

# BURNISHED LAW JOURNAL

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## JOURNALISM AND DISINFORMATION

*Journalism will kill you, but it will keep you alive while you're at it.*

-Horace Greely

### INTRODUCTION

Sensationalism always sold well. By the beginning of the 19th century, modern newspapers had come in the market, providing gossips and doing exposes, but also publishing fake stories to increase circulation. The New York Sun's "Great Moon Hoax" of 1835 claimed that there was an alien civilization on the moon, and established the Sun as a leading, profitable newspaper.<sup>1</sup>

But this wasn't the beginning of the business of fake news. There are traces of events happening way back than this. Earlier there weren't many newspapers in circulation. But fake news causing havoc can be traced before this. They were used to spread as a basis of spreading anti-Semitism feelings. One such event happened in 1475 in Trent, Italy. On Easter Sunday, two kids were reported missing in the area. The church's priest said that these kids were abducted by fellow Jew citizens. The preacher gave many sermons claiming the Jews to be abducting these kids and murdering them. In response to these rumors, the Prince-Bishop of Trent, Johannes IV Hinderbach gave an order to arrest and torture the city's entire Jewish community. Fifteen of the arrested Jews were found guilty and burned. The story inspired surrounding communities to commit similar atrocities.<sup>2</sup> This business of fake news got a big push after Gutenberg invented the first printing press of the world in 1439. It became quite a difficult task to distinguish between real and fake news. Those who were in search of real news had to pay close attention. This was the time that gave rise to *relazioni*. They were Venetian government correspondences who were thought to be a reliable source of news. They used to leak documents. But soon there were fake *Relazioni* in

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<sup>1</sup> J. Soll, "The Long and Brutal History of Fake News," POLITICO Magazine, (18-Dec-2016), <https://www.politico.com/magazine/story/2016/12/fake-news-history-long-violent-214535> [Last Accessed: May 1, 2020].

<sup>2</sup> Supra Note.1

the market. By the 17<sup>th</sup> century, there were major incidents happening due to the spread of fake news. One such famous incident is the “*LISBON EARTHQUAKE OF 1755*”, this incident showed the world how this fake news can be used against the minority, general public, or any specific sect. Fake news played a role in catalyzing the Enlightenment when the Catholic Church’s false explanation of the 1755 Lisbon Earthquake prompted Voltaire to speak out against religious dominance.<sup>3</sup>

## INDIA AND FAKE NEWS

Dr. Tedros Adhanom Ghebreyesus, Director-General of World Health Organisation (WHO) said on the menace of fake news: –

“We are not just fighting an epidemic; we are fighting an infodemic. Fake news spreads faster and more easily than this virus, and is just as dangerous.”<sup>4</sup>

A statement like this shows what is the condition of fake news in the world all around the world. Some examples of fake news in modern times are; □

1. There are 11 positive cases of coronavirus in Arunachal Pradesh which have connections with the Delhi’s Tablighi Jamaat.<sup>5</sup>
2. Kabab was served with bodily waste, the mentality of Jamaatis prevails even abroad.<sup>6</sup>
3. Scenes from Pakistan: Muslim mob attacks a church and school, setting the building on fire and destroying church proper right under the nose of the police.<sup>7</sup>
4. Muslim man spitting on fruits to spread Corona.<sup>8</sup>

<sup>3</sup> Korinne Bressler, “*The Evolution of Fake News*”, LexisNexis,(July 13, 2017),[https://www.lexisnexis.com/communities/lexisnexis\\_biz/b/bizblog/archive/2017/07/13/the-evolution-of-fake-news.aspx](https://www.lexisnexis.com/communities/lexisnexis_biz/b/bizblog/archive/2017/07/13/the-evolution-of-fake-news.aspx), [Last Accessed; May 3, 2020]

<sup>4</sup> Pulkit Atal, “*The menace of Fake News & propaganda and the fight against them*”, India Legal Live,(Apr. 5, 2020. 9:33 P.M.),  
<https://www.indialegalive.com/top-news-of-the-day/news/menace-fake-news-propaganda-fight-94880>, [Last Accessed on May 2, 2020] □ □

<sup>5</sup> Cognate News Desk, “*Zee News Claims 11 COVID-19 Tablighi Patients in Arunachal, State Govt Calls It False Report*”, Alt News, Apr. 10, 2020,  
<https://thecognate.com/zee-news-claims-11-covid-19-tablighi-patients-in-arunachal-state-govt-calls-it-false-report/>,

[Last Accessed: May 2<sup>nd</sup>, 2020]

<sup>6</sup> Priyanka Jha, “*Zee News publishes 2015 story with false communal angle, claims human feces served to non-Muslims*”, Alt News, Apr. 27<sup>th</sup>, 2020,  
<https://www.altnews.in/zee-news-publishes-2015-news-as-recent-with-false-communal-narrative/>, [Last Accessed: May 2<sup>nd</sup>, 2020]

<sup>7</sup> Pooja Chaudhuri, “*Tarek Fatah shares video of 2012 Mardan Church attack in Pakistan as recent*”, Alt News, Apr. 30<sup>th</sup> 2020,  
<https://www.altnews.in/tarek-fatah-shares-2012-mardan-church-attack-in-pakistan-as-recent/>

[Last Accessed: May 2<sup>nd</sup>, 2020]

<sup>8</sup> Supra Note. 1

This fake news has caused a lot of menace around the country. Recently a false railway circular showed by the Marathi version of ABP news caused a crowd of thousands gathered in front of Bandra station. Similarly, a piece of fake news regarding a gang of old people who kidnap kids and sell them cost lives of 3 people in Palghar a few days back. □

According to a report by Indo-Asian News Service (2018),

*“A significant portion of such messages revolves around the basic idea of nationalism and nation-building. In scenarios like these, where the main idea behind spreading news is related to nationalism, the facts become less important for the users than the emotional desire to bolster their national identity.”<sup>9</sup>*

This is probably one of the biggest examples of how fake news works better than factual news. Fake news sometimes is due to mistake and sometimes its a part of well-established propoganda. These story pieces are made in such a way that they appeal to you at your emotional level. They attack your thinking ability, they make you hate each other and stop to check things. According to an analysis done by the BBC news, there were in total around 32 deaths in India due to the spread of fake news during the year 2018.<sup>10</sup>

Let's take two of the major cases relating to fake news in India. In the year 2018, a small village of Assam named Panjuri Kachari witnessed one of the worst and most gruesome mob lynchings. A smartphone's video footage of two blood-soaked men was begging for their life and a moment later their death went viral. These two men who were residents of the capital of Assam, Guwahati, were beaten to death by a crazed mob who were wielding bamboo sticks, machetes, and rock was killed on being suspected to be child kidnapers. Violence in Shilong which happened due to communal differences among different groups; and the above-stated incident of Assam forced their neighboring state West Bengal to pass a law to prevent such attacks. The violence in these places was because of the spread of hatred and

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<sup>9</sup> Indo Asian News Services, *“Fake News Spreading In India Due To “Rising Tide Of Nationalism”: Report”*, NDTV,( Nov. 12, 2018, 03:14 pm),<https://www.ndtv.com/india-news/beyond-fake-news-bbc-fake-news-in-india-spreading-due-to-rising-tide-of-nationalism-1946038>,[Last Accessed; May 3<sup>rd</sup>,2020]

<sup>10</sup> Surabhi Agarwal, *“WhatsApp to limit message forwarding to five chats in India”*, Economic times,(Jul 21, 2018, 06.50 AM),<https://economictimes.indiatimes.com/tech/internet/whatsapp-to-limit-message-forwarding-to-five-chats-in-india/articleshow/65063188.cms>,[Last Accessed; May 3<sup>rd</sup>, 2020]

misinformation on social media. The proposed legislation of the new law has strict actions in place against individuals or organizations that are responsible for spreading hatred and fake news in society, and for disrupting harmony in a public sphere.<sup>11</sup>

Another such event occurred in Rainpada in 2018. As police reached the panchayat office, there were five dead bodies in a small room. Everything was broken down, files torn and the room destroyed. Let's try to understand how did this all happened. Hemant Patil, assistant police inspector of Dhule district explains this situation in a very vivid manner.<sup>12</sup> All these 5 men had come to visit the Sunday market from Solapur. They sat under a tree far from the bus stop. There they were accompanied by a young girl, one of these 5 men offered her biscuits. Just a week before they had visited the place a Whatsapp message was going viral which claimed that a gang of kidnapers was roaming who were kidnapping young kids and then harvesting their organs to sell them off. The Whatsapp message contained images of dead bodies of kids covered with white clothes. A voice overcame and told everyone to stay vigilant and to keep eye against child snatchers. These photos were actually 5 years old from Syria. As soon as these 5 men were seen talking to that kid, the attention of nearby bystanders was drawn towards them. Soon an argument started and a mob gathered around them. Some people who were standing there in order to save these 5 people from the wrath of mob locked them into the panchayat office. Within 40 minutes this mob grew in numbers and now thousands were standing outside the office. They stormed the office and started beating all the 5 accused. They were beaten with chairs, bamboos, and other melee weapons. Police were called, but by the time they reached, the chance of saving these men was gone. Police started an investigation and arrested 23 people for the same. The videos of this incident showed that this was a murder. □

Such incidents keep happening in India. They are not secluded events always. Some times they are the result of long spread hatred amongst the heart of people. Sometimes these are politically motivated. Murder of Pehlu khan is one such example. This takes us to a question. Why and how this fake news is spread. □

## HOW FAKE NEWS ARE SPREAD?

<sup>11</sup> Asita Bali and Prathik Desai, "Fake News and Social Media: Indian Perspective", Media Watch Journal, <https://mediawatchjournal.in/fake-news-and-social-media-indian-perspective/>, [Last Accessed: May 2<sup>nd</sup>, 2020] □ □

<sup>12</sup> Timothy Mclaughlin, "How Whatsapp Fuels Fake News and Violence in India", WIRED, Dec. 12, 2020, 07:00 AM, <https://www.wired.com/story/how-Whatsapp-fuels-fake-news-and-violence-in-india/>, [Last accessed; May 2<sup>nd</sup>,2020] □

What we call fake news is fabricated information that looks like news media content in form but not in organizational process or intent. Fake-news spreaders/outlets don't follow the news media's norms of editorial and processes which are meant to ensure the credibility of news that is provided by them. Fake news overlaps with other information disorders, such as misinformation (false or misleading information) and disinformation (false information that is purposely spread to deceive people).<sup>13</sup> In-country like ours, fake news is spread through the use of social media and sometimes TV channels. Social media platforms like Facebook, Instagram, Twitter, and Whatsapp are the major source of fake news. On a platform like Whatsapp where it's not possible to trace the origin of the message, fake news becomes quite challenging. When a message is forwarded, it starts a chain, one person sends it to others and the other person sends it to many more. Any message spreads like a wildfire. Moving on to other social media like Facebook, Twitter, and Instagram. What is seen that people usually have many followers post such things? Then with the use of bots and their followers, such tweets are tweeted again. Usually, these bots are numerous accounts that are created with the sole purpose of sharing these fake news or malicious news in order to defame them. This is done on purpose, spread for a particular reason. They are shared in order to spread hatred, feeling of strong dislike about a specific person or group. Some of the examples which we all might have seen are; Similarities between Narendra Modi and Adolf Hitler. Pandit Nehru was a womanizer, even though the pics which are shared are of his and his sister and sometimes niece also.

Our news channels are also not very much apart from spreading such news. TV news channels spread this news by hiding them between real, actual news. Such things are done in order to sometime gain more TRP, satisfy political orders. There are channels which are owned by people who are a member of one or other political party and have fought the election on their ticket. These channels often hide fake news between actual news in order to misguide us. Such news item is there only because their fund giver wants to. One such famous incident was of JNU incident were without checking facts and verifying them, one of the most prominent news channel ZEE NEWS. Their

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<sup>13</sup>*Supra* Note. 11

producer resigned after this incident.<sup>14</sup> Recently Arnub Goswami was caught lying on national TV when he said that there were deaths due to traffic jams in Delhi, which happened due to the Shaheen Bagh protest of 2020. □

One has to understand the ideology behind this. We are fed with such news just because TV News channels are no more a time-limited thing. They have to run their channel for 24 hours. So they feed us with ample of fake news so that they can get money. This method of journalism is known as yellow journalism. When journalism stops showing real news with facts, its called yellow journalism. The journalist uses shocking headlines in order to catch the attention of people to sell more newspapers or to increase their viewership. Yellow journalism also includes exaggeration of facts and spreading rumors. Frank Mott in 1941 said that there were five things<sup>15</sup> that make yellow journalism. These are;

- Headlines in huge print that were meant to scare people, often of news that wasn't very important
- Using many pictures or drawings
- Using fake interviews, headlines that didn't tell the whole truth, pseudoscience (fake science), and false information from people who said they were experts
- Full-color parts of the newspaper on Sundays, usually with comic strips (which is now normal in the United States)
- Taking the side of the "underdog" against the system.

### **LAWS IN INDIA REGARDING FAKE NEWS**

The Indian Penal Code, 1860 makes Statements conducing to public mischief punishable. It states that;□

(1) <sup>16</sup>Whoever makes, publishes or circulates any statement, rumor or report,-□

(a) with intent to cause, or which is likely to cause, any officer, soldier,[sailor or airman] in the Army, [Navy or Air Force] [of India] to mutiny or otherwise disregard or fail in his duty as such; or

<sup>14</sup> Sarah Hafeez, “Zee News producer quits: Video we shot had no Pakistan Zindabad slogan”, Indian Express, February 22, 2016, 3:42:21 pm, <https://indianexpress.com/article/india/india-news-india/zee-news-producer-quits-video-we-shot-had-no-pakistan-zindabad-slogan/>, [ Last Accessed; May 2<sup>nd</sup>,2020]

<sup>15</sup> Frank Luther Mott 1041. “*American Journalism*”, p. 539.

<sup>16</sup> Section 505, Indian Penal Code, 1860

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offense against the State or against the public tranquility; or

shall be punished with imprisonment which may extend to [three years], or with fine, or with both.

(2) Statements creating or promoting enmity, hatred or ill will between classes.--Whoever makes, publishes or circulates any statement or report containing rumor or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both. □

(3) Offense under sub-section (2) committed in place of worship, etc.--Whoever commits an offense specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine. Meanwhile section 54 of the Disaster Management Act of India <sup>17</sup> states that, whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic shall be punished with the Imprisonment which may extend to one year or with fine. □

There exists a specific act for information technology act, but that does not contain anything related to fake news. In current times, keeping in mind the coronavirus, the various state government have taken different steps regarding the spread of fake news. Cases have been registered under forgery and fraud against people who were spreading fake news. □

## LAWS AROUND THE WORLD REGARDING FAKE NEWS

Let's start by talking about our neighboring country, **BANGLADESH**. Bangladesh in 2018 had passed a bill<sup>18</sup> that imprisons people for spreading “propaganda” about the

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<sup>17</sup>The Disaster Management Act, Section 54, Act 53 of 2005, (INDIA)

<sup>18</sup>Digital Security Act, Act 46 of 2018 (BANGLADESH)

1971 war in which the country won independence from Pakistan. It also bans the posting of “aggressive and frightening” content.<sup>19</sup>

**Belarus** on June 14, 2018, passed a controversial amendment which gave arbitrary to prosecute people who were caught spreading false information online. □

By way of the Media Law of Myanmar, 2014; **Myanmar** prohibits the publication of any fake news. It makes the publication of false news a criminal offense. **French government** proposed and passed a bill titled “*PROPOSITION DE LOI.*” The French law is the first legislative act that defines “fake news”: “Inexact allegations or imputations, or news that falsely report facts, with the aim of changing the sincerity of a vote.” Each platform has to establish a “tool for users to flag disinformation.” Moreover, they are also called to enact measures spurring:<sup>20</sup>

- Transparency about the functioning of their algorithms. □
- The promotion of content is done by mainstream media houses. □
- The removal of fake accounts which spread massive misinformation.
- Disclosure of key information which is related to sponsored content and the “identity of individuals or organizations that promoted them”
- Media literacy

  
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Malaysia was the first South-eastern Asian nation to declare the spread of fake news a crime. Meanwhile, China has also made it criminal to spread fake news since 2016. The government has given direction to the website to quote the source of any news they share to control fake news. The United Kingdom has tried a lot to make the spread of fake news criminal. They have also set up the National Security Communications Unit to keep a check on the spread of coronavirus. □

### HOW CAN WE PREVENT FAKE NEWS?

It's not inevitable that we fall prey to fake news. There are many things that we can do to fight this virus of Fake News. Whenever we read a piece of news and are about to share it, wait for some time and do these things. □

<sup>19</sup> Daniel Funke & Daniela Flamini, “A guide to anti-misinformation actions around the world”, Poynter, <https://www.poynter.org/ifcn/anti-misinformation-actions/>, [Last Accessed; May 3<sup>rd</sup>, 2020]

<sup>20</sup> Supra Note. 19

1. Watch for 'Woah' I.e. fake news is targeted to fuel up your emotions. If any news hits you on an emotional level and plays with your emotions, there are chances that the piece of article/news you are reading is fake. □
2. Words that are used in such news are usually exaggerating. special attention should be given to words which are synonyms of terrible, worst, or shock. □
3. The illusory truth effect; one tends to believe things which are usually present all around you. All your friends might be sharing that news, all the news channel might show them and it can still turn out to be fake.
4. Keep checking the filter bubble; things we search, look on social media are stored in the form of data. The things that we see are the effect of our regular searches. So watch out for fake news in the news which sounds too good to be true. □

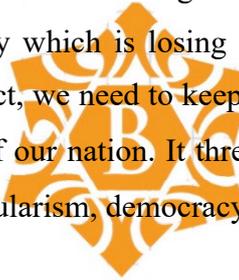
There is a mechanism that can be used in this battle against fake news which we can use, this is called as Digital News Publishers Association(DNPA). This is a regulatory body established as an initiative of ten leading media houses in India. This came after the Information and Broadcasting ministry started pressuring the media houses for fake news. Along with self-regulatory steps, it even welcomed the idea to work together with the government and other similar associations. This was a parallel platform to the Press Council of India and the News Broadcasters Association. □

Another way is establishing companies that work with the purpose of debunking fake news which can be found. One such website is Alt news. This company keeps an eye on the most viral news daily. They try to verify them. But one must remember that these websites should be independent, not owned by someone who represents one political group.

Steps have been taken by social media websites to reduce the spread of fake news. Facebook has now started giving tag of fake news to articles or videos which they find to be of dubious nature. They even delete a post that shares fake news and delete accounts that are spreading fake news. Whatsapp has now limited the maximum number of forward to only 5 at a time. Twitter also tries to keep a check on the spread of fake news by deactivating the accounts which share such news. □

## CONCLUSION

We have reached to a condition in the modern world where one can't believe everything that they see. We have to apply our mind before believing any news fact. We can at least try confirming news but in modern times there are many who are not educated, who can't even use the basic features of their phone. They have access to the whole world in front of them but don't know how to use it. They are very easy prey to fake news. They believe everything that they hear or read. We make sure that they don't fall prey to this fake news. Fake news is like a virus. We have to save ourselves from this virus. Websites like Alt news are like a firewall or antibiotic which helps us to fight this virus, but they are not very much effective. We have to increase awareness about fake news amongst people. We need stricter laws regarding fake news. But one has to understand that in a country like India where the press's freedom undergoes attack every other day, such law can be easily misused. We must implement laws by keeping the fundamental right to freedom of speech. Press is the fourth pillar of Indian democracy which is losing its strength due to fake news. In order to keep our democracy intact, we need to keep fighting fake news. Fake news is a threat to the core basic value of our nation. It threatens to destroy the basic feature of the Indian constitution like secularism, democracy, etc. □

The logo of Burnished Law Journal is a stylized orange emblem with intricate patterns, resembling a traditional Indian motif. It is centered on the page, partially overlapping the text.

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