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Inbar Levy completed her DPhil in Law at University College, Oxford, where she was awarded the Modern Law Review Doctoral Scholarship and the Oxford Faculty of Law Scholarship. Her doctoral project, titled 'Behavioural Analysis of Civil Procedure Rules', written under the supervision of Professor Adrian Zuckerman, investigated the implications of findings derived from empirical behavioural psychology for legal reasoning and practice. Inbar had been awarded a Joint Law and Psychology LLB with Magna Cum Laude honours and subsequently an LLM with similar honours from the Hebrew University of Jerusalem. Before going to Oxford, she served as a legal advising officer in the Military Advocate General unit of the Israeli Defense Forces. Inbar has previously held a Visiting Research Fellow position at Columbia Law School in the City of New York and a Visiting Researcher position at Harvard Law School. Inbar joined Melbourne Law School as a Lecturer in 2015, after a short period as a postdoctoral fellow at the Centre for the Study of Rationality and the Sacher Institute in Jerusalem. She is currently a Global Hauser Scholar at NYU School of Law. Her primary research areas are procedural justice and empirical legal research, with a particular interest in behaviour and decision-making, access to justice and institutional design.

Nudging Off Fictional News

The results of the 2016 US elections were mitigated by information shared on social media platforms, and on Facebook in particular. A substantial number of fake news articles have been shared on those platforms. And, a recent article revealed that fake news outperformed real news on Facebook, by a comparison of engagement (shares, likes, comments) of the top 20 fake news stories and the top 20 factually accurate news stories. Not only that, another investigation found that teenagers with economic incentive were sometimes responsible for these fictional news stories. The phenomenon of high profile media stories with little reliability and lack of any serious fact check seems to be growing fast, wide, and beyond the specific context of the US elections. While online media platforms are gaining more and more power, the issue of fictional news requires a close attention, in order to protect both the readers of online media and the “lead characters” who appear in these media stories. The victims of fictional media stories are not only members of the public who feed on wrong information, but also individuals who suffer from shaming on online media platforms. It is difficult to determine the truth even after a full trial, let alone a tweet, then why do we rely on online media stories that have not been properly screened?

This paper argues that the phenomenon of fake news is concerning, considering people’s cognitive tendency to forget the source of the information before they forget the information itself – a tendency often referred to as ‘misattribution of memory’. This project is therefore aimed at investigating the use of regulation to combat the negative effects of fake news. It contends that regulating duties upon social media services providers to clearly mark news articles is legally possible, and similar to other information labels used for nudging, such as regulations requiring chain restaurants to display calorie information on their menus. It concludes that such regulation is necessary in order to promote choice and autonomy. To complement these duties regulated upon online media services providers, the paper suggests the establishment of an independent governmental authority that would investigate the source of information on online media platforms and supervise the labels used by social media providers.