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Uncovering the Issues of Fake News from the Legal Perspective: A Malaysian Context

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ABSTRACT

The proliferation of false information in Malaysia is a growing worry because it has the potential to fuel animosity, disturb social cohesion, and spark civil unrest. The Malaysian government is actively working to combat the issue of fake news by enacting laws to regulate its distribution. This article studies the legal aspect of fake news in Malaysia, examining its legal definition, impact, and regulatory framework. A compilation of fake news cases from the past, as well as in-depth studies of selected cases will offer valuable perspectives to scholars in Malaysia and the boarder academic community. Through qualitative content analysis, the study reveals several legal concerns in Malaysia. These include determining whether one-sided or third-party news can be classified as fake news, as well as the challenge of identifying subtly biased or unclearly-sourced articles. The study also highlights the complexities of language use and subjectivity in article writing, as well as the difficulties of identifying anonymous authors and distinguishing freedom of expression from defamation and fake news. While legislation may be helpful in addressing fake news, it may be more effective to promote transparency and accuracy of information on social media. It is important to note that the concept of fake news in Malaysia is still ambiguous and unclear, which may hinder efforts to combat its dissemination.

Keywords: *Content analysis, conceptual, fake news, legal, Malaysia.*

INTRODUCTION

In the context of non-Western multi-ethnic nations, there is a lack of research on “fake news”. Most studies have predominantly focused on Western democracies characterized by a liberal political culture. To bridge this gap, it is crucial to conduct a comprehensive study of a heterogeneous nation that explores its history and trends. Malaysia, with its unique characteristics, serves as an ideal case study as it can offer valuable empirical and theoretical insights in this field of research. Since the emergence of the internet in the 1990s, which coincided with the *Reformasi* movement, cyberspace has evolved into a politically active arena for various civil groups and political parties. However, with the advent of social media, the spread of fake news has become more widespread and difficult to control, with potentially disastrous consequences.

This study aims to examine the legal perspective of fake news in Malaysia by analysing past records of fake news and its impact. By reflecting on the past and examining the present, the study seeks to gain a deeper understanding of the legal definition of fake news, the impact

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of fake news, and the legal framework for addressing it. A compilation of fake news cases from the past, as well as in-depth studies of selected cases will provide valuable insights for scholars in Malaysia and the wider academic community.

LITERATURE REVIEW

Defining Fake News

"Fake News" has emerged as a widely discussed issue on a global scale, gaining significant attention since 2016, particularly during the Donald Trump administration. This term was used to discredit journalists and news organizations that did not align with the administration's goal, and it has since been frequently employed by politicians to dismiss critical news organizations (Waisbord, 2018). As noted by Vosoughi, Roy, and Aral (2018), politicians often use the term to refer to any information released by the media that does not align with their political ideology. It is commonly observed that right-wing politicians, commentators, and activists frequently employ this term to instil scepticism about the accuracy of news in order to mislead the public into believing that the news is false (Lees, 2018).

Even though “fake news” has gained popularity following the 2016 Presidential election, but the concept can be traced back to 1896, when it was known to as “disinformation” during the World Wars and “freak journalism” and “yellow journalism” during the Spanish Civil War (Crain, 2017). This type of journalism is often criticized for being unreliable, of low quality, and intended to achieve political objectives through sensational headlines and fabricated stories. However, some argue that the term "fake news" was initially used for satirical shows and publications that were meant to entertain, rather than inform (Molina et al., 2019). Unlike traditional media, it can be seen as a form of humour, irony, and entertainment that utilizes exaggeration.

However, what sets apart fake news from other forms of misinformation is the current information landscape where social media has taken over as the primary source of information exchange and people are no longer solely reliant on traditional, mainstream media that is controlled by media owners and gatekeepers. Today, individuals are not only receiving information, but also producing content through various online platforms, exacerbating the spread of fake news. Unlike conventional media outlets, social media platforms are largely unregulated, and citizen journalists are playing a more active role than trained journalists in producing and editing content. This shift has been noted by Fink (2019) as a decline in trust in journalism, making it difficult for journalists and professionals to reach mass audiences. People now put more trust in information shared on social media, which is often created and shared without proper authentication. As supported by Casad and Luebering (2023), some individuals perceive information that supports their pre-existing beliefs as more credible and reliable, disregarding the importance of facts and evidence-based news gathering, further contributing to the fake news problem.

In defining fake news, Molina et al. (2019) uses the term “real news” to explain the opposite of its original term. Real news can be understood through the journalistic practices that adhere to the journalistic code of ethic. Its structural and formal features contrast with false news but intend to mimic legitimate news in form (Lazer et al., 2018). This type of misinformation is often spread through transient websites that seek to generate revenue through advertising,

regardless of the accuracy of the information they present. It is characterized by spelling and punctuation errors, sensational headlines, and an emphasis on evoking strong emotions.

Although the definition of "fake news" has been simplified as information that mimics traditional media formats but lacks credible sources and has political or commercial motivations, identifying it can still be difficult. There is a lot of debate over what should be considered "fake news" and what should not. This is important because the term "fake news" has become highly politically charged and is often used as a means of propaganda to gain power (Pennycook, Cannon, & Rand, 2019).

On the other hand, Molina et al. (2019) discussed various aspects of the term “fake news”. This includes commentary, opinion and feature writing, misreporting, polarizing and sensationalist content, citizen journalism, satire and persuasive information. The scholars emphasized that commentary and feature writing is distinct from hard news, as it is an expression of personal opinions and does not adhere to the standards and format of traditional news. This is written in Altay et. al. (2020) that fake online content relied on misleading and attention grabbing headlines that employ emotional triggers, which can result in misinformation if the writer's biases influence the content in a manner that damages the reputation of an individual or organization. Consequently, individuals frequently exhibit hesitation when it comes to sharing fake news, especially when they are aware of its deceptive nature.

Case Studies on Fake News in Malaysia

In Malaysia, several studies have examined the issue of fake news in Malaysia, highlighting its prevalence and impact on society. Mohd Al et al. (2019) study analysed the effectiveness of regulatory approaches in combatting fake news, while Bahiyah (2022) highlights a mitigation framework against misinformation specifically on WhatsApp. Balakrishnan (2022) examines the socio demographic factors that influence the sharing of misinformation and authentication behaviours among young adults in Malaysia, and Balakrishnan et al. (2023) utilizing machine learning to identify fake news by analysing content characteristics in the context of the COVID-19 pandemic. These studies suggest that fake news is a significant problem in Malaysia, and a multi-pronged approach is necessary to combat its spread. Along with stronger regulations and the use of advanced technologies, media and information literacy education is crucial in helping individuals distinguish between real and fake news. Additionally, Mahyuddin and Ida Madieha (2021) recommended the need for internet co-regulation in Malaysia, and Hasmah and Chin (2020) emphasize the importance of new media literacy and critical thinking in tackling fake news problem.

The impact of fake news on Malaysian society has also been studied. Aimi et al. (2020) found that phenomenon of fake news has posed challenges for authorities in managing information, particularly during health crises. Besides, Studies have also indicated that Malaysia experiences a significant amount of fake news, particularly during election periods. This misinformation has been found to influence voters' opinions and behaviour, potentially leading to political and social unrest. Factors contributing to the spread of fake news in Malaysia include a lack of media literacy among the public, social media as a primary source of news, and political and economic interests benefiting from the spread of false information. This is pointed out by Daud (2020) that there was an emerging threat of online fake news during the 14th Malaysian

General Election. The findings stress the importance of a legal framework to curb fake news. Furthermore, the spread of misinformation has also been seen in claims of increased crime rates in Kuala Lumpur and conspiracy theories surrounding the disappearance of Malaysian Airlines Flight MH370.

Overall, these studies provide a comprehensive understanding of the challenges of combating fake news in Malaysia, and highlight the need for a multi-pronged approach that includes media and information literacy education, stronger regulations, and advanced technologies.

While some studies have examined perceptions (Souhaila et al., 2018) and frameworks of fake news (Daud & Zulhuda, 2020; Aimi et al., 2020), as well as state responses to disinformation (Moonyati, 2019), these tend to be more conceptual and lack empirical data. Recent studies have focused more specifically on the impact of fake news related to the pandemic (Norazlinda et al., 2022; Balakrishnan, Ng, & Rahim, 2021), as well as self- and co-regulatory approaches to combat it (Mahyuddin & Ida Madieha, 2021). However, many of these studies reference Western research, which may not be directly applicable to local contexts. As a result, there is a lack of clear understanding about how the term "fake news" is used in the local context.

To address this gap, a comprehensive study of the use of the term "fake news" in the local context is needed, which this research aims to do by offering a comprehensive archival research on the issues of fake news in Malaysia.

The Malaysian Context: Related Issues

Generally, Malaysian scholars refer "fake news" to false or misleading information that is spread through different media channels such as social media, blogs, and websites. In addition, some has often associated the term with political propaganda, misinformation campaigns, and to influence political discourse (Nururrianti & Ika, 2019). While there is no specific legal definition of fake news in Malaysia, it generally encompasses information that is intentionally false, misleading, or inaccurate, with the intention to deceive or mislead the public.

The impact of fake news on a diverse country like Malaysia cannot be underestimated. It has the potential to fuel hatred, reinforce stereotypes, and perpetuate prejudices. Moreover, the spread of fake news can cause panic and disrupt social harmony, leading to public unrest. A striking example of this occurred during the 2018 general elections in Malaysia, where false information was intentionally circulated to create political hatred and changing people's perception (Sara & Norain, 2018).

In response to the challenge of fake news, the Malaysian government has implemented various regulatory measures. These include the enactment of laws that criminalize the dissemination of fake news and the establishment of a dedicated unit to verify the authenticity of news. However, there is ongoing debate regarding the effectiveness of these measures, as concerns have been raised about potential abuses of power and infringements on freedom of speech (Hafidz et al., 2021).

Defamation & Fake News

In Malaysia, the majority of court cases related to fake news are centered around tort, libel, and defamation. Journalists or individuals can face legal action for content intended to harm others or that results in tarnishing reputation.

This has a chilling effect on the press, particularly when reporting on politically and economically sensitive issues, leading to threats of mega lawsuits aimed at preventing journalists from fulfilling their role as watchdog. This was highlighted by the Open Democracy's editor-in-chief, Peter Geoghegan, who expressed that legal action was taken as a "clear attempt to intimidate independent investigative journalism" (Neate, 2022). Similarly, the editor-in-chief of *Malaysiakini*, Stevan Gan, also expressed disappointment with a court's decision in a defamation case, expressed disappointment with a court ruling in a defamation case, stating that they were merely fulfilling their obligation as journalists to hold those in positions of authority accountable (Hidir, 2021). This has indeed had a significant impact on press freedom in the country.

In addition, this issue has sparked a debate about self-regulation or self-censorship within the press, shaping the norms of media practice in the country. The pressure from political parties has led journalists to be more mindful in their reporting, which negatively affects their ability to produce fair and balanced reporting. This is echoed in the Media Advocacy Campaign organized by the International Federation of Journalists and the National Union of Journalist Malaysia, which highlights the ongoing challenges faced by journalists in the country. These challenges include draconian press legislation, issues of self-censorship, media controls, and the importance of strengthening public trust. To achieve this, it is vital to increase support for journalist, besides promoting a democratic and open society (International Federation of Journalists, 2020).

In summary, press freedom in Malaysia faces constrains not only through legislation but also through the control exercised by political parties, resulting in information manipulation. This highlights the subjectivity of the country's practice of what constitutes "fake news" and raises question about the practice of media rights in reporting.

Legal Framework for Addressing Fake News

a) Penal Code 505(b)

The Penal Code's Section 505(b) is frequently used to tackle the spread of fake news, both offline and online. This act stresses the information spread that might cause public fear or panic (Hafidz, Farid & Nadiah, 2021). In recent years, the act has been extensively utilised to combat the dissemination of misinformation about COVID-19 (Bernama, 2020). However, human rights advocates have raised concerns about the reliance on criminal processes by the Malaysian government to curb the spread of false information. They believe that legal action should only be considered as a final option for the most severe forms of speech.

b) Printing Presses and Publication Act 1987.

The Printing Presses and Publications Act of 1987 in Malaysia, aimed at preventing the spread of fake news through the printed press industry, has come under criticism for its vague definition of "false information." The Act has been accused of being misused against opposition politicians (Farid & Hafidz, 2019) and social activists. The provision requires publishers to verify the authenticity of the news, but it can be difficult to prove that all necessary steps were taken to do so. The standard to eliminate malice in false news has been criticized as being unreasonable (Nawang & Mustaffa, 2017). However, it is often subjective to prove whether the publisher had taken all necessary steps to verify the news.

c) Communication and Multimedia Act 1998

Daud and Zulhuda (2020) point out that Communication and Multimedia Act 1998, particularly the section 211 and section 233 had been frequently used to regulates offensive content on the internet. A person may be sentences to a maximum fine RM50,000 or imprisonment for a term not more than a year or both. Based on Multimedia and Communication Commission website, Section 211 of the Act focuses on "prohibition on provision of offensive content" and Section 233 on "Improper use of network facilities or network service". However, some has criticized that the definition is very broad and could be used to silence the voices of opponents and general publics. This is echoed by Daud (2019) that the vagueness of terminologies stipulated in the act is problematic, this include the word, "false or offensive" information which is open for multiple interpretation.

d) Anti-Fake News Act 2018

The Anti-Fake News Act 2018, which criminalizes the creation, publishing, and dissemination of fake news, has received significant criticism. The act defines fake news as any news, information, data, or report which is wholly or partly false and likely to cause public fear or alarm, and it provides for severe penalties, including fines of up to RM500,000 and imprisonment of up to six years (Daud & Zulhuda, 2020).

However, the act has been criticized for being rushed through Parliament and being perceived as politically motivated, particularly in the context of the 14th General Election (Fernandez, 2019). Some view this act as a means to suppress freedom of speech and criticism, with its potential impact on the 1MDB corruption scandal (Beech, 2018; Moonyati, 2019). According to the Malaysian Anti-Fake News Act 2018, the Act includes all kind of information, word, content, voices and even ideas in defining fake news and that it could be any information that is false or party false (Fernandez, 2019). The definition of fake news is ambiguous and covers a wide range of information, making it difficult to distinguish between legitimate speech, misinformation and fake news. In May 2018, the newly elected government announced that it would repeal the Anti-Fake News Act 2018, citing concerns over its impact on freedom of expression.

In September 2020, the Malaysian government introduced a new law to regulate the dissemination of fake news. The Emergency (Essential Powers) (No. 2) Ordinance 2020 imposes fines of up to RM100,000 and imprisonment of up to three years for those who found guilty of creating, publishing, or disseminating fake news, particularly fake news that related to COVID-19 (The Sun, 2021).

Nevertheless, the introduction of the act has been criticized for its vague and broad definition of fake news and its potential impact on freedom of expression. It has also been criticized for being an abuse of emergency powers, with some arguing that it is a tool to suppress dissent and criticism of the government (Nurul Hafidzah, 2019).

METHODOLOGY

Qualitative Content Analysis

This research aims to provide an overview of research on fake news in Malaysia from the past 42 years (1978-2020), from the legal perspective. Through a qualitative content analysis approach, it aims to gather empirical evidence on fake news. A total of 193 high court judicial cases related

to fake news were extracted from LexisNexis Malaysia, a global provider of content-enabled workflow solutions for legal issues.

The keywords "Fake News" in both English and Malay language were used to search for relevant court records in LexisNexis Malaysia. Cases that were irrelevant to the research, such as fake credit cards and fake hair, were filtered out. The remaining cases were found to share similarities in terms of keywords such as "defamation", "accusation", "story", "misleading", "allegation", "bad intention", "confusions", "slander", and "rumour".

The study focuses on the definition of "fake news" from the 1900s to the 2000s and examines cases with similar circumstances that might have been judged differently, to deepen the understanding of fake news in different contexts. A coding sheet was used to record and analyse the data.

Table 1: Sample of high court judicial records

Year	Frequency of High Court Judicial Cases
1978-1999	29
2000-2009	37
2010-2020	127
Total	193

Table 2: Sample of coding

No.	Year	Title of Court Case	Issue	Condition being sued	Keywords	Remarks

RESEARCH RESULTS

Fake news is frequently characterized as information that is deliberately spread with the aim of misleading the public for personal gain, particularly in politics and economics. This can be seen in numerous court cases where news organizations affiliated with political parties are used to further the agenda of their political affiliations (Refer to Lim Guan Eng Iwn Utusan Melayu Bhd 2013; Lim Guan Eng v Ruslan Bin Kassim & Ors, 2015). Several other political controversies involving the dissemination of misinformation are demonstrated in the following legal cases. (Syrikat Bekalan Air Selangor Sdn Bhd v Tony Pua Kiam Wee 2015; Jahara Hamid Iwn Lim Guen Eng 2015; Prem Anand Loganathan v Dhinagaran Jayabalan 2016; Datuk Harris Mohd Salleh v Datuk Yong Teck Lee & Anor 2017). These are all considered as "fake news" because they have a clear political purpose.

Nonetheless, there is often a significant disagreement when it comes to identifying which content should be considered "fake news" and what should be excluded. This complexity is acknowledged by Tandoc Jr. et al. (2017), who stated that determining the truthfulness of content can be a difficult task as it requires substantial evidence. The subjectivity of this determination is reflected in the majority of Malaysian High Court cases, where the issue was evaluated on an individual basis. To further understand the subjectivity of fake news, six key topics will be discussed in the following section: 1) One-sided news; 2) News from a third-party source; 3) Word Choice; 4) No Direct Indication; 5) Anonymous Writer and 6) Freedom of Expression.

One-Sided News

The relationship between freedom of expression, media freedom to publish content, and defamation laws in Malaysia is complex and can be challenging to navigate their interplay. This is especially true in a nation with diverse political views and varying social and economic backgrounds. One of the judicial high court cases show that *Malaysiakini* was sued for defamation and malicious falsehood in response to articles and videos about the health concerns of the Bukit Koman villagers in Raub, Pahang, and the mining activities of RAGM. Initially, the High Court dismissed the case, but the Court of Appeal later reversed the decision, ordering *Malaysiakini* and its former editorial team to pay damages and legal costs to RAGM (Raub Australian Gold Mining Sdb Bhd v Mkini Dotcom Sdn Bhd & Ors 2016; Raub Australian Gold Mining Sdb Bhd v Mkini Dotcom Sdn Bhd & Ors 2018).

When it comes to reporting and defending against defamation lawsuits, journalists often rely on the Reynolds defense of responsible journalism. However, this defense did not apply in the RAGM case as *Malaysiakini*'s reporting was deemed one-sided, lacking fairness and objectivity. This raises the question of whether biased reporting, even with cited sources, can be considered false reporting or fake news.

News from a Third-Party Source

The issue of responsibility for publishing false or defamatory news in Malaysia is complex, and different cases have led to varying outcomes. In some instances, the responsibility falls on the source of the false information, while in others, the journalist or media organisation is held accountable.

One of the examples was the case of Datuk Seri Utama Dr Rais bin Yatim file suit (2012). In that case, a blogger named Amizudin bin Ahmat was ordered to pay a fine of RM100,000 for publishing a defamatory statement against Dr. Rais Yatim. The court ruled that the writer must take responsibility for the statement, even if he claimed to have copied it from *Harakah Daily*, as he failed to verify the truth of the information from the source. Similarly, in Yuvarani v. Percetakan Kum Sdn Bhd & Ors (2010) case, a journalist was found to have published malicious information without independently verifying its truth from the source, despite it being widely published in *Tamil Nadu*. In addition, the case of Mohamad Ezam bin Mohd Nor & Ors v Tan Sri Norian Mai and Irs (2013) also highlighted additional uncertainties in the context of inaccurate reporting. In this instance, the news media has cited an "inconclusive and unconfirmed" press statement issued by the Inspector General of Police, leading to legal lawsuit. These cases raise questions about what constitutes fake news, particularly when a statement has a credible source but is later proven to be false.

On the other hand, there have been instances where the source was sued for providing wrong information to the press instead of the journalist who quoted them. For example, in Pemegang Amanah Lembaga Zakat & Anor v Hj Saari bin Sungib (2013) and Sharifuddin Mohamed & Anor v Dato' Annas bin Khatib Jaafar (2016) case, the sources were held responsible for the false information that led to the publication of defamatory news by news media.

It is important to note that in Malaysia, the responsibility for inaccurate or defamatory statements in a news article may fall on either the writer or the source. If a journalist attends a press conference and quotes a source, but the information later proves to be inaccurate or defamatory, the source may be sued, as seen in the case of Khairul Azwan bin Harun v Mohd

Rafizi bin Ramli (2017). Meanwhile, the news media that published the incorrect statement would be protected. This highlights the importance of obtaining direct clarification from the source before publishing any statement, as it determines who bears the responsibility for any inaccuracies or defamation. Nevertheless, it is also important to note that merely quoting a source in a news report does not guarantee protection for the writer against being sued for defamatory or inaccurate statement. This highlights the need for journalists to verify information directly with the source and to be cautious when reporting on sensitive or controversial issues.

Word Choice

Writing is inherently subjective, as it involves presenting information from a particular perspective to captivate the readers' interest. The effectiveness of the writing is heavily relying on the writer's understanding of the topic. Moreover, the context in which the writing is produced must be considered. However, writers can face legal consequences for using inappropriate words, especially if the words damage the reputation of individuals mentioned in the writing. Determining what constitutes fake news is difficult as there are many ways to interpret language, and court cases have shown that even words with seemingly clear meanings can be subject to misinterpretation (Lau Yeong Nan v Life Publisher Berhad & Ors 2004; Ummi Hafilda bte Ali v Ketua Setiausaha Parti Islam Se Malaysia (PAS) & Ors 2006; Lim Kee Fung v Kwong Wah Yit Poh Press Bhd 2012; Dato's Mohamad Bustaman Abdullah v Malay Mail Sdn Bhd & Anor 2014).

This becomes significant in the age of the internet, where information is easily accessible from various online sources, including websites and social media platforms. Journalists and writers may rely on information found online, but this can pose risks if they fail to directly verify the information with the original source. For example, a journalist who writes a report based on a video clip he/she watched on a streaming platform may inadvertently provide inaccurate information if they did not personally witness the press conference where the video was played (Loh Mui Fah v Dr Selvakumar Thirunavukarasu & Ors 2015). Similarly, a journalist who bases on a news article on Tweet may facethe possibility of being sued for misinterpretation of the journalist do not directly confirm the information with the individual who posted the Tweet (Dato Seri Mohammad Nizar bin Jamaluddin v Sistem Television Malaysia Bhd & Anor 2014). Overall, it can be challenging to determine what constitutes fake news as different people have different levels of understanding and interpretation of a subject.

No Direct Indication

The question of whether an article can be deemed "fake news" even without explicitly mentioning a person's name is a complex and controversial one. This is highlighted by a case where the plaintiff claimed that a news article was defamatory towards him, even though his name was not specifically mentioned in the article (Harry Issacs & Ors v Berita Harian Sdn Bhd & Ors 2012). The court ruled that if evidence indicating that the article is referring to a specific individual, it can still be considered defamatory. On the other hand, if the article makes a general statement that can refer to anyone, it is not considered defamatory (Yb Dato' Hj Muhammad bin Abdul Ghani v The New Straits Times Press Bhd & Ors 2012). A very similar condition arose in the

case of Dato Annas, where it was determined that the impugned article did not make any reference to the plaintiff (Dati Annas bin Khatib Jaafar v Datuk Manja Ismail & Ors 2011).

However, some cases have resulted in different verdicts. In one case, a statement was tweeted without a direct mention of a name but the court later determined that it was indirectly referring to the Sultan of Johor. The defendant was successful in defending himself by arguing that the statement was more a matter of comments or opinion and related to a matter of public interest (Dato' Seri Mohammad Nizar bin Jamaluddin v Sistem Televisyen Bhd & Anor 2013).

These cases demonstrate the complexities of information and news reporting as writing can be abstract and done from various perspectives. They also show that the issue of incorrect and inaccurate reporting can only be addressed through legal action. As such, it is crucial to have thorough authentication of written content to ensure it does not contain any information that could be considered libellous.

Anonymous Writer

The widespread availability of content creation through the Internet has raised the issue of "Internet Anonymity", as writers may choose to publish anonymously, contributing to the problem of fake news. In the case of YB Dato' Hj Husam bin Hj Musa, the defendant denied writing the article and owning the blogspot that contained fake news. However, Malaysian law considers the registration ID, computer ownership, and the presence of the writer's name, photograph, or pseudonym in the publication to prove the writer's connection to the publication. This makes it difficult for the writer to deny their involvement (YB Dato' Hj Husam bin Hj Musa v Mohd Faisal bin Rohban Ahmad 2015). Another case involving the blogger papagomo showed that the plaintiff failed to prove the identity of the blogger and also failed to prove that the impugned article was false and defamatory (Dato' Sukri bin Haji Mohamed v Wan Muhammad Azri bin Wan Deris 2016). This highlights the difficulties in determining accountability for incorrect publications when the writer's identity is unverified. A thorough investigation into the meaning, context, and writing of the content becomes impossible in such situations.

Freedom of Expression

"In 2018, a highly publicized case in Malaysia sparked discussions about the limits of freedom of expression in relation to fake news. With the advancement of technology, which has given us greater freedom to write and express ourselves, questions have arisen regarding the extent to which these expressions are considered self-opinion or a part of the human right to express thoughts, and whether the content is created with the intention of hurting others.

In the case, Mohd Fahmi, a famous Malaysian political graphic designer, faced charged under the Communication and Multimedia Act for sharing a false communication with the intention of causing offense. This occurred when he posted a caricature on his Facebook page portraying the former Prime Minister Najib Razak as a clown. Mohd Fahmi argued that the post was meant to be a parody or political satire, criticizing the authorities for restricting freedom of expression. The court held that such statements could not be coerced or restricted, and were not considered a crime. However, when expressed in the form of communication, the court stated that it could not be determined whether the communication did not conflict with the law, especially if there was a motive to hurt others (Mohd Fahmi Reza bin Mohd Zarin Iwn Pendakwa Raya 2019; Mohd Fahmi Reza bin Mohd Zarin Iwn Pendakwa Raya 2020). This case highlights the

fact that a statement can be considered false news if it is intended to hurt others, but the definition of "hurt others" is vague and it is difficult to clearly establish what can and cannot be expressed on personal social media pages, as everyone has different perspectives.

RESEARCH DISCUSSION

This study intends to study the way Malaysia's legislative categories and identifies fake news related issues. The results indicate that the government holds significant power to make case-by-case decisions and lacks a clear definition of fake news. The findings suggest that news that is biased or one-sided can be deemed false, due to the lack of balanced reporting and fair commentary, which fails to provide a full picture of the story. Nevertheless, in Malaysia, news is frequently criticized for relying heavily on official sources and providing a skewed perspective that favours the ruling party, delegitimizing opposing voices due to state controls and restrictions (Amira et al., 2022; Lim & Ihediwa, 2020). This practice highlights the authoritarianism in the country and the double standards it follows.

Aside from that, citing a credible source in an article does not secure the writer from trouble if the news writing process does not involve a direct verification from the source. Journalists are expected to take responsibility for false information, even if it was the source that misled them. However, exceptions are made if the politician is sued for causing the wrong information to be reported in the media. In most court cases, it is established that the responsibility lies with the journalist if they attended a press conference or received a press release from the source, which was later found to contain false or misleading information. To ensure accuracy in news reporting, several media accountability systems are enforced in the press industry (National Union of Journalist Malaysia Website). One way to ensure accuracy is to include credible sources. As pointed out by Pehlivanoglu et al. (2021), news-related indicators such as the credibility of news sources can influence the ability to differentiate between real and fake news. However, there is no clear procedure for journalists in citing sources, and it is unclear if they can cite a social media statement from the source or if they must conduct a direct interview. This has put journalists in a dilemma, and many have been sued for failing to conduct direct verification from the source, further proving the subjectivity of what constitutes "fake news" in the mainstream press industry.

Civil lawsuits can be brought against the publisher of "fake news" under the tort of defamation. However, the use of language in writing can be subjective and open to multiple interpretations. In determining whether a news item or statement contains false and defamatory information, the court takes into account the natural and ordinary meaning of the text. Indirect or general statements can also be the subject of a lawsuit, considering the context of the writing. However, it is also important to consider the perspective and understanding of the writer in writing an issue. While the internet has made information readily available, it is subjective when it comes to interpreting that information. For example, a journalist may write an article based on information gathered from online sources, but if the angle or perspective of the writing is deemed offensive or misleading to the general public, it can be considered false news. The lack of clear guidelines on what can or cannot be considered offensive writing has led to the problem of self-censorship. This aligns with the findings of Walulya and Nassanga (2020), who argue that the harassment and arrest of journalists who have been critical in reporting on the government

can contribute to a phenomenon known as "self-censorship," ultimately impeding freedom of the press. Schimpfossi et al. (2020) emphasize that journalism can only be practiced professionally without restriction to creativity. However, external political pressures have put media outlets in a difficult position.

In Malaysia, criticizing the government, whether through parody, jokes, or political satire, is not allowed. The law focuses on the intent of the communication to harm others, as seen in the case of Mohd Fahmi. Anonymity on the internet does not provide protection for the writer, as the authorities can identify the registered owner of the social media page. While it is important to hold those who spread false information accountable, the lack of transparency in both information and governance is often ignored, which highlights the authoritarian nature of the government (Mia, Islam & Norullah, 2021).

CONCLUSION

It is important to recognize that fake news can have damaging consequences for an individual or a country's reputation and image. However, relying solely on legislation to address misinformation may not be the most effective solution. Instead, promoting transparency in information can be a more powerful tool in reducing rumours and unverified information on social media. Before releasing information to the press, it is crucial for authorities to carefully verify and clarify their sources. Additionally, providing clear and consistent guidelines for journalists to follow in their news gathering, verification, and writing processes is crucial to ensuring that media ethics and codes of conduct are upheld.

In conclusion, the phenomenon of fake news in Malaysia is a complex issue that requires a multi-faceted approach to tackle. From government policies to individual responsibility, there is a need for collaboration and concerted effort to combat the spread of false information. It is crucial for citizens to be discerning and critical consumers of news, while media outlets must prioritize fact-checking and accuracy in their reporting. Additionally, social media platforms must take responsibility for the content shared on their platforms and implement measures to curb the spread of fake news. Failure to address this issue could lead to serious consequences, including societal division and erosion of trust in institutions. It is only by working together that we can protect the integrity of information and preserve the democratic ideals that underpin our society.

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REFERENCES

Aimi Nadia Mohd Yusof, Muhamad Zaid Muuti, Lydia Aiseah Ariffin, & Mark Kiak Min Tan. (2020). Sharing information on COVID-19: The ethical challenges in the Malaysian setting. *Asian Bioeth Rey*, *12*, 349-361. https://doi.org/10.1007/s41649-020-00132-4

Altay, S., Hacquin, A. S., & Mercier, H. (2020). Why do so few people share fake news? It hurts their reputation. *New Media & Society*, *24*(6), 1303-1324. https://doi.org/10.1177/1461444820969893

Amira Mohd Azamli, Mohd Suffiean Hassan, Siti Nurshahidah Sah Allam, & Mohd Hilmi Bakar. (2022). The understanding of media law and its impact towards Malaysia political practice. *e-JOMS: e-Journal of Media & Society*, *5*(1), 45-54.

Bahiyah Omar. (2022). Countering fake news on WhatsApp in Malaysia: Current practices, future initiatives and challenges ahead. In C. Soon (Ed.) Mobile communication and online falsehoods in Asia: Trends, impact and practice. Mobile Communication in Asia: Local Insights, Global Implications (pp 249–261). Springer. http://doi.org/10.1007/978-94-024-2225-2_13

Balakrishnan, V. (2022). Socio-demographic predictor for misinformation sharing and authenticating amidst the COVID-19 pandemic among Malaysian young adults. *Information Development*, *40*(2). https://doi.org.10.1177/02666669221118922

Balakrishnan, V., Zing, H. L., & Laporte, E. (2023). COVID-19 infodemic – Understanding content features in detecting fake news using a machine learning approach. *Malaysian Journal of Computer Science, 36*(1), 1-13. https://doi.org/10.22452/mjcs.vol36no1.1

Balakrishnan, V., Ng, K. S., & Rahim, H. A. (2021). To share or not to share – The underlying motives of sharing fake news amidst the COVID-19 pandemic in Malaysia. *Technology in Society*, *66*, 101676. https://doi.org/10.1016/j.techsoc.2021.101676

Beech, H. (2018, April 2). As Malaysia moves to ban 'fake news,' worries about who decides the truth. *The New York Times*. https://www.nytimes.com/2018/04/02/world/asia/malaysia-fake-news-law.html

Bernama. (2020, March 18). Police open 40 investigation papers over fake news on Covid-19. *New Straits Times.* https://www.nst.com.my/news/crime-courts/2020/03/575758/police-open-40-investigation-papers-over-fake-news-covid-19

Casad, B. J., & Luebering, J. E. (2023). Confirmation bias. *Encyclopedia Britannica*. https://www.britannica.com/science/confirmation-bias

Crain, R. (2017, February 7). Fake news could make advertising more believable. *Ad Age*. https://adage.com/article/rance-crain/fake-news-make-advertising-believable/307836

Daud, M. (2020). Fake news in the Malaysian 14th General Election: Shall the net be free forever? *IIUM Law Journal*, *28*(s1). https://doi.org/10.31436/iiumlj.v28i(S1).587

Daud, M. (2019). *Internet content regulation: Contemporary legal and regulatory issues in the changing digital landscape*. Gombak: IIUM Press.

Daud, M., & Zulhuda, S. (2020). Regulating the spread of false content online in Malaysia: Issues, challenges and the way forward. *International Journal of Business and Society*, *21*(S1), 32-48.

Farid Sufian Shuaib, & Hafidz Hakimi Haron. (2019). The continuing saga of the proposed Malaysian Press Council: A boone or bane? *Malaysia Law Journal*, *4*, cxxvii.

Fernandez, J. M. (2019). Malaysia's anti-fake news act: A cog in an arsenal of anti-free speech laws and a bold promise of reforms. *Pacific Journalism Review*, *25*(1and2), 173-192. https://doi.org/10.24135/pjr.v25i1.474

Fink, K. (2019). The biggest challenge facing journalism: A lack of trust. *Journalism*, *21*(1), 40-43. https://doi.org/10.1177/1464884918807069

Hafidz Hakimi Haron, Farid Sufian Shuaib, & Nadiah Arsat. (2021). Some like it hoax: Lessons in regulating fake news in Malaysia. In C. S. Mustaffa, M. K. Ahmad, N. Yusof, M. B. M. H. @. Othman, & N. Tugiman (Eds.), *Breaking the barriers, inspiring tomorrow.* Proceedings of the 7th International Conference on Communication and Media 2020 (i-COME'20), 7-8 November, 2020, Sintok, Malaysia (Vol. 110, pp. 178-185). European Publisher. https://doi.org/10.15405/epsbs.2021.06.02.24

Hasmah Zanuddin, & Chin, Y. S. (2020). Relationship between new media literacy and motivation in solving fake news problem. *International Transaction Journal of Engineering, Management, Applied Sciences & Technologies*, *11*(8), 1-10. https://doi.org/gjr6xf

Hidir Reduan Abdul Rashid. (2021, July 2). Federal court orders Mkini to pay RM550k in mining company defamation suit. *Malaysiakini*. https://www.malaysiakini.com/news/581379

International Federation of Journalists. (2020, May 21). Malaysia: Journalists call for media reform and greater press freedoms. https://www.ifj.org/media-centre/news/detail/article/malaysia-journalists-call-for-media-reform-and-greater-press-freedoms

Lazer D. M., Baum M. A., Benkler Y., Berinsky A. J., Greenhill K. M., Menczer, F., Metzger, M. J., Nyhan, B., …, & Zittrain, J. L. (2018). The science of fake news. *Science*, *359*, 1094-1096. http://doi.org/10.1126/science.aao2998

Lees, C. (2018). Fake news: The global silencer: The term has become a useful weapon in the dictator's toolkit against the media. Just look at the Philippines. *Index on Censorship*, *47*(1), 88-91. https://doi.org/10.1177/0306422018769578

Lim, S. S., & Ihediwa, S. C. (2020). Media coverage of Malaysia Airline Flight MH370: A preliminary study on the framing of the crisis in the Malaysian mainstream and alternative newspapers. *Jurnal Komunikasi: Malaysian Journal of Communication*, *36*(1), 90-108. https://doi.org/10.17576/JKMJC-2020-3601-06

Mahyuddin Daud, & Ida Madieha Abd Ghani Azmi. (2021). Digital disinformation and the need for internet co-regulation in Malaysia. *Pertanika Social Sciences & Humanities*, *29*(s2), 169-183. https://doi.org/10.47836/pjssh.29.s2.12

Mia, Md. T., Islam, Md. Z., & Norullah, Md. (2021). Freedom of speech and expression in Malaysia: Protection under the federal constitution. *Sarjana*, *36*(2), 48-62. https://ejournal.um.edu.my/index.php/SARJANA/article/view/36892

Mohd Al. S., Suzanna M. I., & Raja Zuraidah R. M. R. (2019). The challenges of combatting fake news in Malaysia: An analysis of regulatory approaches. *International Journal of Law, Government and Communication*, *4*(14), 109–121.

Moonyati Mohd Yati. (2019). Truth tampering through social media: Malaysia's approach in fighting disinformation & misinformation. *The Indonesian Journal of Southeast Asian Studies*, *2*(2), 203–230. https://doi.org/10.22146/ikat.v2i2.40482

Molina, M. D., Sundar, S. S., Le, T., & Lee, D. (2019). "Fake news" is not simply false information: A concept explication and taxonomy of online content. *American Behavioral Scientist*, *65*(2), 180-212.

Nawang, N. I., & Mustaffa, A. (2017). Online news portals in Malaysia: Should they be subjected to the existing traditional media laws? *World Applied Sciences Journal*, *35*(9), 1718–1722. https://idosi.org/wasj/wasj35(9)17/9.pdf

Neate, R. (2022, September 21). Four media outlets facing libel claims over Nursultan Nazarbayev reports. *The Guardian*. https://www.theguardian.com/world/2022/sep/21/four-media-outlets-facing-libel-claims-over-reporting-nursultan-nazarbayev-fund

Norazlinda Hj Mohammad, Sara Chinnasamy, Shifa Faizal, & Norena Abdul Karim Zamri. (2022). Fake news and misinformation: COVID-19 & challenges confronted by Malaysian's Ministry of Health. *International Journal of Research in Business and Social Science*, *7*(5), 1276-1295. http://dx.doi.org/10.6007/IJARBSS/v12-i5/13010

Nurul Hafidzah Hassan. (2019). The anti-fake news act is irrelevant. *New Straits Times*. https://www.nst.com.my/opinion/columnists/2019/02/462486/anti-fake-news-act-irrelevant

Nururrianti Jalli, & Ika Idris. (2019). Fake news and elections in two Southeast Asian nations: A comparative study of Malaysia General Election 2018 and Indonesia Presidential Election 2019. *Proceedings of the International Conference of Democratisation in Southeast Asia (ICDeSA 2019)*. https://doi.org/10.2991/icdesa-19.2019.30

Pehlivanoglu, D., Lin, T., Decues, F., Heemskerk, A., Ebner, N. C., & Cahill, B. S. (2021). The role of analytical reasoning and source credibility on the evaluation of real ad fake full-length news articles. *Cognitive Research: Principles and Implications*, *6*, 24. https://doi.org/10.1186/s41235-021-00292-3

Pennycook, G., Cannon, T. D., & Rand, D. G. (2019). Prior exposure increases perceived accuracy of fake news. *Journal of Experimental Psychology: General*, *147*(12), 186501880. https://doi.org.10.2139/ssrn.2958246

Sara Chinnasamy, & Norain Abdul Manaf. (2018). Social media as political hatred mode in Malaysia's 2018 General Election. *SHS Web of Conferences, 53*, 02005. https://doi.org/10.1051/shsconf/20185302005

Schimpfossi, E., Yablokov, l. Bajomi-Lazar, P., Zeveleva, O., & Fedirko, T. (2020). Self-censorship narrated: Journalism in Central and Eastern Europe. *European Journal of Communication*, *35*(1), 3-11.

Souhaila Ahmad Elyass Hussain, Kilagwa Rehema, Yusnita Mohd Zaali, & Saodah Wok. (2018). The effect of message credibility on media use and perception of fake news among students. *Human Communication A Journal of the Pacific and Asian Communication Association, 1*(2), 1-21.

Tandoc Jr., E. C., Lim, Z, W., & Ling, R. (2017). Defining "fake news": A typology of scholarly definitions. *Digital Journalism*, *6,* 137-153.

The Sun. (2021, March, 12). RM100,000 fine for fake news on COVID-19, Emergency. https://www.thesundaily.my/local/rm100000-fine-for-fake-news-on-covid-19-emergency-GK7194495

Vosoughi, S., Roy, D., & Aral, S. (2018). The spread of true and false news online. *Science*, *359*(6380), 1146-1151. https://doi.org/10.1126/science.aap9559

Waisbord, S. (2018). Truth is what happens to news. *Journalism Studies*, *19*, 1866-1878. https://doi.org/10.1080/1461670X.2018.1492881

Walulya, G., & Nassanga, G. L. (2020). Democracy at stake: Self-censorship as a self-defence strategy for journalists. *Media and Communication*, *8*(1), 5-14. https://doi.org/10.17645/mac.v8i1.2512