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FAKE NEWS AND THE VIOLATION OF HUMAN RIGHTS: CHALLENGES AND RESPONSES

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Summary

Fake news is fast becoming a scourge that threatens the well-being of the democratic state and human rights, which is why action is needed to curb its spread. This report is unique in its identification and characterization of the human rights that are harmed by fake news in Israel and suggests ways to meet the challenge, taking into account observations and lessons learned about what is being done in other countries. The report also presents operational proposals for confronting the phenomenon by reinforcing and upgrading mechanisms that already exist in Israel, which focus on targeting the disseminators themselves, while remaining sensitive to the need to protect the citizens' freedom of expression.

The operational proposals will not address the domination or lack of transparency of corporations, which have a tremendous impact on our lives, or the issue of restrictions on social media, which clearly calls for new and different legislation, especially in light of the recent collapse of Facebook and other platforms.

Disinformation disguised as news content floods social media today, conveniently shielded by the basic right to freedom of expression which does not distinguish between truth and falsehood. The basic right to freedom of expression has been exploited in recent years in a way that threatens other rights, as follows:

- The right to privacy: It has been significantly eroded due to the lack of control over digital platforms, which take advantage of the lack of transparency to gather a great deal of information, easily and quickly, without the users' knowledge.
- The right to equality: Its violation, through the systematic dissemination of false messages and disinformation, at times to the point of threatening life, mainly affects ethnic minorities.
- The public's right to know: This can no longer be limited to ensuring the public's access to data but must also ensure that the data is not false.
- The public's right to free elections: It has been violated considerably as a result of the dissemination of false and customized disinformation, using data collected about the voter's personal characteristics and preferences. This practice undermines the essence of the democratic system.
- The right to health: This right is violated when information, even if reliable and professional, is buried under an avalanche of conspiracy theories. This situation keeps some publics from obtaining appropriate medical care and leads to loss of life.

- Freedom of the press: This fundamental principle faces continuous challenges in Israel and is increasingly in danger due to the vast availability of unreliable sources of information that chip away at the press's ability to be the watchdog of democracy.

Addressing the dangers posed by fake news is of paramount importance, especially in light of the deep tensions in Israeli society and the exposure to incitement on social media. As a result of the verbal violence engendered by fake news, the transition from a free and open discourse to violence among various publics in Israel – mainly between right and left, Jews and Arabs, secular and ultra-Orthodox – may occur much faster than in the past. To this must be added the relatively little attention paid by Israeli decision-makers to its explosive consequences.

In light of this, we hereby recommend to introduce amendments to the Election Law in order to rein in attempts to defraud voters, increase enforcement vis-a-vis the relevant offenses under the Penal Code, enact legislation to regulate the status of the press, and to join recent legislative initiatives by international organizations, based on lessons learned from countries around the world and taking into account the characteristics of Israeli society and the challenges it has been facing throughout its existence. The goal of these changes is to formulate preventive and punitive measures that are proportionate and appropriate and will not be perceived by parts of the public as arbitrary, discriminatory, disproportionate, or anachronistic.

Background

The term fake news refers to false or misleading information of malicious origin. Using deceptive source attribution or packaging, fake news disguised as media content is disseminated through various types of media such as digital social networks. Fake news is not a new phenomenon, but two key developments have transformed it into a significant threat to the well-being of the democratic state and to individual rights.

The first is the growth in consumption of information via digital means, which has turned social media platforms into major international players. Foremost among them is Facebook, which along with its two acquisitions, WhatsApp and Instagram, and with over 3.5 billion users, is today the largest platform in the world for the dissemination of information, including false content. With these acquisitions, Facebook protected itself from competition and did not only firmly establish its monopolistic position but expanded its centralized, unified, and nontransparent corporate structure and increased its market capitalization to \$1 trillion.¹ The weak reactions to the move by regulators in the United States and Europe further pale in comparison with the magnitude of the damage that Facebook's business model inflicts on the world. Furthermore, the six-hour outage suffered by the three apps (Facebook, WhatsApp, and Instagram) in October 2021 hurt billions of users, including small businesses that are completely dependent on them. The huge shutdown illustrated the tremendous and unprecedented power currently concentrated in the hands of Facebook and its profound impact on the lives of close to half of humankind.

Other online networks that cause damage through the dissemination of false content are Twitter and TikTok. A study conducted by MIT in 2018 showed that false news stories were 70% more likely to be retweeted than true stories.² In documents leaked to *The Wall Street Journal*, as well as in her testimony before the US Senate and in several subsequent interviews, former Facebook executive Frances Haugen claimed that the company is lying when it assures the public that it acts against disinformation, incitement, and violence. According to her, the company's management is forever choosing profit over the well-being of users, and "the version of Facebook that exists today is tearing our societies apart and causing ethnic violence around the world."³ The damage is compounded by search engines, especially Google, which enable quick and easy dissemination to a wide audience of any information – true, misleading, or false – presented in a way that accords it

¹ Guy Rolnik, [Facebook Collapsed? That's the Poison Machine's Collateral Damage](#), *The Marker*, 8 October 2021 (Hebrew).

² Peter Dizikes, [On Twitter, False News Travels Faster than True Stories](#), *MIT News Office*, 8 March 2018.

³ The 60 Minutes Interview, [The Facebook Whistleblower](#), *CBS*, 3 October 2021.

credibility. In addition to the spread of false content, there is forgery of source attribution, disinformation by a wide range of interested parties both in bogus media outlets and on social media, and texts that generate algorithms that are disseminated across networks based on metrics about previous access by users.

The second development is the decline of the traditional "tribal fires," especially the mainstream press and major radio and television newscasts that had served as gatekeepers against misleading the public. This decline began in the 1990s in Western Europe and in Israel with the ascendancy of commercial broadcasters at the expense of public broadcasting and the emergence of profit as a motive in the electronic media, too. At the same time, a new breed of commercial broadcasters with a distinct political agenda appeared in the United States and later in other countries. These went on to ignore the ethical principles that had guided commercial media outfits since they first appeared in the 19th century and brazenly subject their content to the worldviews of their owners while posing as legitimate media entities. Prominent examples are the American cable network Fox News and Israeli phenomena such as the *Israel Hayom* tabloid distributed free of charge and Channel 20.

Alongside these media developments, a new phenomenon began in democratic regimes: the rise of populist leaders who exploit the current media world to spread disinformation that serves their political needs and to accuse others of disseminating it as a means of political vilification.⁴ George Orwell's novel *1984*, with its motto "Ignorance is strength," is the most famous literary expression of a modus operandi that has been used to preserve dictatorial regimes. The rise to power of Donald Trump in the United States and former Prime Minister Binyamin Netanyahu's insistent mantras about the conspiracy hatched against him by law enforcement authorities brought this phenomenon to new heights.

The combination of these two developments and the upsurge of populism has made post-truth a much more common occurrence than in the past. It has cast doubt on professional criteria for testing reality in the public discourse, it has undermined the consensus reached in the 20th century about the status of scientists and jurists in managing public debate, and it has increased acceptance of claims that are based on emotion and subjective perceptions. This situation poses a new kind of threat to the foundations of the democratic regime. To wit, as a result of the conspiracy theories circulated after Trump's loss of the 2020 US presidential election, only a quarter of Republican voters believed the election was

⁴ For a discussion on the subject, see: Emanuel Adler and Alena Drieschova, The Epistemological Challenge of Truth Subversion to the Liberal International Order, *International Organization* 75(2), (2021): pp. 359-386.

fair.⁵ The loss of trust in the integrity of the electoral system by a major segment of the electorate substantially erodes the public's willingness to accept the basic game rules of the democratic regime and has clear implications for the most basic human rights.

The central place that disinformation occupies in the world of broad social groups has led to the surge of two threatening trends: One is the entrenchment of a homogeneous and hardened information environment that reinforces existing beliefs and hinders dialogue with other political groups. Such dialogue, aimed at achieving compromises that serve the broad public interest, is a fundamental component of the democratic process. Its elimination poses a threat to the ability of democracy to effectively serve the public.

The second trend is the systematic exploitation of the ease with which fake news can be produced and disseminated to pose a concrete threat to vulnerable minority groups. For example, in Myanmar, a months-long diabolic propaganda campaign conducted on Facebook against the Muslim minority (Rohingya) created the environment that, along with other conditions, enabled ethnic cleansing and genocide in the summer of 2017.⁶ African-Americans in the United States were the target of fraudulent propaganda about their right to vote, aimed at preventing them from casting their ballots in the 2016 election. Netanyahu's pronouncement that "Arab voters are heading to the polling stations in droves" in the 2015 election and the hyping of Jewish-Arab hostility during Operation Guardian of the Walls in May 2021 to fan the flames of the clashes illustrate the damage that the growing fake news phenomenon inflicts on the Arab minority in Israel and on the public in general.

⁵ Scot Detrow, Dominico Montanaro, Susan Davis, [Most Americans Believe the Election Results – Some Don't](#), PBS/NPR, 9 December 2020.

⁶ OHCHR, [Myanmar: UN Fact-Finding Mission Releases Its Full Account of Massive Violations by Military in Rakhine, Kachin and Shan States](#), 18 September 2018; BSR, [Human Rights Impact Assessment: Facebook in Myanmar](#), October 2018.

Fake News as a Threat to Individual Rights

Making decisions or choosing the most suitable option out of those available to us is a very significant human activity. Choices can be made several times a day, such as selecting a yogurt out of the variety displayed on the supermarket shelf, or once every four years at the ballot box. The right to choose is a basic right, and we exercise it based on the premise that the information at our disposal regarding the various options is genuine.

Fake news puts this basic right in jeopardy in every area of our lives, conveniently shielded by yet another most basic individual right: the right to freedom of expression, which does not distinguish between truth and falsehood. Fake news exploits this almost unlimited right, thereby adversely impacting on various other rights that are just as important: the public's right to know, the right to hold fair elections, the right to public health, and freedom of the press. Freedom of expression is a fundamental component of democratic life, which is why any attempt to challenge the spread of fake news through restrictive legislation could jeopardize it and, along with it, the very essence of the democratic system. The Anti-Fake News Bill enacted by Malaysia in 2018 prompted a barrage of criticism for threatening freedom of expression, especially after a Danish citizen was arrested for criticizing the Malay police in a video he posted on YouTube.⁷ Furthermore, the fear of triggering disparaging reactions on social media may deter individuals, groups, and organizations from taking part in the public debate and lead to muzzling opinions.

Disinformation disguised as news content floods social media today, conveniently shielded by the basic right to freedom of expression, which does not distinguish between truth and falsehood.

The balance between the violation of human rights by fake news and freedom of expression preoccupies scholars, legislators, women, public figures, and the media and has yet to be adequately addressed.⁸ In regimes where the rules of democracy have been receding, especially in cross-divided societies such as Israel's, the danger that the imperative war on fake news might be used to erode freedom of expression of the public as a whole, or of certain segments, is particularly great.

⁷ Reuters, [First Person Convicted Under Malaysia's Fake News Law](#), *The Guardian*, 30 April 2018; Holly Latham, [Fake News and Its Implications for Human Rights](#), *Human Rights Pulse*, 14 December 2020.

⁸ For a discussion on the subject, see: Emily Bazelon, [Free Speech Will Save Our Democracy: The First Amendment in the Age of Disinformation](#), *The New York Times*, 13 October 2020.

We will now proceed to map out the human rights that stand to be violated as a result of the spread of disinformation.

Violation of the Right to Privacy

The right to privacy has been recognized in Israel since 1992 under Basic Law: Human Dignity and Liberty. The law stipulates that every person has the right to privacy and private secrets and forbids searches conducted in a manner that infringes on privacy, the search of a person's belongings without their consent, and the disclosure or exposure of a person's private affairs or secrets. In addition, the Privacy Protection Law enacted in 1981 set the principle that "a person shall not infringe upon the privacy of another without their consent." Such consent should be informed, which means that after understanding the meaning of the requested action (consent to publish a picture, video, or information about children requiring parental/custodian approval), a person must be given the information they need to decide whether to accept or refuse an infringement upon their privacy.⁹

The ability to uphold the right to privacy in the digital age has been significantly eroded due to the ease with which information is disseminated, the ways in which it is disseminated, and the lack of control over its dissemination. The Internet's "social networks," such as Facebook, Twitter, and Instagram, use the data mined about their users' behavior without asking their permission and then process this data to personalize the type of information users are exposed to. By analyzing the content of posts written and read by users within their circle of friends and through the streaming of personalized information, the networks heighten the use of social media platforms and serve their own interests rather than those of users, thereby violating the original terms of service.

Nowadays, social media users are exposed to an incessant barrage of content based on data mining which, as stated, users never consented to share with the networks. It should be emphasized that the dissemination systems of digital platforms are essentially powered by algorithms that quantify and customize the kind of content (including fake news) directed to every user. This unparalleled and almost unlimited accumulation of data allows digital platforms to build profiles based on each user's particulars, starting with their

⁹ Israel's Ministry of Justice, Pleaded to Make Your Acquaintance: The Private Protection Authority, July 2017 (updated April 2019) (Hebrew).

address, age, and gender through their consumer, social, political, and sexual preferences, their ethnic and religious affiliation, and more. The detailed and complex profiles that these profit-oriented digital platforms build about their consumers without their knowledge turn the latter into easy prey. This being the case, it is clear that children and other broad publics that do not possess sufficiently developed tools to filter and examine content with a critical eye or are increasingly exposed to targeted and homogeneous information need protection from exploitation even more than others, given that it is only a small step from here to manipulation through the use of knowledge about the needs, desires, and weaknesses of users in order to influence and skew their choices. As a result, users' preferences in many areas of life, from personal consumption to the ballot box, are today markedly influenced by their surfing of the Internet and social media.

Children and other broad publics do not possess sufficiently developed tools to filter and examine content with a critical eye and therefore need protection from exploitation more than others.

More and more events in the world and in Israel attest to the fact that the public is being robbed of autonomous choice, and the impression that the violation of privacy by customized and manipulative information can no longer be detached from the violation of the freedom to elect and be elected is taking hold.

The Cambridge Analytica data scandal is a good example. The company, which worked to skew the results of the Brexit poll in the summer of 2016 and was recruited for Trump's digital campaign in the 2016 US presidential election, acquired the personal data of 87 million users via 270,000 users who had accessed an associated app and had unwittingly given approval to access their accounts to analyze profiles of voting groups and individuals and to circulate viral polls. Similar data analysis was also used to dissuade Afro-Americans from casting their ballots and, at the same time, to attract voters to vote for Trump.

In Israel, the use of an app called Elector in the 2020 elections by the Likud and Yisrael Beiteinu illustrates the alarming tendency of parties to gather personal data on voters to customize political propaganda through the violation of privacy. Netanyahu's chat bot used customized ads to incite against minorities (one post warned against the establishment of a left-wing government with "the support of Arabs who want to destroy us all – women, children, and men").

Violation of the Right to Equality

The right to equality before the law without distinction of race, sex, age, nationality, religion, sexual orientation, political worldview, or ideology is recognized as a fundamental right in most countries of the democratic world. In Israel, it is enshrined in the Declaration of Independence and is part of the Israeli constitutional structure by virtue of the application of its principles on the Basic Laws and on Supreme Court rulings.

Ethnic minorities are the main victim of the violation of the right to equality inflicted by fake news, with the events in Myanmar in the summer of 2017 being the most glaring example to date. Facebook was the sole source of information for most of Myanmar's population, and the military used it extensively to systematically spread fake news about the Rohingya minority, who are Muslims of Bengali descent (Buddhists make up approximately 90% of the country's population). As part of the false propaganda campaign, pictures were shown of soldiers allegedly killed in attacks carried out by the Rohingya. Posts by military sources claimed that the Rohingya were foreign aliens and did not belong in Myanmar at all, thereby paving the way for the ethnic cleansing that drove some 700,000 members of the minority to flee the country and become refugees.¹⁰

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In Israel, the main victims of disinformation propaganda are its Palestinian citizens, in addition to such minorities as the ultra-Orthodox, LGBTQ, and people who are politically on the left or on the right. This was clearly visible in the social media chatter during Operation Guardian of the Walls. If in the past such violent discourse had been limited to words, this time it translated into deeds. Groups like the Jewish Defense League, Death to Arabs-Proud Jews, or Ramla Lod-War did not suffice with spewing racist propaganda but went on to spur on acts of violence. Such conduct does not only imperil isolated communities but poses a threat to the full spectrum of Israeli society. Furthermore, the danger of a rapid slide into violence inspired by false and incendiary information is today higher than ever before, both because of the radicalization of Israeli society and due to the infinite possibilities at the disposal of the digital platforms despite the attendant risks to vulnerable population groups and the erosion of the protections upholding the democratic system.

¹⁰ Paul Mozur, [A Genocide Incited on Facebook, With Posts from Myanmar's Military](#), *The New York Times*, 15 October 2018.

If we add to this mix the methods used to maximize profits vis-a-vis surfers under the age of 18 who even more readily succumb to the temptations of the Internet and grow addicted to its products, then the damage inflicted by the technology giants is even more serious and disturbing, both because it is hard to quantify its magnitude and duration, and no less, because of the manipulation of young users with the help of customized content streamed to them without theirs or their parents' knowledge and consent.

Naturally, weak population groups tend to be more vulnerable to the damage of false news and suffer more than others. False and inciting information on social media has only exacerbated the problem in Israel. In 2020, at the height of the corona pandemic, MK Itamar Ben-Gvir circulated on Twitter a picture of crowded Arab citizens praying on rooftops with a caption asking whether policemen act only against Jews in Beni Brak and urging the Israel Police to take measures against Arab citizens. Even though the photo turned out to have been shot in Dubai, Facebook did not remove it or tag it as fake.

We believe that the failure to take steps to curb the dissemination of false, misleading, and customized information to users in the context of the continuous political rivalry in Israel is likely to lead to further violations of the right to equality and its derivatives (as detailed below).

Violation of the Public's Right to Know

The public's right to know concerns first and foremost the right of every individual in a democratic society to receive information of their choice and on the issues they are interested in, including those pertaining to the public space and to elected officials and their public activities. Without this information, the individual's right to formulate and present positions, set personal priorities, and make informed decisions will be violated. It's hard to imagine a democratic society without the right to receive information,¹¹ a right that has been anchored in legislation by nearly 120 countries around the world, 90 of them since the turn of the century alone.¹² In Israel, too, this right has been recognized for many

¹¹ Yoram Rabin and Roy Peled, [The Constitutional Right to Receive Information](#), *Dalia Dorner Book*, Dorit Beinisch, Shulamit Almog and Ya'ad Rotem (editors), Nevo Publishing, 2009, pp. 483-484 (Hebrew).

¹² Ibid, p. 475. According to Rabin and Peled, the right is not explicitly mentioned in the constitutions of most long-standing democracies, while in countries that drafted their constitutions at a relatively later stage in the 20th century awareness already existed of the importance of the right and was therefore mentioned explicitly.

decades through court rulings,¹³ and even more so after the enactment of the Freedom of Information Act in 1998. A key tool in the implementation of the right to know is the media, in particular the press in its full spectrum, as long as it operates according to ethical principles and devotes itself to uncovering the truth.

A case in point is the "Pentagon Papers" affair in 1971. Leaked by Daniel Ellsberg, these documents revealed to the American public that the US Government had been hiding inconvenient, and in some cases even misleading, information about the Vietnam War. This disclosure caused many Americans who had previously supported continued US involvement in the war to change their minds and encouraged them to oppose it.

The public's right to know also stems from the fact that the people are sovereign and the government holds information only as a trustee. Therefore, the government must ensure that the public has access to this information, which belongs to it in the first place.¹⁴ Given that the ability to make informed and rational decisions is the prerequisite of a proper democratic regime, a violation of the public's right to know undermines the very essence of democracy.¹⁵

Until recently, the struggle for the public's right to know had centered on ensuring access to information. The advent of the Internet raised hope about the emergence of a new reality whereby all citizens would be able to disseminate and receive information and to formulate opinions freely, easily, and accessibly and thus contribute to the enrichment and expansion of the public discourse. The widespread dissemination and subsequent surge in consumption of fake news, however, poses a threat to an informed exchange of views within an open and constructive public debate. The public is having a hard time verifying information disseminated on social networks as well as locating and authenticating the sources of disinformation. Consequently, the danger is growing that these and other types of damage caused by fake news will ultimately outweigh the benefit of freedom of expression in democratic societies. It is clear, therefore, that if "alternative facts" (a term coined by the White House spokeswoman in the Trump administration) exist alongside

Until recently the struggle for the public's right to know had centered on ensuring access to information, but today it is clearly important to ensure that information not only reaches the public but also that it is not false.

¹³ See Supreme Court Ruling 1601/90, Shalit v. Peres 353 (3), 365 (Hebrew).

¹⁴ Dr. Hillel Sommer, Dan Adar, and Amit Aliman, [Background Paper: The Constitutional Right to Freedom of Information](#), Knesset, June 2005 (Hebrew).

¹⁵ See note 11 above, p. 463, p. 467.

conventional facts, it is important to ensure that information not only reaches the public but that it is neither false nor "junk news."

Violation of the Right to Vote and the Right to Fair and Free Elections

Another major right that is adversely affected by fake news is the right to free and fair elections, without which democracies cannot exist. Article 21 of the Universal Declaration of Human Rights defines free and fair elections as a situation where citizens are given the right to elect their leaders in a free, fair, regular, and orderly fashion, based on access to accurate, reliable, and trustworthy information about parties, candidates, and other factors. Digital platforms' penetration of political campaigns, whether through the dissemination of false and misleading content or the streaming of customized information to individuals and voting blocs, has generated a host of new problems. When the public receives false information, has no access to relevant data, and subsequently casts its ballots based on those conditions, its vote does not necessarily reflect its true positions.

Propaganda campaigns based on fake news are extremely significant because they interfere with the voter's choice, a choice that is irreversible. The campaigns conducted ahead of Britain's Brexit referendum and the US presidential election in 2016 are a case in point, as ample use of fake news was made in both of them by the contenders and by external players, primarily by Russia in its disinformation campaign.¹⁶ Moreover, fake news is used nowadays to distort reality among consumers of traditional media as well. One example is former Prime Minister Netanyahu who, in a bid to fend off the corruption charges against him being heard in an Israeli court (popularly known as Cases 2000 and 4000), took to news conferences and interviews on prime-time television and in other mainstream media outlets to plead not guilty to the charges and contend that he was the victim of a politically orchestrated "witch hunt" by the left and the media to oust him from office.

Confirmation bias – the human tendency to more readily accept information that matches our views – contributes to the fact that fake news mainly influences surfers active on social media who

The human tendency to more readily accept information that matches our views contributes to the fact that fake news mainly influences surfers active on social media who receive information that is consistent with their political and partisan positions.

¹⁶ Emily Fowler, [\(Dis\)information Warfare: The 2016 Election, Russian Hackers, and US Democratic Precarity](#), Scholars' Bank, University of Oregon, 2021.

receive information that is consistent with their political and partisan positions.¹⁷ As a result, the percentage of right-wingers and left-wingers holding populist views is significantly higher among consumers of alternative media outlets, and the information online, be it true or false, grows more polarized and belligerent.¹⁸

It thus follows that the ease with which disinformation is disseminated in the political arena makes it difficult for voters and the undecided to obtain reliable information about parties and candidates and may materially and dangerously affect the results of election campaigns, which are supposed to reflect the true will of the electorate.

The need to combat the scourge of online propaganda in Israeli election campaigns, which turned into quite a battleground upon the flooding of social media with fake news citing "anonymous" sources and the lacuna in Israeli law, became increasingly evident in recent years due the fact that Israel was ill-prepared to deal with election propaganda in the digital arena.¹⁹ Thus, on February 27, 2019, retired Supreme Court Justice Hanan Melcer, then chairman of the Central Election Commission, issued a precedent-setting order enjoining transparency in propaganda on all Internet platforms. The order stipulates that any advertising by Israeli political parties or at their initiative, including ads disseminated on social networks (such as Facebook) and search engines (such as Google), must include the identity of the advertiser. The decision does not restrict the content of publications, and what is more, the digital platforms publishing the propaganda are not at all a party to it.²⁰

Cautioning against the harm of anonymous propaganda online, Justice Melcer said it risks increasing shallowness, exacerbating the public discourse during elections, implanting misperceptions in voters, hindering the efforts of Israeli security officials to ward off possible foreign interference, and undermining democracy as a whole.²¹ Nevertheless, he warned against infringing on the freedom and dissemination of information, given that the "market square" essential for the preservation of democracy would cease to exist without them. In an attempt to balance the protection of free discourse during election campaigns and the protection of the public from false and manipulative information, Judge Melcer accepted the clarification issued by the social platforms to the effect that they would activate a content removal mechanism if and when users reported anonymous posts,

¹⁷ Richard Fletcher, [The Rise of Populism and the Consequences for News and Media Use](#), *Digital News Report 2019*, Reuters Institute and University of Oxford.

¹⁸ Lerato Pagiwa, ["Fake News" Violates Citizens' Right to Be Informed](#), *CIVICUS*.

¹⁹ Tehilla Shwartz Altshuler and Guy Lurie, [Digital Propaganda and the Threat to Elections](#), *Policy Research 155*, Israel Democracy Institute, December 2020 (Hebrew).

²⁰ Roy Goldschmidt, [Disinformation and Cyberattacks to Influence Outcome of Elections](#), Knesset Research and Information Center, April 2019 (Hebrew).

²¹ TOI Staff, [Election Judge Bars Anonymous Internet Ads Despite Likud](#), *The Times of Israel*, 28 February 2019.

would notify users of information that turns out to be false, and would identify fake accounts activated for propaganda, bots, messages sent via WhatsApp, and surveys used to collect information sent via Messenger.

There is currently no satisfactory solution for dealing with the flow of false information of all kinds on social media. The body best positioned in Israel to systematically identify such information is FakeReporter.²² Through monitoring and following up complaints, FakeReporter conducts in-depth investigations and identifies malicious organizations, both individuals and groups, that seek to influence the public agenda and discourse by spreading false messages on social media, WhatsApp groups, and the like. In many cases, this is done with the help of an organized network of fake accounts in order to generate widespread distribution of false news affecting Israeli public opinion.

FakeReporter is the body best positioned in Israel today to systematically identify false information.

For example, a study published in the magazine *Liberal* in October 2021 claimed that "FakeReporter found a total of 260 Facebook groups [of the Likud party, primarily Bibi supporters], containing more than 1.7 million profiles. Dozens of these groups are supposedly run by Hani Belvis, Netanyahu's former bureau chief, whose cell phone number is identified as a group admin, along with well-known Likud activist Lior Harari."²³ FakeReporter showed the evolution of the conspiratorial discourse in the last election, which began following the Central Election Committee's request in March 2021 for a budget allocation to process the so-called double-envelope absentee ballots, as social media groups started to spread the word that the number of such envelopes exceeds 600,000, twice as many as in previous elections. One WhatsApp group went as far as writing: "For the first time in Israel's history, the number of double envelopes will be about 600,000, which means a feast of forgeries by the CEC headed by the ultra-leftist Fogelman."

²² [FakeReporter website](#).

²³ Nechama Dowek, [FakeReporter Investigative Report: Again the Same Lie](#), *Liberal*, October 2021 (Hebrew).

Violation of the Right to Health

The right to health is a social right that developed slowly given that human rights activism initially sought to protect civil and political rights. This right is defined in Article 12 of the 1966 International Covenant on Economic, Social, and Cultural Rights to which most democracies, including Israel, are signatories and thereby committed to its implementation.²⁴

In Israeli law, health has constitutional status, as a derivative of human dignity. This is reflected in the ruling on the Luzon case (petitioning the court to order the inclusion of various cancer treatment drugs in the public health basket), in which then Supreme Court Justice Dorit Beinisch emphasized the broad span of the right to health and the fact that it is a constitutional right designed to prevent the state from attempting to harm public health. Israel has a number of additional laws guaranteeing the right to health, including the State Health Insurance Law enacted in 1994, which regulates fairly broad publicly funded health services.

Epidemics have always been fertile ground for the emergence of conspiracy theories that drive vast segments of the public to question the achievements of science. When conspiracy theories replace scientific truth, the right to good health of many people is violated. The spread of fake news on social media has intensified this trend, given that studies have found some 40% of online news on health and medicine to be false.²⁵

The problem existed even before the outbreak of the corona pandemic, despite the fact that vaccinating children has been scientifically proven to be the best way to secure theirs and the public's health. UN reports assert that the fact that the decision was left to parents, coupled with the proliferation of false and incorrect information (such as the theory that measles, mumps, and rubella vaccines can cause autism), led to a series of medical emergencies and undesirable chain reactions.²⁶

When conspiracy theories replace scientific truth, the right of many to good health is violated.

The pandemic exacerbated the situation, both because of its rapid spread and ensuing global uncertainty and because populist leaderships in quite a few countries contributed

²⁴ OHCHR, [International Covenant on Economic, Social and Cultural Rights](#), 16 December 1966. Israel ratified the Covenant in 1991, but it was never anchored in law by the Knesset. See also Barak Medina, *Human Rights Law in Israel*, Nevo Publishing, 2016, p. 752 (Hebrew).

²⁵ Przemysław M. Waszak, Wioleta Kasprzycka-Waszak, Alicja Kubanek, [The Spread of Medical fake News in Social Media: The Pilot Quantitative Study](#), *Health Policy and Technology*, Elsevier, June 2018.

²⁶ Briony Swire-Thompson and David Lazar, [Public Health and Online Misinformation: Challenges and Recommendations](#), *Annual Review of Public Health* 41 (2020), pp. 433–451.

to the spread of disinformation. In the early stages of the pandemic, damage was caused by conspiracy theories that originated with the authorities of such countries as the United States, Britain, Venezuela, and Brazil, which rejected the recommendations of professionals and at times acted in stark contrast to empirical data. This conduct contributed to a sweeping denial of the pandemic by many population groups and led to loss of life.

The impact of fake news was clearly evident in the United States. According to various sources, in the first months after the outbreak of the disease, some 40% of Americans admitted to doing things that the Centers for Disease Control [CDC] deemed dangerous to their health.²⁷ Conspiracy theories regarding vaccines, especially from such right-wing movements as QAnon, continue to inflict damage. In recent polls, nearly half of Republican voters said they weren't likely to get vaccinated, while only 6% of Democratic voters said the same.²⁸

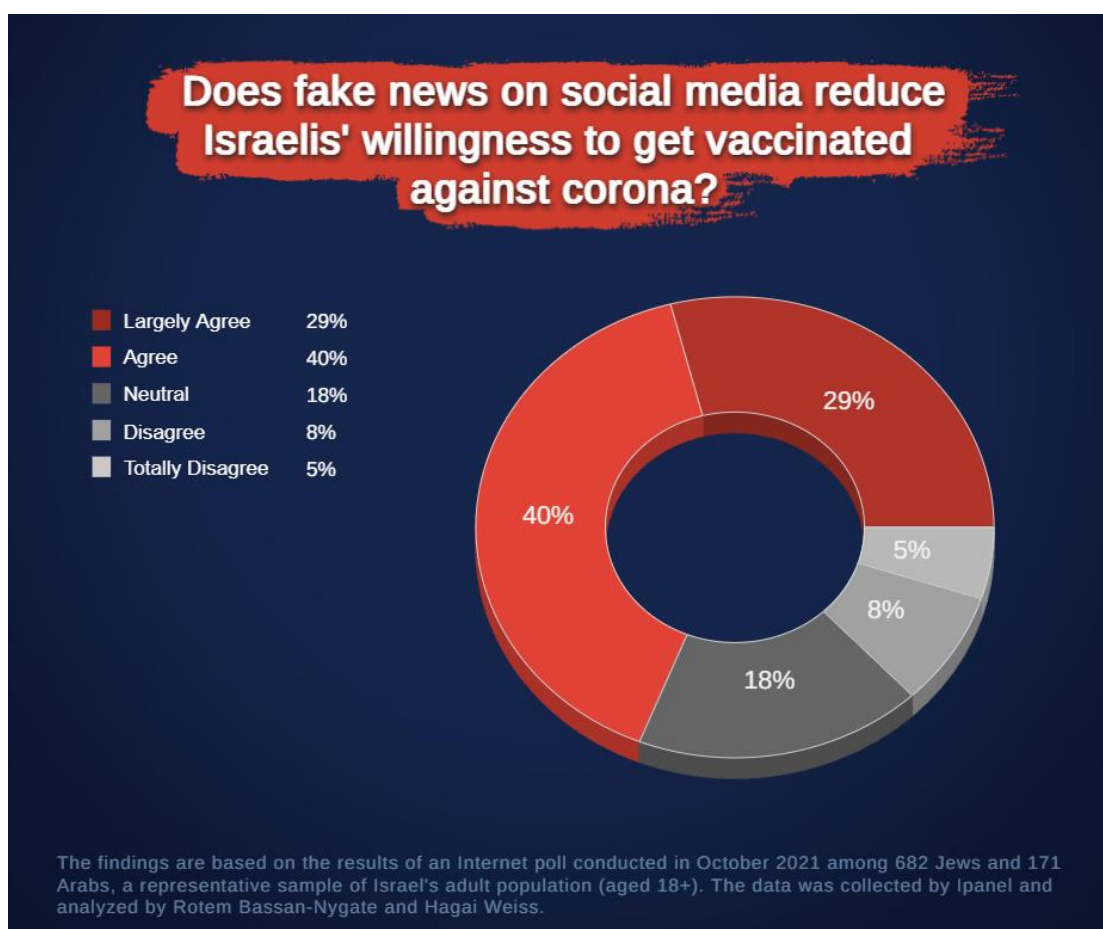
According to official data from the Israeli Ministry of Health, the risk of an unvaccinated person contracting corona is 20 times higher than that of a vaccinated person.²⁹ The role played by digital platforms in the corona pandemic through the spread of fake news has long been an accepted fact. At the start of the pandemic, a group of data scientists at Facebook met with executives to ask for resources to help measure the prevalence of disinformation about COVID-19 in order to develop tools to deal with it, but their request was turned down.³⁰ Upon the inauguration of the Biden administration, the White House and other federal agencies intensified their efforts to find out how online comments by anti-vaxxers are disseminated on social media. US President Biden pointblank accused Facebook of "killing people" with the disinformation it allows to spread throughout its platform, called on it to act against it, and said that "anyone listening to it is getting hurt by it."

²⁷ Clare Sibthorpe, ["Coronavirus: Americans Drinking and Inhaling Bleach to Try to Prevent COVID-19 Infections – Study"](#), *Sky News*, 8 June 2020; Holly Latham, ["Fake News and its Implications for Human Rights"](#), *Human Rights Pulse*, 14 December 2020.

²⁸ Lisa Lerer, ["How Republican Vaccine Opposition Got to This Point"](#), *The New York Times*, 17 July 2021.

²⁹ Israel's Ministry of Health, ["Fact: Unvaccinated 20 Times More Likely to Contract Corona Than Vaccinated Person"](#), September 2021 (Hebrew).

³⁰ Sheera Frenkel, ["White House Dispute Exposes Facebook Blind Spot on Misinformation"](#), *The New York Times*, 19 July 2021.



Unlike the United States, the Israeli public has not been exposed to major political arguments over the effectiveness of coronavirus vaccines. This broad (albeit not absolute) political consensus attests to the population's relatively high level of enlightenment about health issues, as well as a sense of responsibility on the part of all political elements regarding matters of public health. It explains the success of the vaccination campaign and is consistent with the fact that the relatively small group of anti-vaxxers and vaccine-skeptics is not politically homogeneous and consists of individuals who in many cases are predisposed against government institutions and influenced by disinformation and lies spread on social media. Nevertheless, the government's decision to impose a 30-year veil of secrecy on the deliberations of the Corona Cabinet has undeniably contributed to the spread of disinformation and the emergence of conspiracy theories.

Violation of Freedom of the Press

The media is the main means by which information is conveyed to the citizens of a democratic state. Among other things, it is supposed to criticize a society's power groups, control centers, elected officials, and authorities. The important role played by a free press

gained legal validity in Israel already in 1953, with then Supreme Court Justice Shimon Agranat's ruling in the *Kol Ha'am* case that the media constitutes the "heart and soul of democracy."³¹ In 1988, Supreme Court Justice Yitzhak Zamir ruled in the *Yediot Aharonot* case that "a free press is not only a necessary outcome of democracy but also a prerequisite of democracy."³² Despite these rulings, freedom of the media in Israel is to this day not protected by law.

A threat to press freedoms has partly been caused by the rise to power of populist leaders who, in a bid to mask their governance problems, accuse the media of being biased, not independent, and conveying a distorted picture of reality to the public. Former US President Trump claimed that CNN is "fake news" while Fox News is a "real network,"³³ whereas former Prime Minister Netanyahu described Israel's Channel 12 News as "fake news on steroids" (in a July 2020 Facebook post). The incitement by Netanyahu and his cronies, especially in the context of his trial on corruption charges, sparked off a wave of threats against senior journalists, who found themselves having to move around with bodyguards.³⁴

Yet another way to infringe on freedom of the media is by inventing stories as a way of distracting the public from real problems or advancing a controversial agenda. For example, shortly after former President Trump entered the White House, senior administration officials referred to the "Bowling Green Massacre" and to terrorist attacks in Atlanta, while the president himself spoke about a terrorist attack "last night in Sweden."³⁵ None of these incidents happened in reality, and their mention in the media was intended to advance the new administration's immigration policy agenda.

Ultimately, the willingness and ability of the general public to distinguish between truth and falsehood in the news is limited. Therefore, fake news hurts journalism that is based on reliable information and its ability to perform its role as the watchdog of democracy. The loss of trust in this important institution means that it cannot freely fulfill its public function.

³¹ Supreme Court Ruling 73/53 *Kol Ha'am v. Ministry of Interior* (1953) (Hebrew).

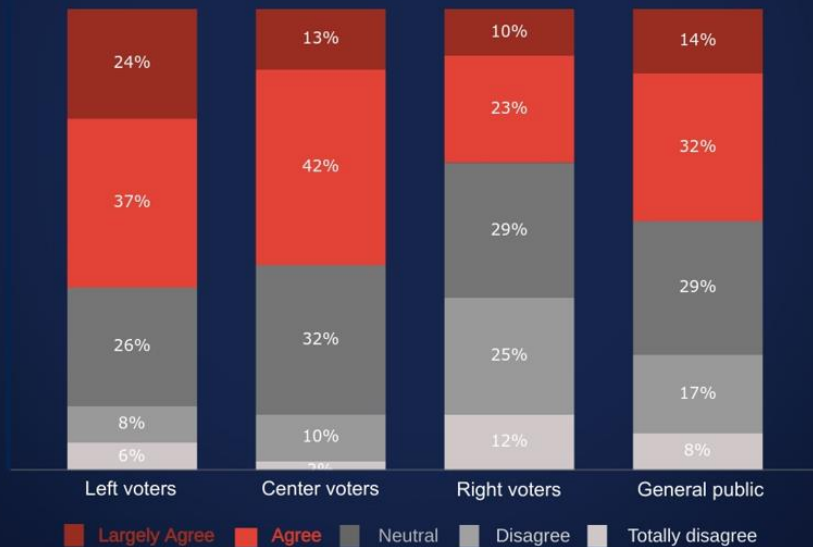
³² Civil court hearing 7325/95 *Yediot Aharonot Inc. v. Krauss* (1998) (Hebrew).

³³ Jason Schwartz, [Trump Opens Rift in Press Corps as He Disses CNN as 'Fake' and Fox News as 'Real'](#), *Politico*, 13 July 2018.

³⁴ Hagai Amit, [Netanyahu Seeks to Silence Critical Media by Hitting Their Revenues](#), *Haaretz*, 1 September 2019; Iris Leal, [Very Few Journalists Are Not Afraid](#), *Haaretz*, 23 May 2021 (Hebrew).

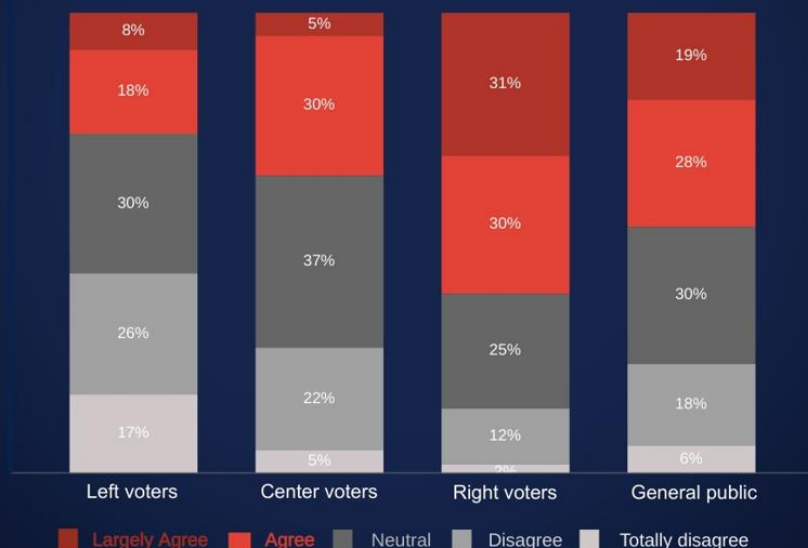
³⁵ Lerato Pagiwa, ["Fake News" Violates Citizens' Right to Be Informed](#), *CIVICUS*.

Are politician on Israel's Right in the habit of posting fake news on social media?



The findings are based on the results of an Internet poll conducted in October 2021 among 682 Jews and 171 Arabs, a representative sample of Israel's adult population (aged 18+). The data was collected by Ipanel, and analyzed by Rotem Bassan-Nygate and Hagai Weiss.

Are politician on Israel's Left in the habit of posting fake news on social media?



The findings are based on the results of an Internet poll conducted in October 2021 among 682 Jews and 171 Arabs, a representative sample of Israel's adult population (aged 18+). The data was collected by Ipanel, and analyzed by Rotem Bassan-Nygate and Hagai Weiss.

The Global War on Fake News

Fake news has become a key element in the global war between the enlightened camp that advocates equality among all humankind and science as a way to deal with life's challenges versus groups and individuals who are contemptuous of science and of the opinion of experts, who portray information posted on social media as more valid and authentic, and who are predisposed against the legal system and civil servants in general and are even prepared to lie to win an election because "the end justifies the means." Fake news in all its forms largely disrupts the ability of individuals and groups to discern reality in almost all areas, which is why the need to deal with its consequences is growing. This battle is taking place within and between democratic, authoritarian, and totalitarian states and across nations, cultures, and religions.

The war on fake news centers on three main targets: the disseminators of disinformation, the means of dissemination, and the target audience. Success in this fight requires diverse courses of action: detection methods to identify disseminators and legislation enabling enforcement measures against them; use of various tools, primarily technological, to facilitate the identification of fake news; and education promoting freedom of the press, the protection of journalists, and an independent media.

The war on fake news centers on three main targets: the disseminators of disinformation, the means of dissemination, and the target audience.

As the world grew aware of the consequences of fake news, so did the need to adopt measures to minimize their damage through control and regulation. In several countries, methods are used today that allow for the correction of false or misleading information; removal and blocking of content in all media types, including social media; and criminal sanctions.

In light of the expansion of fake news as a global phenomenon, especially since the onset of the corona pandemic, international bodies such as the United Nations, the European Union, the World Health Organization, and the World Economic Forum also started to address the problem. UNESCO's September 2020 report "Balancing Act: Countering Digital Disinformation While Respecting Freedom of Expression"³⁶ lists four main countermeasures:

³⁶ UNESCO, [Balancing Act: Countering Digital Disinformation While Respecting Freedom of Expression](#), Broadband Commission for Sustained Development, 22 September 2020.

1. **Monitoring and fact-checking:** This was implemented in the United States in the debates between the two presidential candidates in the 2020 election, and some media outlets in Israel did the same in the last election campaign. While it is clear that these kinds of responses can deal with key messages from prominent disseminators such as senior politicians, they do not address the continuous day-to-day spread of disinformation, particularly on social media, nor do they provide tools effective enough to deal with fake news spread by foreign elements aimed at sabotaging democratic processes.
2. **Legislation and government action:** The purpose of such steps is to change the media environment in a way that impedes the production and dissemination of fake news as well as to stage operations, on the international level as well, against the spread of disinformation, especially during election campaigns. It is as a result of this kind of pressure that Facebook and Twitter began to tag disinformation in real time during the US election campaign and that Twitter blocked President Trump's account the day after he left the White House. Facebook blocked accounts associated with racial crimes, but it refrained from taking similar action vis-a-vis politicians' accounts on the grounds that the public's right to know is paramount. In Israel, politicians' Facebook accounts have been briefly blocked a few times.
3. **Addressing production and distribution mechanisms:** This entails responses aimed at dealing with the production and distribution mechanisms of fake news, especially tighter controls, technological and algorithmic solutions, and economic measures to counter the use of bots (autonomous software that can interact with Internet systems or users). Steps have been taken in recent years to reduce their use and their impact on the discourse about politics and the corona pandemic, and they are slowly being replaced by humans. Mischaracterization of online dialogue as being performed by bots due to the forensic difficulty involved in the identification of bots and influence diagrams presents a major problem and is an example of how hyperenforcement may infringe on freedom of expression.
4. **Action aimed at target audiences:** The purpose of action against fake news propaganda is to improve the motivation of the public in general and of journalists in particular to identify disinformation and educate the people about what they can do about it. To this end, mechanisms such as First Draft, designed to alert to fake news on specific topics and suggest ways to deal with its dissemination, have been set up online.

Under international law, states have the right to control information produced and disseminated within their borders, except when such measures conflict with obligations undertaken by signatories of treaties that protect basic rights, such as to uphold and

protect freedom of expression. Although Article 19 of the International Covenant on Civil and Political Rights (ICCPR) would seem to suggest that the option to impose controls on fake news is recognized under international law, it subjects the exercise of this option to certain restrictions (in subclause 3): if it is anchored in law and is necessary in order to respect the rights or reputations of others, or if it is necessary in order to protect national security, public order, public health, and morals. Under the ICCPR, freedom of expression is not limited to "true" information alone but applies also to information and ideas that may shock or upset consumers but that do not harm public security. The need to enforce such restrictions on fake news is even more pronounced when it comes to political freedom of expression, given that the ability to express political views, especially on controversial issues, is a cornerstone of the democratic process.

Hence, the need to protect freedom of expression and to ensure that restraints and sanctions on fake news distributors meet the requirements of the law and have a solid justification clearly transpires from the aforementioned UN Covenant, as well as from the EU Code of Practice on Disinformation. It is in this spirit that countries are expected to enact effective and clear legislation enabling anyone active on social media to recognize which fake news is subject to restrictions and sanctions and which is not.

Control and Sanctions, Setting Limits to Avoid Excessive Punishment

The classification of information as true or false is a complex and never-ending task for both individuals and digital platforms. Surveillance of information carries numerous dangers, some of them of major impact on the protection of democratic processes and rights. Therefore, action against disseminators of disinformation and fake news should be discriminate and judicious and come hand in hand with proportionate controls and penalties. Stricter punishment criteria with regard to malicious intent, inflicting damage to health, disrupting the integrity of elections, etc. can and should serve as the touchstones of legislation and its enforcement. In addition to weighing the severity of the potential damage, a distinction should be made between occasional disinformation and voluminous disinformation spread throughout social media. All these practices should help identify the addressee of sanctions and mete out proportionate punishment.

Extreme care must be taken to ensure that the actions of state authorities are not perceived by some parts of the public as arbitrary, discriminatory, disproportionate, or anachronistic, seeing that sanctions perceived in this way will erode trust in the authorities, undermine the chances of enlisting the cooperation of social media users, and diminish the fear of sanctions. Actions such as blocking online content should not evolve into excessive blocking or preventing consumers from accessing information.

Britain, Germany, and Malaysia have enacted laws that allow the prosecution of fake news disseminators. The usefulness of prosecution for the purpose of deterrence is yet to be proved and is problematic when it comes to acting against foreign elements that are not bound by state laws. Nevertheless, many countries are considering the possibility of imposing criminal sanctions on fake news as a preventive measure. Adapting such sanctions to local conditions and values and their enforcement by law in order to protect basic individual rights signal a possible path to success with minimum risk of causing damage.

Israel and Fake News

Since its inception, Israel has grappled with the challenge of balancing national security with the preservation of its citizens' freedoms, including freedom of expression. The fake news phenomenon has increased the burden on the public, its elected officials, the judiciary, and law enforcement agencies.

As in other countries around the world, online propaganda and widespread use of disinformation in election campaigns, such as automatic dissemination and illegitimate promotion of content by interested parties, play a central role in Israel as well. The aforementioned ban on anonymous propaganda notwithstanding, this is not enough to offset the low transparency in social networks and the fast-changing reality in the digital age.

The polarization between right and left; secular, religious, and ultra-Orthodox; the center and the periphery; Jews and Arabs; and ethnic divisions all threaten the well-being of Israeli citizens, their right to freedom of expression and information under the public's right to know, and their right to protection against defamation, to equitable health, etc. The exposure to fake news and the incitement of one side against another on social networks, especially in a split society such as Israel's, are worrisome and require attention to the problem and solutions that are tailored to needs, constraints, and cultural and political characteristics.

In the absence of action aimed at reducing the damage of fake news, further undermining of the public's trust in central institutions such as the Knesset, the courts, and the police is to be expected. Such trends are likely to hurt the fabric of democratic life in Israel, which as it is faces ceaseless challenges.

Unlike other democracies, freedom of the media in Israel is not anchored in primary or secondary legislation. Recognition of the importance of freedom of expression in the protection of democracy and of a free press arose from the aforementioned 1953 *Kol Ha'am* ruling by the Supreme Court to the effect that freedom of expression is a paramount right in Israeli constitutional law. Nevertheless, freedom of the press appears to be constantly in danger and features prominently (albeit not exclusively) in the endless argument pitting the need to protect state security versus freedom of expression and the public's right to know. In fact, Israel's unique position as a democratic state under a perpetual security threat reinforces the need to maintain a reasonable balance between the two ends of the security-democracy continuum. This balance has been violated many times in Israel's history in favor of the security argument and has required (and still does) constant

attention and activism by supporters of freedom of expression and the public's right to know in the media, the Knesset, and in civil society organizations to ensure that democratic values are not eroded and lead our society down a slippery slope.

Possible Courses of Action against Fake News in Israel

A variety of legislative and other models worldwide offer a baseline, unique courses of action, and important lessons learned for dealing with the injurious consequences of fake news. Israel can and should rely on the experience gained by other countries and international institutions in the fight against this phenomenon. As part of this battle, Western countries have in recent years multiplied the number of legislative and regulatory initiatives aimed at curbing Facebook's monopolistic power, compelling it to exercise more transparency, and forcing it to set up more effective firewalls against the spread of disinformation.³⁷

When it comes to discussions and decisions on the dangerous facets of digital media, Israel lags behind many countries in Europe and in the world. The report of the Public Committee for the Examination of the Election Propaganda Law, chaired by former Supreme Court President Beinisch, discussed certain aspects of the rules governing election propaganda in light of the changing media reality. The committee submitted its conclusions in 2017, but most of them centered on the Election Law and were never adopted. Therefore, an expert committee with the participation of Knesset members or a parliamentary committee whose role would be to discuss issues relevant to the violation of rights arising from the interactions on digital platforms should be established. Such a committee, which would draft proposals for legislative changes, should discuss all ways of enhancing online transparency in order to identify the methods through which users are exposed to personalized disinformation.

The pressure on Facebook to curb the spread of fake news increased dramatically after the 2016 US presidential election and even more so upon the outbreak of the corona pandemic and the storming of the Capitol by a mob of Trump supporters challenging the outcome of the 2020 election. The demands from Facebook, as well as from digital platforms in general, by the United States and other Western countries have escalated, and world leaders, including US President Biden, recently added their voices, too. Nevertheless, it is clear to all that dealing with this multifaceted issue and with the tremendous power wielded by these companies, including their ability to shape and frame the public discourse, remains a tough problem. As in many countries around the world, the alarming

³⁷ Guy Rolnik, [Facebook Collapsed? That's the Poison Machine's Collateral Damage](#), *The Marker*, 8 October 2021 (Hebrew).

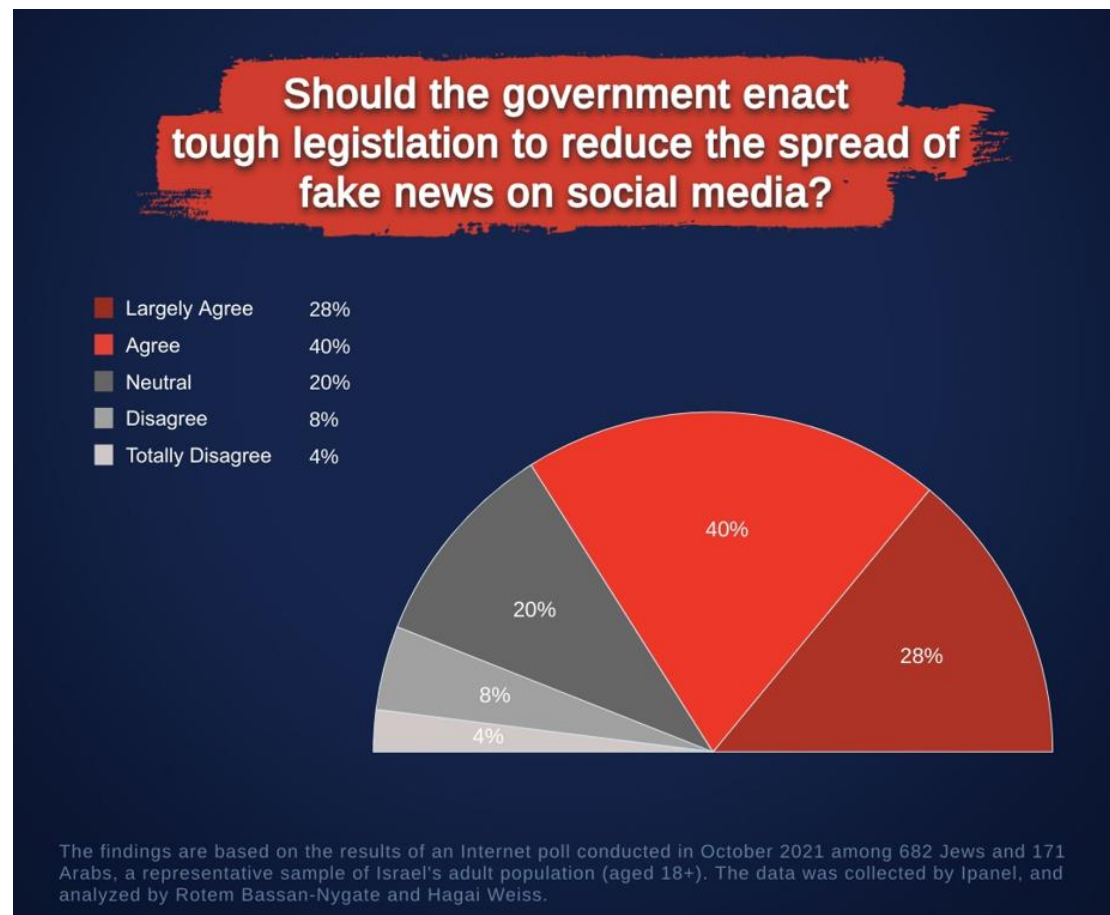
influence of these companies on the discourse in social media is also evident in Israel: They play a key role in embedding perceptions that endanger vulnerable communities, and they have an impact on health issues, politics, and more. In other words, their effect has long ceased being theoretical and has become a solid and disturbing fact.

One option is to impose on the digital platforms themselves the task of curbing false, misleading, and customized information by removing perilous content or blocking the accounts of users disseminating it. Yet another option is to transfer responsibility for the matter to the courts, given their impartiality and experience. It should be noted in this context that the "Facebook Law," which gives the government the authority to remove inflammatory and offensive posts from social media, was discussed by the Knesset House Committee in July 2017 and approved in second and third readings but was ultimately shelved at Netanyahu's orders. A revised and new version of the law was discussed in May 2018 at a joint meeting of the Knesset's Constitution, Law, and Justice Committee and the Science and Technology Committee. Under the new version, the authority to remove disinformation would transfer to the district court *ex parte*. A more effective solution may be legislation that strikes a proper balance between the latitude given to law enforcement, the responsibility of digital networks, and actions overseen by the courts with the assistance of professionals and technological fake-news detectors.

Thought must be given to the possibility that transferring the task of removing false content to the digital platforms may confer even greater power upon these technology giants and increase their impact on our lives, as such a move would ostensibly confirm their capacity to tell truth from falsehood and would enable them to skew the discourse to fit their business needs. Similarly, whether the transfer of authority to the courts under the new version of the "Facebook Law" provides a sufficiently effective tool for dealing with the current situation in the digital world must be taken into consideration. In addition, thought must be given to how to strike the proper balance between freedom of expression and the public's right to receive reliable and transparent information and other important rights such as the right to health and equality.

The proliferation of fake news and the growing recognition of the risks it poses create an incentive for the expansion of international treaties aimed at identifying tools for combating the attendant damage and at setting the necessary boundaries to avoid eroding basic human freedoms around the world. As a signatory of the ICCPR (see above) since 1966 and of several other international human rights conventions, Israel would benefit from closely following up developments in this sphere and from joining international initiatives that are expected to favorably serve its interests on the subject.

In Israel as in the rest of the world, the corona pandemic, with its attendant flood of disinformation on social and other media, has highlighted the pressing need to examine the link between the profit-oriented operations of digital platforms and the difficulty faced by governments to act effectively to uphold the health and well-being of their citizens. Facebook began to act in this direction following the fierce criticism directed at it, but at this stage has taken only limited steps.



There is an urgent need to bolster professional journalists, such as in the Israeli Broadcasting Corporation and in the mainstream media, in order to offset the growing fake news phenomenon and the decline of traditional media in the face of narrow political interests. Legislation to anchor the status of a free media in Israel is an important step in this direction. Stricter legislation to protect journalists, bloggers, human rights and political activists, and public figures from online incitement, be it based on fake news or otherwise, is yet another step. More than ever, it is necessary to encourage and foster journalism as a profession by, for example, subsidizing teachers and awarding scholarships to students.

It is imperative to systematically integrate the know-how acquired by professional fact-checkers, including independent websites dedicated to the subject; to give prominence to their findings in the print and broadcast media; and to highlight the importance of professional journalism in the era of fake news in diverse forums and publications.

Efforts must be made to raise awareness of the public and the Ministry of Education to the need to improve the rules of conduct in social media and to the existence of tools that can ascertain the reliability of information on social networks and in the media as a whole. Such efforts have already started, for example, in Australia. Although this is an extremely difficult challenge, it is vitally important that users, first and foremost young ones, should assimilate the need to consume information that is compatible with present-day challenges.

Operational Proposals for Dealing with Fake News³⁸

To deal with the phenomenon, Zulat proposes in the first stage to reinforce and upgrade Israel's existing mechanisms that target disseminators of fake news while remaining considerate and sensitive to the need to protect the citizens' freedom of expression and, at the same time, ensure that companies, organizations, and individuals do not take advantage of this freedom of expression to infringe on the rights of citizens.

We propose to anchor in legislation major rulings issued by chairmen of the Central Election Committee, retired Justices Hanan Melcer and Elyakim Rubinstein, extending the applicability of key provisions in the Election Law to the Internet. This would adapt the law to the present reality and regulate enforcement, given that the bulk of election campaigns in recent years has been conducted on the Internet. Our proposal focuses on the topic of fake news and in no way constitutes a comprehensive amendment of the law, as recommended by the committee headed by former Supreme Court President Dorit Beinisch.

Our operational proposals do not address the domination of corporations that have such a tremendous impact on our lives, nor do they address enforcement on social media distribution platforms which, especially after the recent collapse of Facebook and its apps, clearly calls for separate and new legislation due to the complexity and sensitivities associated with freedom of expression and censorship on the Internet.

Zulat's proposals do not deal with the spread of fake news among private individuals, which are addressed by the provisions of the Defamation Law-1965 and the Protection of Privacy Law-1981, and are instead intended to fill in the gaps where the spread of fake news affects the public as a whole or parts of the public.



The role of Zulat and of advocates of democracy and human rights is to present a vision based on partnership and on equality for all residents of the country and among them, Jews and Arabs. Based on these principles, we propose to act toward the finalization of a humane and progressive constitution that will fortify the protection of human rights.

[Read more about our mission on Zulat website](#)

Zulat for Equality and Human Rights

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