



Law related to miss information and fake news in India

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Abstract

Misinformation and fake news are significant challenges in India, driven by a complex mix of socio-political, cultural, and technological factors. Widespread Use of Social Media Platforms like WhatsApp, Facebook, YouTube, and Twitter/X are major factor. Whatsapp forwards often in regional languages, spread unchecked messages rapidly, Low Media Literacy, many users lack the ability to critically assess sources or verify information, this is especially pronounced in rural and semi-urban areas. Political Polarization, Political parties and interest groups sometimes deliberately spread propaganda or misleading content to influence public opinion or incite unrest, Religious and Caste Tensions Fake news has been used to incite communal violence, such as false videos or messages blaming one group for crimes or events, Deep fakes and Edited Content Increasing use of manipulated videos and images to discredit individuals or spread false narratives.

Keywords: Misinformation, fake news, social media, media literacy, political polarization, deepfakes

Introduction

Status of disinformation threats in India

According to the World Economic Forum's 2024 Global Risk Report, India was ranked one of the highest for the risk of misinformation and disinformation.

- **Misinformation:** It refers to false information that is not intended to cause harm.
- **Disinformation:** It refers to deliberate spreading of false information that is intended to manipulate, cause damage and guide people, organizations and countries in the wrong direction
- **Disinformation in India:** The study conducted by Indian School of Business (ISB) and CyberPeace found that political fake news accounts for 46 % of fake news, followed by general issues (33.6 %) and religious content (16.8 %).
- These three categories alone represent 94 % of the total fake news spread in India.

Effects of Fake News

- **Threat to Social Harmony:** Misinformation fuels communal violence and religious tensions (e.g., mob lynchings due to WhatsApp rumors). Increases societal divisions and distrust among communities.
- **Public Safety and Law & Order Issues:** Fake news incites panic in society. For example, false reports of child kidnappers leading to lynching incidents.
- **Impact on Democracy:** Misleading political propaganda influences elections and voter behavior.
- **Economic Disruptions:** Misinformation about stock markets, financial institutions, or government policies causes market volatility.

- **Health Risks:** Spread of pseudoscience-based treatments undermines scientific medical practices.

Challenges in Curtailing Fake News

- **AI-Generated Content:** The rise of deep fake technology and AI-generated misinformation makes it harder to distinguish between real and fake content.
- **End-to-End Encryption:** Encrypted platforms like WhatsApp make it difficult for authorities to track the source of fake news.
- **Diversity:** Diverse political and social landscape creates fertile ground for manipulated narratives, voter influence, and economic disruption.
- **Lack of Digital Literacy:** Many people, especially in rural areas, lack the ability to critically analyze and verify online content.
- **Political and Ideological Bias:** Fake news is often used as a tool for political propaganda, targeting elections and creating social divisions.
- **Legal and Regulatory Gaps:** Existing laws, such as the IT Act, are inadequate in tackling the dynamic nature of fake news. The IT Act does *not define "fake news" explicitly*, making it difficult to enforce penalties effectively.
- **Lack of Fact-Checking Mechanisms:** Fact-checking agencies have limited reach compared to misinformation channels.
- **Dwindling public trust in legacy media:** With trust in mainstream media declining, citizens are relying more on social media for news. This shift has resulted in a significant number of users forwarding unverified information, often believing it to be accurate simply because it comes from friends or family.

- **Foreign Information Manipulation and Interference (FIMI):** India has faced persistent Chinese disinformation threats since the 2017 Doklam standoff, prompting the ban of over 300 Chinese apps, including TikTok, to curb foreign interference.

Steps taken by the Govt to tackle fake news

- **Information Technology (IT) Rules, 2021:** These rules mandate social media intermediaries to appoint a Grievance Officer responsible for addressing user complaints and removing content that violates the guidelines.
- **PIB Fact Check Unit:** Established in 2019, it addresses misinformation pertaining to government policies, initiatives and schemes, providing accurate information to the public.
- **Shakti Fact-Checking Collective:** Indian fact-checkers and news publishers working collaboratively to counter online misinformation
- **5-Point Advisory to Combat Fake News:** To encourage citizens to verify the authenticity of information before sharing, the government has issued advisories such as
 - Checking the credibility of the source.
 - Being cautious of sensational headlines.
 - Cross-verifying information with reputable sources.
 - Consulting official government communications for accurate information.
 - Refraining from sharing unverified information on social media platforms.

Steps to prevent the menace of fake news

- India, poised to surpass 900 million Internet users, would find itself vulnerable without proper policy implementation to combat disinformation.
- **Regulating Large Online Platforms:** Platforms with more than 45 million users can be subjected to audits and transparency measures, similar to the EU's Digital Services Act.
- **Fact-Checking Mandates:** Platforms can be mandated with regular risk assessment and information verification.
- **Research Funding:** Adequate funding can be allocated for advancing cybersecurity research and innovation. Transparent content moderation policies can be implemented to address misleading content that threatens public health, safety, or democracy, with strict enforcement of non-discrimination rules.
- **Awareness Creation:** Expanding public awareness initiatives, such as the Reserve Bank of India's Financial Literacy Campaign with Amitabh Bachchan, is essential for fostering critical thinking and societal resilience.
- **Leveraging Technology:** Developing and deploying AI algorithms can aid in detecting and flagging false information on digital platforms.

- **International collaboration:** With the global nature of disinformation, cross-border coalitions needs to be established for a coordinated global response.

In India, the legal framework dealing with misinformation and fake news is not governed by a single comprehensive law, but rather a combination of various laws and rules. Here's a summary of the key legal provisions that apply.

Indian Penal Code (IPC), 1860 ^[5]

Several sections of the IPC are invoked to penalize the spread of fake news:

- **Section 153A:** Promoting enmity between different groups on grounds of religion, race, etc. If fake news incites communal tension, this section may apply.
- **Section 295A:** Deliberate and malicious acts intended to outrage religious feelings.
- **Section 499 & 500:** Defamation; if fake news damages someone's reputation.
- **Section 505:** Statements conducing to public mischief:
 - **505(1)(b):** Causes fear or alarm to the public.
 - **505(2):** Creates or promotes enmity, hatred or ill-will.

Information Technology (IT) Act, 2000 (Amended 2008)

- **Section 66D:** Punishes impersonation using a computer or communication device (e.g., fake profiles spreading misinformation).
- **Section 69A:** Allows the government to block online content in the interest of sovereignty, public order, etc. (Used to take down fake news).

Related Rules

- Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021
- Mandates platforms (like Twitter, Facebook, WhatsApp) to remove fake news flagged by authorities.
- Platforms must appoint grievance officers and comply with takedown orders within a fixed time frame.
- News publishers and OTT platforms are required to follow a code of ethics.

Disaster Management Act, 2005

- **Section 54:** Punishment for spreading false alarms or warnings during disasters (e.g., during COVID-19 pandemic).

Epidemic Diseases Act, 1897

- Can be invoked to act against those spreading false information during an epidemic.

Press Council of India (PCI) Guidelines

- While not legally binding, the PCI can censure newspapers or journalists for spreading fake news.

Representation of the People Act, 1951

- Penalizes spreading false information during elections to influence voters.

Indian Evidence Act, 1872

- Electronic records can be used to prove the spread of misinformation (Sections 65A and 65B).

Challenges and Criticism

- The lack of a dedicated law against fake news.
- **Freedom of speech concerns:** Some laws like Section 69A and parts of the IT Rules have been criticized for potentially enabling censorship. Enforcement is often inconsistent or politically motivated.

Recent Developments

The Indian government has proposed amendments and new bills (like the Digital India Act, expected to replace the IT Act) that may include stricter measures to curb fake news, especially on social media platforms.

References

1. <https://www.weforum.org/publications/global-risks-report-2024/>
2. <https://www.shankariasparliament.com/current-affairs/gs-i/tackling-misinformation>
3. <https://www.meity.gov.in/static/uploads/2024/02/Information-Technology-Intermediary-Guidelines-and-Digital-Media-Ethics-Code-Rules-2021-updated-06.04.2023-.pdf>
4. Information Technology IT Act, 2000 Amended, 2008.
5. Indian Penal Code IPC, 1860.