

Addressing the Challenges of Fake News in India: Assessing the Role of Law, Digital Platforms, and Media Literacy

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Abstract:

This paper examines India's multi-dimensional response to online misinformation (commonly described as "fake news"), focusing on legal instruments, platform governance, and media literacy interventions. It analyses existing legal provisions used against harmful online speech, reviews two prominent legislative proposals that have surfaced in the last half-decade, and critically assesses why sweeping statutory approaches to 'fake news' have not been implemented at the national level. The paper pairs doctrinal legal analysis with secondary empirical data drawn from a reputable Indian fact-checking organisation to illustrate the scale, topical distribution and harms of misinformation. It argues that an effective, rights-respecting response should avoid broad criminalisation, instead favouring narrowly tailored legal measures for high-harm conduct, strengthened platform accountability with procedural safeguards, and sustained investment in context-sensitive media and digital literacy. The paper concludes with concrete policy recommendations for lawmakers, platforms and civil society.

Keywords: fake news, misinformation, India, Information Technology Act, media literacy, platform governance, regulatory design.

INTRODUCTION

India is facing a surge in misinformation, which is amplified by the widespread adoption of digital technology and the diverse nature of social media. The unchecked spread of fake news threatens social stability and democratic processes, prompting legal, technological, and educational interventions to curb its impact. The digital age has revolutionised communication in India, transforming the way information is produced, disseminated, and consumed. Social media platforms, online news portals, and instant messaging applications have democratised the flow of information, allowing citizens to become both producers and consumers of news. However, this rapid evolution has also given rise to a profound challenge: the widespread circulation of fake news. Fabricated stories, doctored images, and misleading narratives are no longer confined to fringe sources but have permeated mainstream discourse, influencing public opinion, electoral processes, social harmony, and even national security.

The problem of fake news in India is particularly complex due to the country's vast linguistic diversity, high digital penetration, and the coexistence of traditional and new media. Unlike misinformation that may arise from error, fake news is deliberately crafted to deceive, often serving political, economic, or ideological purposes. Such content thrives in an environment where fact-checking practices are weak, digital literacy remains uneven, and social media algorithms amplify sensationalism over accuracy. The consequences are evident: communal tensions exacerbated by viral falsehoods, declining trust in journalism, and threats to democratic deliberation.

While the challenge is global, India's situation demands special attention. The state has responded through existing legal provisions under the Bharatiya Nyaya Sanhita, the Information Technology Act, and more recent interventions like the Information Technology (Intermediary Guidelines and Digital Media Ethics

Code) Rules, 2021. Additionally, legislative proposals such as the Fake News Prohibition Bills of 2019 and 2023 reflect the government's recognition of the menace. Yet, these initiatives face criticism over vagueness, potential misuse, and implications for free speech. Equally significant are non-legal strategies, including the technological role of digital platforms in moderating harmful content and the educative role of media literacy campaigns aimed at empowering citizens.

This paper critically examines India's multi-pronged approach to countering fake news, focusing on the interplay between law, technology, and education. By analysing the strengths and shortcomings of current legal instruments, reviewing legislative attempts, evaluating platform accountability, and highlighting the importance of public awareness, it aims to provide a comprehensive understanding of the issue. In doing so, the study also draws comparative insights from international regulatory frameworks to situate India's experience within the broader global discourse. Ultimately, the research argues that while legal interventions are essential, sustainable solutions lie in the synergy of regulation, technological innovation, and informed citizen participation. This study aimed to investigate the various interventions that have been implemented to address the problem of fake news in India, including legal, technological, and educational approaches. Through a comprehensive review of the literature, this study examines the effectiveness of these interventions in curbing the spread.

DEFINING FAKE NEWS

Fake news is the deliberate presentation of (typically) false or misleading claims as news, where the claims are misleading by design (Gelfert, 2018). "Fake news" refers to those news stories that are false, fabricated, with no verifiable facts, sources, or quotes.

Fake news refers to deliberately fabricated or misleading information presented as legitimate news content with the intention of deceiving audiences. Unlike mere errors in reporting, which may result from mistakes or oversight, fake news is consciously produced to misinform, manipulate opinion, or serve specific political, economic, or ideological objectives. It often mimics the appearance and style of genuine journalism, making it difficult for ordinary readers to distinguish between fact and falsehood.

In the Indian context, fake news manifests in diverse forms: altered images, videos taken out of context, fabricated statistics, or entirely fictitious narratives. Scholars frequently distinguish between related terms such as misinformation (false information shared without harmful intent) and disinformation (false information deliberately spread to cause harm). Fake news generally aligns with the latter, as it involves intentional deception. Recognising this distinction is crucial because the legal and policy responses often differ depending on whether the spread of false content is intentional, negligent, or accidental. Thus, in this paper, the term "fake news" will be used to denote intentionally false or manipulated information disseminated in the guise of legitimate news reporting.

TYPES OF FAKE NEWS:

- 1) Satire or parody -No intention to cause harm, but has the potential to fool
- 2) Misleading content- Misleading use of information to frame an issue or individual
- 3) Imposter content- When genuine sources are impersonated
- 4) Fabricated Content- New content is 100 % false, designed to deceive and do harm
- 5) False connection-When headlines, visuals or captions don't support the content
- 6) False or manipulated content-When genuine content is shared with false contextual information, when genuine information or imagery is manipulated to deceive

Axel Gelfert (2018), in his research, found that all existing definitions of fake news have three common characteristics, which he summarised as follows:

1. Recognition that the internet, particularly social media, has played a crucial role in the creation and dissemination of fake news.
2. The relationship between fake news and reality becomes questionable.
3. The creation and dissemination of fake news are "intentionally or knowingly false representations of truth," "deliberate distribution of misinformation," and the "intention to deceive."

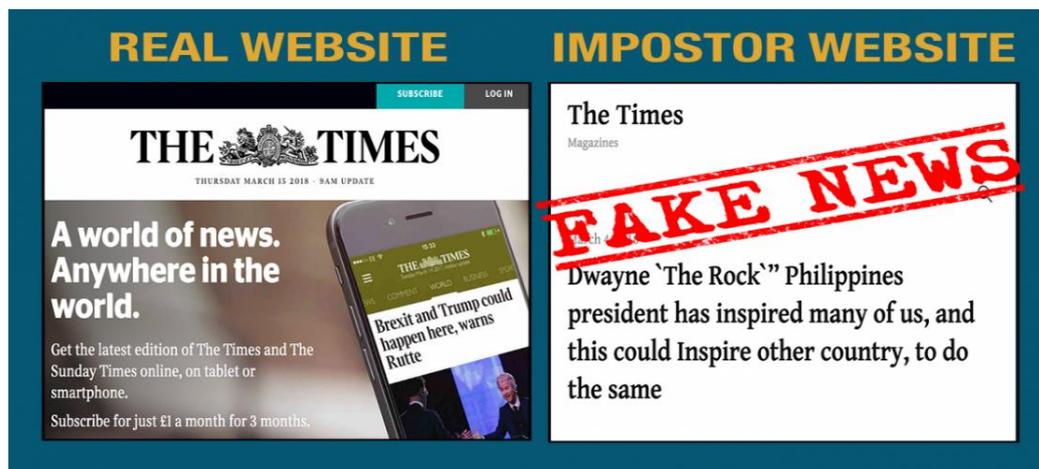


Viral Clip Claiming Father-daughter Got Married in Temple Is Scripted

Source- <https://factly.in/wp-content/uploads/2024/12/Daughter-married-her-father-Claim-1-768x1227.jpg>

Vera Files Fact Check: Impostor site posts FAKE NEWS claiming actor The Rock praised Duterte

Source- <https://verafiles.org/articles/vera-files-fact-check-impostor-site-posts-fake-news-claiming>



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LITERATURE REVIEW

Scholarly and policy literature on misinformation identifies two core problems: (1) the spread and amplification mechanics enabled by platform design (network effects, virality and algorithmic recommendation) and (2) the normative and legal difficulty of distinguishing harmful falsehoods from legitimate speech such as satire, opinion or imperfect reporting. Internationally, research has shown mixed results for legal solutions: some states have enacted targeted measures (for example, Singapore's Protection from Online Falsehoods and Manipulation Act — POFMA) while others rely on platform transparency and procedural safeguards (for example, the EU's recent Digital Services Act). Critics of broad criminalisation emphasise vagueness risks, chilling effects on expression, and the danger of political misuse.

India-specific literature highlights the country's linguistic diversity, the prevalence of encrypted messaging (which complicates traceability), and the existing legal toolkit (Indian Penal Code provisions, Information Technology Act) that authorities already deploy in cases of public harm caused by speech. Several studies

and NGO reports caution that broad new offences against ‘fake news’ can replicate structural risks of abuse and incentivise platforms to over-remove content to maintain safe-harbour protections. Complementary approaches — such as support for independent fact-checking, rapid public communication during crises, and sustained media literacy — are often advanced as lower-risk, scalable responses.

- **Legal Interventions**
- **Technology Interventions**
- **Educational Interventions**

1. **Legal Interventions:**

Although the Bharatiya Nyaya Sanhita, 2023, does not explicitly define or criminalise “fake news” as a separate offence, several of its sections can be applied to situations where false or misleading information causes harm. The following provisions are particularly relevant:

Section 196 – Offences Relating to Promoting Enmity Between Groups

This section penalises any act, including the dissemination of false information, that promotes enmity or hatred between different groups on grounds such as religion, race, or language. Fake news targeting communal tensions can be prosecuted under this section.

Section 197 – Acts Prejudicial to National Integration

Section 197 criminalises speech or publication—including fabricated news—that undermines national unity or integrity. Fake news campaigns that spread secessionist or anti-national narratives fall within its ambit.

Section 298 – Uttering Words or Publishing Material Intended to Wound Religious Feelings

This section punishes individuals who intentionally publish or circulate content, including false news, designed to hurt religious sentiments. Misinformation aimed at insulting or provoking religious groups can be addressed through this provision.

Section 299 – Publishing or Circulating Obscene or Harmful Material

While largely focused on obscenity, this section can also extend to misleading or harmful publications circulated online or offline. Fake news with obscene or offensive content that disrupts public decency may be prosecuted here.

Section 353 – Statements Conducive to Public Mischief

This section directly targets false statements, rumours, or reports that can cause public fear, alarm, or disturbance. It is the closest provision to regulating fake news, covering misinformation that may provoke panic, riots, or public disorder.

Section 356 – False Statements in Official Declarations

This section criminalises knowingly making or publishing false statements in official documents or declarations. While narrower in scope, it applies when fake information is inserted into government records or affidavits, and can also address deliberate falsehoods presented as fact in formal contexts.

S.NO	IPC (1860)	Heading	BNS (2023)	Heading
1.	Sec 153A	Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc and doing an act prejudicial to the maintenance of harmony.	Sec.196	The word “or through electronic communication” is added as one of the modes of spreading disharmony, etc.
2.	Sec 153B	Implications, assertions prejudicial to national integration	Sec.197	The word “or through electronic communication” is added as one of the modes of spreading specified activities.

3.	Sec 295	Injuring or defiling a place of worship with the intent to insult the religion of any class	Sec 298	No Change
4.	Sec 295A	Deliberate and malicious acts intended to outrage religious feelings of any class, by insulting its religious or religious beliefs.	Sec 299	The words “or through electronic means” are added
5.	Sec 505	Statements conducing to public mischief	Sec 353	“ false information” and “including through electronic means” are added
6.	Sec 499 & 500	Defamation	Sec 356	No Change

Drawback:

There is no specific law against fake news in India. Free publication of news flows from Article 19 of the Constitution, guaranteeing freedom of speech.

Information Technology Act, 2000**Section 66D – Cheating by Personation Using Computer Resources**

This section punishes anyone who deceives others by creating false online identities or impersonating others through digital platforms. Fake news accounts, impersonation of public figures, and fabricated sources often fall within its scope.

Section 67 – Publishing or Transmitting Obscene Material in Electronic Form

While primarily targeting obscenity, this section is sometimes applied when fake content includes offensive or sexually explicit elements circulated online.

Section 69A – Power to Block Access to Information

This is one of the most important provisions. It empowers the Central Government to block access to any online information if it is deemed necessary for:

- Sovereignty and integrity of India,
- Defence and security of the State,
- Friendly relations with foreign States, or
- Public order

Fake news that threatens national security, spreads communal disharmony, or creates panic (e.g., during COVID-19) has been targeted under this section.

Section 79 – Exemption of Intermediaries (Safe Harbour Principle)

Intermediaries like Facebook, WhatsApp, Twitter, or YouTube are not directly liable for third-party content if they exercise due diligence and comply with government takedown requests. However, once notified of fake news, they must remove it promptly, or else lose their protection under this section.

IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

These Rules, framed under the IT Act, significantly expand intermediary obligations:

- Platforms must appoint grievance officers and respond quickly to complaints about misinformation.
- Content flagged by authorised fact-check units must be removed.
- Large social media platforms are required to enable traceability of the origin of messages in cases of harmful fake news.

The IT Act, coupled with the 2021 Rules, forms India’s primary legal framework against fake news in the digital space. However, critics argue that the Act’s reliance on broad terms such as “public order” or “sovereignty” creates risks of overreach and censorship. Moreover, since fake news is not directly defined, enforcement often depends on the consequences of misinformation rather than its mere creation or circulation.

- **Role of Media Council and Self-Regulatory bodies in addressing fake news.**

1. Press Council of India

- Statutory, quasi-judicial body, regulates print media ethics & standards

- It can censure/warn/admonish the newspaper
- Journalists must verify facts before publishing
- Avoid rumours, unverified, misleading content
- No content that spreads communal disharmony, hatred or panic.
- Can act on complaints/false misleading reports
- Covers only print media, not social media platforms
- Decisions are advisory, not legally binding.

2. Broadcasting Content Council Complaints (BCCC)

For non-news general entertainment channels, the BCCC, under the Indian Broadcasting Foundation (IBF), handles viewer complaints. Though not directly tackling fake news, its monitoring helps address misrepresentation, communal stereotyping, or misinformation in shows that may indirectly contribute to public misconceptions.

- Self-regulatory body for non-news TV entertainment channels.
- Monitors complaints on false, misleading, or harmful broadcast content.
- Can issue advisories, warnings, or direct removal of objectionable content.
- Works to ensure ethical broadcasting & protect viewers from misinformation.

Examples of Broadcasting Councils Worldwide:

- **UK-(OFCOM):** The Office of Communications regulates broadcast content, ensuring it meets specific standards.
- **Australian Communications and Media Authority (ACMA):** ACMA handles complaints and enforces standards across broadcasting and digital platforms in Australia.

3. Indian Broadcast Foundation

- Apex body of private TV broadcasters in India.
- Established the BCCC (Broadcasting Content Complaints Council) for content regulation.
- Works to promote responsible broadcasting and curb misleading/fake content.
- Encourages self-regulation & ethical standards among member channels

4. News Broadcasters Association (NBA)

- Industry body of private news and current affairs broadcasters.
- Promotes accuracy, fairness, and self-regulation in news reporting.
- Acts against fake/misleading news through its regulatory arm (NBSA/NBDSA).

5. News Broadcasters Federation (NBF)

- Represent regional and national news broadcasters across India
- Works to combat fake news by promoting self-regulation and ethical journalism

6. News Broadcasters & Digital Association (NBDA)

- Apex body of private TV news and digital broadcasters in India(earlier NBA)
- Frames self-regulatory guidelines to ensure truthful and responsible journalism
- Acts against fake, misleading or sensational news to protect public news

Election Commission of India (ECI)

- Monitors and curbs fake news, misinformation & hate speech during elections
- Uses social media monitoring & legal measures to ensure free and fair polls

The Central Government

New IT rules & Regulations have also been established for social media corporations, requiring them to take down abusive and vindictive content within 24 hours. The new regulations also call for prompt and proactive identification, removal, or restriction of access to illicit content through the use of technology-based automated tools and systems.

Prasar Bharati & Fake News

- India's public service broadcaster (Doordarshan & All India Radio).
- Runs awareness campaigns against misinformation & fake news.
- Provides authentic government-verified information to counter rumours.
- Collaborates with fact-checking units (e.g., PIB Fact Check) to ensure credibility

Fake News Prohibition Bills in India: A Critical Overview

Fake News Prohibition Bill, 2019

The Fake News Prohibition Bill, 2019, was a private member's bill introduced in the Lok Sabha to address the growing menace of misinformation.

- **Objective:** To prohibit the creation and spread of fake news by individuals, organisations, and digital platforms.

Key Provisions:

- Defined "fake news" as false or misleading information shared with the intention to mislead the public.
- Proposed penalties, including imprisonment and monetary fines, for creators and distributors of fake news.
- Empowered authorities to take down such content from online platforms.

Limitations: The Bill did not move forward as it raised concerns of **vagueness** in defining fake news, potential misuse against media freedom, and overreach of state control.

Fake News Prohibition Bill, 2023

The **2023 version** of the Bill was again introduced as a private member's bill with some modifications.

- **Objective:** To curb the spread of fabricated, misleading, or unverified news that could harm social harmony, democracy, or national security.

Key Features:

- Broader definition of fake news, covering both online and offline dissemination.
- Stricter obligations on digital platforms to verify and remove harmful content.
- Provision for establishing a Fake News Regulatory Authority to oversee implementation.
- Proposed penalties included imprisonment up to three years and fines.

Limitations and Criticism:

- The Bill lacked a clear framework for differentiating between satire, opinion, and intentional misinformation.
- Critics argued it could be used to suppress dissent and critical journalism under the guise of controlling fake news.
- Enforcement mechanisms were unclear, and concerns were raised about overlap with the IT Act and BNS provisions.

Why These Bills Were Not Implemented

Both the 2019 and 2023 Bills failed to gain parliamentary approval. The reasons include:

- Ambiguity in defining fake news in legal terms.
- Risk of misuse by authorities to stifle press freedom and opposition voices.
- Existence of overlapping provisions in IPC, BNS, and IT Act.
- Preference for strengthening existing laws and self-regulatory mechanisms rather than introducing new ones.

Critical Insight

The Fake News Prohibition Bills represent serious attempts to legislate against misinformation in India. However, their failure to pass highlights the delicate balance between combating harmful content and protecting freedom of speech. The absence of precise definitions, the lack of practical enforcement strategies, and the potential for censorship remain the biggest drawbacks.

2. Technology Interventions:

India has adopted several technology-based measures to curb fake news:

1. **AI and Machine Learning** – Used by social media platforms to detect and limit viral misinformation.
2. **Fact-Checking Tools** – Initiatives like AltNews, BOOM, Factly, and PIB Fact Check use digital forensics and verification tools.
3. **Messaging Controls** – WhatsApp introduced forward limits, labels, and traceability features to prevent mass circulation.
4. **Big Data Analytics** – Law enforcement tracks misinformation patterns and hotspots, especially during elections or crises.

5. **Government Digital Monitoring** – PIB fact-check unit and Cyber Swachhta Kendra monitor and counter fake news.

6. **User Reporting** – Platforms enable community flagging and crowdsourced verification.

In essence, technology helps in early detection, rapid verification, and controlled circulation of fake news, but it must be combined with laws and media literacy for effectiveness.

3. Educational Interventions

Educative interventions are activities or programs that aim to improve people's knowledge, skills, attitudes, or behaviours related to a specific issue or problem. In the case of fake news, educational interventions can help people develop the ability to:

a) Recognise the signs and sources of fake news

b) Evaluate the accuracy and credibility of information

c) Respond appropriately to fake news

d) Prevent the creation and dissemination of fake news

There are different types of educational interventions also suggested in the in-depth interviews with media practitioners, which aim to help people identify and combat fake news

1. **Awareness Campaigns** – Government initiatives like *PIB Fact Check* and *Cyber Swachhta Kendra* regularly release advisories to educate citizens on identifying fake news.

2. **Digital Literacy Programs** – Schemes such as the **Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA)** train rural citizens to use the internet safely and critically.

3. **Workshops in Schools and Universities** – NGOs and academic institutions conduct training on **fact-checking, critical thinking, and responsible social media use.**

4. **Media Collaborations** – News outlets like *The Quint WebQoof* and *Boom* partner with platforms to spread **awareness videos and guides.**

5. **Election Literacy Drives** – The **Election Commission of India** runs voter-awareness programs to counter election-related fake news.

6. **Community Engagement** – Civil society groups use street plays, radio, and local campaigns to reach non-digital audiences.

In short, Educational interventions focus on building critical thinking, digital skills, and awareness so that citizens themselves become the first line of defence against fake news.

Comparative insights

International experiences provide instructive contrasts. Singapore's law (a statutory framework to correct falsehoods) prioritises rapid correction and government-issued directives but has been criticised for enabling executive discretion. Germany's NetzDG imposes notice-and-takedown timelines on large platforms and requires transparency reporting, but has faced criticism about the chilling effects and the outsourcing of content moderation to private actors. The European Union's Digital Services Act (DSA) adopts a risk-based regulatory approach focused on systemic risks and platform duties, including transparency and independent audits rather than criminalisation of falsehoods per se. These comparative models suggest that procedural safeguards, transparency, and platform accountability can be emphasised without resorting to broad penal approaches.

Future Suggestions:

- Strengthen legal frameworks to clearly define and penalise fake news.
- Encourage social media platforms to implement robust fact-checking mechanisms.
- Promote media literacy programs in schools and communities to raise awareness.
- Support technological tools that detect and curb misinformation online.
- Foster collaboration between government, media, and civil society for timely action.
- Conduct continuous research to monitor trends and impacts of fake news.

Methodology and limitations

This paper is primarily doctrinal and policy-oriented. It synthesises primary legal instruments (statutory texts and bill drafts), authoritative reporting and published analyses by civil-society organisations, and secondary empirical outputs from established fact-checking groups to sketch the contours of the problem and evaluate policy options. It does not rely on original fieldwork or interviews. Limitations include dependence on publicly available data and the fast-moving regulatory environment; future work should include stakeholder interviews, platform data access and field experiments to test literacy interventions.

CONCLUSIONS:

Fake news poses a serious threat to India's democracy, undermining public trust, social harmony, and informed decision-making. Legal measures and regulatory bodies provide frameworks to tackle misinformation, but enforcement and freedom of expression remain key challenges. Technological tools, fact-checking, and media literacy programs are crucial in limiting the spread of false information. A single sweeping law is insufficient and may create constitutional and practical issues. Instead, a balanced, multi-pronged approach—combining targeted legal action, platform accountability, independent fact-checking, and public education—can effectively address fake news while safeguarding democratic freedoms.

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