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MISINFORMATION ON SOCIAL MEDIA: LEGAL CHALLENGES AND REMEDIES

***Sania Tawa**

India.

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*Corresponding Author: Sania Tawa

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INTRODUCTION

Social media has become an important part of our daily life. Platforms such as Instagram, Facebook, X, YouTube and WhatsApp are used by people for communication, entertainment, education, business and sharing information. With the growth of smartphones and internet access, information can now reach thousands of people within a few minutes.

However, along with its advantages, social media has also created a serious problem of misinformation. Misinformation means false, inaccurate or misleading information which is shared or circulated, whether intentionally or unintentionally. A person may forward a message without checking whether it is true or not. Sometimes, however, false information is deliberately created and circulated to deceive people, create fear or damage someone's reputation.

The problem becomes more serious when false information spreads very quickly through social media. A person can create a fake post, edited photograph, misleading video or false news and share it with a large number of people. Once such information becomes viral, it becomes difficult to completely remove it from the internet.

From a legal point of view, misinformation on social media creates a difficult situation. On one hand, freedom of speech and expression is a fundamental right under Article 19(1)(a) of the Constitution of India. On the other hand, this freedom is not absolute and reasonable restrictions can be imposed under Article 19(2). Therefore, there is a need to maintain a balance between freedom of expression and protection of individuals and society from harmful false information.

This article discusses the meaning of misinformation, its impact, legal challenges in India and the possible remedies to deal with the problem.

Meaning of Misinformation on Social Media

Misinformation refers to false, incorrect or misleading information which is presented as genuine information. It may be shared because the person believes that it is true, or sometimes it may be shared without verifying the facts.

For example, during an emergency or natural disaster, a person may forward an old video claiming that it is a recent incident. Even if the person did not intend to cause harm, the information may create unnecessary fear among people.

Misinformation is different from disinformation. Misinformation can be false information shared without an intention to deceive, whereas disinformation generally involves deliberately creating or spreading false information with an intention to mislead others.

On social media, misinformation can appear in different forms, such as:

1. Fake news and false claims.
2. Edited or manipulated photographs.
3. Misleading videos.
4. Fake social media accounts.
5. False rumours circulated through messaging applications.
6. Misleading advertisements.
7. False information about public figures.
8. Deepfake videos and AI-generated content.
9. Fake information relating to health, elections or public emergencies.

The major problem is that ordinary users may find it difficult to identify whether the information is genuine or fake.

Growth of Misinformation in India

India has a very large number of internet and social media users. Social media has made communication easier, but it has also made the circulation of false information easier.

One important reason for the spread of misinformation is the speed of social media. A message can be forwarded to many people within seconds. Users sometimes share

information only after reading the headline or watching a short video without checking the source.

Another reason is that social media algorithms may promote content which receives high engagement. Controversial, shocking or emotional content may attract more likes, comments and shares. As a result, misleading content can sometimes receive greater attention than accurate information.

The increasing use of artificial intelligence has also created new challenges. Deepfakes and AI-generated photographs, audio and videos can make it difficult to identify whether a particular piece of content is real or manipulated.

Therefore, misinformation is no longer only an issue of individual users. It has become a legal and social issue which requires cooperation between citizens, social media platforms and government authorities.

Impact of Misinformation on Society

Misinformation can have different effects depending upon its nature and the number of people who receive it.

1. Harm to Reputation

False information about a person can damage their reputation. A fake allegation or edited photograph may spread quickly and cause social and professional harm.

2. Public Fear and Panic

False information relating to diseases, accidents, natural disasters or other emergencies can create fear and confusion among the public.

3. Communal Tension

False or misleading posts relating to religion or communities can increase hatred and tension between groups. Such content can become particularly dangerous when it is circulated during sensitive situations.

4. Financial Loss

Fake investment schemes, false advertisements and fraudulent messages can cause people to lose money.

5. Political Impact

False information can influence public opinion and may create confusion during elections. Manipulated videos or fake statements of political leaders can mislead voters.

6. Harm to Individuals

Cyberbullying, fake profiles, morphed photographs and false allegations can cause serious emotional and social problems for individuals.

Thus, misinformation is not simply a problem of inaccurate information. In certain circumstances, it can lead to actual legal and social consequences.

Constitutional Perspective

The Constitution of India provides freedom of speech and expression under Article 19(1)(a). Social media is also an important platform through which individuals exercise this freedom.

However, Article 19(1)(a) is subject to reasonable restrictions under Article 19(2). Restrictions can be imposed in the interests of sovereignty and integrity of India, security of the State, public order, decency or morality, contempt of court, defamation and incitement to an offence, among other grounds mentioned in the Constitution.

Therefore, the government cannot simply prohibit every false statement on social media. There must be a proper legal basis for restricting speech.

This creates one of the major legal challenges. A balance has to be maintained between preventing harmful misinformation and protecting legitimate freedom of expression.

Legal Framework Relating to Misinformation in India

India does not have one single comprehensive law which deals with every type of misinformation. Depending on the nature of the false information and the harm caused, different laws may become applicable.

Information Technology Act, 2000

The Information Technology Act, 2000 is one of the important laws dealing with offences committed using computers and electronic communication.

Several provisions of the Act may become relevant where false information is connected with offences such as identity theft, cheating, impersonation or transmission of prohibited content.

However, Section 66A of the Information Technology Act, which was earlier used for certain online communications, was struck down by the Supreme Court in *Shreya Singhal v. Union of India* (2015). The Court held that Section 66A violated the fundamental right to freedom of speech and expression under Article 19(1)(a).

This judgment is important because it shows that regulation of online speech must comply with constitutional protections.

Information Technology Rules, 2021

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 provide obligations for intermediaries and social media platforms.

The Rules deal with matters such as due diligence by intermediaries, grievance redressal mechanisms and handling of certain unlawful information.

Social media platforms therefore have certain responsibilities regarding content and complaints. At the same time, the implementation of these responsibilities should not unnecessarily restrict lawful speech.

Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita, 2023 replaced the Indian Penal Code, 1860. Depending upon the facts of a case, false information circulated through social media may attract provisions relating to offences such as defamation, cheating, forgery, public mischief or other relevant offences.

For example, if false information is used to cheat a person and cause financial loss, the relevant provisions relating to cheating may apply.

Similarly, where false allegations are made against a person with the intention of harming their reputation, the law relating to criminal defamation may become relevant.

Thus, the legal consequence depends upon the content, intention and harm caused by the misinformation.

Defamation and Social Media

Defamation is one of the important legal issues connected with misinformation.

When a false statement is published or communicated about another person and it harms their reputation, it may give rise to a defamation claim, subject to the applicable legal requirements and exceptions.

Social media has made defamation easier because a statement posted by one person can reach a very large audience.

For example, if a person knowingly posts a false allegation against another person and thousands of users view or share it, the reputation of the affected person may be seriously damaged.

However, every negative statement or criticism is not defamation. The circumstances, truth of the statement, intention and applicable legal exceptions have to be considered.

Major Legal Challenges

1. Difficulty in Identifying Fake Information

One of the first challenges is determining whether information is actually false. A post may contain a mixture of true and false facts, making verification difficult.

2. Speed of Dissemination

False information can become viral within a very short period. By the time authorities or the affected person take action, the information may already have reached a large audience.

3. Anonymous Accounts

People can create accounts using fake names and identities. Identifying the actual person behind such accounts may require technical investigation.

4. Cross-Border Nature of Social Media

Social media platforms operate internationally. The person creating the content, the platform's servers and the affected user may all be located in different countries. This creates jurisdictional and enforcement difficulties.

5. Deepfakes and Artificial Intelligence

AI has made manipulation of photographs, audio and videos much easier. Deepfake content may appear genuine and can be difficult for an ordinary person to identify.

6. Balance with Freedom of Speech

One of the most important challenges is preventing harmful misinformation without suppressing legitimate criticism, opinions and political speech.

Over-regulation may have a negative effect on freedom of expression, while under-regulation may allow harmful content to spread.

7. Lack of Digital Literacy

Many social media users do not verify information before forwarding it. Legal regulation alone cannot solve this problem unless users are also educated about responsible internet use.

8. Difficulty in Removing Reposted Content

Even if the original post is removed, screenshots, downloads and reposts may continue to circulate. This makes complete removal very difficult.

Role and Responsibility of Social Media Platforms

Social media platforms play an important role in controlling misinformation because they provide the technology through which content is shared.

Platforms should provide simple mechanisms for reporting false or harmful content. They should also have effective grievance redressal systems.

At the same time, platforms should avoid removing content merely because it is unpopular or critical. Their policies should be transparent and consistent.

Platforms can also use technology to identify manipulated media, coordinated fake accounts and repeated false claims. Human review can be used for difficult cases.

The objective should not be to control every opinion but to reduce clearly harmful and unlawful content.

Remedies for Misinformation on Social Media

There are several possible remedies to deal with misinformation.

1. Strong Legal Enforcement

Existing laws should be effectively enforced against persons who intentionally create and circulate harmful false information. Law enforcement agencies should be properly trained in cyber investigations.

2. Fact-Checking

Users should verify information before sharing it. Government authorities, independent fact-checking organisations and media organisations can help in identifying false claims.

3. Digital Literacy

Digital literacy should be promoted in schools, colleges and communities. People should be taught to check the source, date and authenticity of information before forwarding it.

4. Platform Accountability

Social media companies should maintain effective reporting and grievance redressal mechanisms. They should act against content which clearly violates the law and their applicable policies.

5. Awareness Campaigns

Government and educational institutions can conduct awareness campaigns explaining the dangers of fake news and misinformation.

6. Protection Against Deepfakes

With the development of AI, stronger mechanisms are required to identify AI-generated and manipulated content. Platforms can use labels or other technical measures to indicate synthetic media where appropriate.

7. Quick Correction of False Information

When a false claim becomes viral, accurate information should be provided quickly. Delayed correction may not be sufficient because people may remember the original false information even after it is disproved.

8. Individual Legal Remedies

A person affected by false information can consider appropriate legal remedies depending on the circumstances, including approaching law enforcement authorities, using grievance mechanisms of the platform, and pursuing civil or criminal remedies where available.

Role of Citizens

Citizens also have an important responsibility in controlling misinformation.

Before forwarding any message, a person should ask:

- Who is the original source?
- Is the information supported by reliable evidence?
- Is the date of the information correct?
- Is the photograph or video old or taken from another incident?
- Are reliable news organisations reporting the same information?
- Is the message trying to create unnecessary fear or anger?

A simple habit of verification can reduce the circulation of misinformation.

Citizens should also understand that social media is not free from legal consequences. Freedom of expression gives a person the right to express their views, but it does not provide an unlimited right to harm others or commit an offence.

Need for a Balanced Approach

The solution to misinformation cannot be only strict censorship. A democratic country must protect freedom of speech and expression while also protecting individuals and society from serious harm.

Therefore, India needs a balanced approach. Laws should target unlawful conduct and serious harm rather than ordinary disagreement or criticism.

Government authorities should follow due process, social media platforms should maintain transparency and users should act responsibly.

In my view, awareness and education are equally important as legal punishment. If people learn to verify information before sharing it, the amount of misinformation can be reduced considerably.

CONCLUSION

Misinformation on social media is a growing legal and social challenge. The speed and reach of digital platforms have made it possible for false information to spread much faster than traditional forms of communication.

Misinformation can damage reputation, create public panic, cause financial loss, increase social tension and sometimes affect democratic processes. At the same time, regulation of misinformation has to be carefully designed because freedom of speech and expression is a fundamental right under the Constitution.

India already has different legal provisions under the Information Technology Act, Information Technology Rules, 2021 and the Bharatiya Nyaya Sanhita, 2023 which may apply depending on the nature of the conduct. The Supreme Court's decision in *Shreya Singhal v. Union of India* also reminds us that restrictions on online speech must satisfy constitutional requirements.

There is therefore a need for a combination of legal enforcement, platform responsibility, fact-checking, digital literacy and public awareness. Artificial intelligence and deepfakes make this issue even more important in the present time.

Ultimately, controlling misinformation is not the responsibility of the government alone. Social media companies, law enforcement agencies, educational institutions and ordinary users all have a role to play. A responsible digital society can be created only when freedom of expression is protected while harmful and unlawful misinformation is dealt with effectively.

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