Reasonable truth

Melanie Klinkner, Bournemouth University

In our information society of more than 3.8 billion Internet users and almost two billion websites (see Internetlivestats), data have never been closer to our fingertips. Yet, we are increasingly lost when trying to determine whether news, information or data are 'true' or 'false', with some political players showing blatant disregard for facticity. This poses a number of challenges for political agency consisting of decision-making based upon information. Fundamentally, it raises questions about what might be 'right' and 'wrong' in moral terms, but also for the legal and regulatory realm. Not all 'wrong information' is dishonest, deceiving and therefore fraudulent. Some information offered can be inadvertently ill-informed or inaccurate, but it can also be intentionally made up, as the *New York Times* reported when President Trump 'invented a fact' (Baker 2018: n.pag.). Such behaviour stands in opposition to the integrity, reliability and validity of the information that we ought to consume to be accurately informed in a well-functioning democracy. Whilst 'mass-society' thrives on sensationalism and trivia (Riemen 2018: 44 and 64), with social media and (tabloid) news obliging, the following question remains: how to ascertain and verify information enabling members of society to discern the real news from fake news.

The following commentary offers some observations on the post-truth phenomenon with reference to political theorist Hannah Arendt. Her reflections on totalitarian regimes, the role of propaganda and her work on Truth and Politics offer important insights into our post-truth era and frame this commentary in the following way: first, post-truth politics employing fake news risks undermining democratic societies. With this growing use of lying, parallels with

Arendt's analysis of totalitarian systems become all too obvious (Arendt [1951] 2017). Where totalitarian regimes flourish, human rights abuses, often on a systematic and widespread scale and designed to quash dissent, are likely to increase. Therefore, exposed to this explosion of seemingly arbitrary digital media content and news where 'right' and 'wrong' no longer matters does beg the question 'what kind of information society do we want to be?' (Brownsword 2018: 24). This is a question contingent on societal values but also a potential task for regulation. With so much at stake, how can we ascertain the truth? Assuming that not all facts can be lied or brushed away, we look to human rights fact-finding to ask whether the safeguards such fact-finding mechanisms adopt might just point us in a viable direction. This is because human rights fact-finding is concerned with collecting and examining facts on human rights violations and events that are often highly contested. The following will begin with some observations on the nature of truth as facts and opinions, before venturing into the realm of verification of facts in an attempt to salvage 'truth'.

Truth of fact or facticity

There is truth and falsehood or truth and lies. However, when it comes to factual truth, there tends to be one true fact but an endless possibility for the fabrication of false claims. As Montaigne put it:

> If falsehood had, like truth, but one face only, we should be upon better terms; for we should then take for certain the contrary to what the liar says: but the reverse of truth has a hundred thousand forms, and a field indefinite, without bound or limit. ([1574] 1998: 23)

And this endless possibility presents opportunities, particularly in the area of politics, where the powerful can mould their fabrications to create a new reality, as Arendt amply explores in her work on totalitarianism.

The loss of factual truth poses significant risks because once facts are forgotten, or indeed lied away, it is almost impossible to rediscover these facts. As Hannah Arendt stated, facticity 'is always in danger of being maneuvered out of the world not only for a time but, potentially, forever' (Arendt 1967: 296), with significant consequences not just for individuals but for entire societies since a political agenda may emanate from the denial and eradication of a certain set of facts.

Looking at factual truths only, the example that Arendt gives is 'on the night of August 4, 1914, German troops crossed the frontier of Belgium' (1967: 301). This is a simple description of an event that happened. There is little room for dispute as it is well documented; nor is this fact difficult to grasp. Such facts will be written in history books unlikely to change. Others require a more sophisticated level of data and interpretation thereof to back up claims. For example, there exists well-documented proof that autism is not associated with vaccination. This issue came up in a 2015 televised Republican primary debate where Donald Trump claimed that '[a]utism has become an epidemic' (Washington Post Staff 2015: n.pag.). Mr Trump was evoking fears whilst his political counterpart was relying on scientific studies denying a link between autism and certain vaccines with the electorate watching from the comfort of their homes. Scientifically ascertained information was confronted with a fear-evoking anecdote denying scientifically proven facts. This episode is in many ways symptomatic for what David Patrikarakos has described as 'a world

where facts are less important than narratives, where people emote rather than debate, and where algorithms shape our view of the world' (2017: 264). But what is wrong with that?

Truth and opinion

If everyone is entitled to their opinion, so should Mr Trump. Freedom of expression rights in a pluralist society safeguards the possibility to voice opinions (subject to certain provisos). In the political arena we can admire rhetoric as a way to persuade or garner political support for the opinions espoused. Opinions warrant an explanation since 'no opinion is self-evident' (Arendt 1967: 302); the explanation is usually grounded in fact. But to disregard facts and espouse opinion without reference to discernable facts can border on denial and ultimately deceit. Such behaviour, in the hands of the powerful, presents a danger that coincidental 'mere opinions' can deliberately be turned into a fabric of consistency. This trajectory can result in a type of propaganda seen in totalitarian movements that

> conjure up a lying world of consistency which is more adequate to the needs of the human mind than reality itself; in which, through sheer imagination, uprooted masses can feel at home and are spared the never-ending shocks which real life and real experiences deal to human beings and their expectations. (Arendt [1951] 2017: 462)

The difficulties with self-held opinion and the examination, verification or otherwise, of someone else's opinion first, are that it is not always clear what the underlying facts are and second, even if we seek to ascertain what could be 'facts' through our usual (trusted) sources of information, we are faced with algorithm problems in relation to social media or the 'Google is (always) on my side' (Sharot 2017: 18) phenomenon, where Internet searches are customized to user profiles. What is so interesting here is that science and technological

development in the digital age are enabled to undermine scientific and rational discovery of information and facts. Facts, usually verified by science, are easily hidden with the help of technology.

What is to be done?

Even simple facts seem notoriously difficult to ascertain and are under threat of being discredited. This is because to establish facts, one needs evidence, including witness accounts or scientific and documentary evidence as proof, all of which could have been falsified. Moreover, facts are prone to be politicized or opportunistically 'spun' for political gain. Truth, therefore, is seemingly a very fragile concept, especially if truth would 'owe its prevalence not to its own compelling quality but to the agreement of the many, who might change their minds tomorrow and agree on something else' (Arendt 1967: 304). What safeguards can be put in place to ensure the truth outcome is compelling and not subjected to misappropriation?

Arendt herself identified four categories of 'existential modes of truthtelling' as having the required level of impartiality and being sufficiently detached from (mass-)society and the political realm: 'the solitude of the philosopher, the isolation of the scientist and artist, the impartiality of the historian and the judge and the independence of the fact-finder, the witness and the reporter' (Arendt 1967: 310). Crucially, whilst they can become professions in themselves, they are modes of human existence that are common to all. Setting aside the fact that in today's day and age, independence may be increasingly questionable in a hyper-connected world where image-making is intrinsically linked to the successful acquisition and maintaining of one's profession, the impartiality of the judge and the independence of the

fact-finder, witness and reporter (which in today's world comprises the NGO industry) are critical to the success of truth-telling. To safeguard truth-telling, institutions that function outside the political power realm, such as the judiciary but also universities, are necessary. For Arendt, truth-telling is contingent on excluding political commitment or adherence to a cause.

Three points in particular fit the observation parameters canvassed above and will be discussed in turn: first, universities (where typically philosophers, scientists, historians but also artists can be found); second the legal realm (Arendt mentions the judiciary), although here the emphasis will be on the need for regulation before the independent ruling of a judge; and finally, human rights fact-finding, which requires that the fact-finder, witness and reporter be examined for the purposes of practical application.

(a) Education

Ordinarily, universities are the place where unwelcome truths are freely discussed and where debate is usually encouraged and above all valued. Despite their disappointing role in Germany pre-World War Two, and the capacity for research to be utilized for military purposes, Arendt (1967) still placed faith in universities' freedom to teach and learn. But critics have a damning indictment for our current state of education, particularly at the university level, where competition, commercialization and commodification are all that count. In response to Thomas Mann's assessment that democracy was contingent on education, Riemen says:

> Education is no longer intended as a process of character formation to help people
> live in truth and create beauty, carry out justice, and convey a certain wisdom. It has

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degenerated into an instrument for the transfer of everything useful, knowledge that is usable for the economy and everything you need to know to earn money. (2018: 75)

This type of university education may not be sufficient if we wish to understand and ascertain the truth of facts. This is because purely economically driven education risks misunderstanding all kinds of truth: the factual ones, including those of the scientist (vaccination does not correlate with autism) and historian but above all the metaphysical ones: values underlying human behaviour, guaranteeing democracy, allowing for freedom, etc.

The debates surrounding cuts of courses and staff at the Open University in the United Kingdom might be indicative for this 'consultancy driven' trend, whereby education and therefore knowledge are commodified (Rose 2018; Taylor 2018). For us to adequately regulate against 'fake news', should this be desirable, we have to understand what value-judgements ought to guide such regulation. These values may be non-monetary driven, unless we interpret Trump's act of lying for the purposes of a trade deal as economically justifiable. For this we require appropriate education. Understanding knowledge as merely driving business forward might just be missing the point.

(b) Regulation

At the time of writing, the Malaysian government tabled and enacted the 'Anti-Fake News Act 2018' where fake news is defined as 'any news, information, data and reports, which is or are wholly or partly false, whether in the form of features, visuals or audio recording or in any other form capable of suggesting words or ideas' (Parliament of Malaysia 2018, part 1, para 2). Amnesty International was quick to criticize this wide-ranging approach towards

persons who create, publish, facilitate or do not remove fake news and that could lead to imprisonment. Amnesty is concerned about the implications for freedom of expression and the curtailing of criticism towards the government (particularly ahead of elections), stating '[t]he Bill combines the worst of the cheap propaganda coming from the West and the repressive laws and policies in the East' (Gomez 2018: n.pag.).

Therefore, before jumping to legislation on fake news, the question has to be how we wish our current information society to be regulated and on what value-basis? There is a conundrum here: on the one hand politicians utilize fake news for their advantage in securing a power base, and on the other, perhaps even the same politicians can argue for stricter freedom of speech rights that in turn curtail dissent since the dissent may be 'fake news', although, actually, the very dissent might have sought to unmask the fake news propagated in the first place. Brownsword argues for a three-tiered approach to the regulatory responsibilities in the field of information rights. These are as follows: the regulatory responsibility (1) 'for maintaining the pre-conditions for human social existence, for any kind of human community' (2018: 25); (2) respecting societies' particular fundamental values; and (3) to balance legitimate interests (2018: 25). The balancing of rights and interests is always challenging: in a pluralist society, if and how should fake news be curtailed (beyond existing defamation laws) and what is the role of the intermediaries (media outlets and social media)? This requires debate!

(c) In the meantime: Beyond facticity lies a value system

Finally, I would like to briefly examine human rights fact-finding as Arendt's final category of truthteller. This is relevant because fact-finding is often a process undertaken by intermediaries (between beneficiaries, governments, international organizations, etc.) that

draw attention to, and propagate, information about particular violations. In addition, the field of human rights fact-finding has subjected itself to critical analysis (from inside and outside), in terms of a potential elitist approach to fact-finding; the risk of reducing complexities into too restrictive a story; the dangers of victim-witnesses turning into 'pawns'; democratization of fact-finding enabled through technologies such as crowdsourcing, social media and Big Data and the challenges that this brings to authenticity, verification and participation in fact-finding (Alston and Knuckey 2016). Most aspects are applicable to fake news.

There is an increasing body of literature on what methods and guidelines are necessary to guarantee fact-finding that would satisfy 'truth-finding'. A 2015 UN guidance and practice document (United Nations Human Rights Office of the High Commissioner [OHCHR] 2015) identified eleven principles and standards for adherence, namely, Do no harm; Independence (of members and staff); Impartiality; Transparency (in processes); Objectivity (in collection of information and facts from different sources); Confidentiality; Credibility (in delivering what it sets out to achieve); Visibility (to ensure awareness among authorities and those concerned); Integrity (treating all with decency, honesty and respect and integrity in methods); Professionalism (working with knowledge, diligence and competence); and Consistency (in the way information is examined until the process of a comprehensive inquiry is complete). These are hardly earth-shattering revelations but rather immediately evident benchmarks for any type of reporting.

Other guidelines, such as the *Lund-London Guidelines*, wish to improve 'the accuracy, objectivity, transparency and credibility of human rights fact-finding by NGOs' (International Bar Association [IBA] 2009: 1). From a truth perspective particularly noteworthy is the section on standard of proof, stating the importance of gathering sufficient information from

a variety of credible sources, of assessing the reliability of the information obtained in light of the law, and to 'reach conclusions to its reasonable satisfaction based on this assessment' 2009: 10). Consistent application of the standard of proof is important ensuring that the fact-finders conclusions can be based on 'reasonable belief'. Where the standard of proof has not been met, this needs to be indicated in the report. Similarly, if the standard of proof has been exceeded, this too needs to find expression in the report (2009: 1).

Concluding remarks

We have seen that post-truth facts, based on opinion or deliberate mis-representation and despite their seemingly random use and utterance, are generally easy to comprehend. But, with Arendt, they pose challenges that framed this commentary: challenges for democracy and human rights; questions around societal values; but also difficulties in ascertaining facts. As Riemen analyses (and links to the rise of fascism): 'The greatest rancor is directed toward anything difficult. Whatever cannot be immediately understood by all is difficult, therefore elitist, therefore antidemocratic' (2018: 49). Truth requires an acknowledgement and appreciation of complexities of facts that is antithetical to fake news and post-truth politics. Inspired by Arendt, important mechanisms such as education, regulation and legal institutions have been underscored as potential anti-dotes. In addition human rights fact-finding is highlighted since it is used to the contentiousness of facts and to questions of whether facts exist (Mégret 2016). It relies on values inherent to the fact-finder herself and those values are often contingent on education and awareness; second, there are clear attempts at regulation where also (scientific) methods are proffered as useful tools; and finally, fact-finding requires a minimum standard of proof, referring to 'reasonableness'. The word 'reasonable' may have gone out of fashion, but at least in the context of a 'reasonable belief', it is pleasing to see

reason to be part of human action and determination. Perhaps it is simply time to rely more on this human faculty.

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Contributor details

Melanie Klinkner is a principal academic in law in the Faculty of Media and Communication, Bournemouth University, UK.

Contact:

Bournemouth University, Christchurch House C106, Talbot Campus, Fern Barrow, Poole, BH12 5BB, UK.

E-mail: mklinkner@bournemouth.ac.uk