

Written Representation 150

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Introduction

Deliberate falsehoods present a collective action challenge to all societies viz:

- How do societies prevent deliberate online falsehoods from establishing and gaining traction within a community?
- What can multiracial, multireligious societies, like Singapore, do to cope with a massive deliberate falsehoods “attack”, especially its aftermath?
- How can societies fortify themselves to come out resiliently against the forces that seek to divide and destroy?

These collective action challenge questions are concerned with societal and institutional efforts to deal with the rapidly evolving threat of deliberate online falsehoods.

2 The hard truth is that the graver threat to society is not whether a disinformation campaign will take place (which would almost certainly occur at some point in time) but rather *how* a society responds to such a campaign.

3 Put simply, it is pragmatic and necessary for societies to treat deliberate online falsehoods as an inevitability and focus on efforts that can help a society “bounce back” or be resilient in the wake of forces that seek to divide and destroy. It would be even better if the state of affairs were one where disinformation campaigns do not make much headway. But the former situation is more likely. This is a lot more demanding since social cohesion does not come about by chance but requires deliberate effort that may not come to fruition for reasons other than the want of trying.

4 Much as it is a truism that we live in an age of information bubbles, deliberate falsehoods present a serious challenge to societies as the threat strikes at the core of representative democracy. To be sure, since the creation of news itself, falsehoods have always been a part of the public sphere and discourse. The increased prevalence of deliberate falsehoods today has to be juxtaposed against the varying levels of awareness of the phenomenon and the often-limited ability of many societies to deal with such falsehoods.

5 Deliberate falsehoods are not a mono-dimensional phenomenon. Neither is there is a single cause or explanation as to why deliberate falsehoods gain traction within a society. This makes it all the more imperative that holistic responses are devised and mobilised and involves multi-stakeholders. Stop-gap measures must be strenuously eschewed if the scourge of disinformation is to be dealt with resolutely and effectively.

6 It also means that more research must be done to better understand the multifaceted nature of the phenomenon as well as the multi-causal nature of deliberate online falsehoods. Why and how deliberate falsehoods gain traction in Singapore is likely to be different from that of another country. As such, understanding the unique context for the saliency of falsehoods is vital. It would be foolhardy to assume that merely seeking to stop the dissemination of the deliberate falsehoods, if it was even possible in the first place, would promptly solve the problem. In essence, deliberate falsehoods have their saliency, potency, and appeal because of the very context in which they are generated, disseminated, and how gain traction.

7 The apparent ubiquity and reach of deliberate falsehoods is fundamentally aided by a series of mutually reinforcing trends in a given society:

- (1) Disagreement about facts and the objective interpretations of facts, information, and data;
- (2) The blurring of the distinction between fact and opinion;
- (3) The growing influence of opinion and personal experience— perception in short—over fact;
- (4) The decline in trust in traditional sources of factual information; and
- (5) The degradation in trust of political elites and institutions of state.

8 It is necessary to understand these trends because it means that any attempt to deal with deliberate falsehoods has to be comprehensive and holistic. Merely addressing one or several trends, but not all of them, will result in a deficient response, which will instead exacerbate the seriousness of deliberate falsehoods and erode any authority's effort and trust in attempts to combat deliberate falsehoods. I now turn to each of the three terms of reference for the Select Committee.

(a) The phenomenon of using digital technology to deliberately spread falsehoods online

9 Compared with deliberate falsehoods campaigns throughout the history of mankind, what is different about deliberate falsehoods today is the scale of and the participatory nature of digital technology. The multiplier effect is exponentially greater and the ease with which the spread occurs is unprecedented. There is no doubt that the deliberate falsehoods have a “viral” effect because of the relative ease and affordability with which such falsehoods are being transmitted. Put simply, “big data”¹ and the use of algorithms have powered not just the speed but also the precision and relative impact of the communication, in particular boosting the intended reach and effect of deliberately targeted falsehoods.

10 Take for instance, the so-called personalisation algorithm, which is responsible for the way people experience websites they visit, or when they receive targeted advertisements on social media. Through “filter bubbles” and the use of predictive technology, users receive content catered to their preferences, habits, political inclinations, and even perhaps quirks and idiosyncrasies. Content can be specifically curated to fit an individual’s circumstances based on the data amassed on that particular individual. With powerful predictive technology, social media platforms can and do attempt to decode who each user is, what each user does, and what each user might want or do next. Digital technology is constantly creating and refining a profile or even a theory of who each user is: who he is, what he likes or dislikes, his political views, what he stands for.

11 The fundamental business model of social media platforms like Facebook, Twitter, YouTube, Instagram, and others (like Google) is to enable prospective advertisers to use the treasure trove of data they have and their laser-like ability to sell advertisements (including political messages) to the platform users. As a small market, Singapore will not be able to alter the various companies’ adroit use of digital technologies as well as their fundamental business model. It should also be borne in mind that the various social media platforms are conduits, the medium by which deliberate online falsehoods are spread. They are the proverbial “messengers” albeit heavily incentivised financially. Of course, as messengers, they do and must have a responsibility (self- imposed or statutorily imposed) to ensure that their platforms are a force for good, and are not manipulated to do harm.

12 Where digital technology is concerned, Singapore cannot stop the growth and development in sophistication of big data, predictive technologies, and the iterative, intuitive, and innovative prowess of algorithms. But what can be done at the societal level is to ensure that there is a better understanding among social media platform users of the role that digital technology is intimately involved in shaping their online (and offline) behaviour, and how their responses when using can contribute to the knock-on effects such as the dissemination of online material. For example, this means not transmitting seemingly wellintended messages without verifying the contents or fact checking or seeking corroboration.

¹ “Big data” refers to the very large sets of data that are produced by people using the

13 In the larger context, it is about having users understand how social media platforms make their money. Of course, this is not going to cause significant behavioural change in users but it can, at least, impress upon them that digital technology can be “weaponised”, manipulated for purposes that the technology was not primarily created for, with users be the unwitting agents in such a scheme.

14 To sum up this section, the phenomenon of using digital technology to deliberately spread falsehoods online is real and pervasive. It is also the technology of choice because of the ease, speed, and the difficulty of tracing the source. Digital technology becomes the viable and preferred proxy for the transmission of deliberate online falsehoods. It will continue to be so for the foreseeable future.

Recommendations:

A1. Significant resources to be committed to public education efforts to inform the public, in an accessible and simple way, how social media platforms and digital technology work and how individual actions play a part in the unwitting spread of deliberate online falsehoods. Public education should also include equipping people with the know-how and skills to identify deliberate falsehoods. Most importantly, any public education effort must also sensitise Singaporeans on their social responsibility in not becoming a part of the transmission channel for deliberate falsehoods.

A2. Support indigenous research to better understand the multifaceted nature of the deliberate falsehoods phenomenon as well as the multi-causal nature of deliberate online falsehoods in Singapore. The research should enable us to have a deeper and nuanced understanding of the unique context for the saliency, if any, of falsehoods.

A3. Encourage social media platforms to develop an industry code of conduct for Singapore with regard to their legal and social responsibilities. Specifically, to ensure that their platforms, which are heavily reliant on digital technology, are not used or manipulated to deliberately spread falsehoods online.

(b) The motivations and reasons for the spreading of such falsehoods, and the types of individuals and entities, both local and foreign, which engage in such activity

15 I am largely in agreement with Part IV of the Green Paper on “Deliberate Online Falsehoods: Challenges and Implications” (Misc. 10 of 2018) with regard to the motivations and reasons for spreading deliberate falsehoods. They can be collapsed into two broad categories:

(1) As a tool of subtle and strategic warfare by states (and their agents, whether state or non-state actors) pivoting on disinformation to achieve certain political, economic, and strategic objectives; and

(2) For individuals and commercial entities, it is primarily about profit making.

16 We are familiar with the meddling in elections and referendums in targeted states by interested states through “black op” operations. This is simply a war by other means but very often relying heavily on social divides, societal fault lines (such as race, language, and religion), the inability to conduct a civil discourse on contentious matters present in the country. A deliberate falsehoods campaign works very well when there exists social, political and trust cleavages in a society. These cleavages provide fertile terrain for foreign interference to work easily.

17 So even as there is a tendency to think of foreign interference in a target state’s domestic affairs as a real threat, that would often be barking up the wrong tree. We cannot be blind to the much bigger threat from *within*. In my view, this is what we should be primarily concerned about.

18 The current American obsession with the alleged Russian involvement in the US 2016 presidential election is one example of misplaced attention that results in asking the wrong questions that elicit the wrong answers. The Russian involvement is very much a sub-plot or even a Trojan horse that takes the focus away from the disconcerting reality that the political context of deep divides and distrust, and how ordinary American use social media platforms provided the necessary substratum for the black ops to succeed. The erosion of civil discourse, political paralysis, alienation and disengagement from the political process and the degrading trust in political and civic institutions all contributed to the success of influencing the outcome of the election in November 2016.

19 On the motivation of individuals and commercial entities for profits and egoistic gains (pecuniary or otherwise), Pope Francis reminds us that there is “no such thing as harmless disinformation” and attributes the profit motivation to greed because “fake news...appeals to the insatiable greed so easily aroused in human beings”². Speaking as a religious leader, it is not surprising that Pope Francis went on to state in the same message: “The economic and manipulative aims that feed disinformation are rooted in a thirst for power, a desire to possess and enjoy, which ultimately makes us victims

² Message of His Holiness Pope Francis for World Communication Day, 24 January 2018.

of something much more tragic: the deceptive power of evil that moves from one lie to another in order to rob us of our interior freedom”.

20 Putting aside the spiritual poverty that Pope Francis speaks against so strongly, the quest for insatiable profits by individuals and companies often takes priority, making them unwitting proxies in the spread of deliberate falsehoods. One approach to help curb deliberate online falsehoods is to ensure that those who profit personally from such activities are penalised and that such activity are not “profitable” when the supposed benefits and liabilities are considered.

Recommendations:

B1. Focus on the threat from *within* vis-à-vis the threat from deliberate falsehoods. Embark on a whole-of-society effort to bridge social divides, societal fault lines (such as race, language, and religion) and other social or political or economic cleavages that falsehoods entrepreneurs and provocateurs can and will exploit. We must continue to hone our ability to conduct a civil discourse on contentious matters. Even as there is the shared purpose of combating deliberate falsehoods, shared values have to discipline how we go about doing so.

B2. That our law enforcement agencies and intelligence agencies be supported and resourced in every way possible to enable them to be effective and efficient in detecting and neutralising such threats to Singapore and Singaporeans in a timely manner. The scope of interstate warfare and internal security must broaden to include the threat posed by deliberate online falsehoods, requiring our agencies to operate as a cohesive and seamless whole even if there are different functional responsibilities.

B3. There must be in a place a regime to ensure that individuals or entities do not benefit financially from engaging in the propagation of deliberate online falsehoods. This means having the necessary legislative regime to enable the disgorgement of profits and other financial benefits. The clear message must be that no one will benefit from such activity.

(c) The consequences that the spread of online falsehoods can have on Singapore society, including to our institutions and democratic processes

21 The spread of deliberate online falsehoods can have a deleterious effect on Singapore society. Such falsehoods can have an immediate effect and/or a “slow burn” effect. It was not so long ago that the Internet was hailed as being a force for democracy making information more accessible, the ready access to diverse opinions as part and parcel of a new public sphere. That potential and promise remains but what has become more evident in recent years is that the Internet can also be a vehicle by which democracy is threatened and undermined. In part, this can be attributed to how new technologies have been co-opted by repressive regimes to better control their people through hitherto unavailable data-gathering and surveillance capabilities. Similarly, these technologies have been deployed to disseminate online falsehoods and have been demonstrated to have immense capabilities to influence public opinion in nefarious ways.

22 Much has been written in the mass media about Russia’s interfering in the US 2016 presidential election. U.S. intelligence agencies have found that Russia’s interference was aimed at helping Donald Trump defeat Hillary Clinton for the presidency in 2016. Yet, it is also very important to bear in mind that Russian interference, to that end, was premised on and designed to exacerbate tensions, deepen divisions, and sow discord and populist tendencies in the American system that were already there³. The alleged Russian meddling would probably not have made much headway had there not been deep internal rifts and political alienation among Americans.

23 The lesson to take away is that the fight against deliberate online falsehoods cannot be effective or efficient if domestic resilience and social cohesion is suspect. We cannot really control what unfriendly countries might want to do to us. Of course, we have to show that we are more than ready to defend ourselves and that they will pay a price. But the reality of disinformation warfare is an asymmetric one and that the cost of mounting one does not require the expensive and sensitive deployment of troops and weaponry. Our laws might not have the reach and jurisdiction even if we design them to possess those attributes.

24 We are in a far better position to ensure that the domestic setting and context does not make it easy for falsehood entrepreneurs (whether states, non-state actors, organisations or individuals) to succeed in their mission objectives. That is where the bulk of our effort must be.

25 On the impact of online falsehoods, Part III of the Green Paper goes on at length by examining the effects on a variety of Western liberal democracies (viz the US, the UK, Germany, Italy, and Sweden) and Indonesia. Part VI of the Green Paper is devoted to the risks that online falsehoods could pose to Singapore. While not

³ US President Donald Trump has acknowledged just as much even if he had not intended to. In a tweet on 18 February 2018, Trump wrote, “If it was the GOAL of Russia to create discord, disruption and chaos within the U.S. then, with all of the Committee Hearings, Investigations and Party hatred, they have succeeded beyond their wildest dreams. They are laughing their asses off in Moscow. Get smart America!”

underestimating the threat given our being “both an attractive target, and highly susceptible to the deliberate spread of online falsehoods,”⁴ the Green Paper dwells on our vulnerabilities such as our being multiracial and multireligious. These are “fault lines” to be sure but we must not persist in looking at them as inherent weaknesses or threats because that would be a sure path to securitising those attributes at a time when they can be our pillars of security as our Total Defence philosophy reminds us. As such, the messaging is important. We are well placed to continue to ensure that our vulnerabilities do not remain as much.

26 No legislation can secure the standing or protect our institutions and democratic processes. Ultimately, the standing and reputation of our institutions and democratic processes reside in the faith, trust and confidence Singaporeans have in them. That will have to be earned and sustained and enhanced.

Recommendations:

C1. That Singapore’s political leadership and public service continue to maintain and enhance trust in our public institutions and democratic processes to counter any potential negative consequences arising from the deliberate spread of online falsehoods. Once trust is lost, deliberate falsehoods are given a lease of life of their own. By the same token, trust has to be earned.

C2. *How* Singapore and Singaporeans counter deliberate falsehoods is as important as countering them. As such, Singapore must develop a robust system that empowers Singaporeans to be resilient in the face of the threat.

⁴ Paragraph 75, Green Paper.

(d) How Singapore can prevent and combat online falsehoods, including:
(i) The principles that should guide Singapore's response; and
(ii) Any specific measures, including legislation, that should be taken

27 To ensure that deliberate falsehoods do not get the better of Singapore and Singaporeans, we must become a nation of shared values and shared truths. We must endeavour to ensure that public discourse in Singapore does not evolve into what has been described as a “posttruth” regime where the line between fact and fiction is deliberately and dangerously blurred. In such a state of affairs, knowledge and even expert knowledge is often reduced to mere opinion. What results then is that there is no purposeful public debate on key issues of the day. The late Daniel Patrick Moynihan, the former Harvard academic and fourterm United States senator, once said that people are entitled to their own opinions but not their own facts. However, with the rise of “alternative facts”, it can be said that facts can now be derived from opinions!

28 The government can and must set the tone in public discourse and debate from routine issues to contentious matters. Leadership on this front is a *sine qua non*. We must inculcate intellectual honesty, open-mindedness, logical thinking, truth in our debates, which must be robust yet respectful. It is also critical to ensure that no one is excluded from the discussion. The feeling of being cut-off, of being displaced, if felt by a swathe of Singaporeans, provides the fertile ground for reality to be manipulated by falsehoods.

29 Pope Francis said it well on why disinformation thrives. His Holiness said that disinformation’s oxygen is “the absence of healthy confrontation with other sources of information that could effectively challenge prejudices and generate constructive dialogue; instead it risks turning people into unwilling accomplices in spreading biased and baseless ideas”.⁵

30 No society is immune from deliberate falsehoods. How can Singapore prevent and combat the threat of deliberate falsehoods? A definitive response is required but it must also not be one driven by fear. There have been deliberate falsehoods circulated online in Singapore in recent years but, thankfully, they have not done much damage. This is not to say that we do not be on our guard or underestimate the threat. Rather, we must not let the threat overwhelm us by putting in place countermeasures that are disproportionate. We should also not ignore the useful lessons and learning points as to why deliberate online falsehoods have not made much headway domestically thus far.

31 Our internal resilience, the general climate of trust and confidence in the government and traditional media (like local newspapers and local broadcasters), and a relatively well-educated population should not be taken lightly. Instead, we can and should endeavour to enhance our internal resilience, build on the general climate of trust and confidence in the government and traditional media.

⁵ Message of His Holiness Pope Francis for World Communication Day, 24 January 2018.

32 Singaporeans can continue to increase their awareness and knowledge of deliberate falsehoods. Media literacy, digital literacy and information literacy point to different facets of literacy needed in today's complex and complicated environment that the online world is. Singapore's Infocomm Media Development Authority (IMDA) describes digital literacy as:

"[T]he ability to use, create and share digital content safely and responsibly. It is an overarching concept for a wide range of skills:

- *technology competency*, which is the use of digital technology;
- *information literacy*, which is the ability to locate, identify, retrieve, process and use digital information optimally; and
- *media literacy*, which enables us to comprehend, contextualise and critically evaluate information, as well as to create and communicate content effectively across digital media platforms."⁶

33 What is crucial is for Singaporeans to appreciate that they— through online conduct such as consuming, producing, and disseminating content—can be unwitting agents of the various media platforms as well as those who intent to harm us through a manipulative use of media platforms.

34 Strong media literacy must be our strongest defence against deliberate falsehoods. There will always be falsehoods deliberately sown; no legislation can and will put an end to such activity. Thus, we must ensure that the falsehood entrepreneurs and provocateurs do not reap the what they have sown. Our first line of defence has to be a population of media-savvy individuals. It will often be too late if the authorities were to be the first line of defence and have to step in every time to counter deliberate falsehoods. It is almost an exercise in futility.

35 Dealing with deliberate falsehoods can be likened to our having robust counter-terrorism framework. We need to have a citizenry that is discerning and not gullible to the extent that they think anything can be true. It is also equally problematic if Singaporeans are so cynical that they believe nothing is true.

Going beyond Hard Law

36 The current legislative framework can be refreshed and tweaked to take into account deliberate falsehoods, whether propagated online or offline. This is, in my view, a preferred approach to having a dedicated omnibus legislation. There is merit and effectiveness in retaining the various provisions in the various pieces of legislations that can be used to deal with transgressions involving deliberate falsehoods. For example, if falsehoods entrepreneurs seek to target us by taking advantage of our multiracial and most religiously diverse society, there is an arsenal of legislation ranging from the Penal Code, Sedition Act, Maintenance of Religious Harmony Act, and even the Internal Security Act that can be resorted to. These laws are primarily designed, *inter alia*, to protect our multiracial, multireligious, and

⁶ IMDA, "What is Digital Literacy?" Source: <https://www.imda.gov.sg/community/consumer-education/digital-literacy> (accessed on 28 February 2018).

multilingual society. We do not need a proliferation of new laws unless the existing legislative framework is clearly shown to be grossly inadequate even with the necessary amendments. It is worth noting that we do not have a onestop, dedicated legislation to deal with terrorism, which is arguably a greater existential threat to Singapore and Singaporeans than deliberate falsehoods.

37 A dedicated omnibus legislation is probably too blunt a tool. Furthermore, the trouble with the primacy of a hard law approach to combating and preventing deliberate falsehoods is that it arrogates to the state and policy-makers the power to control, define, and determine what is a falsehood – not just in statutory interpretation but often also when the law is invoked and enforced. For example, is a sincerely held opinion, but premised on faulty assumptions and unreliable data, a deliberate falsehood? What about satires, parodies, or even parables? An unduly broad definition of deliberate falsehoods would be overinclusive, potentially snaring fair comment.

38 Could such a legislation also inflict as a casualty the freedom of speech in Singapore? Even if such a legislation does not restrict the freedom of speech, it cannot be ignored or wished away lightly that, inevitably, there will be a chilling effect on our public discourse. At a time when we need more robust speech to counter deliberate falsehoods, such a dedicated legislation could be counter-productive and stifle the bottom-up energy and mobilisation that is needed to fight deliberate falsehoods. The reality is that a government's branding of a statement or a particular narrative as a deliberate falsehood could be used for partisan purposes or be seen to be deployed for partisan effect. As the deliberate falsehood campaigns in other parts of the world have shown, governments themselves and/or their agents can be originators and purveyors of deliberate falsehoods.

39 Another concern is that a legalistic and law enforcement approach will tend to obfuscate the reality and the urgency of nurturing a profound and careful process of discernment and an abiding commitment to determining the truth. A dominant hard law approach also denies the socio-political dimension present in deliberate online falsehood campaigns. Ironically, hard law can secure the state but its over-emphatic use ultimately impoverishes the very security of the state and society.

40 In my view, the current legal framework provides tremendous leeway and special powers to the authorities to deal with the threat of deliberate falsehoods. The use of special must be strictly constrained and properly justified. In fighting deliberate falsehoods, it is absolutely essential that this operational imperative must be balanced by the critical need to ensure that the values a society holds dear are not compromised or undermined by the operational imperative. Values such as rule of law, due process, and protection of fundamental freedoms provided for in the Singapore Constitution. To be sure, the prudent and principled use of discretionary powers by the various executive agencies have gone a long way towards maintaining the legitimacy of the various severe laws on the statute books. But it is also impossible to legislate that those upon whom such discretionary powers are vested will exercise such powers with utmost scruples, responsibility and wisdom. The need to exercise discretion properly is fundamental in any anti-deliberate falsehoods legislation, with the judiciary performing the ultimate check and balance role and ensuring that executive discretion is not unfettered.

41 To be sure, there is a role and place for the coercive powers of hard law: They are useful in clamping down clear and present dangers. But they also impose severe costs and unintended consequences if used in situations where there is no clear and present danger. Given the nature of the threat of deliberate falsehoods is also partly ideational, often appealing to people's cognitive biases, stereotypes and perceptions, the structural power of hard law is often not only reactionary but also grossly inadequate as a means of pre-emptive, adaptive socialisation and social learning prior to, during, and after a campaign of deliberate falsehoods. Crucially, hard law does not help engender a resilient society.

42 A hard law approach tends to elicit reasoning and responses that are primarily egocentric, denominated in self-centered terms of avoiding punishment, compliance with an authority, and group norms. For example, criminal legislations stipulate—in varying degrees of clarity and precision—the proscribed acts of commission and omission (obligations and compliance), the imposition of legally binding duties and obligations (accountability), and the punishment for transgression (sanctions). The use of a coercive framework has its limitations and needs to be balanced against the trust- and confidence-building efforts to set normative standards of conduct in exercising one's rights. Hard law is not equipped to promote such social learning since its focus is often on deterrence, compliance, and sanctions.

43 The battle against deliberate falsehoods should draw inspiration from our determined effort to deal with the terrorism threat. In Singapore, even as hard law, particularly draconian legislation, remains a key tool in the fight against terrorism, there is the increasing use of soft law at the macro- and micro- policy level by the authorities as part of the regulatory mechanism. The approach is ideational in that it seeks to engender a shift in majority-minority/societal relations at one level, and government and the Muslim community relations at another. These ideals embody the rules, institutions and norms to self-regulate behaviour at the individual and community levels.

44 Besides the diminishing returns of a coercive, hard law approach, the whole-of-society approach entails civil society being consciously inducted to maintain and enhance religious harmony and avoid the incivility spiral in which distrust, fear and suspicion catalyse the breakdown and unraveling of Singapore's social fabric in the face of religious fervor and extremism. In countering the terrorist threat, the approach has evolved rapidly from a "whole-of-government" to a "whole-of-society" approach, a significant recognition that the security of the state, government, and society are intimately connected. The terrorism threat requires not just a robust security response but also a holistic one, one which seeks to align the "hearts and minds" of the faith communities to the societal objective of harmony and peace. In this regard, Singapore has increasingly used soft law mechanisms such as the Declaration on Religious Harmony to nurture and sustain regulative, practical effects similar to hard law.

45 Returning to deliberate falsehoods, the force of hard law lies in its deterrent power for those motivated by a self-absorbed avoidance of punishment. However, unfriendly countries, foreign-based organisations and individuals involved in an elaborate campaign to use deliberate online falsehoods to attack Singapore are often not deterred by our laws. They are also often out of Singapore's jurisdiction and tracing their tracks likely to be highly challenging. Furthermore, there is also the challenge of

securing the necessary evidence from the social media platforms that were used as part of the black ops campaign.

46 Instead of seeking to craft a severe legal regime, it is imperative and more critical that Singapore considers the use of discursive power primarily through setting normative standards and to enable social learning. This is particularly useful in situations involving social media where its use, its evolving technological power, and the dynamic nature might mean that laws would be hard-pressed to keep up. In my view, although we should not view a rules-based approach and social learning in binary or antithetical terms, it is crucial nonetheless to distinguish between (a) laws that seek to prevent and combat deliberate falsehoods “attacks” from taking place, and (b) efforts that seek to prevent a multiracial society from imploding after such an attack.

47 The objectives of law and policy differ for both courses of action even though both are interdependent and reinforce the ideal of society as a cooperative effort. For laws that seek to prevent deliberate falsehoods from gaining traction, a hard law approach focusing on deterrence and sanctions would cohere with the preventative, and command-and-control objectives targeted at a recalcitrant few. To prevent a multiracial society from imploding after deliberate falsehoods attack, it is imperative to emphasise a cooperative values-based culture and norms to engender ethical conduct of the masses, grounded in selfregulation, civic responsibility, and social resilience.

Protecting our constitutional freedoms

48 The concern with any draconian law is that the freedom of speech and expression may be compromised. To be clear, the battle against fake news is not a zero-sum game wherein to triumph over falsehoods, the freedom of speech and expression has to be curtailed. On the contrary, attempts to curb fundamental liberties are patently counter-productive and smacks of attempts to curb dissent.

49 Freedom of speech and expression can help ensure that bad speech and falsehoods are decisively exposed for what they are. As such, any law must delicately balance the interests of protecting the home front while also ensuring that our constitutional freedoms and the societal values that define us are not diminished. The interests may compete in the face of clear and present danger but they are not conflicting objectives.

50 The need for judicial oversight before or immediately after a significant power is exercised is crucial and must constitute a key plank of any proposed law. Further, intended swift counter-measures must be proportionate to the threat level and should be withdrawn promptly. Unfettered executive power poses as grave a threat as deliberate disinformation.

Falsehoods in a Time of Election

51 Going by the Green Paper, it appears that the Government is mostly concerned about deliberate falsehoods affecting our politics, especially in the lead-up to an election, the election proper, and after the election period. The Government’s concern is understandable. In future elections, it is likely that social media will be a key electoral

battleground, if it is not already the case. Intuitively, the regulatory response is to attempt to regulate politics and political discourse on social media. But the main challenge is how to regulate such that electoral contests remain fair and free and that the freedom of speech is not compromised.

52 With targeted political advertising on social media, it is now possible for political parties and election candidates to communicate directly to each voter on social media platforms and on specific issues they are concerned about and even to tell them what they want to hear. On top of this, it is probably the case under our electoral laws regime that such electoral communication are not tracked or disclosed. In this regard, Parliament could consider legislating laws requiring political parties and election candidates to publicly disclose spending on social media targeting for an election.

53 I have a preference for a real time disclosure regime on political communication with non-compliance of such laws rendering in an elected candidate's victory null and void. Any law that seeks to regulate the content of political communication to the extent of determining what is true or false is invidious, hard to implement, and can interfere in the electoral process itself.

54 In situations, regardless of whether an election is in progress or not, where a well-coordinated and well-timed campaign at propagating falsehoods is established, we can enact laws that will likely empower the authorities to direct telcos and social media platforms to do what is necessary to foil online falsehoods campaign. This could include the power to direct such entities to take down online falsehoods and so purge them from circulation, close accounts used to disseminate falsehoods. In addition, the law can require such social media platforms use data analytics to monitor developing threats, and provide user information to the authorities. But it should be noted that determined disinformation campaigns are Hydra-like. The use of bots to operate social media user accounts means that there will be a proliferation of other (or new) accounts to mount such attacks. It would take a Herculean effort to clamp down but at what cost.

55 The issue of whether internet service providers and other social media platforms should be shielded from legal liability for the actions of third-party users in propagating falsehoods using their services has to be closely studied. If such platforms are shielded from legal liability, their responsiveness to the harms posed by deliberate online falsehood campaigns are likely to be inhibited. On the other hand, if too onerous a burden is placed upon media platforms, there will be detrimental impact on the growth of online services and their being an important means of upholding freedom of expression.

56 It is likely that the use of pre-emptive strikes could be part of a broader legislative arsenal that the authorities are seeking to sharpen their capabilities to combat disinformation campaigns. Existing laws may or may not be equipped to effectively thwart online falsehoods propagated by local or foreign players as part of a larger conspiracy to subvert our society. Should the authorities, in the face of a clear and present danger, be provided with the power to conduct pre-emptive strikes? Such a power has to be carefully balanced against the urgency and need for preventive action. This is a matter that requires close and careful study.

57 Singapore's exceptionalism and vulnerability in this regard should not only be used as a justification but a robust explanation is needed each time the Government seeks coercive powers. There is no doubt that Singaporeans and I support the safe and secure environment which Singaporeans enjoy today. The question of how we get there – the means to achieve the end is of utmost importance. A harsh top-down regulatory regime often promotes executive power and valorises state's imperatives. Put simply, the approach cannot be one of the ends justifying the means. My concern with any proposed law that seeks to combat disinformation is that it will have a chilling effect on political discourse in Singapore.

Fighting Disinformation: The Evidential Challenge

58 Are social media platforms the unwitting purveyors of deliberate falsehoods? Or can more be expected and required of them? Will they cooperate with the authorities? Deliberate online falsehoods depend on a communicative vehicle to go about their campaigns. Such campaigns leverage on the power of networks, be it social, political, economic, and cultural but also that social media is one gargantuan network. On the one hand, such networks redistribute power from hierarchies. Hence, there was a time, not so long ago, where it seemed that the Internet was a force for democracy helping to topple autocrats, dictators, and unpopular governments. But that democratic spring did not last long.

59 The Internet's rapid evolution to from the average man's tool to being a threat, to being a tool for subterfuge, espionage, and subversion is evident today. Such networks can recentralise powers to social media companies, and any one else who seeks to capitalise on such networks can also tap the disruptive power. In other words, disruption, via social media, can be by design. While it would be disingenuous to attribute the rise of deliberate online falsehoods to social media companies, the fact that their technology and their platforms can be manipulated and be a threat to democracy cannot be taken lightly.

60 As can be seen in the US and in the UK (with the House of Commons Select Committee), the social media companies generally have a stock answer to allegations that foreign agents had manipulated their platforms to interfere in American and British politics. Their archetypal response is that evidence is required to suggest that their= platforms were actually misused. Putting it bluntly, social media platforms view disinformation campaigns as not really their problem and that they are not really not too concerned about whether their platforms are being misused or not.

61 However, and this is the crux of the problem when trying to get to the bottom of such allegations, getting the evidence is very difficult if the social media companies do not cooperate or are lackadaisical in turning over information and evidence required for investigations and to mount a prosecution. To be sure, social media companies concerned about new regulations and maintaining their social licence to operate in the US and other major markets, have been making the right noises about factchecking, truth ratings, and embedding new algorithms to filter disinformation. This is a tentative first step but I am still concerned when their fundamental position has not changed and remains trenchant: That there is no proof that social media platforms were unwittingly complicit in disinformation campaigns.

Recommendations:

D1. That the government take the lead in setting an exemplary conduct in public discourse and debate from routine issues to contentious matters. That in all matters, effort must also be directed to ensure that no one and no particular group or segment of the population is excluded from the discussion.

D2. Every effort must be made to sustain and nurture our internal resilience, the general climate of trust and confidence in the government and traditional media. These are important institutions in the enabling Singaporeans to obtain accurate information, especially during a disinformation onslaught. Our internal resilience is very much dependent on our continuing to strengthen our inter-racial and interreligious relations. Continued emphasis must be placed on the endeavour to enhance our internal resilience, build on the general climate of trust and confidence in the government and traditional media. In this regard, there is the need for local newspapers and local broadcasters to be given optimal autonomy for them to report without fear or favour.

D3. Any proposed law or amendments to existing law must emphasise the integrity of the freedom of speech guaranteed under Article 14 of the Singapore Constitution. There must be no doubt that any legal regime designed to combat deliberate falsehoods places the freedom of speech as a cornerstone. Freedom of speech kept at optimum levels at all times even when we are under siege. The right to the freedom of speech, in turn, entails the concomitant duty of responsible speech.

D4. In updating our laws, the temptation for legislative over-reach must be resisted. Any new laws must conform to the rule of law and bolster confidence that the legal regime is not designed to curb robust public discourse nor to impose censorship and crush political dissent.

D5. Consider the development of a real time disclosure regime on political communication, especially paid advertisements. The movement must be towards transparency and accountability in communication, especially during an electoral campaign. It is not recommended that the content of political communication be regulated except for the existing restrictions permitted by law. Singaporeans cannot be molly-coddled from the robust and responsible contestation of ideas in the political realm. That in and of itself can be a powerful countermeasure against disinformation.

D6. Adopt a multi-stakeholder approach in managing the threat of deliberate falsehoods. The cooperation of social media platforms and technology companies is an integral part of the arsenal against disinformation. The joint development with social media platforms of a voluntary code of conduct is recommended. Such a code of conduct can stipulate the commitment to policing their platforms and networks for disinformation, botnets, and false-flag advertising.

D7. Besides the use of hard law, the inculcation of shared values is necessary as a bulwark against forces that seek to divide and destroy. How we go about managing the scourge of disinformation matters as much. Singapore must not come out the poorer for it. Any proposed countermeasure must challenge the culture that nourishes disinformation in our society.

D8. Laws are an important means to deal with the threat of disinformation but they are by no means the panacea. There will be the continual need to bolster Singaporeans' information literacy so that Singaporeans do not succumb easily to ingenious disinformation campaigns. Correspondingly, the need to increase the number of trusted information and news sources such as the mass media is vital.

Conclusion

62 The history of mankind is replete with disinformation efforts as means of political intrigue, statecraft, and warfare. Accessible and affordable technology means the reach and impact of disinformation is now exponentially greater. The landscape today is complicated as the notion of truth appears to be fragmenting in many countries. But this Select Committee provides an important platform for Singaporeans and the government to reflect on the role of our information habits on our worldviews.

63 A shared responsibility is necessary if disinformation campaigns are to be successfully repelled. For our democracy to work, citizens must be in a position to consider a range of ideas, views, and options. The battle against disinformation behooves us to consider and explore how as a society we can have more opportunities for shared conversations, shared experiences, and nuanced understanding of issues that concern us all. How can we nourish the lifeblood of our democracy and way of life are central concerns that we should not be blinded to in the headlong rush to counter deliberate falsehoods.

64 Even as the online world fragments because of social cascades (including cyber-cascades), confirmation bias, echo chambers, the offline world must provide the counterbalance and not become fragmented. Our system of government and governance must continue to support and enhance open-mindedness, facilitate purposeful deliberation, considered reflection, and appropriate accountability.

65 The Singapore government alone will not defeat deliberate falsehoods. It is Singaporeans who are the bulwark against the insidious forces that seek to divide. Ultimately, to succeed against the scourge of deliberate disinformation, trust in and the resilience of public discourse and the democratic process have to be enhanced. Free, robust, and responsible speech plays that vital role in ensuring that truth, freedom and security will prevail against the ever-evolving nature of disinformation.