



# FAKE NEWS: NEED FOR REGULATING FREE PRESS

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## ABSTRACT

The paper discusses the need for regulation over the Free Press because of the spread of Fake News which is indeed misguiding a person by manipulation and misinformation and furthermore a need to have regulation over it by being followed up by the constitutional viability of a rule controlling fake news under “reasonable restriction” of Article 19, or by having a strong self-regulatory measure in which a group or industry regulates its membership and behavior. And also, to have strict regulation over the communicators who use social media, personal blogs, newsletters, etc., who are limited by defamatory laws, anti-discrimination laws, public safety laws, and individual or organizational ethics, and discussion about to have a stringent provision in Information Technology Act of 2000 and cable tv to ensure strict check over press.

## INTRODUCTION

Fake news has existed since the invention of the printing press, but it has found a new level of popularity in the age of the internet and social media. The recent worldwide trend is misguiding consumers by manipulation. The more multiple mechanisms through which media assists us in transcending the limitations of presence, space, and time are referred to as mediatization. To put it another way, it's the numerous ways in which diverse media assist us in comprehending and experiencing sounds and visuals that are not present in our immediate surroundings<sup>1</sup>, To put it another way; it's the numerous ways which diverse media assist us in comprehending and experiencing sounds and visuals that are not present in our immediate environment. On the other hand, capitalism<sup>2</sup> has inextricably aided the spread of new technology through time and in the long run. People are also mixing old and new media technologies<sup>3</sup> in

<sup>1</sup> Karen Ross & Virginia Nightingale, *Media And Audiences: New Perspectives* 13 (2004)

<sup>2</sup> Jean Comaroff & John Comaroff, *Millennial Capitalism: First Thoughts on a Second Coming*, PUBLIC CULTURE, (2000)

<sup>3</sup> ROSS & NIGHTINGALE, *supra* note 1, at 2.

their lives and experiencing them in increasingly complicated ways due to both of these processes, contributing to the individualization and democratization of these technologies and platforms.

## SCALE OF PROBLEMS IN INDIA DUE TO FAKE NEWS BY MEDIA

- The media's circulation of misinformation and disinformation is a severe social problem. It produces disturbances, lynchings on the streets, and a toxic atmosphere on the internet.
- Rumoured stories, manipulated pictures, click-baits, moved articles, unverified information, and planted stories for diverse interests spread eagerly among India's 35 crore internet users in the era of excessive internet like WhatsApp, Facebook, Twitter.
- There have been frequent occasions where online reports have resulted in the deaths of innocent persons. Ministers have been known to delete tweets after learning untrue information they had provided beforehand.

## CAN FAKE NEWS BE REGULATED

Freedom of expression is a fundamental right to existence. It's not the privilege of the politician nor for the journalist.

A public press is a key to every society. It pursues and circulates news, information, views, and opinion and holds accountable the authority. Only free media would ensure that people's voices are heard and considered, and attentive help is provided.

In <sup>4</sup>*Life Insurance Corp. Of India & Ors V. Prof. Manubhai and Cricket Association Of Bengal* <sup>5</sup>case, "the Supreme Court has held that a citizen for the propagation of their ideas has a right to publish his views in periodicals for circulation magazines, and journals or through the electronic media. "

## REASONABLE RESTRICTION ON FREEDOM OF SPEECH OF PRESS

To understand "Reasonable Restrictions" under Article 19(2), we must first recognize that the regulations in question are "a law" with legislative, not just an executive-made law. The reasonableness test will be applied in light of the nature of the violated right and the prevailing social conditions<sup>6</sup>.

<sup>4</sup> Life Insurance Corpn. Of India & Ors V. Prof. Manubhai D. Shah, (1992)

<sup>5</sup> The Secretary, Ministry Of Information and Broadcasting vs. Cricket Association Of Bengal (1995) 2 S.C.C. 161

<sup>6</sup> A.P. Datar, *Datar commentary on the constitution of India*, Gurgaon: LexisNexis. p.292. (2007)

## CONSTITUTIONALITY OF REGULATION

To assess the constitutional viability of a rule controlling fake news, we must first consider three grave aspects in determining whether or not such a directive is reasonable. To begin with, the reasonings specified in Article 19(2) are not mutually exclusive.

Second, as noted in the second chapter, the meaning assures that false news information can vary and may not even fall under any of the criteria outlined in Article 19. (2). Fake news regarding cow urine <sup>7</sup>being utilized as a cancer treatment would not fall under any requirements outlined in Article 19. (2).

.In *R.M.D. Chamarbaugwalla vs. The Union of India*<sup>8</sup>, the Supreme Court had held as follows "It was held by this Court that, as the resolves mentioned in Section 9(1-A) of the Madras Act were wider in amplitude than those specified in Article 19(2), and as it was not possible to split up Section 9(1-A) into what was inside and what was outside the protection of Article 19(2), the proviso to Section 9(1-A) of the Madras Act, the proviso to Section 9(1-A) of the Madras Act was not a provision within the ambit of a reasonable restriction on press and enforcing regulation on them.

The contest against "fake news" is in the limelight these days, and for good reasons. However, excessive government intervention that threatens to suspend or withdraw journalists' accreditation for minor infractions is not the way to go about it.

In several respects, the futile attempt was troubling. To begin with, there was no clear definition of what constitutes fake news. Secondly, it goes against the idea of justice, which states that when a journalist is accused of something, their accreditation must be stopped. The most fundamental question that arises is the government's relationship with the media. The debate has been going on for a long time.

The case for a free press that the government does not influence is persuasive. In a democratic state, free speech is the foundation for all other rights." A free press is the pinnacle of freedom of expression and its defender. This naturally causes a conflict with the government, whether at the federal level or the state level; the purpose of the press is to advance the public interest," <sup>9</sup> Which was mentioned in *Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India*.

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<sup>7</sup> Mukherjee, *Could Cow Urine really cure cancer?*, <https://www.news18.com/news/buzz/can-cow-urine-really-cure-cancer-this-is-what-oncologists-told-us-1799607.html>

<sup>8</sup> *R.M.D. Chamarbaugwalla vs. The Union of India* (1957) S.C.R.

<sup>9</sup> *Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India* 1986 AIR 515, 1985 SCR <https://shodhganga.inflibnet.ac.in/>

## BALANCING FREEDOMS AND RESPONSIBILITIES

### REGULATING MECHANISM OF THE PRESS

The "Press Council" is a mechanism designed by the people to regulate the press orderly. The concept of fairness gave birth to this one of an institution. Two essential terms must be defined: regulation and self-regulation. Law entails restraining certain behaviors while facilitating the orderly execution of specified acts. Legislation, enforcement, and adjudication are the three primary components<sup>10</sup> of regulation. The second type of regulation is self-regulation, a subcategory of law in which a group or industry regulates its membership and behavior. Self-regulation "means that the profession or industry regulates<sup>11</sup> itself rather than the government."

However, the liberties are not unrestricted, as the courts must weigh the benefits of free speech against the necessity to safeguard citizens from harm. How might truth with good resolutions and for admissible ends be invigorated?

- One way is to distinguish different types of persons and organizations who interact publicly through the media and to assign each a set of obligations and inducements that is appropriate for them:
- Individual communicators who use social media, personal blogs, newsletters, etc., are limited by defamatory laws, anti-discrimination laws, public safety laws, and individual or organizational ethics.
- Journalists' use of social media to intermingle with audiences can be considered a remarkable accountability framework that aids self-regulation journalists can responding publicly and quickly to justify criticisms<sup>12</sup>.

### LAWS AND REGULATIONS ARE IN PLACE TO COMBAT FAKE NEWS.

More stringent laws are needed to keep a check on combating fake news as witnessed that Virality has led to a new environment, where misinformation spreads quickly.

The Digital Era signaled "the transformation of the era" by removing obstacles to publication<sup>13</sup> to individuals formerly known as the audience."<sup>14</sup>

In India, there is no particular legislation prohibiting the dissemination of false information. Article 19 of the Constitution guarantees freedom of speech, including the right to publish news freely.

<sup>10</sup> Campbell, Angela J, Self-Regulation and the Media, 711 Federal Communication Law Journal,(1999)

<sup>11</sup> ibid

<sup>12</sup> Posetti, J. (2013). The 'Twitterisation' of investigative journalism in S. Tanner & N. Richardson (Eds.), Journalism Research and Investigation in a Digital World (pp. 88-100): Oxford University Press. Available at <http://ro.uow.edu.au/cgi/viewcontent.cgi?article=2765&context=lhapapers>

<sup>13</sup> Gillmor, D. (2004). We, the Media: Grassroots Journalism By the People, For the People (O'Reilly). <http://www.authorama.com/we-themedia-8.html>

<sup>14</sup> Rosen, J. (2006). The People Formerly Known as the Audience, PressThink blog (June 27th, 2006).

[http://archive.prssthink.org/2006/06/27/ppl\\_frmr.html](http://archive.prssthink.org/2006/06/27/ppl_frmr.html).

If at all the Press Council of India agrees that a newspaper or news agency has broken journalistic morals, it can warn or reprimand the newspaper, news agency, or journalist or condemn the behavior of the editor or reporter.

- Television news and channels with current affairs newscasters are represented by the News Broadcasters Association (NBA). The self-regulatory organization investigates complaints against electronic media.

The Indian Broadcast Foundation (IBF) looks at it as well.

- Certain parts of the Indian Penal Code (IPC) could be used to combat fake news: Sections 153 (“wantonly offering provocation to incite a riot”) and 295 (injuring or defiling) are both applicable.

For fighting the spread of fake news

- Section 66 of the Information Technology Act of 2000 states punishment if any individual acts dishonestly or fraudulently do damage to the computer, computer system.

Lawson’s points are regulating the press and combating fake news.

## COMMENTS

Debates concerning journalism ethics, false news, and the changing media landscape are vital. It can be done through organizations like the Press Council of India and the News Broadcasters Association. Communication with the general public on these topics is also essential. The media must avoid the impression that its only place in a democratic democracy exempts it from criticism or general opinion. Traditional and digital media companies must also establish more stringent newsroom norms. In this age of immediate news, it's all too tempting to sacrifice rigor in sourcing and verifying reports for the sake of speed. The media's credibility has been undermined due to this; it has only itself to blame. More stringent laws and provisions are to be expected in IT Act AND also in CABLE TV Act, to regulate Press Press.