

**COUNTERING MISINFORMATION DURING ELECTIONS IN INDIA****Neha Jain**

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Rashtriya Raksha University, Gandhinagar, India.**ABSTRACT**

Countering the menace caused by the spread of fake news has remained a tedious task, and thus, it is indeed important to understand the phenomenon of dis-information and fake news. The terms fake news, misinformation, false news, etc. are often use interchangeably. The aim of this paper is to explicit the causes of fake news shared on social media and how that effects the elections of India. The main aim of this paper is to explore how false and misleading information sways the election in the current scenario. There are several consequences on fake news, one being on elections which directly impact the National Security of the country. The researcher through this research paper has delved to analyse electoral laws and the issues of fake news. The paper further analyses the impact of social media on the society during election and sums up by focusing on the need of concrete legislation in this regard to regulate fake news during the times of elections and also points out the loopholes in the current legislation with respect to electoral laws and fake news.

Keywords: Fake news, disinformation, elections, social media etc.

INTRODUCTION

The terms, fake news, false news, mis-information etc. have been used like synonyms these days. All these terms together can never overshadow the menace caused by fake news on the social media platforms. The World Economic Forum in the year 2013 has considered the widespread of fake news amongst top ten global problems. Media plays a vital role in a responsible democratic society. With the advent of the era of social media, the misinformation/ disinformation/ fake information has been growing rapidly with changing dynamics of society. Fake news is type of misinformation which are circulated in order to mislead/ deceit/ confuse citizens knowingly. The term fake news got its major importance recently, in the year 2016, i.e., during the U.S. Presidential elections. Elections are indeed really important in any democratic society, and in order to conduct responsible and fair elections, it is quintessential to have responsible media. Keeping the growing pace of technology and digitalized world in mind, the media has faced a paradigm shift to social media, and thus, social media plays a crucial role during elections. It is through social media that malpractices and other incidents of misuse of social media during elections have increased over the period of time.

Like the current global pattern, Indian political parties are also using the platform of social media to get in touch with their supporters and communicate with them. However, certain unethical and malpractices by politicians on online platform has led to increase in violence and has impacted India's National security to a great extent.¹ Social media has provided the citizenry to involve themselves into the political process, and has further allowed the inflow and outflow of different ideas and perceptions with public engagement on a large extent. Issues pertaining to ethical norms during elections have been witnessed time and again, and such issues has been growing rapidly owing to digitalization and increase in technology resources. The political news circulated amongst people with zero to low knowledge of digitalized world pose great risk to the elections, as at times, such news are replicated, magnified, manipulated and then shared on social media platforms. This rapid increase raises concern over ethical issues pertaining to political concerns and hence, raises questions on the government, press, several institutions/ corporations in curbing the menace of unethical political discourse, as a reason of which, all of these institutions need to collaborate and work together with society to curb the menace caused by fake news via social media.

ROLE OF SOCIAL MEDIA DURING ELECTIONS

Whenever elections approach, different political parties tend to create different accounts and groups on social media platforms like facebook, whatsapp etc., in order to share doctored photos, images, videos and memes. The users of social media have been increasing rapidly be it in urban area or in rural areas. Most of the population of the country, these days, possess a smart phone. The political parties use, rather, at times misuse the social media platforms to disseminate fake news/ rumours and their modus operandi includes forwarded messages. These messages are circulated in groups keeping the targeted audience in mind and the belief of any specific group.

Additionally, several researchers use terms like 'echo chambers' or 'filter bubbles' to emphasize on algorithms that social media platforms follow. In India, such whatsapp groups work as echo chambers or filter bubbles which are often created by those who possess identical ideology thus leading to political polarization. The social media utilizes and employs algorithms which show the information based on the previous search of the users. This hampers individuals analytical and critical thinking as the individual might not come to the news which are of the opposite side, and might end up concentrating on one-sided information, which directly hampers the functioning of democratic society.²

¹ Anuradha Rao, How did Social Media Impact India's 2019 General Election?, EPW, Vol. 54, Issue No. 51, 28 Dec, 2019 available at <https://www.epw.in/node/155783/pdf>

² Mahima Chhabrani, Countering Fake News During Elections: A Need For Legal Reforms, Law School Policy Review & Kautilya Society, 28 June 2020 available at <https://lawschoolpolicyreview.com/2020/06/28/countering-fake-news-during-elections-a-need-for-legal-reforms/>

DISINFORMATION AND FAKE NEWS DURING ELECTIONS

The National Crime Records Bureau report of 2020 shows 214% increase in the cases related to spread of false news and rumours³. The data pertaining to fake news was first reported by NCRB in the year 2017 under IPC Crimes, section 505 to be read with Information Technology Act. The total number of incidences reported in 2017⁴ was 257 in which Madhya Pradesh topped by registering 138 cases. In the year 2019⁵, total 476 cases were reported and 1527⁶ incidences in the year 2020 of which Telangana (273 cases), followed by Tamil Nadu (188 cases), Uttar Pradesh (166 cases), Bihar (144 cases) and Maharashtra (132) are the top 5 states which circulated fake news and rumours.

The term 'fake news' has been acknowledged to be the word of the year, 2017, as per Collins Dictionary⁷ and describes fake news as a business model and a medium for political campaign and fake news threatens national security⁸. A study conducted by Microsoft in 2019 covered 22 countries, shows that 64% of Indians have come across fake news against the global average of 57%⁹.

The misuse of social media and the unethical usage of the same may lead to serious consequences on the National Security of the stability of the Country. The same thing has been witnessed as a result and aftermath of Pulwama attack, as lots of fake news has been released during that time. The sudden surge of fake news had devastating effect on the Indian Paramilitary forces based in Kashmir, as several fact checkers have pointed these misleading posts. The security issues arose post Pulwama Attack were numerous and have increased rapidly. Such news have led the relations between India and Pakistan get on the brink and as a result of which, it increased tensions between the two. The news related to it were sensationally reported and led to political sloganeering. Due to strict public checking and scrutiny, Prime Minister, Narendra Modi had ordered air strikes on the alleged terror camp based in Balakot, which further led to retaliation between India and Pakistan, which cooled down only by Pakistan's release of captive Indian Airforce Pilot, Abhinandan Varthaman. In this incidence,

³ Apurva Vishwanath NCRB data: 214% rise in cases relating to fake news, rumours, Indian express, September 16, 2021 available at <https://indianexpress.com/article/india/214-rise-in-cases-relating-to-fake-news-rumours-7511534/>

⁴ NCRB, Ministry of Home Affairs, Crime in India, 2017 available at https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202017%20-%20Volume%201_0_0.pdf

⁵ NCRB, Ministry of Home Affairs, Crime in India, 2019 available at <https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%201.pdf>

⁶ Ibid.

⁷ <https://www.collinsdictionary.com/woty>

⁸ Randeep Dahiya, Fake News, Disinformation as threats to National Security and Possible Solutions, Indian Journal of Law and Public Policy, Jan 2020, https://ijlpp.com/fake-news-disinformation-as-threats-to-national-security-and-possible-solutions/#_ednref17

⁹ PTI, Microsoft survey: Indians are more likely to encounter online fake news, Business Standard, 5th feb' 2019 available at https://www.business-standard.com/article/pti-stories/microsoft-survey-india-topping-fake-news-menace-globally-119020501427_1.html

people using internet and surge of fake news indeed played a vital role in increasing the complexities between the two countries¹⁰. The abovementioned incidence has been widely acknowledged and celebrated on social media platforms , which was indeed, beautifully utilized by the ruling party to include National Security issue for its re-election strategy. The radicalization of Pulwama incidence leading to release of Pilot was spread all across social media and have influenced public opinion, consequently played a vital role in the massive win of Bhartiya Janta Party in India.¹¹

Another incidence post Pulwama attack and the air strike in Balakot was sharing and spread of photos/ images causing disturbance and violence by renowned people and citizens, which further triggered the violent conditions as a result of which, Muslims and Kashmiris were greatly vilified on social media platforms. Kashmiris were assaulted and were threatened. Several fact checks have come to the conclusion that such campaign for abuses were circulated and organized through social media platforms like whatsapp and facebook. The false news in and around the pulwama attack, indeed, has long lasting effect on the society and has led to communal tensions and instability in India, further questioning the National Security of India.

As per a press conference which took place on 19th of May, 2019 in which Election Commission of India has provided the statistics, wherein, incidences of taking down social media content has been divided under different categories¹²

Platform	Facebook	Twitter	Share Chat	Google (YouTube)	WhatsApp
Political Messages during Silence Period of 48 hours	482	8		1	
Political Advertisements during silence period	73				
Model Code of Conduct (MCC) violation	2	34	31	3	1
Voter Misinformation	43	102			
Crossing Limits of Decency	28				

¹⁰ Bagri, Neha Thirani (2019): “Back Story: When India and Pakistan Clashed, Fake News Won,” Los Angeles Times, 15 March, <https://www.latimes.com/world/la-fg-india-pakistan-fake-news-20190315-story.html>.

¹¹ Bera, Sayantan (2019): “BJP Poll Campaign was a Perfect Ambush: Yogendra Yadav,”

¹² Bharath Kancharla, During the 2019 Lok Sabha elections, only about 150 cases of Fake News reported to Social Media Platforms by ECI, Factly, Aug 3rd, 2019 available at <https://factly.in/during-the-2019-lok-sabha-elections-only-about-150-cases-of-fake-news-reported-to-social-media-platforms-by-eci/>

Platform	Facebook	Twitter	Share Chat	Google (YouTube)	WhatsApp
Exit Polls	11	74			
Hate Speech	11	2		1	2
Total	650	220	31	5	3

Several of such content has been taken down from social media platforms which have been circulated during silence period, MCC violations and during exit polls. One of the greatest move made by the Election Commission of India is to report the incidents of circulation of fake news to social media platforms, so that the big giants can take appropriate actions to remove such content. However, the Election Commission of India do not take cognizance of all the fake incidents, it only take certain news into consideration. The present condition will be better only if all such matters are given due importance and all messages are considered and reported by ECI.

PREVALENCE OF FAKE NEWS ON SOCIAL MEDIA VIS-À-VIS ELECTIONS

The minister of Law and Justice has taken into the cognizance of the complaints filed by Election Commission of India with respect to spread of false/ fake news over social media during 17th Lok Sabha General Elections. He acknowledged that the maximum of such news and complaints has been received from Social Media Nodal Officers appointed at Media Certification and Monitoring Committee (MCMC).¹³ The instances of fake news on social media platforms have increased in number during the time of elections in India. Such information includes, fake news, false news, manipulated information and facts etc. The information circulated mainly consists of stories regarding political leaders/ politicians, the promises made by them to be fulfilled during the course of their tenure and the aims of political party.

During the recent lok Sabha and state elections, several incidences of fake news being circulated has been witnessed. For instance, false depiction of destruction of statue of Vidyasagar in Bengal, waiving of medical fees for those people who die at hospitals (as per the manifesto of congress), Rahul Gandhi dining with the Prime Minster of Pakistan, and infact, identical story of Mr. Narendra Modi dining with him, Australian Prime Minister endorsing Narendra Modi are few of such examples.¹⁴

URGENT NEED FOR SYSTEMATIC RULES AND REGULATIONS

Several attempts have been made to amend the existing electoral laws in India to fight the menace caused by fake news, yet ECI has reported around 154 cases pertaining to fake news

¹³ Ibid.

¹⁴ Ibid.

during 17th Lok Sabha Elections 2019. But, there are still certain loopholes, that require an urgent need to be answered.

Need for precise definition of fake news

India lacks a proper or dedicated legislation/ regulatory mechanism to define what fake news is or any criteria which defines the meaning of fake news. There is a need for amendment in existing legislation by first, defining the term, fake news and what it comprises of. Providing the definition of fake news as containing false information would be too ambiguous and vague definition. For instance, in the case of Malaysia's Anti Fake News Act, 2018 defines fake news as "any news, information, data and reports, which is or are wholly or partly false, whether in the form of features, visuals or audio recordings or in any other form capable of suggesting words or ideas."¹⁵ When we compare such legislations to that of India, it can be inferred that, such definitions would never work in democratic country like India, majorly as it protects individual's freedom of speech and expression and gives much emphasize on it. Additionally, this will also give the government an unfettered power to remove down the information/ content as and when required, without giving many reasons.

Additionally, the law in France pertaining to fake news laid down three major criteria to define whether a particular information fall within the category of fake news or not. First, there should be circulated of manifested information. Second, need for deliberate attempt in order to circulate such message/ information to society at large. Third, the said circulation should compromise with the peace of the nation, or shall affect the election process/ result. These criteria's can be easily fitted in a country like India, to acknowledge what is fake news and what is not.

There is a need for policy makers and legislators to provide for proper difference between harmless propaganda and verifiable mis-information which may cause danger to society at large, or danger to person's reputation. However, its not that easy a task to differentiate between the two, as they tend to overlap at times, and has wide scope by taking all the morphed videos, photos, fake/ false news, unverified or manipulated information, morphed memes etc., into its ambit.

Hidden Election Expenditure

Political parties of India are not supposed to advertise anything on social media platforms in order to contest elections and to express their candidature while undergoing silence period. This prohibition has been enshrined under the representation of People's Act, however, the

¹⁵ Malaysia: Anti-Fake News Act Comes into Force, available at <https://www.loc.gov/item/global-legal-monitor/2018-04-19/malaysia-anti-fake-news-act-comes-into-force/>

situation is not that easy to handle as it seem to be like. As per the Manual on the Model of Code of Conduct¹⁶ released by the Election Commission of India, the political parties in India need to disclose their details of social media accounts and their handles and the total expenditure on social media campaigns, which is indeed, a great legislation, however, it also faces certain loopholes. For instance, the regulations does not take into consideration any of external agencies, i.e., the consultancy firms of political parties and their volunteers, paid as well as unpaid who help in spreading the fake/ false news. As per several reports, the political parties tend to form whatsapp groups constituency wise in order to increase their volunteers, which further help them reach large populations and thus increase and influence their opinions. At times, the political parties also uses and hires outsource on contract, who on their behalf conduct surveys, analyse the data available, handles their social media accounts and also helps them prepare a good strategy for contesting elections, thus leading in increase in the outsource/ external agents during elections. It is to be noted that, till date, there is no legislation which deals with hiring of such agents, as this amount of expenditure is not considered as part of election expenditure.

Transparency in Reporting

The social media platforms have relied on Internet and Mobile Association of India and have adhered to 'Voluntary Code of Ethics' in order to make internet more transparent during Election of 2019. These rules have been adhered in addition to the current RP Act and Election Rules. These days, the intermediaries are also enhancing their work culture by introducing 3rd party fact checking. Reporting of fake news has become lot more easier these days, however, there are still certain loopholes that need to be addressed. For instance, in case any fake/ false news has been circulated which infringes the provisions of RP Act, then the same can be taken down

CURRENT SCENARIO OF FAKE NEWS IN INDIA

The issues pertaining to spread of misinformation and fake news during election has been well acknowledged and reported by parliamentary Panel on Information & Technology, and the same has recommended certain reforms or amendments in order to tackle the present situation. In such circumstances recommendations has been made to provide for proper definition of what comprises of 'anti-national' attitude, and to come up with dedicated legislation pertaining to fake news. In this winter session of parliament, i.e., December 2021, the Parliament shall be addressing such issues of media trials, fake news, manipulations, etc.¹⁷ The Law commission in 255th report, submitted to government in March 2015. has also recommended to make paid news as an electoral offence, which will have deterrent effect of circulation of paid news which

¹⁶ Election Commission of India, No. 491/SM/2013/Communication Dated: 25th October, 2013 available at [Perma | Instructions of the Commission with respect to use of Social Media in Election Campaigning](#)

¹⁷ Define 'Anti-National' Attitude, Combat Fake News: IT Panel to Recommend Reforms to Govt in Winter Session, News 18, 21 November 2021 available at <https://www.news18.com/news/india/define-anti-national-attitude-combat-fake-news-it-panel-to-recommend-reforms-to-govt-in-winter-session-4468487.html>

includes publishing and abetment of publishing such paid news, as per the report of ethical standards in Media¹⁸. The two reports are being considered at present by the Ministry.

SUGGESTIONS AND STRATEGIES TO COUNTER FAKE NEWS

The election Commission of India has taken several steps to counter the menace caused of fake news in India and has taken several steps in this regard, for instance:

- Implementation of provisions of Model Code of Conduct for scrutinizing the information pertaining to election on Social Media.
- The District Election Officers needs to clarify the actual facts of the case to the Media Centres in cases wherein any sort of misinformation has been disseminated during election with respect to its management issues.¹⁹
- The government should make good partnership with several stakeholders like political parties and media in order to fight the menace against democracy.
- Make people aware of the ill-effects of paid news as it is a threat to fair and responsible elections in India.

CONCLUSION/SUGGESTIONS

The ill effects of fake news have several repercussions to effective functioning of India as a democratic country. Every stake holder, including the legislators, intermediaries and all the citizens are collectively responsible to tackle with the menace of fake news, especially during elections. The legislators and policy makers should amend the laws as per the changing needs of society and also as the digitalization has been increased to a great extent. But, it is the responsibility of the citizens to be aware about the basic literacy level of media. Media literacy plays a vital role, as the citizens are greatly influenced by the fake news being circulated. It is the duty of public to educate themselves with correct and accurate information and analyse the information they believe in critically. Additionally, the Social media platforms should also ensure that they use accurate algorithms and correct information.

There is also a need for definition for fake news, as there is no legislation dealing with the same. Under current scenario of India, such a definition could be “Any misinformation or disinformation deliberately disseminated on a large scale that has the potential to threaten

¹⁸ Moushumi Das Gupta, Make paid news electoral offence, create legal options to counter fake news: IT panel to govt, The Print, 18 November, 2021 available at <https://theprint.in/india/governance/make-paid-news-electoral-offence-create-legal-options-to-counter-fake-news-it-panel-to-govt/767822/>

¹⁹ <https://cdn.s3waas.gov.in/s30ff8033cf9437c213ee13937b1c4c455/uploads/2020/10/2020102051.pdf>

the life or national security or an election outcome.” If such kind of a definition be adopted in India, then duty may be imposed on social media platforms and may also make provisions for governmental interventions in case of infringement. India may also implement laws like that of in Singapore ‘Protection from Online Falsehood and Manipulation Act, 2019, to curb the menace caused by fake news, as there is a dire need to address the role of social media in making sure that the National Security is not hampered due to prevalence of fake news.

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