The effects of online disinformation on a digital society in a fragile democracy

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A B S T R A C T

Internet is part of our daily lives and we live in a digitalized world. Social Media usage has increased rapidly during the outbreak of Covid 19 in 2019, as due to imposed lockdowns, users started spending more time online. Social media is plagued with content containing disinformation, misinformation and hate speech. In the first half of 2020, Facebook has removed 3.3 billion pieces of fake or misleading content. "Disinformation" and "Hate Speech" are the most contested categories on social media as is difficult to agree on a universal definition of these terms.

This article discusses problems faced by fragile and unconsolidated democracies on social media and how human rights are often violated at the expense of protection afforded to online free speech. Georgia has been selected as a case country because it has a deeply polarised society which is further ruptured by disinformation circulating on social media. The Article analyses online disinformation data from Georgia, where Facebook is actively used by more than 75% of the adult population, discusses types of disinformation fed to digital society and how it poses a threat to internet users' human rights. Furthermore, the Article also analyzes the regulatory framework in place at the transnational level to combat disinformation as well as self-regulatory mechanisms adopted by social media platforms on the example of Facebook's Oversight Board. In the end, the article identifies media literacy as the key instrument in battling online disinformation in Georgia.

Keywords: *social media, disinformation, human rights, free speech.*

1. Introduction

UNESCO's 2018 Handbook of Journalism & Disinformation defines disinformation as the "*information that is false, and the person who is disseminating it knows it is false. It is a deliberate, intentional lie, and points to people being actively disinformed by malicious actors*" (UNESCO, 2018). Whereas misinformation is described as the spread of false or inaccurate information without intention to do so (UNESCO, 2018). Whether intentional or unintentional, disinformation and misinformation both threaten the human rights of internet users. For the purposes of this article, "disinformation" shall embody both terms.

The goal of this study is to highlight the impact of online disinformation on consolidating democratic processes in fragile democracies. Georgia is selected for the case study as according to Freedom House it is partly free, and according to Freedom on the Net is a free country.

The article uses quantitative and qualitative research methods such as content analysis, interviewing, and questionnaires. Based on the methodological research, the scientific literature on content management problems on social media platforms, the documents by the UN Special Rapporteur on the promotion and protection of freedom of expression and expression, and the relevant EU documents were examined.

The study discusses the case of Georgia in a broader context, in the light of the EU Code of Conduct on the subject of online disinformation and the actions of the self-regulatory body of Facebook's Supervisory Board. The case of Georgia highlights the different opportunities to combat the consequences of online disinformation globally and in fragile democracies.

The Right to a Free and Fair Election enshrined in Article 3 to Protocol 1 of the European Convention on Human Rights is one of the rights that is threatened by the spread of fake news and disinformation. This has been evident during the 2016 US Presidential Elections and 2016 Brexit Referendum. However, this is obviously not the only right under threat. Freedom of speech enshrined in Article 10 of the European Convention of Human Rights, confers a right to Form an Opinion. However, platform recommendations and microtargeting may be compromising a right to form an opinion of a user, by implementing and imposing certain ideas. This is a well-tested technique for spreading disinformation and manipulating freedom of opinion (Aswad, 2020).

According to the study conducted by researchers about Facebook at New York University and Université Grenoble Alpes for the period of August 2020 to January 2021, posts from sources that tend to spread misinformation get "*six times more likes, shares, and interactions on the platform compared to posts from more reputable news sources*" (Hamilton, 2021).

With the outbreak of the Covid 19 pandemic in 2019, another right that has come under attack through the spread of fake news is a Right to Health enshrined in Article 12 of the UN's International Covenant on Economic, Social and Cultural Rights 1966. Myths about Covid 19, have resulted in users who are lacking critical and analytical skills being subjected to such type of disinformation that is harmful to their physical health.

Users consume unqualified advice from social media full of disinformation and fake news on how to treat Covid 19 symptoms. This includes advice on treating Covid 19 by drinking hot water or taking hydroxychloroquine and chloroquine, which can have a deadly side effect if used inappropriately (Taylor, 2020). This type of disinformation puts users' lives at risk and compromises their right to health.

On the other hand, filtering disinformation and fake news may put freedom of speech and expression at risk, which is a fundamental human right protected by international treaties, conventions as well as state constitutions. Freedom of expression is not an absolute right and maybe restricted only in accordance with exceptions provided for by law and when the limitation of a right is legitimate and proportional to the aim. Human right treaties are binding on states and not on private organizations. However, since social media platforms have assumed a quasi-public role (arguably by default), they are no longer entirely private. Social media companies have their own standards and regulations for protecting human rights that are at times more stringent than the international human rights standard. The UN Guiding Principles on Business and Human Rights 2011 sets out an institutional framework for private companies. The Guiding Principles are meant to be a framework for private companies to respect and protect human rights. They are not binding but nonetheless, in future could form a basis for developing "jurisprudence" for social media companies that could even have an effect in an offline world. In recent years, we have seen numerous attempts of developing a global framework of digital rights for social media companies. In their work Gill, Redeker and Gasser classified four documents looking toward an established bill of rights for social media platforms (Redeker, D., Gasser, U. 2015). These include: "*What next for the Social Network Users' Bill of Rights?*" (Pincus, 2011), "*A bill of Rights for Users of the Social Web*"

(Smarr, Canter, Scoble, Arrington, 2007), "*Bill of Rights for Social Network users*" by Ello (Sterling, 2015), and the "*Bill of Privacy Rights for Social Network Users*" (Opsahl, 2010). These articles possess not an ounce of value in regards to being legally binding, but rather they were published as guidelines by non-governmental organizations or individuals within the last decade.

In the framework of "Digital Constitutionalism: In Search of a Content Governance Standard" funded by Facebook Research of which professor Edoardo Celeste is a principal investigator, Facebook has invested in understanding "*what Facebook's content governance, and in particular the Community Standards, can learn from the charters, declarations and manifestoes that are articulating the ideals and values of digital constitutionalism*" (Media Lab, 2020).

2. Disinformation in Georgia

The social media world is divided into two parts, where the internet is free or partly free and where the internet is not free. Even the most democratic states have faced problems of disinformation on social media. For the purposes of this article, the case country is Georgia which serves as an interesting example of a post-soviet country with fragile and unconsolidated democracy. Georgia is located in the Caucasus and Russia has occupied its territories of Abkhazia and South Ossetia. Russia and Georgia have always had a strained political relationship which led to the war in 2008 and the further occupation of Georgian territories by Russia. Despite many political challenges, according to Freedom on the Net Report, Georgia is the most democratic out of its neighbours which includes Azerbaijan, Armenia, Turkey and Russia (Freedom House, 2021). Technological advances have made it possible to spread fake news that is created for often furthering propaganda, political and commercial interests of parties involved in generating it. Disinformation obviously poses a threat to the democratic development of all countries but especially fragile and unconsolidated democratic countries like Georgia. Adoption of a legislative framework similar to France's Law Against the Manipulation of Information 2018 would put Georgian democracy at risk. This is the reason why any type of proposal regarding the adoption of legislation has been strongly opposed by the civil society in Georgia. Fighting disinformation is a complex problem. On the one hand, anyone can spread fake news and on the other hand, critical voices can be characterized as spreading disinformation. Taking measures against disinformation is not just the responsibility of governments but also of social media platforms.

Facebook has implemented a number of measures to reduce disinformation. Several Georgian non-governmental organizations are part of Facebook's third-party fact-checking network. In the 2021 UN's Disinformation and freedom of opinion and expression Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, submits that "*Fact-checking services are more limited in many parts of the world (Alimardani, Elswah, 2020). Information reported by whistle-blowers raised concerns about the deliberate inaction of companies in less affluent markets. If confirmed, the disparities would show a very different quality of content moderation, undermining civic space in developing countries. A thorough understanding of the local political, social and economic context, language proficiency and close cooperation with civil society in countries where disinformation is more prevalent are necessary*" (Silverman, 2020).

Russian disinformation is a problem not just for Georgia but also for post-soviet states. The Head of the Radio and Television Commission of Lithuania, Mr. Mantas Martisius noted that "there are two problems in Europe: technological and legal and often the way of spreading fake news is by conveying the type of messages that make users lose faith in state authorities" (Shengelia, 2020). One of the examples of this is the messages conveyed by social media pages such as "Georgia First" and "Movement Amazing Victory" with 14,000 and 19,000 (ISFED, 2020) subscribers that a medical centre in Georgia, Lugar Lab was breeding the Covid 19 virus, when in fact it has been one of the key instruments in fighting the virus. This is a type of Russian narrative that has been spread through social media.

Georgia often features in Inauthentic Coordinated Behavior reports produced by Facebook for violating Facebook's Community Standards. Facebook makes content moderation decisions based on the reports received from DFRLab, a partner organization to Facebook in Georgia.

In April 2020 Inauthentic Coordinated Behavior report[1], Facebook stated that it has deleted 511 pages, 101 profile accounts, 122 groups and 56 Instagram accounts associated with "EsPersona" pages managed by pro-governmental ex-journalist and 23 profile accounts, 80 Facebook pages, 41 groups and 9 Instagram accounts associated with the opposition party, the Nationalist Party. These pages have been spreading fake news and disinformation through a coordinated system of bots and trolls.

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[1] Facebook. (2020). *Coordinated Inauthentic Behavior Report*. Meta
https://about.fb.com/news/2020/05/april-cib-report/

International Society for Fair Elections and Democracy (ISFED) has conducted research into social media over the period 1st of September to 23 November during which 2020 parliamentary elections took place in Georgia. The research mainly concerned Facebook, however Instagram, Tik-Tok and Telegram have also been monitored. 73 pages have been studied and nine categories of disinformation have been identified: nationalistic (30%), xenophobic (6%), Islamophobic (3%), anti-Western (11%), anti-liberal (19%), homophobic (9%), sexist (6%) and conspirative (7%). Furthermore, in the said period, a total of 5,882 posts have been published on these pages. The most active pages are "The Capital", "Generation for Christ", "Alt-Club", and "Welcome to Georgia". These 5,882 posts had user interaction (shares, comments and reactions) of 2,517,772 (ISFED, 2020).

In the breakdown of "nationalistic" narratives, it has been identified that anti-Turkish messages have been disseminated most often which implicitly and explicitly referred to a threat coming from Turkey in trying to impose itself on Georgia. One of the most active pages disseminating Turkophobic messages is "Turkey is an occupier". These pages also spread anti-immigration messages and opposed the idea of foreigners residing and owning lands in Georgia. Content disseminating Islamophobic messages was also identified stating that Georgia is at risk of Islam replacing the Orthodox church (ISFED, 2020).

Other negative messages were directed at neighbouring countries including Russia. Anti-western messages against the US and the North Atlantic Treaty Organization (NATO) are not uncommon. Anti-US or anti-NATO messages are trying to cultivate the opinion that Georgia's strategic partners are not assisting Georgia but actually using it to further their own interests. These pages are trying to convey that Georgia is taken hostage by the West and that in order to achieve stability it is important to reach a good level of partnership with Russia first.

Two coordinated pages such as "We love our motherland" and "National Front of Georgia" publish messages in support of the Georgian March which is one of the most aggressive and nationalistic parties in Georgia, that has physically been aggressive against the LGBT community on numerous occasions. Homophobic messages included strong criticism of the "Law of Georgia on Elimination of all Forms of Discrimination" adopted by the Georgian Parliament. Civil society organizations that defend or campaign for LGBT rights have also become targets of disinformation. Pages such as "Alt-Info" and "Alpha-Dominant" disseminated sexist and misogynistic messages. For instance, they criticized Georgian Parliament for adopting gender quotas as part of the electoral reform (ISFED, 2020).

Georgia is a relatively small country with a population of 3,989,167 people and more than 75% of the adult population are active users of Facebook. Therefore, the volume of disinformative and fake content on social media spread through the pages described above is more than enough to penetrate and disinform a large majority of the digital society.

It has been discussed in the ISFED report that some of the monitored pages have been sharing the same posts and are most probably operating in a coordinated manner. "Alt-Info" one of the most active pages that disseminated anti-liberal messages, was caught by Facebook's definition of "Inauthentic Coordinated Behavior". More specifically, ahead of the parliamentary elections in 2020, Facebook removed 49 pages, 50 accounts, 4 groups and 19 Instagram accounts associated with "Alt-Info" (Facebook, 2021). Other associated pages "Patriotic Spirit" and "Unity of Youth" remained active and "Altinfo" claimed that it was blocked as part of "liberal censorship" (ISFED, 2020).

Due to a lack of knowledge of local context, Facebook algorithms at times fail to remove disinformation. In the scope of the research for this article, several interviews have been conducted with Georgian fact-checking organizations. It has been highlighted that individual comments, no matter how fake, almost never get deleted on the basis of reporting (Shengelia, 2021). It is only groups/pages that spread disinformation that seem to fall under the category of "Inauthentic Coordinated Behavior" (Shengelia, 2021).

In spite of problems that stem from social media, usually extremist groups inside Georgia (Georgian March, Alliance of Patriots of Georgia) or Russian security forces are blamed, but never social media service providers. Moreover, the lack of case law and legislation in Georgian courts on social media proves that social media service providers are viewed as neutral and unattainable by Georgian internet users and therefore their decisions are never questioned. In addition, the Georgian judiciary lacks the competence to adjudicate matters that involve social media.

3. **Code of Practice for Disinformation**

In 2018, an industry-wide initiative in the form of the Code of Practice for Disinformation (the "**Code**") has been adopted at the EU level, signatories of which include leading social media platforms who have taken obligations under the Code to implement measures against the spread of disinformation (European

Commission, 2020). At the initial assessment of the Code in September 2020, it proved to be a valuable instrument for facilitating dialogue between platforms (European Commission, 2020). This resulted in concrete actions and policy changes being adopted by relevant stakeholders to help counter disinformation. In May 2021, the European Commission presented guidance to strengthen the Code which will most probably evolve into a co-regulatory instrument under the Digital Services Act (European Commission, 2020).[2] It should also be noted that signatories to the Code have taken steps to fight false and misleading information spread in relation to vaccines, however, this has at times resulted in overregulating content.

For instance, a Facebook Group in Georgia, Med Guide that assisted Covid infected patients by providing online advice from qualified doctors, got deleted twice by Facebook, because it was sharing Covid 19 related content. According to admins of the group, it served a useful purpose and provided qualified advice, to more than 100,000 members (PalitraNews.ge, 2021). This highlights the importance of the need for the platforms to start understanding local context as well as the need for decentralized content moderation, however, these are the topics beyond the scope of this article.

4. Self-regulatory mechanism: Case of Facebook's Oversight Board

Apart from regulatory mechanisms such as state adopted laws and regulations adopted at the transnational level, a number of self-regulation mechanisms have been implemented by platforms. For instance, Facebook's Oversight Board (the "**FOB**") up and running since October 2020 appears to have a degree of personal standing and assumed independence from Facebook as demonstrated by its recent criticism of Facebook on the open-ended nature of the suspension of Donald Trump's Facebook account (Clegg, 2021). There seems to be a trend in establishing self-regulatory mechanisms across the tech industry as TikTok has set up "Councils" (O'Brien, 2021) and Twitter has set up "Trust and Safety Council" (Pickles, 2019).

Julia Black describes self-regulation as "*variously soft law, collective arrangements that may be non-legal, and/or entail no government involvement, bilateral arrangements between firms and the government, unilateral adoption of standards, the involvement of industry in rule-formation, neo-corporatist arrangements in which the collective shares in the state's authority to make decisions about*

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[2] Ibid.

standards of conduct, monitoring, and enforcement, but in which the relationship with government may vary, and/or in which those other than the persons being regulated may play a role (auditors, stakeholders)" (Black, 2001).

The process of evolution has been provoked amongst other things by the complexities of state units and societal structures. Pluralistic tendencies emerging in contemporary society raise a need for a decentralized approach. Lack of technical knowledge, incapability of control, the collapse of public and private distinction as well as globalization has led to the emergence of a decentralized sovereign state. Public law as such is incapable of controlling all aspects of global corporate private governance. Public law by its structure seems incapable of performing private governance functions. It is not equipped with enough technical knowledge and detail to keep up with the developments of private companies and their doings. Disinformation, content visibility, and algorithmic discrimination are not something that the traditional constitutional framework is designed to understand.

More often, regulation can be used as a tool for state control and censorship in fragile democracies like Georgia. Setting up FOB is certainly better than having no mechanism of self-regulation in place at all. Despite steps taken in eradicating critical parts of FOB, it still remains to be an unelected panel of international scholars and experts who have been handpicked by Mark Zuckerberg, for making decisions that affect the daily lives of Facebook users.

Due to the concrete and real harm originating from the freedom of speech that is exercised on Facebook, there is a case for restricting free speech which is most certainly an attractive option, however, leadership at Facebook believe in the value of free speech which is why the selection of membership has been very careful. The tension with balancing free speech vis a vis other human rights (Right to Form an Opinion, Right to Free elections, Right to Health) is always going to be present with the rise of platforms where users can express their opinions. However, only time will tell if FOB manages to stand up to unpopular free speech and make consistent decisions when it comes to content moderation.

The self-regulation mechanism is a compromise that is heavily criticized but it tends to stick around as it is one of the viable alternatives to state regulation of social media. Self-regulation mechanisms do not present a "catch-all". Some matters are subject to criminal law such as child pornography. Other issues such as disinformation are more difficult to regulate. One must think carefully before constructing

obligations or any type of legal framework that would make social media service providers responsible for proactively moderating content, as this may have a tremendous chilling effect and detrimentally affect core democratic values. With the self-regulation trend of social media on the rise, we are witnessing a moment of functional differentiation similar to the separation of powers where separate institutions (Facebook, FOB, State) are ascribed different functions (legislative, adjudicatory, executory).

5. Media Literacy

In addition to adopting self-regulatory or state regulatory measures, it is important to raise media literacy levels amongst different segments of digital society in Georgia and globally. The existence of human rights alone is no longer sufficient protection for users when it comes to social media. What is important is how these rights can be protected. Without a set of competencies and skills to critically analyse media, digital society faces a risk of becoming victims of disinformation. Digital media gives its users a voice; however this voice needs to be used wisely. It is important for media literacy skills to be implemented from the very early stages of education. Also, the importance of research and sharing best practices should not be underestimated. Media literacy is one of the main mechanisms in battling disinformation. Media literacy must involve not just civil society or media regulating bodies but also academia and other educational institutions. In Georgia, the Media Literacy department at Communications Commissions, the Georgian media regulatory body, implements a number of projects ("Fake or Real" Competition, "Happy Onlife" Application to teach young people how to recognise disinformation) targeted at secondary education and higher education students (Communications Commission, 2020). However, the importance of cooperation between different stakeholders in Georgia (civil sector, academia, government, and international organizations) should not be underestimated in planning and executing media literacy-related activities.

6. Conclusion

In conclusion, disinformation is one of the most complex challenges emerging from social media. Disinformation which is expressed as part of the right to Freedom of Speech violates rights such as The Right to Free and Fair Election, the Right to form an Opinion and the Right to Health. Disinformation is often hard to define as it depends on the scope, local context and can often be confused with the subjective opinion of a user. Digital society in Georgia faces both internal and external waves of disinformation, which to the present day is unregulated. An older generation of Georgians easily become targets of Russian disinformation that is disseminated through social media and ruptures what is already very polarized society. Georgian fact-checking organizations that have partnered up with Facebook at times fail to provide an objective picture of the local context to the platform, due to their tendency of selective reporting fed by their political preferences. However, having an unconsolidated and fragile democratic regime makes Georgia unprepared for adopting laws to regulate disinformation. The establishment of self-regulatory mechanisms such as FOB is a compromise between adopting state-level laws and doing nothing at all. However, FOB is still relatively new and it remains to be seen whether it can make any difference to users' human rights in fragile and unconsolidated democracies such as Georgia. Maintaining users' right to free speech vis a vis other human rights will always be a balancing act for social media platforms and their self-regulatory bodies, transnational organizations and states. Raising levels of media literacy instead of adopting state laws is certainly one of the ways in which disinformation can be tackled in unconsolidated democracies like Georgia.

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