

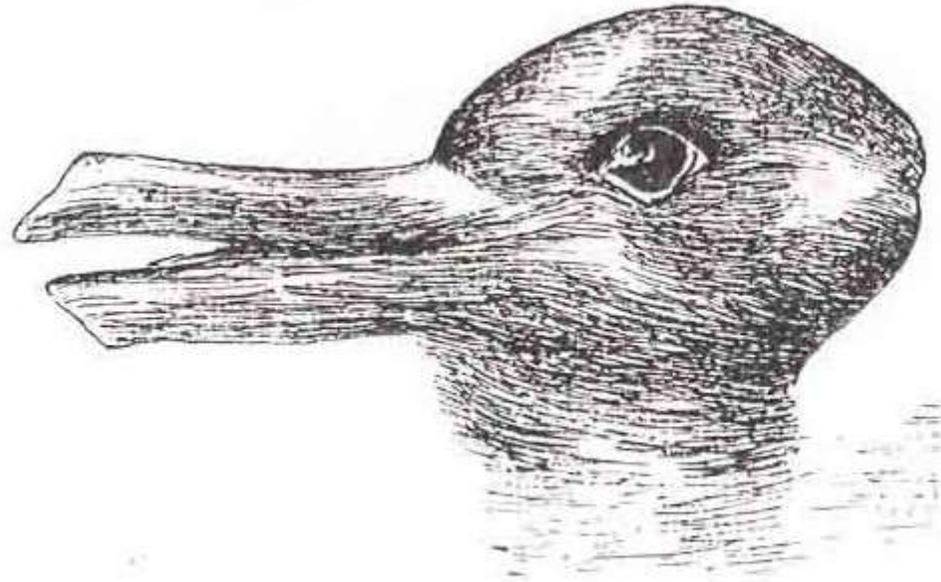
Managing misinformation & disinformation*

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* **Disinformation** is *intentionally* false or inaccurate information that is spread deliberately. **Disinformation** should be distinguished from **misinformation**, information that is *unintentionally* false.

What is this?



Which answer is fake news?

And what about this?

- NASA report on “building blocks of life” portrayed by Senior Journalist as discovery of bricks on Mars
- “Fake news” that should be criminalized? Or laughed at?

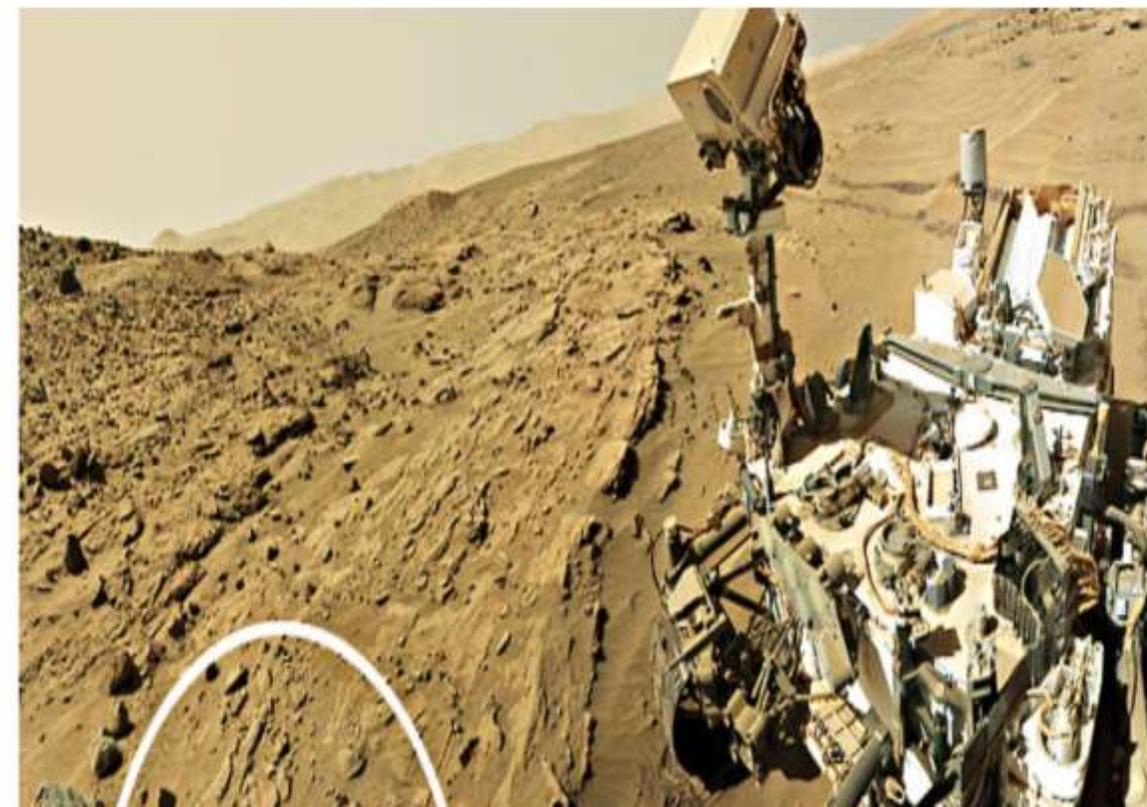
<http://divaina.com/daily/index.php/puwath-2/12677-2-17>

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Administrative penalties against “fake news”: India

- In April 2018, Indian Ministry of Information & Broadcasting (MIB) announced administrative penalties against journalists found to be responsible for “fake news” by two non-governmental bodies
 - Within 24 hours, order was withdrawn
 - Within a month, Minister Smriti Irani lost the portfolio
- MIB’s administrative action focused only on journalists
 - Some non-governmental entities were going to judge “fakeness”
 - But it was pointed out that the “regulatory” bodies had government appointees
 - The penalty was the withdrawal of journalist accreditation

Criminalization of “fake news” by law: Malaysia

- Under Malaysia's anti “fake news” law, anyone convicted of disseminating false content can be jailed for six years or fined up to RM500,000 (\$128,000; £90,400), or both; continuing offense punished by RM 3,000/day
- Former Prime Minister Najib got it approved just before the election
- Danish citizen who said on YouTube that Police took 50 mts to respond to a crime instead of the actual 8 mts was fined USD 2,550, which he could not pay, so he was imprisoned for 30 days
- Wide publicity was given to law and to the punishment



SHARING A LIE
MAKES YOU
A LIAR

 STOP FITNAH INTERNET
#FITNET

Life Ma

Current status of Anti Fake News Law in Malaysia

- Many, including opposition candidate Mahathir Mohamed, said it was part of the election strategy
 - Some said intent was to shut down news about USD 5 billion 1MDB theft
- Prime Minister Mahathir said he would repeal it during election campaign
 - But he said May 13th that he will redefine the offence
 - On June 6th he said: "The Goods and Services Tax (GST) will be abolished. The Anti-Fake News Act will also be abolished, as well as the other laws we promised."
- Minister of Communication & Multimedia Gobind Singh Deo stated on May 21, 2018 his intention to repeal the law →

*In his new role, Mr Gobind, 45, said media freedom was his main agenda and he was committed to upholding it, as spelt out in his coalition Pakatan Harapan's manifesto, reported Bernama news agency. **He said a proposal to repeal the Anti-Fake News Act will be submitted to Prime Minister Dr Mahathir Mohamad soon.** "Media freedom is my priority. The media churning out news and publishing companies are bound by the existing laws so we have to look at it that way and we have to find ways to improve the freedom of press in the country. And I am committed to do so," Bernama reported him as saying.*

Definition & applicability

- S. 2: “Fake news” includes any news, information, data and reports which is or are wholly or partly false, whether in the form of features, visuals, or audio recordings or any other form capable of suggesting words or ideas
- S.2: “Publication” includes (a) any written publication or publication of a nature similar to a written publication and every copy or reproduction . . .
(b) any digitally, electronically, magnetically or mechanically produced publication . . .
- S. 3
 - Extra-territorial application as long as “fake news” concerns Malaysia or the person affected is a Malaysian citizen
- My statement in prior slide about “the USD 5 billion 1MDB theft” would potentially be an offence under the Anti Fake News Law, and even about the Law being connected to May election

Is criminalization an option?

- Article 14(1)(a) of Sri Lanka Constitution grants every citizen “the right of freedom of speech and expression, including publication”
 - Can the government decide what is “true” and what is “fake” when the line between them is so unclear?
- Article 19 of Indian Constitution: “All citizens shall have the right to freedom of speech and expression”
 - Freedom of publication is established in case law interpreting Constitution
- **Not in democratic countries**

Administrative remedies

- Constitutional prohibition may be why Smriti Irani tried an administrative remedy using non-governmental entities who would judge the complaint against “Norms of Journalistic Conduct” in the case of the press and “Code of Ethics and Broadcasting Standards” in the case of broadcasting
 - The Press Council of India has more safeguards than Sri Lanka’s: but it is not trusted by the media
- No imprisonment; no massive fines; just loss of accreditation (which online news mongers did not have to start with)
- Did not apply to social media
 - Good thing too, because Irani herself retweeted a hoax tweet within a few days of the issuance and withdrawal of the order
- Did not apply extra-territorially, at least on the face
- But it still failed and got the Minister reassigned

What's left?

- Co-regulation by an Independent Commission under the Constitutional Council
 - May be acceptable for broadcast media under license, but unlikely for print
- What about web-based publications?
- Extra-territorial jurisdiction?
 - Malaysia imprisoned a Danish citizen who was in the country
 - But despite explicit extra-territorial jurisdiction written into the Law, could they have punished the Wall Street Journal that broke the 1MDB story and kept it alive? The tweets from Tom Wright, the WSJ journalist?
- 1MDB was “fake” before the election →
 - Now it's not

*Datuk Jailani Johari, the Deputy Communications and Multimedia Minister, explained that **fake news is information that is confirmed to be untrue, especially by the authorities or parties related to the news.** He said that 1MDB has been investigated by the police and Attorney-General and the reports have been presented to Parliament's Public Accounts Committee (PAC), which is made up of lawmakers from both sides of the divide. Jailani added that recommendations from the PAC report have been accepted and been implemented by the Government. . .*

*"As such, the Government views that **other than the information that has been verified by the Government, all other information is deemed as fake news,**" he said during his ministry's wrap-up on the debate of the Royal address on Wednesday (March 21).*

<https://www.thestar.com.my/news/nation/2018/03/21/unverified-info-on-1mdb/#eLl1jB5cIC12F7d1.99>