Fake News and Social Media: Indian Perspective

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The unlimited freedom made social media platforms are susceptible to misuse, misinformation, and thus, fake news. In the last few years, social media has turned out to be a massive player in shaping public discourse in a democratic space (Marda & Milan, 2018). Though there have been pressures from policymakers on service/platform providers, nothing concrete has built up towards accountability of the user or platform proprietors. In India, there has been a consistent increase of social media users and instances of the misuse of this medium. This paper seeks to examine how the propagation of fake news has disrupted the public sphere and possible policies that can be implemented to curb the plague of fake news. The relationship between various events of violence reported in India media and the role of fake news in instigating chaos are discussed in this paper. It also tries to review policies initiatives taken by various countries, especially in Europe and possible measures which India could take to restrict the flow of fake news.

Keywords: Facebook, fake news, India, media law, policy, social media, WhatsApp

'Fake news' has become a global concern since the rise of unpleasant incidents that have challenged the users' trust in the news, especially through social media. Lack of policy implementation or laws which could either curb fake news or hold the perpetrator accountable for their action have only made the situation complex and challenging. Responsible users have time and again raised the issue to review and amend the existing laws to meet the challenges of spreading of the fake news, but efforts by both policymakers and civil societies have not been enough to address this lacuna within the overpowering digital space. According to Frank, fake news has certain associated characteristics like short life span of fake news creator, relatively faster as well as higher 'share' and 'clicks' on social media, and therefore called as syndrome which weaves labyrinth of digital folklores of hoaxes, pranks, satires and parodies (Frank, 2015). Media is now a web of propaganda, and there are more views than news (Bharali & Goswami, 2018). The lack of a clear distinction, for internet users, between real and fake news is what further challenges source credibility (Lima Quintanilha, Torres da Silva, & Lapa, 2019). India, being a massive market for WhatsApp application, has more than 200 million active users (Singh, as cited in Farooq, 2018) and this number is only increasing making it as one of the fastest-growing platforms. Though the term, 'fake news,' had been in usage since a century at least, it attained a renewed interest among media scholars and journalists in recent times, mainly owing to the sudden rise of hoaxes propagated via the internet. Information dissemination via the internet, according to scholarly works, could create two major impacts in the society; which are "Universal access to information" and "Selective exposure" explained Brundidge and Rice(as cited in Shafi&Ravikumar, 2018).

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A few years ago, 'fake news' was a rarely used term. Today, it has become one of the greatest threats to the existing system of democracy and a hot topic for the debaters. Shashank Atreya, a practicing lawyer, claims that fake news can be defined as 'untrue and unverified news.' 'Untrue' refers to false facts, whereas 'unverified' refers to where the facts might be true, but the numbers and characters are false (S. Atreya, personal communication, September 25, 2018). According to Lazer et al. (2018),

> Fake news is fabricated information that mimics news media content in form but not in organizational process or intent. Fake-news outlets, in turn, lack the news media's editorial norms and processes for ensuring the accuracy and credibility of the information. Fake news overlaps with other information disorders, such as misinformation (false or misleading information) and disinformation (false information that is purposely spread to deceive people).

Though there is no one definition for fake news, what makes it a concern is that it allows subjective interpretations of the concept, thus making it difficult to study or allow any policy interventions. Fake news comprises of stories, news, and hoaxes created to misinform deliberately or deceive readers or to push a political agenda. In contemporary times, various media propagate fake news. A newspaper in print media, television in broadcast and internet in digital form propagate fake news. However, due to the changing role of social media in the past few years, it has become a forerunner in the distribution of fake news. Since social media has increasingly gained acceptance among audiences, it plays a huge role in forming public opinions during elections. The trigger point that catapulted fake news on social media was during the last US Presidential election.

During this election, Cambridge Analytica, a political consulting firm, partnered with a researcher from Cambridge University and illegally used the data of 87 million Facebook profiles to work on Trump campaign (Chang, 2018). The purpose of collecting personal data of millions of users was to influence 'swing voters' during the election campaign. Fake news was circulated using Facebook as a platform, for which the social media giant received uncomplimentary publicity. However, whether this fake news affected the voting patterns to alter the election outcome is a question mark. Economists Allcott and Gentzkow (2017), who studied the possible impact of fake news on voting patterns during the 2016 US Presidential election, concluded that fake news on social media was not as influential as it is believed to be. They further suggested that with television remaining the dominant source of political news and information, for fake news to have changed the outcome of the election, a single fake article would need to have had the same persuasive effect as 36 television campaign ads.

In their study, 'Fake News: Credibility, Cultivation Syndrome and the New Age Media,' Bharali and Goswami (2018) discuss framing as a strategy in story construction and thus reasons why it is important to filter messages to maintain credibility, accountability, and authenticity of journalism. The authors explained how social media plays the role of a grapevine in effecting a series of reactions from the users on social media. 'Trends in the Spread of Fake News in Mass Media' argument by Berduygina, Vladimirova, and Chernyaeva (2019) discuss how emotional triggers often are the cause for spreading/forwarding of message or fake news. The authors examine issues of changing public trust in various news media as sources of information; structures the sources of misinformation and identifies the major motives behind them, and discusses positive and negative outcomes of posting fake news. Gowrah Farooq (2018), in 'Politics of Fake News: How WhatsApp Became a Potent Propaganda Tool in India', discusses how internet and applications have not just made production and dissemination of media easier but have also made distribution of fake news possible among masses and suggest review of the existing laws to match the technological advancements.

Thus while various studies have shown that there is a need to review the policies and find an alternative, they lack the perspective of various existing policies in India and outside, which this paper attempts to probe.

Social Media as a Public Sphere

The model, in which the social media functions, is highly responsible for how the information on social media affects its audience. Over the years, social media has emerged as a platform where anyone from any place can post absolutely anything at any given point in time. It primarily works on the number of clicks which works as a catalyst in spreading personalized ads which can manipulate and shape public discourse. This model allows a platform to launder one's propaganda in a very subtle way which the audience hardly realize. The leverage over the audience has enabled false information to spread much more rapidly than accurate information. Research conducted by using a data set of one decade at Massachusetts Institute of Technology (MIT), showed how false news and information sell faster than the true one on Twitter. It also showed how rumors tweeted on the social media platform spread rapidly and are retweeted at a faster rate when compared to the true news (Vosoughi, Roy, & Aral, 2018).

Previously, the media worked as a link between information providers and audiences. However, this has changed with the advent of social media where information is not only generated but also propagated. Thus, social media is often accused of shaping public debate and unfairly engineering people's behavior and undermining the democratic process instead of nurturing a healthy public sphere (Marda & Milan, 2018).

Social Media acts as a facilitator of democracy by providing the public with equal access to information and equal opportunities to participate. The public sphere is the nexus between public life and civil society. It is that space of the society where access is guaranteed to all the citizens to engage and discuss the matters of general interest to form a public opinion (Habermas, Lennox, & Lennox, 1964). Evolution of social media and its increasing role as a platform for its users to express their opinions has guaranteed freedom in an unrestricted way. Social media collects information and opinions from all its audiences irrespective of the class they belong to – bourgeois or proletariat – and thus provides a neutral space for all those who are a part of the civil society to discuss any issue of common interest. Since it fulfills the basic pre-requisites of providing space, albeit digitally, for free speech of participants, it becomes a public sphere virtually.

However, how civil society uses social media creates a dilemma if social media is an effective public sphere or merely acts as a chaotic echo chamber for the public reason being, social media has fewer central nodes, gatekeepers or agenda setters than the traditional media. This makes social media susceptible to unverified and misleading content viz. fake news.

Fake News in the Indian Context

Fake news on social media has a massive impact on the opinions of people across the world. In the Indian context, the consequences of spreading fake news have been far from what one could contemplate. According to a report by Indo-Asian News Service (2018),

A significant portion of such messages revolves around the basic idea of nationalism and nation-building. In scenarios like these, where the main idea behind spreading news is related to nationalism, the facts become less important for the users than the emotional desire to bolster their national identity.

Unlike other countries, the prime distributor of fake news in India is WhatsApp, but not other social networking sites like Facebook or Twitter(What's Driving India's Fake News Problem? 2018). WhatsApp, a mobile messaging application, was acquired by the social media giant - Facebook, in 2014 (Rushe, 2014). This social media platform allows its users to share information by forwarding it to other users in various groups and broadcast lists within the same platform which has led to widespread, unchecked distribution of information rarely vetted by users. It has not only misinformed the users on social media but also triggered violence and barbaric killings around the country.

In 2018, PanjuriKachari, a small village in Assam, witnessed one of the most gruesome cases of lynching. The smartphone footage which went viral, showed two blood-soaked men pleading for their lives, moments later they were dead. These two men who were from Guwahati, capital of the north-eastern state of Assam, were beaten to death by a crazed village mob wielding bamboo sticks, machetes, and rocks, as they were mistaken to be child kidnappers. The case was discussed in various media platform as to how rumors spread on Facebook and WhatsApp in India lead to the death of two people. Around 20 people were victims to cases of lynching in May and June 2018 alone, due to the viral news spread through Facebook and WhatsApp (Agence France-Presse, 2018). At least 18 people were killed as a result of the violence fuelled by the rumors spread on WhatsApp in 2018 (Bassi & Sengupta, 2018).

Outbursts of violence in Shillong due to communal differences between two groups; lynching of two men by an angry mob, who presumed the victims to be cattle thieves in Jharkhand; and death of two persons in Assam after being misunderstood as child lifters by a mob are some instances. These instances resulted in pushing the West Bengal government to work towards implementation of a law. The violence in these places was because of the spread of hatred and misinformation on social media. The proposed legislation of the new law has strict actions in place against individuals or organizations that are responsible for spreading hatred and fake news in society, and for disrupting harmony in a public sphere. Such strict actions include jail sentences to citizens for posting fake news, if such news causes fear or alarm in public (PTI, 2018).

According to a BBC analysis, in the year 2018, at least 32 people were killed in incidents involving rumors spread on social media or messaging apps (What's Driving India's Fake News Problem? 2018). All this called for the government to take some effective actions to curb the spread of misinformation. Following the various cases of lynching witnessed in India, in August 2018, WhatsApp had to start rolling out the five chat limit for forwarding messages to control the spread of fake news (Agarwal, 2018).

Regulating Fake News

Social media platforms, in contrast to the traditional and conventional media outlets, enjoy an unchecked space. Since social media platforms provide a free platform for expression of speech and opinions by its users, therefore, no laws can be practically implemented to restrict the freedom of the users. This makes it almost impossible to eradicate fake news from social media as the flow of information, or the content cannot be entirely restricted. Although, this does not rule out the possibility to regulate the medium/platform.

There have been various regulating methods implemented by different nations, to combat the propagation of fake news. These regulatory mechanisms have been initiated involving multiple stakeholders, which include self-regulation by social media platforms, legal injunction to curb fake news, implementation of the law, and constitutional remedies and independent regulatory bodies.

Reality check in USA and India

Various social media platforms like Facebook, Twitter, and WhatsApp have been implementing self-regulatory mechanisms over the last couple of years in response to increasing fake news propagation. The social media giant, Facebook, received much criticism for its role in the propagation of fake news during the US 2016 Presidential Election. The Head of Cybersecurity Policy of Facebook, Nathaniel Gleicher, said in its blog post on November 2018 that it had identified around 30 Facebook accounts and 85 Instagram accounts that may be engaged in coordinated inauthentic behavior and blocked them on US mid-term Election Day because of their suspicious links to Internet Research Agency (Gleicher, 2018). Similarly, in India, ahead of the 2018 Assembly election in Rajasthan, Facebook removed thousands of pages, groups, and accounts involved in coordinated inauthentic behavior in a bid to curb fake news through improved artificial intelligence (Facebook in Race to Curb Fake News, 2018).

Meanwhile, Twitter, which is one of the major influencing social media in the US, identified more than 4,600 accounts and 10 million tweets affiliated with the Internet Research Agency, that played a role in meddling in the US elections, including the US 2016 Presidential elections (Facebook Blocks 115 Accounts Ahead of US Midterm Elections, 2018). In India, WhatsApp is more dominant than Twitter, as a social media platform, has played the role of primary vehicle in the circulation of fake news. It has taken a few steps in the regulation of spreading of fake news under pressure from the Indian government. Recently, it rolled out the five chat limit for each forward message to limit the spread of messages by way of group messages. This step was implemented to act as a speed breaker to effectively handle the menace of rumors and fake news. The five chat limit restricts a person from forwarding a particular message to only five members at once (Agarwal, 2018).

One has to understand that regulatory mechanisms restrict and penalize the perpetrators. Technical measures can only contain the propagation of fake news. However, fake news is not just a technical issue. Instead, it is more of a social problem since the root problem is not technology but the way we use it. Even when WhatsApp rolled out five chat limit, there were loopholes in the process. The restriction only limited forwarding of a message at one time; it could still be circulated by merely editing it or forwarding it to five other people multiple times. Hence, one needs to look at the root cause of this problem to be able to find a sustainable solution.

Policy Intervention by Various Nations

Apart from self-regulatory measures, government intervention is also one of the most common methods implemented by nations around the world to combat fake news. Here, the government is expected to intervene by bringing in a law to restrict the usage or penalize the perpetrators if the information they share on social media platforms does not conform to certain standards. The following segment discusses policy measures taken by some of the countries to regulate fake news and enable vibrancy of the virtual public sphere.

Italy: In 2017, lawmakers and regulators in Italy felt a need to introduce new rules for fake news. Since spreading of fake news was highly debated concern during their constitutional referendum campaign, a legislative proposal was submitted in the Senate of the Republic. This proposed law criminalized sharing and posting of 'false, exaggerated or biased' information and imposed fines of up to 5000 Euros. It proposed imprisonment in cases of fake news as grave as inciting violence or crime and obligated the Internet Service Providers

(ISP) with a responsibility to monitor their role in regulating the content and in the removal of such news that is not reliable and true (Apa & Bassini, 2017). Part of the law was faced resistance since it used vague terms like 'false or exaggerated or biased' news, which can take a wide range of definitions. Also, the law partly challenged the freedom of expression under their Constitution (Tambini, 2017).

Article 10 of the European Convention on Human Rights (ECHR), 'Freedom of Expression' discusses the right to freedom to hold opinions and to receive and impart information and ideas without interference by public authority. Though the Article gives public a right to express, it also qualifies the right by stating that this freedom of expression can only be exercised subject to certain such formalities, conditions, restrictions or penalties as are prescribed by law. Such qualifications shall be based keeping in mind national security, territorial integrity, public safety, disorder or crime, health or morals, reputation or rights of others, the disclosure of information received in confidence, maintenance of authority and impartiality of the judiciary(Council of Europe, 1970).

Malaysia: In the run-up to 2018 Malaysian general elections, the former Prime Minister of Malaysia, Najib Razak, introduced Anti-Fake News Act 2018, after the Billon anti-fake news received the Malaysian King's assent. Under this law, publishers of the content were required to immediately remove the published content if it was suspected to contain fake news (Malaysia's anti-fake news legislation becomes law, is now enforceable, 2018). This Bill would give rise to a conflict in the constitutional rights of people in a democratic nation. Such a law which regulates the people from voicing their opinions is a regressive one. This law introduced by former Prime Minister was also alleged to curtail the free form of political speech. However, the current government in August 2018 attempted to repeal the law quoting that the existing laws relating to communication and media are "sufficient" to tackle fake news in the country (Tan, 2018). Although, the Bill to repeal the existing Anti-Fake News 2018 Bill was passed in the lower house in August, it was later rejected by the Senator (Raj & Su-Lyn, 2018). It is interesting to note that such laws which regulate what the public can opine and speak sets a wrong precedent in a democratic space where people enjoy the right to free speech.

Germany: In Germany, the government brought in a law, titled "Netzwerkdurchsetzungsgesetz" (Network Enforcement Act)(NetzDG), which came into effect on January 1, 2018. This law mandates online platforms to remove "obviously illegal" posts within 24 hours or risk fines of up to €50 million (Funke, 2018). Though this law was implemented by the German government to reduce the spread of misinformation, it received much flak. Primarily because when regulation of content happens on social media platforms, it often leads to depreciation of the democracy in place. Such law which blindly restricts the speech of its people, based on specific key-word parameters, can be used as a tool by the government to suppress power, voice and disturb the democratic space in the public sphere. If unchecked, such a move can turn into systematic state-based surveillance and censorship, which could adversely undermine democracy in the nation (Marda & Milan, 2018).

France: After Italy introduced a law criminalizing the sharing and posting of 'false, exaggerated or biased' information along with Germany passing legislation to fight back fake news, France also decided to take pro-active steps to deal with the issue of fake news.

French Parliament amended its Constitution in November 2018, at the National Assembly, after being opposed by the Senate twice earlier and passed a law to fight the handling of information. It aimed to check the rapid dissemination of fake news through social networks and foreign media outlets. This law gave particular attention to election campaigns and

attempted to thwart any danger posed by available tools during elections. The law stipulated measures like transparency obligations for digital platforms and the creation of legal injunction for election campaign periods. In compliance with the former measure, digital platforms will now have to publish the name of the author and the amount paid for any of their sponsored content. Under the latter, it would enable an interim judge to swiftly halt the circulation of "fake news[1]" by way of legal injunction. Also, the official law protects the freedom of journalistic work by stating that the text is aimed at deliberate attempts to manipulate information (French Gouvernement, 2018). Critics argue that the controversial law could jeopardize democracy and act as censorship. Also, the Russian media heavily criticized this law, saying it could be used to target Russian media outlets (Fiorentino, 2018).

Social Media, Fake News, and Chaos

With the largest Whatsapp market in the world, and a place where users forward more content than anywhere else, India has a unique challenge while tackling the issue of fake news through social media applications like WhatsApp.

Concerns have been raised in India regarding the liability of the WhatsApp group administrators, citing instances where the administrators of WhatsApp groups were arrested. In a joint order issued by District Magistrate and Senior Superintendent of Police of Varanasi (2017), stated that an FIR could be filed against the group administrators if any factually incorrect, rumor or misleading information was circulated on a social media group. The response from State Cyber Crime of Maharashtra (2018) mentioned the challenge police faced in terms of keeping a watch on WhatsApp content since the platform is end-to-end encrypted. Holding WhatsApp group administrators liable for a crime done by another person is unconstitutional and a plain misuse of criminal law. Circulating a mysterious message intended to create ill-will or enmity is a cognizable and non-bailable offense under Sec. 505 of the Indian Penal Code (Singh, 2018). Holding group admins liable for failing to regulate fake news and hate speech by deleting such posts from WhatsApp is impractical since there are other legal implications. If the admin deletes such content, it would mean destroying evidence, which is punishable under Sec. 204 of IPC (Alexander, 2018).

In addition to these measures, a Delhi High Court judgment clarified that holding administrators responsible for content someone else had posted was illogical. In the judgment, the court said that "...to make an administrator of an online platform liable for defamation would be like making the manufacturer of the newsprint on which defamatory statements are published liable for defamation" (Ashish Bhalla vs. Suresh Chaudhary,& Others, 2016).

Role of Investigating Agencies, Citizens and Police

One of the most underrated steps towards forming policies to curb fake news is the role played by the citizens. They form a significant chunk of the audience who are susceptible to misinformation and fake news. Investigating agencies and Police also can complement and enhance the role played by the civil society in controlling the spreading of fake news.

Viral news is defined as networked news stories that spread online mostly through social media in a much faster and wider manner than other news stories (Al-Rawi, 2019). The sharing and re-sharing of videos on social sites, blogs e-mail, and other means have given rise to the phenomenon of viral videos—videos that become popular through internet sharing (Broxton, Interian, Vaver, &Wattenhofer, 2013). These viral videos often comprise babies staring into the screen, extreme sports videos, and cat videos, and so on.

In a world dominated by social media applications like WhatsApp, a message forwarding capability is a crucial feature. While some messages might be neutrally providing information, others can be harmful. When users exploit this feature of message forwarding haphazardly to forward a message without realizing its implications, it leads to viral forwarding. A typical viral forward that incites incidents of violence in the form of mob lynching often contains harmful, and often untrue, information that can mislead the reader.

In March 2018, a district in the Telangana state of India, named JogulambaGadwal, fell prey to viral forwards on WhatsApp. These forwards carried fake photographs of villagers of that district being depicted as organ harvesters and child kidnappers. As part of these forwards, many videos were circulated to advise the villagers to hide at sundown. The terrified villagers imposed curfews, and as a result, streets fell silent after dark. As the village started falling into a frenzy, several innocents suspected of being abductors were mobbed and assaulted. Amid all the chaotic occurrences, police approached the villagers with a method that could cater to bringing effective awareness in them. Since the people, being dealt with, were digitally illiterate, adoption of traditional methods appeared to be the most sensible option in bring awareness about something as modern as WhatsApp and social media. The localized problem was countered by the police using 'Janapadam' which translates to people's path. As a part of this move, police started educating the villagers about misinformation. By incorporating the art of folklore, an immediate connection was established with the local people. This form of folklore involved storytelling with the local people performing short skits, usually belonging to lower communities. These skits typically featured one man and two women who would sit together and narrate a story which would end with a message promoting digital literacy. These skits would range from a few minutes to a few hours. This move by the police witnessed broader reach and acceptance among the local communities because of their audience-targeted approach (Singh V., 2019).

In July 2018, the Uttar Pradesh decided on setting up 'Digital Armies' comprised of prominent residents along with ex-servicemen, teachers, doctors, advocates, and journalists. WhatsApp groups will be formed to keep a vigil on inflammatory posts, rumor-mongering, and cases of lynching. By way of the initiative, all the police stations in the state will manage these WhatsApp groups. The 'digital volunteers' will share with the police various information, rumors, photographs, and videos, of their respective areas, that qualify as fake news on the social media and at the same time, disseminate correct information among the locals to curb the spread of rumors. This initiative was in the wake of the Central government's directions to take effective steps to stop the spread of rumors and fake news (PTI, 2018). This move can bring in and place the civic society at the helm of steps required to be undertaken in the fight against fake news propagation.

Provisions of Information Technology Act, 2000

Section 69 (1) of the Information Technology Act, 2000 relate to how the Controller can extend decryption of information facilities to any agency for intercepting any information transmitted through any computer resource. The person-in-charge of the computer resource shall, when called upon by any agency directed under Section 69 (1), extend all facilities and technical assistance to decrypt the information. Any person who fails to assist the agency referred to in Section 69 (2) shall be punished with imprisonment for a term which may extend to seven years.

Section 79 of the Act, provides for cases when the Network service providers or intermediaries are not held liable. This provision of law is precisely for the removal of doubts and thus declares that no person providing any service as a network service provider/

intermediary shall be liable under this Act, rules or regulations made thereunder for any third party information or data made available by him. This provision comes into play is if he proves that the offense or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offense or contravention. Also, new proposed changes under Section 79 require the online platforms to deploy technology-based automated tools or appropriate mechanisms to proactively identify or remove or disable access to illegal information or content.

In September 2018, Gauba Committee, a team reporting to government on menacing instances of fake news leading to cases of lynching came up with a recommendation. The Committee, headed by the home secretary of India, Rajiv Gauba, recommended that India heads of the global internet and social media giants should face criminal proceedings if their platforms are used to propagate fake news or campaigns that incite violence that leads to riots and cases of lynching (Doval, 2018). In June, Gauba urged the representatives of Google and Facebook to take appropriate measures to filter fake and explosive content.

The inter-ministerial committee added that if social networks are used to peddle information that contravenes Sections 69 and 79 of the Information Technology Act, 2000, it has to be addressed in a time-bound manner. Even the central government appeared to have taken steps in drafting new guidelines to make the social media platforms bound to respond to complaints about fake news in a few hours (PTI, 2018). The problem that looms this recommendation is the question of who decides which content is suspicious and needs to be pulled down. Again, here, the involvement of government as overseeing body of the committee's recommendations brings in the possibility of a conflict of interests while drawing a line separating the suspicious content. Even though, government delegates the responsibility of censoring the content to private social media corporations, the problem of where to draw a line persists. Media corporations need to have a sufficient understanding of how social media algorithms function in detecting the keywords in the content and identifying them as suspicious to overcome this problem.

Protection of Right to Freedom of Speech and Expression

In India, Article 19 (1) (a) of the constitution provides for the protection of the human right to freedom of speech and expression. Hence, any attempt to suppress the voice of people in a public sphere behind the garb of an Anti-Fake News Bill will lead to a situation of a constitutional violation. One has to have a better understanding of the role of government in curbing the propagation of fake news to make sure that even the softest of voices are heard. Also, improperly implemented laws cause redundancy of existing provisions. Article 19 (2) of Indian Constitution, already provides that nothing shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by Article 19 (1). Such restriction shall be in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or about contempt of court, defamation or incitement to an offense.

Even the Human Rights Watch of Germany, denounced the law introduced by the country, as it was inconsistent with the country's obligation to respect free speech. The Human Rights Watch quoted that it became complicated for a social media company to decide which content was suspicious since it involved the usage of a nuanced understanding of context and culture. Also, there was no provision of a judicial remedy to a person, should his right to free speech be illegally violated by one of these social media corporate(Germany: Flawed Social Media Law, 2018).

Regulatory Body

One more mechanism in pursuit of fixing the fake news plague is the establishment of the Digital News Publishers Association (DNPA), a regulating body. DNPA is an establishment initiated by ten leading media companies in India in response to increasing pressure from Information and Broadcasting (I&B) Ministry to foster digital space in the country. Along with self-regulatory steps, it even welcomed the idea to work together with the government and other similar associations. This regulatory body for digital media was initiated in line with Press Council of India (PCI) for print and the News Broadcasters Association (NBA) for television news, to come up with a cleansed digital information network.

However, there is one major problem with this initiative, though it says that the organization is open to any online news publisher and that the board will clear all the membership applications, one look at the current founding team give speaks a different story. The very purpose here looks defeated since all its founder members are either television or print media companies for whom; digital news platform forms a small part of their operations. This scenario raises many doubts about the effectiveness of the organization since it might give rise to a conflict of interests. The very issue of the propagation of fake news in the digital space comes back to haunt us if the players of the digital space like Scroll, The Print, The Wire, Inc42, Medianama, and many like these are left out of the founders' community. These new-age media companies seem to be steering away from the association. Pahwa, founder of Medianama, in an email response, admitted differences in opinions as a reason for not showing interest in being a part of such a self-regulatory body. He added that such a self-regulatory body leads to unnecessary restriction by the government on freedom of speech, which is already restricted under Article 19(2) of the Indian constitution. He further suggested that each publication must be responsible for its published content. So, DNPA will have to prove how it is different from its counterpart: News Broadcasting Standards Authority (NBSA), to be effective and clear skepticism around its reliability. NBSA, which was established to check broadcast media companies, received much flak a few years ago for being ineffective in addressing many complaints regarding fake news (Anupam, 2018).

Challenges in Implementation

News audience has become vulnerable to fake news due to their naivety towards the threats it poses. Audiences show more interest towards extensive consumption of social media platforms citing the power of their fundamental rights and claiming democratic participation. However, there is little importance given to the awareness of regulating content on social media. Social media feeds on the trust of the civil society by harnessing the public emotions of the participants and persuading them into sharing specific content (Tambini, 2017). When Italy came up with rules to criminalize sharing and posting of 'false, exaggerated or biased' information by imposing fines and bringing in imprisonment provisions, it attracted criticism for redundancy and challenging the Freedom of Expression under their Constitution. Germany too, earned its share of criticism, when it mandated online platforms to remove "obviously illegal" posts within 24 hours to avoid levy of exorbitant fines. Similarly, the Malaysian government also attempted to repeal the existing Anti-Fake News 2018 Bill to safeguard the democratic space where people enjoy a right to free speech. France faced backlash for its move, which was argued as a threat to democracy and censorship to foreign media outlets.

However, India can learn lessons from criticism the countries mentioned above faced in the implementation of policies in their countries. One can understand that the policies required to regulate content are highly sensitive. Therefore public voice and their rights are to be considered with care before implementing any policy that intends to regulate content. India can incorporate one of the following strategies, where importance is given to spreading awareness among stakeholders instead of regulating content and violating the constitutional provisions.

Awareness—An Alternative

One of the most significant factors leading to a broader consumption of fake news among users is their limited ability to differentiate facts from opinions. Lack of aptitude of the audience to verify the news shared on social media before consuming is leading them to consume potentially false information. To enable them to do so would require a concrete measure in terms of enhancing their media literacy.

Media or News literacy has been one of the most promising solutions recommended by many experts around the world. In a seminar held by Education Writers Association in New Orleans (2018), speakers were of a consensus that schools need to teach their students how to separate false news from the credible ones since news literacy could act as a vaccine against fake news (Stringer, 2018). According to a survey conducted among children of age 10 to 18 years by the Common Sense Media in 2017, 44% of the surveyed children felt that they could differentiate fake stories from the real ones. Although, around 31% of kids who shared a news story on social media, later found out that the shared story was wrong or inaccurate (Robb, 2017). The initiative also needs to be backed by the ability to understand the relationship between news and ownership patterns to evaluate the information based on its source credibility.

In India, awareness campaigns have been released by service providers to alert users about the consequences of fake news and why it is important to be self-aware before forwarding any message. In December 2018, WhatsApp rolled out three ad films as a part of their strategy to fight back circulation of fake news ahead of general elections these campaigns asked the users to check the integrity of the information they receive on forward messages, before sharing it to others.

Purpose of any news is to make people aware of what is happening around and allow people to have a common ground to converse to constitute a dynamic public sphere. Social media, with its reach, popularity, and instantaneity, is a potent tool for communication development if used. Otherwise, it could also become a double-edged sword. Fake News has become a menace which could only be curbed when collective efforts are made from individual to policy level.

note: [1] Fake news is defined as per the criteria set in 1881 law on the freedom of the press.

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