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Fake News and the Illusion of Truth: The Influence of Media on German Political Discourse in the Wake of COVID-19

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Abstract:

This paper explores the phenomenon of fake news and conspiracy theories during the COVID-19 pandemic in Germany with special focus on the emergence of the Querdenker movement. Through a post-structuralist lens complemented by the work of Michel Foucault, the concept of truth will be analyzed to understand its role in society and democratic discourse as well as how the production of knowledge and truth has changed with emergence of the internet and social media. In this context it becomes apparent how fake news can be threatening to political discourse by undermining basic scientific information necessary for effective decision-making processes. Insights of this analysis will then be used to develop legal propositions to tackle the problem of fake news without interfering too much with the determination of truth and public discourse.

Keywords:

Fake news, COVID-19, Foucault, Querdenker, conspiracy theories, media regulation, QAnon.

Resumen:

Este artículo explora el fenómeno de las noticias falsas y las teorías de la conspiración durante la pandemia de la COVID-19 en Alemania, con especial atención en el nacimiento del movimiento Querdenker. A través de la lente del posestructuralismo, complementada con la obra de Michel Foucalt, analizaremos el concepto de "verdad" para comprender su papel en la sociedad y en el discurso democrático, así como la forma en que la producción de conocimiento y de verdad ha cambiado con el nacimiento de Internet y de las redes sociales. En este contexto, resulta evidente cómo las noticias falsas pueden ser una amenaza para el discurso político, al socavar la información científica básica para los procesos efectivos de toma de decisiones. Después, utilizaremos ideas de este análisis para

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desarrollar propuestas jurídicas para abordar el problema de las noticias falsas sin interferir demasiado con la determinación de la verdad y el discurso público.

Palabras clave:
Noticias falsas, COVID-19, Foucault, Querdenker, teorías de la conspiración, regulación de los medios, QAnon.

1. INTRODUCTION

The advent of the SARS virus in 2020 has forced everyone to adapt to challenging times. One important phenomenon which became pronounced during this time was the increasing dependency on internet and social media. With countries being in lockdown for several months, for many people the internet became the only platform to maintain social interactions and receive news and information on recent events and progression of the virus. As such, social media sites became an essential arena for political discourse and an indispensable source for news and information. However, while the internet provided an important means for human connection and engagement, it also became a catalyst for the spread of alternative facts and theories on COVID-19 and the public measures implemented. For example (e.g.), the YouTuber Jordan Sather endorsed consumption of "miracle mineral supplements" to cure the coronavirus whereas an American televangelist recommended use of colloidal silver. This health advice has not been proven effective against Corona and public health agencies even warned of serious negative side effects associated with their consumption (Reality Check Team 2020).

Hence, while fake news has always been part of societal discourse, as different groups have fought over setting narratives for certain events, possibilities for different actors to produce and spread alternative facts have dramatically increased with penetration of the internet into public sphere and discourse (Norris 1992, Marconi 2019). While this has already become apparent with the US presidential elections in 2016 when different news stories with unfounded and polarizing accusations circulated to influence election outcomes, fake news has continued to be a prominent term during the pandemic. The saturation of the public domain with contradictory information on COVID coupled with prominent social media figures, who deny its existence or endorse conspiracy theories, prompted a decentralized and diverse movement internationally: *QAnon*. Although the movement already existed in 2017, it gained traction with emergence of the pandemic by promoting ideas that suggest the existence of a secret circle of dark powers which commits criminal and satanic activities (Murphy 2020). Initiator of this movement is the person Q, a self-proclaimed high-ranking intelligence officer who supplies his/her followers with so-called crumbs – vague references regarding events or supposed connections that reveal important information about secret plans or the future (Bracewell 2021). Germany, constituting one of the biggest hotspots of *QAnon* followers outside the US, experienced the establishment of the alternative *Querdenker* movement with emergence of COVID, which shares many ideological assumptions associated with *QAnon* (Tagesschau 2020, Edwards forthcoming 2022). Unique to this movement is its ability to gather members from diverse political backgrounds while still being situated within right-wing circles. This is also reflected in their strategies of combining widespread fears with populist rhetoric to create a hostile environment geared towards the government and traditional media institutions (IMK-Chef Maier 2020).

This essay will focus on the concept of truth and how it should be understood in context of fake news and conspiracy theories. In the case of COVID, it became evident that certain alternative facts can have substantial real-life consequences, as e.g., non-compliance of public health measures or consumption of potentially dangerous substances to cure the virus. Therefore, there is a clear public interest in containing fake news and conspiracy theories to ensure public safety and overall informational cohesion. The primary theoretical framework adopted will be post-structuralism and post-truth with a strong emphasis on Foucault's work to explain how the concept of truth has evolved with changes to the media landscape caused by the internet. This post-structuralist lens will serve as a foundation to analyze the relationship between law and truth and to what extent law can be utilized to prevent fake news without being too intrusive. Therefore, the main research question to be addressed is the following: To what extent is law justified in the process of public negotiation of truth and how can it accommodate this process most optimally?

To answer this question, the "Theoretical Framework" will be introduced first, to provide a lens through which to assess how media and technology have changed practices of how truth is negotiated. The next section on "Fake News and Conspiracy Theories" will briefly define key concepts, elaborate on media transformation to demonstrate why fake news and conspiracy theories seem to have thrived over the past decade, and describe associated repercussions for public discourse in a democratic society. This will serve as an ample foundation to then introduce the *Querdenker* movement to illustrate how this movement has been able to grow so quickly. In "Post-Truth Societies in Light of the Transformed Media Environment", an assessment will be provided to explore the extent to which change of social media is connected to the shift to post-structuralism and what that means to the concept of truth. In the last section on "Regulation", the relationship between law and truth will be illuminated to understand the ways that law is justified in regulating public discourse. Once this is determined, some potential approaches will be discussed to alleviate issues associated with fake news to improve democratic discourse.

2. THEORETICAL FRAMEWORK

The theoretical framework employed in this work is primarily influenced by post-structuralist and post-truth theories in combination with Foucault's analysis on truth. The following sections will thus elaborate on these concepts to afterwards assess the importance of truth in democratic process as well as its interaction with fake news.

2.1. POST-STRUCTURALISM AND POST-TRUTH

Post-structuralism emerged from the structuralist school in the 1950s and was popular until approximately the 1980s. What sets post-structuralism apart from structuralism is its focus on subjectivity, context, and pluralism. Although post-structuralism evades a clear definition, characteristic of this critique is the attempt to question established discourses and structural relationships with aims of understanding potential biases, uneven power relations, and inherent incoherencies. Thus, narratives and discourses which present

themselves as universally applicable and rational will be analyzed in terms of existing hierarchies, ambiguities, etc. Foucault added the dimension of power relations into this discussion by emphasizing the dynamic nature of power in communication and discourses (Crick 2016, Hurst 2019).

Post-truth can be seen as a consequence of post-structuralism in that the concept of truth has become inflationary, as its construction is less dependent on established and agreed-upon practices (Biesecker 2018). Generally speaking, the role of truth is to form a connection between subject and predicate, or, in other words, to link an individual's account of their perceptions to reality. While the concept of post-truth is built on this same premise, it deviates because although it claims to represent reality, there is a disconnect between its content and reality. Thus, what differentiates truth from post-truth are the actors who connect language with reality. Whereas in traditional truth discourse it is mainly epistemic agents who act as gatekeepers to the production of truth claims, the post-truth narrative is often validated through skillful rhetoric and powerful figures. Emergence of this new concept paralleled with the rise of internet and social media, which made creations of near infinite numbers of connections between subject and predicate possible to produce and legitimize different narratives (Condello 2019). Fragmentation of truth is therefore partly a consequence of how the information environment online has been split with circulation of different facts and narratives. Further contributing to this fragmentation is the increasing tendency of public figures to make unfounded claims online which are often geared towards generating strong emotional responses in populist fashion. Thus, articulation of truth is less embedded in established epistemic or journalistic discourses but rather produced by internet users who might be more prone to emotional prompts when constructing their own truth (Biesecker 2018, Domenicucci 2019). Andina (2019) mentions three important factors of the post-truth paradigm: First, she observes a strong reliance on emotions as the primary means to convince people of certain opinions. Second, objective facts are not considered to be as persuasive as opinions or judgments; potentially due to lack of an emotional component. Third, articulation of post-truth opinions and judgments is done by ordinary people instead of experts, leading to certain opinions being wider spread due to being more accessible and comprehensible.

This development of post-truth is problematic for many reasons – one being that political discourse aimed at solving current social problems is hindered as people do not act or discuss these issues based on a shared sense of reality. The existence of a shared truth is fundamental for democratic discourse and if this requirement is not fulfilled, a society cannot be politically functional according to Kant (Domenicucci 2019). This is because without a basic consensus of facts and concerns it is impossible to work towards same goals. Simultaneously, alternative narratives of truth rely not on formal, established ways of legitimation through public institutions or epistemic communities, but rather charismatic personalities emitting some form of authority which eventually challenge traditional institutions of power. This could lead to powerful anti-establishment movements such as *QAnon* or *Querdenker* (Condello 2019). Hence, there is a symbiotic relationship between growing mistrust towards epistemic communities and tendency of some people to question well-known, trustworthy facts, leading to equating well-researched, scientific truth-finding with emotional, unfounded truth-claims (Pala 2019). While important to question ways truth is produced in a traditional, scientific manner, because it is not immune to biases and fallacies either, many authors including Andina (2019) or Domenicucci (2019) are critical of this post-truth approach. It only questions established discourses and narratives without offering any constructive approaches to the issue. Thus, it is useful to clearly delineate the

term post-truth to prevent its inflationary use. As such, post-truth characterizes a space of discourse where every claim or opinion is considered equally legitimate because it is motivated by ulterior interests of the author notwithstanding the fact that there is already reasonable scientific consensus on the subject (Pala 2019, Andina 2019). For example, there are still numerous counter-narratives in circulation that warn of risks of autism associated with vaccines although there is sufficient scientific evidence this is not true (Centers for Disease Control and Prevention 2020). Such a discourse can be described as post-truth.

The reason why this lens is used as an analytical frame is the recognition that truth as a concept is malleable as the claim on truth depends on certain practices and the ability of different actors to be most convincing. Thus, not all versions termed as truth relate to reality which means there is always a public negotiation to determine a commonly accepted truth. Post-truth is thus not only highly relevant to understand dynamics of the internet and how information is shared and produced, but also has important implications for regulatory considerations. If truth is publicly negotiated, then legal advisements should help in that process without interfering too much into the process of determining its content.

2.2. WHAT IS TRUTH AND DOES IT EVEN EXIST?

Now that the general theoretical framework has been introduced, the analysis will go deeper by focusing on Foucault and the conceptualization of truth. The reason why Foucault's account deserves attention is because "Foucault's approach (...) does not offer just a textual analysis, nor just a critique of the forms of discourse, but an account of how discourse is shaped, and how discourse shapes everyday existence" (Olssen 2003, p. 195). Thus, by applying Foucault's ideas on the issue of fake news and the public negotiation of truth, this inquiry does not merely criticize media or authors of fake news for allegedly spreading false information, but instead looks at how truth is constructed in the first place. This encumbers considerations such as to what extent traditional processes of knowledge production are motivated by established rules and requisites as well as underlying power relations. This is a focal point of Foucault's theory because he emphasizes the integrated nature of knowledge and power in the sense that these two notions are not the same yet influence each other. Thus, power relations have an active role in knowledge production which ultimately leads to the production of truth and simultaneously ensures preservation of the status quo (Basumatary 2020). Hence, "it's not a matter of emancipating truth from every system of power (...) but of detaching the power of truth from the forms of hegemony, social economic and cultural, within which it operates at the present time" (Foucault 1979, p. 46).

An important point of departure in Foucault's theory is the idea that the mere act of declaring something to be true presupposes the exclusion or rejection of other accounts of knowledge or facts which might be equally valid (Basumatary 2020). Foucault asserts that although truth exists, there is not one uniform version which reflects reality. Rather, truth is a product of power relations between different actors. Additionally, there is an emphasis on the supplementary character of truth in that reality exists without there being any articulation of truth. Truth constructs reality to communicate experiences. However, this articulation of truth necessarily frames reality in a way adding something to reality which is not existent or necessary (Prozorov 2019, Basumatary 2020).

In his work, Foucault focusses less on the content of truth discourse and instead on the way truth is told. One of the most important forms of truth telling he identifies is *parresia* (Foucault 2011). There are three elements which form the notion of *parresia*: saying everything, telling the truth, and free-spokenness. Characteristic of this specific form of truth telling is focus on the speaker as they commit to telling the truth, often being in a subordinate position and potentially facing adverse consequences for expressing their truth (Foucault 2011). However, these are not the only important aspects of *parresia*. This specific act of telling the truth presupposes elements of democracy, namely, a constitution (*politeia*) which ensures the right to free speech for everyone equally (*isegoria*). For if there is no guaranteed right to speak freely, *parresia* would not be possible. However, what distinguishes *parresia* from freedom of speech is the element of ascendancy, the fact that not everyone is competent to speak truth. For a statement to constitute *parresia*, it needs to consist of both *logos* and *polis,* meaning it must be based on a reasonable and agonistic discourse within the political realm. Ascendancy, or the superiority of some to speak truth, is not unique to only one person, it is vested in several people who compete in making use of their *parresia* (Foucault 2011).

The next paragraph will discuss the relationship between *parresia* and power as well as its important role in democracy. However, it is essential to contextualize Foucault's lines of reasoning within the broader framework of post-structuralism and post-truth as some authors, such as Prozorov (2019), argue he should not be considered a post-structuralist theorist, and further question the use in even applying a post-structural frame as it devalues the whole concept of truth (Andina 2019). Post-structuralism assumes truth to have a pluralist nature as there appears to be an increasing tendency of people to formulate their own truths based on their own judgments, situation, and perceptions. Foucault fits into this line of reasoning as he rejects the notion of a uniform truth and asserts that no knowledge, and therefore no truth, can be produced without any power dynamics. While the criticism of post-structural thought is understandable, it is essential to emphasize that although an absolute truth might be inaccessible or even non-existent, this does not mean that the concept of truth, which is generated by humans, has no intrinsic value or use. Hence, Foucault contributes a crucial insight into this domain because he does not focus on the content of truth necessarily, but still emphasizes the value and importance as to how truth is told. Accordingly, even within this post-structuralist frame, truth, and the way it is told, is still necessary in a democratic society.

2.3. TRUTH, POWER, AND DEMOCRACY

According to Foucault, discourse is a fundamental aspect in the domain of power because it "is not simply that which translates struggles or systems of domination, but is the thing for which and by which there is struggle, discourse is the power which is to be seized" (Foucault 1981, pp. 52–53). In other words, those who control a discourse often also occupy a powerful position and it is important to illuminate these connections to relocate discourse back to the public domain (Prozorov 2019, Basumatary 2020). Nevertheless, because power is so essential to the production of knowledge and because knowledge is often produced with the backdrop of determining what is best for society, democracy is very important for encouraging the right *parresia* while truth is important for a functioning political regime. As Foucault (1988, p. 267) puts it: "Nothing is more inconsistent than a political regime that is indifferent to truth; but nothing is more dangerous than a political system that claims to lay down the truth." Thus, truth and democracy appear to be in a

symbiotic relationship in which truth guarantees consistency and effectiveness in political decision-making whereas a democratic system prevents a small group of people from claiming the production of truth (Foucault 1988). Again, the theory of truth in this context is not absolute in that there is one universal truth; however, it is recognized that truth is still important for a political system to function. Because truth is a social concept and therefore malleable to circumstances and people in power, democracy is an important requisite ensuring that the type of truth identified serves public interest. This is to ensure that production of knowledge is always questioned because it could serve a powerful elite and preserve the status quo (Foucault 1988, Basumatary 2020).

Therefore, and as already mentioned, *parresia,* according to Foucault, relies on four pillars: democracy, ascendancy, logos, and courage to speak truth. Important in this context is the recognition that a democratic system prevents power relations from being stagnant and thus ensures that truth is not told based on status or wealth but based on ascendancy and contest for who tells truth best (Foucault 2011).

FIGURE 1

Figure 1. The four pillars of good *parresia.*

However, what might seem slightly counterintuitive is that although democracy guarantees freedom to speak equally for everyone, this equality does not transfer to the ability to speak truth. Foucault hence distinguishes good from bad *parresia.* Bad *parresia* is described as a situation where anyone can speak truth and where truth is spoken not based on someone's own opinion or assessment of the situation but simply a truth that conforms to a prevailing view which remains unchallenged. Note that this situation of bad *parresia* also correlates with the conditions of post-truth as everyone can speak their truth and every truth is considered equally valid. Bad *parresia* does not rely on *logos* and instead capitalizes on emotions and rhetoric to be convincing. This is precisely the point of tension within a democratic system that Foucault points out because free speech does not automatically equal good *parresia* (Foucault 2011). Ascendancy implies that only selected people can tell

truth by competing for a superior position in public. Yet, it also entails the acknowledgement that not everyone can be put on equal footing and that there will be inequality when it comes to the claim to truth.

Overall, *parresia* and democracy are tied together and ensure that production of knowledge and truth does not become stagnant but rather circulates and adapts to different power dynamics and societal changes. Whereas, technically, everyone could have a claim on truth, as freedom of speech is a fundamental pillar to both democracy and good *parresia*, in practical terms there will always be a select group of people speaking truth as they can tell truth which is beneficial to society and is characterized by *logos*. What is important is that the competition on who speaks truth is as little influenced by inequalities and power dynamics as possible. Now that the theoretical framework is introduced, the focus will shift to fake news and conspiracy theories and their relationship with the internet.

3. Fake News and Conspiracy Theories – The Development in Times of the Internet

In March of 2021, anti-vaccine advocate and former adviser to President Clinton, Naomi Wolf, tweeted a quote by famous adult entertainment star Johnny Sins, whom she mistakenly took for a medical doctor, to support her claim that vaccinations were not effective. In the meme shared by Wolf, which depicts Sins as a medical professional in one of his movies, he questions the efficiency of vaccines (RT News 2021). While this has been one of the more harmless and amusing examples of fake news, it does show how easily false information is being shared unquestioned by public figures.

Although fake news and conspiracy theories have always been present in societies, over the past few years there has been a stronger focus on these phenomena with the 2016 presidential campaign and emergence of the internet (Rini 2017, Verstraete *et al.* 2017). Thus, fake news has become an integral part of the development of many liberal democracies in which specific political and commercial attempts have crystallized which are aimed at influencing the public through different strategies, including *inter alia* propaganda, PR stunts, or political marketing. Moreover, with emergence of COVID, a perfect feeding ground for fake news and conspiracy theories has been created as it generated much uncertainty and fear – two elements that constitute perfect conditions for spread of these phenomena (Bakir and McStay 2018, Bruns *et al.* 2020). Whereas scholars such as Levy (2017) warn of effects of fake news on epistemology and the need to address issues timely, there are still many uncertainties regarding this phenomenon such as *inter alia* definitional issues or heuristic effects.

Accordingly, this chapter will introduce the topic of fake news by first providing a definition of fake news and conspiracy theories for theoretical guidance. This will be followed by laying out the development and changes that the internet has brought in terms of information sharing and media provision. Lastly, these changes in communication strategies and narratives will be analyzed within the specific context of COVID-19 and the *Querdenker* movement in Germany by adopting a post-structuralist perspective.

3.1. Definition of Fake News and Conspiracy Theories

The task of defining fake news is challenging in many respects, mainly because scholars disagree on the general efficacy of the term and how to frame it in a useful way. Due to the lack of a universally agreed-upon definition (Tandoc *et al.* 2018), the definition of the Broadband Commission report (Bontcheva and Posetti 2020, p. 18), with some minor modifications, will be used to describe fake news as false content or viral rumors with potentially damaging impacts on essential civil rights. The advantage of this definition is the implicit recognition that fake news does not necessarily involve an intent and can involve varying degrees of falsehood. These aspects are important in two respects: First, as already demonstrated, the concept of truth is not necessarily universal which makes it difficult to merely declare fake news as untruths. Second, and somewhat connected to the first point, is the acknowledgement that many internet users will share or even create fake news not with intent to deceive others but rather to expose their own truths to others. This is because fake news activates certain heuristic and cognitive deceptions in people in a way that such information is considered true. In other words, fake news can create information processing errors that can lead to an incorrect assessment of the validity of information (Galeotti 2019).

Another important point is the definitional distinction between fake news and conspiracy theories. According to Van Prooijen and Van Vugt (2018), conspiracy theories are composed of five integral elements: systematic patterns prescribed to certain events or people, intention and agency of the conspirators, coalitions or groups of people who corroborate, representation of a threat by the group and its goals, and lastly, a certain degree of secrecy. Important to emphasize is that unlike fake news, conspiracy theories do not have to be false by definition due to their classified nature. Moreover, because fake news can pursue different goals, they do not always include a conspiratorial component (Faragó *et al.* 2019). While some individuals might only believe selected conspiracy theories, e.g., that the US government was involved in 9/11, others might gradually become more involved in these circles and could ultimately get "redpilled". The term "redpilling" is a reference to the *Matrix* movies and describes the tendency to develop growing suspicions towards mainstream media resulting in a change of perception of reality and ideology. This process therefore depicts a radicalization of ideologies and suspicion which misconstrues perception of reality and truth. Once a seed of doubt has been planted towards traditional media and their narrative, alternative explanations become more reasonable and accessible notwithstanding their potentially contradictory or simply irrational accounts (Lewis and Marwick 2017).

3.2. Proliferation of Fake News and Conspiracy Theories with the Internet

The way that the internet developed over the years and occupied a central role in public communication and information exchange has somewhat contributed to the proliferation of fake news and conspiracy theories. There are various reasons for this tendency, including decreasing trust towards and importance of traditional journalism, ability to communicate and connect with people worldwide, financial incentives, growing emphasis on emotions, and polarized content. Furthermore, many heuristic and cognitive tools used to process

and assess information have not been properly adapted to the new media environment (Bakir and McStay 2018).

While these factors are interrelated and influence each other, one important point is the positioning of journalists in the online media environment. The ceding influence of journalists in knowledge production combined with everyone's ability to produce and disseminate knowledge and news has created a perfect space for creation and spread of unverified information without any professionalized bodies to filter the content. At the same time, many private actors have realized the economic potential of behavioral advertising in the form of clickbaits to generate online traffic which translates into revenue. To maximize clicks, many content producers specialize in creating clickbaits that rely on emotions and controversial topics to attract viewers. Often, this is purely for economic reasons and without an underlying political agenda; however, the content produced is often dubious or plainly made-up to attract curious viewers. This was for example the case during the 2016 US elections. Macedonian students created advertising spaces by opening fake news websites that would attract audiences with use of fabricated news stories on presidential candidates (Rini 2017, Bakir and McStay 2018). This shift towards more polarized content is further exacerbated by the architecture of many social media platforms which are often not designed for profound and differentiated discussions because their layout mainly caters towards condensed but entertaining content. The superficiality of most news content is then reflected in the ways that people consume their news. Studies found that over 50% of people who share articles on Twitter do not read them. Their main motivation to share articles depends on how captivating the headline is. Furthermore, the contemporary fake news phenomenon sets itself apart from previous instances of fake news in that algorithms pre-select content for users and because cognitive traps are more easily activated with the new media. Thus, fake news in the age of the internet can be more effectively disseminated and spread faster than traditional news (Verstraete *et al.* 2017, Vosoughi *et al.* 2018, Faragó *et al.* 2019, Galeotti 2019).

This issue of sharing content without checking its validity also ties into the lack of norms and general literacy when it comes to online content. As mentioned, the new media environment requires different forms of literacy as new actors are involved in content creation and because consumption of information has changed with the new abilities and quick pace that come with the internet. The ability to create and manipulate images or news stories and the vast amount of information flooding newsfeeds make it impossible for internet users to properly check the validity of every piece of information they read. According to Rini (2017), our heuristic tools have not been fully adapted to the new media, meaning that many internet users still rely on outdated epistemic practices such as testimony of people who have similar views or ideologies. At the same time, however, people who share articles online do not necessarily check the information nor perceive such action as an endorsement of the story. Nevertheless, others might perceive it as exactly that. Thus, there seems to be a discrepancy between motivations of sharing certain news content and how others perceive such actions (Rini 2017).

The way that the media landscape has thus changed with the Internet is important to consider as the media constitutes one of the fundamental pillars of a democratic society by realizing the role of informing citizens and being the public watchdog. This means that media institutions represent a fundamental catalyst for democracy as they enable citizens to make informed decisions by making important, and sometimes more complex, information accessible to the broader public (Coronel 2003, Fog 2004). In other words,

media functions as an important mediator, curator, and critic in the political sphere by translating political developments into comprehensive terms, by voicing concerns and suspicions against political actors, and by critically assessing developments to generate awareness for both political actors and society. Hence, changes in the media environment also affect the democratic process and political sphere in general.

One phenomenon which perfectly demonstrates the changes of the media environment and how they tie into the proliferation of fake news and conspiracy theories is the rise of *QAnon*, a conspiracy movement which first emerged in 2017 on the anonymous internet platform 4chan. At the core of this conspiracy is the claim that the world is governed by a secret elite which *inter alia* sexually abuses children, kills them, and makes blood sacrifices. Whereas most rich people, including Jeff Bezos or Bill Gates, belong to the evil elite, other prominent personalities such as Trump or Q act as messiahs trying to save the world (Zuckerman 2019, Bracewell 2021). According to Zuckerman (2019), "QAnon may be the first conspiracy to have fully embraced the participatory nature of the contemporary internet." In other words, this movement allows internet users themselves to connect the dots together on a global scale similar to a treasure hunt (Hannah 2021). Therefore, users produce these conspiracies themselves by sharing unverified news and through communication which could arguably make these theories even more convincing since they are created by the consumers themselves.

While it is important to not distort the effects of fake news as they do not make up most news content on the internet, it is still critical to point out that with emergence of the internet, the spread and effects of fake news and conspiracy theories have become more prominent as people who may be more prone to believing certain content can be targeted more easily (Watts and Rothschild 2017). And although not every fake news article is necessarily taken seriously, the next paragraph will demonstrate the effects which fake news have had during the pandemic.

3.3. Fake News and Conspiracies in the Context of COVID-19 and the Querdenker Movement

With the sudden outbreak of COVID-19, most people were faced with many uncertainties as to the severity of the virus, its ways of transmission, and economic consideration in terms of e.g., job security. These uncertainties in combination with social isolation that came with the lockdowns created the perfect base for spread of false information and conspiracy theories (Edwards forthcoming 2022). The spread of COVID was thus connected to 5G technology, China was accused of using COVID-19 as a bioweapon, and many news articles appeared which warned of the effects of the vaccines. These conspiracy theories spread exponentially; thus, reaching a wider audience. Across Europe, many 5G towers were attacked which coincided with the spread of rumors that 5G was causing Corona and appeals for arson attacks whereas in the US supporters were associated with severe crimes, such as assassination plots or even murder. These early conspiracy theories, over time, culminated with other ideologies and rumors combining *inter alia* racist ideologies with homeopathy, aversions against the elite, and people fearing exposure to electricity, generating a diverse mix of people (Bruns *et al.* 2020, Roose 2021). These examples demonstrate real-life consequences that fake news and conspiracy theories can have. These effects do not only extend to recourse to vandalism but also non-compliance of public health measures, violent crimes, and disruption of the public sphere.

Particularly the uncertainty in scientific circles regarding COVID contributed to more suspicion towards experts and measures adopted during the pandemic while making fake news more credible, as they voiced concerns and suspicions many citizens had. One study conducted in Germany showed that people exhibited different informational needs during the pandemic with some preferring certain information and others wishing for more contradictory and diverse information. While the former group sought for orientation and thus wanted more definite information, the latter rather wanted to form its own opinion by being exposed to different views (Post *et al.* 2021). This divide in informational needs coupled with many economic uncertainties that came with the pandemic and repeated lockdowns created a stronger appeal for fake news in some people. This is because the economic situation of a country affects both trust in the government as well as partisanship on fake news acceptance, with lower economic performance contributing to stronger acceptance of alternative facts (Faragó *et al.* 2019). Simultaneously, the situation created an economic opportunity for many private actors who specialize in the production of clickbaits. According to an insider working for such a marketing agency in Macedonia, more than half of the content created by them addressed COVID-19 related topics involving *inter alia* unverified information and conspiracy theories (Cvetkovska 2020).

In practical terms, an indication of potential effects of the pandemic could be the strong increase in membership numbers of *QAnon* and *Querdenker*. Some of the biggest Facebook groups of *QAnon* increased by almost 600% within only a few months at the start of the pandemic (Bracewell 2021, Edwards forthcoming 2022). Meanwhile, the *Querdenker* movement in Germany started to slowly appear, having its first demonstration mid-April with approximately 50 people in Stuttgart. Already in May the number of participants increased to 10,000 people and demonstrations were no longer limited to the city Stuttgart but started to surface in other major cities, including Munich or Berlin. These developments climaxed at the end of August 2020 when a few hundred protestors stormed into the German Reichstag, the seat of the German parliament located in Berlin, which did not seriously threaten the security of the building nor the people inside, but clearly signified that frustration and anger towards the German government and its measures were growing (Hippert and Saul 2021). Accordingly, *Querdenker* constitute a social movement in that it "is a persistent and organized effort involving the mobilization of large numbers of people to work together to either bring about what they believe to be beneficial social change or resist or reverse what they believe to be harmful social change" (DeFronzo and Gill 2019, p. 27).

Notably, there is an ideological overlap between *QAnon* and the *Querdenker* movement as many of the theories expressing distrust towards government measures and outright racist content connected to *QAnon* are very prominent among *Querdenker* circles. Furthermore, *Querdenker* rallies also host many *QAnon* followers who demonstrate with banners and paroles common for *QAnon* circles (Scheider and Klein 2020, Schuldt 2021, Edwards forthcoming 2022).

4. POST-TRUTH SOCIETIES IN LIGHT OF THE TRANSFORMED MEDIA ENVIRONMENT

To recap thus far, the previous chapters demonstrated how the media environment has changed from a more centralized institution where journalists acted as watchdogs and gatekeepers to a decentralized sphere that enables everyone to produce content and allows internet users with similar views to communicate on a global scale. This in turn has affected spread and influence of fake news and conspiracy theories, phenomena which have always been part of political life. The emphasis on authenticity and subjectivity instead of objectivity coupled with decreasing funding of quality journalism has shifted news production to an entertainment industry which exploits emotions and scandals for economic gains. The rise in fake news has thus not only become an epistemological issue in the sense that there is no public body that checks the validity of content that is being disseminated, but also an economic opportunity given that fake news attract more attention which can be converted into revenue. In this chapter, the theoretical framework provided by Foucault will be applied to the present phenomenon of fake news in Germany during COVID to identify primary issues caused by fake news in the context of truth and shared reality.

4.1. BAD *PARRESIA* AS A SIGN OF POST-TRUTH?

As previously mentioned, for Foucault (2011) the importance does not lie in the content of truth necessarily and rather in the way that truth is told. Subsequently, bad *parresia* arises when everyone can tell truth without the influence of ascendancy. These tendencies can be clearly observed in the online media environment where the roles of journalists as gatekeepers and fact-checkers are ceding to exist which leads to controversial or questionable information to remain in circulation without being questioned (Tucker *et al.* 2017). This means that different narratives, often involving opinions about events rather than verified information, appear on the internet out of which users can pick those that align best with their perceptions. The danger in these developments is poignantly identified by Arendt: Factual truths or verified information – referring to straightforward information such as e.g., that CO2 emissions contribute to climate change – are not more obvious than alternative narratives because they are somewhat coincidental. In other words, alternative narratives, even if they do not correspond with reality, can be more convincing because they can be designed to appear more rational whereas certain factual truths are not very explanatory but just are the way they are (Arendt 1967). As such, "reality quite frequently offends the soundness of common-sense reasoning no less than it offends profit and pleasure" (Arendt 1967, p. 306). Consequently, if everyone on the internet can produce information in a decentralized manner which is not challenged, it becomes increasingly difficult to distinguish verified information from fiction.

Of course, these considerations describe extreme situations and are not applicable to every internet user. Nevertheless, these new circumstances align well with Foucault's descriptions of bad *parresia* in that everyone can package their opinions as truths without any rules or standards that would uphold some form of ascendancy or *logos*. What is perhaps a more urgent issue in the rise of fake news and the growing suspicion towards traditional news media is a type of cynicism or suspicion that corrupts the perception of virtually any kind of information to the extent that even reasonable and well-established information is not

being trusted – sometimes even leading to redpilling. Once this point is reached, there is no distinction anymore between information that can be trusted or not, and any information is being accepted that aligns with one's ideology, even if these facts are contradictory (Arendt 1967). These issues are then exacerbated by the infrastructure of the internet in which users are often fed information that matches their views and ideologies with help of algorithms. Consequently, people and their views are not challenged with other information and thus encouraged to hold onto their opinions. This progression is a perfect illustration of what has happened to many people who identify themselves with the *Querdenker* movement. Expert opinions and studies are disregarded as there is no trust whatsoever in traditional media. Thus, well-founded information is on equal footing with fake news and highly controversial content because previous indicators for trustworthiness of content, such as e.g., authority of a source or procedures by which data has been selected, are completely disregarded. Instead, primary exposure to information corresponds to their existing views which only reinforces their beliefs.

4.2. EPISTEMOLOGY

The reason why many epistemic communities have experienced more distrust is not just the shift to the online world but also increasing specialization within academic disciplines. According to Marconi (2019, p. 87), there has been a "hyperfragmentation of knowledge" with the consequence that many scientific domains, which also affect decision-making in many policy fields, are often not comprehensible for non-experts. This process does, on the one hand, create a strong dependence for the public on epistemic communities to produce knowledge, while, on the other hand, generating a stronger reliance on good journalists to act as mediators to translate scientific findings and content into intelligible language for the broader public (Marconi 2019).

Because of their knowledge and competency within a specific scientific area, experts are placed in a stronger position to make claims and interpret events based on their background. What Foucault thus refers to as ascendancy, Arendt (1967, p. 90) describes as "epistemic democracy" to explain the fact that there are certain people with socially recognized educations who adhere to certain agreed upon standards – which can be referred to as a form of *ratio* – that vest them with more authority to share their opinions concerning their field of expertise.

Yet, with popularity of social media which has put the lay person in the position of sharing and creating content without much oversight, the position of experts is on the same plane field than everyone else, which fulfills the conditions for both bad *parresia* and post-truth. What Sustein thus terms as "crippled epistemologies" (Zuckerman 2019, p. 5), which refers to the selection of sources based on arbitrary standards, could be a symptom of a general anti-elitist attitude that has been at the forefront of many populist movements and has become more pronounced with social media (Arendt 1967).

4.3. ISSUES FOR REALITY AND DEMOCRACY

Obviously, the advent of the internet and social media networks did not only bring about negative consequences. There is considerable democratic potential inherent in many of these new online applications by providing a platform which encourages more public

participation, gives easier access to information, and allows people to join forces in important matters without being controlled by governments or powerful elites. Yet, at the same time, this freedom that comes with the internet does not necessarily have to translate into more democracy as different actors support different interests which might not reflect democratic ideals. Furthermore, democracy does not automatically stem from unrestricted liberty but is something that requires to be cultivated because it does not develop organically under anarchist circumstances (Tucker *et al.* 2017). In other words, many of the recent developments previously described did not necessarily contribute to a more stable democratic culture but instead could threaten some important features thereof. These issues relate to some of the phenomena described in the previous section.

For example, the combination of providing a platform for everyone to share their opinion with the setup of algorithms, which preselect content, greatly interferes with the user's ability to be properly informed. On the one hand, there is a constant influx of unverified information, clickbaits, and uninformed opinions which can greatly distort the picture of important societal issues. On the other hand, the self-reinforcing feedback of opinions caused by algorithms can strengthen biases and potentially create more polarization and social division. These processes could for example be observed during the Brexit campaign which was characterized by fragmented media spaces which led to people being differently informed (Bossio 2017, Bakir and McStay 2018). Consequently, many people who voted for Brexit were not aware of the political and economic implications, suggesting that many people were not properly informed and thus had a distorted view of the repercussions implied in their political decision-making.

A society in which the primary arena for public discourse discourages constructive political engagement and instead contributes to a polarized and fragmented information environment cannot be considered to reach the benchmarks for true democracy. While some scholars such as Galeotti (2019) argue that effects of the internet and fake news have been overemphasized in terms of their potential for social division, there is still merit in the argument that the gradual exclusion of journalists from the public sphere has significant effects on public discourse (Freelon 2017). What is particularly worrisome in this context is the lack of trust in traditional media outlets and epistemic communities because they ensure a degree of social cohesion by providing knowledge and information on events based on consensus which generates a unified basis for public discourse. At the same time, reliable production of knowledge is essential for making political decisions that maximize social welfare. Therefore, the more reliable and precise information is, the better the decision-making power and the better the overall outcome of policies. However, this requires people to believe and respect information and opinions which are produced by experts. As such, it could be argued that a reasonable degree of trust in epistemic communities is required in a democratic system not only to maximize efficiency of the decision-making process but should also be considered as a necessary attribute of a reasonable, and well-informed citizen to make sound decisions. This is also in line with Foucault's (1988) proposed four pillars of good *parresia* in which people with ascendancy speak truth according to *ratio* and *logos*. Yet, this trust in epistemic actors that promotes sound decision-making practices appears to be under jeopardy in Germany. According to a recent study by the *Bundeskriminalamt*, there has been an increase in hate speech against journalists, doctors, and activists during the pandemic which suggests unhealthy tendencies in political discourse (Levy 2017, Bakir and McStay 2018, Pala 2019, *Hass im Netz* 2021).

Nevertheless, it should be emphasized that there have been reasonable grounds for growing distrust against traditional media broadcasts. The development of mass media has also meant that the journalist profession has changed in a way in which objectivity and verification of information have been exchanged for attention-seeking journalism which is more superficial and polarized. The fact that over 30% of people in Germany have lost trust in media speaks for itself (PwC 2018). Therefore, media companies must also claim some responsibility for low trust that is bestowed with them as many journalists and broadcasts have not properly fulfilled their democratic role.

Without necessary trust, consumers will be drawn to alternative sources which often further undermine traditional media and contribute to fragmentation of information. In extreme cases, when individuals or whole groups are redpilled, this can lead to a distorted view of what is real and of who is trustworthy, which threatens the foundations of a shared reality and good *parresia* – prerequisites for democratic discourse (Watts and Rothschild 2017, Usher 2017, Lewis and Marwick 2017). Once there is no common understanding on who should be trusted in terms of knowledge production and presentation of facts, more doubt and suspicion is being generated which creates more social instability and a fragmented perception of reality as different people choose to believe different sets of facts. This means that political organization becomes more difficult because agreement on general issues and approaches to solve them is gradually disappearing (Zuckerman 2019). In other words, "[p]olitical consensus becomes more elusive, because finding a common solution requires accepting a common – or at least compatible – analysis of the situation" (Zuckerman 2019, p. 11).

Hence, main issues identified which threaten the democratic system involve lack of epistemic trust and the connected lack of informed citizens who can be trusted to make reasonable decisions in the democratic process. Informed citizens form the core of a democracy and without this element being present, the whole democratic apparatus becomes ineffective. What is more, in extreme cases where citizens decide to disregard the knowledge production of epistemic communities completely and instead believe in conspiracies, it becomes difficult to speak of a shared reality among citizens where political issues can be addressed and discussed. In these cases, political discourse becomes virtually impossible.

5. REGULATION

Before some legal options will be considered which might alleviate some negative consequences of fake news, it is useful to first address the relationship between law and truth. To what extent should law interfere with the production of truth? This question is essential to pose before contemplating how law could garner more trust in public institutions by creating a framework that supports quality journalism and enhances accountability mechanisms which filter out sources that produce knowledge in an irresponsible manner equal to bad *parresia*.

5.1. Law and Truth

We have already established that truth is a concept which instead of being absolute must be negotiated in a rational manner and with best intentions for society in mind. This means that truths should be articulated in a way that ensures that knowledge is produced reliably and in line with standards that guarantee some degree of transparency and accountability. Law can hence be a useful tool to regulate and enforce such standards; however, only in a way that encourages truth-finding instead of interfering with it.

First, it is crucial to keep in mind that law does not have a monopoly on truth-finding and is only capable of producing a particular version of truth according to standardized procedures, which means that "law is intrinsically artificial and deliberately considers truth as the product of a convention" (Condello 2019, p. 27). The aim of court proceedings is often to arrive at a fair and justified judgment and not necessarily to convince everyone involved of the decision. For this goal to be guaranteed, there are many procedural and substantive frameworks and cognitive strategies in place which serve to protect the specific judicial truth that is being produced by law (Condello 2019, Mason 2019). This implies that since legal production of knowledge is based on a specific culture and predetermined procedures, the process of truth-finding is framed in normative terms and is not absolute. Especially in court proceedings, judgments are not merely based on factual elements but also consider ethical questions and balance punitive considerations with rehabilitative ones. How judgments are made and how truth is conceptualized in trials greatly depends on the legal culture including assumptions of truth, procedural and substantive variations, etc. (Suntrup 2017).

However, legal truth-production in an adjudicatory setting distinguishes itself from the legislative discipline as this concerns broader, social issues and because law fulfills different functions in these different domains. While law is an essential tool for social construction of reality in general, this task crystallizes itself in different ways (Suntrup 2017, Mason 2019). Whereas court proceedings construct reality more affirmatively according to standards of justness to solve disputes, legislation provides a more abstract framework to lay down accountability mechanisms and codes of conduct for knowledge production without concretely determining the content of truth. In the latter case, law may only interfere with freedom of speech in cases where such freedom impedes other basic laws, to protect minors or the personal honor of a person according to Article 5 of the German Basic Law.

5.2. Primary Issues to be Addressed by Fake News

From the ongoing discussion, there are two primary issues that can be identified, and which should be addressed: First, the recent development of the internet and the media environment have generated more suspicion and less trust directed towards mass media (Fletcher & Nielsen 2017). Second, the internet enables every internet user to speak their mind, share their opinion, and disseminate information. This creates a flood of unfiltered information in which information that uses rhetoric and controversy most optimally will gain most attention. This not only creates bad *parresia* but also means that information is assessed not on the reliability of epistemic practices and instead on aspects including authenticity of the author, rhetoric, and partisan affiliation. However, this makes users more prone to fall victim to cognitive traps and biases.

5.3. LEGAL OPTIONS

Legal solutions in the domain of truth-production and media regulation should cultivate the exercise of good *parresia* by creating a framework that generates optimal conditions for reliable and reasonable truth-finding to establish a shared social reality without impinging too much on the process. Therefore, three pillars should be addressed to encourage an online space that caters to informational needs of citizens in a democratic society in a way that supports a constructive process in which the public negotiates its truth. These three pillars encumber (re-)building of trust in media that is bound to truthful reporting, encouragement of good *parresia*, and discouragement of bad *parresia*.

If we first consider options that could encourage more trust in mass media, it is important to conceptualize first what trust in media means. Meyer (1988) proposes that media credibility comprises aspects such as fairness of a story, completeness, and accuracy thereof as well as potential biases of news stories. To guarantee all elements, there are different strategies available, some more reasonable than others. In this context, it is important to recognize the significance of the right to free speech which should only be interfered with in exceptional circumstances. As such, legislation aimed at content removal does often not meet democratic standards for several reasons, including concerns of over-removal and privatization of speech regulation due to conferring regulatory powers to social media platforms. Contributing to this complexity are also definitional issues of fake news which are often directed towards including intent as a criterion which is challenging to prove especially in an online setting (Verstraete *et al.* 2017, Pielemeier 2020, Heldt and Dreyer 2021).

Instead, a multifaceted approach would arguably be more effective in solving the issue of fake news. One area where stronger accountability mechanisms could be desirable is the economic dimension of clickbaits and fake news. This is because the whole architecture of online media platforms, including their algorithms, is built around controversy and attention to generate money which corrupts exposure to information (Albright 2017). One example of attempts to hold companies and social media platforms more accountable has been the European Code of Practice (European Commission 2018), a soft law instrument signed by large online platforms and advertising agencies to *inter alia* demonetize the spread of disinformation and clickbaits, to ensure more transparency in content moderation, and to remove fake accounts (Monti 2020, DG Connect 2021). Although this instrument does not solely apply to economically motivated dissemination of fake news but also intentional spread thereof, it can be argued that this is a first important step to increase industry standards and prevent monetization of fake news without being overly restrictive. However, it should be noted that this approach creates concerns of private censorship as the problem of state influence on public discourse would be merely transferred to internet platform which are even less subjected to accountability mechanisms. Thus, power to moderate content would be shifted from the public to the private domain involving only a few multinational companies, which would go against the notion of collectively negotiating social truth and reality. Alternatively, independent bodies bound by clear Human Rights standards could be vested with the task of regulating the online space to ensure impartiality and balancing of all interests involved – those of internet users, platforms, and the state – as proposed by Heldt and Dreyer (2021). Whereas it could be a viable approach to target the economic sector to demonetize the use of clickbaits for advertising purposes, it should

also be noted that it would be a challenging task to clearly delineate fake news for financial gains from those for political purposes which could create a potential for abuse.

So far, however, it becomes apparent that internet users have the least influence on content moderation or content-related discussion and even if independent bodies would be tasked with moderating the online media environment, it can still be argued that citizens are not sufficiently included in the negation of truth and shared reality (Held and Dreyer 2021). Therefore, I would argue that emphasis should be put on a two-tier approach which addresses the very root of the issue regarding lack of trust in media, and the production and dissemination of unverified information: The first tier focuses on re-institution of quality journalism to encourage more trust and subsequently consumption of credible sources. The second tier would focus on the last two pillars by establishing clearer norms for internet users in terms of sharing content and information literacy. This approach would also be in line with Foucault and his idea on instituting common rules and procedures that everyone respects and abides by to guarantee good *parresia*.

FIGURE 2

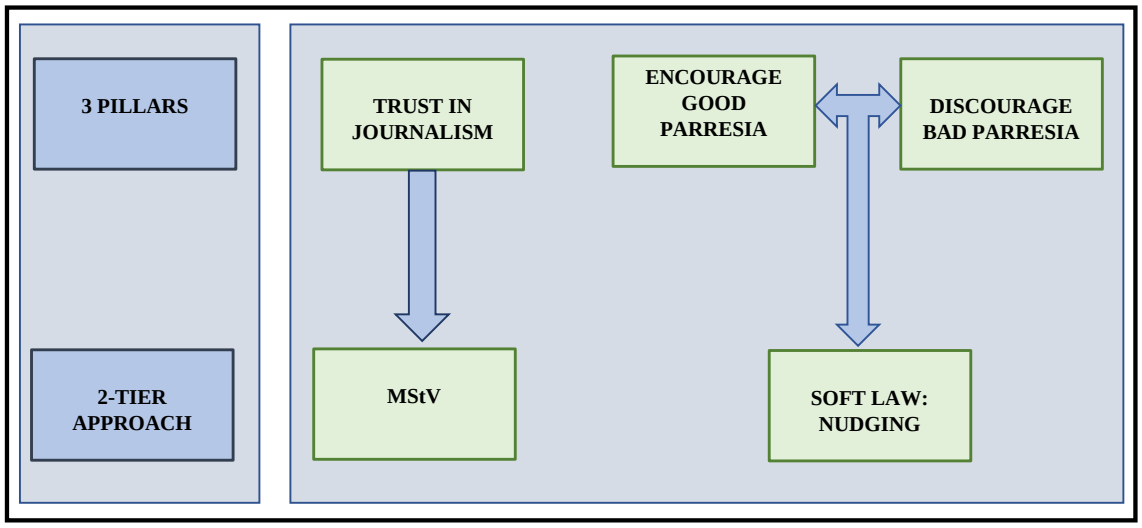

Figure 2. Regulation Proposal.

Considering the first tier, establishment of trust in epistemic communities and journalists is the primary focus. The replacement of the German *Rundfunkstaatsvertrag* with the *Medienstaatsvertrag* (MStV), which set in force on November 7th, 2020, is an important step in the right direction (Libor 2020). The change in legislation brought about new definitions for regulation of new types of media services to include *inter alia* media intermediaries, social media platforms, streaming platforms, and online search engines. Its aim is to protect the plurality of opinions by introducing a graduated framework of regulations with different provisions applicable depending on the type of offering (MStV, § 2 Abs. 2). Particularly interesting is the addition in §19, Abs. 1 MStV which extends the applicability of journalistic due diligence obligations, including respect for truth, objectivity and balancing of different interests, to content which appears to be journalistic-editorial in nature but may have stronger economic motivations, such as clickbaits (MStV, §19 Abs. 1; Gröpl). Although it is still unclear how courts will interpret the provisions and how to properly implement them, these changes constitute a necessary step forward to update journalistic standards and make

them applicable to the broader media environment to safeguard legitimate trust in traditional media. This could be a motivating force for content producers to exercise good *parresia* as these principles would not only ensure *logos* but also ascendancy as only those who adhere to these standards may speak truth.

The second tier emphasizes the role of citizens in the public negotiation of truth to discourage bad *parresia*. This tier is probably the hardest to address in legislative terms which is why a soft law approach in the form of nudging might be most effective. Nudging describes a form of policy intervention which attempts to change behavior without any strict prohibitions and instead with subtle, yet persuasive, suggestions (Damgaard and Nielsen 2018). There are various forms of nudging, such as putting a deposit on plastic bottles to deter littering, or the classification of food items depending on their nutritional content to encourage healthy food consumption. This can be particularly effective in the digital sphere because choices can be displayed in different ways depending on design options of the interface. The heuristic and cognitive traps which lead to people believing in fake news can also be used in a constructive way by influencing the decision-making processes on a subconscious level. Hence, nudging can be useful in many aspects including establishment of normative accountability when it comes to producing and sharing content by creating interfaces which encourage these norms, or in educational settings to improve media literacy. There are many different nudging strategies, including *inter alia* framing of information or choices, making information more accessible, or exogenous incentives such as peer group manipulations or social comparison nudges (Weinmann *et al.* 2016, Rini 2017). Of course, there are obvious concerns for manipulation, and it is important to safeguard the autonomy of the subject whilst facilitating their freedom of choice and agency. Therefore, legitimate nudging strategies cannot be manipulative in that they coerce someone into a behavior but instead suggest choices to be considered which the subject does not have to opt for (Vugts *et al.* 2020). These could e.g., involve quick pop-up notifications prior to sharing an article that would ask whether the person really read the article, or indicators of whether someone has clicked on the article and spend sufficient time on it to read it. Little nudges like that still guarantee the freedom of expression while contributing to initiating norms that deter bad *parresia*.

Extensions of school curricula that address cognitive and heuristic traps in association with fake news could be another tool to combat fake news. For example, studies have shown that games such as *Go Viral!* can have a positive impact on the ability to discern fake news from reliable sources. Players are exposed to common strategies and consequences of fake news with the aim to develop cognitive immunity toward misinformation – similar to a vaccine (Van der Linden and Roozenbeek forthcoming 2022). This provides playful ways to increase awareness and literacy in young generations.

6. CONCLUSION

This inquiry used a post-structuralist and post-truth lens to understand both how truth should be conceptualized in time of the internet and why fake news have experienced an upsurge over the past few years. By recognizing that truth is a social concept that is not only malleable to power dynamics and circumstances but can be used by different actors to

promote their interests, it becomes apparent how essential it is to integrate citizens into the process of negotiating a commonly accepted truth. Although truth is not absolute, Foucault's theory emphasizes the importance of how it is negotiated in society and how claims to truth should be embedded in a culture that adheres to epistemic practices and scientific standards. Democracy and truth therefore are two factors that rely on each other to ensure effective and consistent political decision-making which aims at maximizing public welfare.

While media is a fundamental arena for public negotiation of truth, it has experienced many changes with emergence of the internet and popularity of social media platforms. Journalists in their important democratic function as public watchdog and reflection of societal developments are pushed away from the central stage to make space for polarized content and a decentralized information environment in which internet users themselves create content. This has had serious repercussions for political discourse given that this new media climate creates perfect conditions for fake news to thrive. Especially during COVID it became apparent how fake news and conspiracy theories can affect the perception of severity of the situation and compliance with public health measures. In extreme cases, belief in fake news can cause a detachment from commonly accepted facts as is the case with many members of the *Querdenker*.

Post-structuralism in this inquiry has contributed to the acknowledgement of the importance to vest the public with the negotiation of truth. As such, law should be understood as a tool to enhance this process by providing guidelines which promote good *parresia* without unjustly interfering with free speech rights. Therefore, a soft law approach which focuses on three pillars – trust in journalism/episteme, encouragement of good *parresia,* and discouragement of bad *parresia* - seems to be most appropriate to cultivate a political culture in which society as a whole engages in deliberating on a common understanding of truth and reality without governments or private companies exerting too much influence. This would reflect the recognition that law produces a specific kind of truth and that it is important to set standards and procedures to which society has agreed upon based on public welfare considerations.

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