Fake News-Emotionally High, Factually Low; India's Urgent Need for Cyberlaw

Jeenali M. Kothari [a], **Shourya Bhat**[b]

[a] *School of Information Technology and Cyber Security, Rashtriya Raksha University, Gandhinagar, India.*

[b] *School of Information Technology and Cyber Security, Rashtriya Raksha University, Gandhinagar, India.*

ABSTRACT

Despite the growth in the digitalization of India, the fellow netizens still lack digital literacy when it comes to using social media platforms. There are many ways where social media platforms have been used to perform activities in cyberspace which has resulted in causing harm to any person or any property. Fake News is such an important issue on the social media platform which needs to be assessed on a priority basis. Despite various awareness advertisements, programs, and AI-based fact-checkers the netizens still fail to stop the spread of fake news. Various Social Media Platforms have also developed features to bring awareness among the users for spotting fake news but the menace is still out there. However, there is no legislation governing Fake news in India that can punish the culprits. This paper lays down the base on which Indian lawmakers need to focus on the urgency of preparing Cyber Laws for punishing the culprits which could eventually bring down the spreading of fake news.

© 2020 The Authors. Published by Khan Organisation. This is an open-access article under the CC BY-NC-ND license (http://creativecommons.org/licenses/by-nc-nd/4.0/).

1. Introduction

The general purpose of any news is to make the people aware of what is happening around and to allow them to have a common ground to converse to constitute a dynamic public sphere. Social media is a potent tool for communication that has developed if used wisely. Otherwise, it could also become a double-edged sword. Fake News has become a menace that could only be curbed when worked upon collectively from individual to policy level.

After the implementation of the Digital India Scheme, the availability of high-speed internet and cheaper smartphones have not only brought technology on our fingertips but at the same time, it has become easier to access Social Media platforms. Social Media does not only give the privilege of Instant Messaging but also gives the liberty to share visual media, audio recordings, documents of various formats, even contents from the web can be shared using hyperlinks, etc.

Netizens have been using social media for communication, entertainment, etc. but at the same time, some of them are recklessly using it which has resulted in the spreading of "Fake News" in the society.

Fake news is nothing but the dissemination of false information or half-truth which tricks users into believing it to be genuine. In a highly populated country like India, fake news usually has resulted in a negative outcome. Fake video and audio clips, stories with morphed photographs, fabricated information, defamation, hoax news are the most prevalent forms of misleading content circulated on social media.

Nowadays, a new trend of misleading netizens has started in the form of "Deep fakes". Deep fakes are usually fake audio and video recordings that are created using deep learning by replacing the original content.

The spreading of misinformation has become a serious challenge in our country which has led to a poisonous atmosphere on social media that has also resulted in protests and riots. Some of the instances of rumors circulated online have led to the deaths of innocent people and communal differences.

The Government and the law enforcement have been trying their best to find the culprits and punish them but it has also raised concerns over human rights and their ability to control the spread of fake news. To control fake news, India needs more rigid laws so that netizens can refrain from circulating unverified information. In this paper, the authors have highlighted the need for implementing cyber laws for fake news in India and have provided suggestions and possible solutions towards controlling fake news.

2. Impact of Fake News

The damage caused due to the circulation of disinformation has increased due to the growth of netizens in India. This fake news can also have major impacts because information shapes our world and view: we make important decisions based on information.

The Internet is highly driven by advertisements, websites with sensational headlines have been popular, which ultimately leads the advertising companies to capitalize on the high traffic to the site. It was in this manner found that the designers of phony news sites and data could bring in cash through computerized publicizing that rewards high traffic to their sites. Readers form an idea about people or situations by obtaining information from these places. The question remains how misinformation would then influence the public. The spreading of misinformation can cause confusion and unnecessary stress among users. Fake news that is purposely created to mislead and to cause harm to the public is referred to as digital disinformation. The various categories of fake news include cultural disputes, any particular cure, prevention and treatments discovered, hoax count of casualties due to any disaster/accidents, any false update in the country's business and economy, raising doubts over political issues, etc.

3. Fake News in 2020

1.   World Health Organization (WHO) Fake News

WHO had recently clarified that a fake message was being circulated on social media which claimed a four-step procedure for lockdown in India during the COVID-19 pandemic in early April? As these messages went viral people in India started panicking. A chaotic situation was created in the country, due to the fear of lockdown people started rushing to stores and markets as they thought nothing would be available during the days of lockdown. This resulted in a shortage of food in various places as people stocked up in large quantities and paid three times more for any product. This is how fake news had affected thousands of Indians.

2.   Tablighi Jamaat-Islamophobia during COVID-19

There were various news agencies and Individuals on social media who circulated disinformation regarding the quarantine of people from the congregation held in Nizamuddin which was then slammed by the DCP Noida as the information was unverified. Dozens of such news were spread on various platforms bringing in the communal barricade. Due to the fear of Covid-19, the people started spreading misinformation about people from the Muslim community who were the main spreaders of coronavirus in India. These people who attended the congregation were traced by law enforcement and were quarantined and social stigma was created towards them.

3.   Misinformation about Former President of India

A senior journalist tweeted fake news about the passing away of former President Pranab Mukherji and within a few minutes it was trending. Later on, it was deleted after the netizens called him out for spreading fake news after his son and daughter tweeted about his well-being. Here due to the spread of fake news, the family of the former President got more upset as their close ones were constantly calling them after the news of his demise. They were not able to get in touch with the hospital authorities due to this chaos as the former President was tested positive for Covid-19.

4.   Viral Messages on Shutting of Institutes till December

Multiple sets of fake messages were circulated on social media that instantly went viral which claimed that the educational institutions would remain shut till the end of December as a precautionary measure towards COVID-19. This news was then verified and declared fake by the Fact-checkers. Again, an environment of chaos was created among the young students and the educational institutes where they constantly demanded an answer from the institutes regarding reopening.

5.   Railway Board's Message Fake News

Recently a circular in the name of Indian Railways went viral on social media which stated that cancellation of all the trains would be extended up to 30.09.2020. Later on, the Railway Board clarified that no such circular was issued.

4. Measures to Counter Fake News

India has one of the largest numbers of social media users in the world, which use various platforms like WhatsApp, Facebook, Instagram, Twitter, YouTube, etc., the circulation of fake news, hate speeches, rumors make it easier for nasty netizens to give rise to mob attacks and lynching. After noticing such incidents, the Government has pressurized the social media platforms to introduce features that can control the sharing of posts and impose a block on accounts of such users.

Measures are taken to control fake news:

1.   Awareness

The Indian Government had urged top social media companies to bring awareness to remove misinformation from these platforms and promote verified information. These companies are working closely on this issue. They have been also asked to initiate awareness campaigns and take immediate actions to disable such content. The celebrities in India have taken up the initiative to spread awareness on social media platforms to curb fake news. WhatsApp had earlier rolled out three ad films as a part of their strategy to fight back the circulation of fake news ahead of general elections. These campaigns asked the users to check the integrity of the information they receive on forward messages, before sharing it with others. Apart from all the measures that the Government has taken to control the fake news, they should adopt from the Italians who have added recognizing fake news in the school syllabus. India should take serious measures to emphasize internet education on fake news in academics at all levels.

2.   Social Media Features

The government of India had requested the top social media companies to effectively work on features on their respective platforms which can help in identifying misinformation and provide accurate information. Some of the steps taken by these platforms:

WhatsApp- To control the fake news WhatsApp had earlier limited the forward message feature to five users. This feature indicates that a WhatsApp user can no longer forward messages to more than five users at the same time. By doing this, there is a control put on users who tend to forward messages to multiple users and groups on this platform. WhatsApp added a feature when the same message has been sent by a user for more than five times, then that message automatically gets a double arrow mark on its top left corner beside *Forwarded.*

Recently, WhatsApp released a new feature to spot fake forwarded messages. This feature is known as 'search the web' which provides a simple way to search messages that have been forwarded by multiple users and find the news results by simply uploading the message via browser without WhatsApp seeing the message. The users will just need to double-check these forwarded messages by tapping on the magnifying glass button in any chat.

Earlier this year, WhatsApp partnered with several state Governments to provide authentic information on Covid-19.

Facebook- Facebook has launched a chatbot and news hub in India to provide authentic information about COVID-19 and debunk fake news.

Facebook is committed to reducing the spread of false news on its platform by removing fake accounts and disrupting economic incentives for people who share misinformation. They also make use of signals like feedback from their Facebook community to identify stories that may be false. They are also working to empower users to decide for themselves what content to read, trust, and share with tools like related articles.

3. Fast Checkers

Research states that on average, a false story will disseminate one 1,500 people six times more quickly than a real one especially when it is related to politics which could be propagated using bots to automate the process.

Major fact-checking companies are looking forward to hiring more people and introducing fact-checking in various Indian languages like Gujarati, Bengali, Kannada, and Malayalam, etc. The leading Fact-checkers include Alt News, BOOM live, Factly, India Today Fact Check, Quint Webqoof, and News Mobile Fact Checker that are certified by *International Fact-Checkers Network* (IFCN).

Fact-checking initiatives have increased in recent years but automated fact-checking is still developing. Ongoing hurdles in AI fact-checking include how to teach computers how to read parts of a sentence that should be fact-checked and how to build a relevant database.

An automated fact-checking system may include several detecting instances related to each article by assessing the reputation and thus proving the trustworthiness of each article. The system for fact-checking was developed using a large-scale, neural language network AI that is based on a pre-trained, open-source, deep bidirectional transformer language model for natural language processing (NLP).

Facebook announced the expansion of third-party fact-checking programs and added five new partners India Today Group, Vishvas.news, Factly, News mobile, and Fact Crescendo.

Instagram also expanded its fact-checking program globally to allow fact-checkers to assess and rate misinformation on its platform.

5. Regulations for Fake News

There has been a loud cry in the society by the social activists to regulate fake news along with a legal debate that has been going around for a while on the matter of whether fake news can be regulated or not. The people who support that there should be regulations for fake news believe that they cannot rely on the old laws which are used to punish the menace. However, they are demanding that to regulate the fake news in a technological age, there should be laws made by that. In India there is no specific law against fake news, Article 19 of the Constitution guarantees freedom of speech to the Indians which allows them to freely publish news on any platform.

The existing laws that govern the fake news are:

1. The News Broadcasters Association in India is a self-regulatory body that represents private television news and current affairs broadcasters and probes complaints against any misleading electronic media.
2. The Press Council of India is a regulatory body that can censor, warn or rebuke the newspaper, any news agency or an editor or a journalist if found violating journalistic ethics.
3. The Information and Broadcast Ministry has made it mandatory for social media platforms to self- regulate and deal with fake news.
4. The Indian Penal Code (IPC) has certain sections which could curb the fake news like Section 153, Section 295 can be invoked to take action against fake news. Section 153 of the IPC states that it can punish people who indulge in wanton acts that can cause riots. Section 295 of the IPC states that any destruction or damage caused to a place of worship with an intent to insult any religion can be imprisoned or fined.
5. Section 66 of the Information Technology Act, 2000, states that if any person dishonestly or fraudulently causes damage to a computer system referred to in section 43 will be punishable with imprisonment for a term of 3 years or can also be liable to a fine.
6. The Civil or Criminal Case for defamation is another regulation against fake news for individuals or groups that hurt others by the fake news. Section 499 of IPC is for defamation and Section 500 of IPC is for the person defaming shall be punishable with imprisonment for 2 years or with a fine or with both.

7. Section 79 of the IT Act, 2000 is applicable for cases when the Network service providers or intermediaries are not held liable. In this provision of the law it is precisely for the removal of doubts and thus declares that no person providing any service as a network service provider or intermediary shall be liable under this Act, rules, or regulations made thereunder for any third- party information or data made available by him.

8. Section 69 (1) of the IT Act, 2000 relates to how the Controller can extend the decryption of information facilities to any agency for intercepting any information transmitted through any computer resource. The person-in-charge of the computer resource shall, when called upon by any agency directed under Section 69 (1), extend all facilities and technical assistance to decrypt the information. Any person who fails to assist the agency referred to in Section 69 (2) shall be punished with imprisonment for a term which may extend to seven years.

6. Recommendations for Regulation

1. The Government along with The Information and Broadcast Ministry should pass an ant-fake news bill under which publishing fake news in any kind should be punishable with a heavy fine. The law should cover all the digital news outlets, social media, video, and audio news and should apply to anyone who spreads fake news in India.

2. The Government should create a law for social media platforms which gives them 24-48 hours to delete or block a reported content. The social media platforms should also get a week to investigate the hoax news and find the culprit. If they fail to deal with this, the company should be heavily fined. All social media platforms should comply with this law to control the spread of fake news.

3. The Indian lawmakers should introduce an experimental project to boost media literacy at an early level as a part of Indian High-school education. This will allow the students to recognize false content and theories and react to it appropriately.

4. The Government should include in a bill that anyone who intends to cause panic, chaos, riots, hate among the people of India with the propagation of fake news should be imprisoned for a term of 2 years or more depending on the intensity of the news.

7. Conclusion

Fake news and disinformation are problematic in democratic systems where there is freedom of speech. There are ongoing debates on how to address these issues without compromising the benefits of social media to maintain an open, democratic system, the Government, social media companies and the users must work collectively to solve these problems. The Government should make sure to promote news literacy and strong journalism in the country. Educational institutes should also make sure that news literacy is placed at their highest priority. Major tech companies should also plan to invest in tools to identify fake news and improve online accountability and as an individual one should follow news from diverse sources and should always be skeptical of what they read and share.

References

[1] 16-11-2019. Empower IAS. https://empowerias.com/blog/daily-articles/fake-news-menace-in- india-dangers-and-how-to-tackle-it-gs-3-role-of-media-and-social-networking-sites-in-the-internal- security-and-challenges-empower-ias

[2] The fake news problem: What are governments doing? | Ikigai law. (2019, January 22). TRA. https://www.ikigailaw.com/the_fake_news_problem/#

[3] Misha Bharti and Jeba Boktiar Mondal. Steps taken towards curbing of Fake News in India. https://www.latestlaws.com/articles/steps-taken-towards-curbing-of-fake-news-in-india/

[4] Salve, P. (2020, May 2). Manipulative fake news on the rise in India under lockdown: Study. India Spend. https://www.indiaspend.com/manipulative-fake-news-on-the-rise-in-india-under- lockdown-study/