Beyond the Glittery Façade of Headlines: Examining the Infodemic of Misinformation

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"Extraordinary times absolutely call for extraordinary measures, but those measures should be positive investments in independent and credible information, not steps that will do little or nothing to stop misinformation while doing great collateral damage to fundamental rights."

- Rasmus Nielsen³

THE ISSUE IN QUESTION

Digital technology presently, as a social-cultural dimension, is typically intertwined with mainstream news and with the network that dominates it. With the COVID-19 information dissemination across the globe, the quandary of factually inaccurate news at all levels of society, down to the interpersonal level, is becoming crucially important. More than 240 million texts have been shared worldwide, most of which are inaccurate and deceptive, according to the study from the Vaccine Confidence Project (VCP)⁴. In the middle ages there was misinformation as a phenomena. We see the effect proliferating rapidly and far more than one can imagine, just like the virus.

While false information has been proliferating for as long as its genuine version, considering the way in which we interpret content, it has been receiving a lot of play lately. Numerous articles on social media sites spread tens of thousands of misconceptions and fake news stories linked to unsubstantiated claims about China⁵, state reduction of 30 percent pension amidst the pandemic⁶, ApexCourt advisory to revive 4G Network in Jammu & Kashmir within 24 hours⁷, intake poisonous fruit of Datura plant⁸, cow urine, cow-dung curing COVID-19⁹, Virus being injected in healthy Muslims¹⁰, Licking of vegetable by sellers¹¹ and dissemination of false medical reports¹² made us realise that World Health Organisation (WHO) aptly warned us that "We’re not just fighting an epidemic; we’re fighting an infodemic."¹³ False data flew through social media, and there was plenty of bogus fixes. This user-generated content obscures vital details, through speculation that contributes to a systematic mongering of fear. Such false rumours have spread across millions of people. Why? For what? Maybe because eye-popping notifications in our social media feeds make sharing content simpler for us than judging or even reading it. That triggers a viral whirlwind of no-substance buzz words.

CURING THE MENACE

Such ripening rumours are being curbed by the government of India, social media networks and the police. Amidst these times, false news and rumours literally add to the chaos and create instability by circulating hollow promises and bogus remedies via digital networking, which is quite alarming. A recent survey by Agence France-Presse revealed that almost 100 Indians had been detained on charges of spreading misinformation.¹⁴ Although Kerala High Court affirmed that police should not arrest people unless it is necessary, legislations have been introduced in the jurisdictions of Mizoram¹⁵, Odisha¹⁶, Telangana, Himachal Pradesh and Rajasthan¹⁷, pursuant to Sections 505(1)(b), 153(A), 504 and 321 of the Indian Penal Code.

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505 of the IPC arrests.16 Although there have been no strict guidelines to address rumours or false news directly in India so far, most incidents are reported under statutory statutes such as the Indian Penal Code and the Epidemic Diseases Act of 1897 in circumstances totalling to “rumour mongering.”17

I. Issuance of Advisory to Intermediaries

The Ministry of Electronic & Information Technology released an advisory to tackle all social media sites with misleading news/false information about COVID-19.18 This directive instructed them to carry out due diligence and take prompt measures to disable or delete information that was hosted on their network.19 It also includes them running educational programs for members not to post or share any such false information or rumours. One such noticeable change is the latest announcement of the creation of a ‘Coronavirus Information Hub’ by WhatsApp in collaboration with the International Fact-Checking Network (IFCN), WHO, UNDP and UNICEF.20

II. Hoax Busting team

WHO describes “overabundance of information” — some reliable and some not — that makes finding credible sources difficult for individuals? A fact-checking unit which will deliver the appropriate info to the people via a platform is vitally important. As a quick and decisive step, new information platform21 was initiated by WHO's Risk Communication team to exchange personalized content with specific target groups and to react to bogy theories and false rumours about the virus. In Mexico, the government initiated “VerificadoNotimex” initiative to verify and counter the fake news stories that is circulating on media platform.s22

In Alakh Alok Srivastava v. Union of India23, The Apex Court acknowledged the concern of Infodemic in India and demanded that the government create a platform within 24hrs for the dissemination of real-time checked information relating to the COVID-19 outbreak in order to combat the ambiguity sparked by the influx of false information. This isn’t the first instance the Apex Court has undertaken effective action to address the menace of incorrect information. In Facebook v. Union of India,24 the Apex Court ordered the authorities to devise effective recommendations for minimizing the manipulation of social

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16CHAANISRIVASTAVA, Information on Misinformation: Where We Are to Where We Could Be, June 20, 2020.
18 Advisory by Ministry of Electronic & Information Technology to All Social Media Platforms, 16(1)/2020-CLES, Mar 20, 2020.
19IT ACT § 2 cl(1)(w).
23Alakh Alok Srivastava v. Union of India, Writ Petition(s)(Civil) No(s). 468/2020(India).
24 Facebook v. Union of India, Writ Petition(s)(Civil) No(s). 1943-1946/2019(India).

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30 Karnataka Police launch fake news busting platform, Outlook India, Apr 10, 2020.
31 INDIA CONST. art 19 cl(1)(a).
32 Sakal Papers and Ors v. The Union of India, 1962 AIR 305 (India).
33 INDIA CONST. art 19 cl.2.
34 IT ACT sec. 66(a).
v. Union of India\textsuperscript{35} that the above-mentioned section places limitations on online expression which infringe the right to free speech guaranteed under article 19(1)(a) of the constitution of India.

Whereas, Article 19(2) of the ICCPR specifies that each individual has the right of free speech and that right includes the freedom to convey and gather data via any medium of their preference.\textsuperscript{36} Nevertheless, that does not imply there are no restrictions to freedom of speech; the freedom of expression still has certain limits, particularly when that affects other persons’ interests and society’s peaceful coexistence. Pursuant to Article 19(3) of the ICCPR, the exercise of the right to free speech has specific duties and obligations, and therefore there are specific limitations on the privileges referred to above to defend the rights or reputations of others and to safeguard national security.\textsuperscript{37} If we take a glance at the current context, it’s difficult for people to identify credible and secure sources because of an excess of false information. The severity of the outbreak legitimizes the restriction of freedom of the press. Conversely, this limitation is based on the principles of international humanitarian law. Curtailing freedom of speech within the boundaries of the law does not mean violating freedom of expression or suppressing thoughts or criticizing a person, but instead recognizing that the freedom of expression carries with it its obligations and specific responsibilities.

India must pursue a perfect balance, without compromising freedom of expression, in order to guarantee legitimacy. We need a more complex approach. It involves identifying fake news, making sure that the truth and views are distinct (including the former only), resolving concerns relating to the security of privacy\textsuperscript{38}, preserving press freedom and upholding the law in due course every time. India cannot pursue the route of Singapore or Russia, where fake media regulations give authorities too much discretion to discomfit information that is unfavourable.

\textbf{LEGISLATIVE FRAMEWORK GOVERNING MISINFORMATION}

While the human race is dealing with a pandemic created COVID-19, officials worldwide are pressured on digital channels to confront an avalanche of fake reports on the virus. Stringent legal action toward those who rumours about the COVID-19 disperse and fear among the populace is a tool for the local law enforcement agencies. The Philippines has also recently passed an emergency law\textsuperscript{39} that gives it more strength to battle the pandemic along with detention of people sharing false data. The National Assembly of Cambodia adopted the state of emergency law\textsuperscript{40} that, in general, enables the wide-ranging powers to track and analyse information gathered from all telecommunications media, as well as to regulate the dissemination of information that may frighten the populace, trigger disorder or adverse effects for national security.

In Thailand, in late March, a state-of-emergency law\textsuperscript{41} criminalizing the online dissemination of COVID-19 rumours that could presumably "stir up panic". In comparison to the former Computer Crimes Act, which carries a maximum prison term of 5 years and is sometimes used to hamper criticism online. However, in Indian law there are no such legislation expressly dealing with false news or disinformation, although certain legal requirements do exist in order to counter infodemic.

\textbf{I. Intermediaries under Information Technology (IT) Act, 2008}

India’s struggle against false information has grown stiffer with time, with media giants being forced to further control content by the state, and tech firms seeking to purify one chaos after another. Specific outlets for the social networks have also placed some restrictions on ads alleging various remedies for COVID-19, and on hate contents about the pandemic. Major players like Facebook and Twitter have since started to delete these tweets and take steps as social media is the key outlet for the dissemination of misrepresentations.

In order to combat unregulated data, the Ministry of Information and Technology has released a report on all the media sites to monitor the dissemination of COVID-19 rumours. The advisory referred to in Section 79(3)(b) of the IT Act\textsuperscript{42} where it is mandatory to delete the incorrect info spreading rumours promptly on social networks. In addition, Section 69(A)\textsuperscript{43} of the IT Act authorizes the central government to provide guidelines for blocking public access to any material for such purposes. Section 69(1) deals with how the information mechanism can be applied to any entity by the Controller to decrypt information transmitted through any computer resource. When any entity referred to in Section 69(1) is requested, the person responsible for the computer resource shall apply to decrypt data all facilities and technical assistance. Every person not supporting the entity referred to in section 69(2) is punished for a period of seven years with imprisonment.

One such proxy used for spreading falsity in COVID-19 is the highly popular Facebook-owned WhatsApp. In the middle of February, Facebook, Google and many other intermediaries posted on the effort of several stakeholders to create an Information Trust Alliance (ITA) to root out fraudulent material.\textsuperscript{44} Whereas, there are very limited units and variety of fact-checkers used by these intermediaries. Similarly, the government has postponed for months the new intermediary guidelines, though the statutory requirements were useful in the present situation to combat the misconception. On their part, law enforcement authorities ought to condemn content creators and senders of fake news such as these.

36 ICCPR art 19(2).
37 ICCPR art 19(3).
38 INDIA CONST. art 21.
40 Cambodia: State of Emergency bill violates the rule of law, INTERNATIONAL COMMISSION OF JURISTS, Apr 08, 2020.
41 Thailand: State of Emergency Extension Unjustified, HUMAN RIGHTS WATCH, Mar 27, 2020
42 IT ACT sec.79 cl.(3)(b).
43 IT ACT sec.69 A.
Similarly, the government has postponed for months the new intermediary guidelines, though the statutory requirements were useful in the present situation to combat the misconception. On their part, law enforcement authorities ought to condemn content creators and senders of fake news such as these. Section 79 of the Act stipulates for the non-responsibility of network infrastructure providers or intermediaries. It is clearly intended to eliminate any doubt and therefore states that no person who provides service as a network service provider is liable under this Law for any third-party information or data made available by him or her under these rules or regulations. That is whether he reveals that the crime or violation was conducted without his understanding or whether he had applied due diligence to deter the perpetrators. Furthermore, current draft Section 79 amendments mandate that online platforms use technology-based automated tools or suitable methods for the constructive detection, deletion or inability of access to unauthorized material or data.

According to a 2019 survey, India has 451 million active work users and 400 million WhatsApp users, rendering it the biggest business sector.45 WhatsApp was a crucial forum to spread misinformation in India, to such an extent that in 2018, the company restricted the amount of times a message could be sent after a rumour-driven mob killing.46 Panjuri Kachari (Assam) reported one of the most horrific lynching in 2018 because they were confused about being children's kidnappers.47 Through different media outlets, the case has been addressed about the spread of rumours through India and the killing of two men. Solely in May and June 2018, about 20 people were lynched, as the viral news circulated through these channels. Since then, WhatsApp has sought to avoid the spread of rumours by limiting the number of forwarders that are open at a time.48 Furthermore, the future is followed by indications, so that the individual is aware of the message.

In a Facebook & WhatsApp talk, the Indian government has initiated user inquiries and speculation about the coronavirus pandemic. A text on +9109131 51515 will make the WhatsApp chatbot, ‘MyGov Corona Helpdesk.’49 It is designed to resolve numerous COVID-19 FAQs such as virus signs, virus precautions, helpline numbers, national and state advisories affected cases.

II. Indian Penal Code, 1860 read with the Disaster Management Act, 2005

In addition, Section 505(1)(b) of the Indian Penal Code50 punishes someone who spreads false or mishandling information that may cause fear or panic to the public with a maximum term of three years in jail. Under this note, many people around the nation were detained by the police. With the frequency at which users circulate fake articles and violate people’s privacy, the moment has arrived to introduce stringent legislation to raise awareness of the rules and regulations of propagating bogus content for every single person of society.

The broader spectrum is given under Section 505(1)(b) of IPC — the dissemination of bogus and baseless content which leads to the “fear or alarm to the public or to any part of the public which may cause any person to commit a crime against the State or public tranquility.” The accused will be sentenced with up to six years of imprisonment and a fine under this statute. The laws of Indian countries also provide remedies for negligence and malignancy by revealing false COVID-19 information which may also be resorted against offenders in relation to hazardous circumstances which damage or threaten the life or personal security of others under Section 269/270/335.51

The legislature has made one of the successful remediations, which is to render or communicate misleading info by virtue of amendment passed by IT Act 2000, as an act of forgery in Section 464 of the IPC.52 The information transmitted electronically or in any form electronically now falls within the classification of documents and as the individual transmitting or communicating the information shall, in addition to other recourse provided for in Section 464, be found accountable for the misconduct of the dissemination of such misinformation under Section 474 of the IPC.53 After that, Maharashtra police detained approximately 37 people and reported 196 cases of baseless pandemic news stories.54 The FIR was reported under IPC Section 505(2) (statements conducing to public mischief)55 as well as the The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 against the owner of the mattress business in one particular circumstance, which resulted in a regular advertisement dated 13 March stating that his special kind of mattress could cure COVID-19.56 Likewise, Lucknow police have been detaining 'Corona Wale Baba', for fraud and forgery, pretending to use talisman rather than a mask.57

In the existing COVID-19 context, applying DMA Section 54 in accordance with Section 505(1)(b) of the IPC could discourage a lot but a statutory framework is now more relevant than before within the IT Act since Section 54 is very applicable to catastrophes, and today's area of fake news goes beyond this. The fact is that a large number of people quite often simply forward whatever they receive on

51 Indian Penal Code 1860 § 269/270/336.
52 Indian Penal Code 1860 § 464.
53 Indian Penal Code 1860 § 474.
55 Indian Penal Code 1860 § 505, cl. 2.
58 The Disaster Management Act 2005 § 54.
their devices out of ‘Look, I’ve just seen this!’ excitement and sheer ignorance. The legal implications of this serious act are often not understood in many quarters who believe that whatever comes via their handheld devices must be true and important.

This calls for a larger awareness programme, in which the IT Act should take the lead, and is supported by institutions and corporates. Clearly, a concerted war against coronavirus has to be fought on multiple fronts. Fake news on the pandemic is one such critical front. There is an benefit in the present predicament to use the clause of Section 54 of the DMA 2005, which implements a penalty on anybody distributing false news or warnings during a disaster that can cause fear amongst the public. Violating this statute will result in detention up to one year, or a fine.

THE WAY FORWARD
Addressing false information is a very subtle problem that involves crossing a narrow corridor between freedom of speech and reliable facts, and India as a nation can profit from the developments that are evolving around the globe, and we can undertake a few concrete measures to devise our policies in a manner that addresses infodemic and pandemic. The State has to evaluate implementing the aforementioned suggestions, drawing from the best steps taken by the other countries around the world to counter false information:

For Government
1. The state must enforce legislation against fake news and misleading. At the present time, the issue of prompt deletion of false information and disinformation on social networking sites is not subject to the strict legal structure. Several nations, such as Singapore, France, Russia, Malaysia and Germany, also have laws dealing in varied contexts with false information concerns, including by fines, imprisonment and ban. In addition to control the scenario, laws need to be imposed on social media giants.

2. There is high time to make fake news education compulsory in the academic curriculum on recognizing fake news as implemented by the government of Italy. 60

3. We need prompt constructive advice on socially responsible actions from the government to promote netizen Internet activism. There can be no misbalancing of the responsibilities that the state carries with it in the middle of an outbreak. The Australian government, campaign to address the diffusion of political misinformation in their country - ‘Stop & Consider’ is one such precedent. 61 Furthermore, the government should make fighting against misinformation a mass movement by involving people, taking Swachh Bharat Mission Campaign as a precedent.

4. As per Pew Research, confirmation bias is yet another significant contributor. More presumably, individuals embrace information that affirms their beliefs and rejects data that do not conform them. 62 The idea that they always concentrated on “science and rationality” as the most important resources in the battle against COVID-19 is what really worked for the Chinese media and government. 63 The authorities agreed early on to pursue a criminal prosecution warrant for misinformation to be disseminated during the pandemic. In that sense, we might rely on Chinese key principles that “knowledge and reason” is considered to be important resources. We must also implement programs aimed at empowering the netizens of all levels of society in practice as applicable to our government model.

5. Formation of national task force. For instance, between 2013-16 there was a study on the West Africa Ebola epidemic, misinformation and how to deal with it. 64 The findings emphasized the value of forecasting virus outbreak politics and of establishing alliances and response mechanisms in anticipation for policy makers and media platforms. Given this, the government can also build a National Task Force that coordinates the proliferation of false news between public and private agencies, a quick response mechanism.

6. This outbreak has led to a profound transition in which the general populace can prove to be compressible of authentic and timely news in public media sources. Governments have a chance to build on this transition, depending on credible state-owned media outlets, conventional media and leading sources, to create public trust by introducing measures to protect individual disinformation by means of news media and by making regular announcements and statements.

For Other institutions
The healthcare entities should take leverage of the interaction among digital communication and current events in social networking sites and build social media strategies along with leading digital media sources which can impact social media activities.

For People
The role of citizens, first and foremost, is most important in curtailing digital networks spreading misinformation. Noting that a large part of society diffuses them in different groups for reasons of excitement to become a ‘news breaker’, despite several advisories, forwarding still continues to remain a behaviour. Finally, as a community, we must make a difference and become sufficiently aware to verify first, before forwarding, transmitting or sharing details. This worldwide public health pandemic is a huge opportunity to modify our course of action and understand that accurate

61 Michael Jensen, Fake news is already spreading online in the election campaign – it’s up to us to stop it, THE CONVERSATION, Apr 24, 2020.
knowledge is the only path to save lives. These actions include:

1. Assessment of message source and reference. If you are not sure that the message or its subject matter is genuine and accurate, you can make sure that this is true before you send it to others.

2. In the event of any assertions made in the text one has received, do carry out secondary verifications on Google or other sites before circulating it.

3. This is probable to be submitted for these reasons if the text triggers negative feelings. Every surprising or scandalous assertion must be checked before it is forwarded to those who can completely believe it.

4. When videos or pictures are found in a post, they can be distorted or exploited out of context to manipulate readers. The original source and context of the image can be revealed by a simple Google reverse image search. The individual may be subject to legal repercussions for any damage arising from forwarding.

5. Use reputable fact-checking tools to assist individuals evaluate media platforms statements or viral tweets.

6. There would often be apparent spelling, punctuation errors or other grammar glitches indicating the shallowness of the text. A healthy scepticism must be developed towards media content.

Such basic steps will go far further in countering the COVID-19 misinformation.

CONCLUDING REMARKS

In this span, the volume and frequency of online interactions will increase. In order to safeguard people and community from the potential hazards of an infodemic the government and its various enforcement agencies must stay ever proactive on internet. The current legal regulations are intended to penalize the production or the dissemination of false information, but there is no clear solution for the issue without any specific legislation. Authorities need to prioritize addressing this infodemic and cut down room for uncertainty by not creating an information vacuum.

In its combat against COVID-19, the state has been impeded by the misinformation hundreds of times. The distribution of false knowledge is no less hazardous than COVID-19, which can wreak life than the virus. The parallels between the two of them may be equivalent, as those impacted are ignorant. We have seen the global community change the way we interact. Knowledge and disinformation are on our fingertips. Thus, the role of digital literacy is of paramount importance. Furthermore, the dissemination of false news can be a huge move forward by Artificial Intelligences, because AI systems can analyse information on an entirely different scale from the source and communicate with credible channels with the relevant sources quoted in the media. Nonetheless, it is also far from feasible to use this technology for all at present.
