MISINFORMATION AND DISINFORMATION DURING COVID-19: THE EFFECTS AND THE RELEVANT LAWS IN MALAYSIA

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Abstract:

Misinformation and disinformation are increasing as fast as the spreading of Coronavirus disease 2019 or Covid-19. Both happen as a result of the use of social media and technologies. The act of spreading fake news, rumors, and conspiracy theories or giving false information is considered an offence under the laws of Malaysia. However, the number of cases that relate to this offence has been increasing especially during the current pandemic. Thus, this article discusses the effects of the offence and the efforts taken in preventing it from happening. The focus is on the laws that are applicable in the situation. The methodology used is socio-legal research that involves analysing the laws that are applicable in the social situation. The article suggests that further research should be carried out on the applicable laws and amendments should be made to the relevant laws in order to combat the commission of the offence in the future. It is hoped that the suggestion will assist the authority to add more measures in combatting the pandemic and for the public to be more cautious of committing misinformation and disinformation.

Keywords:

Covid-19, Infodemic, Misinformation, Disinformation, Fake News, Rumors, Laws

Introduction

Coronavirus disease 2019 or COVID-19 was first identified in Wuhan, China. It has been declared as a pandemic by the World Health Organization (WHO) on March 11, 2020. The pandemic is said to be caused by the Severe Acute Respiratory Syndrome (SARS)-CoV-2, which led to the death of hundred thousand of people around the world. It is a massive global health threat that impact human lives (Mukherjee et al., 2020). Malaysia is among the first few

countries in the Southeast Asia that was badly affected by the pandemic. As of November 2020, there are 31,548 no of cases in Malaysia and 249 death recorded.

This threat has led to an occurrence known as "infodemic", which according to the World Health Organization (WHO) means, "… an overabundance of information, either true or false, which mostly are fake news, rumors and conspiracy theories that makes it hard for people to find trustworthy sources and reliable guidance when they need it". The spread of these information can happen rapidly, especially during the time of the pandemic. The Director-General of the WHO, Tedros Adhanom Ghebreyesus stated that the world is now fighting not only the pandemic itself, but also the infodemic. This situation is extremely concerning because of its negative effects to people (Zarocostas, 2020; The Lancet, 2020).

Infodemic is amplified by the increase of access to internet and the use of social media. Social media users have been playing the biggest role in spreading fake news, rumors and conspiracy theories all across the internet. Platforms such as Twitter, Facebook, Whatsapp and Instagram are identified as the being most platforms used for the purpose. This cause the increase of the production of information as it create easier ways for people to get and share the information worldwide (PAHO, 2020). A study was conducted by the Center for Health Informatics at the University of Illinois in March 2020 on the tweets involving COVID-19. The research shows the increased in the number of tweets, with majority from the United States.

Similarly, the infodemic also happens in Malaysia. It happens because of the wide use of social medias among Malaysians. Reports shows the increase in the number of misinformation and disinformation cases that happened especially during the COVID-19. Thus, Malaysia has come up with different responses or strategies in order to curb the spread of fake news, rumors and conspiracy theories that relates to COVID-19. This article will discuss some of the examples of misinformation and disinformation that happened worldwide, its effects to the public and the laws in Malaysia that are applicable in the current situation.

Misinformation and Disinformation: The Difference and Some of the Types
The term misinformation is often get easily confused and used interchangeably with other terms especially the term disinformation. Therefore, it is essential to define each of them first. According to Wu, Morstatter, Carley, and Liu (2019), misinformation is defined as "… false or inaccurate information that is deliberately created and is intentionally or unintentionally propagated". It involves sharing of rumors, false and misleading stories to others without checking its credibility. The word misinformation is different from disinformation in the sense that the latter refers to false or inaccurate information that is intentionally created by a person with the intention to deceive others. On the other hand, there is no intention to deceive others involves in misinformation. In other words, the main difference between both terms is in the intention of the maker of the information (Wu, Morstatter, Carley, and Liu, 2019; Kumar, West, and Leskovec, 2016; Hernon, 1995).

There are different types of misinformation and disinformation including fake news, rumors and conspiracy theories. Fake news refers to false information in the form of news. In contrary, rumors include any unverified information that can be either true or false (Wu, Morstatter, Carley, and Liu, 2019). A study was conducted by Islam, Sarkar, Khan et al (2020) on the impact of infodemic on public health. The study found out that rumors which has been defined

as "… any unverified and instrumentally relevant claims, statements and discussion centering COVID-19 circulated in online platforms" as the most prevalent infodemic.

It was reported that the number of rumors increased starting from February, 2020 as a result of the spread of the pandemic worldwide. The rumors are mostly about the COVID-19 illness, its transmission and prevention. Reports such as the need to eat garlic and vitamin C to prevent the virus infection were prevalent all over the world. Some reports provide dangerous solution such as drinking bleach or alcohol (Victoria Knight, 2020), drinking cow urine (BBC Reality Check Team, 2020) and urine with lime (Cable T, 2020). In addition, there were unfounded reports on how to self-diagnose COVID-19, which was said can be done by holding our breath for more than ten seconds (Landsverk G, 2020).

Asides from rumors, several conspiracy theories had been circulating during COVID-19. One theory stated that COVID-19 was actually manufactured in a lab in China as a bioweapon for economic gains (Gertz, 2020). Another theory that emerged was that a vaccine had already existed, and the virus was actually an attempt to boost the sale of the vaccine as reported by Ritchel (2020). Unfortunately, most people choose to believe these theories rather than relying on facts and science.

Similarly, the number of fake news, rumors and conspiracy theories has increased in Malaysia during this pandemic. As of October 2020, the police and the Malaysian Communications and Multimedia Commission (MCMC) have opened 270 investigation papers on cases of misinformation and disinformation on COVID-19, where 35 cases have been brought to the courts. The portal www.sebenarnya.my listed all fake news, rumors and conspiracy theories that happened in Malaysia during the pandemic, such as the false claim that Dr. Zulkifly Ahmad, the former Ministry of Health encouraged the citizen of China to come to Malaysia for holiday as long as they are wearing face masks. Another example is the false rumour that a staff in Sultanah Aminah Hospital, Johor is confirmed positive of COVID-19.

Effects of Misinformation and Disinformation to the Public

Misinformation and disinformation, which involve the spread of fake news, rumors and conspiracy theories are the global enemies as both affect all aspect of life and cause negative effects to people. Both can spread quickly, especially due to the use of social media. Once this happen, it will change people behaviour and might lead to dangerous risks (PAHO, 2020). An example is the misinformation that happened during the Ebola outbreak in 2019 which cause mistrust and social disturbance in the Democratic Republic of Congo (World Health Organization, 2019).

Similarly, there are negative effects of the spread of fake news, rumors and conspiracy theories during COVID-19. The main effect is that it causes confusion as to the real information on COVID-19 illness, its transmission, treatment and prevention. Misinformation and disinformation make it hard for people to find credible information. As a result, the public have to decide the legitimacy of the information. They might follow the wrong prevention and control strategies, which possibly lead to serious implications, including death. For instance, there was a theory that highly concentrated alcohol could kill the virus. This theory led to the death of more than 700 people in Iran as reported by Aljazeera, (2020). Similarly, 30 people in Turkey and Qatar died after ingested alcohol-based hand sanitizer (Ahmed Siddiqui, Mushtaq, Mohamed, et al., 2020). Another wrong prevention and control strategies happened in South

Korea, causing more than 100 new COVID-19 cases after a church used an infected spray bottle to spray salt water in the mouth of church attendees (Chan-Kyong, 2020).

The confusion as to the real information on COVID-19 illness, its transmission and prevention contributes to decrease of trust and confidence in governments and healthcare agencies (Islam, Sarkar, Khan et al, 2020). The reason is because such confusion due to the spread of fake news, rumors and conspiracy theories might impede the communication of credible information from governments and healthcare agencies to people. Furthermore, people have the tendency to believe that fake news, rumors and conspiracy theories as all are portrayed as credible and often prioritized over the scientific evidence. This can be dangerous as it might lead to incoherent messages and recommendations given to people. In other words, it can affect the decision-making process when needed. An example is on the issue of wearing face masks. In the UK for instance, the government in the beginning has different opinion on whether masks would actually be protecting people from the transmission of the virus. These incoherent messages and recommendations that are reported lead to decrease of public trust (The Lancet, 2020).

In addition, the spread of fake news, rumors and conspiracy theories affected the society, especially in the economy sector. For example, panic-buying happened in many countries after the rumors of lockdown circulated. Important items such as face masks, toilet papers and hand sanitizers were out of stocks, causing higher prices of those essential items (Islam, Sarkar, Khan et al, 2020). It also lead to the increase of cybercrime. In Malaysia, the number of cybercrime cases risen especially during the Movement of Control Order (MCO) with a total of 3,906 complaints, an increase of more than 90 per cent compared to the same period last year.

The Laws to Combat Misinformation and Disinformation.

Immediate actions are needed to curb the commission of misinformation and disinformation during the pandemic. The actions are important not only in managing the spread of fake news, rumors and conspiracy theories, but also to dispel them and mitigate any fears and stigma towards certain people and places affected. Therefore, several actions are taken for this purpose. In April 2020, the UN Secretary-General launched the United Nations Communications Response to combat the spread of misinformation (United Nations, 2020). A Guidance Note on Addressing and Countering COVID-19 related Hate Speech was also issued by the UN in 11 May 2020 (United Nations, 2020).

In Malaysia, there are several strategies adopted to combat misinformation and disinformation. The strategies can be divided to three stages as stated by Zainul and Said (2020) in their report. The stages are as follows: (1) creating a clear communication channel; (2) addressing or correcting false information; and (3) taking actions against the spreader of false information. With regard to the first stage, there is a clear communication channel in the form of daily press conference on the current situation of COVID-19 in Malaysia. In addition, there are various channels that addressing false information. An example is the establishment of Malaysian Communications and Multimedia Commission's (MCMC) Quick Response Team, which has successfully clarified 388 fake news and rumors in Malaysia. In addition, there is also a specific website that provides credible news on COVID-19, which is the portal www.sebenarnya.my (Adib and Harun, 2020).

Another way is through legal actions, where those who create and spread fake news, rumors and conspiracy theories during COVID-19 will be charged in the court. It is true that we have the rights and freedom of speech and expression as stated in Article 10 of the Federal Constitution. In addition, section 3(3) of the Communication and Multimedia Act 1998 (Act 588) also provides the right not to censor the internet. However, there is no absolute freedom in everything, and the national interest should be protected especially during the current pandemic. Article 10(2)(a) of the Federal Constitution lists the areas where the freedom of speech can be detracted and one of it is if it in the interest of the Federation. Therefore, the intrusion of this right can be justified especially during the current pandemic.

Previously, we have the Anti-Fake News Act 2018. However, the Act was repealed in December 2019. Currently, there are two legislations that being used. The first one is to charge the creator of false information under section 233(1) of the Communications and Multimedia Act 1998 (Act 588), which is about improper use of network facilities or services. The section states that, "… any person who use network facilities or network service or applications service to make any comment, request, suggestion or other communication which is false, with intent to annoy, abuse, threaten or harass another person commits an offence". Section 233(3) of the same Act states the punishment for the person who commit this offence. It stated as follows;

> "A person who commits an offence under this section shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both and shall also be liable to a further fine of one thousand ringgit for every day during which the offence is continued after conviction".

Another alternative is to charge the person under Section 505 (b) of the Penal Code which is about making, publishing or circulating statements on public mischief. The section states as follows;

> "Whoever makes, publishes or circulates any statement, rumour or report with intent to cause, or which his likely to cause, fear or alarm to the public, or to any section of the public where by any person may be induced to commit an offence against the State or against the public tranquillity shall be punished with imprisonment which may extend to two years or with fine or with both".

Based on this section, there are two elements that need to be proven by the deputy public prosecutor: (1) the making or spreading or false information or rumours and (2) it causes fear to the public.

As of July 2020, there were 266 investigation papers relate to misinformation and disinformation during COVID-19 (Zainul and Said, 2020). An example is the case involving a journalist who used her Facebook account to spread false information relating to COVID-19. In her post, she posted that 1,000 Chinese from China had arrived in Penang during the pandemic. As a result, she was charged under Section 505 (b) of the Penal Code with three counts of making statements that would lead to public fear, but pleaded not guilty to all charges (Bernama, 2020).

Suggestions and Conclusion

Malaysia has done a relatively great job in combatting misinformation and disinformation. We have a specific and credible website for government and healthcare agencies to post credible information about COVID-19. In addition, there are fact-checking agencies that identify fake news, rumors and conspiracy theories. Its function is to quash the misinformation and disinformation by using social medias and spread the real information. There are also sufficient ways for people to make reports of any commission of misinformation or disinformation. Furthermore, there are sufficient laws that deals with this problem. The applicable laws are Section 233 of the Communications and Multimedia Act 1998 (Act 588) and Section 505 (b) of the Penal Code.

However, these two sections are quite vague and broad. The reason might be because of the confusion in the terms used and the difficulty in identifying types of false information. Section 233 of the Communications and Multimedia Act 1998 for instance does not stated clearly what are the contents that are not acceptable. It does not stated on whether the section is applicable in both misinformation and disinformation. Therefore, it is suggested that the section should be amended so that its applicability will be specific, clear and will assist us in combatting the offense in the future.

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