**Is a Creating Fake Facebook Account a punishable Offence?**

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Fake profiles are a common sight to come across on social networking websites. Facebook is one of the biggest platforms to come across a fake account. A fake account is an online profile made by someone trying to impersonate another person. These accounts are often made with the purpose of harassing other people, for spreading spam as well as viruses to steal private data, and the most common purpose is to take revenge on other people and uploading malicious photos. With the country becoming more equipped with the services of the internet the cases of fake profiles are piling up at an increasing rate. With the alarming increase in fake accounts, the real question stands: whether creating a fake Facebook account is a punishable offence? In India, there are various remedies available by the law for the inconvenience caused by these fake accounts.

It is necessary to first distinguish whether the fake account was made up of a person who exists in reality or it was a random fake account in order to hold a person liable for punishment. **Section 66D** of theInformation Technology Act of 2000[[1]](#footnote-0) states that a person will be punished with imprisonment of either description for a term extending to three years and shall also be liable to fine which may extend to one lakh rupees if they cheat by personating through the means of any communication device like a computer. To hold the person responsible one of the most important ingredient is that the person must cheat or the person who created the fake account must gain a pecuniary benefit from it.

Under **Section 468**  of the Indian Penal Code 1863, a person shall be punished with imprisonment of either description that may extend to seven years, and shall also be liable to fine if they commit the offence of forgery intending that the document or electronic record forged were used for the purpose of cheating.

Under **Section 67**  of the Information Technology Act of 2000, any material which appeals to be of prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it or any lascivious material is published or transmitted or caused to be published or transmitted by a person, such person shall be punished with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees on the first conviction, and in case of a second or subsequent conviction will be subjected to imprisonment of either description extending a term of five years and with a fine that can extend to ten lakh rupees.

Under **Section 67A** of Information Technology Act of 2000, punishment for publishing or transmitting sexually explicit material in electronic form has been stated. Any sexually explicit act or material or conduct published or transmitted or caused to be published or transmitted by a person, such person shall be awarded with imprisonment of either description which may extend to five years and with fine up to ten lakh rupees on the first conviction, and on a second and subsequent conviction the person is sentenced to imprisonment of either description which may extend to seven years and fine up to ten lakh rupees.

The offender can be punished in case of a pecuniary benefit under **Section 419** of the IPC as well with the same qualification applied.

Since the creator of the fake account can be said to be producing false electronic records with the intention to cause damage or injury, such person can be convicted under forgery which is defined under **Section 465** of the IPC and shall be awarded the punishment of imprisonment for a description which may extend to two years and will be liable to a fine as well.

The aggrieved party can file a complaint before the Adjudicating officer appointed under the IT Act, who is generally the Chief Secretary or the Secretary of Information Technology Department of the respective state, in case of falling prey to these offences. This application has to be filed within 4 months and needs to be heard within the same time period. The whole of the issue has to be heard decided within the time period of 6 months.

1. Which was further amended in 2008 [↑](#footnote-ref-0)