want to have a free discourse about the truth and how to find it. The existence of false information and fake news might be a price worth paying for that.

Imprint

The Development and Peace Foundation (sef:) was founded in 1986 on the initiative of Willy Brandt. As a cross-party and non-profit-making organisation, the sef: provides an international high-level forum for shared thinking on urgent peace and development issues.

The reports to the conferences and events of the Development and Peace Foundation (sef:) provide information about the discussions and results in a compact form.

Published by
Development and Peace Foundation (sef:)/
Stiftung Entwicklung und Frieden (sef:)
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Berlin/Rotterdam

Layout
Gerhard Süß-Jung

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