Unraveling fake news in Malaysia: A comprehensive analysis from legal and journalistic perspective

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Abstract

The impact of fake news in Malaysia is vast and complex, posing threats to democratic processes and social cohesion. However, fake news research often relies on Western definitions, contributing to a lack of understanding within the Malaysian context. The introduction of the Malaysia Anti-Fake News Act in 2018, which encompasses all types of information and ideas, have also left confusion regarding the definition of fake news. This research aims to serve as a guide, starting from how "fake news" is defined in the country and then addressing potential issues associated with constituting the term from both legal and journalists' perspectives. Utilizing quantitative content analysis and qualitative interviews, the research reveals challenges in combatting fake news in a semi-authoritarian context. Balancing media freedom and regulation is challenging, and distinguishing between sensational and fake news is complicated by subjective interpretations. While enhancing professionalism in journalism is crucial, the utmost importance lies in establishing transparent governance. This is because establishing trust in government-owned new media is key to encouraging reliance on credible sources. This research assists in providing a clearer understanding of the underlying problems related to fake news dissemination in the country and suggests possible long-term solutions to curb its impact.

Keywords: fake news, legislation, Malaysia, journalism practice

Abstrakt

Sorotan berita palsu di Malaysia merupakan isu yang kian meningkat dengan impak yang luas dan kompleks, menggugat proses demokrasi dan keharmonian sosial. Walau bagaimanapun, penyelidikan mengenai fenomena berita palsu ini sering bergantung pada konsep Barat, menyebabkan kekurangan pemahaman dalam konteks tempatan. Pengenalan Akta Anti-Berita Tidak Benar Malaysia pada tahun 2018 yang meliputi semua jenis maklumat dan idea juga menimbulkan kekeliruan mengenai definisi berita palsu. Penyelidikan ini bertujuan untuk membimbing dengan mendefinisikan "berita palsu" di Malaysia dan membincangkan isu-isu berkaitan dari perspektif undang-undang dan kewartawanan. Dengan menggunakan analisis kandungan kuantitatif dan wawancara kualitatif, penyelidikan ini mendedahkan cabaran dalam memerangi berita palsu dalam konteks semi-autoritarian. Memperjuangkan keseimbangan antara kebebasan media dan perundangan, serta membezakan antara berita sensasi dan berita palsu, menjadi rumit oleh tafsiran subjektif. Walaupun peningkatan profesionalisme dalam kewartawanan adalah penting, keutamaan utama adalah mewujudkan tadbir urus yang telus. Ini kerana membangunkan kepercayaan terhadap media yang dimiliki kerajaan adalah kunci untuk menggalakkan kebergantungan kepada sumber yang boleh dipercayai. Penyelidikan ini menyumbang kepada pemahaman yang lebih jelas tentang masalah penyebaran berita palsu di Malaysia dan mencadangkan penyelesaian jangka panjang untuk meredakan kesannya.

Kata Kunci: Berita Palsu, Perundangan, Malaysia, Amalan Kewartawanan

Introduction

The impact of fake news in Malaysia is multifaceted and wide-ranging. Asia Centre, a research institute in special consultative status with the United Nation's Economic and Social Council, pointed out that it can undermines democratic processes by distorting public opinion, influencing voting behavior, and eroding trust in institutions (Asia Centre, 2022). In its last year's report, it also highlighted that fake news can pose threats to social cohesion by exacerbating ethnic and religious tensions. Additionally, economic consequences arise when false information affects businesses, investments, and consumer behaviour.

There are a significant number of studies on fake news globally (Aïmeur et al., 2023; Andrew & Natalie Ning, 2022; Shashi, et al., 2021) However, studies on the roots of fake news within the local context in Malaysia are quite limited. In Malaysia, the most recent studies focus on the Covid-19 pandemic and fake news/misinformation (Balakrishnan et al., 2021; Norazlinda Mohammad et al., 2022). Research has also highlighted various initiatives undertaken to combat fake news in Malaysia. These include legislative measures (Daud, 2020; Mahyuddin & Ida Madieha, 2021), and the establishment of fact-checking machine learning and platforms (Balakrishnan et al., 2023). Media literacy programs (Hasmah & Chin, 2020) and educational initiatives aimed at equipping citizens with critical thinking skills have also been implemented.

However, it is noticeable that the definition of fake news is ambiguously discussed. While most fake news studies in the Western context define the term as fabricated information that mimics the form of mainstream news or false stories presented in a news format (Allcott & Gentzkow, 2017; Gelfert, 2018; Lazer et al., 2018), Malaysian academics often combine or interchange the use of the terms "fake news" and "misinformation" when studying the issue (Balakrishnan, et al., 2023; Balakrishnan, et al., 2021; Daud, 2020; Fernandez, 2019).

This study employs the widely debated term "fake news" rather than the more academic term "misinformation" for several reasons. It is the term coined by the Malaysian government when the Anti-Fake News Act was enacted in 2018 (Fernandez, 2019). Despite the eventual repeal of the act, it was not entirely abolished but rather redefined, particularly under the Emergency Ordinance 2021 (Essential Powers) (No. 2), which serves similar functions in combatting false information or news (Shannon, 2021). Similarly, existing laws such as Section 505 (b) of the Penal Code, the Printing Presses and Publication Act of 1987, and the Communication and Multimedia Act of 1998 also contribute into addressing the same context.

Another reason influencing the choice of the term "fake news" is its frequent interchangeable use with "misinformation" by local authorities and news journalists, possibly resulting from a lack of clarity in terminology. For instance, Norazlinda Mohammad, et al., (2022) highlighted that any social media post arousing suspicion or articles with dubious content are featured on the website sebenarnya.my and labelled as "fake news". Sebenarny.my is a portal operated by the Malaysian Communications and Multimedia Commission (MCMC), providing the public with access to clarifications regarding the circulation of false information on social media. In addition, a report by *The Star* ("Purveyors of fake news deserve heavier penalties", 2023), also employed the term "Fake News" when discussing the rising popularity of social media platforms, underscoring the gravity of recent global attention on fake news issues. This interchangeable use may be attributed, in part, to the broad definition of false or inaccurate information in the country's regulatory Acts, encompassing various forms such as news, words, content, voices, ideas, and any other type of information. Acts such as Anti-Fake News Bill of 2018 and the Printing Presses and Publication Act of 1987 share a similar approach, providing expansive definition of false news and inaccurate information dissemination. This likely explains why the term "fake news" and "misinformation" are often used interchangeably in the local context, as these Acts cover both types of content (news/information), treating them as parallel concept. However, a consistent aspect is the country's emphasis on determining whether a piece of content, regardless of its form, could be prejudicial to public order or security. This poses a significant issue, as ambiguous definitions may lead to confusion and the potential risk of restricting the freedom of expression and information in the country, given that the phrase "prejudicial to public order or security" is open to interpretation.

While the term "disinformation" can be precisely defined as intentionally deceptive (Wardle & Derekshan, 2017), misinformation or fake news is often unclear. The Malaysian Acts could prove useful in distinguishing between different conditions ensuring a clearer content. Borrowing the term "dubious news" from Andrew and Natalie Ning (2022), which describes news that can be either true or false, existing in a state of uncertainty until it has been established which it is, holds especially true in many contemporary contexts, given the evolving technology of content delivery. Nowadays, individuals are not merely passive receivers but can also play an active role as content producers. The rise of dubious news, including disinformation, misinformation, and mal-information, has significantly impacted journalism (Ireton & Posetti (2018), leading to questions about its credibility and quality (Clark & Zhou, 2015). This is

further exacerbated by the use of video news releases, which have blurred the lines between journalism and public relations, affecting journalistic ethics and independence. The digital transformation of news media has also played a role, with algorithm-driven news distribution platforms facilitating the spread of false and fake news content (Martens, et al., 2018).

Hence, this research aims to deepen our understanding of fake news by delving into historical high court judicial records from 1900 to 2020. By analyzing these records and exploring related keywords, the study seeks to shed light on the nuanced evolution of the term "fake news" within the Malaysian context. Additionally, conducting interviews with journalists will provide valuable insights into the challenges they face in distinguishing fake news from formal news practices. This research represents a crucial step in the development of legal processes aimed at curbing the spread of fake news and fostering a more informed public discourse in Malaysia.

Research Objectives

1. To understand how fake news is defined through keywords associated with fake news, as well as issues that arise from the Malaysian Legal perspective.
2. To explore the comprehension of fake news and the news writing process that encompasses the realm of fake news from the Malaysian journalists' perspective.

Literature Review

This section aims to explore the legal measures implemented to counter the spread of fake news across Southeast Asia, focusing on the associated issues and criticisms, especially within authoritarian regimes. Additionally, it delves into the impact of fake news on formal journalism and examines the blurred boundaries within journalistic practices which exacerbate the fake news phenomenon.

Legal framework for addressing fake news

Fake news can wield significant influence on societies, particularly in nations with constitutional and authoritarian settings, where rumors can be exceptionally detrimental due to a lack of independent media reporting. In Southeast Asia, Malaysia holds the third position (77%) in terms of fake news circulation, behind Thailand (82%) and the Philippines (88%) (Siti Nazwa, 2023). Countries such as these exert substantial governmental control, with authoritarian regimes molding both political and media landscapes. These countries rely on legal regulations to combat the dissemination of false information.

Singapore received global attention in 2019 when its parliament passed the Protection from Online Falsehoods and Manipulation Act (POFMA), granting the government powers to address false statements impacting public interests. It also implements non-legal initiatives, such as the National Framework on Information, Media, and Cyber Literacy (Shashi et al., 2021). However, there are concerns about the potential weaponization of "fake news" label by states to justify curbs on free speech and crackdowns (Sombatpoonsiri & An Luong, 2022). Moreover, Thailand refined the Computer Crime Act to encompass false information with malicious intent, broadening its scope to cover national security and public safety concerns (Schuldt, 2021).

Similarly, the Malaysian government has implemented various regulatory measures, including laws that criminalize fake news and the establishment of a fake news verification unit. According to a *New Strait Times* article by Mohamed Radhi (2020) on false COVID-19 news, the Malaysian Communication and Multimedia Commission (MCMC) and the police have filed 268 investigative files on fake news, resulting in 35 defendants being prosecuted and 19 suspects pleading guilty. In February 2020, Mohd Farhaan Shah (2020) reported that 12 individuals were detained and charged under Section 505(b) of the Penal Code for spreading fake information about COVID-19. Furthermore, the MCMC has set up Sebenarnya.my, a portal for the public to report fake news and access clarifications regarding circulating misinformation on social media.

Other Southeast Asian nations, including the Philippines, Vietnam, Cambodia, and Indonesia, have also upgraded their laws in response to challenges in halting the spread of false information. The Philippines criminalized the dissemination of false information during the Covid-19 crisis, despite accusations of the administration being a source of misinformation ("A Philippine news outlet is exposing Duterte's abuses," 2018). Furthermore, Vietnam imposed fines for spreading false information on social networks (Nguyen & Pearson, 2020), while Cambodia enacted an emergency law to prevent the publication of news causing panic ("Fears as Cambodia grants PM vast powers under Covid-19 pretext", 2020). Indonesia established a cybersecurity agency to monitor the internet for fake news, proposing criminal liability for broadcasting false news resulting in disturbances, leading to arrests during the Covid-19 pandemic (Lamb, 2018).

Despite the efforts made by these governments, an ongoing debate persists regarding the efficacy of these measures, with apprehensions raised about potential abuses of power and infringements on freedom of speech. Some argue that such legislation serves to enhance a government's censorship

toolkit while fostering increased self-censorship among the public. Among these countries, Luong (2022) mentioned that the governments of Indonesia and Vietnam have introduced a draft decree targeting platforms that fail to remove objectionable content. These platforms could face fines for non-compliance. Additionally, the Thai government has implemented measures to prohibit the spread of "false messages," ostensibly to protect authorities from public scrutiny regarding their handling of the Covid-19 pandemic.

Criticism has been directed at Singapore's POFMA for granting excessive power to the executive, allowing the term "falsehood" to be openly determined, which may be contrary to the public interest (Chew & Ong, 2019). The Electronic Transactions Law in Indonesia, increasingly utilized to apprehend citizens for creating or disseminating hoax news, has also faced sharp criticism for posing a threat to Internet freedom (Heufers, 2022). Similarly, rights groups in Thailand have expressed concerns that the "legitimized anti-fake news center," aimed at accusing critics of spreading false information, could further restrict free speech in the country (Sasipornkarn, 2019).

In Malaysia, the issue of fake news has had significant implications for society, particularly in relation to tort, libel, and defamation cases. Journalists and individuals can face lawsuits for content that harms others or damages their reputation, leading to a chilling effect on press freedom, especially when reporting on politically and economically sensitive matters (Neate, 2022). This has resulted in threats of large-scale lawsuits aimed at preventing journalists from fulfilling their watchdog role. *Malaysiakini* serves as a prime example of this. The news outlet's journalists frequently encounter legal challenges, as evidenced by the case of Susan Loone, who was arrested under the Sedition Act and sued for defamation due to what was deemed "misreporting" regarding a politician. Consequently, the news media perceives such incidents as further instances of intimidation within a broader pattern of attacks on press freedom. Responding to Loone's investigation, the news media contends that "the investigation on Loone is downright harassment of media personnel who are merely doing their job as journalists" ("Mkini Journo arrested for sedition", 2014). There is also a debate regarding self-regulation and self-censorship in the press (International Press Institute, 2019), as political pressure forces journalists to be cautious in their reporting, compromising fair and balanced journalism.

Legislation, such as Section 505(b) of the Penal Code, is frequently used to address the spread of fake news, including during the COVID-19 pandemic. However, human rights advocates express concerns about the reliance on criminal processes to combat false information, suggesting that legal action should be a last resort for the most severe cases (Hafidz et al.,

2021). The Printing Presses and Publications Act of 1987 has faced criticism for its vague definition of "false information" (Nawang & Mustaffa, 2017) and has been accused of being misused against opposition politicians and activists (Faruqi, 2008). The Communication and Multimedia Act of 1998, particularly sections 211 and 233, has been employed to regulate offensive content online, but critics argue that its broad definitions can be used to silence opposing voices (Daud & Zulhuda, 2020).

The Anti-Fake News Act 2018, which criminalizes the creation and dissemination of fake news, has received significant criticism for being rushed through Parliament and perceived as politically motivated (Fernandez, 2019). It has been seen as a tool to suppress free speech and criticism, with concerns raised about its impact on the 1MDB corruption scandal (Mohd Yatid, 2019). The act's definition of fake news is ambiguous, encompassing a wide range of information and making it difficult to distinguish between fake news, legitimate speech, and misinformation. The Act was repealed by the newly elected government in 2019 ("Finally, Dewan Negara approves repeal of Anti-Fake News Act," 2019).

In September 2020, the Malaysian government introduced the Emergency Ordinance 2021 (Essential Powers) (No. 2) to regulate the spread of fake news related to COVID-19, imposing fines and imprisonment for offenders. However, the ordinance has faced criticism for its broad definition of fake news and potential infringement on freedom of expression. It has been viewed as an abuse of emergency powers, aimed at suppressing dissent and government criticism (Shannon, 2021).

Overall, the issue of fake news in Malaysia has raised concerns about press freedom, media manipulation, and the need for clear and balanced legislation to address false information while safeguarding freedom of expression.

Real journalism practice & possible issues of fake news

Fake news and real journalism are intricately linked as fake news, which directly undermines the principles and integrity of journalism. Real journalism practice involves a proper process of news gathering, verifying source, and reporting information to the public in a truthful, accurate, and unbiased manner (Society of Professional Journalists, 2014). In contrast, fake news encompasses fabricated or intentionally misleading information presented as legitimate news (Kim & Dennis, 2019). Unlike formal journalism, fake news aims to manipulate public opinion, or serve certain interests such as generating web traffic and monetary gains. Consequently, the proliferation of fake news presents substantial challenges to the practice of journalism.

The situation is worsened by the widespread use of social media. While social media platforms have enhanced the dissemination of real-time information, their popularity and extensive usage have amplified the proliferation of fake news by accelerating both the speed and reach of its spread (Aïmeur et al., 2023). This is also underscored by Salman et al. (2020), which emphasizes that social media has become a powerful source for fake news dissemination, given its increasing integration into the daily lives of people. This integration further complicates the distinction between real journalism and fake news. A notable concern is the shift from traditional to new media practices, where media outlets often adopt clickbait strategies to attract attention. While clickbait can generate web traffic, it often relies on sensationalized news headlines that may not accurately reflect the content. This sensationalism heightens the risk of disseminating incorrect information or fake news. This is written by Angela et al. (2019) in their study which mentions there is high presence of clickbait content in news stories. Additionally, techniques such as incomplete information, pre-eminence of soft news, repetition and serialization, and the use of hyperbole are prevalent. These factors raise concerns about the quality of news circulating on social networks.

In addition, Malaysian journalists also face the challenge of lacking clear guidelines on what constitutes fake news. Some journalists argue that misquoting or misreporting should not be equated with spreading fake news, as they may have done so unintentionally. However, they frequently face defamation lawsuits due to the misinterpretation of information (Ahmad Yusni, 2020). This puts journalists in a difficult position. An example cited by Hidir Reduan (2021) illustrates a situation where a *Malaysiakini* journalist was sued for tort and defamation. The primary reason behind the lawsuit was one-sided reporting that omitted the perspectives of all parties involved. The findings suggest that biased or one-sided news can be considered false due to the absence of balanced reporting and fair commentary, which fails to provide a comprehensive view of the story. According to Jim et al. (2000), one way to ensure accuracy is to include credible sources. Nevertheless, despite the availability of valid sources in the *Malaysiakini* case, there remains a lack of clear guidelines for journalists when citing sources. This further proving the subjectivity of what constitutes "fake news" in the press industry.

The publication of "fake news" can lead to civil lawsuits under the tort of defamation. However, the interpretation of language in written content is subjective and can have multiple meanings. When determining whether a news item or statement contains false and defamatory information, the court considers the ordinary and natural meaning of the text (Raymond

& Eric, 2020). Lawsuits can also arise from indirect or general statements, taking into account the context in which the writing occurs. It is essential to consider the writer's perspective and understanding when addressing an issue. However, ensuring that all journalists interpret information in a similar way is highly subjective, and doing so limits their role as information provider, which involves presenting news from multiple angles.

While the internet has made information easily accessible, its interpretation remains subjective. For instance, a journalist may write an article based on online sources, but if the angle or perspective of the writing is deemed offensive or misleading to the general public, it can be regarded as false news. The lack of clear guidelines on what constitutes offensive writing has resulted in self-censorship, which limits freedom of expression (Tapsell, 2012). As noted by Elisabeth et al. (2020), journalism can only be practiced professionally when creativity is unrestricted. Furthermore, the recently enacted Emergency (Essential Powers) (No.2) Ordinance 2021 has granted the government with the authority to classify any material as "fake news". This includes feature, visuals, audio recording, or any other form capable of suggesting words and ideas ("Ideas labels new Emergency Ordinance a 'step backwards,'" 2021). These external political pressures have placed Malaysian media outlets in a challenging position.

Research Methodology

This research uses a quantitative content analysis approach to gather empirical evidence pertaining to fake news. A total of 193 high court judicial cases associated with fake news were extracted from LexisNexis Malaysia, a global provider of content-enabled workflow solutions for legal matters.

The study focuses on studying the keywords associated with fake news (e.g. defamation, etc.), the type of fake news (e.g. politics, business, personal, etc.) as well as the spreading channel of fake news (e.g. mainstream media, social media, etc.) from year 1900 to 2020. A coding sheet was used to record and analyze the data.

Table 1

Sample of High Court Judicial Records

Year	Frequency of High Court Judicial Cases
1978-1999	29
2000-2009	37
2010-2020	127
Total	193

Based on the results generated from the quantitative content analysis, relevant questions were formulated and posed to four journalists who possessed more than nine years of experience. These interviews aimed to delve into their understanding of fake news, and whether instances of misreporting or misquoting could be classified as fake news. Additionally, their news gathering and writing processes were explored to gain insights into the practice of real journalism which differs from fake news.

During the interview process, journalists were provided with a consent form to ensure their full understanding of the research purpose. The conversation was recorded using both a voice recorder and a phone recorder. Following the completion of the interviews, transcription into written form took place within three days. Thematic analysis, based on the approach developed by Braun & Clarke (2006), was then applied. This involved collecting data, generating initial codes, searching for themes, reviewing themes, defining and naming themes and lastly writing the report.

Table 2

Sample of respondents' interview

Respondent	Position	Years of Experiences
Respondent 1	Investigative Journalist, Editor and Executive Producer	15
Respondent 2	Independent Journalist	10
Respondent 3	Mainstream Journalist – English	13
Respondent 4	Mainstream Journalist – Chinese	9

Data analysis

The data analysis will involve examining the issue of fake news from a legal perspective using quantitative content analysis, based on 193 high court judicial cases. To ensure the reliability and validity of the analysis, it will also address the fake news issue by analyzing data obtained from interviews with four experienced journalists.

Content analysis: From the legal perspective

In exploring the keywords related to fake news cases, it was found that the terms "defamation," "libel," and "tort" appeared most frequently in all 193 samples of high court judicial cases. Among these terms, "defamation" was frequently mentioned in all fake news cases, with a significant portion of them involving lawsuits against the media for defamation. During the period from 1900 to 1999, terms such as "bad intention," "fake," "false," "falsely," and "falsehood" were also mentioned in fake news cases.

From 2000 to 2020, the term "Taint Reputation" was also used in fake news cases. This finding correlates with the research, as most fake news

issues were related to business and political matters, where businessmen claimed that false information had tarnished their reputation. Another noteworthy finding is the frequent use of the term "public interest" in fake news cases from 2010 to 2020. When determining whether a piece of information can be recognized as fake news, it depends on whether the content is related to the general public interest or maliciously published for personal purposes (refer to Figure 1).

Figure 1

Keywords of Fake News
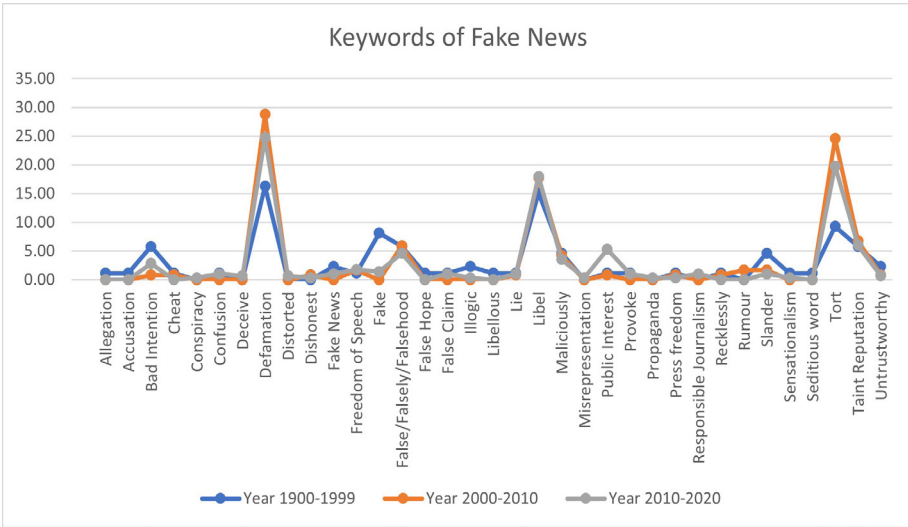
In exploring the types of fake news, it was found that the number of fake news cases increased tremendously from 1900 to 2020, rising from 30 cases to 117 cases. During the early years from 1900 to 1999, fake news was primarily propagated by politicians and businessmen. They would file lawsuits against journalists and mainstream news companies for incorrect reporting or dissemination of information without proper source authentication and verification. The news articles were accused of tarnishing their reputations as respected businessmen or politicians, leading to negative financial impacts on their businesses or their status in politics and related professional fields. However, fake news was more prevalent in politics rather than business during this period, and only 30 judicial cases were detected by the system throughout the 19th century.

In comparison, from 2000 to 2010, most fake news revolved around business matters. It became increasingly common to witness businessmen claiming damage to their reputation due to rumors or false allegations. The

number of fake news cases related to politics remained relatively similar to the 19th century.

With the changing information landscape due to the rise of social media, from 2010 to 2020, the majority of fake news issues were associated with business, politics, and personal matters. Additionally, issues related to government servants, such as conflicts related to work ethics and practices, were also identified.

In summary, fake news is often linked to political agendas, business agendas, and personal matters. However, initially, the concept of fake news was primarily used by politicians to express their dissatisfaction with the way news portrayed or reported about them. Over time, it expanded beyond politics to encompass business agendas and personal matters. This shift can be attributed to the emergence of social media, which has granted individuals more freedom to write and express themselves but has also contributed significantly to the increase in fake news (refer to Figure 2).

Figure 2

Types of Fake News
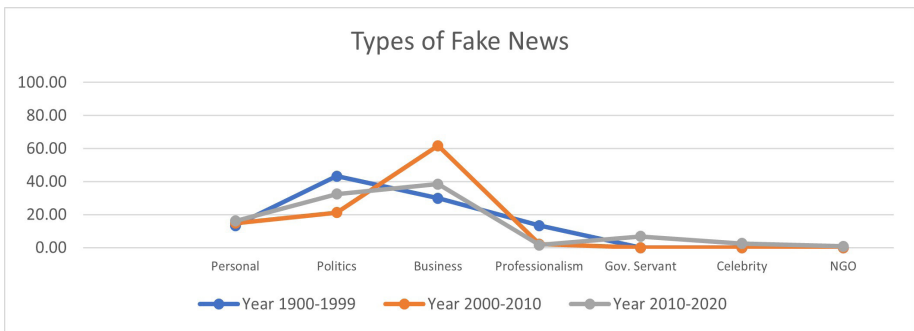
Regarding the spreading channels, it was observed that in the initial period (from 1900 to 1999), most fake news cases were found to have been spread through mainstream media and personal platforms, such as writing accusatory letters targeting specific parties. This is not surprising as people heavily relied on mainstream media to stay informed about their surroundings. As a result, fake news and false information were predominantly associated with the mainstream media. Additionally, fake news was also spread through personal means, with issues often linked to family and personal conflicts.

From 2000 to 2010, no major differences were found in the spreading channels, as they still primarily involved mainstream media and personal means. For instance, the spread of anonymous letters that tarnished an

individual's professional reputation was a common method during this period.

However, from 2010 to 2020, there has been a shift in the spreading channels, with both mainstream media and social media or websites playing a significant role. To understand this change, it is crucial to consider the country's context, as people began adopting the internet in the early 2000s, and it took several years for them to become familiar with this new technology. Consequently, it is not surprising that social media has become a popular platform for spreading false information (refer to Figure 3).

Figure 3

Spreading Channel of Fake News
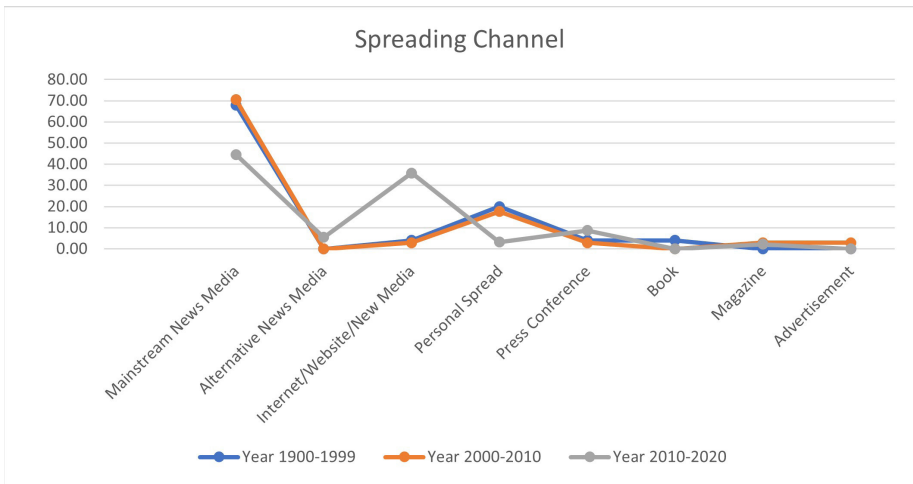
In-depth interviews: From the journalists' perspective

Following a comprehensive analysis of fake news, an intriguing finding emerged, highlighting the significant correlation between fake news and journalism. Specifically, instances were identified where media outlets faced defamation lawsuits due to misreporting. Consequently, a series of interviews were conducted with journalists to obtain their valuable insights on the issue of fake news. Through these interviews, four prominent themes emerged: 1) Defining Fake News and Real journalism; 2) Fake News and Sensationalism Boundaries in Clickbait Online News; 3) Importance of News Verification, Clarification and Interpretation; and 4) Writing Angle, Headlines Formatting and In-House Practice

Defining fake news and real journalism.

In the process of defining fake news, a journalist sought to contextualize the term "fake news" within a political framework, specifically noting its

rise in popularity during the administration of Donald Trump. Donald Trump would label news that contradicted his political agenda as fake news, using the term as a means to protect his power. Additionally, fake news is frequently associated with social media content, where online users often disseminate inaccurate information in their written content. The journalist further added that people often struggle to differentiate between tabloid news and formal news media. Tabloid news media typically do not fact-check but instead aggregate and reproduce news with sensational headlines to grab attention, deviating from the principles of real journalism practice.

> Sometimes people don't know that some websites, aggregate news. They're not journalists. They don't do fact checking. They pick up content from social media and make stories out of it. People need to understand the distinction between actual journalists and someone who writes… We used to have tabloid - Harian Metro. These tabloids, demography is mainly majority. So, the stories that you get out, whack, crazy stories…You remembered this kind of nonsense headline like *Bakar Anak Gemuk* [Burn the Fat Child], but see they achieved what they wanted to achieve. (Respondent 2)

Respondent 1 echoed the statement by emphasizing the rise of news websites with the purpose of gaining profit. This type of news website lacks the practice of journalistic standards, often posting emotionally driven stories to grab attention and drive traffic. However, this type of news media may not necessarily produce fake news. Instead, some of them may fall into the category of mal-information, where they manipulate information to benefit themselves, potentially resulting in harmful or negative consequences.

> I do think that type of very innocent, mal-information that a lot of these websites are doing, it can quickly lead to full-blown misinformation or disinformation. These sites obviously don't follow a lot of the standards of journalists about fact checking, about accuracy, objectivity, right to respond, accountability… Like post-truth type of content posts, you visit based on emotion, not based on fact…I think there's reason they became news. It's because people want to see it and their media companies willing to use that desire for it to generate income. (Respondent 1)

Other than fake websites pretending to be real news sources, another journalist mentioned that fake news should be defined as news

that contradicts many other sources, with a reporting style that differs from the majority of sources. Among these instances, "misquoting" or "misinterpreting" an event may be considered as fake news.

> Fake news is there is no truth in it, contradict with what other people is reporting. It doesn't match up, so that is what called fake news, or I would say news that you misquote or misinterpret an event, that also can be deem as fake news… how news site and what they pretend to be another news, like let's say they pretended to be the Star and said that something happened to Tun M and all that, click here for more information, and when you click to read the news like Tun M is talking about cryptocurrency, and you see there is a link to the other site. (Respondent 3)

Fake news & sensationalism boundaries in clickbait online news.

In discussing the boundaries between fake news and sensationalism in clickbait online news, a journalist pointed out that news sensationalism is not a new phenomenon but has existed for a long time. It is not uncommon for newspapers to employ this strategy as a means of survival in the market. The journalist attempted to draw a connection between yellow journalism and clickbait stories, both of which aim to capture the attention of their target audience. Additionally, he emphasized that these types of stories cater to a specific audience with a demand for this kind of content.

> 以前没有social media 有playboy杂志, 现在有social media 比较方便了，所以会越来越多因为有market　创造盈利… XXX（一个报社）现在生存是用YELLOW JOURNALISM 去卖报子的… yellow journalism 就是夸大，煽情来吸引人家。 (Respondent 4)

> [In the past, there was no social media, but there were magazines like Playboy. Now, with social media, it's more convenient, so there will be more of it because there is a market that creates profits… XXX (a Mainstream Media) survives by selling newspapers with yellow journalism… Yellow journalism involves exaggeration and sensationalism to attract readers].

When considering the extent to which sensationalism in news is permissible and what is not, one of the journalists emphasize the importance of accuracy and credibility. It is not wrong to make the story interesting to

capture the audience's attention, but it should never compromise the fact of the story. Therefore, the choice of style and tone of language is crucial.

> I think first of all, it has to be accurate. It has to be truthful. Yes, we do try to write our headline in a way that will grab attention. Uh, but you can do that without compromising the truth. You can phrase it in such a way that appeals to your audience… I think that should be the line that you never cross, that you don't misrepresent the truth. You don't highlight or sense of sensationalize necessarily. You keep it balance. (Respondent 1)

In relation to this matter, a journalist provides an example of a story that lacks coherence. As a result, she stressed the importance of individuals being able to analyze information. At the same time, journalists need to ensure that their headlines are balance and factually accurate, particularly in online news where writing style differs from print media.

> There was a shootout in 1 Utama, five o'clock in the evening. People finished work, but the first line that opened in the story was in a quiet evening, and I'm like, that's already misinformation. It's five o'clock in the evening? Make it make sense. Don't put in your own words. That's how misinformation happens… the reporter especially in a main newsroom, need to ensure that your story is factually right. Headline must be balanced. It cannot be sensationalized but print media and online media are very different. So online media will probably have to work harder in improving choice of words. (Respondent 2)

This is also echoed by a mainstream journalist who emphasizes the importance of aligning content and headline with the truth rather than the untrue. This is a way of upholding the credibility of the news organization, as failing to do so may result in a loss of readership.

> You need to differentiate how much is truth and how much is not truth and you shouldn't lean on the untruth part… Every media has their own integrity, their responsibility to the people and if you lie too many times, there is no credibility, so you risk losing your credibility and your reader. (Respondent 3)

Importance of news verification, clarification and interpretation

While discussing the news gathering and writing process, which contradicts fake news, all journalists emphasize the importance of engaging in proper authentication and verification prior to publishing news. This differs real journalism from fake news. A journalist mentioned that a trained journalist should always double verify information with the source, rather than simply copying and pasting from a press statement. This practice ensures content accuracy and safeguards journalists from publishing wrong information.

> Any news journalist, when they give you a press statement… You should double confirm with the people who send it over… you should ask, can I clarify that you guys send this out? Is there anything you want to add on? Is this what you mean by this? So, you understand it on your own. They cannot say that you misinterpreted because you asked them… Um, always clarify is the first thing, second is always check your sources, two to three sources, then go with it. Have enough facts, enough proof that you have three or two, three people reporting about it. Okay. Then your story is ready. (Respondent 2)

A mainstream journalist pertinently pointed the importance of accurately interpreting source and information. He provided an example where a source refuses to comment, and instead of seeking further clarification, the journalist may rely on their own interpretation when writing the news. This can potentially result in misinformation or the creation of fake news. Besides, the journalist also mentioned that it is crucial to maintain recording as evidence to guide their news writing process. This would safeguard the journalists from legal repercussions.

> Sometimes the person says no, then you think that thing doesn't happen or no, (but instead he is saying) I don't want to comment. I feel like you are skewing the… answer to a certain agenda and therefore you are misleading people who he said no, but what (the source) I'm going to say was, I don't want to comment… When it comes to fake news, there's a misrepresentation effect. Hey, you are reporting it based on a bias, based on a political agenda. (Respondent 3)

On the other hand, during the process of news verification, it is crucial for journalists to ensure that all relevant parties are given a voice in the news, particularly when covering issues conflicting stances. This is to prevent

the publication of one-sided news reports. Other than this, the journalist also added that while mistakes can occur, as long as journalists make an effort to verify news from reliable sources, they can rectify any errors by acknowledging and highlighting them to the readers.

> It comes, uh, being fair and balanced. So, telling both sides of the story. So, if there are conflicting reports, you make sure you get both sides of the story... That is part of the principle of big balance, fair and balanced, right? So, the other party has the right to defend themselves. (Respondent 1)

It seems that all journalists agreed that checking and verifying news is a crucial step to avoid the dissemination of fake news. Respondent 4 has no exception. He pointed that journalist should personally verify information with the direct source to ensure its accuracy.

> 身为记者你应该要去质问他，而不是直接质疑他。你可以用疑问句问他。 (Respondent 4)

> [As a journalist, you should verify with him (the source) and not directly doubting him. You can use interrogative sentences to ask him.]

Writing angle, headlines formatting and in-house practice.

There are several factors that contribute to the dissemination of fake news, and journalists have highlighted the importance of various elements such as writing angles, headlines formatting, and in-house practices in ensuring accurate news reporting. For instance, journalist emphasize the importance of accurately informing readers if the content, while valid at present, may be subject to change due to the on-going investigation. He provided examples such as the reporting of Covid-19 case.

> What information is true today might not be true in the future. We report based on what we know, and if the information is only credible now, then we make sure that we qualify the information... Let the audience know that this information is valid now, it is not 100% full force yet. But in the public interest, we are telling you all these information that we know now. As we learn new thing, we continue that reporting every single day. (Respondent 1)

Another journalist argues in defense by stating that trained journalists would not intentionally produce fake news. Sometimes they face lawsuits

from politician due to their writing angles. However, it does not necessarily mean that the journalist has written the news incorrectly. She gave an example by comparing her own writing angle with the one produced by *Malaysiakini* journalist who faced a lawsuit. She discovers that the writing angle are nearly identical. This raises the issue of unequal power dynamics, where powerful ruling sues with the intention of silencing negative portrayals of themselves in the news.

> It's easy to paint a very bad or a dumb picture of someone saying like, oh, you got my facts wrong, but we usually have recordings… It's just that person A just don't like how that person write it. I just don't like how it sounds. So, I sue you, it was it's basically that. So, the circle of politicians, sueing journalist for defamation or wrong facts, will go in a full circle… It is definitely political strategy. You defamed journalists, you made them look bad. You make the news publication look bad and credibility is gone, so politically you win. But news-wise, there are other agencies picking up the stories. (Respondent 2)

Furthermore, the journalist further explained that journalist often have no controls over the final news headline. It is the sub-editor who makes the decision regarding the headline. Therefore, it is significant for journalists to work closely with the sub-editor to ensure that the headline accurately reflects the content. This is because journalists bear the consequence of any misreporting, as their name are attributed to the articles, rather than the editor's name. Aside from the influence of the target audience, the owner of the news organization also has a profound impact on news production. The journalist has pointed out that journalists should not be solely blamed for the news writing style, as it is often dictated by the practices within the news organization. It is expected that news organization tied to the government would be more government-based stories.

When discussing newsroom practices within news organization, several journalists mentioned that the principles and practices of the news organization can greatly influence the writing style of the news. For instance, he claimed that a Chinese news media heavily replies on yellow journalism to sustain itself in the market, primarily because their target audience consists mostly lower-class individuals. He argues that while news organizations should not be solely blamed, the audience also plays a role in contributing to this scenario.

市场需要什么他们(news　　media)就给什么。如果读者的quality提高，也就不会要看这些没有那么好的新闻 (referring to yellow journalism with sensationalism). 这代表我们的教育还是生活上有什么问题？为什么读者要这样的东西？ (Respondent 4)

[They (news media) provide whatever the market demands. If the quality of readers improves and they no longer want to read such inferior news. So, it reflects an issue with our education or lifestyle. Why do readers want such things?]

This is also mentioned by another journalist that the types of news can vary depending on the reader's needs, especially in the age of social media where hard news alone may not be sufficient. Therefore, his news organizations produce a wide range of news to cater the needs of their target audience.

We need to find out what people want, again it's what we are going to present, What the people want. For me, what its media all about is to educate and entertain. I think it's like there are news that is too extreme. We talk about celebrities, you got this and all that. So, I would say they need to be, to be a balance of what you want. That news can be everything from General News, politics, crime news, sports, tech, human interest and all that… it's not like you may have to choose everything. You can choose what you want. (Respondent 3)

Data Discussion

This study seeks to deepen the understanding of how fake news is defined in the Malaysian context by examining high court judicial cases and conducting interviews with experienced journalists. The finding of the content analysis revealed that journalists have frequently faced lawsuits for inaccurate reporting. However, there is a lack of clarity regarding the criteria for classifying a news item as fake news, as each case is evaluated individually. Consequently, it is challenging to definitively determine the conditions under which inaccurate reporting can be classified as fake news.

During the interviews with journalists regarding the potential publication of fake news, the majority of them clarified the distinctions between intentional and unintentional dissemination of fake news or inaccurate reporting. While fake news is commonly associated with disinformation and mal-information, it contradicts the core principles of

real journalism, which emphasize accuracy, credible, and fair reporting. The journalists also pointed out that trained journalists would not partake in publishing fake news, with the exception of tabloid news or certain websites that disguise themselves as credible news sources but often have personal or profit-driven agendas.

Undoubtedly, news media outlets must adapt to the changing landscape of social media, technological advancements, and evolving information consumption patterns of the public. Consequently, these organizations recognize the need to adjust their strategies to meet the demands of the digital world. This adaptation often involves prioritizing entertaining or sensationalized clickbait stories to attract attention and remain competitive in the news market. Although clickbait stories inherently pose a higher risk of disseminating fake news due to their sensationalized nature, journalists emphasize that as long as the headline adheres to ethical standards and is based on factual information, there should be no restrictions on unleashing creativity in crafting engaging news headlines.

Furthermore, journalists highlighted various restrictions and external factors that create dilemmas during the news production process. One of the challenges arises from the absence of clear state guidelines and standardized newsroom practices within organizations. For example, news articles that present powerful individuals or entities in a negative light can lead to defamation lawsuits, even when sources are properly cited. This is especially true if the news coverage lacks balance or appears one-sided. While it is crucial to incorporate diverse perspectives in news writing, it is not always feasible to obtain interviews from all sources, particularly when journalists are under pressure to meet deadlines and cater to the fast pace of the digital world (Witschge & Nygren, 2015).

Additionally, sensitivity to cultural practices and external controls can impose limitation on the news production process. Government-owned newspapers, for instance, may prioritize government-related news, and there is a tendency for journalists to simply replicate press statements as a means of government machinery (Tamam & Abdullah, 2015), in order to minimize the risk of reporting that contradicts the government's goals. This can be attributed to the concept of "responsible journalism" in Malaysia (Kenyon & Marjoribanks, 2007, p.104), where questioning authorities is not commonly practiced. However, this approach may stifle journalists' ability to express their imagination and creativity in critically writing news, as news writing requires the capacity to think and analyze. However, when news, especially political news, is critically written, there is a significant risk of facing defamation lawsuit. This is because the writing style may contradict the practices of the semi-authoritarian state (Ariff Aizuddin

& Muhamad Nadzri, 2022), leading to legal repercussions. There have been numerous examples of journalists being detained, with one notable occurrence being the *Operasi Lalang* [Operation Weed] movement in Malaysian history. Operasi Lalang refers to major crackdown on political dissidents and activists carried out by the Malaysian government in 1987. This event has faced significant criticism as it represents the most severe implementation of the repressive Internal Security Act, which was utilized to carry out detentions of journalists and individuals (Julian Lee, 2008). This raises questions about the way fake news is being defined due to the practice of unequal power dynamics in the country. Despite Pakatan Harapan's triumph in the 15th General Election in 2022, it is important to acknowledge the need for continued observation. As noted by Puspa Melati et al. (2020), their study on news practices before and after the 14th General Election revealed that the existing social and institutional structures maintain a significant influence on the transformation of news reporting practices, even after the 14th General Election. In essence, the current news practices have become deeply embedded and will require a substantial amount of time to undergo meaningful change. In summary, the issue of fake news would never be clearly defined under condition where journalists are not encouraged to produce critical writing, as doing so may put them at risk of facing lawsuit.

Moreover, in relation to the issue of news headline being exaggerated and potentially not reflecting the content accurately, journalists have explained that they often do not have control over the selection of headlines, as this responsibility lies with the sub-editors. It is important to acknowledge that the responsibility for this matter should not solely be placed on journalists, as newsroom practices and news organization's principles also play a significant role in addressing this issue.

Conclusion

This research aims to examine how "fake news" is defined in Malaysia and address the underlying issues associated with constituting the term. The findings extend beyond Malaysia, encompassing the broader Southeast Asian context with similar concerns. This is prompted by the proliferation of "fake news" in Southeast Asia, particularly within authoritarian regimes that rely on suppressing rumors to maintain governmental hegemony. While most Southeast Asian nations prefer specific regulations to combat fake news, the effectiveness of these law remains uncertain. On the other hand, there is a growing concern about the potential infringement on freedom of expression in the digital realm.

Sombatpoonsiri and An Luong (2022) note that autocratic regimes in Southeast Asia, including Cambodia, Myanmar, Thailand, and Vietnam, have politicized the vague definition of "fake news" to justify digital repression tactics. These countries lack a clear articulation of what constitutes falseness in "fake news", instead emphasizing the perceived threats it poses to national security, public disorder or national prestige. This is also mentioned in Smith et. al. (2021), who advocates for a clear definition of "fake news" and a shift towards administrative rather than criminal penalties. Similarly, Schuldt (2021) argues that the correction practices on fact-checking websites in countries like Malaysia, Singapore, and Thailand primarily focus on acknowledging the existence of fake news rather than effectively eliminating or reducing its spread. Vinhas and Bastos (2022) also cautions against the use of fact-checking by the authoritarian nations in countering misinformation. These highlight the necessity for a comprehensive and nuanced approach to address mis- and disinformation in the global south, one that considers the specific socio-political contexts and the potential for misuse of anti-fake news measures. These align with this research finding that Malaysia heavily relies on laws and regulations to curb fake news; however, the definition has never been clearly outlined. Instead, any document or content deemed prejudicial to public interest or security can be detained under specific laws. As governments possess the power to define "fake news", they can criminalize those accused of circulating such information under the guise of safeguarding public interest, yet the meaning remains open to interpretation.

In a brief interview with former Prime Minister Mahathir Mohammad, where the focus was on obtaining his opinion regarding the introduction of Singapore's Protection from Online Falsehoods and Manipulation Bill (POFMA), *The Star* reported his concerns about the potential for government abuse to perpetuate its authority. He expressed the worry that having such a law could open the door for government exploitation, stating, "*When you have a law to prevent people from airing views, then we are afraid that the government itself may abuse it, as has happened in the past, we do not want any government, whether this or the next one, to abuse such law*". In connection to these concerns, he also pledged to consider abolishing the Anti-Fake News law after the victory of Pakatan Harapan in the 2018 general election (Mazwin & Joseph, 2019). This is supported by Sombatpoonsiri and An Luong (2022) who express concern about the potential weaponization of legislation in authoritarian nations to prosecute internet users, journalists and dissidents.

This prompts media and academics to consider the efficacy of legislation as a long-term solution for combating fake news, especially in

light of potential ambiguities in the laws and the risk of power abuse. This is consistent with the data gathered from interviews with some online news journalists in this study, with some expressing dissatisfaction over libel and defamation lawsuits associated with instances of "false reporting". This discontent may arise from a perceived imbalanced in reporting, given that mainstream news media frequently source from government officials. In contrast, alternative news media may present a different perspective by seeking opinions from other involved parties, leveraging its freedom to operate without the necessity of obtaining a license. This perspective is highlighted by Ihlebaek et al. (2022), who posit that alternative media plays a crucial role in providing news diversity, which is vital for the practice of democracy. The importance of diversity is accentuated in understanding the rapidly evolving media landscape. This raises questions about whether legislation is most appropriate tool and whether it can keep pace with the swiftly changing media environment, particularly in dealing with Generation Z and the online realm, where there is a greater emphasis on information exchange and active participation, as opposed to a passive role as information receivers.

Amidst the escalating concern over the spread of fake news, it is essential to inquire why individuals gravitate towards obtaining information through social media platforms rather than relying on established and credible sources. As highlighted in an annual report of ISEAS Yusof Ishak Institute (2020), the surge in "fake news" is indicative of deeper socio-political dysfunction in regions marked by authoritarian legacies, where citizen have learnt to distrust mainstream media and official source, perceiving them as tools of state propaganda. This is an evident in instances such as Australians placing the higher trust in their independent national broadcaster and the lower trust in Facebook (Morgan, 2018). Consequently, fake news played a less significant role in influencing their 2019 national election. This prompts consideration of whether there should be increased emphasis on strategies to enhance trust in the government. This is echoed by Shashi et al. (2021), emphasizing the necessity for future-proof strategies in combating disinformation. Besides, areas of improvement, including legal responses, digital literacy, and fact-checking mechanisms, are needed in a study of disinformation and misinformation on Malaysian social media (Mohd Yatid, 2019).

In addition, there should be a greater focus on enhancing the quality of mainstream media and journalism in the Southeast nations to foster trust between the public and official news outlets. A local study examining the educational backgrounds of journalists in Malaysia revealed that only 32.8 percent of the surveyed journalists (out of 368 journalists) had specialized in

journalism, while others pursued field related to communication. Notably, a slight majority (34%) had no specialization in communication or journalism (Mohd Safar et al., 2016). This implies that individuals are not obligated to possess a Bachelor's degree in journalism to enter the field. This raises concerns about the overall "professionalism" of journalists in the country and highlights the need for news organizations to invest in the upskilling and training of their journalists to attain certified status in carrying out the role of journalism. This is also asserted by Jacobsen (2017) that journalism in Southeast Asia is facing significant challenges. As in many other parts of the world, journalism in Southeast Asia is undergoing rapid transformation and they are grappling with the task of defining their roles and positions within society.

Nevertheless, the challenge extends beyond simply improving journalism professionalism. Deciding what constitutes good journalism is complex, and this complexity is not unique to any one Southeast Asian country. A former lecturer from the University Sains Malaysia expressed reservation about the idea of "licensed journalists" proposed by the Information Ministry in 2002, highlighting that establishing criterion for licensing journalists is subjective. He questioned, *"who will eventually be given the sole authority to define "good journalism" or "truly professional journalists" in the entire country*?" (Mustafa, 2002). His concern is not without reason, as an authoritarian approach may open the door to potential power abuse, especially in attempts to silence and control journalists, rather than improving the quality of journalism in the country. While there is an undeniable importance in enhancing journalism in Southeast Asia, it will not be possible without a transparent governance and substantial funding and support from both the government and the general public. This will undoubtedly encourage citizen to choose a more reliable local platform for information, moving away from relying on online and social media platforms, thereby serving as a more long-term solution to combat fake news.

While the phenomenon of "fake news" is not exclusive to Southeast Asia, its impact on the region's societies and politics cannot be ignored (Yusra et al., 2020). Addressing this issue necessitates a multifaced strategy to combat fake news, with a focus on elevating journalism professionalism. Importantly, the establishment of a transparent government is pivotal, as the encouragement of the general public to rely on more credible sources hinged on building trust in government-owned news media. In addition, there are unique factors and dynamics in Southeast Asia that need to be taken into account when interrogating and theorizing about mis- and

disinformation (Kasim, 2021). These factors include the diverse cultural and historical contexts of the region, the influence of politics and power dynamics, the socio-economic disparities, the level of digital adoption, and the state of media law and press systems (Kaur et al., 2018). These factors shape the misinformation ecosystem in each Southeast Asian country, leading to different manifestations and impacts of fake news. Understanding the specific factors and contexts of each Southeast Asian country is crucial in comprehending the nuances and complexities of their "fake news problems" By studying and analyzing the various factors and dynamics at play, researchers can gain a deeper understanding of how mis and disinformation spread in Southeast Asia. This understanding can then inform the development of effective strategies and interventions to combat "fake news" in the region.

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