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Topic: Exploring the Legal Provisions Addressing the Challenges of Fake News: An Empirical Study

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Findings

The importance of mainstream media is undeniable, but these days it is often mistrusted for spreading fake news. The concept of fake news is not new and dates back centuries. What is new is the form, speed and scale with which it can be disseminated. Fake news represents a pivotal challenge to the dissemination of news in the digital age. With the rise of digital platforms, the rapid spread of fake news has undermined societal trust, polarised public opinion, and disrupted democratic processes. In India, with its vast and diverse population, the issue is particularly critical given the country's significant internet penetration rate and reliance on social media for news.

One of the primary hurdles in combatting fake news is the absence of a universally accepted definition. The doctrinal study found the absence of the definition of term 'fake news' in India's legal framework which has resulted in inconsistent interpretations, highlighting the need for a clear definition to address this issue.

Democracies such as the United States, United Kingdom, Singapore, Malaysia, and European Union member states have tried to adopt strategies to combat fake news. These include legislative measures, technological solutions, and public awareness campaigns. These anti-fake news laws have sometimes been used to stifle legitimate dissent and criticism. The study found that legal frameworks regulating fake news in other democracies are not very effective and these nations are adopting diverse approaches to deal with the changing technological challenges.

The problem of fake news is not adequately regulated by Indian law. India does not have a specific law that deals with fake news. A combination of existing laws is used to combat fake news, but they suffer from limited scope and enforcement challenges. Various sections of Indian Penal Code (IPC), 1860 such as sections 153, 295A, 499, 503, 504 and 505 are used. However, these provisions have now been updated under the Bharatiya Nyaya Sanhita (BNS), 2023 to sections 192, 299, 356, 351, 352, and 353 respectively. Sections 66D, 69, 69A, and 79 of the Information Technology (IT) Act, 2000 are relevant. With respect to mainstream media, the Press Council of India (PCI) lacks enforcement powers to address fake news effectively. The Cable Television Networks (Regulation) Act, 1995 alongwith its rules, regulates broadcast content but is insufficient to address fake news on digital platforms. The newly enacted Information Technology Rules, 2021 were also criticised as violating freedom of speech under Article 19(1)(a) of the Indian Constitution. The judiciary has recognised the pervasive issue of fake news but has not taken effective actions in this regard.

The responses received by an empirical study through a questionnaire revealed that over 70% of respondents preferred social media as their primary news source, despite acknowledging its role in the proliferation of fake news. Platforms like YouTube and Instagram were identified as the most popular sources. More than 55% of respondents reported encountering fake news frequently. A significant number of respondents admitted to unintentionally sharing fake news due to their inability to differentiate between real news and fake news. Urban respondents demonstrated greater awareness

of fact-checking resources compared to their rural counterparts, although significant gaps in usage persisted.

The insights were gathered from interviews conducted with the advocates, academicians, technologists, and journalists. They had varying definitions of fake news, but common elements included the falsity of information, non-existence of news, and the intentional dissemination of false or misleading information. However, a few preferred terms like 'disinformation' over 'fake news'. They highlighted that the impacts of fake news vary, including changing public opinion, polarisation of society, its impact on elections and health. They agreed that fake news poses significant challenges including the low information literacy rate in India, difficulties in regulating fake news, and the harm caused due to its rapid spread. They expressed that existing laws are insufficient and raised concerns about balancing the need to regulate fake news with the protection of freedom of speech. The findings suggest a loss of trust in mainstream media and need for greater accountability from social media companies, along with more robust measures to detect and remove fake news. There was a general consensus that individuals must be responsible in using social media and must regulate themselves. Most of the experts emphasised the need for public awareness and media literacy programmes as a complement to legal measures.

The researcher suggests strengthening existing legal provisions in India aimed at combatting fake news. This includes suggestions for clearer definitions, streamlined enforcement mechanisms, and increased penalties for those who knowingly spread fake news. The researcher proposes an operational definition of 'fake news' and suggests a few parameters that can be used to identify, assess and regulate fake news. Throughout this research, it has been found that legal measures alone are insufficient to address the pervasive nature of fake news. Collaborative efforts of policymakers, technology companies, media organisations, and civil society are essential to develop comprehensive strategies that safeguard the integrity of information dissemination.