PROBLEMS REGARDING LEGAL MEASUREMENT FOR DEALING WITH FAKE NEWS ON SOCIAL MEDIA IN THAILAND

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Abstract - The research called Fake news and the law: Case study on Thai social media aimed to analyze the situation regarding fake news in social media platform in Thailand versus the legal measurement in the country. By applying qualitative research approach, researcher found that there are over 500 case of hoax new in 2015 involving 3 main topics which are health, religion, and politics. Mostly, fake news on social media has unique characteristic. The most popular one is called 'Bogus'. In details, it referred to the news that is a perfect lie but it looks very convincing with content, picture, and information including language, and website which is resemble to a real one. Presently, there are various measurement created to encounter fake news. 'Sui generis' law is the way to fight fake news in case of China and Singapore. Muti-measures are applied in several countries. While Thailand still stick on current law since there are multiple Acts and legislations apply to the case. However, government is enthusiastic about the issue so that the agency establishes fake news center. Anyway, there is the worrisome regarding the transparency of the center. Instead of encountering fake news, the center is used as a political tool to destroy the opposites.

Keywords - Fake News, Law, Social Media, Thailand

I. INTRODUCTION

Presently, consumers tend to consuming news via online platform especially, social media. Due to the research from Electronic Transactions Development Agency (ETDA) in 2018, average consuming rate on social media is 3 hrs. 30 mins. per day [19]. since news and other content are more convenient and easier reached with low budget.[2] Additionally, on social platform, the line between 'Sender' and 'Receiver' is ambiguous. Not only news station, but also users can be a 'Sender'. Unlike the situation in the past where users are originally receiver who consumes the news [8]. However, there are problems occurring due to the news consumption on social platform. One of those case is 'Fake News'.[14] It can be explained under the principle called 'confirmation biased' [2].The principle refers to "the tendency to search for, interpret, favor, and recall information in a way that affirms one's prior beliefs or hypotheses. /10/It is a type of cognitive bias and a systematic error of inductive reasoning. People display this bias when they gather or remember information selectively, or when they interpret it in a biased way. "[9] Consequently, when fake news is widespread. It pinpointed mindset of consumers and make them believed that it was true. Even if, someone correct it. There are potential of refusing as self-defense mechanism [2]. About definition of "Hoax News" or "Fake News", things have not yet cleared. So, there is no acceptable meaning at presenttime. [2] However, Fake News is not a new phenomenon. Prior to digital time, fake news was in form of folk story, leaflet. [11].After the coming of the internet, it developed into digital form such as forward mail and other kinds which spread wider and quicker[11]. The turning point when the world paid highly attention on the issue is the occasion of US. presidential election. There was an attempt of defining the words "fake news" which referred to the false news report created for political purpose. [8]Finally, Lazer et al simply summarize that fake news is the news with false story including news secretly supported spreading via social media and other online platforms [6].

For decades, fake news is awfully influential to society and creates extreme effects in various areas such as point of view in politics and society[18]. Those incident does not only affect in online platformbut it spreads to offline area as well. Recently, for example, there was hoax news incident in Sri-Lanka with regards to Muslim. It consequently led to the attack on Muslim business and residence in city of Colombo. [13].

In Thailand, there was the study on fake news over online platform in 2015 by Sure before Share center. It was found that there were over 500 cases of false information over online platform. Problematic contents are information in aspect of health, religions, and politics[13]. Due to the research, fake news found in online platform is called 'Bogus'. The news completely created in order to resemble with real news containing with trustful contents, pictures, and information [8]. Since fake news is a massive crisis, several measures are established in order to cope with the issue. One of those is legal measure. Anyway, legal measure can be divided in 2 categories. First is

'sui generis' law which is the law with specific characteristics coping with fake news such as The Protection from Online Falsehoods and Manipulation Act 2019 of Singapore. Second is to apply current existing laws on fake news. So, it depends on what aspect of wrongful act fake news creates. The country that deploy this measure is Thailand. [3]

However, there are few study regarding the situation and the effectiveness of legal measure on fake news in Thailand. Therefore, it is interesting and necessary to find out the current circumstances of fake news in the country and how government agency utilize the legal measure to cope with the issue in Thailand.

This research, thus, aimed to (1) analyze the fake news situation over social media in Thailand (2) study how the government agency cope with the issue by applying legal measure.

Based on this research, anticipated benefit gains are as followed: (1) authorized agencies gain knowledge regarding fake news in the country (2) legal practitioners gain case study regarding legal measures for fake news in the country.

II. LITERATURE REVIEW

A. Definition of Fake News

Fake news itself is not new but the issue has shown its popularity in this recent year. It was outburst during the US president election in 2016[3].From earlier study, fake news referred to viral posts based made-up accounts which looked like news reports. Scholars defined fake news as 'news articles that are intentionally and verifiably false, and could mislead reader'. There are many words represented fake news such as News Satire, News Parody, News Fabrication, Photo Manipulation, advertising, and propaganda. Noticeably, things in common among those representative words is the sense of reality that fake news created; from the looks of the websites to the way that news are written including photos and attributions. So, there is a worrisome that fake news might finally become a catch-all term with multiple definitions [3]. So, it seems the attempt to define fake news in term of its medium is not successful[3]. Therefore, the present point of view identified the definition of fakes news in two dimensions. The first is facticity and the second is author's immediate intention. With regards to the facticity, it is the degree on how the news relied on factual basis. The higher of degree is, the more percentage such news is genuine. As well as, the author's immediate intention. It refers to the degree of how author intend to mislead. It such degree is high.[3]

The idea is supported by survey that listed the characteristics of fake news as follows; recognition that the medium of the internet (and social media, in particular) the connection between the content of fake news and the world at large, and an element of deliberateness, along with intention to deceive[1].

B. Types of fake news

Due to the complexion of fake news definition, it can be seen that fake news can divide in different forms. The catalogue has not yet been closed. However, the journalist Clare Wardle created the types of fake news as follows;

1. Satire or parody
2. Misleading content
3. Imposter content
4. Fabricated content
5. False connection
6. False context
7. Manipulated content

The list still goes on with work of Matthew Gentzkow and Hunt Allcott scoped for fewer types based on the idea that fake news is'news articles that are intentionally and verifiable false and can be deceptive to readers'. Consequently, they divided fake news in two categories. First is intentionally fabricated articles (news) and the second is satirical articles which may be interpreted as non-satirical. [1]

Also few other types are mentioned but it somewhat distracted from the prior definition. For example, intentionally fabricated articles (news)

- satirical articles which may be interpreted as non-satirical
- They also mention a few other types that are slightly further away from this definition:
- unintentionally erroneous report
- gossip that is not the product of a particular false article (news)
- conspiracy theories
- satirical articles which are treated as non-satirical (unlikely)
- political lies
- information that is stretched and deceptive, but not completely untrue

Naturally, the more opinions, the more differences are espressed.[1]

C. Fake news and Social Media

'On social media the fixed costs of entering the market and producing content are vanishingly small and the format of social media can make difficult to judge an article's veracity –Allcot and Gentzkow (2017)

It can be noticed on current info that there is relationship between social media and fake news. 41% of online - fake news derived from social media.

[1] Ferrara et al., for example, found that social accounts controlled by computer scripts that attempted to cover themselves as legitimate human error are rising. Those accounts on Facebook, Instagram, especially Twitter post a content, communicate with each other including real users made humans prone to online-manipulation[1].

Noticeably, the scale of fake news is expandingbecause the access barriers to information vanish and social media sites is now open, free, and unrestrictive for news sharing.[1].Moreover, the trust and confidence of traditional is declining[4]. Therefore, the demand for news untraditional sources is rising up. People subsequently prone to consume contents that fit their idea and interest rather than informative one. [4] At this point, social media is ideal platform for spreading the news whether it is true or fake. Consumers seem to give more trust to sharer than to news producers.

D. Legal Measures to cope with Fake News

There are several measures to fight fake news. Nonetheless, some countries see the legal measures or legislations as the best way to cope with the issue.

On the one hand, in the approach of legislative proposals, accountability mostly placed on technology companies and individuals[5].On the other hand,approach on governmental regulations divided in two groups; negative one and positive one[16]. In legislative proposal, dissemination of fake news is the responsibility of technology companies to remove offending content. Otherwise, fines and imprisonment would be applied on them. For example, Germany imposed fines for 50 million euros on social media company who fail to disseminate fake news on the site according to The German Network EnforcementAct. Scholars found that the companies such as Face Book including Twitter put an effort to combating fake news by removing fake accounts, increasing the precision of algorithmic tools to combat misleading information including update their guidelines[17].While in governmental regulations, the states distinguish in two groups. The negative one engages with punishment such as fining, taxing, and imprisoning. On the contrary, the positive one cope the problems by encouraging incentive and subsidies for those who promote true information.[7].

III. RESEARCH METHODOLOGY

This research was qualitative model. It conducted by studying from regulations, legislations, text books, articles including information from websites both domestic and international relating to the topics. Researcher, then, apply content analysis method to summarize and make suggestion.

IV. RESEARCH RESULTS

A. Situation of fakes news on social media in Thailand

By facts and figures, more than 46 million registered Facebook users are from Thailand. 51% percent of them are men and 49 % are women. Unsurprisingly, there has been a lot of evidences on fake news attraction in the country. For example, the news on explosion in 2016 sharing quickly and widely in social media but it was the outdated news[7]. Similar to several countries, Thai citizen show strong correlation between distrust in the media.[7] They prone to trust the one sharing the news (friends and family) rather than the one who produced it (TV station, Reporters, Newspaper).

B. Legal measure by government agency towards fake news

Thailand enforces legal measure on fake news. However, 'sui generis' law has not yet been launched in coping with fake news. Presently, there are 3 legislations relating with fake news; (1) Criminal Code (2) Civil and Commercial Code (3) Computer Crime Act B.E. 2560 [16].Other than those legislations, Thailand also established Fake News center as one of mechanism to examine information aiming to check on fact after being reported in 2hrs.[12] However, it is hard to control fake news only by legal measure due to the rate of media consumption and the nature of social media platform. Other than that, on citizens' side, it is the worrisome about the center regarding the prejudice and the propaganda[15].

V. CONCLUSION

In summary, situation relating to fake news on social media in Thailand is similar to other countries. Since the media environment has changed presently, contents' consumption on traditional media is declining. In contrast, the rate of consumption on social media continue rising. Additionally, social media is the platform that is free and unrestricted in nature so that fake news is spreading quickly and widely. There are various approaches to stop it. Some countries believe that legal measure is the way out. However, due to the nature of social media and consumers' behavior, only legislation might not be enough.

RECOMMENDATIONS

From this study, research recommended that

1. There should be check and balance criteria between government agency and private agency on Thai legal measures.

2. Non – legal measures such as technological measure should be applied in combination with legal measures.

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