

# Fake News- A tool to confuse the Freedom to Choose

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## ABSTRACT:

The development in technology results in the growth of the nation. But when this development in technology is used as tool against growth, violence prevails. Social media plays a very significant role in influencing the lives of people. The choices that an individual makes, is deeply influenced by the social media tools. Not just this but the publication of fake news have profoundly impacted the brain of an individual to such an extent that even before circulating any such fake news or misinformation, the validity of the same is not even questioned. The right to choose and the right to informed choice both have been threatened by the growing trend of Fake news. Since every individual has the right to freedom of speech and expression, the regulation of fake news is one of the most difficult task before the state. The creation of fake news and the absence of regulatory mechanism in controlling such menace have led to its tremendous growth in last three decades. This rising trend have manipulated various arena's including the rights of the individuals, the communication and political structure of the country. The unexpected political scenarios, increasing threat to public peace and the disturbance in the social environment are the result of the growing trend of Fake news. The vagueness in the law is also a reason as to why this menace is difficult to control.

**Keywords:** Technology, Social Media, misinformation, fake news, informed choice.

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*A Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties”.*

*--John Milton*

## I. INTRODUCTION

The trend of Fake News in a country like India is one of the most bothersome problem that has affected the Country's Administration right from the freedom to choose one's leader to defaming them at the same time. Media plays a very important role in educating the Public. Not just the print media like Newspapers, Magazines, Pamphlets or Broadcasting through Television vis-à-vis News Channel but also through Social Media Apps' such as Twitter, Facebook, Whats App, Instagram etc. daily chaos that bothers the National and International arena gets circulated very quickly. It's within some seconds today that the news travel from one corner of the world to the other. The use of social media is both a Blessing and Curse upon the user.

The term 'Fake news' has no definite meaning. But generally 'Fake news' is to be understood as any content or false stories that appear to be true and are spread as news in order to influence the subjects. In India, the trend of Fake news has affected the Right to choose and the right to informed choice at a large scale. It has not only impacted the consumers right to choose but also a citizen's right to choose his representative and have created very uncertain scenario throughout the nation. The use of social media tools have played a significant role in the promotion of Fake News. The concept of fake news is not new but the same story that has chosen a road of technology to reach out to maximum number of people.

It is to be noted that this issue is internationally addressed across the globe. Countries like USA, Philippines, Malaysia, European Union and others have taken significant measures to curb this menace of Fake News. The situation in India completely differs. As such there is no specific law which restricts the menace caused by Fake news. Constitutionally speaking, the menace of Fake news is covered under Article 19(1) (a) i.e Freedom of speech and expression and reasonable restrictions in Article 19(2) of the Constitution of India. Through judicial interpretations of the Hon'ble Supreme Court, the Freedom of speech and expression also includes the freedom to communicate ideas and information. The freedom to communicate has been misused to a great extent. Since every individual has the right to use any public platform especially social networking sites such as Whats app, twitter, Facebook etc. to spread their ideologies and share their opinions, there are more chances of the circulation of Fake news.

The social media is regarded as a tool which influences and connects different segments of the society. In India, an Independent Press is regarded as the fourth pillar of democracy and therefore the social media impacts not only the democratic but also demographic network of the Nation. In all there have been 4, 75,437 news articles online about 'fake news' between January 2015 and September 2018.<sup>1</sup> The issue of Fake News has created a chaos in countries like Kenya, Nigeria and India.<sup>2</sup> Issues such as Lynching, defamation, communal hatred, religious fights etc. have increased a lot. False news and its circulation have not only disturbed Political balance of the country but has also disturbed and created a status of inequality within the society. The concept of decency and morality as enunciated in reasonable restrictions under Article 19(2) have been under various interpretations because of the increasing trend of Fake news.

The freedom to choose one's own standard of living, the lifestyle which one adapts, the food that we consume, the brand of the clothes that we prefer etc., everything today is under the influence of the social media. Today right from what cellular network one prefers be it Jio, Vodafone or BSNL to the political party that we choose to elect, everything is under the scrutiny of social media. The choice of any individual is the outcome of the influence created by the social media. The dependence has grown to such an extent that today, we rely even upon the reviews given by other individuals while we shop online. But here comes the dilemma of the news that are circulated around us. The validity of such news is questionable since we as individuals have a greater responsibility and a privilege to communicate what is wrong and what is right. What news is moral and what news will cause public disturbance and whether such news is true or just some agenda of the rival of the country needs to be considered. The utmost sensitivity with regards to the circulation of such news is to be considered.

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<sup>1</sup>Fake news and the ordinary citizen in India by Santanu Chakrabarti. Available at <http://downloads.bbc.co.uk/mediacentre/duty-identity-credibility.pdf>. Last visited on 24<sup>th</sup> February 2019.

<sup>2</sup>Nationalism drive behind spread of fake news in India: BBC. Available at <https://economictimes.indiatimes.com/news/politics-and-nation/nationalism-drive-behind-spread-of-fake-news-in-india-bbc/articleshow/66590085.cms>. Last visited on 24<sup>th</sup> February 2019.

The majority of mob lynching were followed by the rumors spread by whats app and a 2018 study conducted by the Digital Empowerment Foundation (DEF) claims that users in rural India don't trust messages on Whatsapp blindly.<sup>3</sup> Although the practicality and the reality of the same differs from the study. Fake News have impacted different spheres in one way or the other. Following are the different spheres which are influenced by the rising trend of Fake news.

## II. FAKE NEWS AND RIGHT TO CHOOSE

It is to be noted that India is one of the biggest markets for several social media and communication companies—it has 160 million of WhatsApp's one billion-plus monthly active users, 148 million Facebook users, and over 22 million Twitter accounts.<sup>4</sup> The users of social media have variety of options right from choosing the representative to the products that they consume. The right to choose is greatly influenced by the advertisements, communication and passing of information. Many a times, the producers provide wrong information about the products that the consumer demands or uses. In this way, the right to choose is often influenced under false information. For example, an industry producing a moisturizer cream which claims to make people fair. Now this is very obvious that the skin color won't permanently change with the use of any cream. But still people buy such products. Fake news has become a socio-political topic that has influenced the Right to choose of an Individual. The continuous circulation of news and the elements through the circulation of information whose validity is questionable is a threat to the freedom to choose as guaranteed by the Indian Constitution itself. The Right to choose is a fundamental Right enunciated under Article 19(1)(a) i.e Freedom of speech and Expression and Article 21 of the Indian Constitution. Crucially, news is now considered to be as much about 'how it makes me feel' as about 'what it tells me.' 'Human interest stories', or softer news in general is considered to be a core part of news, while political and policy reportage is expected to not just be dry and analytical, but to express some emotion. In other words, people expect news to not just inform but to entertain.<sup>5</sup>

The right to choose is influenced by the circulation of fake and malicious contents including trolls, videos, messages, audios etc. It is to be noted that the information passed on whatsapp is trusted by most of its users especially when circulated by friends, family or relatives and rather than questioning the rightness or wrongness in it, the other party directly circulates it. This can be understood with an example of circulation of malicious videos to defame the company ITC which produces Aashirwad wheat flour. So few of the consumers of this

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<sup>3</sup>What to Believe — And Not Believe — About Fake News in India. Available at <https://thewire.in/media/fake-news-india>. Last visited on 25<sup>th</sup> February 2019.

<sup>4</sup>Top 10 fake news forwards that we (almost) believed in 2016. Available at <https://www.hindustantimes.com/india-news/top-10-fake-news-forwards-that-we-almost-believed-in-2016/story-hL7pnDYwF51M4cNAwgMtrN.html>. Last visited on 25<sup>th</sup> February 2019.

<sup>5</sup>Fake news and the ordinary citizen in India by SantanuChakrabarti. Available at <http://downloads.bbc.co.uk/mediacentre/duty-identity-credibility.pdf>. Last visited on 24<sup>th</sup> February 2019.

wheat flour stated that the flour contained plastic and they started to circulate the videos via Facebook and whatsapp. This false information resulted in reducing the consumption of the product affecting the market of the company and the production was also threatened. Later on a case was filed by the company claiming that there was no plastic in the product and all of this was done to defame the product as well as the company. Such contents affect the choices of the individuals which affects and disturbs the entire cycle of production and consumption. The Right to informed choice can certainly protects the consumers from using or believing the wrong but the false publication can also harm them. For example the story of salt shortage in India. It was circulated on whats app in November 2016 that there was a shortage of salt in India because of which there was a panic in states like Uttar Pradesh, Delhi, Maharashtra and Hyderabad. These chaos resulted in stocking up of the vital commodity because of which prices of salt increased. Furthermore this confusion led to a death of a woman in Kanpur while police charged on the mob that was looting the grocery shops.

### III. FAKE NEWS AND POLITICS

Politics is one such arena which has been affected by the trend of Fake news. The voters' right to choose and the right to informed choice both are influenced by the circulation and publication of various on-going issues of the Political Parties. The emerging fake news ecosystem on Twitter, Facebook, Instagram, Whats App etc. and the trend of trolls have taken a shape of the campaigning for the elections. Since the youth is the most active user of these networking sites, the broadcasting and the influence of such messages have changed the entire Politics of the country. The 2014 Election campaign of BJP stirred the networking sites via trolling of Congress Party leaders and defaming them. This strategy proved to be very successful in influencing the voters in casting the votes in their favor. This troll war and the use of social media in campaigning resulted in direct connection of the voters with the candidates along with advertisement of the political parties. The trend of fake news has also encouraged different groups to raise funds for them as well as resulted in spreading of their ideologies. One of the example being the spread of 'Hindu Nationalism' during the elections of 2014.<sup>6</sup> It is to be noted that Politics today is one of the most trending topics on social media and most of the fake news in terms of politics have been circulated by people who are either the supporters or haters of Political parties. The unexpected election results, the shift in governance priorities, the increase in caste politics, the rise in communal riots, the hatred amongst youth supporting different ideologies is the result of the spread of fake news in the arena of Politics.

### IV. FAKE NEWS AND HUMAN RIGHTS

Fake news has not only affected the Social and political rights of the Individual but has also affected the Human

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<sup>6</sup>Ibid.

rights. Today, people have regarded fake news as a mere form of entertainment. The inconvenience caused to the victims of fake news is the other side of the story. In 2016, just after the death of famous Politician and Chief Minister of Tamil Nadu J. Jayalalitha, a news along with some pictures went viral across Twitter, Facebook, Whatsapp and Instagram stating that Jayalalitha has a secret daughter who lives in USA. Later on the rumor was clarified by a relative of the person whose photo was circulated. The amount of stress that the victim of such rumor undergoes not only makes the person uncomfortable surrounded by number of questions but also violates his/her privacy. Number of such incidents have come into picture. The mob lynching incident of the Rainpada district near Solapur is one such example whereby five men were killed by a mob on the basis of a fake news that went viral on Whatsapp. Twenty three people were arrested in this incident.<sup>7</sup> Many such incidents came to be reported as a result of whatsapp fueling fake news and the growing violence because of this.

## V. FAKE NEWS AND REGULATORY LAWS

The question which comes before the state is the regulation of the Fake news. The concept of fake news is technologically driven and needs to be regulated since it has led to the increase in various social problems such as mob lynching, communal riots etc. This misinformation and false claims made by various groups and circulated by millions of internet users sways away the intellectual thinking of the Individuals since the wide circulation and publication of such materials results in making one believe on the misinformation. The problem lies in the circulation of such news without actually verifying the validity and truth of the same. Moreover there are low- barriers on the Social networking sites because of which the publication and circulation of such misinformation becomes more easy. Another reason for the circulation of fake news is the protection guarded by Article 19(1)(a) i.e Freedom of speech and expression because of which the publication or circulation is not held to be accountable provided it violates the Reasonable restrictions under 19(2).

The consequences of such mis-information is to be looked within the domain of reasonable restrictions under Article 19(2). Practically speaking, today these nine grounds including public order, decency, morality, defamation, incitement to an offence etc., are no more sufficient grounds to deal with the consequences caused by fake news. For example the tussle between Political Parties has now taken a shape of social media combat where different groups promote enmity and defame the Political leaders. The hashtag wars, defaming political leaders like Rahul Gandhi as Pappu etc.

The flow of such news needs to be regulated but the question lies is how can such news be regulated? What kind of laws are to be made? What regulatory bodies shall detect the agencies responsible which produces such

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<sup>7</sup>How whatsapp fuels fake news and violence in India. Available at <https://www.wired.com/story/how-whatsapp-fuels-fake-news-and-violence-in-india/>. Last visited on 26<sup>th</sup> February 2019.

news etc.

There are many questions whose answers are still in the dark but various countries like USA, UK, Philippines, Malaysia etc. that have taken initiative to curb this menace. In India, there is no such express statute which regulates the distribution and circulation of fake news but the Government should take an active interest in evolving and involving various platforms that scrutinize the information which affects Public order and public interest. Collaboration with NGO's doing this can be helpful as well. Consider the website AltNews.in, which identifies fake information being circulated on media platforms and exposes it on its platform. Its editors, as per their own account, have "no political affiliations", "call out fake news without fear or favor" and "ensure that fact-checks are backed by sound evidence".<sup>8</sup>

## VI. CONCLUSION:

The European Court of Human Rights stresses in its case-law that while everyone – including bloggers, whistle-blowers, academics, members of civil society organizations, etc. - should be able to participate in public debate, it is particularly important for journalists and the media to be able to do so because of their ability to spread information and ideas widely, and thereby contribute to public opinion-making.<sup>9</sup> These individuals are responsible in imparting correct information on the matters of public interest. Journalists and the media should expose the wrong information. All the news institutions and journalists whatever is their political leanings, should avoid inadvertently and uncritically spreading disinformation and misinformation. Although this is not practical solution when it comes to circulation of messages personally. The applications itself should have some high barriers restricting the false/ fake messages or forwards. Some intermediaries have themselves made attempts to check fake news, such as WhatsApp's ad campaigns and "forwarded" tag strategy (of which the latter arguably backfired). Facebook has made attempts to increase transparency when it comes to ads funded by political parties in countries like Brazil and US. Under the new rules, focused ads on Facebook and Instagram will display a "paid for by" label showing who or which group purchased the ad. Many have suggested the need for a legal check on misinformation. Online petitions have come up requesting the Supreme Court to take action<sup>10</sup>. Despite of this, the responsibility lies on the common public to verify whether the news is correct or fake. Sometimes the means are available but sometimes they are not. People should not entertain the misleading information as a mere matter of entertainment. Rather they should think twice before believing and circulating the same.

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<sup>8</sup> Does The Constitution Protect Fake News? by Shrutanjaya Bhardwaj. Available at <https://www.livelaw.in/columns/does-the-constitution-protect-fake-news-142596>. Last visited on 26th February 2019.

<sup>9</sup> Fake news- False fears or real concerns by Tarlach McGonagle. Available at <https://journals.sagepub.com/doi/full/10.1177/0924051917738685>. Last visited on 26th February 2019.

<sup>10</sup> Does The Constitution Protect Fake News? by Shrutanjaya Bhardwaj. Available at <https://www.livelaw.in/columns/does-the-constitution-protect-fake-news-142596>. Last visited on 26th February 2019.