



THE PLAGUE OF FAKE NEWS AND THE LEGISLATIVE ARMOUR AROUND IT.

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Abstract

“Information is power. Disinformation is abuse of power.”¹

- Newton Lee.

This line effectively represents the truth of our age where the truth is inseparable from the false and misleading information. Information has become the most precious resource in today’s world and anyone who is misinformed or disinformed finds themselves at a disadvantageous position in society. Hence, it is of utmost importance that the integrity and accuracy of the information that is being made available in the public domain are maintained due to its direct impact on the development of a country.

This massive flux of fake news creates a cloud of chaos and confusion that creates a hyper-reality and makes people unaware about what is happening around them and violates an individual’s right to information which is a fundamental right. The problem lies in the standpoint of the countries that view the problem of fake news as a static complication, ignoring the effects of technological advancements and trying to counter this effect relying on the old relevant laws of the land. The solution is, however, dynamic and requires constant review and revaluation. The impact of technological

developments should be realised and single legislation, covering all mediums under its ambit should be enacted. The phenomenon of fake news spreading across the print and online medium cannot be viewed as less than a plague infecting the current generations and demands a cure at the earliest.

Keywords: Misinformation, Information media, Technological development, Legislative armour, Disorder, Cyber laws, Countermeasures, Protection of information, Awareness, Cyber integrity, Legitimacy of information.

Introduction

“Beware of false knowledge; it is more dangerous than ignorance.”

-George Bernard Shaw.

In the ever-changing world of developments, especially in the modern era which is also popularly and rightly known as the “Information age”, the cognizance of one’s surroundings is of extreme and utmost significance. With the evolution of mankind, it is not wrong to point out that its ways have also been witness to various modifications, with everything becoming more handy, trouble-free and effortless. In the contemporary world, with the contrivance of various life-changing tools such as the desktops, laptops, smart-phones and other such gadgets, which are practically used and owned by almost every individual, along with the World Wide Web i.e., the internet, not only are these individuals always connected, no matter in which part of the globe they are,

¹Newton Lee, September, pp.103-113 “Misinformation and disinformation.” (2013).



but also have access to the current affairs or happenings from across the globe along with answers to every question of theirs, just a mile-second away from them, through a simple touch or click in their devices.

It is often said that nothing comes without a price. The ease of use and the user-friendliness of the internet which may be considered as a boon, does have its ill-effects as well, and one such aspect is seen in the popular field of journalism which is constantly fighting the parasite of “Fake news”.

The internet is a space, open to public-access where every person may express their views, opinions, beliefs and create various websites or web-pages relating to any theme or subject. It is here that the menace of fake news creeps in, where people misuse their power and the universal-accessibility of the forum, to create various online databases with faulty and incorrect information or news to satisfy their selfish goals and objectives.

The prevalence of fake news is not only seen in the online medium, but also in various other forms of print media i.e. newspapers, magazines, etc., broadcast media i.e. through the radio, television, etc., out-of-home media i.e. outdoor advertising like flyers, transit

advertisements behind buses, taxis, etc., and in various other modes.

The term “news” refers to information which is verified and released in the public interest. The information which does not meet these standards thus, cannot be considered as “news” per se and it is here that the oxymoron “fake news” comes to play.²

The term “fake news”, which was named as the word-of-the-year by Collins Dictionary³, was defined by the same as “*false, often sensational, information disseminated under the guise of news reporting.*”⁴

The same has been defined by the Cambridge Dictionary as “*false stories that appear to be news, spread on the internet or using other media, usually created to influence political views or as a joke.*”⁵ Similarly, Macmillan Dictionary defined it as “*a story that is presented as being a genuine item of news but is in fact not true and is intended to deceive people.*”⁶

The mobilization and manipulation of information have been seen as a characteristic of history which dated way before modern journalism set benchmarks and levels which set the definition of “news” based on guidelines of truthfulness. Evidence

²Tandoc E; Wei Lim, Z and Ling, R. “*Defining ‘Fake News’: A typology of scholarly definitions*” in *Digital Journalism* (Taylor and Francis) Volume 6, 2018 - Issue 2: ‘Trust, Credibility, Fake News’ (2018).

³The Guardian “*Fake news is ‘very real’ word of the year for 2017*” (2017).

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<https://www.theguardian.com/books/2017/nov/02/fake-news-is-very-real-word-of-the-year-for-2017>>

⁴ Collins English Dictionary, HarperCollins Publishers, “*Definition of ‘fake news’.*”

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<https://www.collinsdictionary.com/dictionary/english/fake-news>>

⁵Cambridge Dictionary, Cambridge University Press, “*Meaning of fake news.*”

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<https://dictionary.cambridge.org/dictionary/english/fake-news>>

⁶ Macmillan Dictionary, Macmillan Publishers. “*fake news: Definitions and synonyms.*”

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<https://www.macmillandictionary.com/dictionary/british/fake-news>>



and records dating back to ancient Rome⁷ can be found where Octavian, launched a smear campaign with “short, sharp slogans written upon coins in the style of archaic Tweets.”⁸ against Antony, when the latter met Cleopatra, thereby becoming the first Roman Emperor and thus “fake news had allowed Octavian to hack the republican system once and for all.”⁹

However, in modern times, the 21st Century has been a witness to the weaponisation of information on an unparalleled scale. The new technology makes it extremely easy to manipulate and falsify the content, and the public network dramatically heightens the false subject-matter propagated by various nations, politicians and their political parties, dishonest corporates, etc. as they are

carelessly shared and relied upon by uncritical thinkers and the blind subjects.

Thus, it is thus imperative to put a stop and at least make an attempt to mitigate the problem in hand through the enactment of various laws, rules and regulations. Various nations across the globe have looked into the issue and have taken suitable measures through various mediums like setting up of Government Task Forces¹⁰, conducting media literacy campaigns¹¹, passing laws¹², setting precedents¹³, forming expert groups¹⁴, state broadcasts¹⁵, and through various other measures which have been further discussed in the research paper.

The Center Initiatives of Developed Countries Against Fake News

⁷J. Posetti and A. Matthews, the International Center for Journalists (ICFJ). “A Short Guide to the History of ‘Fake News’ and Disinformation” (2018).

< <https://www.icfj.org/news/short-guide-history-fake-news-anddisinformation-new-icfj-learning-module/>>

⁸ I.Kaminska, Financial Times, “A lesson in the news from the info-wars of ancient Rome.” (2017). <<https://www.ft.com/content/aaf2bb08-dca2-11e6-86ac-f253db7791c6>>

⁹Ibid.

¹⁰ Glenn Greenwald “First France, Now Brazil Unveils Plan to Empower the Government to Censor the Internet in the Name of Stopping Fake News” (2018).

<<https://theintercept.com/2018/01/10/first-france-now-brazil-unveils-plans-to-empower-the-government-to-censure-the-internet-in-the-name-of-stopping-fake-news/>>

¹¹ Murad Hemmadi, The Logic, “Federal government to announce \$7 million in funding to fight disinformation online ahead of 2019 election” (2019). <https://thelogic.co/news/exclusive/federal-government-to-announce-7-million-in-funding-to-fight-disinformation-online-ahead-of-2019-election/?utm_source=Daily+Lab+email+list&utm_campaign=962ca63c61-

[dailylabemail3&utm_medium=email&utm_term=0_d68264fd5e-962ca63c61-396163909](https://www.dailylabemail3&utm_medium=email&utm_term=0_d68264fd5e-962ca63c61-396163909)>

¹² Dhaka Tribune “President signs Digital Security Bill into law” (2018).

<<https://www.dhakatribune.com/bangladesh/2018/10/08/president-signs-digital-security-bill-into-law>>

¹³ The Washington Post “Bahrain charges lawyer of sharing ‘fake news’ for his Tweets” (2018).

<https://www.washingtonpost.com/world/middle-east/bahrain-charges-lawyer-of-sharing-fake-news-for-his-tweets/2019/05/15/524e4a04-7727-11e9-a7bf-c8a43b84ee31_story.html>

¹⁴ SStandaard Newspaper “Minister De Croo combats fake news” (2018) - Where Belgian Minister for the Digital Agenda Alexander De Croo announced the formation of an expert group of academics and journalists to formulate proposals for tackling disinformation or fake news.

<https://www.standaard.be/cnt/dmf20180502_03492898>

¹⁵ The Cambodia Daily, Phnom Penh Post “Cambodian government to launch TV show against fake news” (2019).

<<https://english.cambodiadaily.com/news/cambodian-government-to-launch-tv-show-against-fake-news-144919/>>



The occurrence of fake news is not a recent phenomenon. It has been used as a tool for spreading anti-information since the ancient times, however, with the advent of modern technology, the proliferation of social media platforms creating a hyper-reality along with the rapid increase in the number of users on the internet allows for a much broader and unfiltered distribution of information to its audience and makes the issue of fake news even more chronic.

Various countries in the past few years have seen a massive surge in the availability and access to fake news in the countries public domain and have conducted surveys to realise the integrity as well as the reliability of its sources of information. The surveys determined that the presence of fake news disguised as a legitimate source of information is a massive hindrance for its people to exercise their right to information and to be informed. According to a recent global survey, 86% of all the internet users have claimed to have fallen prey of fake news that was available to them.¹⁶ The national surveys conducted further in the respective countries also draw a similar picture, in Egypt, a parliamentary commission identified a spread of 53,000 cases of false news in a duration of mere 2 months. According to the undersecretary at the General Directorate of Information and Relations at the Egyptian Interior Ministry, there exists around 4-6 million fake news

pages spreading fake news on its social media¹⁷.

Similarly, in Germany, 59% of the surveyed people agreed to have encountered fake news and in some sections of the population this number was as high as 80%¹⁸. Even in a country like Kenya, where 90% of the total population has access to high-speed internet, 90% of the surveyed people agreed to be misled and received incorrect information regarding the recent elections.¹⁹ Since information is the most important resource in today's society, the countries have thus tried to counter these effects using various approaches.

Various developed countries all over the globe have taken the initiative to control the wave of fake news spreading throughout the public domain, these measures broadly include proper legislations and reasonable censorship of the news getting published on the offline and online media.

To counter the effect of fake news the countries are adopting one of the following approaches. Firstly, in the absence of any direct legislation which regulates the publishing of media both offline and online, the countries apply the relevant laws of the existing statues of the country, however, these old laws are not equipped to handle modern technology. Secondly, some countries realising the needs of the time are

¹⁶ The Hindu, "86% Of Internet Users Being Duped By Fake News, Says Survey." (2019).
<<https://www.thehindu.com/sci-tech/technology/internet/86-of-internet-users-being-duped-by-fake-news-says-survey/article27891006.ece>, >

¹⁷ Arab News "Egypt reported to have 4-6m fake news pages." (2019).
<<https://www.arabnews.com/node/1511301/media>>

¹⁸ Times "Russia Has Launched a Fake News War on Europe. Now Germany Is Fighting Back." (2019).
<<https://time.com/4889471/germany-election-russia-fake-news-angela-merkel/>>

¹⁹ BBC "Kenya election: BBC targeted by fake news." (2017).
<<https://www.bbc.com/news/world-africa-40753182>, >



legislating specific legislation which restricts the publishing of fake news and imposes fines and other punishment to create a deterrent effect. Thirdly, countries are delegating the responsibility to authorities such as the web-site administrator or the election authorities which will then result in the fake news posts getting blocked and a well-informed electorate respectively. Lastly, some countries have also taken a more fundamental approach and have started educating its citizens against the ill effects of fake news and the dangers that it brings. Now let's look at some of the developed countries and their individual measures taken within its municipal jurisdiction against the rise of fake news.

ARGENTINA

Argentina has taken some proper legislative steps to initiate its fight against fake news in lieu of the countries elections. The legislation created the “**Comisión de Verificación de Noticias Falsas (CVNF)**”²⁰ which translates to commission for the verification of fake news within its national electorate. The main agendas of the commission will be the censorship of news that it posted in the public domain, the removal of the published fake news already available on the public domain as well as restricting and forbidding it's republishing on the internet again. In pursuance of this result, the social media accounts of the candidates, as well as the political parties, have been monitored and the

²⁰Bueno Aires Times, Lucas Robinson “*Fake news persists in Argentina as election draws near.*” <<https://www.batimes.com.ar/news/argentina/fake-news-persists-in-argentina-as-election-draws-near.phtml>>

²¹Cyrus Lee “*Spreading false information online risks seven year imprisonment in China*” (2015).

accuracy of the news is compared to the official publication of the state to determine its correctness.

CHINA

China relies heavily on its already existing criminal and administrative laws as well as the newly enacted cybersecurity laws to contain the publishing and spread of fake news which can be detrimental to the country and its citizens.

The roll-out of fake news that disturbs the public order on the internet, or any other media has been made a crime under china’s municipal criminal law and is punishable by up to 7 years of imprisonment²¹. Furthermore, in 2016, the country legislated the **Cybersecurity Law, 2016** which prohibits the spreading of any fake news online on the internet which disturbs the economic as well as the social order of the country²². Thus, the legislation in china is now equipped to handle any spread of fake news of any nature, political, social, criminal, all likewise.

Coupled with focused legislations, the country has also issued rules and guidelines for the internet service providers along with the internet news and information services to curb the roll-out of fake news so that it is not available on the public domain in the first place.

<<https://www.zdnet.com/article/spreading-false-information-on-social-media-risks-seven-year-imprisonment-in-china/>>

²² Nick Statt, The verge “*China makes it a criminal offense to publish deepfakes or fake news without disclosure.*” (2019).

<<https://www.theverge.com/2019/11/29/20988363/china-deepfakes-ban-internet-rules-fake-news-disclosure-virtual-reality>>



Rules requiring the internet service providers to compulsorily register the users under their real name to reduce anonymity and increase the traceability of the people so that justice can be served and people do not escape the consequences thus creating a deterrent effect.

The cybersecurity law of the country mandates the requirement of a licence for the information services, this assures the integrity and legitimacy of the information and the information providers themselves as well. The rules also state that once any compromised information is detected by the service providers, they must immediately stop its transmission and the information should be taken down immediately followed by a complaint to the competent authority.

EGYPT

The Egyptian parliament, in 2017, formed a “**Communication and Information Technology Committee**” which disclosed that Egypt and its people have fallen prey to almost 53,000 thousand cases of fake news and false information in a mere duration of 60 days²³. Since then the Egyptian authorities have adopted several measures to counter the surge of fake news on its information channels. The Egyptian legislation has enacted three municipal laws to regulate the distribution of information through the information providers while also assuring the accuracy of the information in both print as well as the online media.

Firstly, **Law 180 of 2018 Regulating the Press and Media**²⁴. **Article 4** of Law No. 180 of 2018 provides that “press institutions,

media outlets, and news websites must not broadcast or publish any information violating the principles cited under the Constitution.”. **Article 4** gives the power to suspend or ban any information provider which violated the rules and guidelines prescribed by the law and tries to disturb the public order to the Supreme Media Council (SMC)²⁵. Further **Article 19, 21, 22 and 101** of the statute provides even greater powers in the hands of the government authorities to counter the rise of fake news.

Secondly, **Law No. 175 of 2018 on Anti-Cybercrime**²⁶, **Article 7** of the statute provides and grants the investigating authority the power to suspend or block any domestic as well as foreign websites that publishes information which is deemed to be threatening to the national security²⁷.

Further **Article 14 and 20** of the act provides for the punishment of hacking and modifying information thus creating a deterrent effect against the formation of fake news.

Lastly, **Penal Code, Law No. 58 of 1937**, and Its Amendments. **Article 80(d)** of the Penal Code states that “whoever deliberately spreads false information or rumours abroad about the internal conditions of the country that might weaken the country’s financial credibility or harm the country’s national interests is punishable by 6 months’ to 5 years’ imprisonment and a fine.”²⁸To facilitate the access to information that is accurate and not misleading, the courts, as well as the legislation of the country, provide for the free official publication of the judgement on cases and the legislated laws

²³Amina Khairy, Al-ahramweekly, “*Trapped in a Sea of Rumours*”, (2018).

<<http://weekly.ahram.org/News/25012.aspx>>

²⁴Law No. 180 of 2018.

²⁵Id, art. 4.

²⁶ Law No. 175 of 2018.

²⁷Id, Art. 7.

²⁸Law No. 58 of 1937, Art. 80(d).



which are published in the official gazette of the country.

GERMANY

Germany relies on the already existing criminal and civil provisions what are relevant in protecting the countries citizens from the evil of fake news. Furthermore, in 2017, the legislation of the country enacted the **Network Enforcement Act** which was passed with a particular objective of preventing the emission of fake news from the social media networks by improving the enforcement of the existing laws. Hence, in lieu of the act of 2017, any social media networks that fail to remove any illegal content that is published on its domain may be fined up to 50 million euros²⁹. The country also provides to its people an alternate source of trustable and accurate information by providing access to the official publication of the government regarding the judgements of the courts along with the laws enacted by the legislature.

KENYA

In 2017, guidelines were issued by the communications authority of Kenya that made it the responsibility of the mobile network operators to censor any political message before its transmission occurs. The guidelines also make its compulsory for the authors writing about politics to be accurate

in the information that they publish in the public domain.

In May 2018, the legislation of Kenya legislated "**The Computer Misuse and Cyber Crimes Act**", this act criminalises the publication of false information or fake news. However, the constitutionality of the above provision will be decided in a pending suit and the law currently stands dormant³⁰.

In March of 2018, the united states embassy along with the Kenya government took a more basic approach to counter the rise of fake news and launched a one-year media literacy campaign. The programme has been further expanded into the academic institutions including the studies about social media trends and its development³¹.

For ensuring the availability and of accurate and correct information to the public, the Kenya government operates an online portal which provides accurate legal information such as the case laws, the enacted legislation, government orders, etc.

The Present Legislative Armour of India Against Fake News

Being one of the most densely populated countries in the world, India is home to a major fraction of the world's population thus, making the country more susceptible to fake-news, thereby causing the creation of various notions, beliefs and ideas based on false premises which lead to or instigates panic,

²⁹German Law Archive, Network Enforcement Act (Netzdurchsetzungsgesetz, Netzdg), 1 September 2017 (Federal Law Gazette I, P. 3352 Ff. Valid As From 1 October 2017).

<<https://germanlawarchive.iuscomp.org/?p=1245>>

³⁰Jenny Gathright, NPR "*Kenya's Crackdown On Fake News Raises Questions About Press Freedom.*" (2018).

<<https://www.npr.org/sections/thetwo-way/2018/05/19/612649393/kenyas-crackdown-on-fake-news-raises-questions-about-press-freedom>>

³¹USA embassy in Kenya, Fiona Evans, Information Officer "*Ambassador Godec and U.S. Embassy Counter Fake News with Media Literacy Campaign*" (2018).

<<https://ke.usembassy.gov/ambassador-godec-u-s-embassy-counter-fake-news-media-literacy-campaign/>>



discord, upheaval, violence, disunity, animosity towards a particular religion, community or even towards a particular individual or corporate entity. With the advent of the latest technology, there has been an indisputable shift from the traditional ways of news-reporting through television broadcasting and print media to other forms like the internet, mobile news reporting applications and especially through social media platforms.³²

In today's day and age of the internet, the dissemination of fake news has become easier than ever before where practically any individual may post a report or statement, making it appear as an authentic news story and claim it to be completely accurate and factual. India being one of the most virtually-connected countries in the world, while the responsibility lies on the user of the information to verify whether the information being relied upon is well-grounded and trustworthy or not, it may be considered as the moral duty of the state to protect its people from such misleading sources in the first place.³³

Currently, India relies upon an array of legislations to solve and combat the obstacle of fake news. Section 505 of the Indian Penal Code (IPC), 1860 which relates to "Statements conducing to public mischief" is

relied upon, with special reference to **Section 505(1)(b) of the IPC, 1860**³⁴ which is related to the spreading of incorrect and mischievous content and material which results in or is likely to cause "fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity." Whereby, under this law, the convicted may be punished with imprisonment which may extend up to 6 years or with a fine or with both.

Further, **Section 504 of the IPC, 1860**³⁵ which is related to matters of "Intentional insult with intent to provoke breach of the peace" is also relied upon according to which, whoever intentionally insults, "intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence"³⁶ shall be punished with imprisonment which may extend up to 2 years or with a fine or with both. Thus, extending the scope of this section to those fake news, which charges false allegations on individuals or other organisations such as political parties, companies, etc.

Further, **Section 66D of the Information and Technology Act, 2000**³⁷ pertaining to the "Punishment for cheating by personation by using computer resource" talks about how an

³² M. Krishnan, The Interpreter, "Social media in India fans fake news" (2019).

<<https://www.lowyinstitute.org/the-interpreter/social-media-india-fans-fake-news>>

³³G. Grover, E. Hickok, A. Basu, A. Bopanna and T. Sarkar, The Centre for Internet and Society (India) "Response to the Draft of The Information Technology [Intermediary Guidelines (Amendment) Rules] 2018." (2019).

<<https://cis-india.org/internet-governance/resources/Intermediary%20Liability%20Rules%202018.pdf>>

³⁴ The National Portal of India- The Indian Penal Code, 1860.

<<https://www.india.gov.in/indian-penal-code-act-1860>>

³⁵Ibid.

³⁶Ibid.

³⁷ National Portal of India- Information Technology Act 2000.

<<https://www.india.gov.in/information-technology-act-2000-5>>



individual may be subject to imprisonment which may extend up to 3 years or with a fine or with both, if he is found cheating by impersonating “by means for any communication device or computer resource.” This section is hence relied upon when the matter relates to fake news posted online by one, impersonating another as seen in the case of *Samdeep Vaghese vs. the State of Kerala*³⁸ where the accused (an ex-employee) had created a fake website impersonating a business and had posted false information about the same, along with sending false emails and details to various customers of the said business.

Section 54 in the Disaster Management Act, 2005³⁹ also pertains to the creation and circulation of fake news however, its scope is limited to disasters only. According to this section, “whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction” shall be subject to imprisonment which may extend up to 1 year, or with a fine. In the present day scenario, with the existence of the global pandemic i.e. the COVID-19, also known as the novel Coronavirus, the importance of this provision has increased.

With the existence of this pandemic, the need for correct and reliable news is of extreme importance for one to take the necessary precautions and measures to protect themselves and their families. However, with the existence of social media platforms like Facebook, WhatsApp, Twitter, etc. The information which is not factually accurate and authentic is being circulated and forwarded under the name of news without being verified thus, causing a global frenzy. Concerning the same, the Delhi High Court while dealing with the PIL of *Pankaj Rajmachikar vs. the State of Maharashtra*⁴⁰ which challenged a clause in an order passed by the Maharashtra Police under Section 144 of the Criminal Procedure Code, 1973, prohibiting the dissemination of false or distorted information on social media platforms like WhatsApp⁴¹, Twitter, etc. related to the COVID-19 disease, declined to take up the PIL on an urgent-basis and distinguished that the said order was issued in the public interest and was reasonable.⁴²

The issue of fake news also caused the migration of a large number of labourers⁴³ working in the cities due to the panic caused by the false news that the lockdown in India

³⁸*Samdeep Vaghese vs. State of Kerala*, 2010 SCC OnLine Ker 4829 : (2010) 2 KLJ 458 : (2010) 3 KLT (SN 39) 31 : 2012 Cri LJ (NOC 48) 15.

³⁹National Disaster Management Authority, Government of India- Disaster Management Act, 2005.

<https://ndma.gov.in/images/ndma-pdf/DM_act2005.pdf>

⁴⁰*Pankaj Rajmachikar vs. State of Maharashtra*, Public Interest Litigation (Lodging) No.24 Of 2020.

⁴¹Bar and Bench “Police efforts to curb misinformation on WhatsApp, Social Media amid COVID-19 Pandemic appear genuine: Bombay HC.” (2020).

<<https://www.barandbench.com/news/litigation/police-efforts-to-curb-misinformation-on-whatsapp-social>>

media-amid-covid-19-pandemic-appear-genuine-bombay-hc>

⁴² Stalin J Manjaly “Police efforts to curb misinformation on Social Media amid COVID-19 appear genuine: Bombay HC.” (2020).

<<https://lawsisto.com/legalnewsread/NDAwOA==/Police-efforts-to-curb-misinformation-on-Social-Media-amid-COVID-19-appear-genuine-Bombay-HC>>

⁴³Bar and Bench “Coronavirus Lockdown: Fake news and panic driven migration caused untold misery to migrant labourers, Supreme Court.” (2020).

<<https://www.barandbench.com/news/litigation/coronavirus-lockdown-fake-news-and-panic-driven-migration-caused-untold-misery-to-migrant-labourers-supreme-court-read-order>>



would last for more than 3 months causing the labourers great misery as observed in the writ petition of *Alakh Alok Srivastava vs. Union of India*⁴⁴, where the Supreme Court in its order stated that “we expect the Media (print, electronic or social) to maintain a strong sense of responsibility and ensure that unverified news capable of causing panic is not disseminated.”⁴⁵

Currently, with regards to the infamous Nizamuddin Markaz event, where approximately 2,500 individuals assembled amid the COVID-19 outbreak, the *Jamiat Ulama-i-Hind* has moved the Supreme Court and a plea has been filed by Advocate Ejaz Maqbool⁴⁶ stating that reports on the Tablighi Jamaat by certain sections of print and electronic media were false and allegedly spreading bigotry and communal hatred.⁴⁷

However, the Supreme Court with respect to the Nizamuddin Markaz incident stated that it would “not gag the press”⁴⁸

At present, there are no specific nationwide laws to deal with the menace of fake news. In

2019, the Supreme Court, with the bench headed by Chief Justice Ranjan Gogoi, dismissed and thus, refused to entertain a very valid and plausible plea filed by Advocate Anuja Kapoor which sought to direct the Ministers of Home Affairs, Law, Information and Broadcasting, and, Electronics and Information Technology to constitute and set up a committee to tackle the issue of fake news on various social media handles.⁴⁹

The plea stated that non-restraintment of various fake news resulted in various crimes such as mob-lynching, communal riots, chaos, etc. which disturbed public peace and thus sought for the framing of necessary and required guidelines, laws and bye-laws to mitigate the issue, however, the same was dismissed by the apex court.⁵⁰

Thus, India depends on various legislations to combat the issue of fake news but ironically does not have unified legislation devoted solely to battle the issue of Fake News. However, a bill named, “*The Fake News*

⁴⁴*Alakh Alok Srivastava vs. Union of India*, Writ Petition(s)(Civil) No(s).468/2020.

⁴⁵*Alakh Alok Srivastava vs. Union of India*, Writ Petition(s)(Civil) No(s).468/2020, Supreme Court Order dated 31-03-2020.

<https://images.assettype.com/barandbench/2020-03/b0e29c64-806d-4880-99e8-5611e51bb53d/Alakh_Alok_Srivastava_vs_Union_of_India__SC_Order__March_31__2020.pdf>

⁴⁶Jamiat Ulema petition synopsis, (2020).

<https://images.assettype.com/barandbench/2020-04/ce9dda80-483c-498c-a2e4-82ea276b92c1/Jamiat_Ulema_petition_Nizamuddin.pdf>

⁴⁷News18 India, “*Jamiat Ulema-e-Hind Moves SC, Says Tablighi Jamaat Event Being Used to ‘Demonise’ Muslim Community*” (2020).

<<https://www.news18.com/news/india/muslim-body-moves-sc-against-spread-of-fake-news-communal-hatred-over-tablighi-jamaat-event-2567275.html>>

⁴⁸Rasia Hashmi, The Siasat Daily, “*Tablighi coverage: Will not gag media, SC tells Jamiat Ulema*” (2020).

<<https://www.siasat.com/will-not-gag-media-sc-jamiat-ulema-e-hind-1873931/>>

⁴⁹Press Trust of India, The Economic Times “*SC dismisses plea seeking framing of laws against fake news*” (2019).

<<https://economictimes.indiatimes.com/news/politics-and-nation/sc-dismisses-plea-seeking-framing-of-laws-against-fake-news/articleshow/68780994.cms>>

⁵⁰Press Trust of India, The Times of India, “*Plea filed in SC seeking framing of laws against fake news*” (2019).

<<https://timesofindia.indiatimes.com/india/plea-in-sc-seeking-framing-of-laws-against-fake-news/articleshow/68223028.cms>>



(Prohibition) Bill, 2019⁵¹ has been drafted by Shrimati Rama Devi to resolve this void with the main aim and purpose to keep a check and prevent the creation and dissemination of false information along with codifying various penalties and consequences which one may have to face on noncompliance with the same. The Bill not only serves the purpose of defining what the term “fake news” exactly means, but also lays down all aspects and scenarios which are related to the same, thus taking a step in the right direction.

Conclusion

The wave of fake news flooding this information era is like rust to steel or like corruption to democracy. It is thus essential, especially for the developing countries to counter the effect of fake news to protect its industries and people. The first step against negating the spread and containing fake news is to define the term. Among the developed countries talked about in this paper, none of the countries have defined the term along with its scope and limitations keeping in mind the technological advancements. For a legislated definition of “fake news” we must turn to those countries which have enacted domestic anti-fake news laws and have elaborately defined the term while doing the same. The Malaysian legislation enacted the **Anti-Fake News Act, 2018** to negate the spread of fake news in all media, the act defines the term “fake news” as “any news,

information, data and reports, which is or are wholly or partly false, whether in the form of features, visuals or audio recordings or in any other form capable of suggesting words or ideas.”⁵² Similarly, Russia legislated a law which criminalises any initiative of spreading of fake news while also subscribing a punishment for the same, the law defines the term as “socially-significant false information distributed under the guise of truthful messages if they create a threat of endangering people’s lives, health, or property; create possibilities for mass violations of public order or public security; or may hinder the work of transportation and social infrastructure, credit institutions, lines of communications, industry, and energy enterprises.”⁵³ The legislation needs to keep in mind the technological developments of the society and both print and online media are covered under the ambit of the definition to prevent the spread of fake news across all platforms.

Since information is the most important and precious resource of the current age and information is what ultimately fuels and feeds the growth of the country, it should be realised that the integrity and accuracy of the information that is available on the public domain of the country has a direct impact on its economy and its development and thus utmost importance should be given to the issue and focused legislation countering and containing the formation and spread of fake news should be enacted with due deliberation.

⁵¹ The Fake News (Prohibition) Bill, 2019. <<http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/998LS%20As%20Int....pdf%20fake%20news.pdf>>

⁵² Anti-Fake News Act 2018 (Act 803), Section 2. < http://www.federalgazette.agc.gov.my/outputaktap/20180411_

803_BI_WJW010830%20BI.pdf>, archived at <<https://perma.cc/E7JL-RGK3>>

⁵³ Publication number-000120190318003(2019). <Federal Law on Amending Article 15-3 of the Federal Law on Information, Information Technologies and Protection of Information>



Many countries have been relying on the existing provisions of the municipal administrative, criminal and civil laws of the country, to deal with and counter fake news, however, it is evident that these laws were not made because of the recent technological additions and are not equipped to deal with the recent developments in the society. These laws do not share a common definition of the term and although may seem relevant, they do not cover everything under its ambit leaving space for loopholes that eventually lead to evasion of justice. For example, in India, fake news is countered and dealt using provisions from the Disaster Management Act 2005, the Indian Penal Code 1860 and the Information Technology Act 2000. However, the need for focused legislation is apparent. Section 54 of the Disaster Management Act, 2005 which deals with fake news is extremely limited in its scope and only deals with the spread of fake news during the times of emergency. This act is not exhaustive and does not cover the vast ambit of fake news in today's world. Although Section 54 of the Disaster Management Act read with Section 505(1)(b) of the Indian Penal Code which criminalises the spreading of fake news thus creating a deterrent effect may be helpful in the present scenario of COVID-19 crisis, this has observably not been the case and India and its industries are becoming prey to the strong wave of fake news. For example, the spread of fake news regarding the spread of coronavirus through poultry goods made the poultry industries in India incur huge losses and some of them went out of business thus having an impact on the country's economy. The countries Information Technology Act, 2000 also does not satisfactorily deal with the spread of fake news on the internet and online media which is the primary medium for

information and is suffering from a rapid flux of fake news which is corrupting all of the information available to the public.

Thus, focused legislation defining the term, criminalising it by prescribing a punishment, and dealing with it on all fronts and mediums under a single act is the solution to control the contagious plague of fake news that is infecting the world. the direct impact of fake news on the development of the country and the violation of human rights such as the right to information under the right to life of an individual should be realised and stopped by enacting such an integrated legislation which could contain the spread of misinformation and fake news at the times of emergency as well as peace and making it a part of the municipal law of the country. Spreading awareness regarding accurate sources of information and the presence of fake news in the media should also be an active measure undertake by the country.

Suggestions

In 2018, in lieu of the rapid flux of fake news across the European media, the European Commission set up a committee consisting of high-level experts called the "High-Level Expert Group" (HLEG) to deliberate and advise on initiatives to counter and contain the spread of fake news across the print and online portals. The committee submitted its report highlighting the fundamental principles and the suitable measures that should be undertaken by the countries. The report made some key recommendations such as: ensuring transparency in the publication of online news, promoting literacy regarding media and information to prevent the community spread of fake news, empowering editors and information service providers to



prevent the publishing of inaccurate information, the formation of a single code of conduct to deal with fake news at all fronts, etc.⁵⁴

The suggestions we put forth are similar to what was recommended by the HLEG committee to prevent the spread of false information across the European Union. These suggestions should be adopted by the government at the earliest so that the workforce of the country is always well informed and are not vulnerable against inaccurate and false publications. These measures will prevent the citizens of the country from being exploited while also ensure that the integrity of the news sources of the country is maintained and the term “information” become synonyms with development in the coming future. Our suggestions are as follows:

Firstly, the anonymity on the cyberspace should be reduced through compulsory licensing of information providers on the internet. These licenses should be registered using the real names if the information providers to maintain accountability for the information. This will ensure the filtering of information and its accuracy. This will also act as a hallmark for authentic sources of information. The license holder should be under strict surveillance and should be empowered to detect incorrect information and stop its transmission and immediately deleting it while also forbidding its republication. The social networking websites such as Facebook and Twitter

should also be made responsible for the fake news that is published on their domain.

Secondly, a literacy campaign should be initiated throughout the country educating its citizens about the reliability of the internet and media in today’s world and the spreading awareness regarding the presence and danger of fake news accessible to them. They should be educated regarding the authentic sources of information and should be equipped to prevent the community spread of fake news while surfing the digital environment.

Thirdly, single legislation which under its ambit, covers all the circumstances for the spread of fake news, whether during an emergency or otherwise should be drafted and made into an integral part of the country’s domestic laws. Such legislation should define the term, criminalise it as to create a deterrent effect, prescribe its punishments, and empower the relevant authorities like the election authorities or the website administrator to tackle fake news when detected. This legislation should consider all the technological advancements and thus consider all the mediums and sources through which information can be made available on the public domain. The legislation should be equipped to prevent and contain fake news through any medium and in a form.

Lastly, the government of the respective country should continuously promote further research and deliberation on the sources of spread of false news, its impact on the

⁵⁴A multi-dimensional approach to disinformation, Report of the independent High-level Group on fake news and online disinformation, European Commission, pg 32 and 33, (2018).

<http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=50271>



country and its people and better ways to mitigate its inflow.

The measures taken against fake news should be constantly updated and should be kept in pace with time. The change in sources of information and technological advancements giving birth to new mediums of information demands constant adjustments in the necessary responses. The obstacle of fake news is a dynamic complication and thus to compensate for the same, measures taken against the same also need to be constantly reviewed and updated. Thus, to counter the effect of fake news, constant research and deliberation is the key.

