

THE NEED TO REGULATE FAKE NEWS ON DIGITAL PLATFORMS

by

Shilpa Sanjeevan

Mar Gregorios College of Law, University of Kerala

ABSTRACT

“79% of the news you read online is fake”

There, caught your attention, didn't I?

This is exactly how fake news is proliferated online.

Fake news and hoaxes have been in existence from time immemorial. However, with the advent of internet, its rapid dissemination is generously facilitated by the internet. Fake news has taken various forms online, such as WhatsApp forwards, news with click bait headlines, and of late, at the onset of the global pandemic, it was termed as “Infodemic”, a plague of fake news. The proliferation of fake news by perpetrators is done tactfully by luring the public into believing their news, often replacing the true facts with fabricated statements and this can be perilous to the public's perception of the daily updates. The eradication as well the regulation of such news becomes difficult as they are usually framed indistinguishable from the real news. This article emphasises the need to regulate such fake news online. Furthermore, it analyses the impact of the regulation on individual's fundamental right. It also aims to lay down the consequences of the dissemination of fake news and the solutions to combat the same. It further deals with how various groups of the society can do their part in breaking the chain of fake news

Keywords: Fake News, Infodemic, Regulation, Freedom of Speech and Expression, Fact-checking.

The Need to Regulate Fake News on Digital Platforms

With the commencement of the digital age, the mode of conveying information has revolutionised and now all the required information is easily obtained on the internet in just a click. However, along with the easy accessibility comes its dangers. This has been the case with cyberspace which has always been susceptible to misuse and as a result, the world had to encounter the menace of a booming business, “the dissemination of fake news online”. In the digital era, perpetrators seem to strike any opportunity that comes their way, to publicise their agendas and feed twisted stories into the minds of the public. Owing to the hectic schedule of many, people rarely resort to the news on the traditional media like television or radio, instead, they delve themselves into online platforms due to its brief and instant news updates. Such interest on the online platforms is exploited by websites tactfully crafting news to intrigue its recipients. Moreover, websites create clickbait headlines to draw public attention, thereby escalating views. Also, the hesitation of the public to read the news in its entirety by relying on the headlines alone is quite detrimental as headlines usually only give a distorted view of the actual news thereby adversely influencing public reactions and their interpretation of the daily developments.

Consequences of Fake News

The dissemination of fake news and the spreading of hoaxes based on incomplete news have varied consequences like:

- Instigation of civil discourse or public clamour for change;
- Stirring up communal violence and hatred;
- Instillation of fear and panic;

Above all, it affects social cohesion, which dramatically impacts a nation's integrity. Fake news is a digital threat to a nation due to its greater reach and if not curtailed, it can result in the creation of a snowball effect.

Fake News on Social Media

The era of social media continues to witness its employment as a weapon to amplify propaganda on a massive scale. It is today, the leading platform upon which massive

dissemination of fake news takes place. With the ever-expanding nature of social media, nations are prompted to combat the scourge of fake news before it goes beyond their control. The fake news on social media can potentially influence one's perception of matters and result in the creation of difficulty in forming opinions, due to conflicting and equally convincing information. Social media further amplifies the reach of fake news, making it difficult to ascertain the source and results in reaching a larger society than intended. With the plague of fake news unfolding on social media, it has also become the least trusted news source worldwide.¹

Infodemic- Plague of Fake News

In the wake of an unprecedented global pandemic due to Covid-19, the world had come to a standstill. Nations were prompted to combat a deadly virus to protect and maintain their public healthcare infrastructure. Nations adopted various medically accepted and legally sanctioned strategic tools like lockdown and shutdowns to curb the virus. These measures resulted in requiring citizens to remain in their homes for a stipulated period. Soon, governments owed transparency and accountability to their citizens who relied on the information provided by them in the form of daily news reports and developments.

However, amidst all the efforts being taken to tackle the issue, the world was exposed to an even deadlier menace circulating on the electronic gadgets, the plague of fake news. Nations no longer had to only fight the pandemic, but had to tackle the 'Infodemic' surrounding the pandemic. In the midst of the pandemic, misinformation and disinformation took various forms making it a hectic task for the authorities to ascertain the source and prevent its circulation, largely due to its rapidity and far-reaching ability.

The infodemic, has in fact, proven to be more contagious than the ongoing pandemic as it spreads rapidly through communication devices which make its path longer and stronger with each share. It also largely impedes the measures taken to mitigate the pandemic by creating confusion and fear among the public. With the emergence of the worldwide health crisis, Tedros Adhanom Ghebreyesus, Director-General of the World Health Organisation, stated that

¹ Amy Watson, Statista, Fake News Worldwide- Statistics & Facts, (May 5, 2021, 3.00 pm), <https://www.statista.com/topics/6341/fake-news-worldwide/#dossierSummary/>

“We’re not just fighting an epidemic; we’re fighting an infodemic” and further went onto refer to fake news stating that it “spreads faster and more easily than this virus.”²

At the onset of the pandemic, there had been fake news targeting certain nations thereby, triggering xenophobia, stigmatisation, hatred, fear and panic amongst people. Perpetrators further exploited people’s desperate need for a cure by spreading various fake coronavirus cures. These fake cures created confusion as well as a sense of false hope in the minds of the public. Evidently, the underprivileged and under informed public fell into these traps and preferred staying at home even after being tested positive instead of resorting to medical treatments.

At the later stage of the pandemic, myriad false claims were made regarding the vaccines when some nations had raced to the top to develop an efficient vaccine. Moreover, with the commencement of the inoculation phase, bizarre and false news regarding the efficacy and side effects of the vaccines were campaigned online. All these adversely jeopardised the state’s function of carrying out the vaccination drive.

Impact of Regulation of Fake News on the Right of Freedom of Speech and Expression

A daunting task to be dealt with by nations at their end is to curb fake news, but not at the cost of limiting or violating one’s freedom of speech and expression.³ Since the citizens are entitled to a right, they are also duty bound to abstain from exercising the right in such a manner that may affect the nation’s integrity. Therefore, this right, like any other fundamental right, is not absolute and is subject to restrictions. However, to counter fake news, states cannot adopt draconian laws which take away one’s freedom. One such draconian provision was struck down by the Supreme Court of India as it gave extensive power to the authorities.⁴ A clear invasion of one’s freedom of speech and expression was evident when the authorities often resorted to registering umpteen cases under S.66A, whenever the citizens showed a public

² Munich Security Conference, (May 5, 2021, 5pm), <https://www.who.int/director-general/speeches/detail/munich-security-conference>. Speech made on 15th February, 2020.

³ The Freedom of Speech and Expression is a human right guaranteed to all the citizens by their National Constitutions.

⁴ S. 66A of the Information Technology Act, 2000 was struck down as unconstitutional in *Shreya Singal v. Union of India*, (2015) 5 SCC 1.

Section 66A provided for the punishment for sending offensive messages through communication service. Therefore, the provision penalised persons who sent; (a) information that was grossly offensive or of menacing nature, (b) information, which the author knew to be false and for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill-will, or (c) information which was meant to deceive or mislead the recipient about the origin of such messages; with punishment extending up to 3 years of imprisonment and with fine.

dissent in the form of opinions. It is a known fact that regulating speech on the internet isn't a feasible solution, but as and when such speech has a devastating effect, the need for regulating the same becomes important.

Dealing with Fake News- Steps to be taken ahead

- **By the Nations**

To weed out fake news from digital platforms, it is imperative that a global effort is taken. It is now evident that fake news has the capability to barge into people's lives and influence their thought process. Therefore, it is of vital importance for such information to be taken down before damage cannot be undone. The simplest step to take down fake news is to identify and wipe it away from its source. Various international organisations, teams and agencies are collaborating to tackle this issue. Fact checkers can be employed by companies to aggressively filter out fake news. It is high time that digital platforms underwent self-regulation to a large extent on a regular basis. Social media being the top most website to contain fake digital content, it becomes important for social media intermediaries to act pre-emptively or take down such content on receiving a notice or a complaint from the public.

- **By the Public**

Educating and empowering digital literacy at schools is of prime importance. When the public is educated, they act responsibly. To break the path, public must always be sceptical of what they read, question and confirm its source before passing on the same. Such responsible initiatives from each person can significantly break the path of the spread of fake news. Websites are often visited by the public and the information is conveyed for their use, therefore, the public must be given an equal role and participation to report and to get any news removed that they believe, in good faith, to be a piece of fake news.

- **By the Government**

The Government, from its part should direct its public to genuine sites which provide credible information, especially during a pandemic. In addition to this, they must bring to the public's notice, massively spreading fake news, through an official channel or website and must also rectify the news. It should also establish an efficient infodemic management with skilled employees and work towards curbing the spread of fake news. Most importantly, nations must formulate laws that punish those who promulgate fake news and they must periodically review and amend their existing laws to conform to the changing world.

Conclusion

The internet is here to stay and it is today an indispensable part of our lives. The existence of the internet suggests the continuation of the dissemination of fake news. With bulk of information being circulated regularly on the internet, the presence of an element of falseness in the information is inevitable. Therefore, what is important is to prevent the false element from outweighing the element of truth.



Journal of Multi-Disciplinary
Legal Research