

The Civil Law Regulatory Path of Internet Rumor Governance in the Context of Big Data

-- Taking Sina Weibo as an Example

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Abstract: Relying on the Internet, network rumors have the characteristics of fast spreading speed, great influence and strong harm, which will have a certain impact on people's production and life, therefore, they have also entered the vision of the government governance, but the delineation of the boundaries between the governance of network rumors and the protection of the freedom of expression has caused a lot of social controversy. At present, China's network rumor governance system faces legal dilemmas such as low legal status, legislative gaps, lagging legislation, fragmentation of the legal system, and the strong color of public law; China's network rumor governance system also faces practical dilemmas such as the difficulty of private remedies, and the impossibility of recovering the damaged reputation in a timely manner. Therefore, in order to better manage rumors, maintain the peace and stability of the country and society, and protect the immediate interests of the people, we should start from legislation and control rumors by law. Firstly, the definition of rumor should be clarified through legislation, secondly, the types and methods of punishment should be clarified through legislation, and finally, the legal system of Internet rumor management in China should be improved through multi-channel management of Internet rumors, so as to realize the grand goal of China under the rule of law.

Keywords: Internet rumors, Legal regulation, Rumor governance.

1. Define the Basic Connotations of Internet Rumors

An internet rumor is a general rumor that spreads through the internet, and to examine what the definition of an internet rumor is. What it means is that you should start by going through the definition of a general rumor. In the New Chinese Dictionary a rumor is a rumor made out of thin air.

Fabricated, unbelievable words,[1] or in the mouth of people spread each other, no factual basis and standard special statements. [2]The word "rumor" has not been defined in the existing laws of our country, and the author found the meaning of "false rumor" in the dictionary, and rumor is defined in Baidu as "a statement that is fabricated without a corresponding factual basis, and promoted through certain means for dissemination." Many domestic scholars, including Wang Guohua, believe that Internet rumors are unconfirmed information generated and spread on the Internet. [3]In addition to defining the connotation of the word rumor, the domestic public and some scholars generally carry negative value judgments. [4]In fact, the author believes that the general public can have their own understanding of the word rumor. The word rumor has the meaning of false, fictitious, and fabricated, and the word here as a noun has the meaning of language and discourse, which combines the meaning of false language and fictitious language, and all of these understandings can basically express the meaning of the word rumor.

As far as the current state of sociological and communication research is concerned, there are three main points of view on the definition of Internet rumors: (1) media theory. It is believed that network rumor is only a rumor widely spread by using the Internet. It is essentially a rumor, and the biggest difference between it and ordinary rumors is

that its information dissemination path has changed from traditional oral communication to multimedia information transmission in the form of online text. (2) Legal-political theory. Taking law, political economy and other major fields as the foothold, the concept of "rumor" is elaborated by researchers from various disciplines. Although it supplements the concept of rumor, it does not highlight the essential distinction between rumor and Internet rumor, and it also brings the characteristics of disciplinary fields to rumor, which is mainly applied to professional fields. (3) Full picture theory. This theory requires focusing on the concepts of "Internet" and "rumor" at the same time, which makes the definition more complete to some extent, clarifies the role of Internet media in rumor spreading on the one hand, and confirms that rumor-mongering is already a social phenomenon on the other. "Many mouths make gold, and accumulated destruction destroys bones." With the development of the network and the rise of new media, rumors are no longer limited by time and space as before, creating a favorable environment for the rapid spread of rumors, and the harm is no longer the kind of regional and local crowd as before, but will affect the whole society. [5]It is very important to clarify the concept of network rumor for us to study its legal regulation, therefore, based on the law, based on the viewpoint of the media, the network rumor is defined: made or published on the Internet, widely disseminated and disturbing the social order, without factual basis or fabricated false information. Based on the new viewpoints and new requirements of the strategic drawing of the construction of China under the rule of law in the new era and the path of the rule of law in network education, the basic categories such as the path of social software to dispel rumors and the characteristics of information governance are interpreted. Through the typological analysis from the identified rumor events to extract its commonality, and further

outline the elements it should have, and then abstracted into certain concepts, only clear network rumor boundaries, so as not to govern the process of the people's right to freedom of expression will not be vilified.

2. The Dilemma of Online Rumor Governance

(i) Legislation lags behind social development

There is a famous jurisprudential saying that "any law, once enacted, is already lagging behind". Rumors are the enemy of state power and the enemy of social order. [6]Because of the lagging legislation, different remedies are not effective in pursuing the legal responsibility of rumors in public health emergencies. In the previous insufficiency has also been mentioned, the current law for the definition of rumor is not very clear, which leads to the identification of rumors in practice will be a problem, the author rummaged through all the laws and regulations as well as the Ministry of Public Security's departmental rules and regulations of normative documents, have not found China's current law for the rumor is how to define the definition of rumors, rumors of illegal behavior is how to determine the standard is what kind of how to screen the real There is no complete legal document to regulate whether a rumor should be verified before it is disproved, or whether it should be disproved before it is verified, which gives the public security authorities and relevant law enforcement agencies too much discretionary power to handle cases. There is also in the civil law of legal responsibility, although China clearly stipulates the parties in the rights of the infringement of the remedy, but due to the legislation is the network of this issue did not consider, for example, if the parties suffered network infringement, want to defend their rights, should be proved through evidence to prove that, but in the actual network infringement, the network of data evidence and the perpetrator's identity itself is very difficult to collect and fix, the parties in the collection of network infringement, and the parties in the collection of network infringement, and the perpetrator's identity itself is very difficult to collect and fix. Difficult to collect and fix, the party in the process of collecting network evidence can not provide the corresponding evidence, because they can not prove the actual network infringement lead to their own loss, so that their legitimate rights can not be guaranteed.

(ii) Empirical enforcement in the enforcement process

Another reason for the insufficiency of China's regulation of rumors on the network of public health emergencies is the weak legal awareness of law enforcement officials and the casualization of law enforcement. The first is that law enforcement agencies, when confronted with rumors of public health emergencies on the Internet, are

It is not possible to strictly follow the requirements of the law to distinguish between general violations of the law and crimes, because in the fact of the law enforcement process, general violations of the law and crimes have a lot of similarities, and there are no clear legal provisions, and need to be judged by law enforcement officers based on their own experience, and personal discretion is relatively large, which has led to the fact that the regulation of network rumors in public health emergencies has not achieved the best results. The result is that in many cases the regulation of Internet rumors in public health emergencies does not achieve the best results. When enforcing the law, law enforcement agencies do not strictly follow the provisions of the law in imposing

penalties. In the case of Dr. Li Wenliang mentioned in the previous article, the law enforcement agencies, when imposing penalties on Dr. Li Wenliang, used the administrative penalty of "admonition," which is not provided for in the current law. In the absence of express provisions in the law, law enforcement officers of law enforcement agencies, in the pursuit of efficiency in law enforcement, create types of administrative penalties and abuse their power to enforce the law, thus failing to ensure the lawful rights of the parties concerned. Finally, in administrative law enforcement, law enforcement agencies fail to follow strictly the procedures for administrative law enforcement. For example, a public security agency in Shaanxi, in the course of law enforcement, imposed administrative penalties without investigating the facts of the case, and according to article 57 of the Administrative Penalties Law, law enforcement officials, after the investigation is finalized, the degree of responsibility of the administrative agency should review the results of the investigation, and make different decisions according to the different reviews. Decision. In this case, it is because the person in charge of the relevant administrative organ did not fulfill the duty of review, which led to the wrong law enforcement behavior, this serious violation of administrative law enforcement procedures, exposing the inadequacy of China's network rumor regulation in public health emergencies.

(iii) Lack of a unified department to regulate Internet rumors and relatively backward regulatory technology

Another important reason for the insufficient regulation of Internet rumors in public health emergencies in China is that

It is the lack of a unified department to regulate Internet rumors and the relative backwardness of the regulatory technology. At present, with the development and progress of the society and the rapid development of the Internet and new media, Internet rumors have a better dissemination platform, and the regulation of Internet rumors has also put forward higher requirements. First of all, there is a lack of a unified regulatory department to regulate online public opinion. Because of the absence of such a regulatory department, it is impossible to transfer rumor-related information to different specific business departments for disposal according to the different contents of the online rumors and the degree of harm involved. As a result, in practice, many Internet rumors are handled by public security organs, which increases the workload of public security organs and does not achieve the best results. There is also the backwardness of public opinion monitoring technology. In all kinds of emergencies, especially public health emergencies, because it involves the public's personal health, the information in this regard is of great concern, which leads to a huge amount of rumor information about public health emergencies, not only rumor information, but also information discussed by the public, and the relevant departments need to retrieve and analyze the huge amount of information, and at present, our monitoring technology is not enough to meet the current situation in our country. The relevant departments need to retrieve and analyze the massive information, and the current monitoring technology in China is unable to meet the current requirements for the regulation of Internet rumors in public health emergencies in China. Because of the backwardness of the monitoring technology, the relevant departments have no way to find out the newborn Internet rumors in time, and in many cases, when dealing with them, the Internet rumors have already had a certain impact on the society, and it is necessary to eliminate the impact

through some other means. In this way, the relevant departments are unable to make the best disposition of Internet rumors in the first time, which makes the disposition of Internet rumors always lag behind the spreading speed of Internet rumors.

3. Examination of Extraterritorial Regulation of Internet Rumors

(i) United States

The United States, as the place where the Internet originated, coupled with the fact that it is the most freedom of speech-oriented country in the world, this has led to rumors becoming even more frantic in the Internet world of the United States. Although the United States advocates rights and freedom, when freedom of speech infringes on people's rights and causes people to be unable to bear it, a series of problems are triggered. After recognizing the dangers of Internet rumors, the United States has started a series of legislative activities, including the Freedom of Information Act, the Computer Crimes Prohibition Act, the Telecommunication Act, the Children's Internet Protection Act, and so on.

More than 140 federal laws have been enacted to clean up the online environment and regulate online rumors. The U.S. government's approach to cybersecurity is one of the most advanced in the world. Government departments can, for the sake of national security, monitor Internet platforms and related communications equipment, and also require relevant network service providers to provide appropriate personal information to facilitate the government's supervision of the entire network of information, and once it is found that there is a danger to national security or the dissemination of terrorist information on the Internet, it can be directly deleted and disconnected from the means of governance. In the United States, the departments that govern Internet rumors include the Department of Defense, the Department of Commerce, and the Department of National Security, which all have the power to regulate rumors, and the management responsibilities of different departments are clearly delineated according to the law. The U.S. has successively set up the "White House Office of Cybersecurity" and the "Network Communications Security Coordination Center" to regulate online speech to further safeguard national security. In order to better respond to national cybersecurity, better collect threatening intelligence and better defend against cyberattacks, the U.S. Congress passed a relevant bill, which requires the establishment of national cybersecurity teams in each state. In order to better manage Internet rumors, the Federal Communications Commission of the United States set up a special executive bureau in 1999, which is specially designed to set up a window for reporting rumors and accepting reports and complaints from the public. The U.S. Department of Defense also set up a special network media war team in 2006, which is responsible for detecting remarks on the network all the time, and once network rumors are found, they will be corrected and debunked in a timely manner, eliminating network rumors and guiding network public opinion to the right path.

(ii) Germany

The regulation of Internet rumors in Germany adopts a legislative model combining special legislation and ordinary legislation, because the strict attitude of Germans since

ancient times, coupled with some special historical reasons, has led to overly stringent control of the Internet in Germany, which is therefore known as a country that treats the Internet in an unfriendly manner. In addition to specialized information legislation, Germany also regulates the Internet through general legislation such as the Criminal Code and the Civil Code. Articles 186 and 187 of the Criminal Code of Germany provide that the dissemination of inaccurate information about other people, or the dissemination of information of which the authenticity is not known, is punishable by a statutory penalty of three grades.

Germany's regulation of the Internet and the control of Internet rumors is not only strict at the legislative level. It is also very strict at the judicial and law enforcement levels, and it is precisely because of the strict management system that the public has been created a good of the cyber environment, and accordingly, the security of information. The government regulates, guides, and warns its citizens by of speech for guidance, and while the Constitution gives everyone the right to speak freely, cyberspace is not an All speech must be published within the bounds of the law. If the corresponding speech reaches At a certain level of harm, the German Ministry of the Interior will prosecute. The staff of the German Ministry of the Interior is responsible for the prosecution of Internet The Internet is monitored for bad information, such as Internet rumors, Nazism pornographic violence and other information. Ministry of the Interior Some network technology professionals have also been specially selected to form the Information and Communication Technology Service Center, which is responsible for the network of the various The information will be monitored in real time, and in the event of a violation of the law, they will collect the relevant evidence and then Prosecutions are then carried out by the relevant Home Office staff, and when the police become involved in the relevant investigations, the ICT The Technical Services Center will also give the police the technical service support they need.

4. Countermeasures to Improve the Legal Regulation of Internet Rumors

(i) Improvement of legislation on the regulation of Internet rumors

China should set up a special provision in the Public Security Administration Punishment Law or the Regulations on Emergency Response to Public Health Emergencies. In the chapter on penalties for various violations of the law in public health emergencies, special provisions should be made for the violation of Internet rumors in public health emergencies, because in public health emergencies, the harm of Internet rumors is greater than that in general, and the impact is more severe. In this legislation, rumor is defined as "fabricated false information" and "hearing and maliciously spreading false information", which can be intuitively seen as "false information" without proof. This definition is intuitively recognizable as "false information" without the need for proof. Fabrication shows the subjective malicious intent, in the absence of active verification of malicious dissemination, which does not need to prove the subjective attitude of the perpetrator, knowing that belongs to the false information, but also dissemination, intentional attitude is obvious, for law enforcement officers for the dissemination of rumors can be identified to save a certain amount of human and material resources. Article 1 of the Public Security Administration

Punishment Law stipulates that this law is to maintain public security order and protect public safety. Although the Internet space is not a public place, it is not a public place for the law enforcement officers to determine the behavior of spreading rumors.

Nowadays, many scholars and practitioners are concerned about whether or not cyberspace belongs to the Part of social life has a clear attitude that policing in the Internet is also subject to the Public Order Management Ordinance. The regulation of the Penalization Act. Rumors should also be classified, such as rumors that jeopardize the security of national interests, rumors that jeopardize public interests, and rumors that jeopardize individual rights, etc., and rumors of different natures should be dealt with differently. Rumors that jeopardize the security of national interests should be given the authority to punish and regulate by the Criminal Law, because the national interest is above all, it is not appropriate to set up provisions to regulate the rumors that jeopardize the security of national interests in the special law. Rumors that jeopardize the security of public interests can be divided into many kinds, such as false epidemics, police reports, dangerous situations, and disaster situations, with reference to the provisions on false information in the Criminal Law. For the act of spreading rumors that endanger public security in a public health emergency, the punishment can be warning, fine, detention or detention and fine, depending on the severity of the circumstances, and the specific circumstances can be determined according to the scope of the dissemination and the degree of harm. For example, if the rumor is spread only within a certain group of people, it can be punished with a warning; if the rumor is spread within a certain group of people, but it has already led to the panic of this group of people and there is a risk of spreading at any time, it should be punished with a fine; if the rumor only involves a certain area, and is spread only in this area, and has not yet caused any impact, it should be punished with detention; if the rumor only involves a certain area, and is spread only in this area, and has not yet caused any impact, it should be punished with detention. If the rumor only involves a certain area, also only in this area to spread, but has caused social panic, price increases, business hoarding, etc., should be sentenced to detention and fines; once the rumor spread beyond a specific range, the region, in the province or the national dissemination, the impact has been self-evident, this time it should be criminally culpable. In the determination of the circumstances to be added at the end, the perpetrator of this article is fabricated and disseminated, spread the act of pure fabrication is not disseminated to mitigate the punishment, not fabricated only dissemination of the act of light punishment, for rumors due to gullibility and dissemination of the rumor, did not cause any impact, not be punished. For rumours that jeopardize the rights of individuals and constitute a crime, criminal proceedings shall be instituted; if they cause social disorder, the penalties for jeopardizing public security shall be referred to; if they do not affect social stability, the person concerned shall bring a civil action in court to resolve the matter by civil means.

(ii) Establishment of specialized departments to centralize regulation and improve the efficiency of law enforcement. The lifeblood of the law lies in its implementation, and without a strong and orderly law enforcement, law enforcement environment, and enforcement of the law, the law will not be enforced. Law and order, even the best law is like a piece of paper, a nullity. Especially in public health emergencies.

Not only do we need to prevent and control the epidemic, but we also need to prevent online rumors from influencing and hindering the prevention and control of the epidemic. Now. There are too many departments involved in the monitoring and regulation of Internet rumors in our country, including the Central Propaganda Department, the Internet Information Network departments, national security departments, public security organs, and people's governments at all levels, when online rumors appear, these departments The door's appearances are also extremely high. Because there are so many departments involved, especially in public health emergencies, the Can not be a good effective regulation of network rumors, in order to better manage network rumors, the author suggests the establishment of a specialized department to unify and regulate online public opinion, and to better clean up the online environment and regulate online rumors.

In order to better monitor public opinion and achieve the effect of comprehensive governance, with reference to the United States, Germany and other Western countries. According to the actual situation in China, it is proposed that the Central Propaganda Department should take the lead, and all relevant departments should work together to form a department - the Network Union The Control Division, a department that can be set up from the central government to the local municipal level to control online rumors in a comprehensive manner. Especially in the case of sudden

In the event of a public health incident, the role of the department is fully utilized. The Networks Joint Control Service should have a person responsible for monitoring interconnected The online content is monitored and sensitive words are screened, once the first signs of online rumors are detected. head, decisive action, immediately verify the relevant information, if necessary, by deleting the post or carry out the notification of service providers to break the .If a rumor, once generated, has already spread on the Internet, the Cyberlinks Office should be the first to deal with it at once by deleting the unfavorable comments and then join hands with various service providers on the Internet to find out the rumors. The source of the rumor, and then according to the nature of the network rumors are dealt with separately, once the rumor involves endangering the national security, attempts to split the country and subvert the regime, the case can be transferred to the authorities after fixing the corresponding evidence on the Internet.

National Security Agency (NSA) for further investigation by the NSA; if it is only a general offense or only a violation of the

For acts of public order management, they should also be transferred to the public security organs for processing after fixing the corresponding evidence. The network control office should also actively communicate with the departments responsible for specific investigations, the first time to the case The results of the process are made public to the whole society, especially those involving possible violations of the right to freedom of expression of citizens, in the should be handled with greater care to safeguard citizens' right to know, so as not to brew greater public opinion on the Internet. This is even less conducive to the control of online public opinion. In the actual process of law enforcement, the public security organs and the State security organs should, in the light of the actual situation and in conjunction with the provisions of the law, impose penalties in such a way as to ensure that "no crime is committed without express provisions of the law, and

no penalty is imposed without express provisions of the law", and that there is less discretionary law enforcement, less arbitrary law enforcement, and that penalties should be imposed with caution for general breaches of the public security administration. Otherwise, the arbitrary exercise of discretionary power will result in the rights of the people not being safeguarded. Therefore, in the actual process of law enforcement, it is necessary to play a good role in the supervision of law enforcement issues, including government supervision, social supervision, people's supervision, and the countermeasures to improve the legal regulation of network rumors in public health emergencies. The public security organs are accustomed to enforcing the law under the sun, strictly observing law enforcement procedures, maintaining social stability and protecting the lives and property of the people. Prior to the establishment of the Cyberlink Office, we used ex post facto processing, which brought with it the constant need for the of the network environment to disrupt, then repair, then disrupt, then repair so on and so forth, nonetheless it is impossible to better governance of online rumors and purification of the online environment will instead lead to the intensification of online rumors and the online environment. It is getting worse and worse, and the difficulty of governance is increasing, resulting in a huge waste of manpower and material resources, which has not yet been very effective. With the establishment of the Network Joint Control Office, it will be possible to monitor the situation beforehand, deal with it in a timely manner during the incident and handle it appropriately afterward. Killing rumors in the cradle beforehand, tying them up in a cage during the event, and publishing the truth on the Internet afterward. This is the significance of the establishment of the Network Joint Control Service, which can better weed out the tumor for the rapid development of the Internet in our country. Create a better communication environment for the Internet, so that Internet rumors run naked in the world of the Internet, nowhere to hide! Shape. Especially in the case of public health emergencies, the establishment of this department will better protect the prevention and control of epidemics. Eliminate false information that adversely affects outbreak prevention and control.

(iii) Multi-channel management of Internet rumors

The famous French communication scholar Kapferer once pointed out that disinformation is not simply eliminating a message, because the human brain can only add information, so it can only be changed by adding new information to change people's inner thoughts. [7] In order to prevent the "Tacitus effect", it is necessary to do a good job of publicizing information. The official initiative is an effective force to block the spread of rumors, and a survey of 976 corporate and government communicators by T. Aertsen et al. shows that the government bears the main responsibility for communication management. [8]

The establishment of a cyber-control unit, as mentioned above, is specifically designed to manage the Internet and to combat Internet rumors.

We also have access to centralized media and new Internet media with national reach through the Network Control Office. We will cooperate to build an information dissemination platform to combat online rumors, which can accept rumor reports, rumor. The screening and investigation, the release of rumor information and the disclosure of true information and other functions, the timely release of targeted and effective

The news reports and public opinion guidance, and do more news reports with more communication power, guidance, influence and credibility.

Xi Jinping's remarks at a meeting of the Standing Committee of the Political Bureau of the Central Committee to study the response to the new coronavirus pneumonia outbreak. "We must release authoritative information in a timely manner to respond to social concerns, and we must release authoritative information at multiple levels and high densities to address squarely the problems, respond to the concerns of the public, enhance timeliness, relevance and professionalism, and guide the public to enhance the letter heart, firm confidence, and efforts to stabilize public sentiment." [9] The authority of this information platform to publish information should reach the prefecture level. The level of news media registered above the city level, and government departments to the level of the county government, although these single All of them have the authority to publish relevant information, however, the final approval authority is their corresponding higher-level network linkage control (b) The Office of the United Nations High Commissioner for Human Rights, where the staff of the Office of the United Nations High Commissioner for Refugees (UNHCR) review relevant disinformation or early warning information issued by the Office of the United Nations High Commissioner for Refugees. Prevent misinformation from appearing on the platform and affecting the public's judgment, leading to public distrust, and the platform will then Loss of authority, loss of establishment. Because the government is then very often the first and sometimes the only one to release information. The information released by the government will be the basis for the public to weigh in on the incident and the risks being controlled, and also the fact that the government department. Whether or not the means and manner of handling the problem are appropriate will also play a role in influencing the direction of online public opinion. [10] Walter Lippmann, a famous expert in public opinion, has long suggested that either managers tame public opinion, or they obey public opinion. Convincing public opinion. [11] The Internet information dissemination platform established by the Cyberlink Office in conjunction with the media, through authentic information. Publishing, disinformation of false information, purify the network environment, in order to achieve the maintenance of the rights and interests of citizens and social stability.

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