

RGICS

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RGICS BRIEF

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Deadly Combination of Fake News and Social Media

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Part-I Background

Francois Gautier, a French political writer in 2009, claimed in his blog that an ancient trunk has been discovered containing documents with predictions by Nostradamus. In 2014 Gautier speaks of the same trunk being discovered- yet again. Each time he claimed that Nostradamus had predicted the rise of Narendra Modi. The blog was reprinted in the Times of India on March 28th 2017 and eventually had to be removed once it was proved that it was yet another incident of fake news. The spread of fake news is such that even seasoned politicians are falling prey to it and quoting it on television channels. It is assumed that fake news is an outcome of the increasing presence of social media. The question that arises then is fake news a recent phenomenon. No, but the social media, online news portals and mobiles have contributed to its rise and reach.

One of the first major instances of fake news was in 1835, when *New York Sun* published a story on creatures that were residing on the moon. The *Sun* claimed that the famous astronomer- John Herschel had built a powerful telescope through which he observed giant men walking on the moon, a temple that was made of polished sapphire and so on. Needless to say, the sales of *New York Sun* shot up. But the truth was that it was a fake news concocted by the editor of the *Sun* – Richard Adams Locke. Yes, the astronomer John Herschel was working in South Africa on astronomical observations but the results were months away. Locke thought instead of waiting for the results he could circulate fake news to create a sensation-which he did. Even before this, in the 16th and 17th century, when means of communication were fewer and not so effective fake news would make rounds through pamphlets. Some would speak of strange creatures that have been discovered or of superhuman beings. The printers saw nothing wrong in this. During the Second World War, President Roosevelt himself resorted to use of fake news (may be unknowingly) to whip up American frenzy against Hitler. He claimed to have got his hands on a secret document of the Nazis which clearly indicated their designs on America. The truth was this document had been created by the British Intelligence agencies to ensure that America also joined in the war.

In today's times, one of the main carriers of fake news is the social media, though other form of media- print and visual also are responsible for endorsing and spreading fake news. "The purpose of fake news "is not to pose an alternative truth . . . but to destroy truth altogether, to set us adrift in a world of belief without facts, a world where there is no defense against lies." Actually, the purpose of fake news isn't to destroy truth; it is to manipulate, to weaponize information, made out of whole cloth at times, to achieve political or societal goals" (Gioe, 2017) . We have seen the impact of fake news in misleading people, spreading false propaganda or maligning people and communities. Fake news also has a commercial aspect as we saw in the example of the *Sun*. Therefore, commissioning and spreading fake news is just a means to an objective. In India, fake news based on fabricated and non-existing facts especially on social media has been instrumental in instigating communal violence. Moreover, the rise in the volume of fake news aimed at hate mongering in the last few years has increased probability of creating communal hatred and instigating violence. This brief is an attempt to describe misuse of social media to create communal disharmony and policy framework available for addressing these challenges.

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Right Wing and the politics of Fake News:

Trend Micro (2017) in one of its recent research paper argues that the commissioning and distribution of fake news meets some purpose, which may be of any kind. The purpose as we have discussed is largely political in nature and therefore is systematically propagated using highly advanced technologies. According to the Trend Micro, a successful propagation through fake news rely on three unavoidable factors namely Social Networking, Tools and Services (Internet and devices) and Motivation. Both mainstream political parties and religious fundamentalists across the world have been found using it for their political goals.

Media Matter for America, a top watchdog fighting against fake news in United State of America, notes that the right wing political party in USA is aggressively attempting to poison the information ecosystem with lies. The right wing conservative party led by Mr. Donald Trump in 2016 presidential election effectively used social media and their own media house to generate and disseminate fake news. The conservatives in the USA have now systematically organized this entire mechanism. According to the Media Matter (2017) “The conservative Media Research Center, with an annual operating budget of \$18 million, works closely with establishment right-wing media to reinforce the myth of a liberally biased media, push journalism to the right, and propel misinformation into the mainstream.” Mr. Trump has also been accused for using his twitter handle to manipulate news with lies produced by pro-right wing media houses and fake news generators.

Apart from the mainstream right wing political parties, fundamental groups have also been using this technique to shape opinion based on misinformation. For example, Berger and Morgan (2015) exposed how Islamist fundamentalist groups like the ISIS and Al Qaeda in the Arabian Peninsula use social media as a lure to induct youth in their organization. They found that the social media campaign of these organizations use “deceptive tactics and shows a sophisticated understanding of how such networks operate¹.” Number of young men from India too have fallen into the trap set by ISIS and have been convinced to become martyrs. They also found that these Jihadi organizations using ‘bots’ and computer controlled twitter accounts that automatically send out content in a similar manner. Similarly, in north-east Germany neo—Nazi groups have started perpetuating lies in public forums using social media². Bhatia (2017) argues that neo-Nazis have lived in relative obscurity for half a century due to absence of the internet, but in last one decade, they have again become politically active.

In India, a similar trend has been observed; most of the fake news are politically motivated and contain highly communal contents. The Criminal Investigation Department (CID) of West Bengal government recently arrested a BJP leader for circulating instigating fake pictures on social media maligning a particular religious community. The investigation of fake news websites in India by www.altnews.in (mentioned in previous section) revealed that promoters of these websites have close proximity with Hindu right wing groups such as RSS, VHP, Bajarang Dal and Bhartiya Janata Party. Bhatia (2017) notes, “A right-wing *Whats App* group sends out thousands of nationalist videos around the country every day, spreading a host of lies: that Muslims will overrun the country, and northeasterners are Chinese agents.” As is everywhere in the world, fake news has

¹ Brookings: <https://www.brookings.edu/testimonies/the-evolution-of-terrorist-propaganda-the-paris-attack-and-social-media/>

² The Hindu: <http://www.thehindu.com/todays-paper/tp-opinion/the-line-between-fiction-and-fact/article18196866.ece>

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become powerful tool of Indian right wing politics to propagate, and instigate people. India, especially in last one decade has witnessed several incidents, where fake news and rumors circulated on social media have culminated into riots, lynching and weakening social bonds amongst people from different communities, religion and culture. Some examples of recent incidents are as follows:

Muzaffarnagar Riot 2013: In September 2013, Muzaffarnagar in Uttar Pradesh a minor scuffle followed by murder of two boys strategically used to instigate communal riot. Taking advantage of the situation, a factually incorrect story of the incident was narrated and a rumour was spread that those two boys were lynched by a mob of a particular community. Some people including the local BJP MLA circulated a video on social media purporting it to be video of the incident. According to the police, the video circulated on social media was shot in Pakistan two years ago where two boys were brutally killed by a mob. However, fear-mongering forces in Muzaffarnagar passed it as the video of mob lynching of two boys by a particular community. According to an affidavit filed in the Supreme Court by the Uttar Pradesh Government, the communal riot that was instigated using a fake video killed 43 people, several houses were burnt and more than 40,000 people forced to stay in relief camps³.

Basirhat Communal Riot 2017: More recently, an objectionable post of the Prophet and Mecca posted by a teenage on facebook page provided a chance to Muslim fundamentalists to riot in a small town called Basirhat of North Pargana 24 district of the West Bengal. When Muslim fundamentalist were vandalizing private and public properties in Basirhat, some Hindu fundamentalist started passing on a morphed picture of Gujarat riot, 2002 and stills from Bhojpuri films. These pictures were captioned saying that Muslims are killing Hindus and raping Hindu women and also an appeal from Hindus to retaliate. The riot went on for nearly a week and claimed one life. These further fueled communal violence in the state that prolonged the riot. Amongst hundreds of people who posted and re-posted fake news and pictures to fuel Basirhat riot, BJP leaders were the most prominent. The West Bengal government arrested a local BJP leader for posting fake news and filled a FIR against a Delhi based BJP leader for disturbing communal harmony in the state.

Chhapra (Bihar) Riot, 2016: A derogatory image of an idol of a Hindu god circulated on a *Whats App* group in August 2016 instigated communal violence in Saran District of Bihar. According to a fact finding team constituted by civil society groups found that the derogatory picture commissioned by Muslim fundamentalists was further mass circulated by the Hindu fundamentalists to provoke Hindus for violence⁴.

Akhlaq Lynching, 2015: A rumour spread by self styled cow protectors in October 2015 provoked an entire village to attack a Muslim family in Dadari (Noida). The mob lynched 45 year old head of the house Md. Akhlaq allegedly for consuming beef. According to the report published on BBC a huge mob made their way into the room where Mr. Akhlaq was asleep. They bashed his head with a sewing machine lying nearby⁵.

³ Centre for Study of Society and Secularism, Mumbai, 2013: <http://www.csss-isa.com/wp-content/uploads/2015/06/September-16-30-2013.pdf>

⁴ Sabrang Trust: <https://sabrangindia.in/indepth/communal-violence-chhapra-maker-fact-finding-report?page=1>

⁵ BBC News: <http://www.bbc.com/news/world-asia-india-34409354>

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So, we see that fundamentalists across religious identity have been misusing social media to spread lies and mis-information. Moreover, in many cases spread of lies and misinformation led to social conflict and riots. Reflecting on the issue of interconnection between fake news and misuse of social media, the Union Home Minister Mr. Rajnath Singh had also expressed his concern. Addressing the 83rd General Assembly of Interpol in Monaco in 2014 he said, “Social media is increasingly being used to instigate communal riots and women and children are equally vulnerable in cyberspace as in the real world⁶.” However, various experts working on the issue of fake news and misuse of social media have observed that the volume and spread of communally charged fake news has escalated in last three years. In fact, many such propagators of fake news have been claiming their close proximity with people in the government.

Part-II

Fake News in India and Its Implication

Social Media and its Outreach:

The Indian telecom market is huge and has expanded tremendously in recent time. According to Telecom Regulatory Authority of India (TRAI) there are more than one billion cell phone users in India. According to a report of market research firm IMRB International, smart phone users in India grew over 300 million by December 2016 and has become second largest smart phone market in the world. Another study by the Internet and Mobile Association of India and IMRB International, 77% of urban internet users and 92% of rural users “consider mobile as the primary device for accessing the Internet, largely driven by availability and affordability of smart phones⁷.” The report further claims that the internet penetration in India is 31%. “Urban India with an estimated population of 444 million already has 269 million (60%) using the Internet. Rural India, with an estimated population of 906 million as per 2011 census, has only 163 million (17%) Internet users” (Chopra, 2017)

Despite such an expansion of internet services, most users access internet through their phones because computers, ipads, tablets are unaffordable for most of the people in India; added to this is the issue of slow internet connection. This has helped mobile friendly social networking sites to penetrate widely especially in semi urban and rural areas. According to a study of online news consumers in 2015, social media has been one of the main sources of their online news. According to the study, 41% of respondents identified social media as the source of their online news and 56% shared news stories with others on social media (Tewari, 2015). Currently there are nearly 160 million *Whats App* users, 150 million facebook followers and 22 million twitter

⁶ DNA India: <http://www.dnaindia.com/india/report-social-media-being-used-to-instigate-communal-riots-rajnath-singh-2032368>

⁷ Live Mint: <http://www.livemint.com/Industry/QWzIOYEsfQJknXhC3HiuVI/Number-of-Internet-users-in-India-could-cross-450-million-by.html>

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accounts actively in operation in India⁸. All of these networking sites have been main carrier of fake news and have proved to be highly influential to mobilize huge crowd in no time on number of emotional issues.

All those who have access to internet either through phone or other devices are potential receivers and sharers of fake news. There has been a tremendous increase in the circulation of fake news in India. Founder of the www.altnews.in (a leading fake news debunking web portal in India), Mr. Prateek Sinha attributes this increase to the proliferation of smart phone and cheap data packages⁹. India's telecom regulatory commission says there are more than one billion active mobile phone connections in India. A mobile phone connection becomes the first point of exposure to millions of Indian telecom users. While availability of connectivity has several positive aspects to it, the downside has been that it is being used by people to effectively and convincingly spread fake stories to millions. Mobile friendly social media applications such as 'Whats App', Facebook, Twitter and text messaging makes spread of information cheap and easier at scale. Easily accessible and affordable technological advancement on the one hand and completely lack of check and balances to ensure non-transmission of ill-intentioned fake information on the other hand in India has increased the danger of fake news. Commenting on this issue Mr. Prateek Sinha said, "Suddenly people from rural areas in particular are inundated with information and are unable to distinguish what is real from what is not. They tend to believe whatever is sent to them."

The messaging on *Whats App* is based on one to one encryption. Users receive messages on *Whats App* mostly from people whom they know such as friends or family member. According to some experts working on the issue of fake news and its spread, 'what makes it worse is that it is difficult to trace for origin of fake news. According to Durga Raghunath, an Indian digital expert, people don't question source on social networks or messaging apps. According to her, "The mental approach is different. Many of the issues people see on these platforms have an emotional connect, and because the information comes to us via family and friends, the inclination to double check is very low¹⁰."

Misuse of Social Media for Political Gain:

While there are number of fringe groups with political patronage spreading lies on social media platforms to misinform people, in last few years we have seen mainstream political parties and their leaders also spreading fake news for their immediate political gains. The reasons for actively engaging with fake news is for strategic reasons- mainly to exaggerate their achievements or to defame opponents, create rift between religious communities to gain some support and also hide the wrong doing of their own leaders. While most political parties in India manipulate information for their political propaganda, the BJP in which used the social media effectively to win the 2014 elections, now resorts to circulating fake news not only about its schemes and achievements but also about communal incidents and riots.

⁸The Hindu: <http://www.thehindu.com/todays-paper/tp-opinion/the-line-between-fiction-and-fact/article18196866.ece>

⁹ BBC News: <http://www.bbc.com/news/world-asia-india-40657074>

¹⁰ BBC News: <http://www.bbc.com/news/world-asia-india-40657074>

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There are several cases where the BJP and its leader used their social media platforms to use fake information for instigating violence and communal hatred. Moreover, party leaders have also been using the social media platform to glorify themselves and target opponents. It reached its lowest ebb when the party attempted to protect their leader in a recent case of stalking in Chandigarh. The son of Haryana BJP state president allegedly stalked and attempted to abduct a young woman, Ms. Varnika Kundu in August 2017 in Chandigarh. To protect this shameful act of the stalker who is son of influential BJP leader, BJP spokesperson Ms. Shaina NC from Mumbai posted a fake picture of the young victim with the intent to malign her character and protect BJP leaders. List of such leaders in BJP is very long, according to an article¹¹ published in www.boomlive.in, senior BJP leaders such as Paresch Rawal (MP from Gujarat), Piyush Goyal (Union Minister), Babul Supriyo (Union Minister), Sambit Patra (BJP Spokesperson) and Amit Malviya (BJP IT Head) have repeatedly been spreading lies on social and mainstream media.

It is a cause of worry that this has found its way into the government machinery. BJP run Union and State governments have been frequently misusing government system to mislead people of the country. In June 2017, the annual report of the Ministry of Home Affairs used a picture of Spain-Morocco boarder to show Indo-Pak and Indo-Bangladesh border floodlighting by the Modi government¹². Two months later, the Union Minister of Power Mr. Piyush Goyal posted a decade old fake picture on twitter to claim LED lightening of 50,000 KM Indian roads by the Modi government. Vigilant twitter users exposed the Minister and he was forced to admit that the picture he has used was fake. Other ministers such as Mr. Babul Supriyo and Dr. Nirmala Sitaraman have also been claiming achievements of their government using fake pictures. The misuse of government institutions does not end here. It has now started supporting trolls to target opposition political parties and their leaders. There are several reports in media, which accuses Prime Minister Mr. Modi for following large number of trolls and abusers on twitter¹³. The All India Trinamool Congress leader Derek O'Brien in February 2017 raised this issue in the Rajyasabha and asked the government to take action against such people. However, the Minister of state Mr. Hansraj Ahir in his response said that it is the freedom of expression of trolls and government cannot take any action against them¹⁴. Exposing another instance of abuse of government power, the www.altnews.in found that a twitter handle of Ministry of External Affairs endorsing trolling of the Aam Adami Party. It has found that twitter handle of India's Mission at United Nations, which is created for updating Ministry's engagements/meeting with other countries is routinely involved in promoting anti-AAP post by trolls on twitter¹⁵. In the past twitter handles of various government institutions such India Postal Department, IGI Airport, Digital India, All India Radio and Start up India had occasionally posed anti-AAP and anti-INC posts¹⁶.

¹¹ Boom Live: https://www.boomlive.in/bjp-repeat-offender-in-spreading-fake-images-top-10-faux-pas/#disqus_thread

¹² Alt News: <https://www.altnews.in/home-ministry-annual-report-uses-picture-spain-morocco-border-show-indian-border-floodlighting/>

¹³ The Wire: <https://thewire.in/107145/narendra-modi-twitter-trolls/>

¹⁴ The Indian Express: <http://indianexpress.com/article/india/pm-modi-following-twitter-trolls-who-speak-venom-will-advisory-be-issued-tmc-mp-derek-obrien-in-rajya-sabha-4514143/>

¹⁵ Alt news: https://www.altnews.in/partisanship-official-goi-twitter-accounts-continues-india-un-account-endorsing-anti-aap-tweets/?utm_content=buffer37db2&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer

¹⁶ Alt News: https://www.altnews.in/partisanship-official-goi-twitter-accounts-continues-india-un-account-endorsing-anti-aap-tweets/?utm_content=buffer37db2&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer

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Portals creating fake news:

The www.altnews.in started by Mr. Prateek Sinha, one of the leading portals in India that exposes fake news, has observed that often religious fundamentalists propagate fake news. He said, “Majority of videos seems to be propagated by people with hardline sensibilities and many have an ‘anti-Muslim’ slant¹⁷.” Apart from debunking fake news, this website has also been trying to trace the sources of fake news in circulation. The number of fake news has increased tremendously in last few years. In fact, this entire system has been developed as an organized and professional business enterprise. There has been a sudden spurt in web portals to generate fake news to spread misinformation and instigate communal hatred and violence. For example, the online news portal postcard has written an article saying that Vice President of India spent 300 crores on his foreign travel, 7 times more than the Prime Minister does. It is interesting to note that the news comes out right after the Vice President attacks the present Government on the issue of minority rights. Most people will view it as news without verifying whether it is true or not. Furthermore, the domain name of the portal appearing as the source of the fake news gives it an impression of being authentic and then it is circulated widely through social media. Wide circulation of fake news generated by these websites on social media drives huge traffic to the web portal. Further, this helps them to attract commercial advertisement. The www.atlnews.in revealed the business model of hatred and violence as follows:

Case 1: (www.newspur.in)

The www.newspur.in is one of the several web portals to have mushroomed in the last few years to create fake news to instigate communal hatred and violence. An investigation into the portal by www.altnews.in revealed the owner earned money by churning out fake news. Using the operating system called ‘whois’ the Alt News traced the owner of the fake news portal. The investigation found that this portal is owned by a person called Subhash Chaudhary. He also owns two other fake news portals namely www.sanatansankriti.org and www.dainikhindu.org. He used his facebook profile <https://www.facebook.com/aslisubhash> to spread fake news created on his web portals. His facebook has 1.99 lakh followers. The Alt News investigation found that the visitor’s traffic to these web portals guided by the facebook page attracts commercial advertisement. A company called ‘Adnow’ pays him Rs. 16,000 every month for displaying ads on his portal.

Case 2: (www.hindutva.info)

Mr. Prateek Sinha considers www.hindutva.info as most dangerous fake news portal as it generates information in Hindi, thus widening the net of people. It is this portal, which had passed on a Bangladeshi video as that of a Hindu being killed by Muslims in West Bengal. There are several such communal and political fake news it is responsible for. A detail digital investigation of www.hindutva.info revealed that it is owned by a person certain Rajesh Jindal based in Haryana. He also owns another fake news portal called www.hitpehit.com. Fake news generated on these two sites are then disseminated using Facebook pages. The investigation found that Mr. Jindal has created an empire of Facebook pages; there are about 15 Facebook pages owned by Mr. Jindal under

¹⁷ BBC News: <http://www.bbc.com/news/world-asia-india-40657074>

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different profile names. According to him, the central business idea of Mr Jindal is to pick certain famous individuals and make Facebook pages in their name. All the Facebook pages owned by Mr. Jindal put together have a direct reach of about 4.5 to 5 million. Each Facebook page shares links from only two websites that is www.hindutva.info and www.hitpehit.com. In order to direct heavy traffic to his websites he has created this huge social media infrastructure. This traffic helps him to monetize his website through companies such as Revcontent, MGID and Google AdSense. A Facebook event by Blog's creed states that Rajesh Jindal makes more than 1 lakh per month¹⁸.

Case 3: (www.postcard.news)

The www.postcard.news is yet another leading fake news website in India. According to an investigation of www.altnews.in it is one among top 500 Indian website in terms of traffic ranking. This website has been producing pro-BJP and highly communal fake news, but most importantly many leading BJP leaders and Union ministers constantly using their social media handles to disseminate its propaganda. An investigation by www.altnews.in reveals that the proximity of BJP leaders and promoters of serial fake news offender www.postcard.news makes a deadly combination of commissioning fake news with ulterior motive and wide dissemination through popular leaders. Three people promote this website namely Mahesh Hegde, Ankita Lal and Vivek Shetty. According to an article of www.altnews.in published in May 2017, While, the Mahesh Hegde is followed by the Prime Minister Mr. Modi on twitter, other promoters Ankita Lal and Vivek Shetty are followed by number of union ministers. It has found in the past that the Union Minister such as Nirmala Sitaramn, BJP spokesperson Mr. Sambit Patra and IT in charge of BJP in Asansol (West Bengal) have been using postcard news to spread propaganda.

Over the years, an entire industry of fake news has grown in India. Especially in the last three years several websites have mushroomed to commission hate and violence. Websites mentioned above are just the tip of the iceberg. These websites have used social media very effectively to disseminate false propaganda as most of these fake stories have easy emotional connect apart from being short and mobile friendly. The language used in these stories is highly communal and instigating. The question then arises whether one can distinguish between false and true news. Yes, there are ways. But, first Facebook and Twitter and other such platforms should have a strict policy on posts which are likely to trigger violence or are illegal. Secondly, they also need to filter out information which is incorrect. Some experts have also suggested algorithms to prevent false information or even trolls but it still won't stop fake data. As David Goie rightly points out, "Despite significant strides in artificial intelligence, artificial intelligence remains ineffective against intellectually dishonest analysis, non sequitur conclusions and ideological spin. It is therefore dubious to hope social-media sites will become guardian curators of fact-based knowledge and objective journalism". About a week ago an article was published by Jaideep Mazumdar in the Swarajya Magazine, saying that a certain road in Kolkata had been named after a killer. He claimed that Suhrawardy Avenue in Kolkata was named after Huseyn Shaheed Suhrawardy while in reality it has been named after Sir Hassan Suhrawardy- the latter being the Vice Chancellor of Calcutta University. But this mistake was pointed out by Alt news and Swarajya had to put in a public apology which did not go down well at all with the author. Of course, this doesn't mean that the at the

¹⁸ Facebook.Com: <https://www.facebook.com/events/1273240252699016/>

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individual level we do not have a responsibility in stopping the spread of fake news or verifying it. Each news item should be scrutinized by a logical and questioning mind, however most of the times – political affiliation, sentiment and illiteracy come in the way.

Part- III Policy Responses

In his statement in Monaco, the Union Home Minister, Mr. Rajnath Singh, urged from all members of Interpol to take a pledge against misuse of social media platform. However, it seems that the government of India itself has forgotten its appeal to the world. The Union government has been shying away from questions in the Parliament raised by MPs on the issue of tangible action taken by the government to put an end on rumour mongering on social media. Responding to a question in Rajya Sabha on the issue of instigating communal violence through misuse of social media on 24th March 2017, the Minister of Information and Technology failed to prove that the government has proactively identified such websites and social media platforms (Rajya Sabha, 2017). However, the government has admitted misuse of social media platforms to hurt religious sentiments and create communal hatred. (Loksabha, 2017; Rajya Sabha, 2017).

While some people in their individual capacities have been exposing of the racket of fake news freely operating in various parts of India, the government has not shown any inclination to book them under appropriate law of the land. Responding to a similar question in the Lok Sabha on 2nd August, 2017 the government claimed that it monitors web and social media and will take appropriate action on objectionable content¹⁹. It is surprising that our government has not taken cognizance of the rapid mushrooming of fake news industry that has been instigating communal violence across the country. To handle malicious activities on cyber space we have the Information Technology Act, 2000 and various sections of Indian Penal Code. The scope of these two provisions along with its executive provisions is highlighted below.

The Information Technology Act, 2000

Along with several other provisions, the Information Technology Act, 2000 (IT Act) also restricts social media platforms such as Twitter, Facebook and *Whats App* and its users from publishing and transmitting any objectionable content that harms public order and put the national security in danger. The Section 66F of the law punishes act of cyber terrorism which include any act intend to terrorizing people, threatening India's unity, integrity, security and sovereignty. The Section 79 of the Indian cyber law requires that the intermediaries shall observe due diligence while discharging their duties and shall inform the users of computer resources not to host, display, upload, modify, publish, transmit, update or share any information that is harmful, objectionable, affect minors and unlawful in any way. Social media platforms are defined as 'Intermediary' under the Act.

¹⁹ Lok Sabha: <http://164.100.47.190/loksabhaquestions/annex/12/AU2807.pdf>

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According to the Act, an “Intermediary, with respect to any particular electronic message, means any person who on behalf of another person receives, stores or transmits that message or provides any service with respect to that message²⁰.” Mr. Pavan Duggal, an advocate practicing law in Supreme Court, clarifies that a social media user providing content on social media is also recognized as ‘intermediary’ under the law²¹.

Table-I
Patterns of Cases Reported and Persons Arrested under IT Act during 2013 – 2015 and Percentage Variation during 2015 over 2014

SL	Crime heads under IT Act	Cases Registered			% Var.	Persons Arrested			% Var.
		2013	2014	2015		2013	2014	2015	
1	Tampering Computer Source Documents (Sec. 65 of IT Act)	137	89	88	-1.1	59	64	62	-3.1
2	Computer Related Offences (Sec. 66 to 66E of IT Act)	2,516	5,548	6,567	18.4	1,011	3,131	4,217	34.7
3	Cyber Terrorism (Sec. 66F of IT Act)	-	5	13	160.0	-	0	3	-
4	Publication/Transmission of Obscene/Sexually Explicit Content (Sec. 67 to 67C of IT Act)	1203	758	816	7.7	737	491	555	13
5	Intentionally not Complying with the Order of Controller (Sec. 68 of IT Act)	13	3	2	-33.3	3	4	3	-25
6	Failure to Provide or Monitor or Intercept or Decrypt Information (Sec. 69 of IT Act)	6	2	0	-100	7	0	0	-
7	Failure to Block Access any Information Hosted etc. (Sec. 69A of IT Act)	-	1	0	-100	-	0	0	-
8	Not Providing Technical Assistance to Govt. to Enable Online Access (Sec. 69B of IT Act)	-	0	3	-	-	0	0	-
9	Un-authorized Access/Attempt to Access to Protected Computer System (Sec. 70 of IT Act)	27	0	8	-	17	0	4	-
10	Misrepresentation/Suppression of Fact for Obtaining License etc. (Sec. 71 of IT Act)	12	5	4	-20	14	13	2	-84.6
11	Breach of Confidentiality/Privacy (Sec. 72 of IT Act)	93	16	20	25	30	13	6	-53.8
12	Disclosure of Information in Breach of Lawful Contract (Sec. 72A of IT Act)	-	2	4	100	-	5	2	-60
13	Publishing/Making Available False Elect. Signature Certificate (Sec. 73 of IT Act)	4	0	3	-	8	0	0	-
14	Create/Publish/Make Available Electronic Signature Certificate for Unlawful Purpose (Sec. 74 of IT Act)	71	3	3	0	51	5	3	-40
15	Others	274	769	514	-33.2	161	520	245	-52.9
Total Offences under IT Act		4,356	7,201	8,045	11.7	2,098	4,246	5,102	20.2

Note: '-' implies zero value in previous year. % Var. - refers the Percentage Variation during 2015 over 2014
 @ implies data collected in 2014 for the first time

Source: NCRB, 2015

The Information Technology (Intermediaries guidelines) Rules, 2011 issued under Section 78 and 79 of the IT Act, 2000 provides a detailed outline for intermediaries in order to prevent illegal use of internet platforms. It also speaks of cooperation with law enforcing mechanism in case of violation of the law by any person. The government amended the principal IT Act in 2008 and expanded the scope of the law to deal with newly emerging cyber crimes. This amendment had also inserted Section 66A to criminalize sending offensive messages through communications services. However, in March 2015, the Supreme Court in its judgment found it violative of Article 19 (1) (a) of the Constitution and struck down the proviso.²²

²⁰ The Information Technology Act, 2000, retrieved from: http://www.dot.gov.in/sites/default/files/itbill2000_0.pdf

²¹ The Business Standard: http://www.business-standard.com/article/opinion/social-media-misuse-and-indian-cyber-law-115100700139_1.html

²² The Supreme Court of India, W.P. No. 167 of 2012, Shreya Singhal vs Union of India, retrieved from: <http://www.itlaw.in/wp-content/uploads/2015/03/sec66A-judgment.pdf>

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The Indian cyber law enacted in 2000 and amended from time to time has not been effective enough in minimizing the spread of fake news. The statistics shown in above table (Table- I) reveals that from 2013 to 2015 while there is an increase in number of cases registered under various offences in the law, progress on registering cases against hate mongering people remain negligible. During these three years, only eight cases were registered and seven people were arrested for committing crime of cyber terrorism.

The Indian Penal Code:

The Indian Penal Code (IPC) under various sections also criminalizes number of cyber activities that harms individual and society. A total of 3422 cases were registered under various sections of IPC related to cyber crimes in 2015 as compared to 2272 cases in 2014 and 1337 cases in 2013 (NCRB, 2015). Most of these cases reported by the National Crime Record Bureau are related to data theft, cheating and criminal breach of trust. While there is an increase in reporting of cases of cyber crimes under IPC, the pendency of cases remained very high. According to the last available report of NCRB on crime in India, pendency rate of cyber crime under IPC is as high as 96.2%. Similarly, 88.9% cases registered under IT Act, 2000 are also pending.

Other Executive Mechanisms:

Both the Union and State Governments have been using other means to stop spread of fake news specially with the purpose of instigating people in riot-hit areas. One of the common tools in this regard is to impose internet shutdown in riot-affected areas to minimize deadly impact of misuse of social media. Recently in Jammu and Kashmir witnessed a shutdown of internet services during the scuffle between agitating locals and security forces. It was also used in West Bengal first in Darjeeling and later in Basirhat to restrict spread of hate mongering information. However, many people have complained about arbitrary shutdown of internet services, as it affects people who are not part of riot and violence. The former Chairman of National Commission for Minorities, Wajahat Habibullah in 2016 had expressed his concern about increasing misuse of social media in inciting communal violence. He advocated for a mechanism to monitor misuse of social media²³. India has witnessed gross misuse of social media in spreading fake news to instigate riots and communal hatred in last one decade. Despite this, there has not been any change in the way our security and intelligence control riots. According to Habibullah our riot control plan were developed by British rulers and need to be revamped keeping in mind the current context.

While the social media has been repeatedly acknowledged as one of the primary means to spread fake news and instigate communal violence, the existing cyber law remains ineffective in stopping the ever-growing market of such fake news. *Whats App* among various social media platform is widely misused by extremists especially because it is difficult to trace the origin of the message. Realizing this challenge the District Magistrate of Kupwara in Jammu and Kashmir in April 2016 issued a circular which mandated registration of all '*Whats App*' groups in the district. The circular intends to stop use of this application for provoking youth for creating law

²³ DNA India: <http://www.dnaindia.com/india/report-social-media-fanning-communal-intolerance-misuse-needs-checking-wajahat-habibullah-1950176>

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and order problem in the state. The circular also holds responsible the administrator of the group for any irresponsible remark or provocation²⁴. However, it seems not to be a sound legal and policy solution as the Delhi High Court latter in one of similar cases refused to hold administrator of the *Whats App* group accountable for defamatory comment by any group members²⁵. Additionally the registration of *Whats App* group may be challenged as an act of impinging in individual privacy. Restricting people from using social media or surveillance of such activities is not an option but there is need to work around misuse of social media by strengthening our existing laws and developing better cyber infrastructure to deal with such complaint at scale.

Part- IV Conclusion

The advancement of information technology in last few decades has brought in radical changes in our life. It has helped individuals to grow and progress on the one hand and facilitated system of governance that is more transparent, reliable, accessible, fair and efficient on the other. Amongst innumerable advantages of information technology, what has been truly path breaking is that it allows people to share their ideas with a wide global audience at an instant. This technological advancement has not only broken monopoly of traditional media houses to produce content but also broken all types of barrier in creating and disseminating one's own content/write-ups. However, as with any other technological advancement, it brings with it certain short comings. While we are able to get updates of events almost as it happens, it is also true that it has also lead to fake and false news spreading like wild fire creating a rift between various communities, caste, race and religion by spreading lies. Multi cultural countries like India have witnessed several incidents of communal violence instigated by lies propagated by religious fundamentalists for political gain. Political battles are now being fought over in the social media. Not only fringe elements, but mainstream political parties and government run by them are in forefront of using fake news for various purposes. The repeated attempts to win arguments by using fake information by the political parties, their leaders and government shows that there is a conscious effort to mislead people.

Indian government has pro-actively embraced the advantages of advancement in information technology to serve its people better. However, its efforts to minimize misuse of technology and cyber crime remain ineffective. The IT Act, 2000 even after several amendments in 2008 has been unable to tackle the menace of fake news through social media. This law does not criminalize creation and spread of fake news on cyber space. Social media sites such as Facebook, Twitter, *Whats App*, and Instagram have been widely misused to spread fake news, lies and propaganda in India. Despite this, all these platforms have no accountability under the IT Act, 2000 to filter un-lawful messages posted by their users. Using this gray area available in the cyber space, hate mongering people/groups with vested political interest have been instigating communal hatred and

²⁴ The Hindustan Times: <http://www.hindustantimes.com/tech/whatsapp-groups-in-j-k-asked-to-register-with-district-magistrate-s-office/story-CiyqZfKIGsa5oLpS3PKLkI.html>

²⁵ The Indian Express: <http://indianexpress.com/article/india/administrator-of-whatsapp-group-not-liable-for-content-delhi-hc-4435861/>

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violence. The Union government has itself acknowledged several times in the past that the hate mongering propaganda on social media is key in instigating communal hatred, violence apart from spreading false stories about political opponents. While this is not a completely new phenomena, but various observations of experts reveals that the presence of fake news has increased tremendously in last 3-4 years.

What is more worrying is that those involved in the industry of fake news enjoy political patronage. Moreover, there is a high demand of fake news from these political bosses to justify their opportunistic and dishonest politics. Fake news producing portals and individual have been supplying lies and misinformation not only to political propagandist but also Ministers and their subordinates to present a false picture of their achievement as leader and government. While social media platforms are today an integral part of our lives, but we also need to regulate these platforms to stop spread of fake news, lies and false propaganda.

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