FAKE NEWS, CYBER BULLYING AND HATE SPEECH ON SOCIAL MEDIA:

WHAT IS IT AND HOW DO WE DEAL WITH IT?

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INTRODUCTION

The internet and social media, as excellent mechanisms to enable and facilitate democratic engagement, knowledge for all and businesses to thrive, in the wrong hands or misuse can also be instruments for propagation of extremism and violence, political manipulations, spread of false information to discredit or cause physical or psychological harm to other individuals and groups. A lot of citizens and societies or national economies, today around the globe, are threatened by the effects of Fake News, Cyber Bullying and Hate Speech.

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Social Media Platforms serve as fertile grounds for Fake News and Hate Speech consumption and sharing, and perpetration of Cyber Bullying meant to discredit or harm specific people or groups. This is made possible by the various Algorithms within the Social Media networks that seem to enhance the Fake News phenomenon on Social Media by creating false accounts that spread misleading or erroneous information or propaganda.

1. WHAT IS SOCIAL MEDIA?

It refers to the digital means of communication, interaction, participation, networking, creating and sharing information, ideas and opinions through virtual networks and communities.

It encompasses all the platforms and Apps that facilitate digital communication, creation and exchange of information, content, ideas, etc. Such platforms include Facebook, Instagram, WhatsApp, Twitter, Tiktok, YouTube etc.

2. WHAT IS FAKE NEWS?

The term Fake News is a misnomer, because the word ‘News’ means basically, verifiable, credible information in the public interest.

So any information that does not meet the standards of verifiability, credibility and public interest does not deserve the label news.

CONSTITUTIVE ELEMENTS OF A FAKE NEWS ON SOCIAL MEDIA

An information that is created, published and shared or promoted digitally knowing it to be false, is fake news if it is:

False and free as the purveyors capitalize on the vulnerability and partisan potential of recipients whom they hope to entrust as their amplifiers and multipliers

- **Accuracy/ truth unverifiable as capable of polarizing public opinion.**
- **Section 123 of the Electoral Act 2022 prohibits dissemination of election related fake news against a candidate meant to prejudice or promote the chances of a candidate's election**

Manipulative, as having the potential effect of promoting violence, extremism, hate speech and cyber bullying.

Misleading, as capable of undermining the trust in the democratic processes and the judicial system

Promotive of a particular opinion, moral or political cause

Knowingly or intentionally sending a false message or matter digitally to cause annoyance, inconvenience, danger, insults, obstruction, injury, criminal intimidation, enmity, hatred, ill-will or needless anxiety to another, commits an offence and is liable to the prescribed sanctions upon conviction (sec. 24(1)(b)) of the Cybercrimes Act, 2015

With or without malice or intention to cause harm to individuals. Groups or society.

- **It may be Disinformation where false, manipulative or dishonest information deliberately created, published and shared intentionally to cause harm.**
- **It may be Misinformation where false information is created with no intention to cause harm.**

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Both Disinformation and Misinformation are problems for society, but disinformation is particularly dangerous because it is frequently organized, well resourced and enabled or reinforced by automated technology.

The Spread of Fake News is made possible largely through social networks and messaging on social media platforms. This begs the question of the extent of effectiveness of Government Regulations or Self Regulation by Social Media networks/tech companies providing these services.

3. WHAT IS CYBER BULLYING?

Is an anti-social behavior online that is violative of the rights to human dignity, free speech and freedom of association of targeted victims.

Meant to discredit or cause harm, physical, psychological, emotional or reputational to targeted individual or groups etc

Highly prevalent among youths and those who make compulsive use of internet or social media

More common for individuals to be victims or witnesses of Cyber Bullying rather than perpetrators.

CYBER BULLYING/CYBER STALKING – SECTION 24(1a) and (2) OF THE CYBERCRIMES ACT, 2015

Message or matter sent that is grossly offensive, pornographic, indecent, obscene or of menacing character

Knowingly or intentionally spreads such message or matter digitally, to bully extort, harass or cause harm, annoyance, inconvenience, danger, insult, injury, obstruction, criminal intimidation, enmity, hatred or ill-will or needless anxiety, or threat to kidnap or harm property or reputation of a person, corporate entity or deceased person, or fear of violence, death or bodily harm,

Commits an offence and liable to prescribed punishments under Section 24 (2)-(4) of the Act

4. WHAT IS HATE SPEECH?

- Generally is any form of expression intended to vilify, humiliate, abuse, threaten or incite violence or hatred, enmity, ill-will against a person or group or class of persons based on their differences in gender, race, religion, ethnicity, disability or political opinion, etc,
- Section 26 of the Cybercrimes Act 2015 prohibits hate speech as racist and xenophobic offences, capable of justifying acts constituting genocide or crimes against humanity.
- It's largely criminalized when it directly incites hatred, enmity or imminent criminal activity, or consists of specific threats of violence targeted against a person or group.
- Section 97 of the Electoral Act 2022 prohibits hate speech in the course of election or political campaigns or broadcasts against any candidate or political party.
- It threatens the physical and psychological well-being of those affected, fosters social disharmony, political polarization and erosion of existing anti-discriminatory norms and domestic counter-terrorism measures.
- Section 125 of the Electoral Act 2022 prohibits acting or inciting others to act in a disorderly manner.

5. HOW TO DEAL WITH FAKE NEWS, CYBER BULLYING AND HATE SPEECH ON SOCIAL MEDIA

- By respecting, promoting and protecting the Rights of the Public to know, Access available and Credible information, and participate in governance from an informed position that is verifiable and credible.
- By balancing free speech protections and harm to individuals and society with content and anonymity regulation.
- By aggressively promoting information and media literacy as part of youths and students curriculum in schools and as part of adult digital literacy in adult education.
- Educators must undergo continuing digital information and media education to enable them empower students with the critical competences to critically understand and assess information reported by all forms of media.
- By periodically evaluating the role and limits of legal, regulatory and policy initiatives in information content control on social media by both governments and social media platforms / companies.
- Including evaluating successes, challenges, new threats and development in ICT

RECENT TRENDS ON LIABILITY REGIME

- On a multilateral level, UNESCO is developing content governance around its Guidance For Regulating Digital Platforms as a multi-stakeholder approach.
- The Indian Government, under the New Social Media Rules, can order social media platforms to take down posts within 24 hours based on a wide range of offences, and to obtain the identity of the user.
- Although many governments have been accused of deflecting blame from party elites to the hosting platforms

- In the EU, content Governance has shifted towards public regulation. The Digital Service Act introduced new, stricter rules that social media companies will have to follow, effective 2023.
- In Australia, a High Court in 2021 held that media outlets can be liable for defamatory 3rd party comments on their social media posts.
- The Japanese Government in 2016 adopted the EU's model.

- In the USA tech platforms are not responsible for the content they host as per section 230 of the USA Communication Decency Act, 1996.
- Although there are bi-partisan calls from the political parties for the congress to revisit section 230 of the Act.
- Countries such as the USA grant social media companies, broad powers in managing their content and enforcing hate speech rules. Others, including Germany can force companies to remove posts within certain periods.

- Cases of genocide and crimes against humanity could be the next frontier of social media Jurisprudence, drawing on the precedents set in Nuremberg and Rwanda, wherein two media executives were convicted on those grounds.
- Prospects for potential prosecution for cases of genocide in Myanmar on the role of social media users targeting minorities.

CONCLUSION

- It is evident from the above analysis that while there is no silver bullet solution in sight, addressing Fake News, Cyber Bullying and Hate Speech on Social Media, is necessarily a matter of Collective Security, requiring a combination of human oversight, investment in, and Capacity to deploy technologically designed tools to weed out falsehood, hatred or abuse, and tools to further empower users, whose protection from invisible security harm or criminally minded persons and content question is paramount.

- Policymakers, educators and parents should pay more attention to approaches for digital citizenship education based on virtue and moral character, aimed at developing positive social skills and character for positive and harmonious interpersonal relationships.

6. CONCLUSION

THANK YOU FOR LISTENING

REFERENCES

1. Nigeria (2015) : - Cybercrimes, (Prohibition, Prevention, Etc) Act, 2015.
2. Nigeria (2022): - The Electoral Act, 2022.
3. Lisa Garbe, et al (2023): - How African Countries respond to Fake News and Hate Speech. Information and Communication Society, Vol. 26, No.1, 86-103, Routledge-Taylor and Francis.
4. Abdul Lateef, M (2021): - Regulating Social Media in Nigeria: - A quantitative perception Study, Nile Journal of Political Science, NJPS, 2021, Vol. 2, Issue 1, pp. 52-77.
5. Chioma, I. (2023): - Taking Stock of Nigeria's 2023 Presidential Election Petition Tribunal. Centre for Democracy and Development, Abuja (Fact Checker, dated 18 July 2023) pp. 1-7.
6. Aondover, E. M. (2023): - Nigerian Press Coverage of Hate Speeches in the Daily Trust, The Nation and The Guardian Newspapers. DOI: -10.5772/intechopen.108731, 18 January 2023. PP-1-19.