

FREEDOM OF MISINFORMATION AND THE RELEVANCE OF CO-REGULATION IN MALAYSIA: A CROSS- JURISDICTIONAL ANALYSIS*

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ABSTRACT

The spread of fake news on COVID-19 is causing public unrest and suspicion among citizens which is a challenge for countries facing the pandemic. The misinformation or disinformation which stems from uncertainties, unrest, and anxiety because of movement control order procedures, financial and economic hardship caused wrong information to spread like fire. Often referred to as 'info-demic', it becomes a second source of virulent information that requires arresting just like the pandemic itself. Controlling fake news in a pandemic is a daunting problem that slaps Internet regulation on its face. On the Internet, lies spread faster than the truth, and correcting this misinformation is a tonne of work. In this paper, we examine Internet self- and co-regulatory approaches in selected jurisdictions to reduce the impact of fake news on governments, industry, and private actors. Through a qualitative method and doctrinal content analysis, this article examines the various approaches adopted in arresting fake news. In the first section, we analysed specific legislation enacted by parliaments that criminalised the acts of disseminating and publishing fake news. In the second section, we found efforts to impose civil and criminal liability on platform providers to monitor online content. In the final section, we analysed self- and co-regulatory efforts to introduce online fact-checking portals and awareness campaigns. This research argues that the Internet self-regulation system in Malaysia is not bringing the desired result i.e., maintaining peace and security of the nation. Considering the impact of dangerous misinformation on society, more so in a global emergency like the present COVID-19 pandemic, it is submitted that co-regulation is more suitable if the social, moral, and cultural fabric of the society is to be maintained.

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Keywords: Fake news, disinformation, self-regulation, online fact checking portals, and co-regulation.

KEBEBASAN MENYEBAR MAKLUMAT PALSU DAN RASIONALISASI KAWALSELIA BERSAMA DI MALAYSIA: SATU ANALISIS RENTAS BIDANG KUASA

ABSTRAK

Penyebaran berita palsu COVID-19 menimbulkan keresahan dan curiga masyarakat di kalangan warga negara yang merupakan cabaran bagi negara-negara yang menghadapi wabak tersebut. Maklumat yang salah berpunca dari ketidakpastian dan kegelisahan kerana prosedur perintah kawalan pergerakan, masalah kewangan dan ekonomi menyebabkan maklumat yang salah tersebar seperti api. Sering disebut sebagai ‘info-demik’, maklumat palsu menjadi sumber kedua yang berbahaya dan perlu dihapuskan, seperti wabak itu sendiri. Mengawalselia penyebaran berita palsu pada masa pandemik adalah satu masalah yang besar dan menjadikan pengawalseliaan Internet begitu mencabar. Di Internet, pembohongan teryebar lebih cepat daripada kebenaran dan memperbetulkan maklumat memerlukan usaha yang tiada berpenghujung. Dalam makalah ini, kami meneliti pendekatan kawalselia secara sendiri dan bersama melalui analisa bidang kuasa terpilih untuk mengurangkan impak berita palsu terhadap kerajaan, industri, dan individu. Artikel ini meneliti pelbagai pendekatan dalam mengurangkan berita palsu melalui kaedah kualitatif dan analisis kandungan doktrin. Pada bahagian pertama, kami menganalisis undang-undang yang dibuat parlimen untuk mengkriminalisasi tindakan menyebarkan dan menerbitkan berita palsu. Pada bahagian kedua, kami menemui usaha untuk meletakkan tanggungjawab sivil dan jenayah kepada penyedia platform untuk memantau kandungan dalam talian. Pada bahagian terakhir, kami menganalisis usaha kawalselia secara sendiri dan bersama, melalui pengenalan portal penyemak fakta dalam talian dan kempen kesedaran. Penyelidikan ini berpendapat bahawa sistem kawalselia sendiri Internet di Malaysia tidak membawa hasil yang diinginkan iaitu menjaga keamanan dan keselamatan negara. Memandangkan maklumat palsu begitu berbahaya kepada masyarakat lebih-lebih lagi dalam keadaan darurat global seperti pandemik COVID-19 sekarang, kawalselia secara Bersama dilihat satu Langkah yang perlu diambil jika struktur sosial, moral, dan budaya masyarakat hendak dipertahankan.

Kata kunci: Berita palsu, maklumat palsu, kawalselia sendiri, kawalselia bersama, portal pemeriksaan fakta dalam talian.

INTRODUCTION

The COVID-19 pandemic has taken a toll on global public health and well-being. As of 13th September 2021, the Ministry of Health, Malaysia has recorded more than 1.9 million COVID-19 positive COVID-19 cases and is expected to rise in the months to come. Dissemination of fake news online has doubled since the movement control orders (MCO), especially through social media. Online fake news spreads faster than the efforts to correct it. As countries take numerous measures to combat COVID-19, misinformation and disinformation become another source of worry as they jeopardise global efforts through triggering an ‘infodemic’.¹ Malaysian health authorities are extremely careful with the information they released. The Director General of Health daily briefings were infused with carefully crafted language that includes a tally of daily illnesses, deaths, and probable new clusters. All these daily choruses are intended to safeguard patient’s privacy while also moderating unwarranted anxieties, social shame, and blame games that have grown like wildfire throughout Malaysia since the outbreak began.

The spread of misinformation, “digital disinformation” or fake news online have brought new challenges for Internet regulation.² As the Internet’s architecture was designed to allow decentralisation, content, and data flow beyond physical national borders and imposing restrictions on online content such as fake news has proven to be a huge challenge for regulators and governments.³ Marsden argued that such responsibilities should not be centralised on the shoulders of

¹ World Health Organisation, “Infodemic,” World Health Organisation, September 13, 2021, https://www.who.int/health-topics/infodemic#tab=tab_1.

² Chris Marsden, Trisha Meyer, and Ian Brown, “Platform Values and Democratic Elections: How Can the Law Regulate Digital Disinformation?,” *Computer Law & Security Review* 36 (April 2020): 105373, <https://doi.org/10.1016/j.clsr.2019.105373>.

³ Mahyuddin Daud, *Internet Content Regulation* (Kuala Lumpur: IIUM Press, 2019), chap. 3.

national governments, private organisations or agencies, but should be a collective one.⁴ Legal, technical, and administrative mechanisms may assist to some extent, nevertheless, we need to explore beyond Internet self-regulation to hopefully reduce fake news.

The dissemination of fake news has become an overwhelming problem in countries such as Japan, Germany, and Malaysia is not an exception.⁵ Since the repeal of the Anti-False News Act 2018 in December 2019 and the expiration of Emergency Ordinance No.2/2021, the government's next strategy in combating online fake news leaves much to be desired.⁶ In this context, we analyse Internet self- and co-regulatory measures adopted by governments, businesses, and private agencies in selected jurisdictions to mitigate the effect of fake news. The first part of this paper examines Malaysian Internet self-regulation practices and their drawbacks. The second part discusses co-regulation and how it has aided the reduction of fake news. The final section examines legislation that criminalised the dissemination and publication of false news. This includes efforts to hold platform providers liable, civil and criminally, for failing to monitor fake news propagation. Finally, we examined attempts to establish online fact-checking portals and public awareness campaigns.

Before we embark on the above issues, the next section asks an important theoretical question on whether Internet censorship is necessary to create the balance required for the protection of right to free expression and protect national, religious, and customary values thus justifying regulation.⁷

⁴ Marsden, Meyer, and Brown, "Platform Values and Democratic Elections: How Can the Law Regulate Digital Disinformation?," 2–3.

⁵ The Law Library of Congress, "Initiatives to Counter Fake News in Selected Countries" (United States of America, 2019), 1–2, <https://www.loc.gov/law/help/fake-news/counter-fake-news.pdf>.

⁶ Arjuna Chandran Shankar, "Bill to Repeal Anti Fake News Act 2018 Passed by Dewan Rakyat | The Edge Markets," The Edge Markets, 2019, <https://www.theedgemarkets.com/article/bill-repeal-anti-fake-news-act-2018-passed-dewan-rakyat>.

⁷ Mahyuddin Daud, *Internet Content Regulation* (Kuala Lumpur: IIUM Press, 2019), chap. 3.

Internet Censorship - the why and who?

John Perry Barlow wrote in “A Declaration of the Independence of Cyberspace”, where he asserted that the Internet was designed as a symbol of freedom of expression. Barlow warned governments to stay away from cyberspace as it should be beyond government regulation.⁸ As reiterated in the paper, “You are not welcome among us. You have no sovereignty where we gather”.⁹ Internet censorship has always been viewed negatively in any discourse on content regulation, particularly by the cyber-libertarian movement. The Internet was designed for the free flow of information and any attempt to restrict access and content will impede or slow down its function, speed, and network performance.¹⁰ Although this was an interesting idea, a later work by Lessig confirmed that regulation is necessary.¹¹ Lessig maintained that governments should intervene, at the very least, when private action has negative public consequences; when short-sighted actions threaten to cause long-term harm; when failure to intervene jeopardises significant constitutional values and important individual rights; when a way of life emerges that threatens fundamental values; and when it becomes clear that failing to intervene will result in harm. Inaction is not an acceptable response when something can and should be done.¹²

In line with the above, regulations on fake news have emerged as a consistent trend particularly in the Asia Pacific.¹³ Freedom House reveals that its Internet freedom index has shown Internet freedom to be on a declining trend as more obstacles were created to access the

⁸ John Perry Barlow, “A Declaration of the Independence of Cyberspace,” projects.eff.org, 1996, <https://projects.eff.org/~barlow/Declaration-Final.html>.

⁹ Barlow.

¹⁰ Daud, Internet Content Regulation, 89.

¹¹ Lawrence Lessig, Code 2.0, 1st ed. (United States of America: Basic Book, 2006).

¹² Lessig, chap. 338.

¹³ The Law Library of Congress, “Initiatives to Counter Fake News in Selected Countries”; Andrea Carson and Liam Farlone, “Fighting Fake News: A Study of Online Misinformation Regulation in the Asia Pacific,” La Trobe University, 2021, https://www.latrobe.edu.au/__data/assets/pdf_file/0019/1203553/carson-fake-news.pdf.

Internet, and more restrictions to Internet content were imposed by governments.¹⁴ Governments have resorted to censoring the Internet to control access to illegal and harmful content.¹⁵ These restraints came in the form of new laws that were enacted to curb cybercrimes that resulted in investigations and arrests according to respective national laws.¹⁶ China, Saudi Arabia, Egypt, and North Korea are some of the countries which were cited as ‘Enemies of the Internet’ for conducting online surveillance, censorship, imprisonment, and disinformation.¹⁷

To a large extent, it is fair to question whether censorship technologies have over-blocked legitimate forms of expression which may appear as fake news to some.¹⁸ In view of the wide range of information that may constitute fake news, Claire Wardle classifies such information into seven broad categories as listed below:

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- ¹⁴ Freedom House, “Freedom on the Net 2014,” 2014, <https://freedomhouse.org/sites/default/files/resources/Malaysia.pdf>; Sanja Kelly et al., “Freedom on the Net 2013 : A Global Assessment of Internet and Digital Media,” Freedom House, 2013, http://www.freedomhouse.org/sites/default/files/resources/FOTN_2013_Summary_of_Findings_1.pdf; Freedom House, “Freedom on the Net 2012,” Freedom House, 2012, https://www.freedomhouse.org/sites/default/files/resources/FOTN_2012_-_Full_Report_0.pdf; Freedom House, “Freedom on the Net 2011,” Freedom House, 2011, <https://freedomhouse.org/sites/default/files/FOTN2011.pdf>.
- ¹⁵ Cory Doctorow, “EU Internet Censorship Will Censor the Whole World’s Internet | Electronic Frontier Foundation,” 2018, <https://www.eff.org/deeplinks/2018/10/eu-Internet-censorship-will-censor-whole-worlds-Internet>.
- ¹⁶ Freedom House, “Freedom on the Net 2014.”
- ¹⁷ Reporters without Borders, “Enemies of the Internet – Countries Under Surveillance” (Paris, 2010), http://www.rsf.org/IMG/pdf/Internet_enemies.pdf.
- ¹⁸ Marsden, Meyer, and Brown, “Platform Values and Democratic Elections: How Can the Law Regulate Digital Disinformation?,” 5.

	Typology of fake news	Effect	Classification
1.	Satire or parody	No intention to cause harm but has potential to fool	Misinformation
2.	Misleading content	Misleading use of information to frame an issue or individual	Disinformation
3.	Imposter content	When genuine sources are impersonated	Disinformation
4.	Fabricated content	New content is 100% false, designed to deceive and do harm	Disinformation
5.	False connection	When headlines or visual do not support the content	Misinformation
6.	False context	When genuine information is shared with false contextual information	Misinformation
7.	Manipulated content	When genuine information or imagery is manipulated to deceive	Disinformation

Source: Claire Wardle¹⁹

Though the typology of fake news may vary, not all of them should be classified as illegal and they may vary across national laws. Due to the abundance of online content, it is best to clearly identify which kind of false information that should be prohibited. In the above scenario, the typology that qualifies as ‘disinformation²⁰’ should be

¹⁹ Claire Wardle, “Fake News. It’s Complicated.,” 2019, <https://firstdraftnews.org/fake-news-complicated/>.

²⁰ Marsden, Meyer, and Brown, “Platform Values and Democratic Elections: How Can the Law Regulate Digital Disinformation?”; Mahyuddin Daud and Ida Madiha Abd Ghani Azmi, “Digital Disinformation and the Need for Internet Co-Regulation in Malaysia,”

prohibited and therefore censored as they intend to deceive, on top of being detrimental to society.²¹ On this point, it is worthy to note the statement by the Chairman of the Saudi Arabia General Commission for Audio-visual Media, Dr. Riyadh Najm, who said,

No country in the world allows no censorship...the difference between one country and another is the extent of the terms and conditions in place; they increase in one country but are reduced in another depending on the traditions and norms in each society.²²

It is also noteworthy to mention that the European countries and the United States who continue to proclaim that they have the highest form of Internet freedom in the world similarly conduct content moderation and takedowns, particularly in cases of child pornography and copyright infringements where the interest of the public prevails.²³ At the same time, it is undisputable that all countries in the world have expressed discontent with mass availability of fake news and choose to act against them. In furtherance of such move, the courts and parliaments will have to accept that Internet censorship of fake news shall not amount to an impediment to free speech and expression within established constitutional frameworks.²⁴

With regard to countries such as Malaysia where religious values, morality, and traditional culture shape the basic foundation of society and define its identity, perhaps the trajectory path to be

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²¹ Daud, Internet Content Regulation, chap. 4.

²² Helmi Noman, “Saudi Arabia to Impose Restrictions on Online Content Production, Including on YouTube,” OpenNet Initiatives, 2013, <https://opennet.net/blog/2013/12/saudi-arabia-impose-restrictions-online-content-production-including-youtube>.

²³ Cory Doctorow, “EU Internet Censorship Will Censor the Whole World’s Internet | Electronic Frontier Foundation”; Heidi Tworek and Paddy Leerssen, “An Analysis of Germany’s NetzDG Law,” Transatlantic High Level Working Group on Content Moderation Online and Freedom of Expression (Germany, 2019).

²⁴ Mahyuddin Daud and Sonny Zulhuda, “Regulating The Spread Of False Content Online In Malaysia: Issues, Challenges And The Way Forward,” International Journal of Business & Society 21, no. S1 (2020), <http://www.ijbs.unimas.my/index.php/content-abstract/current-issue/645-regulating-the-spread-of-false-content-online-in-malaysia-issues-challenges-and-the-way-forward>.

chosen by Malaysia could be different from others. Malaysia adopts Internet self-regulation as a governing legal framework against fake news, as discussed in the next part.

Fake News Regulation in Malaysia via Internet Self-Regulation

In principle, a group of economic agents (i.e., businesses in a particular industry or a professional association) adopts the self-regulation framework when it develops voluntary norms or codes of conduct that control or direct organisational members' behaviour, activities, and standards. Industry or professional associations are responsible for developing their own self-regulatory rules, monitoring and compliance, and developing voluntary accreditation criteria.²⁵ As such, Internet self-regulation has been equated to 'self-discipline' or self-management of online behaviours, hence 'what is illegal offline is illegal online'.²⁶

The Communications and Multimedia Act 1998 (CMA1998) has formalised Internet self-regulation as a regulatory framework to guide the communications and multimedia industry through the implementation of Section 124. Although Section 124 does not clarify how Internet self-regulation is implemented in Malaysia, the framework is six-fold²⁷, namely, 1) establishment of industry forum and code; 2) notice and takedown procedures; 3) online incidents reporting; 4) non-mandatory content filtering; 5) legal measures and 6) advocacy and media literacy.²⁸ Most self-regulation frameworks adopted in other regions such as the United States, United Kingdom,

²⁵ The Organisation for Economic Co-operation and Development, "OECD Report: Alternatives to Traditional Regulation," The Organisation for Economic Co-operation and Development, 34, accessed November 10, 2020, www.oecd.org/gov/regulatory-policy/42245468.pdf.

²⁶ Yaman Akdeniz, "Internet Content Regulation: UK Government and the Control of Internet Content," Computer Law & Security Report 5 (2001): 303–17, http://www.cyber-rights.org/documents/clsr17_5_01.pdf.

²⁷ This is based on authors' focus group discussions with the Malaysian Communications and Multimedia Commission, Communications and Multimedia Content Forum, selected Internet service provider and Code subjects. See Daud, Internet Content Regulation. for further reading.

²⁸ Daud, 263.

and European Union would also adopt these six measures to indicate Internet self-regulation practices.²⁹

As this article does not intend to indulge into these six mechanisms in detail, it is important to note that non-censorship remains to be at the heart of self-regulation, as embedded in Section 3 of CMA1998. This does not entirely mean that the Internet is left unregulated, as most self-regulation scheme including Malaysia entrusts industry actors to self-regulate via industry code. Such explains the enactment of the Content Code that binds all Code subjects, such as content creators and aggregators. Due to its status as an industry guideline with no statutory authority, compliance to Content Code is enforced through regulatory and licensing restrictions.³⁰

As the Content Code binds all registered service providers in Malaysia, Article 7.0 Code explicitly addresses, albeit not exhaustively, online false content. The Code defines ‘false content’ as anything that is “likely to mislead, for example, owing to insufficient information,” and advises Internet users to avoid unverified and misleading materials. Article 7.3 makes an exemption for the content which is satirical, satire, or fictitious. These speeches will not be considered to transgress free speech under Article 10 of the Federal Constitution if the speech, when read as a whole, does not appear to be seditious in nature. The case of *Public Prosecutor v Ooi Kee Saik*

²⁹ Ian Bartle and Peter Vass, “Self-Regulation and the Regulatory State: A Survey of Policy and Practice” (United Kingdom, 2005), http://www.bath.ac.uk/management/cri/pubpdf/Research_Reports/17_Bartle_Vass.pdf; Ian Brown, “Internet Self-Regulation and Fundamental Rights,” Index on Censorship 1 (2010), <http://ssrn.com/abstract=1539942>; Marie d’Udekem-Gevers and Yves Pouillet, “INTERNET CONTENT REGULATION,” Computer Law & Security Review 18, no. 1 (January 2002): 11–23, [https://doi.org/10.1016/S0267-3649\(02\)00103-6](https://doi.org/10.1016/S0267-3649(02)00103-6); Marcel Machill, Thomas Hart, and Bettina Kaltenhauser, “Structural Development of Internet Self-Regulation: Case Study of the Internet Content Rating Association (ICRA),” Emerald Insight 4, no. 5 (2002): 39–55, www.emeraldinsight.com/1463-6697.htm.

³⁰ Mahyuddin Daud and Juriah Abd Jalil, “Protecting Children against Exposure to Content Risks Online in Malaysia: Lessons from Australia,” Jurnal Komunikasi Malaysian Journal of Communication Jilid 33, no. 1 (2017): 115–26.

[1971] 2 MLJ 108 confirms that the courts will be the guardian that determines whether such ‘lines’ have been crossed on a case-to-case basis.

After appropriate investigations, the Content Code provides that publishers of fake news may be notified and directed to take down within 24 hours upon receiving notification from the Complaints Bureau of the Content Forum. Although takedown order is common in any self-regulation scheme, it has not been recognised as a valid means to regulate content under CMA1998, except in a very implied manner provided under Section 268.³¹ The position is similar for non-mandatory content filtering. CMA1998 does not recognise such measures explicitly hence leaving significant gaps in regulatory efforts.³²

As far as the legal measures are concerned, Section 211 and 233 of CMA1998 prohibits the publication of false content online when made to “annoy, abuse, threaten or harass any person”. The High Court in *Rutinin Suhaimin v. Public Prosecutor* [2015] 3 CLJ 838 confirmed that actual annoyance needs not to be proven, suffice that tendency to annoy any person is established by the prosecution. The prosecutor’s burden of proof has been much facilitated in any fake news indictment when Section 114A of the Evidence Act 1950 comes to force.³³

In addition to CMA1998, the Malaysian Parliament also enacted the Anti Fake News Act 2018, due to the abundance of fake news online that caused disorder in the society. Among others, it

³¹ Section 268 requires all licensees or service providers operating in Malaysia to take all necessary steps to prevent any crimes from being committed through the services they provide.

³² Daud and Jalil, “Protecting Children against Exposure to Content Risks Online in Malaysia: Lessons from Australia.”

³³ This provision assumes a person to be the publisher if his name appears on any online publication, unless proven otherwise. Despite receiving criticisms, this provision remains the law enforced, arguably introduced to assist the prosecution in identification of anonymous online publishers. To date, there has yet to be any case that attempts to challenge the constitutionality of this provision. See Foong Cheng Leong, “Tracing Someone Online,” foongchingleong.com, 2014, <http://foongchingleong.com/2014/11/bread-kaya-tracing-someone-online/>.

criminalised the publication of fake news regardless of the media;³⁴ impose a duty to take down upon court order,³⁵ imposes liability on the corporate entity to prevent the spread of fake news³⁶, and criminalises any financial assistance for the propagation of fake news.³⁷ Due to political pressure, the Act merely survived for less than two years with only one successful indictment.³⁸

The COVID-19 pandemic has necessitated the revival of the Act in an ordinance version – due to the emergency declaration currently in force in Malaysia. However, Emergency Ordinance No.2/2021 only criminalises communication of fake news concerning COVID -19, and the declaration of emergency is concerned, arguably to combat the vast amount of disinformation on the pandemic. There has also been numerous fake news and disinformation on COVID -19 vaccines, which if allowed to circulate, may highly affect the success of the national vaccination programmes. The court is empowered to order content takedown and the party who received the order must remove the content immediately to avoid further fines and/or imprisonment. On this point, two pled guilty to the charge of spreading fake news about COVID -19 vaccines, which unnecessarily created confusion and public resistance over the national vaccination programme.³⁹ This ordinance has also ceased to apply in August 2021 pursuant to the discontinuation of the state of emergency in Malaysia.

Malaysia's experiences demonstrate that self-regulation alone is insufficient to significantly decrease, much less eliminate, fake news. This necessitates a shift in policy, with self-regulation

³⁴ Section 4.

³⁵ Section 6 and 7.

³⁶ Section 13.

³⁷ Section 5.

³⁸ Qishin Tariq, "Danish National First to Be Sentenced under Anti-Fake News Law," The Star Online, 2018, <https://www.thestar.com.my/news/nation/2018/04/30/danish-national-first-to-be-sentenced-under-anti-fake-news-law/>; Bernama, "Dewan Negara Passes Repeal of Anti-Fake News Act," BERNAMA, 2019, <http://bernama.com/en/news.php?id=1801184>.

³⁹ Bernama, "Sebar Berita Palsu COVID-19: Suri Rumah Didenda RM5,000, Guru Tuisyen Mengaku Tidak Salah | Astro Awani," Bernama, 2021, <https://www.astroawani.com/berita-malaysia/sebar-berita-palsu-COVID-19-suri-rumah-didenda-rm5000-guru-tuisyen-mengaku-tidak-salah-301157>.

supplemented by a suite of a robust legal framework such as Internet co-regulation. The next section discusses the co-regulation of the Internet.

Internet Co-Regulation

The concept of co-regulation does not mean that a different legal framework for Internet regulation is created. It complements self-regulation and necessitates an explicit government engagement through legislative support. The UK Internet regulator - Ofcom, reiterates that the statutory regulator is accountable for the efficiency of co-regulation and retains the authority to act when necessary. Machill broadens the definition of Internet co-regulation to include shared responsibility of all relevant parties, with the regulator serving as the ultimate authority responsible for enforcing self-regulation when it fails.⁴⁰ Co-regulation restores the social obligation initially assigned to society (or Internet actors) inside a framework that trusts market forces while keeping faithful to the concept of social responsibility.

Therefore, co-regulation empowers everyone in the society (in this context, those who use the Internet), to work side-by-side with the government and reserves the right to interfere only when the self-regulatory system fails. The adoption of self-regulated industry codes coexists in a co-regulation framework backed by statutory enforcement.⁴¹ By sharing the enforcement burden, it is possible to decrease operational expenses associated with direct regulation and to address the inefficiencies associated with self-regulation, owing to its voluntary character and less transparent procedure for implementing the framework. In comparison, self-regulation processes may not be

⁴⁰ Machill, Hart, and Kaltenhauser, "Structural Development of Internet Self-Regulation: Case Study of the Internet Content Rating Association (ICRA)."

⁴¹ Christopher T. Marsden, *Internet Co-Regulation: European Law, Regulatory Governance and Legitimacy in Cyberspace*, 1st ed. (Cambridge: Cambridge University Press, 2011).

as transparent since they are dominated and enforced by the industry.⁴²

In Australia, one notable example of the Internet co-regulation framework is enforcement through the National Classification Scheme.⁴³ Three legal instruments become the backbone of the scheme namely the Classifications (Publications, Films, and Computer Games) Act 1995, the National Classification Code, and the Guidelines for the Classification of Publication of Films and Computer Games. They entail the following characteristics: - 1) A collaborative effort involving government, industry, society, parents, and Internet users and 2) creation of code of conduct, accreditation, or content classification methods acknowledged and enforced by government. Although enforced through statutes and codes, Australian co-regulation grants adults to see what they want to see, after appropriate information on the content has been provided through classification. The scheme also applies a network-level filtering mechanism whereby all prohibited sites are synced with Interpol's blacklist.⁴⁴

On the other hand, European co-regulation entails multinational collaboration between European Community members to regulate a broader range of Internet governance sectors, including the pan-European games rating system (administered by Pan European Game Information, PEGI), the regulation of child pornography (administered collaboratively by the UK Internet Watch Foundation and INHOPE), and the ad hoc Internet governance sectors. As far as

⁴² Christopher T. Marsden, "Co- and Self-Regulation in European Media and Internet Sectors: The Results of Oxford University's Study," in *The Media Freedom Internet Cookbook* (Organization for Security and Co-operation in Europe, 2004), <http://www.osce.org/fom/13844?download=true>.

⁴³ Australian Communications and Media Authority, "Optimal Conditions for Effective Self- and Co-Regulatory Arrangements: Occasional Paper" (Sydney, 2010), http://www.acma.gov.au/webwr/_assets/main/lib311886/self_and_co-regulatory_arrangements.pdf.

⁴⁴ Australian Communications and Media Authority, "Developments in Internet Filtering Technologies and Other Measures for Promoting Online Safety" (Melbourne, 2008), http://www.acma.gov.au/webwr/_assets/main/lib310554/developments_in_internet_filters_1streport.pdf.

fake news is concerned, international collaborations is key to effective control. Given the speed with which fake news spreads, it is argued that the benefits of Internet co-regulation require further consideration that may strengthen the existing self-regulation framework. It is a more appropriate regulatory structure that empowers regulators, intermediaries, and Internet users to collaborate in controlling its spread.

The following section does a comparative study of how selected nations in Asia Pacific and Europe control fake news as part of their national Internet self- and co-regulation efforts.

Global Efforts in Regulating Fake News: ‘Taming a Snake’?

As far as governance of fake news is concerned, The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information adopts the Joint Declaration on Freedom of Expression and Fake News, Disinformation and Propaganda on 3rd March 2017.⁴⁵ The Joint Declaration was adopted after series of stakeholders’ engagement and consultations made pursuant to the grave problem on dissemination of fake news worldwide, especially online. The Joint Declaration provides a guideline for states to consider when enacting legislations restricting freedom of expression within the framework of what is considered necessary under international law – as legislation restricting fake news and disinformation may involve restricting free speech. Article 1(a) of the Joint Declaration requires states to comply with strict tests provided under Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR) and the Johannesburg Principles when drafting legislation on fake news and disinformation.

⁴⁵ Mahyuddin Daud, “Fake News in the Malaysian 14th General Election: Shall the Net Be Free Forever?,” *IIUM Law Journal* 28, no. S1 (2020): chaps. 303–324.

On the other hand, the Joint Declaration reiterated the important role assumed by Internet intermediaries, such as Internet service providers. States should never subject intermediaries to any liability for hosting illegal third-party online content. However, such a position will no longer be relevant when intermediaries operate beyond the scope of mere conduits.⁴⁶ Internet intermediaries who embarked on content selection, editing, or recipient targeting are no longer playing passive roles and therefore should shoulder liability for hosting such content. Such position conforms with Article 12 of the EU E-Commerce Directive 2000 on intermediary liabilities whereby “Member States shall ensure that the service provider is not liable for the information transmitted, on condition that the provider: (a) does not initiate the transmission; (b) does not select the receiver of the transmission, and (c) does not select or modify the information contained in the transmission”.

The next part explores the advancements in selected countries in the Asian, European, and Australian regions and the remarkable progress in the governance of fake news and disinformation.

Asian Region

In the regional context, the Association of Southeast Asian Nations (ASEAN) and the ASEAN Ministers Responsible for Information (AMRI), recognise that society’s media and information consumption patterns have shifted significantly because of technological advancements and the availability of information through the Internet and social media platforms. In 2018, ASEAN ministers developed the Framework to Minimise the Harmful Effects of Fake News that consists of four strategic directions namely: 1) Education and Awareness, 2) Detection and Response, 3) Norms and guidelines and 4) Community and Ground-up Participation.

A smart and educated audience capable of identifying fake news is crucial. There must also be an understanding of the risks presented by false news, and more particularly, of the need for responsible information production and distribution. On detection and response, everyone, including governments, organisations, and private entities, is responsible for detecting and responding to fake

⁴⁶ Mahyuddin Daud, 310.

news. ASEAN believes that governments should monitor news on daily basis and respond swiftly to material that needs explanation. This requires effective and trustworthy government communications. News organisations may help by fact-checking information and adhering to a rigorous code of ethics.

The development of standards and guidelines will empower and safeguard people as they consume information in new media and will also encourage responsible online information production and sharing. Collaboration between the government and the public is critical for detecting fake news in real-time. Citizens that actively report false news assist governments in swiftly issuing explanations. Additionally, civil society organisations also play a critical role in educating the broader community about digital literacy and the risks presented by false news, which may increase community involvement in preventing the spread of fake news. They may also serve as effective advocates for community-based standards and rules in the face of false news.

On this note, the political direction of ASEAN countries is leading towards the adaptation of the co-regulation framework. In co-regulation, there is a strong government involvement through “explicit legislative backing in some form for the regulatory arrangements”,⁴⁷ It also involves joint responsibility of all affected parties where the regulator serves as the final authority that provided corrective measures when self-regulation failed.⁴⁸

To this end, concerted efforts involving multi-stakeholders are expected to continue in the fight against fake news. The next part analyses selected country initiatives in combating fake news. Through content analysis of primary and secondary sources, it has been observed that these countries combat fake news through notable strategies, such as legislation, administrative and technical measures, and also includes multi-stakeholders engagement and coordinated expertise sharing across countries. The next section reviews key

⁴⁷ The Organisation for Economic Co-operation and Development, “OECD Report: Alternatives to Traditional Regulation.”

⁴⁸ Daud and Abd Ghani Azmi, “Digital Disinformation and the Need for Internet Co-Regulation in Malaysia,” 172; Machill, Hart, and Kaltenhauser, “Structural Development of Internet Self-Regulation: Case Study of the Internet Content Rating Association (ICRA).”

developments in Singapore, China, European Union, Germany and Australia.

Singapore

On 10 January 2018, the Singapore Parliament unanimously approved a motion for the appointment of a Select Committee to examine the issue of the deliberate perpetuation of online falsehoods and provide recommendations for measures to counter the spread of such falsehoods online.⁴⁹ In May 2019, Parliament passed a law criminalising the dissemination of false information online. Known as the Protection from Online Falsehoods and Manipulation Act (POFMA) 2019, the law aims to “prevent the electronic communication in Singapore of a false statement of fact, to suppress support for and counteract the effects of such communication, to safeguard against the use of online accounts for such communication and information manipulation and to enable measures to be taken to enhance the transparency of online political advertisement”. The law punishes people who post fake news with heavy fines and jail time.

Apart from the severe punishment, POFMA introduces what can be coined as ‘administrative’ measures. In this context, any minister in Singapore may issue Correction Direction and Stop Communication Direction with the aim to instruct end-users to “correct and cease from communicating any false news accessible to the Singaporean public”.⁵⁰ Section 16 of POFMA empowers the Minister of Communications and Information to instruct the Singaporean Info-communications Media Development Authority to take necessary actions to prevent end users' access to the Internet should they fail to comply with the ministerial directives.

On this note, POFMA has been criticised by numerous human rights groups and publications for allegedly limiting free speech. At the same time, it lets the government demand the publication of

⁴⁹ Rajah & Tann Singapore, “Client Update: Singapore 2018 January,” Rajah & Tann Asia (Singapore, 2018), http://www.singaporelawwatch.sg/slw/attachments/115391/1801-07_Fake_News.pdf.

⁵⁰ Daud and Abd Ghani Azmi, “Digital Disinformation and the Need for Internet Co-Regulation in Malaysia,” 178.

corrections alongside allegedly false claims “against the public interest.” The law also outlaws the spread of misinformation on private messaging apps and gives the government very broad power to remove false content that undermines public trust. The measure is among the most comprehensive anti-misinformation laws in the world and has been enforced for more than a year.

Apart from POFMA, the Parliament also voted to create a committee focused on addressing how best to approach the problem of misinformation online. Idea submissions from journalists, advocacy groups, and others were made public in 2018. The committee recommended the creation of a coalition of fact-checking organizations, news outlets, and industry partners to debunk falsehoods online.⁵¹

China

China has been dubbed as having the world’s roughest fake news regulations. Despite tight media and Internet control, false news or ‘rumors’ seem to seep into social media. Wechat reported that they detected over 84,000 rumors involving 774 organisations, including government Internet information authority, police, food and drug administration, and state media, who published 3,994 anti-rumor articles via Wechat throughout the year, and 294 million people viewed them.⁵²

In 2015, the Standing Committee of the National People’s Congress (NPC) of China approved the Ninth Amendment to the People’s Republic of China (PRC) Constitution that criminalised the act of disseminating false news via information networks or other media that severely disrupts public order via Article 291(a)(2). Article 12(2) of PRC Cybersecurity Law bans producing or distributing online false information that disrupts economic and social order. On

⁵¹ Daniel Funke and Daniela Flamini, “A Guide to Anti-Misinformation Actions around the World - Poynter,” The Poynter Institute, 2021, <https://www.poynter.org/ifcn/anti-misinformation-actions/#uae>.

⁵² Xiao Jinbo and Liu Juntao, “‘2018 Internet Rumor Governance Report’ Released, 774 Institutions Refute Rumors on WeChat--Society · Rule of Law--People’s Daily Online,” People’s Daily Online, 2019, <http://society.people.com.cn/n1/2019/0118/c1008-30574893.html>.

the other hand, Article 70 of the Cybersecurity Law provides that publishing or transmission of false information or information banned from publication or transmission under other laws or regulations is subject to penalties imposed under relevant laws and regulations.

Under Article 13 of the Cybersecurity Law, service providers must require customers to register their actual identities while offering informative publishing or instant messaging services. Users who do not complete the identity authentication procedures as provided by the service providers. Where service providers fail to authenticate the identities of users, the authorities may order them to correct their wrongdoings, suspend their businesses, close their websites, revoke any relevant licenses, or impose a fine of 50,000 to 500,000 Yuan.

Under Article 6 of the Cybersecurity Law, any entity providing Internet news information services to the public—whether, through websites, apps, online forums, blogs, microblogs, social media public accounts, instant messaging tools, or live broadcasts shall obtain a license for Internet news information services and operate within the scope of license activities. Licenses are only granted to legal entities incorporated inside the PRC territory, and Chinese nationals must be the people in control and be the editors-in-chief. Breach of this provision is an offense under the said law.

Furthermore, Article 15 of the Cybersecurity Law provides that when publishing news, Internet news service providers may only repeat what has been published by an official state or provincial news agency or other state-run news organisations. Original sources, authors, titles, and editors must be identified to guarantee that the news sources are traceable. The provisions also ban Internet news information service providers and users from creating, duplicating, publishing, or distributing information material forbidden by laws and regulations. State or municipal Internet content authorities may give a warning to offenders of this provision, compel them to correct their wrongdoings, stop their news services, or apply a fine of 20,000 to 30,000 Yuan (about US\$3,000 to \$4,500). Article 16(2) further obliges Internet Information Service Providers who discover any prohibited material to rapidly cease transmitting the information,

delete the information, preserve the necessary records, and report it to the responsible authorities.⁵³

As far as the fact-checking measure is concerned, China developed a site called ‘Piyao’ in 2018, which means ‘refuting rumors’. The platform, which includes a smartphone app and social media accounts, distributes genuine news from state-owned media, party-controlled local newspapers, and other government agencies.⁵⁴

European Union

Internet governance in European countries involves the application of the Internet co-regulation framework to regulate content over EU countries.⁵⁵ Such framework mainly sits on coordinated action amongst state and non-state actors to enact and execute laws and policies targeted for the European audience and beyond. As far as combating fake news is concerned, the EU prefers to focus its actions on self-regulation initiatives. The EU Code of Practice was enacted in 2018 which had 13 signatories, including social media platforms such as Facebook and Tiktok. The EU Code of Practice focuses on five main agendas to address fake news across the EU, namely:- “Scrutiny of ad placements, political advertising, and issue-based advertising, Integrity of services, empowering consumers and empowering the research community”.⁵⁶ Based on this code, the EU Commission narrowed down its action plan, focusing on strengthening EU institutions’ capacity to identify and analyse misinformation, manage coordinated responses to disinformation, mobilise the corporate sector to combat disinformation, and increase public awareness and resilience.⁵⁷

⁵³ The Law Library of Congress, “Initiatives to Counter Fake News in Selected Countries.”

⁵⁴ Daniel Funke and Daniela Flamini, “A Guide to Anti-Misinformation Actions around the World - Poynter.”

⁵⁵ Marsden, Internet Co-Regulation: European Law, Regulatory Governance and Legitimacy in Cyberspace.

⁵⁶ European Commission, “EU Code of Practice on Disinformation,” European Commission, 2018, https://ec.europa.eu/newsroom/dae/document.%0Acfm?doc_id=54454.

⁵⁷ Carson and Farlone, “Fighting Fake News: A Study of Online Misinformation Regulation in the Asia Pacific.”

While user empowerment efforts such as media literacy campaigns and training had improved prior to the enactment of the EU Code of Practice, the EU Commission struggled to evaluate their effectiveness due to a lack of key performance indicators by stakeholders. Insufficient reporting and lack of specificity in the information provided by platforms have hindered the EU Commission to quantify harmful behaviour directed towards the EU and the progress made by platforms in countering such behaviour.

European Regulators Group for Audio-visual Media Services (ERGA) also highlighted that the Code's measurements were too broad in scope and structure, with a lack of consistency in the processes (and definitions of 'fake news') used by the various platforms. ERGA urged signatories to pursue more consistency and clarity in their definitions and measurements, as well as in their responses to fact-checked stories. Additionally, ERGA discovered that media literacy efforts had been handled in a disorganised manner and suggested the approach toward co-regulation, citing many compliance problems with the existing self-regulatory paradigm.⁵⁸

While social media platforms have expanded their cooperation with academics and fact-checkers and enhanced their access to important data, the research community has expressed dissatisfaction with the platforms' responses to data requests. The reluctance of the platforms stems from potential breaches of user data privacy. EU Council also reported that platforms had failed to empower civil society actors, fact-checkers, and academics — owing in large part to information sharing restrictions. The EU Commission identified four primary areas of concern: inconsistency and inadequate implementation of the Code across platforms and Member States; a lack of standard definitions; gaps in the scope of Code commitments; and inherent limits in the Code's self-regulatory structure.⁵⁹

⁵⁸ European Commission, "Assessment of the Code of Practice on Disinformation – Achievements and Areas for Further Improvement," European Commission, 2020, https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=69212.

⁵⁹ Valdani Vicari and Associates, "Study for the Assessment of the Implementation of the Code of Practice on Disinformation," European Commission, 2020, https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=66649.

The subsequent section highlights noteworthy national initiatives of Germany as follows.

Germany

Germany is the only country thus far that solely addresses fake news through legislation called the Network Enforcement Act or in Germany known as the '*Netzwerkdurchsetzungsgesetz*' law or NetzDG law in short. The law works quite uniquely where it does not create new offenses to criminalise fake news. Instead, it imposes new obligations on social networking platforms with more than two million members. NetzDG law requires these social media platforms to remove "manifestly unlawful" content. What is "manifestly unlawful" must be cross-referred to the offenses under the German Criminal Code, which includes 22 offenses, such as dissemination of depictions of violence and incitement of hatred, to name a few.

NetzDG law mandates social media platforms to offer a system for users to report unlawful material. After receiving a complaint, platforms must investigate to determine if the material is unlawful. Platforms then must delete material that is "manifestly unlawful" within 24 hours. Other unlawful material must be removed within seven days. Failure to comply may result in penalties of up to €50 million. Additionally, NetzDG enforces transparency standards. If a platform gets more than 100 complaints each year, it must provide semi-annual reports on its content moderation procedures. The legislation specifies in considerable detail the information that must be provided.⁶⁰

Accordingly, numerous stakeholders have voiced their concerns over the possibility of NetzDG law to cause privatised censorship.⁶¹ Social media platforms, in trying to mitigate their liability, may decide to censor all content reported to it and the law does not provide avenues to appeal against such decisions. Based on Echikson study in 2018, out of 1704 reports to Facebook, only 362

⁶⁰ Tworek and Leerssen, "An Analysis of Germany's NetzDG Law."

⁶¹ Human Rights Watch, "Germany: Flawed Social Media Law | Human Rights Watch," 2018, <https://www.hrw.org/news/2018/02/14/germany-flawed-social-media-law>; Daud and Abd Ghani Azmi, "Digital Disinformation and the Need for Internet Co-Regulation in Malaysia."

(21%) were removed by the platform. On the other hand, Google and YouTube received 241,827 reports but only 58,297 (27%) content was removed.⁶² This finding suggests that even with the enforcement of NetzDG, the rate of compliance does not even reach 30 percent of total content reported to social media platforms. This finding could be an early indicator that social media platforms ‘judged’ reported content based on their own set of in-house codes usually tailored to their home jurisdiction. Hence, removal decisions may not be made in line with the German Criminal Code and local conditions.

Australia

Australia applies the co-regulation framework that involves “joint responsibility of all affected parties”, and the government only serves as the “final authority that provides corrective measures when self-regulation fails. It “returns the social responsibility that is originally set for the society within a system that places its trust in market forces while remaining true to the notion of social responsibility”.⁶³ James Meese and Edward Hurcombe identified three different approaches to regulation and other responses to Internet disinformation throughout the world. Voluntary co-regulation does not require mandatory regulation or governmental supervision but calls for digital platforms to collaborate with stakeholders to establish and execute a comprehensive set of goals for combating online disinformation.⁶⁴

Prior to 2017, a specific government task force on fake news was only established to address fake news surrounding elections. Concentrated efforts were notable when the Australian Competition and Consumer Commission (ACCC) conducted an inquiry into digital platforms in 2017. The inquiry’s final report, released in 2019, included comprehensive recommendations for addressing

⁶² William Echikson and Olivia Knodt, “Germany’s NetzDG: A Key Test for Combatting Online Hate,” CEPS Policy Insight, no. November (2018), <https://ssrn.com/abstract=3300636>.

⁶³ Machill, Hart, and Kaltenhauser, “Structural Development of Internet Self-Regulation: Case Study of the Internet Content Rating Association (ICRA)”; Daud and Abd Ghani Azmi, “Digital Disinformation and the Need for Internet Co-Regulation in Malaysia.”

⁶⁴ James Meese, “Regulating Misinformation: Policy Brief” (RMIT University, 2020), <https://doi.org/https://doi.org/APO-309357>.

disinformation and misinformation on Australian-based Internet platforms. ACCC recommends monitoring efforts of digital platforms to adopt credibility signaling, as well as the establishment of a voluntary code for digital platforms to combat misinformation. The said code should apply to complaints about the misinformation that result in “severe public detriment” and should be monitored by the Australian Media and Communications Authority (ACMA).⁶⁵

In 2020, the ACMA published a second position paper to assist the development of voluntary code. The code should apply to digital platforms such as search engines, social media platforms, and other digital content aggregation services having at least one million monthly active users in Australia. Individual news organisations were exempt from coverage under the rule because they were not regarded as significant distributors of disinformation in Australia. This was despite later discoveries that conventional news organisations also contributed to Australia’s Internet disinformation issue.

In response to the ACMA and ACCC efforts, platform providers, represented by the Digital Industry Group Inc. (DIGI) have published an Australian code of practice on disinformation in October 2020 for public comment. Uncertainty around the definitions of important words such as misinformation and disinformation has aggravated the difficulty of addressing the broader issue of fake news. The voluntary code is anticipated for adoption in 2021.

Social Media Platforms: Facebook and YouTube

Since the 2016 U.S. Presidential Election, major social media platforms began developing rules and conditions of use to prevent the spread of fake news and its consequences. Social media sites have embraced the principles of the UN Joint Declaration in their Terms of Use. All platform users must agree to the specific Rules of Use before using the services and failing to comply with the terms may have severe repercussions. This part considers the case of Facebook, as a major social media platform accessible globally.

⁶⁵ Australian Competition and Consumer Commission, “Platforms Inquiry: Final Report,” Australian Competition and Consumer Commission, 2019.

Facebook Statement of Rights and Responsibilities applies to all users of Facebook services. Article 2 waives Facebook's responsibility for third-party content uploaded onto its pages by its users. This principle could have found its roots in the US Digital Millennium Copyright Act 1998 that enforces 'safe harbor' protection towards Internet intermediaries. Article 3 obligates its users not to engage in illegal and immoral activities such as posting unauthorised commercial communications, including spam, spreading bots, uploading viruses, cyberbullying or harassment, and posting illegal content. Article 5 of the Statement of Rights empowers Facebook to remove such material or account should any policy violation be proven.

As far as fake news is concerned, Facebook does not tolerate any act of posting or distributing incorrect, misleading, or false material intended to get likes, followers, or shares. In 2017, the platform created a fake news labeling system where Facebook users may submit warnings so a third-party fact-checker can identify possibly false articles. If third-party fact-checkers find articles labeled as false, warnings will be issued to users who shared it. However, the method was criticised as futile since when a story is tagged as 'disputed', more people searched for information, thereby boosting traffic to fake news.

In response, Facebook decided not to monitor fake news but instead to prioritise material produced by 'family and friends' or regarded as trustworthy by the Facebook community. The company no longer deletes misleading news but choose to empower users via media literacy campaigns. Artificial intelligence and machine learning adopted in its systems will arrange potentially fake articles in the lower News Feed hence limiting its readability.⁶⁶ YouTube and other major platforms have similar in-house policies that facilitate the prohibition of disseminating fake news and other problematic content. YouTube imposes a three-strike rule based on its Community Guidelines.⁶⁷ This arguably provides a democratic element in private enforcement and instilling education to netizens.

⁶⁶ Mahyuddin Daud, "Fake News in the Malaysian 14th General Election: Shall the Net Be Free Forever?"

⁶⁷ YouTube, "Community Guidelines Strikes," YouTube, 2018, <https://support.google.com/youtube/answer/2802032?hl=en>.

CONCLUSION

After much deliberation on this issue, the article examined how fake news affected our life and how Internet censorship may be justifiable to limit its access and propagation. It arguably led to how Internet self-regulation *per se* is insufficient to manage fake news and disinformation. The world needs to come together on democratic terms to co-regulate fake news together. As we have seen in the above analyses, most of the efforts were fragmented. The UN Joint Declaration was a good start but this, of course, is a non-binding piece of document that merely guides countries to legislate fake news with *caution* –not to transgress free speech.

Nevertheless, the fact that many countries surveyed took the approach to legislate as the top priority, means that as part of the global co-regulatory scheme, *enactment of fake news legislation or amendment of existing legislation to criminalise fake news* – is a must. It establishes a legal framework on how the national government can plan to reduce the effects of fake news. This legal framework must enable other strategic actions– via *recognising technical and administrative supports* required to reduce the effects of fake news. At the regional level, countries must unite to streamline regional efforts with international cooperation. Although arduous, it needs to be done together. *Education and awareness* need to continue at all levels of society – the ability to determine fake news is a basic skill that all citizens must possess. Technical measures such as *takedowns* and *content moderation* will complement the laws but must always be counterchecked by human managers as the risks of over-censorship may occur. As the existence of fake news hinges on a supply-and-demand, companies that offer digital services to disseminate fake news must cease to supply such services. Instead, the corporate organisation should promote responsible use of the Internet and certain incentives can be created as a reward system. Laws can also embed such elements of social responsibility for a safer and responsible Internet experience.

On the other hand, the creation of a *task force at the global level* is timely to coordinate government actions on the issue of fake news and disinformation. Coordinated actions and resources from agencies such as the UN Security Council, World Bank, Interpol, and International Telecommunications Union may bring a greater impact on our battle against fake news. As far as the legal fraternity is

concerned, the role of courts in enforcing fake news legislation seems crucial in the countries surveyed. Apart from the element of deterrent and punishment, courts should also ensure that takedown procedures are carried out in line with established international norms on principles of free speech. Although some countries like Singapore chose to empower ministers to issue corrective directions, this too, a *fine balance between power versus freedom* needs to be struck so that actions (on fake news propaganda) will not only be concentrated on what the government thinks is right. *Opportunities to discover the truth* must also be provided via due processes and this can be embedded into legal frameworks to prove that the process to combat fake news is not merely a private endeavour or extreme government censorship in disguise.

On a final note, the COVID19 pandemic may be a turning point for us to come together for a global collaboration to combat fake news and disinformation. While we cannot be certain on how many more pandemics will come, the emergence of digital technologies of 5G and advanced robotics will continue to happen and has taken place faster than we can imagine. Global citizens must ensure that in the upcoming industrial revolutions, technology must be applied to facilitate our daily lives – and never to *take over* our lives. Hence, global Internet co-regulation is key to addressing the global problem to tame this ‘snake’ - of fake news and disinformation.