



SPREAD OF FAKE NEWS IN INDIA IN THE LIGHT OF COVID-19 PANDEMIC

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ABSTRACT

The Covid-19 pandemic has seen world governments panic and take desperate measures in order to contain the spread of this virus. While the Indian Government attempted to mitigate the virus' spread through a multitude of measures, including imposition of a nationwide lockdown, the nation is faced with another malice, which has the potential to devastate it. This malice is the spread of fake news, which has accelerated post imposition of the nationwide lockdown by the Indian Government. The sources for these fake news include social media websites and applications and also mainstream media, including newspapers, television, etc. The present research article seeks to explore the various sources of this fake news, its communal, economic and other impacts and relevant legislations and the provisions that deal with spread of fake news and also measures taken not only by the Government but also by social media companies, whose applications and websites have been utilized as major platforms for spread of fake news. It is essential to note that in this article's context, 'fake news' refers to information relating to the pandemic, its severity, the spread of the virus, etc. which is false in nature. The research article also shall list out solutions to curb this malice while also expressing the opinions of the author.

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INTRODUCTION

There has been a lot of panic on a global scale regarding the outbreak of Covid-19 disease caused by SARS-CoV-2, also known as ‘novel coronavirus’. The outbreak of Covid-19 was declared to be a pandemic by the World Health Organization (*hereinafter* WHO) on 11th of March, 2020.¹ Adding to the panic is the impact of the same on global economy. With respect to the Indian scenario, another important factor causing panic among people is the spread of fake news, primarily through social media applications such as Whatsapp, Facebook, Instagram, etc. The spread of fake news through these applications is not uncommon or new in India, which has about 200 million Whatsapp users and also is Whatsapp’s biggest market.² More disturbing is the fact that Whatsapp is used in India not only as a messaging platform, but also by political parties to spread political agenda or for the dissemination of false information regarding an opponent political party, as was seen in the 2019 Indian general elections.³



MEDIA, FAKE NEWS AND THE PANDEMIC

In the case of Covid-19 pandemic, the nature of fake news which has been spread and is being spread (not only through Whatsapp but also through news channels or even posters and pamphlets), is mostly related to effects of the virus, means of its spread, etc. Some of the fake news spread have also attributed the spread of the virus in India to select communities such as Muslims, transgender persons, etc.⁴ The spread of such news has led to not only incitement of hate and incidents of violence against the members of these communities but also to denial of medical care to them in some cases. Videos were also circulated on Facebook and Twitter, which showed Muslims spitting on food, supposedly on purpose (these videos were later

¹ World Health Organization, WHO Announces Covid-19 Outbreak A Pandemic (Mar. 12, 2020), <http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/news/news/2020/3/who-announces-covid-19-outbreak-a-pandemic>.

² Mansoor Iqbal, *Whatsapp Revenue And Usage Statistics*, BUSINESSOFAPPS.COM , <https://www.businessofapps.com/data/whatsapp-statistics/>.

³ Tariq Ahmed, *Government Response to Disinformation on Social Media Platforms: India* , LOC.COM(Sept., 2019), <https://www.loc.gov/law/help/social-media-disinformation/india.php>

⁴ Donita Jose, *Transgenders shocked by hate posters in Hyderabad amid coronavirus fears*, The New Indian Express(Mar.30, 2020),<https://www.newindianexpress.com/cities/hyderabad/2020/mar/30/transgenders-shocked-by-hate-posters-in-hyderabad-amid-coronavirus-fear-2123284.html>.

verified to be false by Facebook's BOOMlive).⁵ A study conducted by Indian scholars from The University of Michigan, has shown a rise in the increase in spread of fake news or 'debunked information' as termed in the study.⁶ The study was based on a sample of 243 distinct instances of spread of fake news from an archive under maintenance by Tattle Civic Technology. These instances were obtained from six fact-checkers, including Quint Webqoof, AltNews, BOOMlive, Factly, India Today Fact Check and News Mobile Fact Checker. The 'debunked information' was classified into seven types for a better understanding of the study's results, including 'Culture', 'Cure, Prevention and Treatment', 'Nature and The Environment', 'Casualty', 'Business and Environment', 'Government' and 'Doctored Statistics'.

VARIOUS IMPACTS OF SPREAD OF FAKE NEWS

Fake News and Industrial Losses

As previously mentioned, one of these seven types of 'debunked information' include 'Business and economy' (15 instances), which referred to those messages which resulted in panic-buying, loss to businesses etc. One of the incidents under this type includes the blow suffered by the poultry industry in India, caused by a claim that eating chicken is one of the causes for Covid-19. The spread of this news saw the poultry industry facing losses to the tune of 1,500-2,000 crore Rupees, while the prices of chicken fell by approximately 55%, with a farmer in Maharashtra reportedly having culled his chicken stock worth 5.8 crore Rupees due to fear of a sharp fall in demand in the foreseeable future.⁷

Fake News and Denial to Cremate Dead Bodies

Another impact of spreading fake news can be classified into the 'Casualty' type of 'debunked information'. This classification is with respect to the denial to cremate dead

⁵ Joanna Slater & Niha Masih, *As the world look for coronavirus scapegoats, Muslims are blamed in India*, WASHINGTON POST, Apr. 23, 2020 https://www.washingtonpost.com/world/asia_pacific/as-world-looks-for-coronavirus-scapegoats-india-pins-blame-on-muslims/2020/04/22/3cb43430-7f3f-11ea-84c2-0792d8591911_story.html.

⁶ Joyjeet Pal et al., *Temporal Patterns in Covid-19 Misinformation in India* (2020), <http://joyjeet.people.si.umich.edu/temporal-patterns-in-covid-19-misinformation-in-india/>.

⁷ Akhileshwari Reddy, *The Pandemic is Amplifying India's Fake News Crisis*, The Wire, Apr. 2, 2020, <https://thewire.in/media/medical-fake-news-coronavirus>.

bodies due to fear of spread of the virus. In Ahmedabad, a forty-six-year-old woman who died of Covid-19 was taken to a cemetery near her residence, when a group of locals denied the burying of her dead body, fearing transmission of the virus, based on false information that dead bodies can transmit the virus.⁸ An interim guidance report by WHO on 24 March, 2020, stated that based on current evidence, Covid-19 is transmitted between people through droplets, close contact and fomites and that it is not airborne. The interim guidance report further elaborated that except in certain cases of haemorrhagic fevers like Ebola, dead bodies are generally not infectious. Furthermore, report also emphasized on the dignity of the dead and states that the cultures and traditions and also the family of the deceased are to be respected and should be protected, while also following other guidelines.⁹

It is also interesting to note that of these seven types of classification, the most types of 'debunked information' belonged to the 'Culture' type (62 instances) and 'Government' type (54 instances)¹⁰. This means that of the instances of 'debunked information' in the sample space, 62 were related to messages which had a cultural reference attached to them (most commonly religious references) that targeted a particular religion or community to be spreaders of the virus, while 54 instances related to messages falsifying an announcement by the Government or its authorities.



Migrant Workers and Fake News:

One adverse impact of spread of the 'debunked information' under the 'Government' type, was upon the migrant workers. The Supreme Court of India, in an order issued by it in the case of *Alakh Alok Srivastava v. Union of India*,¹¹ observed that a fake news, which said that the nationwide lockdown would be extended by three months, had led to a large number of labourers and migrant workers to attempt to return to their homes, with some of them choosing to walk a distance of about hundred kilometres from their place of work to their homes, as was highlighted in the petition before the apex court. The Court also stated that

⁸ Aditi Chattopadhyay, *Fact Check: Can Dead Bodies of Covid-19 Patients Transmit Novel Coronavirus?*, Thelogicalindian.com (Mar. 31, 2020), <https://theologicalindian.com/fact-check/dead-body-coronavirus-covid-19-20387>.

⁹ WHO, Infection Prevention and Control for the safe management of a dead body in the context of Covid-19: Interim guidance (Mar. 24, 2020), https://apps.who.int/iris/bitstream/handle/10665/331538/WHO-COVID-19-IPC_DBMgmt-2020.1-eng.pdf.

¹⁰ Prachi Salve, *Manipulative Fake News On The Rise in India Under Lockdown: Study* (May 3, 2020), <https://www.indiaspend.com/manipulative-fake-news-on-the-rise-in-india-under-lockdown-study/>

¹¹ *Alakh Alok Srivastava v. Union of India*, SC 345 (2020).

some of the labourers had lost their lives in the process of trying to return to their homes, thereby making it impossible for the Court to not take this issue into consideration. The Court then directed the Media (print, electronic and social) to ensure that dissemination of unverified news which may lead to panic, is mitigated and that the Media was to maintain a 'strong sense of responsibility' while dealing with spread of fake news. The Hon'ble Court also took into consideration certain provisions under the Disaster Management Act, 2005 and the Indian Penal Code, 1860.

RELEVANT PROVISIONS DEALING WITH FAKE NEWS

Disaster Management Act, 2005

- The first provision taken into consideration by the Supreme Court was Section 54 of the Disaster Management Act, 2005¹² (*hereinafter* DMA) which is one of the main provisions in the Act that deals with dissemination of false information. Section 54 states that "Whoever makes or circulates a false alarm or warning as to the disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine".¹³ In case of the Covid-19 pandemic, this section of the DMA would be applicable in the previously mentioned case, where circulation of fake news regarding extension of lockdown had led to panic among migrant workers and labourers.
- Though the Supreme Court did not take it into consideration, another provision under the DMA which can be invoked to curb spreading of fake news is Section 52.¹⁴ Section 52 states that whoever makes a false claim knowingly to obtain relief, assistance, repair, reconstruction or any other benefit from a competent authority, upon conviction will be punishable with imprisonment that may extend to two years, along with a fine.¹⁵ This provision helps contain spread of fake news or information

¹² The Disaster Management Act, 2005 § 54.

¹³ The Disaster Management Act, 2005 § 54, <https://www.ndmindia.nic.in/images/The%20Disaster%20Management%20Act,%202005.pdf>.

¹⁴ The Disaster Management Act, 2005 § 52.

¹⁵ The Disaster Management Act, 2005 § 52, <https://www.ndmindia.nic.in/images/The%20Disaster%20Management%20Act,%202005.pdf>.

regarding the coronavirus, which may be used to attain benefits from competent authority or authorities.

Indian Penal Code, 1860

- The Supreme Court also took into consideration, Section 188 of the Indian Penal Code¹⁶ (*hereinafter* IPC) which states that any person who disobeys an order which has been promulgated by a public servant whereby he is required to do or abstain from doing something but he disobeys that order, is punishable to imprisonment which may extend to one month or a fine which may extend to two hundred Rupees or both and if such disobedience causes danger to human life or leads to riots, then he will be punishable with imprisonment which may extend to one year, a fine which may extend to thousand Rupees or both.¹⁷ While dealing with the issue of fake news reportedly leading to panic among migrant workers and labourers and also causing them harm and in some cases, even costing them their lives, the Supreme Court in its order in the *Alakh Alok Srivastava*,¹⁸ case made it clear that Section 188 of the IPC may be invoked in order to tackle spreading of fake news and ensure that those responsible for spreading fake news which have led to harm, are punished for the same. This section is applicable in those cases when there has been a disobedience of an order passed by the Government or a public authority, which is relating to spread of fake news, through electronic, print or social media, or if the order is passed under the Epidemic Diseases Act, 1857 (now The Epidemic Diseases (Amendment) Ordinance, 2020 as promulgated on April 22, 2020).
- Another provision which relates to spreading of fake news is Section 505 of the IPC,¹⁹ which is entitled ‘Statements conducing to public mischief’. Section 505(2) states that “Whoever makes, publishes or circulates any statement, rumour or report with an intent to cause or which is likely to cause, fear or alarm to the public, or to any section of the public...shall be punished with imprisonment which may extend to five years

¹⁶ The Indian Penal Code, 1860 §188.

¹⁷ The Indian Penal Code, 1860 §188, https://indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688§ionId=45943§ionno=188&orderno=214.

¹⁸ *Alakh Alok Srivastava v. Union of India* 2020, SC 345 (2020).

¹⁹ The Indian Penal Code, 1860 §505.

and also shall be liable to fine”.²⁰This provision of the IPC is similar to Section 54 of the DMA. The primary difference between these two provisions is with respect to the degree of panic caused among people, while another distinction is that the provision of the DMA is directly applicable to those instances of spread of fake news relating to a particular disaster (in the present situation, the Covid-19 pandemic), whereas the provision of the IPC is more general in nature.

MEASURES TAKEN

The previously mentioned incidents are just few of the impacts of spread of fake news. There are many more such incidents, some of them of a much higher gravity, which have been taking place and still are taking place post the *Janata curfew* in India (on March 22, 2020). While these incidents pose a very concerning issue, it is important to note that on the other hand, measures to curb spread of fake news are also being taken by the Central government, state governments, law enforcement agencies and also social media companies, whose applications and websites are being used as primary platforms for spreading fake news.

Social Media Companies and Measures to Curb Spread of Fake News

Various social media companies are taking different kinds of measures to tackle spread of fake news on their respective platforms. Facebook, the social media giant, has partnered with BOOMlive, a fact-checking application, to identify and eliminate fake news and its circulation. As per a report dated May 8, 2020 on its website, BOOMlive reported that it had identified and checked 178 fake ‘facts’ regarding the coronavirus which were in circulation and that a considerable portion of these facts were communal in nature, i.e targeting a particular community. The report also classified the news into types and found that 35% of false news was circulated through videos, 29.4% through text messages, 29.4% through images containing pictures of celebrities and quotes on the virus’ cure etc. and 2.2% through audio clips.²¹

²⁰ The Indian Penal Code, 1860 §505, https://indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688§ionId=46293§ionno=505&orderno=569.

²¹ Archis Chowdhury, *Fake News In The Time Of Coronavirus: A BOOM Study* (2020), <https://www.boomlive.in/fact-file/fake-news-in-the-time-of-coronavirus-a-boom-study-8008>.

In comparison to Facebook, Whatsapp, whose application has become the most prominent source for spread of fake news in India, has introduced automated chatbot-based helplines in order to deal with queries relating to the Covid-19 pandemic. In India, Whatsapp is urging its users to use the 'MyGov Corona Helpdesk' chatbot instead of relying on forwarded messages, as the chat both reports reliable and accurate information, which enables accurate understanding.²² Both of these measures are innovative and certainly helpful in tackling spread of fake news to an extent. The key distinction is that while Facebook's BOOMlive tackles spread of fake news in its platform through the method of fact-checking, Whatsapp's chat bots help ensure that its users have access to reliable source(s) of information.

Measures Taken by Law Enforcement Agencies

While these measures by individual social media companies are indeed having a positive impact and ensuring that spread of fake news through social media is curbed (to an extent), the main issue still lies with respect to spread of fake news through other sources, such as mainstream media. Though law enforcement agencies are taking the necessary steps to bring this situation under control, there is an issue with respect to the method they are employing to do so. For instance, free speech activists across the nation have noted that random and irrelevant sections of the Epidemic Act and the DMA have been invoked by the police in order to arrest individuals on the ground of spread of fake news²³. This is a pressing issue considering the importance given to free speech in India, which is a constitutionally guaranteed fundamental right. It needs to be understood that spread of fake news cannot be controlled at the cost of citizens' fundamental rights. In such cases, law enforcement agencies have to ensure that only applicable provisions of relevant legislations are invoked in order to arrest those involved in the spreading of fake news relating to Covid-19 pandemic. It is also essential for them to first ensure that the statements made or circulated are in violation of the restrictions to 'freedom of free speech and expression' as guaranteed under Article 19(1) of the Constitution of India, before taking action.

²²Shouvik Das, *Fighting Fake News on Covid-19: What India's Social Media Companies are Doing*, Mar. 27, 2020, <https://www.news18.com/news/tech/fighting-fake-news-on-covid-19-what-indias-social-media-companies-are-doing-2554085.html>.

²³*Police crack down Covid-19 'misinformation', activists concerned*, Hindustan Times, Apr. 30, 2020, <https://www.hindustantimes.com/india-news/about-500-cases-lodged-in-india-for-social-media-posts-on-covid-19/story-PBaxt7oNs9IdPNUCVRiUUM.html>

MAIN ISSUES

It is disturbing to note that propagators of fake news are not always individuals but also include politicians or even government(s), public figures or celebrities and mainstream media, including some prominent national and regional news channels.²⁴ Upon analysing laws which govern spread of fake news in case of the Covid-19 pandemic in India, it can be inferred that these laws are adequate in order to identify and penalize those responsible for spreading fake news. However, the fundamental issue lies in the execution of these relevant provisions and it always must be remembered that improper execution leads to violation of individual rights and it therefore needs to be kept under check.

Another issue is that many citizens lack access to reliable sources of information, which probably is the reason for the increasing dependence on Whatsapp forwards and/or television news channels. Such dependency clearly increases spread of fake news. Though the Government of India introduced the 'ArogyaSetu' mobile application in order to track infected persons and provide information regarding measures taken to combat the virus, data security concerns on the application has induced reluctance among many to use it. According to Justice Srikrishna, government's drive to mandate usage of the application is 'utterly illegal'.²⁵

SUGGESTIVE REMEDIES

The proper enforcement of applicable statutory and penal provisions is a matter which primarily concerns the central and state government(s) of India. This issue can be dealt with in two ways. The government can impose heavier penalties on propagators of fake news. If this measure does not have the desired impact, the legislature can consolidate all laws relating to fake news into a single legislation, in order to provide clarity to law enforcement agencies as to the legislation under which they are to take action. The drafting of such a legislation

²⁴ Pal, *Supra* note 5, at 1.

²⁵ Andrew Clarence, *Arogya Setu: Why India's Covid-19 contact tracing app is controversial*, 15 May, 2020, <https://www.bbc.com/news/world-asia-india-52659520>.

might be a herculean task, but there is a good possibility that such legislation would help efficiently tackle spread of fake news.

As to the second issue regarding lack of access to reliable information resources, there is not much the government can do except ensuring that people have knowledge regarding its various web portals such as mygov.in/covid-19 or the webpage of the Ministry of Health and Family Welfare (mohfw.gov.in), in which authentic and reliable information regarding the coronavirus is updated regularly. Tackling this issue necessitates people to avoid sharing random Whatsapp forwards or other news without verifying them. This however is hard to achieve considering that the number of illiterate people is high in India. But India's literate population can ensure that circulation of such news is eliminated to an extent by refraining from sharing such news and by notifying the Ministry of Information and Technology or any other competent authority regarding such news which then can be taken off circulation.

CONCLUSION

As stated earlier, the adequacy of laws in India is not an issue when tackling spread of fake news is concerned. The enforcement of these laws and access to reliable sources of information are the primary issues with respect to spread of fake news. The Supreme Court of India has taken into consideration the malice of fake news in India, in cases such as *Tehseen S. Poonawalla v. Union of India*²⁶ (where the Court observed that fake news circulation had further added to a frenzy of violent mobs in some lynching cases), *Foundation of Media Professionals v. Union Territory of Jammu and Kashmir*²⁷ (where the Court was dealing with internet shutdowns in Jammu and Kashmir and elaborated the role of fake news in deteriorating the situation), etc. Though these cases were based on different issues, the underlying problem was the spread of fake news, a malice which led to the poultry industry suffering losses, migratory workers being harmed and many other such incidents. Incidents such as the aforementioned ones, time and again in different forms, reinstate the need to control the malice of spread of fake news.

²⁶Tehseen S. Poonawalla v. Union of India, 9 SCC 501 (2018)

²⁷ Foundation of Media Professionals v. Union Territory of Jammu and Kashmir, SCC Online SC 543 (2020).