

An Analysis of the Legal and Ethical Implications of Online Disinformation in the Philippines

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Abstract. *The purpose of this study is to analyze the legal and ethical considerations of disinformation on the PH cyberspace. This paper employed a qualitative research technique that employed case analysis of disinformation in the Philippines as well as a literature review. The study also assessed levels of compliance for existing laws for combating the spread of fake news including the Anti Cybercrime Law and the Data Privacy Act as well as the ethical issues arising from the effects of fake news. The findings revealed the following there is still a lot of maladjustment of the legislation in the sphere of legal regulation, the presence of numerous flaws in the legal regulation itself and the fact that in many countries the emphasis is made on the protection of data rather than the content. Further, the study revealed that the majorly, disinformation is spread with political interests and actors employ fake accounts and coordinated bots. Hence, it is necessary to diagnose the problem more deeply to develop not only proper legislation and control over its implementation but also promote extensive cooperation between the government, mass media, and developers of technologies, as well as improving the level of media competence of society.*

Keywords: *Online disinformation, Philippines, Legal Implications, Ethical Implications*

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INTRODUCTION

As a relatively recent phenomenon, online disinformation which is the deliberate dissemination of inaccurate or misleading content in a digital environment poses legal and ethical questions of a global scale. Public misinterpretation and manipulation cause disinformation campaigns to disrupt the direction of healthy public discourse, and the erosion of the democratic process by spreading fallacies that could potentially mislead the population and damage democratic processes (Harmse, 2022; Miller & Robinson, 2019). In the Philippine context the issue of fake news is quite operational and became prominent issue since the 2016 national election wherein dissemination of news through, social networks particularly Facebook became a massive issue (Aranda, 2021; Cabañes, 2022). This new wave of fake news comprised of deliberate employment of fake news, sensationalised headlines, doctored photos and videos that went further through other fake accounts and bots for the purpose of manipulating the voters and swaying public opinion (Maweu, 2019).

The most common vectors of fake information distribution in the Philippines are social networks, such as Facebook, Twitter, and YouTube mean actively used by the population. A report from the Digital News Report in 2021, found that 92% of internet users in the Philippines are using social media for accessing news, therefore the platforms are important for both, news consumption and misinformation. These different social media feeds have promoted the sharing of fake news that prompted the passage of Raw 10175 or The Cybercrime Prevention Act of The Philippines that proscribes cyber libel and other related offenses, as well as the Republic Act No

10173 also known as the Data Privacy Act otherwise known as the Philippine law that protects personal data particularly in the social media platform.

There is still the problem of how effectively these legal frameworks can be enforced. Some of the challenges cited in the literature include the enactment of the law has jeopardized freedom of speech and targeted political rivals (Alampay et al., 2018; Wennäkoski, 2022) opined that The Anti Cybercrime Law is deemed contain broad and vague provisions. On the same note, the Data Privacy Act has been condemned to offer less protection concerning content regulation that other countries legislation does even if content regulation is fundamental in the fight against fake news online (Cabanés et al., 2018). Such limitations suggest further enhanced approaches to thus restore people's freedom of expression while at the same time preserving democracy and trust in institutions.

This research seeks to assess the legal and the ethical considerations of the online disinformation in the Philippines in terms of the legal regime's success and the ethical principles that are breached in the course of disseminating false information. The study also aims at exploring liability of the people and other social media companies bearing in mind that though the platforms have set down some policies to eradicate fake news, enforcement is rather sporadic (Školkay, 2020; Martínez Otero, 2021). Through exploring these concerns, the study intends to make suggestions and recommendations that can help in reducing the negative effects of disinformation in the context of philippine society and part of nurturing a more enriched democratic space.

METHODS

Studied employed work of qualitative research which includes case study of Filipino disinformation and literature study. This paper looks at legal aspects and with special focus on the Anti Cybercrime Law and the Data Privacy Act to assess whether they offer an appropriate strategy towards combating disinformation. The ethical considerations are discussed based on a survey of the literature on reasons for the circulating of disinformation such as political motives, and the use of bots and fake accounts.

RESULT AND DISCUSSION

Legal Implications of Online Disinformation in the Philippines

Fake news in the Philippines has recently been incorporated in the society and has been followed by several laws aiming at addressing the issue. For instance, the 'Anti Cybercrime Law (Republic Act No. 10175)' has banned cyber libel, identity theft and the sending, among others, of false information. The laws that relate with the use of Personal Information in the Philippines are the Data Privacy Act (Republic Act No. 10173). Nevertheless, the effectiveness of such laws in the crusade against falsehoods in the internet has remained a subject to debate. Alampay et al. (2020) noted that the People's Anti Cybercrime Law has been said to be problematic in at least two ways. It is described as being too comprehensive and ambiguous, thus giving the state a green light to limit freedom of speech especially to political rivals. The study also elucidated that where implementation of the law is concerned, it has been a partial endeavor that focuses on the high profile's cases.

As well, it has been pointed out that the Data Privacy Act does not work to address the problem of disinformation. Cabanés et al. (2018) testified that the analysis of the law is the change of focus to the protection of data rather than a content point, and that is part of the approach against disinformation. The laws have failed to contain the disinformation problem in the Philippines showing that there is need to come up with better solutions. This involves safeguarding of rights to freedom of speech and democracy alongside the development of the policies and laws which are to regulate the freedom so granted to the nation (Alexander & Horton, 2018; Olssen, 2020). It involves intervention of the government, media, non governmental organizations and technology firms among other stakeholders.

Ethical Implications of Online Disinformation in the Philippines

The spread of disinformation in the cyberspace of the Philippines it is illegitimate as well as unethical civil violation. Lack of knowledge, denialism, manipulation and fake news present on the Internet and social networks mislead the society, deteriorate the citizens trust and negatively influence the democratic institutes. A similar study reveals that fake news is political in the Philippines saying there are some who use fake news to have their way. This raises the implications of the gains and drawbacks of such an undertaking while at the same time casting doubts on the credibility of actors in the process and their adherence to democracy.

Further, the other additional study also shows that there are a lot of bots and fake accounts in the sources of disinformation in Philippines. This causes a lot of concern on the ethical side of such people and companies that indulge in such malpractices and the social sites that encourage such actions. The problems of responsible social media utilization, especially in connection with the presence of misinformation in the Philippines are evidence of the appeal of ethical behavior in the context of the online space, according to Cabañes et al. (2019). They consist of raising awareness of the user and reciprocated education on the correct usage of the social media, enhanced and refined skills in argumentation and critical thinking, enhanced standard of ethical practice within the media. Furthermore, there should be some sort of sanction to be placed on those people or organizations that engage in the release of disinformation over the internet, or the firms that make the tools by which such activities are made possible.

Case Studies of Online Disinformation in the Philippines

On the negative aspects there have been so many instances of coordinated disinformation on the social media particularly during the elections in the Philippines. Thus, the following cases describe how fake news appear on the Internet and what can occur with the public and elections as a result. Another example of fake news was the fabricated news article in article during the presidential elections in Philippines 2016 that a certain candidate had been funded with millions of dollars from drug lords (Fernandez, 2017). The article was posted on the social networks that caused the candidate's loss in the election since many people took the content of the fake article as the truth. For this reason, interventions can evidently see the negative effects of social media disinformation on election results more emphasis should be placed in enhancing media literacy within the society.

However, some effort has been made towards the challenge that is associated with disinformation for example in the Philippines. For instance, the Anti Cybercrime Act has provision on cyber libel as well as online defamation (Barclay, 2017; Cross, 2021). Still, because of characteristics of disinformation and constantly changing environment where it is mostly disseminated, legal measures require periodic examination and enhancement to address this issue.

The act of disseminating fake news in the social network is rather questionable when speaking about the potential of manipulation, the loss of people's trust, and the detrimental effect on individual and societal stakeholders. It provides discourses on the share of the responsibility that social media users have in consuming and sharing content, the share of responsibility that social media platforms have concerning the content shared and the lack of media intelligence and presentations that people should go through before making a choice of what to believe.

The first pertained to fake news that a new law was in the process of going through the legislative procedures and once passed, it would allow the government to snoop on its people on the social media (Iosifidis & Nicoli, 2020; Cepeda, 2019). Through daily web casting and satellite broadcasting the circulation of this false information stated that the law had been passed which caused unrest in the society with some persons holding protests. Thus, it becomes possible to identify the level of risk of spreading misinformation in the Internet space as a means of stirring up societal conflict, and the need to elaborate the measures of media outlets and specialists in the field of combating fake news. The third case involves interruption in big bot and fake accounts

armies to post rumors regarding a specific government official, which at last create a fake social media campaign of cyber bullying (Uyheng et al., 2021; Kaimo, 2019). This particular case serves the purpose of illustrating how disinformation over the Internet can be use for the sake of personal grudge and how one has to acknowledge the outcome of the events among those who participate in the play. The said cases show the real time threats of fake news and other negative tendencies associated with the improper use of the Internet and the need to act appropriately and verify information.

Integrated Strategy to Combat Online Disinformation in the Philippines

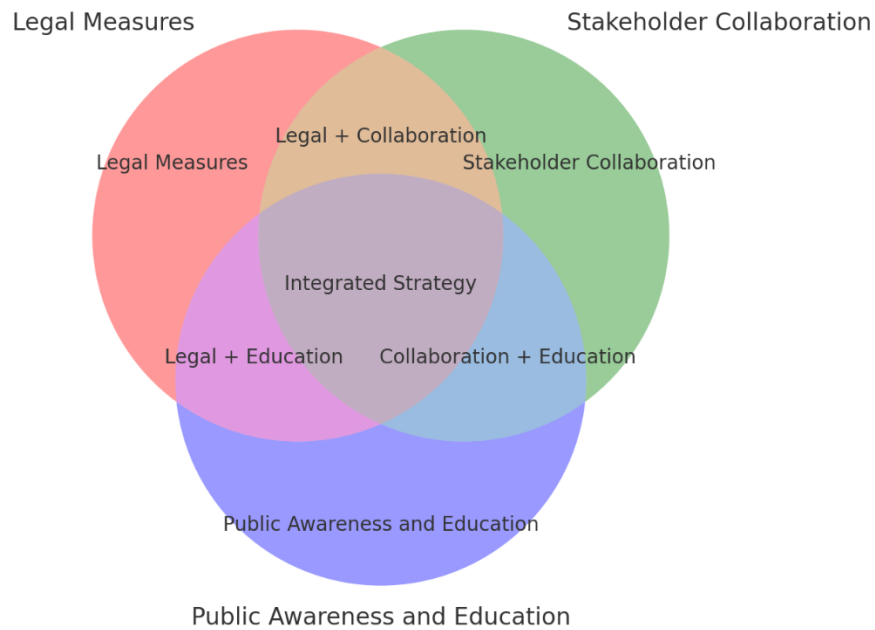


Figure 1. Integrated Strategy to Combat Online Disinformation in the Philippines

The diagram illustrates a comprehensive strategy to combat online disinformation in the Philippines, emphasizing the integration of three primary approaches. There are the legal and regulatory approach, the partnership with the stakeholders and the community awareness and engagement approach. According to Marsden et al. (2020) the legal actions involve the government first of all setting laws and regulations which aim at combating disinformation. It may entail a process of development of laws that regulate the generation of fake news and punish those who engage in it and the development of laws that seek to regulate responsibility of the platforms and the individuals who spread fake news. Hence, stakeholder collaboration seeks to emphasise the need for multi party interactions of different entities such as government and policy making organisations, information and communication technology firms, non governmental organisations, and media houses (MacDonald et al., 2022). These stakeholders can cooperate and combine efforts along with resources and best practice on the matter and set an efficient cooperation against disinformation, which in return enhances the general retention to combat and lessen its impacts. Juries and creations inform the public as they require the public to gain the knowledge on how to evaluate information received. It is in the awareness creation programmes, digital literacy trainings, and organizational crusade that the public can learn what disinformation is, the approximately effect it has, and how not to contribute to the spread of it.

In the middle of the diagram, there is an integrated approach, a combination of all three approaches to fight against the disinformation more efficiently. This integrated approach attempts to reconstruct the experience of the informational environment with the help of legal influence, unification of the interested stakeholders, and enhanced public awareness at the same time. Furthermore, the interconnections between the distinct approaches indicated here: the synergy between legal and educational measures or collaboration with other means and raising

awareness evidence how these strategies can be combined and sustained when used as an integrated system, which in turn means creating a more effective line of defense against the increasing menace of online disinformation.

The analysis further reveals that though the Philippines has legal measures such as the Anti Cybercrime Law (Republic Act No. 10175) in place to address issue of disinformation, the issue of enforcement is rather complicated. The Anti Cybercrime Law has been widely condemned for having provisions that are so general and elastic that the authorities can use them in suppression of BFPs rights to freedom of speech. For instance, measures such as cyber libel provisions proved to be helpful in several controversial cases against journalists and political activists, thus triggering concerns over how those measures are consonant with democracy (Alampay et al., 2018; Uy-Tioco & Esguerra, 2019).

Moreover, the Data Privacy Act (Republic Act No. 10173) that mainly covers the protection of personal information does not fully address the content regulation component essential in the fight against false information present in the online platform. This limitation is quite relevant here because very often disinformation campaigns are based on distorting content rather than infringing on the rights of privacy (Cabaner et al., 2018). This is because although the law focuses on data protection, and says nothing about curbing the uncontrolled spread of falsehoods, it is inadequate in achieving its goal.

These incidents indicate that the primary reasons for the creation of disinformation in the Philippines are political with the actors being involved in creating fake walls and using fake accounts, bots, and various coordination web schemes in order to brainwash the community and malign the opponents. Such strategies have been observed in recent elections, where malicious actors launched synchronized cyber threats and spread fake news aimed at controlling the voter perception and the results of elections (Nieves & Sotto, 2018; Kaimo, 2019). Real life experiences from the Philippines using the certain cases prove the negative impact of the online disinformation on the democratic processes. For instance, during the 2016 USA presidential elections, fake stories and fake images were being spread with the aim of discrediting the candidates and manipulate the voters (Fernandez, 2017). The same strategies were also applied in the 2019 midterm elections where fake news were propagated through fake accounts leading to social tension and doubt of the electoral process (Espina, 2019). From these cases one can see how damaging disinformation is to democracy and the consequent necessity of fighting it.

Hence, the study calls for the need to adopt a broader strategy to fight disinformation in Philippines social networks. The foregoing has a measure of protection under the laws such as the Anti Cybercrime Law and the Data Privacy Act. However, there is inadequate protection owing to challenges in implementation, some points in the law that are ambiguous and a lack of objective that can comprehensively address the issue of irresponsible use of social media by regular citizens, in research by Wirtz et al. (2022). To overcome such restrictions, there should be the cooperation of several entities, such as the government, media, civil society, and technology industry. One of them is the strengthening of the regulatory base with the elements that would strengthen the protection of the democratic values while maintaining the freedom of speech. Such framework should contain concrete measures for content moderation, improved procedures for detecting and reporting false information and increased sanctions for the violators. There is a need for a multi sectoral approach and not only focus on the legal reform but also addressing society awareness and education and media portrayal and critical thinking (Cawagas & Rodil, 2021). It is also therefore necessary to encourage the practice of responsible reportage and ethical journalism. The media outlets and social media must have certain standards regulating the content they release and provide checks and balances for the information and facts provided. On the same note, technology firms must try to enhance its algorithms and reporting systems to help eradicate the perpetration of fake news (Banaag, 2019).

Last but not the least, it reiterates that it is critical to point out that fight against disinformation online cannot be won through legal reforms only. In this case it proposed

educational actions to promote media literacy and to increase consciousness about problems connected with disinformation. To this end, the Philippines can help build a society that is less vulnerable to the tactics of the online disinformation by educating its citizens to know how to reduce a news item for its credibility (Gadia, 2019).

CONCLUSION

The paper has also highlighted the fact that negative ethnocentrism is common in the Philippine online community hence that there should be a proper use of social media and regulation of content. The study shows that despite governments efforts to open strategies to fight disinformation, there is always a time delay in the measure deployment. According to the ethical considerations of disinformation online, media literacy as well as the responsibility of the media and the responsibility of persons engaged in the process of distribution of false information. From the informations presented in the case studies it is possible to conclude about the impact of the fake news and the results of such actions on the democratic elections. Lastly, the issue on disinformation in the online platform in the Philippines is not a basic issue that can be remedied with one solution, it is a highly complex issue that needs a lot of approaches in solving as much as possible. This is the major area which requires regulation to be efficient as well as the media literacy and accountability from people sharing fake news. By addressing these issue we can fight for overall knowledge and move further towards the democracy by limiting the distribution of fake news.

REFERENCES

- Alampay, E., Dizon-Ross, R., Miranda, J. J., & Ong, J. (2018). Freedom of Expression and the Law in the Philippines: Defamation, Cyberlibel and Beyond. *Asian Journal of Law and Society*, 5(2), 349-372. <https://doi.org/10.1017/als.2018.16>
- Alampay, L. P., Galvez Tan, L. J. T., Tuliao, A. P., Baranek, P., Ofreneo, M. A., Lopez, G. D., ... & Guintu, V. (2020). A pilot randomized controlled trial of a mindfulness program for Filipino children. *Mindfulness*, 11, 303-316. <https://doi.org/10.1007/s12671-019-01124-8>
- Alexander, L., & Horton, P. (2018). Review essay: the impossibility of a free speech principle. In *Freedom of Speech* (pp. 303-341). Routledge. <https://doi.org/10.4324/9781315181981>
- Aranda, D. (2021). " Die-Hard Supporters": Overseas Filipino Workers' Online Grassroots Campaign for Duterte in the 2016 Philippines Elections. <https://doi.org/10.37513/ciar.v14i2.618>
- Banaag, M. C. (2019). Social media and disinformation in the Philippines: an exploratory study on how social media is shaping the information landscape. *Media Asia*, 46(4), 347-357. <https://doi.org/10.1080/01296612.2019.1686364>
- Barclay, C. (2017). Cybercrime and legislation: a critical reflection on the Cybercrimes Act, 2015 of Jamaica. *Commonwealth Law Bulletin*, 43(1), 77-107. <https://doi.org/10.1080/03050718.2017.1310626>
- Cabañes, J. V. A. (2022). The imaginative dimension of digital disinformation: Fake news, political trolling, and the entwined crises of Covid-19 and inter-Asian racism in a postcolonial city. *International Journal of Cultural Studies*, 25(3-4), 428-444. <https://doi.org/10.1177/13678779211068533>
- Cabanes, J. V., Chua, R. Y., Ong, J., & Ong, A. T. (2018). A review of the Philippine data privacy act. *International Data Privacy Law*, 8(4), 289-307. <https://doi.org/10.1093/idpl/ipy012>
- Cabañes, J., Anderson, C. W., & Ong, J. C. (2019). Fake news and scandal. In *The Routledge companion to media and scandal* (pp. 115-125). Routledge. <https://doi.org/10.4324/9781351173001>

- Cawagas, V. R., & Rodil, K. R. (2021). Media literacy and disinformation in the Philippines: a case study of the 2019 midterm elections. *Media Watch*, 12(1), 1-15. <https://doi.org/10.15655/mw/2021/v12i1/204308>
- Cepeda, M. (2019). *Fact check: Proposed anti-terrorism law does not legalize wiretapping of all Filipinos*. Rappler. <https://www.rappler.com/newsbreak/fact-check/231512-proposed-anti-terrorism-law-not-legalize-wiretapping-all-filipinos>
- Cross, C. (2021). Dissent as cybercrime: social media, security and development in Tanzania. *Journal of Eastern African Studies*, 15(3), 442-463. <https://doi.org/10.1080/17531055.2021.1952797>
- Espina, J. V. (2019). Online disinformation and its impact on Philippine politics: a case study of the 2019 midterm elections. *Journal of Contemporary Southeast Asian Affairs*, 8(1), 56-73. <https://doi.org/10.1177/2334041420907504>
- Fernandez, D. (2017). *How fake news helped Duterte win*. Rappler. <https://www.rappler.com/newsbreak/iq/170042-how-fake-news-helped-duterte-win>
- Gadia, C. T. (2019). Propaganda and disinformation in the Philippines: legal and ethical issues. In T. Uy-Tioco & M. V. Esguerra (Eds.), *Media, Law and Justice in the Philippines* (pp. 157-168). Routledge. <https://doi.org/10.4324/9780429506791-10>
- Harmse, D. (2022). Propaganda and the war on truth: examining informational inconsistencies governing South Africa's Covid-19 policy response. *EUREKA: Social and Humanities*, (3), 70-90. <https://doi.org/10.21303/2504-5571.2022.002323>
- Iosifidis, P., & Nicoli, N. (2020). *Digital democracy, social media and disinformation*. Routledge. <https://doi.org/10.4324/9780429318481>
- Kaimo, K. (2019, June 18). *How online harassment led to Iloilo Mayor Mabilog's downfall*. Rappler. <https://www.rappler.com/nation/232050-online-harassment-iloilo-mayor-mabilog-downfall>
- MacDonald, A., Clarke, A., & Huang, L. (2022). Multi-stakeholder partnerships for sustainability: Designing decision-making processes for partnership capacity. In *Business and the ethical implications of technology* (pp. 103-120). Cham: Springer Nature Switzerland. https://doi.org/10.1007/978-3-031-18794-0_7
- Marsden, C., Meyer, T., & Brown, I. (2020). Platform values and democratic elections: How can the law regulate digital disinformation?. *Computer law & security review*, 36, 105373. <https://doi.org/10.1016/j.clsr.2019.105373>
- Martínez Otero, J. M. (2021). Fake reviews on online platforms: perspectives from the US, UK and EU legislations. *SN Social Sciences*, 1(7), 181. <https://doi.org/10.1007/s43545-021-00193-8>
- Maweu, J. M. (2019). "Fake elections"? Cyber propaganda, disinformation and the 2017 general elections in Kenya. *African Journalism Studies*, 40(4), 62-76. <https://doi.org/10.1080/23743670.2020.1719858>
- Miller, D., & Robinson, P. (2019). Propaganda, politics and deception. *The Palgrave handbook of deceptive communication*, 969-988. https://doi.org/10.1007/978-3-319-96334-1_50
- Nieves, J. D. M., & Sotto, G. F. (2018). The Ethics of Fake News in the Philippines: A Study on Political Propaganda. *Kritika Kultura*, 30, 61-83. <https://doi.org/10.13185/KK2018.03004>
- Olssen, M. (2020). Neoliberalism, globalisation, democracy: challenges for education. In *Globalisation and Education* (pp. 28-72). Routledge. <https://doi.org/10.4324/9780429464454>

- Školkay, A. (2020). An exploratory study of global and local discourses on social media regulation. *Global Media Journal-German Edition*, 10(1). <https://doi.org/10.22032/dbt.44942>
- Uyheng, J., Ng, L. H. X., & Carley, K. M. (2021). Active, aggressive, but to little avail: characterizing bot activity during the 2020 Singaporean elections. *Computational and Mathematical Organization Theory*, 27(3), 324-342. <https://doi.org/10.1007/s10588-021-09332-1>
- Wennäkoski, A. A. (2022). The Freedom of speech in the Digital Era: Leveraging Its Constitutional and Social Ramifications. In *YSEC Yearbook of Socio-Economic Constitutions 2021: Triangulating Freedom of Speech* (pp. 145-174). Cham: Springer International Publishing. https://doi.org/10.1007/16495_2021_36
- Wirtz, B. W., Weyerer, J. C., & Kehl, I. (2022). Governance of artificial intelligence: A risk and guideline-based integrative framework. *Government Information Quarterly*, 39(4), 101685. <https://doi.org/10.1016/j.giq.2022.101685>