GDIL

US DISINFORMATION POLICY IN PERSPECTIVE

Comparative Global Disinformation Challenges

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WHY IS IT SO DIFFICULT?

According to recent polls, a majority of Americans want policymakers to do more to address disinformation. In this report we explore the 5 most significant obstacles to developing effective and equitable policy solutions.

GD PD *Global Disinformation Policy Database*

A collaboration between the LBJ School of Public Affairs and UT's Global Disinformation Lab

LEARN MORE ABOUT THE GDPD

www.disinfo-policy.org

Introduction

About the Global Disinformation Policy Database

The University of Texas's Global Disinformation Lab (GDIL) was established in 2020 to research the international circulation of information, misinformation, and disinformation.

The Global Disinformation Policy Database Project is developing a comprehensive resource that aims to compare global laws and policies related to disinformation and misinformation. A partnership between GDIL and UT's LBJ School of Public Affairs, the GDPD is intended to be used by academic researchers, policymakers, journalists, and civil society organizations.

Why Disinformation Policy?

Public harm associated with misleading, deceptive, and false information is not a new concern. For hundreds of years, societies have adapted to the waves of misleading information and propaganda that attend new forms of mass communication. Today, the social internet enables disinformation and misinformation to spread with unprecedented speed and target new audiences. Globally, governments are facing a difficult challenge in policy-making.

Researchers and watchdogs claim that the proliferation of misleading information can lead to violence, a misguided public, and weakened electoral systems. New technologies such as deep fakes and large language models further complicate the problem and threaten to dramatically exacerbate disinformation harms. According to recent polling, a majority of Americans believe the US government should play at least some role in addressing online interference in election campaigns and the spread of misinformation online. Expressing this role in terms of concrete policies has proven difficult.

In the United States, obstacles to combating misleading information can be consolidated into five categories: 1) concept definition, 2) scope, 3) evaluation, 4) freedom of expression and liability, and 5) political will. In this whitepaper, we draw on data collected for the forthcoming Global Disinformation Policy Database (GDPD) to better understand these challenges. We will look at examples of laws and policies from every region of the world. Some policies succeed in addressing the relevant challenges. Other policies serve as examples to be avoided.

Identifying US Disinformation Policy Challenges

1	**2**	**3**	**4**	**5**
Definitions	Scope	Evaluation	Free Expression	Political Will

The United States faces five fundamental challenges that complicate efforts to address what some have called "information disorder": mis-, dis-, and mal-information. Our team identified these policy challenges by reviewing existing scholarship as well as applicable laws and federal programs through the GDPD. As our efforts to develop the database continued, we noticed these themes emerge in countries all over the world. It is our hope that the database can contribute to research efforts aimed at better understanding and overcoming these challenges.

Definitions

As policymakers worldwide grapple with disinformation, one of the biggest challenges they face is precisely defining what constitutes this complex and evolving phenomenon. Although many laws and policies use "disinformation" as a general term to target false or misleading information, there is no consensus on what the precise term means—i.e., from misleading information, to hate speech, or even false advertisement and propaganda.

The confusion has practical implications. An inconsistent concept definition complicates policymaking, from development to enforcement and evaluation. One team of legal scholars researching disinformation laws passed by EU states argued that the concept of disinformation is not sufficiently clear enough to serve as a legal category. In the United States, different corners of the federal government use various definitions of disinformation. In the absence of consensus, it is difficult to accurately assess the effectiveness and fairness of different policy approaches and the label of "disinformation" risks being used to further partisan agendas, rather than address the issue at hand.

Scope

The scope of a policy determines the contexts in which it will take action and the types of false information targeted- for example: foreign intervention, domestic disinformation, health misinformation. Scope is the essential scaffolding that aligns the instruments of a policy with the goal of addressing disinformation. Scope can restrict possibilities for action. Scope also determines the targeted population, which itself helps shape a government's actions, options, and political goals. The range of approaches to "scoping" disinformation policies complicates attempts to categorize or compare government actions in this space.

Developing the appropriate scope is also made challenging because it is unclear which policy venues are best equipped to address disinformation. In federal systems like the United States, a policy's scope is negotiated by a large number—sometimes hundreds—of policymakers or legislators.

The complexity of establishing scope can be seen in US approaches to addressing foreign propaganda. Some policies focus specifically on blocking foreign information operations, such as the Global Engagement Center. Others take a broader approach that includes funding media literacy programs such as the Protected Voices Initiative and actions to prevent political disinformation during campaign periods.
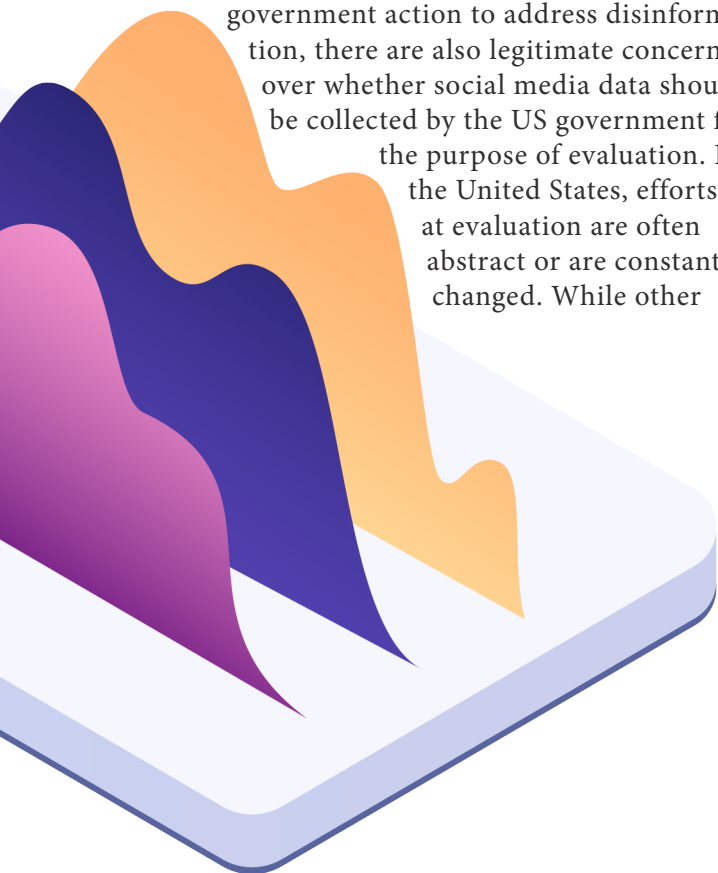
For the United States, the challenge is often managing different topics within a single disinformation policy. These can range from dealing solely with COVID-19 disinformation to moderating social media spaces.

Evaluation and Effectiveness

Measuring effectiveness is essential for public policy, but it can also be a significant challenge. Evaluation is the method by which policies are reviewed, measured, and modified. Based on our ongoing work developing the GDPD, we have found governments struggle to define measurable outcomes. Even for organizations with access to data—such as social media platforms—measuring changes in the volume or influence of disinformation can be complex and daunting. Despite public polling that suggests Americans desire more government action to address disinformation, there are also legitimate concerns over whether social media data should be collected by the US government for the purpose of evaluation. In the United States, efforts at evaluation are often abstract or are constantly changed. While other countries have specific evaluations, US policies establish programs or broad strategies for disinformation.

Free Expression and Liability

Balancing free expression and liability is perhaps the central challenge to developing effective disinformation policies, especially in democracies that prioritize free speech and protect the rights of journalists and civil society. In the United States, the First Amendment enshrines robust protections for free expression, although the US Supreme Court has carved out exceptions viewed as potentially harmful to people or businesses.

This is a salient challenge because some strategies to combat disinformation may involve methods that undermine free speech and freedom of expression. These approaches, as Rebecca Helm and Hitoshi Nasu explain, are a) information correction, b) content removal or blocking, and c) criminal sanctions. Human rights groups have denounced disinformation policies in both democratic and autocratic countries for violating expressive rights.

Ultimately, it is nearly impossible to directly assign legal or regulatory liability for disinformation without restricting speech or creating unrealistic expectations for technology companies. Social media networks play a role in amplifying both dis- and misinformation. Policymakers in the United States continue to struggle with determining the degree of respon-

sibility these platforms bear for user-generated content.

The United States will have to balance free speech and disinformation policies with determining how to regulate private companies—from news agencies to social media—that are used to spread false information.

Political Will

In the 21st century, a lack of political consensus is one of the defining features of politics in the United States. Partisanship has forestalled many popular legislative and policy initiatives. However, polarization and gridlock are uniquely problematic for addressing disinformation, because disinformation itself is believed to feed into political dysfunction.

US citizens believe disinformation and misinformation have fostered political polarization. According to a recent academic survey, roughly 75 percent of American adults believe misinformation leads to more extreme political beliefs and gender, race, or religion-based violence. Spreading disinformation appears to create a cycle that promotes government distrust. Federal actions that confront disinformation can arguably validate this suspicion—particularly among people with this predisposition. The same survey found half of US adults thought misinformation reduces trust in the government.

Political polarization has complicated the ability of legislators and regulators to enact counter-disinformation policies. Policies one party develops are routinely framed as assaults on democratic norms by the other party. Partisan politics predisposes many to view efforts to address disinformation with suspicion, making it challenging for US policymakers to offer legal and politically palatable solutions. Recent efforts to educate the public on Covid-19, US elections, and government actions have been met with political turmoil.

Moreover, some Americans worry government and social media companies use their power to silence or censor political opponents. Some perceive fact-checking and content moderation as efforts to shape narratives or eliminate political views.

For example, the Department of Homeland Security (DHS) Disinformation Governance Board was created in 2022 to identify inaccurate information that threatened US security and share factual information produced by federal agencies and partners. Though the USG claimed the institution's role was solely to correct false information, some Americans were concerned the board would act as an "arbiter of truth" and censor the Biden administration's critics. The board never began operations.

Democracies may have more difficulties implementing counter-disinformation policies, because these governments are obligated to reflect, at some level, the views of the public. However, as recent unrest in the wake of China's zero-covid policy indicates, even illiberal states must consider how new information controls will be received. Because political will is expressed in very different contexts, it is important to situate this challenge in the culture, history, and public perception of disinformation within each country.

Lessons
From Around the World

We first came into contact with these challenges during our review of US Disinformation Policy. As our team considered additional countries, we found many of these issues were not unique to only the United States. Our research suggests these challenges may be foundational to any attempts to address disinformation through policy. As such they provide a "lens" through which we can explore global trends in disinformation policy. We hope the GDPD can enable researchers to better understand these obstacles through structured, systematic comparison across countries.

Africa
Scope

For countries in our sample, disinformation policies in Africa typically stem from broader laws enacted to address issues like Covid-19.

Disinformation policies in Africa include amendments to laws such as Uganda's Cybercrimes Act of 2007 or South Africa's Disaster Management Act. They also include changes to the penal code in countries such as Kenya and Egypt. Kenya, South Africa, and Uganda have facilitated systems for reporting the spread of disinformation via SMS messaging or WhatsApp.

Sudan's Press and Publications Act of 2009, bans the press from publishing material deemed offensive to Sudanese norms and culture. The legislation also prohibits the press from inciting conflict among the Sudanese public when covering crimes in Sudan. Vague policies leave room for abuse, as with Uganda's Computer Misuse Act, which criminalizes sharing "information through a computer" that "degrade[s] or demean[s] another person, group of persons, a tribe, an ethnicity, a religion or gender."

Americas
Evaluation

Countries have established programs to evaluate the impact of disinformation and the effectiveness of government actions. In the case of Mexico, for example, the goal of its fact-checking organization Verificado—a branch of the government's news agency Notimex—is to inform the public on the veracity of events. It evaluates the result through clicks and interactions, as well as reach. The fact-checking page clearly outlines its methodology.

Other governments seek to improve legislative tools. Chile, for example, is currently working on a proposed bill that would modify its penal code to include sanctions to whomever (individual or entity) "publishes, reproduces, or spreads through social media or other type of media, false news destined to hinder the work of the authorities in periods of health crises."

Canada offers another example with the Critical Election Incident Public Protocol, which has the objective of notifying candidates, election officials, and public servants if there is a threat to the integrity of a General Election. After the 2019 General Election, the government, along with private institutions evaluated the protocol's results and effectiveness, agreeing to continue using it after favorable results and expanding it to new cybersecurity threats and social media vulnerabilities.

Europe
Political Will

In Europe, the seriousness of the challenge of political will varies between countries and types of government. For example, Germany marshaled enough political will to quickly advance propaganda and hate speech policies such as the Network Enforcement Act (NetzDG), enacted in July 2017. The law fines social media companies for failing to delete content deemed harmful within a specified time window. The bill was initially criticized by citizens and some legislators as potentially curtailing Germans' free speech. Ultimately, the momentum behind the legislation was sufficient to ensure its prompt passage. NetzDG went into effect in October 2017, but social media companies were allowed until January 2018 to install improved content-flagging systems. German policymakers dedicated time and political capital to regulate disinformation, address public criticism, and allowed information managers an adjustment period to meet new legal standards. The government's political will was effective enough to pass the regulations through both the Bundestag and Bundesrat.

Contrastingly, Russia's authoritarian government can very easily implement information laws and define "false information." "Political will" is largely the whim of the ruling elite. In March 2022, the Russian Parliament approved two policies that criminalize spreading "false" information about Russian government agencies and missions operating abroad. Later that month, the laws were amended to criminalize "public actions aimed at discrediting the use of the Armed Forces of the Russian Federation." The language of these policies threatens individuals who criticize the actions of the Russian Duma or Armed Forces; the Russian Duma can selectively determine which positions deviate from its official categorizations of what is "true." In this case, because of the systematic criminalization of meaningful opposition parties, the State Duma unilaterally advances its agenda without consideration or input from citizens or civil society concerned with disinformation. A stark contrast to the German example, the Russian Duma did not allow a transition period for citizens to adapt to the new laws before their implementation.

Oceania
Definition

Within our sample Oceania, Australia most specifically defines disinformation in its national policy. Australia defines disinformation as "the intentional creation and dissemination of wholly or partly false and/or manipulated information that is intended to deceive and mislead audiences and/or obscure the truth for the purposes of causing strategic, political, economic, social, or personal harm or financial/commercial gain." Australia's anti-disinformation efforts largely focus on election integrity. Through the Commonwealth Electoral Determination Act and the News Media Bargaining Code, Australia has regulated electoral advertising and required technology platforms to pay local news publishers for news content sharing, respectively.

New Zealand conducts public opinion polls and awareness campaigns about online disinformation. Within these polls and campaigns, New Zealand's Classification Office defines disinformation as "false information created with the intention of harming a person, group, or organization, or even a country." Papua New Guinea clearly defines disinformation in its 2009 National Communications and Technology Act. The Act criminalizes an individual who "sends any content or communication that he knows to be false… for the purpose of causing annoyance, inconvenience or needless anxiety to another person." The differences among the definitions outlined above may seem trivial, however the "operationalization" of the difference between, for example, "intended to deceive" and "for the purpose of causing annoyance" can result in radically different approaches to the problem.

Asia

Free Expression and Liability

Countries we examined in Asia tend to enact disinformation policies that US experts would categorize as content moderation. Asian countries that dismiss the American-style freedom of speech do not typically need to clearly define or differentiate disinformation from other illegal content. Instead, they can use the existing content restriction laws to facilitate the creation of policies that can both strengthen the state's image as well as act as a general disinformation prevention measure through expression restriction.

China's "Provisions on the Governance of Online Information Content Ecosystem" policy keeps what is subject to regulations vague and up to the determination of the Chinese Communist Party. For example, Article 7 incriminates content ranging from "Inciting crowd discrimination, regional discrimination" and "Using exaggerated titles, and the content is seriously inconsistent with the title" to even "persuade minors to have bad habits." This law serves as a purposeful and flexible tool for controlling speech against the Party under the guise of preventing disinformation.

Turkey's "Amendments in the Press Law and Other Laws" imposes sentences of between one and three years in prison for disseminating, on online platforms, "false information" intended to create fear or panic. The new amendments, however, do not clearly define "false information," nor how to measure or gauge whether information is intended to deceive the public. The vague nature of the definitions conceivably allows for the Turkish government to interpret any communications, posts, or articles perceived as critical of the government and punish those responsible. Human Rights Watch characterized these measures as "dangerous and dystopian."

Conclusion
Toward a Truly Comprehensive Perspective

The proliferation of misleading, deceptive, and false information on and off the internet has become a major concern for society. Breakthroughs in artificial intelligence threaten to increase the significance of disinformation's potential harms: violence, a misguided public, and weakened electoral systems. Some have come to view the issue as an existential threat to democracies. In our research, we found United States disinformation policy must overcome five core obstacles: 1) difficulties in defining the concept of disinformation, 2) determining the scope of the problem, 3) evaluating the effectiveness of policies, 4) balancing freedom of expression with liability, and 5) finding the political will to implement solutions. As our focus has expanded to incorporate countries from every region, we have seen these obstacles echo throughout the, often very different, stances governments take on the issue.

Our hope is that the Global Disinformation Policy Database will ultimately allow us to rigorously validate our observations about these challenges. The database captures information about what kinds of information behaviors are targeted by a policy, the liabilities created, and more.

If you would like to learn more about our work or sign up to receive updates we invite you to visit disinfo-policy.org. If you would like to reach out about early access to the database, contributing policy leads, or working with us to create a comprehensive and accessible resource for researchers, policymakers, journalists, and civil society organizations, please email GDPD Project Manager Ryan Williams at ryan_t_w@utexas.edu.