

Bill No. 138 of 2019

THE FAKE NEWS (PROHIBITION) BILL, 2019

By

SHRIMATI RAMA DEVI, M.P.

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BILL

*to prohibit the creation and distribution of fake news in media and for matters
connected therewith.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Fake News (Prohibition) Act, 2019.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "fake news" includes the following or combinations thereof:—

(i) misquotation or the false and/or inaccurate report of one's statement;

(ii) editing audio or video which results in the distortion of facts and/or the context; or

(iii) purely fabricated content.

(b) "false or inaccurate report" means to falsities and inaccuracies in reporting that are primarily geared towards:— 5

(i) undermining or benefiting a person, agency, entity or event; or

(ii) luring advertisers based on number of "clicks" or "visits" for pecuniary or commercial gain; or

(iii) imperiling national security or disturbing public order; or

(iv) sowing enmity, hatred or ill towards certain political, cultural, gender groups or other minorities; or 10

(v) in broadcast, printed or web-published material disguised as news or without any factual claims.

(c) "mass media outlet" means:—

(i) any entity incorporated to carry on the business of radio and/or television broadcasting and granted a valid Government franchise to operate such business; or 15

(ii) any entity that publishes newspapers with regular public circulation and uses print, online publication, microwave, satellite or whatever means to disseminate content for commercial purposes. 20

(d) "Social media platform" means any user-specific web-based technology intended to create virtual connection through the internet such as social networking sites, blog sites, video-sharing sites and the like;

(e) "social media user" includes any person or group of persons, natural or juridical, organized or unorganized, that utilizes social media platforms to send messages and/or information across through any social media account, verified or under a pseudonym, fictitious or false account/page name for whatever purposes it may serve; 25

(f) "create" means the positive act of bringing into existence whether in written, audio or video format fake news guised as factual, true and verified news stories, and the initial dissemination, publication or broadcast of the same through broadcast media, print and social media platforms; 30

(g) "disseminate" means the act of deliberately and maliciously sharing, forwarding, republishing or re-broadcasting fake news through broadcast media, print, and social media platforms despite the knowledge or reasonable grounds to believe that such news story is false, fictitious and misleading; 35

(h) "aid or abet" means the act of conniving or assisting in the creation and/or dissemination of fake news through advice, financial support, or other positive acts without which the fake news may not have come into being; and

(i) "retract" means the withdrawal and deletion of fake news broadcast or published when applicable. 40

Prohibited acts.

3. The following acts are hereby prohibited:—

(a) create through broadcast, social media platforms and/or print fake news by any mass media outlet whether or not such mass media outlet knows of its falsity and regardless of intent;

(b) aid or abet in the creation, distribution or circulation of fake news by any mass media outlet whether or not such mass media outlet knows of its falsity and regardless of intent; 45

(c) deliberately and maliciously create and disseminate fake news through broadcast, social media platforms and/or print by any mass media outlet or social media user;

5 (d) deliberately and maliciously aid or abetting in the creation, distribution or circulation of fake news through broadcast, social media platforms and/or print by any mass media outlet or social media user;

(e) defer or desist from any mass media outlet or social media user,—

(i) retracting any fake news; and

(ii) broadcasting or publishing an erratum addressing the fake news.

10 **4.** No person shall maliciously offer, publish, distribute, circulate and spread false news or information or cause the publication, distribution, circulation or spreading of the same in print, broadcast or online media housing such false news or information cause or intend to cause panic, division, chaos, violence, hate or which exhibit or intended to exhibit a propaganda to blacken or discredit one's reputation and the person knowingly commits such
15 act with full knowledge that such news or information is false, or with reasonable grounds to believe that the same is false.

Prohibition on malicious creation and distribution of fake news.

5. If any mass media enterprise or social media platform fails, neglects or refuses to remove false news or information within a reasonable period after having knowledge, or having reasonable grounds to believe, of its falsity shall be deemed to be guilty of an offence punishable under this Act.

Failure to remove false news.

6. (1) Any mass media outlet found guilty of creating, disseminating, aiding, abetting or refuses to retract fake news shall be punished,—

Penalties.

(a) with a fine of rupees five lakh for first offence;

25 (b) rupees ten lakh and its operation suspended for one week for second offence; and

(c) twenty lakh and its operation suspended for a month for any subsequent violation.

(2) Any social media user found guilty of creating, disseminating, aiding, abetting or refusing to retract fake news shall be punished with a fine of rupees one lakh for the first
30 offence, rupees two lakh for the second offence and rupees five lakh for any subsequent violation.

7. (1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for
35 the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

40 **(2)** Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance, of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other
45 Officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—for the purpose of this section:—

(i) “company” means anybody corporate and include a firm or other association of individuals; and

50 (ii) “director” in relation to a firm, means a partner in the firm.

Power to
remove
difficulties.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years 5
from the date of commencement of this Act.

Overriding
effect of the
Act.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of the Act shall be in addition to and not in derogation of any other law for the time being in force. 10

Power to
make rules.

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 15 20

STATEMENT OF OBJECTS AND REASONS

The advent of modern technology has caused a shift from traditional news reporting in print, broadcast media and the internet, especially on social media platforms. We hear and read the phrase "fake news" every day. Fake news creates impression and beliefs based on false premises leading to division, misunderstanding and further exacerbating otherwise tenuous relations.

The distribution of false information through fake news has become easier in the age of internet, where anyone can post a report or a statement to resemble a news story and claim it as true and factual. Fake news or information cause or intend to cause panic, division, chaos, violence, hate or must exhibit or intend to exhibit a propaganda to blacken or discredit one's reputation. A large number of incidents of mob lynching have reported from various part of the country due to the spread of fake news in the social media like whatsapp, Facebook, Twitter, etc. Studies have also found evidence of political parties spreading propaganda on social networks during elections in the country.

With the India being one of the most virtually-connected countries in the world with million active social media users, we have access to platforms of media and access to any array of information available on the web, some with questionable sources. While the responsibility of discerning lie from truth falls with the person using the information, it is a moral duty of the State to protect its people from such lies in the first place. There is need to curb the existence of disreputable news sources and prevent established mass media outlets from careless publishing of unverified or false content.

At present, India does not have a specific law to deal with menace of fake news. Other countries have taken strides in preventing the spread of false information through legislations.

The need is to nip the cause of fake news in the bud by prohibiting the creation and malicious distribution of false information. It aims to ensure that the content being published and disseminated by mass media outlets and social media personalities are free from false, misleading or fictitious stories through a clear definition of what fake news is. It penalizes not only the creation of false content and the malicious distribution thereof, but also the failure to remove such content once it has been published, with varying penalties depending on the gravity of the act.

The need is also to encourage our citizens, especially public officers, to be more responsible and circumspect in creating, distributing and/or sharing news. Addressing national and global concerns should not be made more complicated by false news calculated to cause disunity, panic, chaos and/or violence.

In addition, penalizing mass media enterprise or social media platform that fails, neglects or refuses to remove false news or information within a reasonable period after having knowledge, or having reasonable grounds to believe of its falsity is also required.

The Bill aims to encourage responsible and credible journalism, as well as creating awareness of the harmful effects of spreading untruthful facts. Misleading and deceptive news may cause divisiveness, health hazards, security risks, panic and chaos to this nation, contrary to our Constitutionally enshrined principle of adhering to a policy of peace and cooperation.

The Bill seeks to achieve the above objectives.

NEW DELHI;
June 26, 2019.

RAMA DEVI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

LOK SABHA

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(Shrimati Rama Devi, M.P.)