

Disinformation, Hate speech and Freedom of Information in Spain

BY VIRGINIA PÉREZ ALONSO (PDLI, CHAIRPERSON)

Hello.

First of all I want to thank the European Union Delegation in Indonesia and Indonesia Government for organizing this seminar in a moment in which Disinformation, Hate speech and their incidence in Human Rights are at the center of the public conversation.

And of course I want to thank the organizers for inviting the Platform in Defense of Freedom of Information (PDLI) and to express my apologies to everyone, authorities, politicians, journalists..., for not being there with you, sharing thoughts and debates in such a beautiful country as Indonesia and in such a palpitating city as Jakarta.

My name is Virginia Pérez Alonso and I come from Spain, where I chair the Platform in Defense of Freedom of Information. I'm also coeditor-in-chief at Publico newspaper and a member of the board of International Press Institute.

Our Platform, PDLI, was born in 2014 due to the concern for a series of laws that were being cooked at that time.

Now we are the major player in Spain denouncing abuses and threats against freedom of speech and of information.

Back in 2014 we feared that those laws would be a setback for this fundamental rights. And so they were.

Citizen Security Law fines citizens for concepts as abstract as the lack of respect for authority and denies the possibility of a recourse to a judge.

Due to a double reform of our Criminal Code, musicians, actors, anonymous citizens and twitterers have ended up in jail, fled from Spain or prosecuted for praise of terrorism, insults to the crown or religious offenses.

And this despite the fact that the European Court of Human Rights establishes that there must be a solid connection between the incitement to hatred and the commission of terrorist acts.

It is important to remark that in Spain there are no ETA terrorist acts anymore since 2011.

That when we talk about terrorism. If we talk about insults to the Crown or religious offenses, the position of European Court of Human Rights is also clear:

"Special protection" of the Crown "is inconsistent with the spirit of the International Convention on Human Rights".

Only 36% of the countries condemn religious offenses. Spain is one of them although it is a non confessional Estate. From a Rights perspective, the right to freedom of expression has an universal character and, therefore, is independent of beliefs, dogmas, values, traditions, social and cultural criteria about what can be said and heard in a particular community.

This issues help to further ignite a truly polarized political and social landscape in Spain.

DISINFORMATION

In this context, we are very vigilant with the debate on disinformation and fake news in Spain.

We have seen several attempts by governments, as well as initiatives within the European Union, to regulate the spread of false news.

Last one in Spain comes from Socialist Government, rulling only since past June: they want to tackle fake news with an amendment to a new data protection law. Using false news as an excuse to control the Internet.

Among other things, this law aims to attribute the protection and supervision of the principle of truthfulness to private intermediation platforms such as Google or Facebook.

That is to say: a function that corresponds in all cases to public powers and, in most cases, to judges, is privatized.

This is contrary to international standards of freedom of information and to european regulations on electronic commerce, which establishes that general supervision powers can not be granted to this type of operators.

Fortunately, the protests of journalists' organizations have made the wording of this law softer, although yet we have not seen the definitive proposal.

Fake news debate started to be relevant in Spain in 2017. At first, disinformation seemed to focus on stories involving immigrants and refugees. But the Catalanian political situation changed the landscape.

The former conservative government claimed that "thousands of Russian trolls" had sought to spread "fake news" related to Catalonia.

And for sure there were some trolls and fake news, but the government used this story to justify legislation that undercuts freedom of expression.

The PDLI launched a manifesto 'In defense of freedom of information' to express its to this attempts of political control of the journalistic information with the excuse of the threat of 'false news'. It was signed by the main associations of journalists and some of the most relevant media. And until a week ago the Government didn't attempt anymore to regulate fake news

Besides activism, one of the solutions to face disinformation problems is media literacy. But efforts to improve it in Spain are frustrating because of a distrust of the mainstream media that began with the Spanish economic crisis in 2008.

During that time, concerns grew that prominent media houses had fallen under the sway of their financial creditors. So people started doubting about the reality showed in newspapers and television.

Many media in Spain don't differentiate information from opinion and this increases the risk of being a victim of misinformation.

Outside media, there is a very successful initiative of fact checking called Maldita. And inside media, the newspaper I work for, Público, launched last week TJTOOL, a graphical tool based in the transparency and traceability of the journalistic process for every single piece of news.

HATE SPEECH

With regard to hate speech, Spain's Criminal Code contains general penalty-enhancement and substantive offense provisions. There are annual reports on hate crimes.

As you can see, bias motivation are mostly the ones reflected in international Convention of Human Rights: racism and xenophobia, antisemitism, other religions or beliefs, sexual orientation or gender identity, etc.

But in Spain the category of hate speech and crimes is being distorted. Hate crimes were created to protect minority and vulnerable groups that have traditionally been discriminated or have suffered persecution.

And now politicians and some groups of the security forces begin to accuse of hate crimes those who insult them through social networks. The immediate consequence is that this sensation of being object of a hate crime extends into the population.

So hate crimes are again a great excuse to promote censorship. And they are being used to prosecute twitterers and artists.

Several international organizations, such as United Nations and the OSCE, have warned of the need for judges to apply this type of crime in a measured and restrictive manner. But this isn't occurring as often as it should be.

In the PDLI we believe, and we have communicated this to the State Attorney General, that the conduct of many of the accused does not meet the conditions established by the European Court of Human Rights to pursue the so-called "hate speech" or the so-called "discriminatory crimes". " And, in addition, we defend "that lyrics of songs are intellectual creations and their persecution can not be justified".

Therefore is very important that citizens accept the existence of other speeches that may "attack" their convictions, because there is no a right to feeling offended in any Convention of Human Rights in the world neither in a democratic Criminal Law.

Thank you very much for listening. My apologies again for not being in Jakarta. And I hope you come up with constructive solutions that can share with all of us.

Thank you!!

VIRGINIA PÉREZ ALONSO (PDLI, CHAIRPERSON)

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