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At a legislative hearing in May, Singapore's powerful law minister K. Shanmugam publicly shamed representatives of global internet giants when he displayed a shocking cartoon that been circulating freely on Twitter. It depicted a naked and bloody Caucasian woman on the ground, her slain baby between her outspread legs, and encircled by 10 Arab and South Asian men. Tweeted with the hashtag #DeportAllMuslims, the cartoon was an undisguised attempt by Europe's far right to spread fear of immigrants and refugees.

Shanmugam, of course, had a more salutary intent when he displayed this cartoon at the Select Committee on Deliberate Online Falsehoods. He pointed out that British legislators had complained to Twitter about the image, only to be told that it was not in breach of the platform's hateful conduct policy. Here was a clear case where platforms were permitting content that was beyond what Singapore could tolerate, he said. "If the law does not cover this, then we will have to have law that covers this. And no amount of protestation that self-regulation will be enough is going to wash," he concluded.

Singapore's Select Committee published its report in September, recommending new legislation to deal with "deliberate online falsehoods". Singapore is one of many jurisdictions grappling with this problem. Germany's new network enforcement law, dubbed NetzDG, requires internet platforms

to delete potentially illegal content more diligently. In July, the French parliament passed a bill that would allow judges to block the dissemination of intentionally false information published within three months of an election.

Of course, deceit is as old as human society. But what seems new is the sense of losing control to industrial-strength disinformation campaigns. Revelations of Russian manipulation of public opinion in the United States and Europe have raised this to the status of

a national security crisis. Also causing consternation is the fact that who sees what online is determined by codes that are being gamed by irresponsible players for private gain. Internet users seem unable to resist clickbait or to detect hoaxes, and are contributing to an information ecosystem where falsehoods, hate speech, and cat videos seem to be winning the Darwinian struggle against the information and ideas people need to sustain democratic self-government. Never have elites in liberal democracies –

Photo: Peru Ministry of Foreign Affairs



let alone in illiberal societies like Singapore – seemed less convinced of Justice Oliver Wendell Holmes' classic defence of free speech, that "the best test of truth is the power of the thought to get itself accepted in the competition of the market".

As a result, information disorders – including junk news, hoaxes, and hate propaganda – have gone to the top of the public agenda in many countries. Indeed, the alarm has been so shrill that the response is taking on traits of a moral panic. While much of the concern is justified, there is a tendency to overreact – to a few salient features of the problem; to ignore other important aspects; to rush to judgment; and to opt for quick legal fixes.

Hijacking the "fake news" label to stifle legitimate debate

As is typical in moral panics, there have also been instances of flagrant

opportunism: following the lead of Donald Trump, authoritarian leaders such as the Philippines' Rodrigo Duterte and Egypt's Abdel Fatah al-Sisi have hijacked the "fake news" label to stigmatise legitimate media criticism. In Malaysia, one of the final legacies of the Najib Razak government before it was ousted in May's general election was an Anti-Fake News Act. The new government has declared that it will repeal the statute. The Malaysian law defines fake news ambiguously, notes Article 19, the London-based freedom of expression advocacy group. "It essentially grants unfettered discretion to authorities to target expression they dispute the veracity of, or simply do not like," it adds.

We need to respond to the urgent and critical challenge of disinformation campaigns, but avoid kneejerk reactions that solve nothing while creating their own set of problems.

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◀ Singapore's Law Minister K. Shanmugam is pushing to legislate against 'Deliberate Online Falsehoods'. But in making an example of Twitter's failure to remove offensive posts like the #DeportAllMuslims cartoon (right), he may have, ironically, highlighted the value of free speech.



The scourge of hate propaganda

The most virulent strain of disinformation is hate propaganda – a kind of group libel directed against communities defined by their race, religion, nationality, immigrant status, sexual orientation or other salient markers of identity. At its most extreme, hate speech has facilitated crimes against humanity, including genocides. More routinely, it is used by identity-based political parties and movements to mobilise supporters by cultivating a fear of others, and to intimidate and marginalise their opponents. Such tactics diminish the target community's dignity and threaten their rights as equal citizens.

Examples in Asia are distressingly common. In 2017, disinformation-assisted hate propaganda claimed one of its biggest scalps when hardline Muslim groups brought down the Governor of Jakarta, Indonesia. Basuki "Ahok" Tjahaja Purnama, an ethnic Chinese Christian, had been the target of vicious identity politics the moment he took office. In 2016, the outspoken politician impetuously told a gathering that Muslims were welcome to vote against him if they believed his opponents' lies that the Quran forbids them from electing non-Muslims. This remark was twisted by his enemies to make it seem as if he'd said that the Quran itself was deceiving the people. A video of Basuki's remarks with crucial words omitted from the subtitles was posted online with a provocative caption. Hardliners seized on the episode to mobilise huge protests. Basuki not only lost the election but was also convicted of blasphemy and sentenced to two years in jail.

The biggest victims, though, are not political elites but marginalised communities. Years before attacks on Myanmar's Rohingya community reached levels that verge on genocide, human rights activists had been warning about anti-Muslim hate speech on Facebook. Meanwhile, hate propagandists in India surpass Russia's information warfare capabilities in



← Jakarta, Indonesia, 4 November 2016: Muslims demonstrate demanding the removal of Governor of Jakarta Basuki "Ahok" Tjahaja Purnama, believing the vicious disinformation campaign targeted against him. Photo: Abraham Adeodatus / iStockphoto.com; Yamtono_Sardi / iStockphoto.com
 ← Indian Prime Minister Narendra Modi's Hindu nationalist supporters have been behind conspiracy theories such as "love Jihad", which has broken up consensual inter-faith marriages and incited riots in key electoral battlegrounds. Photo: Kremlin.ru



scale, sophistication, audacity – and body count. One of their deadliest conspiracy theories spun by Hindu nationalists behind Prime Minister Narendra Modi is the “love jihad”, which claims that Muslim men are carrying out a plot to seduce, abduct and convert Hindu girls as part of a grand mission to steal the soul of the country away from Hindus, who make up almost 80 per cent of the population.

In response, self-styled defenders of the Hindu majority have broken up consensual inter-faith marriages and forced the women to return to their families. The main utility of the love jihad hoax, though, is to incite communal conflict in critical election battlegrounds, thus solidifying the Hindu base behind Modi's Bharatiya Janata Party. Hate propaganda has also infused Hindu nationalists' cow protection movement. While the cow may be sacred to Hindus, the effects of the campaign have been profane. In a landmark 2015 incident, a lynch mob killed a Muslim villager in Dadri, Uttar Pradesh, after being told he had stolen a calf for his family's consumption.

Human rights norms provide clear guidance on balancing free speech rights with the right of people to live free of intimidation, discrimination and violence. The International

Covenant on Civil and Political Rights (ICCPR) requires states to prohibit hate propaganda that crosses the threshold of incitement to harm. Article 20 states, “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

But while there is a strong case for regulation of extreme and dangerous forms of hate speech, lawmakers need to understand what they are up against. Policy debates have tended to underestimate how strategic and versatile the most formidable agents of hate are.

It's complicated

First, hate propagandists are not as dependent on digital media as conventional wisdom suggests. Certainly, social media platforms are currently too hospitable to disinformation; their speed, virality and anonymity are being exploited to the hilt. But it's not as if hate propagandists will be deterred by snatching away their internet toys. Face-to-face interaction within places of worship and study groups probably play a bigger role than online messages in cultivating religious intolerance. The Dadri lynching, for example, was triggered by an announcement in the local temple. In many countries, talk radio and cable news hosts do more to create intolerant “echo chambers” and “filter bubbles” than social media. The disproportionate attention being paid to social media places undue faith in techno-legal solutions.

Second, existing and proposed measures against hate speech and fake news are designed to deal with self-contained messages that can be shot down, sniper-style, by lawyers, moderators, fact-checkers and other regulators. But that is not how the most harmful hate propaganda works. Instead, it takes the form of multi-modal, multi-message campaigns – or what the public relations and advertising industries call integrated marketing communications.

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It is embedded in grand narratives, often invoking a mythical golden age as well as past injustices and traumas. These narratives are refreshed with contemporary examples to keep the community in a state of heightened anxiety. When the community needs to be activated – to take part in a riot, for example – activists simply need to point to some new development as the last straw. The audience's pre-loaded memories do the rest.

Structured thus, hate campaigns pose intractable regulatory conundrums. Trying to use fake news regulation would be futile, since propaganda can deceive without being untrue. For example, the anti-immigrant cartoon described earlier is part of a “rapefugee” myth that white nationalist media propagate by curating news reports of people with Muslim-sounding names suspected of sexual offences. Each item may be factually accurate and even come from a credible news source, but the overall effect is to mislead.

Third, there is a division of labour, such that it is extremely difficult to hold accountable the leaders who ultimately benefit from the campaign. The most extreme and shocking expression is left to low-level activists and anonymous trolls. Leaders avoid inflammatory language, and thus claim plausible deniability. For example, BJP politicians make matter-of-fact references to population trends that seem unobjectionable in isolation, but are designed to dovetail with conspiracy theories about Muslims out-reproducing Hindus. The politicians show their true colours when they refuse to condemn extreme speech and hate crimes by their followers. Their silence is morally reprehensible but not something that can be legislated against.

Fourth, hate propagandists don't just use conventional hate speech, but also a companion strategy of offence-taking. They manufacture righteous indignation against perceived insults, such as the release of a book or film, or



the building of an unpopular minority's place of worship.

In many Asian countries, these orchestrated shows of offendedness are supported by laws that prohibit offence and insult. Governments claim they need such laws, including against blasphemy, to maintain social harmony. But these backfire badly. When the state treats blasphemy as a crime, fanatical groups feel justified in exercising vigilante justice and mob vengeance against perceived offence. Or, after vociferously taking offence, they demand that the state uphold its insult laws. The prosecution of the former Jakarta Governor for blasphemy was a classic case, and by no means unique.

Fifth, hate agents are adept at political jiu-jitsu, using a bigger opponent's strength to their advantage. When they are hemmed in by authorities or elites, they play the victim to milk their community's sympathy. They thus gain political

mileage even when they are called out, countered or regulated. When a government cracks down on their hate speech, they cite this to their supporters as evidence that the state has been captured by influential minorities.

Redirecting the regulatory gaze

All in all, laws against hate speech and fake news provide a false sense of security against modern hate campaigns. Granted, it is difficult to resist flexing legal muscles when confronted with content as toxic as the cartoon referred to in the introduction. Yet, this very cartoon turns out to be a good illustration of why censorship may be misguided. It is an archetype of jiu-jitsu hate propaganda, designed to inflict injury even when the power of the state is applied against it. One key detail in the drawing is that the victim is being gagged by caricatures of Barack Obama and Angela Merkel, with a strip of cloth bearing the words “racism”.

Another cartoon in this genre shows the father of the rape victim being arrested by a policeman because his protestations are deemed racist.

The message: governments are protecting dangerous minorities from criticism in the name of political correctness and multiculturalism.

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Photo: stnazkul / iStockphoto.com

Any attempt to censor the cartoon – which would never stop its circulation in any case – would only confirm this allegation in its target audience's eyes. Similarly, Germany's NetzDG law has already been termed censorship by the extreme right, as has Google's attempts to change its algorithms to relegate anti-Muslim propaganda sites in its search results.

Furthermore, even if we agree that this particular cartoon crosses the line, articulating a general policy is not a straightforward matter. Imagine the same basic cartoon but with different characters: replace the victim with a blood-soaked Vietnamese woman and baby, and change her brown skinned assailants to crazed American soldiers, with the ironic caption, “Democracy”. Let's say the cartoon was posted by a Vietnamese artist to commemorate the 50th anniversary of the 1968 My Lai Massacre. If an American veteran got offended and complained, it would hardly be satisfactory if Twitter moderators gave in and took down what should count as legitimate commentary on a matter of public interest. Such judgments should not be left to Silicon Valley firms second-guessing vague government rules. The proper forums are domestic courts and other regulatory agencies with the accountable power to issue specific take-down orders based on clear, written law.

Ironically, the Singaporean law minister's actions made a compelling case for a liberal approach, even if his words suggested otherwise. To ensure that his argument reached the wider public, Shanmugam posted the cartoon and his comments on his Facebook page, which has more than 120,000 followers (more than most Singapore politicians of any party). Within a couple of days, the obscure cartoon received more than 10,000 views on his page. The minister meant this as an open-and-shut case of content that did not belong in Singaporean cyberspace, but his actions said something else: that it can serve the public interest to let such content circulate and stimulate an open discussion on the divisive forces that threaten cohesion in a diverse society. He unwittingly demonstrated that governmental intervention need not take the form of censorship when it can instead engage in counter-speech to reinforce social norms.

None of this is to suggest that there is no space for the law in the fight against disinformation and hate campaigns. On the contrary, human rights defenders across the region have long been calling for more forceful action by states, in line with international law. However, there is growing skepticism about the effectiveness of *speech* laws. Far more emphasis needs to be given to anti-discrimination laws, backed by a strong civic culture of equality. Asian states need to be uncompromising in protecting every individual's equal right to live, work and worship without fear – and less concerned with policing citizens' minds and feelings. ●

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