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The poisoned public debate and the limits of state regulation: for a digital literacy against the fake news

El debate público envenenado y los límites de la regulación estatal: por una alfabetización digital ante el problema de las fake news

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Abstract
In addition to the deliberate efforts to distort or misinform, the unintentional errors detected by the public —and the suspicion that there may be others not identified— have reinforced a skeptical stance among the public about the alleged veracity of the news. In the era of the so-called post-truth, it is no exaggeration to say that the main concern of the social sciences after the public debate has been completely hampered by the spread of false news and the supposed beginning of the collapse of liberal democracies, has been a collective sensation of shock, indignation. and despair at the increased prevalence of false news. This paper focuses on the phenomenon of fake news, its effects in the context of political disputes and regulatory frameworks as an alleged solution. It is intended to demonstrate that digital literacy appears as the most adequate solution to mitigate this problem, without affecting freedom of expression in the public discursive sphere.

Keywords
Fake news, post-truth, digital literacy, liberal democracy, state regulation, freedom of speech.

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Resumen
Además de los esfuerzos deliberados por distorsionar o desinformar, los errores involuntarios detectados por el público —y la sospecha de que pueda haber otros no identificados— han reforzado una postura escéptica entre el público sobre la supuesta veracidad de la noticia. En la era de la llamada posverdad, no es exagerado decir que la principal preocupación de las ciencias sociales tras el debate público se ve totalmente obstaculizada por la difusión de noticias falsas y el supuesto inicio del colapso de las democracias liberales, ha sido una sensación colectiva de conmoción, indignación. y desesperación ante la creciente prevalencia de noticias falsas. Este artículo se centra en el fenómeno de las *fake news,* sus efectos en el contexto de las disputas políticas y los marcos regulatorios como supuesta solución. Se pretende demostrar que la alfabetización digital aparece como la solución más adecuada para mitigar este problema, sin afectar la libertad de expresión en el ámbito discursivo público.

Palabras clave
Fake news, posverdad, alfabetización digital, democracia liberal, regulación estatal, libertad de expresión.

Introduction and state of the art

"Each audience has its own universe of discourse and [...] humanly speaking, a fact is only a fact in some universe of discourse" (Park, 1940, p. 649). The spread of false news, especially in politics, is nothing new, but the Internet has popularized the use of the phenomenon called fake news. Even Pope Francis, an icon of the Christian religion, was affected by this phenomenon. The religious stated: "disinformation is probably the greatest sin that a media outlet can commit because it directs public opinion in one direction and omits part of the truth" (El País, 2016). It is believed that fake news arises from real information, but that it is misinterpreted, that is, it is distorted and disseminated as truth until it influences the audience that is reached. In summary:

> The game is as old as mankind. It is a matter of deception and lies. The novelty is, as in everything else these days, in what computers and the world wide web allow us to do with it. (Mesquita, 2018, p. 33)

Incredible as it may sound, Macedonia is considered the center of the fake news industry in the world. Journalists who conducted an investigation through fact-checking companies and experts even interviewed one of the so-called Vele's Boys, a group from the city of Veles, in the interior of Macedonia, that creates and spreads fake news, and concludes that the Motivation is given, without ideology or any concern for the veracity of the facts, in a totally economical way, generating $ 20,000 a week.

Most scientific forays into fake news have focused on production issues, such as the location and possible motivations of various providers of disinformation, the changing geopolitical landscape of the information war, the economic benefits for the media, communication and search mechanisms, and the need and convenience of implementing technical and/or financial restrictions that minimize the spread of false news, among others. The focus on production issues is important and these are all valid cases whose discussion is pertinent. However, this article, while taking into account some of the previous points, aims to address some dynamics of critical reception that could be underlying the greater presence of fake news in the contemporary context than in the past.

For this, an intersectional approach between Sociology and Law stands out as of special relevance, to understand not only how to approach the problem through a legislative tool, but also how to interpret its advent from the historical, sociological, and cultural contexts that served as a birthplace, that is, postmodernity and post-truth, choosing these as a theoretical outlook.

Finally, a brief analysis is made of the measures that have been used throughout the world to face the problem, with a brief critical reflection on their relative effectiveness, both from previously established theoretical structures and empirical data, that have been proposed by the Humanities and Social Sciences.

False news as seed and fruit of post-truth

For an adequate understanding of the problem of fake news, it is essential that the phenomenon be contextualized in the socio-cultural panorama in which it is inserted, for which useful sociological categories such as postmodernity and post-truth are used. The University of Oxford, when choosing, in 2016, the term "post-truth" as the word of the year, defined the expression as "a noun that relates or denotes circumstances in which objective facts have less influence on the formation of public opinion than appeals to emotion and personal beliefs" (Oxford, 2016). It is necessary to clarify —as McIntyre (2018) does— that the prefix "post" of the neologism in question does not refer to the idea of "after" the truth, in a temporal sense —as in "postwar", for example— But in the sense that the truth has been overcome, that it is irrelevant. It is, in reality, a cultural situation characterized by a public opinion affected by public *pathos*, in which "the claim of validity matters less than the expectation that the expectation of the desire for the information to be fulfilled" (Giacoia Junior, 2017), enabling the emergence of a public space "where the tendency is to practice and disseminate the use of arguments [...] more linked to the emotional dimension than to the rational and grounded dimension", therefore "evidence of refutation are generally ignored or devalued "(Cardoso et al., 2012, p. 15).

Now, understanding the concept of post-truth with precision is an almost insoluble dilemma, "if we consider all the peculiarities that the constitution of the discourse implies, or if we take into account the complexity of the concept of truth itself" (Borges Júnior, 2019, p. 527), which would be even one of the most fundamental issues on which Western philosophy would undertake long reflections. Perhaps the discussion between Socrates and the sophists and the criticism of the former on the conception of the truth of the latter is an important point as an example of this (Reale & Antiseri, 2014). Regarding the possibility of rival versions or perspectives of the truth already present in classical culture, Borges Júnior explains that:

> While the philosophy of Socrates is based on a single, immutable and absolute conception of truth, the sophist philosophy will defend the relativity of truth, its possibility of transformation according to the operation of λόγος (logos). According to Protagoras, something can thus be announced as truth or as a lie, as in favor or against a certain argument, and it will be this flexibility of the concept of truth and the possibility of manipulating it for A or for B, for yes or no, in the that persuasion exercises and rhetoric classes will be built [...]. Right now, we are faced with thinking of truth as absolute or relative, thus calling into question any notion of objectivity or a faithful portrait of things or the world. This insoluble dispute would contribute, to a great extent, to the birth of what today we would call politics. (Borges Júnior, 2019, p. 527)

In this dynamic political narrative, Arendt, in turn, is aware of a serious risk: the possibility, on the part of politics itself, of altering the factuality of things from the "fabrication" of parallel realities, realities that seek to legitimize certain discourses. The author reflects:

> [...] if the modern political lies are so great that they require a complete rearrangement of the whole factual fabric, the creation of another reality, so to speak, into which they fit without patches, flaws, or cracks, just like the facts fit into their own original context, what prevents these new stories, images, and pseudo-facts from becoming an adequate substitute for reality and factuality? (Arendt, 2014, p. 313)

Such discourses end up rearranging their own factuality and are constructed with the purpose of sticking to it without any indication capable of denouncing its falsehood. This adherence is operated through a very well-organized form, called by Arendt (2014) "modern political lie", very different from the forms used by the "traditional political lie". Following the author's observation, the modern political lie —on which the structures of totalitarian regimes would be mainly based— seems to transfer to a domestic context the reinforcement of certain versions of reality, illusory stories often created in the sense of providing new descriptions, also under delimited biases, certain events that take place in these societies. As an example, Arendt (2014) comments on General Charles De Gaulle's efforts to retell the history of France in World War II, presenting it as haughty and powerful, indifferent to the years when it was trampled on by the Germans; or even the regime of Josef Stalin, responsible for erasing Trotsky's name from the history of the Russian Revolution.

However, modern political lies, by creating certain images that reinforce what they want to tell, paradoxically produce a kind of self-deception, from which it becomes extremely difficult and complex to distinguish between truth and lie. This is only possible due to the creation of a sophisticated apparatus of "massive manipulation of facts and opinions" (Arendt, 2014, p. 311), in which advertising occupies a central place.

Ultimately, post-truth is the notion that beliefs or impressions are constitutive of reality (Cunha Filho, 2019), encouraging individuals to distort the facts to mold them according to their opinions, and not the other way around (McIntyre, 2019). It is not surprising, therefore, that its outbreak occurs in the sociocultural context of postmodernity.

Postmodernity offers philosophical support for post-truth to the extent that it proclaims that all social facts are socially constructed and that arguments about a certain political or social fact are invariably associated with a specific narrative (Cunha Filho, 2019). The emotivist and identitarian emphasis of postmodern thought also shows fertility for the emergence of fake news, since, in this sociocultural environment, "choices [...] are based much more on sensitive and emotional reasons than on logical reasoning and accurate information" (Genesini, 2018, p. 48).

In addition, the choice of target —very precise in this definition— points to an "anti-truth", fundamental to understand the "post". Lara Mesquita (2018, p. 33) objectively affirms: "this is a lie, but its use with the specific objective of subverting or undermining democracy, is the only system for the constitution of state power in which 'public opinion' is the determinant factor".

The fact is that the phenomenon of post-truth —and the dissemination of fake news as a mechanism for the construction of a narrative of that— distorts and directly damages the quality of liberal democracies, as the author explains:

> Arming from the hand of "public opinion" the referendum, and the initiative to effectively make their will prevail over that of their elected representatives, is still a privilege of very few. However, the general concept was universally adopted as a dream. No one can face it with impunity. Even dictatorships need to sell themselves as "excess democracy" and include in their institutional disguises elements that at least resemble democratic institutions. The gradual conversion of the struggle against "bourgeois" democracy, of a dispute between truths faced with the destruction of the very concept of truth, includes the recognition of the indissoluble relationship between democracy and truth. Admitting that where it is well planted, democracy can only be destroyed from within, from the deliberation of the majority against itself, and that only deception can produce this effect, it pays homage to the moral superiority that its enemies have always denied it. throughout the history of the 20th century. (Mesquita, 2018, pp. 34-35)

Faced with this uproar, some authors have understood the bankruptcy of the liberal democracy paradigm, which would present a formalistic vision of popular sovereignty, exercised only through the vote, but without effective participation in public policies, as well as amputated of the notion of social ethics in community.

In this direction, Manuel Castells (2018) understands that the crisis of this model is "taking multiple forms", among them, "the subversion of democratic institutions by narcissistic caudillos who seize the sources of power from the people with institutional rot". "The pure and simple return to the unrestricted brutality of the State in much of the world, from Russia to China, from neocolonial Africa to the neofascisms in Eastern Europe and the dictatorial tides in Latin America" and, as to this article it refers to "the media manipulation of the hopes dashed by the snake charmers [...]". In another work, called "Sociedade em Rede", the author maintains that the phenomenon of fake news is especially demonstrative of the collapse of the liberal political system (Castells, 1999). Regarding that, Mesquita writes:

> In the pre-technological, almost artisanal stage, what would become "post-truth" evolved from "ideological patrolling" before power to repression and armed aggression of the dispute for geostrategic hegemony, until it flowed, after halting in its military advance, in an attempt to impose a "cultural hegemony" in search of the "social consent" of a set of convictions, moral norms and rules of conduct sown with a meticulous work of "improvement" induced by established beliefs and feelings, in direction to the self-immolation of democracies, which will be obtained through the "control of the cultural media of the bourgeoisie", and the "co-option of artists, teachers, and organic intellectuals" at the service of the conquest of political power. (Mesquita, 2018, pp. 35-36)

In this sense, fake news feeds on post-truth, at the same time that it constitutes a tool for its construction, thus constituting a true vicious circle. The interrelation between the appearance of fake news and the advent of the digital environment itself, which for different reasons —some related to the nature of the medium itself— cannot be ignored, has different validation criteria in relation to the classic journalistic media (McDougall et al., 2018). While in traditional physical media the benefit came from reader subscriptions, news platforms in digital media, being free, obtain their income from the advertisements displayed on their respective sites, which:

> It introduces a factor in the issuance of motivational fake news that contributes to its existence: the economic dimension of journalistic or other institutions, that is, characteristic of a marketable model on the Internet-based on ads. (Cardoso et al., 2018, p. 19)

In this way, media portals with a history of reliability and journalistic ethics are slowly being replaced by digital alternatives that avidly compete with each other for users (McDougall et al., 2018). This mechanism allows companies to use the so-called "clickbait", an artifice according to which the portals, "using a direct relationship between the number of views and recipes, titles and/or content are produced that, deliberately, serve so that users click", reinforcing the close correlation "between fake news and the emotional aspect questioned by the notion of post-truth", since "studies confirm the tendency of users to share much more news characterized by a language and content sensational and exciting" (Cardoso et al., 2018, p. 19).

In this new environment, the success of a portal depends not so much on the historical reliability of its content or journalistic ethics, but on its ease of location in the media and the use of personalized messages to capture the attention of the desired audience (Hobbs, 2017). This system contributes to the spread of fake news, as it is more likely to be shared through the media and travels faster than real content (Vosoughi et al., 2018). This is due in large part to the ability of fake news to dialogue with the reader's pathos — to instrumentalize an Aristotelian word— and in it evoke deep sympathy and intense emotions, such as anxiety or anger, which give rise to more shared than neutral content (McDougall et al., 2018).

In fact, fake news, in its broadest sense, can exist "theoretically from the first political process of humanity", but it is "with the emergence of the media that the conditions were created for this phenomenon to become a fundamental dimension of social and political life" (Cardoso et al., 2018, p. 19). Therefore, "the novelty is not in the fake news itself, but in the appearance of an instrument capable of reproducing and disseminating them with unprecedented breadth and speed" (Frias-Filho, 2018). Therefore, although the phenomenon is not unusual, it is the current dimension that it assumes that requires new approaches.

Although fake news may seem harmless to some people, several studies have shown otherwise (Balem, 2017). In addition to the obvious effects of deception on decision-making, continued exposure to misinformation can lead people to stop believing the facts altogether and to doubt the very value of science and scientific evidence (Van der Linden et al. al., 2017), as was clearly observed in the widespread denial of Brazilians regarding the scientific recommendations related to the Covid-19 pandemic (Caponi, 2020).

The sociological impact of fake news in public spaces is also directly related to the algorithms used by social networks, which filter the content that will be exposed to the person, based on the political and social visions that the user has, creating the so-called "ideological echo chambers" (Rosenzweig, 2017; Sunstein, 2001). Considering that each member of the bubble is selectively exposed to the opinions with which they agree, a social phenomenon developed, called the "false consensus effect", which translates into a tendency to overestimate how common the opinion itself is (McDougall et al., 2018). These communities "become increasingly segregated in terms of politics, culture, geography, and lifestyle" (Kakutani, 2018, p. 105), contributing to the constitution of a polarized and fragmented society, with the deterioration of the democratic system (Fisher & Taub, 2018; Levitsky & Ziblatt, 2018; Recuero & Gruzd, 2019).

However, in addition to theoretical issues, recent events have demonstrated the deleterious practical effects of spreading false news on the democratic process and the exercise of citizenship.

Materials and methods

Most of the scientific forays into fake news have focused on production issues, such as the location and possible motivations of various disinformation providers, the changing geopolitical landscape of the information war, the economic benefits for the media, communication and search mechanisms, and the need and convenience of implementing technical and/or financial restrictions that minimize the spread of fake news, among others. The focus on production issues is important and these are all valid cases whose discussion is pertinent. However, this article, although it addresses some of the previous points, tries to address some dynamics of critical reception that could be underlying the greater presence of fake news in the contemporary environment than in the past.

Therefore, an intersectional approach between Sociology and Law stands out as especially relevant, to understand not only how to approach the problem in a legislative way, but also how to interpret its advent from the historical, sociological, and cultural contexts that served as its cradle, that is, postmodernity and post-truth; choosing this as a theoretical panorama.

In this sense, this work carries out a brief analysis of the measures that have been used around the world to face the problem, with a brief critical reflection on their relative effectiveness, based on both previously established theoretical structures and empirical data that have been raised by the Human and Social Sciences.

Discussion and conclusions

Is state regulation sufficient for facing the problem?

An exploration of the sociological and historical bases of the problem, despite its essential understanding, is only the first step in tackling the problem of fake news. It is imperative to proceed, in a second moment, to correlate these theoretical contributions with the empirical data that surround the subject, both with regard to their practical effectiveness and in relation to the consequences of such measures for sensitive human rights issues, such as freedom of expression.

Measures to combat the spread of fake news can be broadly classified into three types: laws regulating public media; request for private regulation of private platforms (for example, Facebook data verification); and media education of the population, with a view to sensitizing the individual about the importance of a critical stance in relation to the content disseminated on digital networks, as an exercise of citizenship (Cardoso et al., 2018).

The use of restrictive legislation is possibly the solution most frequently proposed in the matter, which is usually based on concepts such as the "right to communication" (Vannuchi, 2018) or considerations on the need to limit the right to freedom of expression (Balem, 2017).

This was the strategy adopted by Italy, through a bill that penalized the publication or dissemination of "false, exaggerated or tendentious news", with a provision of a fine of up to 5000 euros, with a combination of imprisonment for more serious fake news — such as those that can incite crime or violence— and imposition on social networks that monitor their platforms in search of such content (Tambini & Goodman, 2017). Other countries, such as Germany and the United Kingdom, have adopted similar regulatory policies (Cardoso et al., 2018).

However, it has been observed that actions in this direction tend to generate friction with human rights and often degenerate into authoritarianism. This was the conclusion of a report entitled "Fake news: public policy responses", in which the public policies adopted by China and Italy with a view to addressing fake news were critically evaluated, as well as their respective consequences in the field of human rights. The report concluded that China is a useful illustration of the dangers present both in establishing preventive regulatory structures (prior to publication) and in the very broad definition of what constitutes fake news or rumor, a concept that, for the Chinese government, includes "undermining morality, the socialist system and the authenticity of information" (Tambini, 2017, p. 13). Thus, China "is an example of a country that chose as a public response the practice of aggressively limiting freedom of expression" and ended up adopting a "too broad definition of what constitutes false news or rumors" (Cardoso et al., 2018, p. 25).

The report concludes that these circumstances explain why international defenders of freedom of expression, such as the UN Special Rapporteur for Freedom of Expression and the OSCE Representative for Freedom of the Media, have openly denounced the risks derived from addressing fake news through state regulation (Tambini & Goodman, 2017). Similar problems have been observed in private data verification systems, always related to the impossibility of guaranteeing the exemption of the agent responsible for evaluating the news.

A particularly notable fact in this context of discussion is the (here called) Doctrine of Equity, which exemplifies the relationship between the individual aspect and the democratic function of freedom of thought and expression, being —for Patricia Aufderheide (1990) — a place of great controversy over the future of public interest regulation.

Jonathan Andrew Stewart Honig (2019) summarizes that the Doctrine of Fairness was the fundamental construct of television regulations and one of the most controversial content regulations that has been applied to television stations in the United States by the Federal Communications Commission. (FCC). In 1949, this government commission organized a regulatory framework for the country's media, which became known as the Fairness Doctrine, here loosely translated as the Doctrine of Equity.

In general, this doctrine had the objective of promoting the discussion of controversial issues of vital interest to the community and to provide space for different points of view on these issues (Hazlett, 1989). Souza and Pinheiro (2016) comment that this doctrine was developed from the idea that for the right to information to exist, it is not enough that freedom of the press be guaranteed only under the prism of state abstention, since this could imply the exclusion of disadvantaged groups from public discourse and the manipulation of freedom by hegemonic or majority groups. In addition to developing a federal licensing system for broadcasters, the FCC identified certain types of speech as essential to maintaining the public interest standard, and this in terms of priority (Hazlett & Sosa, 1997).

The Doctrine of Equity, in objective terms, required that radio and television stations that had broadcast licenses issued by the Federal Communications Commission (FCC) (1) dedicate part of their programming to controversial issues of public importance and (2) to allow the presentation of opposing views on these issues. This meant that political segments should include opposing views on the issue under discussion. Broadcasters had an active duty to determine the spectrum of opinions on a given topic and include the most appropriate people to represent them in their programming.

Additionally, the rule required broadcasters to alert anyone subject to a personal attack on their programming and give them the opportunity to respond and required all stations that endorse political candidates to invite other candidates to respond.

This policy began in the Radio Act of 1927, when Congress ruled that the FCC (and its predecessor, the Federal Radio Commission) should only issue broadcast licenses when it was in the public interest. In 1949, the FCC interpreted this more strictly to mean that licensees must include discussions of matters of public importance in their broadcasts and that they must do so fairly. Subsequently, the agency published a standard on editorialization by broadcasting licensees, which released the so-called Equity Doctrine and began to apply it.

However, the Doctrine of Equity has faced several challenges over the years. At first, the constitutionality of the doctrine was tested and confirmed by the United States Supreme Court in a landmark 1969 case*, Red Lion Broadcasting Co., Inc. v. FCC (395 US 367*). Although the Court later ruled that the doctrine did not violate the broadcaster's First Amendment rights, the Court cautioned that if the doctrine began to restrict expression, then the constitutionality of the rule should be reconsidered. Just five years later, without declaring the doctrine unconstitutional, the Court concluded in another case that the doctrine "inescapably weakens the force and limits the scope of public debate" (*Miami Herald Pub. Co. v. Tornillo, 418 U.S. 241*). In 1984, the Court concluded that the justification for scarcity underlying the doctrine was flawed and that the doctrine was limiting the breadth of public debate (*FCC v. League of Women Voters, 468 U.S. 364)*. This decision set the stage for action by the FCC in 1987. An attempt by Congress to reinstate the rule by statute was vetoed by President Ronald Reagan in 1987, and subsequent attempts were not even approved by Congress (Aufderheide, 1990).

In response, the FCC began to reconsider the rule in the mid-1980s and finally repealed it in 1987, after Congress passed a resolution directing the commission to study the matter. The decision was credited with the explosion of conservative radio in the late 1980s and early 1990s. Although the FCC hasn't enforced the rule in nearly a quarter of a century, it technically remains on the books. As part of the Obama administration's broader efforts to revise federal regulation, the FCC is finally scrapping the rule once and for all.

Once the historical content is understood, it seems that the Doctrine of Equity failed in its purpose by not making explicit the criteria for the realization of its scope. On this point, Thomas W. Hazlett comments that:

> The use of any arbitrary standard to license the press [...] will surely cause great political harm, even if the standard appears as innocent as "justice." After all, justice is in the eye of the beholder, and government officials are keen observers. [...]. The more subjective the pattern, [...] the more nervous the supplicant is. The FCC has never clearly defined the fairness requirement for licensees, preferring instead to adhere to a user-friendly method. [...] federal radio licensing began in the 1920s with the vaguest standard of attribution the courts would allow: rights should be granted to anyone who satisfies "the convenience, interest, or need of the public.". In the early days of radio, Commerce Secretary Herbert Hoover deemed the views of labor organizations less of public interest than those of businessmen and distributed valuable spectrum rights accordingly. Franklin Roosevelt found it eminently just to prohibit all newspaper publishers from owning radio stations... on the grounds that, as a class, they were unfairly hostile to the New Deal. (Hazlett, 1989, pp. 104-105, free translation, emphasis added)

While freedom of speech and of the press traditionally means the absence of state controls, the rationale for regulating broadcasting is that freedom allows bias, as Hazlett (1989) shows. Public-minded regulation is considered necessary to guarantee equal access to the media for all sides of controversies and, ultimately, to promote equal treatment of political candidates, to mitigate possible bias from editors. Of course, there are grotesquely unfair news and even irresponsible entertainment shows. However, the relevant question is whether political regulation will tend to reduce inequality or exacerbate prejudice and kill important news sources. The regulation shifts the "justice" scheduling decision from those who compete for hearings to those who have secured bureaucratic power within a federal agency. It takes a great leap of faith to believe this replacement will get better.

Digital literacy as an alternative

The risks of regulating by state media as a tool to combat fake news have encouraged researchers and public agents to seek alternatives that do not have the same harmful potential for freedom of expression, highlighting, in this sense, the notion of "digital literacy", directly linked to the concept of "digital citizenship". Although it is an extremely broad construct, for which different authors present considerably divergent definitions, it can be said, in general, that digital citizenship is related to the person's ability to participate in the online space of society, including both connectivity to the Internet itself as the skills necessary for its use (Mossberger et al., 2007). The Council of Europe defines it as "the ability to participate in a positive, critical and competent way in the digital setting" (McDougall et al., 2018, p. 12).

Digital literacy, in turn, transcends the mere ability to obtain or use information online in an instrumental way, also encompassing, more specifically, the ability to ask questions about the source and meaning of information, about the interests involved in its transmission, in short, understand how information is related to social, political and economic forces (Buckingham, 2015, p. 15). It is, in essence, a type of ethical and social capacity that complements the technical and practical skills necessary for the use of digital technologies (McDougall et al., 2018, p. 12).

Several investigations have shown that media literacy education can have positive results in the knowledge, skills, and attitudes of students to critically analyze and understand the media (Jeong et al., 2012; Vraga & Tully, 2016; Webb & Martin, 2012). More than that, studies have shown that this type of education is especially effective when it comes to preventing belief in fake news, with research showing that an individual's level of media literacy is inversely proportional to their likelihood of believing and sharing fake news (Kahne & Bowyer, 2017).

The superiority of this approach over state regulation is also related to the human cognitive phenomena called “confirmation bias” and “disconfirmation bias”, which describe the tendency to, in the face of evidence that challenges our opinions, and that, therefore, should motivate us to reexamine our views, react with a psychological impulse to hold on even more firmly to our erroneous beliefs, in both directions: seeking confirmation of our previous beliefs, rather than information that may contradict or complicate them (bias) confirmation); and ignore or reject information that challenges personal convictions (disconfirmation bias), with the propensity, in the case of information from the media space, to disqualify the media as dishonest and biased (McDougall et al., 2018), or, in the case of information from the media space, the case of state regulation, to qualify the Public Power as authoritarian and conspiratorial. Thus, paradoxically, the legislative fight against disinformation can, at some points, intensify it.

Education in media literacy, in turn, has been effective even in mitigating the effects of confirmation bias, with the potential, therefore, of treating the phenomenon of fake news at its root: the inability of a good part of the population to accept information that does not meet their personal convictions (Miller, 2016). For this reason, the European Commission has repeatedly highlighted the importance of the development of digital media literacy as an instrument to achieve citizenship and prevent fake news, both because it is a measure that does not violate individual freedoms, and because it is one of the few approaches that have long-term effectiveness (European Commission, 2018).

Despite the fact that the issues related to the methodology of said instruction (age group to apply, head of the ministry, school level to be inserted) are the subject of considerable disputes (Jeong et al., 2012; McDougall et al., 2018, p 12), there is a consensus on the long-term positive benefits of digital education to combat misinformation and prevent the spread of fake news.

The benefits of opting for digital literacy, compared to state regulation, are various and are related not only to the effectiveness in preventing misinformation but also to maintaining freedom of expression and maturing responsibilities and capacities related to citizenship, with all the long-term effects that result from a society matured at that time (Cardoso et al., 2018). The inclusion of this type of teaching in the curricula of schools, both private and public, has the potential to allow the population itself to face the onslaught of disinformation and, therefore, realize their digital citizenship.

Finally, digital education is a preferable way because, as Bobbio (1990, p. 214) recalls, it is better "to have freedom in constant danger, but expansive, than a protected freedom, but incapable of development. Only freedom in danger is capable of being renewed. Freedom incapable of being renewed sooner or later becomes a new slavery".

Final thoughts

There is no end to this list of poisons of instantaneous action, for which the only antidote remains the meticulous investigation of the truth of the facts, since the "kings" of today, individual or collective, are also under god. But it costs a lot of time and a lot of money, elements that are increasingly scarce in the world of professional journalism (Mesquita, 2018). In fact, the phenomenon of the dissemination of fake news as a political strategy –as it occurred in the last presidential disputes in the United States and Brazil– has greatly compromised the quality of public debate and skewed the understanding of social reality in the political-partisan sphere.

As explained in the first part of this study, fake news is the main tool for the meta-narrative construction of discourses that seek to alter, under the direction of political purposes, the public understanding of the facts. In this sense, liberal democracies seem to be approaching their decline, or at least suffer a strong threat under the auspices of the formation of true digital militias, as has been seen in the reactionary national sphere.

A continuously ventilated solution is the regulation by the State, with the purpose of limiting the spread of fake news or even criminalizing its practice, as in the case of Bill No. 2630, of 2020, known as the Fake News Law. The point is that the construction of alternative discourses or different interpretations are typical of social experience. As shown in the Doctrine of Equity exhibit, this attempt failed to preserve the public interest by failing to establish objective criteria for licensing radio and television stations. However, since the issuance of the licenses was in the hands of government agents, their release implied being subject to political interests, as well as legislation that seeks to criminalize the dissemination of fake news.

In the end, this study opted for digital literacy as an adequate tool not only to mitigate the effects of fake news but also for the realization of citizens' digital citizenship. This approach has the advantage of keeping people's freedom of expression and opinion strong, not limit freedom of expression. In addition, however, it has also shown particular effectiveness as a long-term solution to the problem, since, instead of preventing disinformation from reaching the individual (an objective whose full implementation is materially impossible), it enables the subject to critically evaluate the received content.

To use an analogy pertinent to the current global moment, state regulation would correspond to the imposition of measures of social distance. They are certainly needed at this time, but they cannot, by themselves, eliminate virus contamination, but rather mitigate its spread. Long-term digital literacy education, on the other hand, would amount to the discovery of a vaccine, a measure that aims not to contain the harmful element itself, but to immunize the population threatened by it.

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