

Countering Disinformation on Social Media

Introduction

Attending to the call of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to inform the annual thematic report for the 47th session of the Human Rights Council in June 2021, we present our responses to the **first and fifth questions**.

1st question-What legislative, administrative, policy, regulatory, or other measures have Governments taken to counter disinformation online and offline?

5th question- Please share information on measures to address disinformation that you believe have aggravated or led to human rights violations, in particular the right to freedom of opinion and expression.

ASSEDEL's Evaluations and Comments

Social media has reached a level to compete with traditional media nowadays. Unlike traditional media, there is bilateral communication, and it enables active feedback from information consumers, social media users (to be expressed as users thereafter). Thus, it provides unprecedented freedom for users' participation and sharing their thoughts. However, the freedom of expression that social media provides results in negative consequences in anti-democratic states. Disinformation in social media comes first among these. By sharing false information on many issues, users can lead to misdirection of other users. This misdirection can cause serious problems when it comes to sensitive social issues such as health, elections, or discrimination.

Disinformation created on social media is an issue that needs to be resolved with the consensus of governments and social media companies. However, it is necessary to prevent information pollution on social media without harming freedom of expression, one of the indispensable elements of democracy. Otherwise, it may open the way for the bans and be used as an excuse for the despotic governments for oppression.

Although various methods are used to prevent disinformation, which has been on the agenda of many countries, especially in recent years, it can be said that many states try to include the measures taken within the scope of the legal framework. These measures are mainly addressed to companies and users. While some states are pushing companies to take a more

active role in preventing disinformation with the measures they will take, some states also impose regulations to put pressure on users. In this context, if we examine the practices of several states, we observe the facts below:

Legislating Fake News: Global Case Studies⁷

COUNTRY	LEGISLATION	
	STATUS	ACCOUNTABLE PARTY
Germany	Approved	Technology companies
Italy	Pending	Individuals, website administrators, Internet Service Providers (ISP), schools
The Philippines	Pending	Individuals and technology companies
Russia	Pending	Technology companies
USA	Pending	Technology companies
	Pending	Technology companies
UK	Pending	Technology companies
Australia	In progress	Technology companies, online advertisers and other parties who benefit from disinformation.
Israel	Pending	Technology companies
India	Approved	Administrators of social media groups
Canada	In action	Mass media

Table 1: Fake news legislation worldwide (as at January 2018)

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As it can be seen in the table, although the addressed party is commonly companies, sometimes measures are taken for the users. For example, in the Philippines the proposed Senate Bill No. 1492 threatens those guilty of creating or distributing fake news with a fine ranging from P100, 000 (US\$ 1,950) to P5 million (US\$ 97,587) and 1 to 5 years of imprisonment.

Social Media in Turkey

Due to the high population of young people, Turkey is one of the most active users of social media. According to the 2020 data, Turkey is the sixth country that is the most active on Twitter.² Twitter has become an important news center for users in Turkey who would like to obtain news directly on their Twitter profiles. The most important reason for the popularity of Twitter in Turkey is that the traditional media are government-controlled. Many media outlets, especially the state-owned TRT, hesitate to provide accurate news. (such as the time allocated to political parties in elections vary in favor of government party)³. Therefore, the social media that the government cannot control is very important for users who want to reach the truth. While this is the current situation in Turkey, it is not reasonable to expect that

¹ COUNTERING FAKE NEWS, RSIS

² <https://journo.com.tr/instagram-twitter-facebook-snapchat-kullanici-sayisi-turkiye>

³ <https://tr.sputniknews.com/turkiye/201903111038120506-trt-cumhur-ittifaki-53-saat-millet-ittifaki-14-saat/>

taking a step by the government to prevent disinformation in the media, but as specified at the outset under the name of prevention of disinformation despotic governments can use this situation to restrict the freedom of expression.

Legal Situation in Turkey and Current Studies

Until 2020 there was no legal regulation to be effective on social media and the Internet in Turkey. However, websites that violated personal data could be blocked or even completely closed by court decisions. Even the decisions were taken to block access to social media giants such as YouTube and Twitter. Upon the court decision regarding the murder of Prosecutor Selim Kiraz in 2015, access to Twitter, YouTube, and Facebook websites was blocked.⁴

In Turkey, the traditional media outlets are institutionally regulated: television and radio stations are supervised by RTÜK (Radio and Television Supreme Council). Members of this institution are elected at the General Assembly of the Turkish Grand National Assembly. In short, the names of the candidates that the government determines becomes the names who become members. RTÜK audits are not impartial, and the fines imposed by the RTÜK institution are also not fair. Opposition media are constantly under pressure and subject to financial penalties.⁵ Apart from these cases, the situation is much worse in newspapers and other printed media. Turkey currently is the largest prison in the world for journalists.⁶ After the 2016 coup-attempt, newspapers have been shut-down, and eleven thousand journalists have lost their jobs due to the oppressive policies of the government.⁷ Traditional media has been converted to a monophonic chorus. Opposition views have almost no chance of making their voices heard in traditional media. Under these conditions, the importance of social media has increased even more to reach the hidden or altered facts and to hear the voices of opposition or alternative opinions.

Several legal steps to prevent misinformation in social media began the 2020 January. Then, with the intensive efforts of the government, the "Law on the Regulation of Broadcasts on the Internet and the Law on Combating Crimes Committed Through These Broadcasts", also known as the "Social Media Law", entered into force in July 2020. Although a comprehensive and positive justification for the enactment of the law has been presented, it has been revealed by the opposition and many experts that the law aims to restrict freedom of expression.

⁴ https://www.bbc.com/turkce/haberler/2015/04/150406_sosyal_medya_erisim_engeli

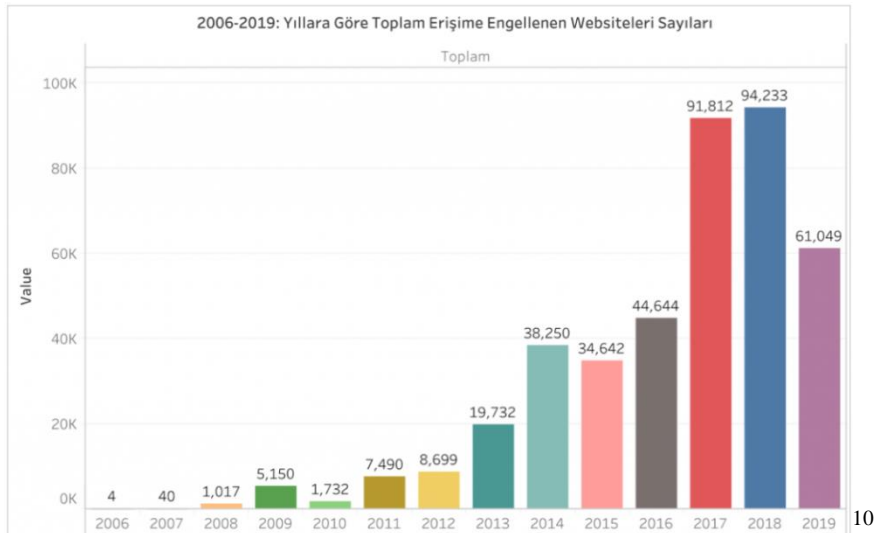
⁵ https://twitter.com/ilhantasci/status/1343422397010083841?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetem%7Ctwtterm%5E1343422397010083841%7Ctwgr%5E%7Ctwcon%5Es1_%26ref_url=https%3A%2F%2Fonedio.com%2Fhaber%2Frtuk-2020-de-bazi-kanallara-on-binlerce-sikayeti-gormezden-geldi-bir-yilda-sadece-bir-ceza-949035

⁶ <https://www.indyturk.com/node/284041/d%C3%BCnya/uluslararası%C4%B1-gazeteciler-federasyonu-a%C3%A7%C4%B1klad%C4%B1-t%C3%BCrkiye-cezaevinde-en-%C3%A7ok-gazeteci>

⁷ <https://www.amerikaninsesi.com/a/turkiye-gazeteci-issiz-tutuklu-cemiyet-basin-ozgurlugu-infaz-mayis/5402226.html>

While many changes are made with the law, we will examine two issues that are relevant to the subject. With the law, the "social network provider" (known as Twitter, Facebook, Instagram, etc.) will be obliged to respond to the applications made by individuals for the breach of private life and will remove the content from broadcast and blocking access within 48 hours. Negative answers will be given with reasons. The social network provider will be fined 5 million TRY (€586,000) if it fails to respond within 48 hours to the "removal of content and blocking access" and "blocking access to content due to the privacy of private life" within 48 hours and will be fined 10 million TRY (€117,000) if they do not implement the decisions to remove or block access.⁸

In the previous version of the law, while the court decision was required to remove the content and the access barrier, this was removed with the new regulation and the right of individuals to apply directly to the social network provider. Although it is claimed that the protection of private life is aimed, it has a different purpose when we evaluate it together with the issues we mentioned earlier. In an atmosphere where users reach many realities, - especially illegal businesses and transactions of government members, - through social media, it is obvious that the biggest purpose of restricting or removing content from the website to hide the facts. At least 1910 URLs were blocked between November 2019 and October 2020. 42 percent of the blocked news was about the President, his family, and his inner circle.⁹ The fact that almost half of the blocked content was news about the President and his circle shows that the administration is extremely disturbed by the news published in the press and tries to prevent this.



⁸ <https://www.resmigazete.gov.tr/eskiler/2020/07/20200731-1.htm>

⁹ <https://www.evrensel.net/haber/423995/erisim-engeli-getirilen-haberlerin-yuzde-42si-erdogan-ve-cevresi-hakkinda-oldu>

¹⁰ Engelli Web, Yaman Akdeniz- Ozan Güven

With the current legal regulation, it is aimed at blocking the contents quickly, restricting the freedom of people to receive truthful information, such as where the collected taxes are spent. The law needs to provide individuals with direct access to social network providers to achieve the abovementioned goal. While this was not possible before the law was enacted, a special study was carried out to make this possible with this new regulation. Social networking providers of foreign origin like Twitter, Instagram, and Facebook that have more than one million daily access, had no representatives in Turkey. In this case, it was not possible to establish an official communication with the relevant social network providers. However, with the new law, social network providers with daily access of more than one million are obliged to designate and report representatives, otherwise, it has been stated that they will face a penalty sequence that goes up to the blocking of access altogether.



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With enacted law, many social networking providers have appointed representatives in Turkey, but Twitter has not yet assigned a representative. As of January 19, 2021, the advertising ban has been in place for Twitter and if it continues to not appoint representatives, access to Twitter will be banned in May 2021. Twitter has different importance than other social networking providers. Namely, it is a social network where users share their information, social issues, and personal comments and directly inform other users. To put it more clearly, it is the place where the shared posts disturb the government most.

With the appointment of representatives, direct links between individuals and social network providers will be enabled. Without the need for a court decision, direct removal of content or blocking of access can be requested and if the request is not fulfilled within 48 hours, penalties starting from five million Turkish Lira will be imposed. This may prevent people from reaching real news from social networks such as Twitter, which is the largest alternative

¹¹ <https://ifade.org.tr/>

to traditional media outlets. The purpose of restricting social media, which has become the only way for people to access real news, is not to protect personal data, private life or to prevent disinformation, but to prevent people from reaching the right news.

In a country ruled by the government moving away from democracy, the disinformation made through social media gives serious trump cards to the government to implement restrictions of freedom.

Before the New Legislation Came into Force

Although the direct interlocutor of the new social media law seems to be social network providers, it also seriously affects users indirectly. With the introduction of a total access barrier, users will be deprived of the social network service. With a total access block, users will be deprived of social networking services. However, other than this law, there are different articles in different laws that directly target users. Claiming Article 216 of the Turkish Penal Code (TCP) "People of hatred and hostility or humiliation crimes" and Article 122 "Discrimination and Hate Crimes" Turkey has made many detained so far. Also, the "crime of spreading fake news in war" is dangerous in this context in article 323 of the TCP. Although the stated law articles do not appear to be directly related to the using of social media, a causal link was established between the above-mentioned crimes and the statements made by the users on social media, thus legal proceedings were taken against many people.

For example, across the border "olive branch" operation is performed by Turkey in 2018, and after that, there have been many individuals who posted their critical statements about this operation on Twitter. After the military operation started, 845 people were detained with allegations of making propaganda for a terrorist organization, praising these organizations, publicly declaring their affiliation with terrorist organizations, inciting the public to hatred and enmity, insulting the state elders, and attacking the indivisible integrity of the state and safety of the social life.¹² Likewise, the "strip-search" procedure especially against women during the entrance to prisons, which was brought to the agenda by the Deputy Ömer Faruk Gergerlioğlu, caused wide repercussions throughout the country, but an investigation was initiated with the allegation regarding the posts on Twitter in favor of "Fetö".¹³ Finally, some students who tweeted "free our friends" on social media regarding the rector change made at Boğaziçi University were detained.¹⁴

As can be seen from these examples, even before the latest law on social media, users are constantly prevented from expressing themselves freely on social media channels by justifying some law provisions in the TCP.

¹² <https://tr.sputniknews.com/turkiye/201802261032398754-sosyal-medya-afrin-propaganda-gozalti/>

¹³ <https://tr.euronews.com/2020/12/22/c-plak-arama-iddialar-na-feto-lehine-kas-tl-paylas-m-sorusturmas>

¹⁴ <https://bianet.org/bianet/insan-haklari/238653-bogazicili-ogrencilere-sosyal-medya-operasyonu>

Conclusion

Preventing disinformation in social media provides healthier access to information for users and society. However, while preventing this disinformation, especially in countries such as Turkey, the restriction of the freedom of expression of individuals with anti-democratic legislation is the way to go. Even in despotic administrations, the issue of disinformation becomes a ground of legitimacy to increase the pressure on society. Therefore, the laws should be handled more sensitively, should be paved the way for the contribution of not only the ruling party and its supporters but also every segment of the society.

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