

Comments on Proposed Senate Resolution No. 191 - Resolution calling for the adoption of an inter-agency approach in the formulation of policies against the proliferation and spread of false news information or “fake news” and directing the Senate Committee on Public Information and Mass Media to conduct an inquiry, in aid of legislation, with the end in view of proposing amendments to Republic Act No. 10175, otherwise known as “The Cybercrime Prevention Act of 2012” and other pertinent laws. (By Sen. Robinhood Padilla).

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(Adoption of an inter-agency approach in the formulation of policies against the proliferation and spread of false information or “fake news” and directing the Senate Committee on Public Information and Mass Media to conduct an inquiry, in aid of legislation, to propose amendments to Republic Act (RA) No. 10175, otherwise known as “The Cybercrime Prevention Act of 2012”)

The resolution is a timely initiative to address the increasing proliferation of fake news in the Philippines. While free speech is guaranteed in the Constitution, any act that has already become widespread and inflicts damage at the societal level is a cause for concern. Below are the specific comments:

On the adoption of an interagency approach

An interagency approach is a relevant course of action. Better yet, it may be more appropriate to use the term “whole-of-society approach” as fake news is a societal concern that cannot be solved by the government alone. The participation of the academe, civil society organizations (CSO), and the media is also essential in combatting fake news. Schools are instrumental in developing children’s critical thinking and digital intelligence early on in life. Meanwhile, media networks and platforms have an important role as they serve as channels for information delivery. As such, reporters and journalists must ensure that whatever they write and report is based on facts. In addition, media networks can proactively fact-check and highlight factual vs. false information in social and mainstream media. CSOs should strengthen their watchdog function. They can also help intensify the campaign against fake news by organizing fact-checking seminars in communities to teach ordinary people to validate the information they see, especially on social media.

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On strengthening the legislative mechanism in addressing fake news

Aside from the Cybercrime Prevention Act of 2012 (RA 10175), which is the object of the resolution, there are other laws that intend to tackle disinformation or the deliberate act of producing and spreading false information, and misinformation or the act of spreading fake news which may not be intentional. These include the Revised Penal Code of the Philippines (RA 10951), which stipulates that the publication by any person of “false news which may endanger the public order, or cause damage to the interest or credit of the State” is punishable by law (Article 154, item 1). Another is the *Bayanihan* to Heal as One Act (RA 11469), which had expired. The succeeding *Bayanihan* law (RA 11494), which also had lapsed, did not contain a fake news provision.

Laws meant to curb fake news must target the perpetrators of disinformation, as the latter is meant to manufacture and spread fake news intentionally for personal or professional gain to inflict harm or cause damage. Catching the perpetrators of disinformation is difficult as disinformation has an organized machinery, as described by scholars Drs. Jonathan Corpus and Jason Cabanes.² Nevertheless, having a fully functioning fake news law may curb the production and spread of fake news as people will be cautious about participating in disinformation as an “occupation”.

However, if a fake news provision would be added to the Cybercrime Prevention Act of 2012 as part of its amendment, the following are recommended:

- (1) A clear definition of what false information or fake news is vis-à-vis truth or fact. Parameters should be set to distinguish one from the other, such as (a) historical accuracy and (b) grounded on verified evidence.
- (2) Verification of a fake news claim must follow a standard fact-checking procedure conducted by a multisectoral body consisting of representatives from the government, academe, civil society, and the media to ensure objectivity.

A clear definition of fake news and a systematic verification of a fake news claim are both essential to address criticisms that a fake news law could curb freedom of speech.

Moreover, there may be a need to revisit the composition of the interagency body known as the Cybercrime Investigation and Coordinating Center (CICC), established for policy coordination and formulation and enforcement of the national cybersecurity plan. The implementing rules and regulations of RA 10175 specifically mentioned that aside from the ICTO-DOST (now DICT), NBI, PNP, and DOJ, the CICC’s executive committee shall be comprised of representatives from the private sector, nongovernment organizations (NGOs), and the academe. It is important to ensure that such representation is not on paper only, and the academe, NGOs, and the private sector are duly represented in the committee. It is also relevant to determine how the members from these sectors are chosen. Also, if a fake news provision is added to the Cybercrime Prevention Act, other relevant agencies should be considered to participate in the Center’s executive committee, such as the Department of Education, the Commission on Higher Education, and the Philippine Information Agency.

² For details, see Ong, J.C. and J.V. Cabanes. *Architects of Networked Disinformation*. <https://newtontechfordev.com/wp-content/uploads/2018/02/ARCHITECTS-OF-NETWORKED-DISINFORMATION-FULL-REPORT.pdf>

Lastly, laws penalizing the manufacture and spread of fake news are not enough. Complementary laws that promote media and digital literacy in schools are essential to equip learners with the knowledge and skills to protect their personal information online, detect false information, and use ICT tools responsibly. As mentioned in a PIDS Policy Note (Siar 2021), four bills have been filed in Congress related to this, which include House Bill (HB) 3986 (Life Skills Act), HB 4648 (Social Media Awareness in Schools and Universities Act), HB 5924 (Social Media Awareness Education), and HB 9482 (Media and Information Literacy Act). Revisiting these proposed laws and facilitating their approval is likewise recommended. Moreover, while there is a subject called Media and Information Literacy in the Senior High School (SHS) program, it is a general course and not focused on developing media literacy skills. Thus, there is also a need to review and beef up the SHS curriculum.