THE ANATOMY OF FAKE NEWS

How to Understand and Combat Misinformation?

Dhruv Shekhar*

WhatsApp recently released its first ever TV ad campaign to combat misinformation, in the run-up to India's general elections in 2019. The world's largest messaging app, with 200 million plus users in India, went into an overdrive by launching three, 60-second video ads to educate users about the undemocratic and criminal industry of fake news.

Fake news, a sinister maze of untruths, has proliferated across the globe. In a hyper-connected digital age, misinformation is getting new audiences through an infinite stream on social media timelines and forwards from messaging apps. Along the way, powerful and coordinated disinformation campaigns are opening the door wide for compromised democratic processes, civil unrest and sectarian turmoil.

The potential of fake news to manipulate public opinion and impact the election process is enormous. A Massachusetts Institute of Technology (MIT) report, *The spread of true and false news online*, published in March 2018, showed that false news reached more people than the truth. "Falsehood diffused significantly farther, faster, deeper, and more broadly than the truth in all categories of information, and the effects were more pronounced for false political news than for false news about terrorism, natural disasters, science, urban legends, or financial information," it states, while investigating verified true and false news stories distributed on Twitter from 2006 to 2017, and analysing 126,000 stories tweeted by 3 million people more than 4.5 million times.

In India, fake news has had far reaching consequences. The daily onslaught of misinformation has resulted in incidents of violent mob lynchings across the country.[1] International news organisations have also elaborated on how fake news has been instrumental in having a detrimental effect on people's lives, their livelihoods and around national security in India. According to these outfits, it is being used as a political tool to manipulate voters.[2]

In this dangerous regime of misinformation, when the possibilities of democratic processes being undermined are at an all-time high, fake news needs to be examined in the context of boosting electoral prospects, besmirching opponents and supressing online expressions of dissent. This article discusses the entire ecosystem of fake news, how it can be used to manipulate public opinion, foment hatred and incite violence among communities and how social media can multiply misinformation.

What is fake news?

The term fake news entered public discourse around 2016, when a complex matrix of social media algorithms, advertising systems, and individuals started concocting stories on digital platforms to earn money (or for ideological mileage) and the US presidential election fomented its build-up.[3]Since then, it has been brought into political communication first by Hillary Clinton and then widely used by US President Donald Trump.

In its modern incarnation, 'fake news' is used variously by world leaders, journalists and

*Dhruv Shekhar is a Trainee Research Executive at Common Cause

the common man to denote everything from misinformation and spin-doctoring to conspiracy theories. Fake news can be created and reported in a newspaper, periodical TV show or even shared on social media and messaging platforms, including Facebook, Twitter and WhatsApp.

However, the term, named Collins Dictionary's Word of the Year 2017, has now evolved to embrace not only false, sensational information but also a range of digital phenomena such as sponsored posts, advertisements, visual memes, bots on Twitter, rumours and even valid information discrediting powerful groups. For the purpose of this article, we will be using the term strictly in the sense of misinformation, disinformation and undemocratic propaganda, which can negatively impact elections and censor criticisms of political dispensations. We don't intend to discuss fake news in the context of satire or fantasy websites.

Is fake news a recent phenomenon?

Misinformation, falsehoods and deceit are as old as civilisations. Since the age of Greek historian Herodotus, there are records of creation and promulgation of false news. A marked change also took place with the establishment of the first printing press, the Gutenberg Press in 1439. The mechanised process

made it possible for news accounts to be published and circulated widely with or without journalistic integrity.

Later, the veracity of facts was questioned during the trial of Nazi *Third Reich* office holders and sympathisers Hans Fritzsche and Julius Streicher. Cases instituted against them by the International Military Tribunal argued whether they perpetuated false claims about Jews as being the source of Germany's socio-economic problems in their individual capacities (as Minister of Propaganda and Editor of a newsletter called *Der Strumer* respectively). Another notable instance was an inquisition in the wake of the Rwandan Genocide, which navigated questions on whether incendiary and false messages were perpetuated, resulting in the Hutu attack on the Tutsis.

In all these cases, the standard of 'causal link' between the incendiary and fake reporting and the resultant violence could not be established.[4] However, an inquisition in these matters clearly reflects how hate campaigns in the media can be used to carry out acts of genocide.

How is fake news different today?

In an era of social media and digital communications, fake news is ubiquitous. In a November 2018 Ericsson

Consumer Lab Insight Report titled '#OMG Social media is here to stay,' over 50 percent of consumers interviewed in the US and UK acknowledged they have read news on social media they later found to be fake. In addition, almost one in four admitted spreading articles they later found were fake news.[5]

It has been established beyond doubt that news whose legitimacy cannot be validated has found a home in social media. Malicious content and rumour mongering is thriving here, leading to digital disinformation campaigns that are upending political systems. A new set of challenges to traditional media platforms have arrived in the form of applications like Facebook, Twitter, Google et al, which seem to be driven by the idea of grabbing the greatest number of eyeballs. The new media platforms are also characterised by goals like profitability and non-liability, based on their intermediary status. A logical fallout of such profit motives is social media being an open canvas for users to write, share and propagate content with little or no editorial control. Thus, content, not just incendiary and slanderous, but also grossly incorrect on multiple occasions, ends up doing the rounds.

How fake news undermines democracy?

There are instances of at least two election campaigns where

the troubling role social media in spreading misinformation has been studied, researched and debated endlessly. These are President Donald Trump's election in the US in 2016 and that of President Jair Bolsonaro in Brazil in 2018. Sustained disinformation was quite central to these polarised elections. And that is why the need to address the subversion of electoral politics through fake news is urgent. Adding to the concern is the way in which gullible citizens deluge social media networks by forwarding and accepting misinformation.

There has been a torrent of news reports stating how Russian hackers disseminated fake news in the run up to the 2016 US Presidential elections and how Russia hatched an elaborate conspiracy to meddle in it through detailed social media campaigns on Facebook, Instagram, YouTube and Twitter. While in Brazilian election, fake news campaigns have been orchestrated by businesses allegedly backing Bolsonaro.[6]

In the run-up to India's general elections in 2019, misinformation and propaganda affecting the voter's choice is an issue that invites serious thought. The 2014 Lok Sabha election was referred to as the first social media election of India.[7] Since then, the use of non-traditional media platforms has only grown (across all parties) in both central and state campaigns. There's no doubt that the 2019 general

elections will be contested as much on the ground as in the digital space.

Numerous studies have taken into account this shift in platforms of public debate and its impact on voting patterns. They have estimated that repeated exposure to fake news have led to individuals co-opting into these ideas and then finding little to distinguish between legitimate and fake news.[8]

Some of these studies have explained how social media websites serve as echo chambers, leading to an increased sense of political tribalism.

There are long-term impacts of propagating false narratives disguised as news. This process adversely affects the multiple pillars of democracy, in persuasive and damaging ways. The founding principle of an electoral democracy is the belief that people have a stake in governance. Perpetuation of fake news entails relentless amplification of hyper-partisan views, which play to the fears and prejudices of people, in order to influence their voting plans and behaviours. This in turn would be reflected in their electoral choices.

How fake news can lead to violence?

As fake news took centre stage in the Indian media narrative, violence has been a natural corollary. Social media fuelled fake news has led to a terrifying

number of mob lynchings and brutal murders across the country. Data journalism outlet, IndiaSpend has documented the number of mob attacks sparked by rumours or suspicion of child-lifting circulated on social media. One of its analysis states: "Between January 1, 2017, and July 5, 2018, 33 persons have been killed and at least 99 injured in 69 reported cases. In the first six days of July alone, there have been nine cases of mob violence over child lifting rumours and five deaths, which amounts to more than one attack recorded every day." [9]

Aided by a sharp drop in mobile data prices, and subsequently an increased usage of WhatsApp, WeChat and other message based social media services, a frenzy of violence has been unleashed in recent months. Amplifying the issue is another factor. These services form the primary basis for online communication in India, with a particular proclivity to form groups among family members, friends, colleagues and others.

How can law combat fake news?

There are no specific laws to address fake news. Free publication or broadcast of news in India flows from the fundamental right to freedom of speech and expression [Article 19(1)(a)] of the Constitution. However, like all fundamental rights this is not absolute in nature and there are legal

resources to combat the proliferation of fake news.

The Press Council of India, established under the Press Council Act, 1978, is vested with the authority to receive complaints of violation of journalistic ethics, professional misconduct by an editor or journalist. It can order an enquiry and issue guidelines on matters under its purview. However, the PCI has limited powers in enforcing its guidelines.[10] It cannot penalise news agencies, editors and journalists for violating its guidelines and its overview extends to the functioning of print media.

The Indian Penal Code, 1860 also has some sections to deal with fake news. IPC Sections 153-A, 295, 295-A, 504 & 505(1)(b) can be invoked to guard against fake news. Seen from the prism of these sections action can be initiated against someone creating or spreading fake news if it can be termed as hate speech.

One option is to pursue criminal defamation (Sec. 499 of IPC), but that may prove to be difficult given that the bulk of fake news in India is spread through end-to-end encrypted channels like WhatsApp, the encryption, prevents the authorities from finding out the source of where the message is initiated, making it very difficult to impose liability on any individual and organisation.

What can the state do to combat fake news?

Recent media reports have claimed that social media giants Facebook, Google and Twitter have joined hands with the Election Commission of India (ECI) in the run up to India's General Election in 2019. These companies have volunteered to monitor all political advertisements and publicity material posted on their timelines during the poll campaign and block posts that peddle fake news or are defamatory/objectionable. It has also been stated that all sponsored content in favour of a political party, political leader or candidate will flag the concerned sponsor and the amount paid by such sponsor for posting the content on Facebook, WhatsApp (owned by Facebook), Google or Twitter.[11]

However, there is nothing to suggest that this "paid for by" disclosure feature cannot be manipulated. Former Chief Election Commissioner (CEC), O.P Rawat, earlier spoke of constituting a commission to track fake news. However, this could be a contentious issue again because of a possible conflict with the Right to Free Speech. That is why, perhaps, passing of any such bill before the 2019 elections appears unlikely. The CEC also said that Section 126 of Representation of People Act, 1951, is also applicable to all social media platforms barring campaigning

48 hours ahead of polling (48hrs silence rule). However, it is unclear whether the ECI is going to devote any resource to ensure compliance.

The only way forward seems to be a collaboration between the EC, traditional media organisations and new media platforms.

Can a liability be imposed on Facebook, Google etc?

Germany, earlier this year, enacted a legislation called the Network Enforcement Act 2017 (NetzDG). This legislation is one of its bouquet of efforts to push back against social media companies. However, critics have pointed out that this kind of legislation turns social media platforms into overzealous editors, who infringe upon free speech values in order to evade hefty fines. Singapore has formed a parliamentary committee to address this issue and intends to bring a legislation. Simultaneously, French and Russian legislatures are also in the process of bringing out laws. The Malaysian government has also introduced a legislation called Anti Fake News Act (AFNA) in April 2018 but its follow-up has been problematic.

In India, the status of social media companies as intermediaries provides them with safeguards. 'Safe harbour protections' couched within Section 79 of the IT Act, 2000,

have allowed social media companies and messaging apps not to pre-screen content to check its legality. Further, in its judgment on the *Shreya Singhal* case,[12] in which Common Cause was a co-petitioner, the Supreme Court read down Section 79(3)(b), along with Rule 3 of the IT (Intermediaries guidelines) Rules, 2011**.** The court's holding meant that such intermediaries can only remove content when they receive a court order and/or a notification by the appropriate govt agency, which must strictly conform to the subject matters laid down in Article 19(2).

An unintended consequence of the above-mentioned case and its judgment has been a Catch 22 situation, wherein we want these platforms to regulate themselves without giving them the control.

However, according to recent media reports, the government has proposed amendments to rules under Section 79 of the Information Technology (IT) Act, 2000. These amendments would require the monitoring and tracking of content on social media platforms deemed as unlawful. In the draft of The Information Technology [Intermediaries Guidelines (Amendment) Rules] 2018, Rule 3(9) requires "intermediaries," or online platforms, to "deploy technology based automated tools or appropriate mechanisms, with appropriate controls, for proactively identifying or removing or disabling access to unlawful information or content."[13]

The draft rules are available in the public domain.[14] The public consultations on draft amendments have kick-started protests from opposition parties as well as social activists who are anxious that snooping on citizens will intensify if these new regulations are implemented.[15]

What can the traditional and new media do to combat fake news?

There's no denying that a growing crisis of trust has enveloped traditional media everywhere. With the onslaught of multiple media platforms, and subsequently, a tsunami of spurious information in a compromised media ecosystem, the role of traditional media is under the scanner.

However, it could fight this erosion of credibility in multiple ways. Creating campaigns against disinformation, educating focus groups such as school children on what fake news is and how to debunk it is a great way to engage with its readers.[16] A greater emphasis should also be placed on old school journalistic ethics and practices such as double-checking sources before broadcasting or publishing news items in order to enhance the quality and integrity of journalism.

Collaboration between all relevant stakeholders such as the government, its apex institutions like the ECI, traditional and non-traditional media platforms as well as the citizens becomes

crucial in leading the fight against misinformation.

Media literacy is the key to accessing credible news. Hence, information campaigns can be initiated by all the stakeholders in order to educate people on what constitutes fake news and ways to debunk it. The BBC has taken the lead in this segment by starting outreach projects in Indian schools, where young people have been roped in to start conversations on fake news.

Non-traditional media platforms, need to do more than devote resources for bot detecting Artificial Intelligence mechanisms in sorting truth from lies. Other technology-first companies also need to devise means to help users sort fact from fiction. Reliable and fake news can be identified so that users are alerted when their news sources are doubtful. In addition, there needs to be dedicated departments in news outfits to address the fake news problem.

The ambiguity of laws in India makes fake speech a tricky area to be navigated by legislation alone. A need of the hour for non-traditional media platforms is to devote proportionate resources to create fact checking mechanisms. In India alone, Facebook has partnered with Mumbai-based fact-checking website BOOM and news agency Agence France-Presse (AFP).

Facebook relies on its Community Standards (moderation guidelines to allow or disallow posts on the social

network) to carry out its editorial responsibilities. However, these guidelines have been criticised for being broadly agreed upon ideas (prohibition of child pornography for instance) rather than ideas specific to a particular region. Further complications may arise in case governments pressurise these platforms to modify their community principles on a regional basis. For instance, if a cow slaughter video is posted on Facebook in Pakistan and the content is accessible in India, it could fuel violence. Does Facebook or any allied social media network then have the responsibility to remove content across the platform around the world?

Endnotes

1. AFP (2018, July 14) Death by 'fake news': social media-fueled lynching's shock India. News24. Retrieved December 11, 2018, from https://www.news24.com/World/News/death-by-fake-news-social-media-fuelled-lynchings-shock-india-20180714

2. IANS (2018, September 24) BBC to offer 'reality check' service for 2019 elections in India to counter fake news. The NEWS Minute. Retrieved December 11, 2018, from https://www.thenewsminute.com/article/bbc-offer-reality-check-service-2019-elections-india-counter-fake-news-88887

3. Wendling, M. (2018, January 22) BBC Trending The (almost) complete history of 'fake news.' BBC NEWS. Retrieved December 12, 2018, from https://www.bbc.com/news/blogs-trending-42724320

4. IMT, judgment of 1 October 1946, in The Trial of German Major War Criminals. Proceedings of the International Military Tribunal sitting at Nuremberg, Germany, Part 22 (22nd August ,1946 to 1st October, 1946) – For cases against Julius Streicher & Hans Fritzsche. Ferdinand Nahimana, Jean-Bosco Barayagwiza & Hassan Ngeze v. The Prosecutor Case No. ICTR-99-52-A (2007)

5. Ericsson (2018, November) "#OMG Social media is here to stay: Exploring the highs and lows of social media usage." 1-8. https://www.ericsson.com/assets/local/trends-and-insights/consumer-insights/reports/social-media-and-privacy-consumerlab-report_aw_screen.pdf

6. Phillips, Tom (2018, October 18) Bolsonaro business backers accused of illegal WhatsApp fake news campaign, The Guardian. Retrieved December 5, 2018, from https://www.theguardian.com/world/2018/oct/18/brazil-jair-bolsonaro-whatsapp-fake-news-campaign

7. IAMAI, IRIS & IRIS Knowledge Foundation (2013, March) Social Media and Lok Sabha Elections. IAMAI. Retrieved on December 3, 2018, from https://cms.iamai.in/Content/ResearchPapers/670023f4-e2e3-4ec5-9d97-18a4ec5aeeb5.pdf

8. Hunt Allcott and Matthew Gentzkow, "Social Media and Fake News in the 2016 election," Journal of Economic Perspectives 31, No.2 (Spring 2017): 211–236. DOI: 10.1257/jep.31.2.211

9. Saldanha, Alison, Rajput, Pranav & Hazare, Jay (2018, July 9) Child-Lifting Rumours: 33 Killed In 69 Mob Attacks Since Jan 2017. Before That Only 1 Attack In 2012. IndiaSpend. Retrieved December 14, 2018, from https://www.indiaspend.com/child-lifting-rumours-33-killed-in-69-mob-attacks-since-jan-2017-before-that-only-1-attack-in-2012-2012/

10. As has been noted in the case of *Ajay Goswami v. Union of India* WP(C) 384 of 2005

11. Jain, B. (2018, September 6) Google, Facebook, Twitter to self-censor political content. The Times of India. Retrieved December 17, 2018, from https://timesofindia.indiatimes.com/india/google-facebook-twitter-to- block-fake-news/articleshow/65693822.cms

12. *Shreya Singhal v. Union of India* WP(Crl.) 167 of 2012

13. Social Media Platforms with more than 50 lakh users would fall under these amendments as per the news reports. See Chisti, Seema (2018, December 24) Govt moves to access and trace all 'unlawful' content online. Retrieved December 24, 2018 from https://indianexpress.com/article/india/it-act-amendments-data-privacy-freedom-of-speech-fb-twitter-5506572/

14. Government of India, Ministry of Information Technology. The Information Technology [Intermediaries Guidelines (Amendment) Rules] 2018 available at http://meity.gov.in/writereaddata/files/Draft_Intermediary_Amendment_24122018.pdf

15. Agarwal, S and Mandavia, M. (2018, December 25) Government seeks comments on draft social media rules. The Economic Times. Retrieved December 27, 2018, from https://economictimes.indiatimes.com/tech/ites/govt-plans-amending-it-rules-to-curb-social-media-misuse/articleshow/67232660.cms

16. Children are generally the first co-opters of new technologies today and introduce the same to other household members. Thus, reaching out to them to begin with may serve as an effective strategy to address this issue.