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DEEP FAKE JOURNALISM: PROTECTING PRESS FREEDOM AND ADVANCING SDG 16

AUTHORED BY - ARYAN TYAGI & SHIBU PUTHALATH

Abstract

Social media has offered users a platform where they are free to share their views and opinions. The accessibility of these platforms has revolutionised the way of sharing information, which has given rise to deceptive content and augmented fake news. This fake news or disinformation is posing a threat to the media and journalism industries as it has become an issue for the public to investigate the legitimacy and authenticity of news posted on social media, which leads to Fake Journalism. Deep fake journalism poses ethical issues that imperil media objectivity, public trust, and social well-being. It is an Artificial intelligence-generated synthetic medium that is used to create hyper-realistic fake content that often misleads or manipulates the public to spoil the integrity of the media and continues to become a threat to the sovereignty and security of the state. In line with SDG 16's goals, freedom of the press, a fundamental human right, is essential for fostering accountability, transparency, and informed citizenship. This paper will explore the ethical and legal challenges faced by the journalism industry due to the presence of deep fakes and analyse them in the context of freedom of the press. It dives into the consequences of deep fake journalism and its implications for achieving SDG-16, which seeks to promote peace, justice, and strong institutions. The regulatory framework and deepfake threats will examine a comparative analysis with other nations to tackle the complications in forming responsible journalism and media integrity. The paper concludes by offering suggestions to curtail the challenges that arise from deep fake journalism.

Key Words: Deep fake Journalism, ethical challenges, SDG-16, responsible journalism, media integrity.

1. INTRODUCTION

The rise of deep fake technology poses serious challenges to media integrity, press freedom, and the achievement of Sustainable Development Goal 16 (SDG-16), which aims to promote peace, justice, and strong institutions. The deficiency in quality control standards on social media and online platforms has facilitated the spread of fake news and scams that appear genuine. It has also

become easier to manipulate audio and video in ways that surpass traditional journalistic editing, further blurring the line between authentic and fake news (Ireton & Posetti, 2018; Vasist & Krishnan, 2022).

Deep fake technologies are rapidly advancing, with instances increasing by around nine hundred percent per year since 2019, raising concerns about their potential misuse (Vasist & Krishnan, 2022). Despite the importance of freedom of speech and expression, guaranteed under Article 19(1)(a), deep fake journalism poses a threat to the fundamental rights of individuals, including the freedom of the press, which is essential for a functioning democracy (Govindu, 2011).

The media plays a crucial role in maintaining accountability in a democratic society, often referred to as the 'Fourth Pillar.' It promotes peace, justice, and strong institutions, as highlighted in SDG-16, by providing access to information and protecting human rights (OECD, 2014; UN, 2016; Norris, 2006). However, the increasing sophistication of deep fake technology challenges the media's ability to fulfill its ethical and moral mission of conveying truth (Chesney & Citron, 2019).

The proliferation of deep fake technology not only affects the credibility of news sources but also raises concerns about the spread of disinformation and its impact on society. This technology blurs the line between genuine news and propaganda, making it challenging for citizens to discern the truth (Kelly, 2017). As deep fakes become more prevalent, there is a risk of decreasing trust in news sources, particularly on social media platforms (Vaccari, 2020).

Moreover, deep fakes pose a threat to journalists' safety and security, as disinformation campaigns can lead to threats and violence against them (Ireton & Posetti, 2018). This challenges the core principles of press freedom and freedom of expression, which are essential for a democratic society (Barber, 2023).

Therefore, the spread of deep fake technology presents significant challenges to press freedom and the achievement of SDG-16. Governments and regulatory bodies must introduce strict measures to counter the negative effects of deep fakes and safeguard the integrity of journalism. Efforts to address these challenges must focus on promoting transparency, accountability, and inclusive institutions in order to uphold the principles of a free and democratic society.

2. Methods and material

The qualitative research method was applied. The data in this doctrinal research was analysed using qualitative content analysis. Doctrinal legal research focuses on a comprehensive investigation of legal concepts, values, principles, and existing literature, statutes, and case law. The study was conducted on legal propositions by examining current legal provisions, including

the constitution and statutes, and also decided cases through the application of analytical thinking (Myneni, 2006, 32). It is an analysis of authoritative sources and a check on what is already known about legal issues. Doctrinal legal study tries to find out what the law is about particular issues and uses an analytical method. It requires a careful, systematic analysis and evaluation of legal problems and how they relate to each other. The data was evaluated, and the results were compiled based on this approach. The fundamental components of doctrinal legal research encompass statutory resources, reports on cases, text and reference books, law journals, magazines, parliamentary debates, and government reports.

3. Results

3.1. Deep Fake Journalism and Media Integrity

The Oxford English Dictionary defines deepfakes as “Any of various media, *esp.* a video, that has been digitally manipulated to replace one person's likeness convincingly with that of another, often used maliciously to show someone doing something that he or she did not do” (Oxford University Press, 2023). Deepfake is not only restricted to manipulated videos and images; it also includes audio and texts that can be used to deceive people. Moreover, there is also an evolving technology called cheapfakes. Unlike their more intricate counterparts, cheap fakes are generated using simplified digital techniques, often involving the manipulation of audio speed and video playback rate. This deliberate alteration can drastically transform the intended meaning of the video content (U.S. Department of Homeland Security, n.d.).

The journalism industry claims that deepfakes are an indicator of a forthcoming “Information Apocalypse” and are on the verge of undermining the inherent credibility of videos by blurring the line between videos used as evidence and those conveying artistic expression (Paris & Donovan, 2019). News media organisations should invest in fact-checking initiatives because they have to check the credibility of the media, thereby limiting the source of deepfake (Diakopoulos & Johnson, 2019, 16).

3.2 National Security

In the year 2018, Congress of the United States sent a letter to the Office of the Director of National Intelligence, raising an alarm regarding the hyper-realistic digital forgeries that are called ‘Deepfakes’ which can be a threat to national security and can advocate misinformation in

the United States (Schiff, 2018). This was just the beginning of Artificial Intelligence generated videos, photos, and audio, as it has taken a massive upturn in recent years. While experts have estimated that 90% of the media online may be synthetically generated by 2026 (Europol, 2022), Synthetic media is basically Artificial intelligence-generated media that is mostly used for gaming, but in recent times it has also given rise to deepfakes, and hence there is a need for regulating artificial intelligence generated media.

During the Ukraine-Russia War, a deepfake video emerged depicting Ukrainian President Volodymyr Zelenskyy allegedly instructing his troops to surrender to the advancing Russian Army, and this video quickly gained widespread attention (NPR, 2022). Hackers were responsible for propagating this manipulated video, which was prominently featured on the Ukrainian news website Ukrayina 24. The emergence of such fabricated content poses a substantial threat to national integrity and security, potentially inciting hostility between nations.

The escalation between two nations can happen as quickly as light, made worse by the spread of false information and fabricated news. Deepfake Journalists and nefarious actors exploit deepfake technologies to manipulate public opinion, exemplifying one of the most concerning manifestations of the deepfake conundrum. These instances of misinformation erode media integrity and undermine public trust in journalism.

In the aforementioned scenario, during the period of increased tensions between India and Pakistan in 2019, Reuters identified a total of 30 fabricated and deceptive videos, strategically disseminated to manipulate public sentiment (Phartiyal, 2019). This underscores the potential of deepfake journalism to exacerbate geopolitical conflicts and incite violence, serving as a potent catalyst, while people can also be influenced by these types of content very easily.

3.3. Political Campaigns

The viral dissemination of a deep fake video featuring Former U.S. President Barack Obama on April 17, 2018, wherein fabricated statements were articulated in his voice, exemplifies how such manipulative content can be wielded to advance specific political motives (Meskys et al., 2020, 28). The intent behind this particular instance was to exploit the technology for propagating a political agenda, targeting a prominent democratic figure to influence electoral campaigns. In this context, a study in 2020 revealed that approximately 15% of viewers believed that the video

of Barack Obama was real (Vaccari, C. 2020, 7).

There is no exact number of voters that can be misled through deepfakes, it is crucial to recognise that even a relatively minor number of influenced votes could wield a substantial impact on electoral outcomes (Ray, 2021, 988). The proliferation of deepfake Journalism presents a grave and imminent peril to electoral security, as it holds the potential to exert undue influence over voter preferences, thereby eroding trust in the nation's democratic processes and the integrity of its media. Through the strategic targeting of opposing political parties, Deepfake Journalists can exploit this technology to disseminate fabricated information, thereby skewing the entire electoral landscape in favour of a singular political faction.

4. Discussion

4.1 Deep fake journalism's Impact on justice systems and the Rule of Law

The influence of deep fake-generated news media extends to its adverse use as fabricated evidence within courtrooms. Research has unveiled the substantial implications of deepfakes on the foundation of the rule of law, identifying specific scenarios in which these sophisticated manipulations could disrupt proceedings within court halls (Sloot & Wagenveld, 2022, 6).

The surge in deepfake technology presents intricate challenges within legal proceedings. Involved parties can prolong cases by consistently disputing the authenticity of the evidence, potentially leading to prolonged litigation. The widespread use of deepfakes increases the risk that courts might mistakenly accept manipulated evidence as genuine. Even post-conviction, individuals maintain the option to publicly proclaim their innocence, alleging that their guilty verdict was based on falsified evidence. This issue becomes especially pronounced in cases related to specific offenses, where the mere implication of legal action can significantly impact an individual's personal life and career trajectory.

The proliferation of deepfakes poses a significant risk of undermining the essential trust required for the efficient operation of a democratic system. The judiciary, an integral component of democracy, stands as a crucial entity. If juries no longer have faith in their ability to distinguish truth or harbor suspicions of counterfeit evidence within legal proceedings, the courts would forfeit the vital public confidence on which their legitimacy relies. (Pfefferkorn, 2020, 271).

4.2. Preserving freedom of press while countering Deep fake threats

The Indian Constitution protects the freedoms of "speech and expression," including press freedom, for all Indian citizens. These liberties are necessary not only for promoting certain

fundamental citizen rights but also for maintaining certain democratic values. Art. 19 protects some of a person's fundamental, valuable, and natural rights (M.P. Jain, 2018, 1124). The liberty protected by Art. 19(1) is not absolute. The exercise of each of these rights is subject to being controlled, restricted, and regulated to a certain degree by statutes enacted. Thus, clauses (2) to (6) of Article 19 outline the circumstances and grounds for which a legislature might impose "reasonable restrictions" on Article 19(1)(a) to (g) (M. P. Jain, 2018, 1124). A legislature cannot limit these liberties beyond what is required by Articles 19(2) to 19(6) and even the legislature's proposed restrictions are open to judicial review.

The preservation of freedom of speech is vital for the effective operation of the democratic system. It is generally viewed as the primary requirement for liberty (Mathew, K.K., 1954, 34-35). The Supreme Court has interpreted 'freedom of speech and expression' very broadly as a "fundamental human right", and "natural right". Countries with a free press appear to have better rule of law, and regulations, and more stable and effective governments (*Media and SDG 16 – MDIF*, n.d.).

In fact, a free press is essential to a democracy. Democracy is based on free speech and open discourse. In a democratic system, this is the primary corrective action the government can take. If democracy means that the people run the government, then every person should be able to take part in the process of democracy. Free and open debate on public issues is vital in order to enable individuals to wisely exercise their right to make choices (*Maneka Gandhi v. Union of India*, 1978).

Article 19(1)(a) is similar to the U.S. Constitution (First Amendment - Freedom of Religion, Speech).

When examining the constitutional element of Section 295A of the Indian Penal Code, it becomes evident that it is categorised as a 'reasonable restriction'. This section imposes penalties on individuals who intentionally and maliciously insult, through spoken or written words or visible representations, the religious beliefs of any particular class. The Supreme Court has ruled that Section 295A of the IPC does not punish any act or attempt to insult a religion or class of citizens. The law only applies to serious religious insults intended to disrupt public order (*Ramji Lal Modi case*, 1957, 650). According to the Indian penal code, anyone who employs verbal or written communication with the intention of inciting hatred, contempt, or disaffection towards the lawfully created government is subject to legal consequences (124 A, I.P.C., 1860). The legality under the Constitution of Section 124 A of the Indian Penal Code, which criminalises sedition, was affirmed by the Supreme Court. The Court adopted the view that in cases where a legal

provision can be interpreted in two ways, one rendering it constitutional and the other rendering it unconstitutional, the interpretation favouring its constitutionality should be given priority. Accordingly, the Court decided that mere criticism of government action, no matter how harshly stated, would be in line with the Fundamental Right to freedom of speech and expression. In the interest of public order, only words with a tendency to be harmful or that are intended to cause law and order breaches would be punished (*Kedar Nath Singh Case, 1962, 955*). The recent introduction of the Bharatiya Nyaya Sanhita Bill, 2023 (PRS, 2023) in the Lok Sabha, has brought about a significant transformation in the realm of sedition laws, marked by the repeal of the previous provision and the establishment of a novel framework. Notably, the new bill, constituted in section 150, abolishes the term "sedition" and instead presents a redefined concept that includes contemporary elements like electronic communication. Furthermore, the utilization of the term "electronic means" extends to various other sections of the new bill, including section 351 which deals with legislation relating to the spreading of false information and rumors. This underscores a deliberate incorporation of modern technological dimensions which can be used to tackle the adverse effects of deepfake-generated media.

The element of a breakdown of peace is required for a matter to be considered "public order."

The term 'public order' encompasses all bases for action under Section 144 of the Criminal Procedure Code. A form of extreme disturbance of the peace that threatens the state's structures or its overthrow falls within the scope of the phrase 'security of the state' and is capable of being punished (M. P. Jain, 2018, 1153).

Article 19(2) of the Indian Constitution places reasonable restrictions on freedom of speech and expression in order to safeguard India's sovereignty and integrity as a nation. Article 19(1)(a)'s guarantee of freedom of speech and expression is subject to Articles 19(2), 129, and 215. The Supreme Court [Article 129] and all High Courts [Article 215] have been granted the authority to punish contempt of court. The concept of "The Trial by Media" Interfering with the administration of justice is neither a permissible exercise of freedom nor an unjustifiable restriction. Defamation constitutes both an offence and a tort. In accordance with the prevalent moral standards of contemporary society, decency or morality differs from society to society and over time. Some of the offences listed in the Indian Penal Code are selling obscene books, and obscene items to minors, committing an obscene act, and singing an obscene song in public (Ss. 292 to 294 of the IPC, 1890). All of the limits that were discussed earlier apply to deep fakes as well.

4.4 SDG-16: Peace, Justice, and Strong Institutions

The correlation between press freedom and the right to information significantly contributes to the realisation of Goal 16, particularly Target 10, which seeks to ensure the safeguarding of the right to information access and the safety of journalists (UN, 2016). The concept of freedom of information is intricately connected to a culture of transparency. Societies that are open and all-encompassing prioritise the protection of press freedom, which plays a pivotal role in promoting sustainable development. However, Deepfake technology, which creates highly manipulated content, can pose significant challenges to achieving goal 16.

Deepfakes can spread false information and misinformation rapidly (Korshunov & Marcel, 2018, 1) When the public cannot trust the authenticity of the information, it becomes difficult to hold institutions accountable and make informed decisions. This can undermine the credibility of both journalism and institutions, hampering efforts to achieve transparency and justice.

Deepfakes can also be used to manipulate public perceptions, eroding trust in media and institutions (Vasist & Krishnan, 2022, 3). If deepfakes are used to disseminate false information about corruption or criminal activities, it can hinder efforts to combat these issues effectively. Misinformation and Disinformation can be weaponized against journalists, which can endanger their safety, reputation, and the credibility of their work (Ireton & Posetti, 2018, 21). Deepfake technology can be used to create fake videos or audio recordings that portray people saying or doing things they haven't done while spreading false information. Moreover, Deepfakes can be used to create false evidence or narratives, making it difficult to hold individuals or institutions accountable for their actions (Sloot & Wagenveld, 2022, 6). This challenges the rule of law and effective governance.

5. Conclusion & Suggestions

Press freedom and the right to information are directly relevant to the achievement of Goal 16, specifically target 10. This target aims to protect the right to access information and safeguard fundamental freedoms. A culture of openness is closely connected to the concept of freedom of information. As Joseph E. Stiglitz stated, "Information is a public good...and as a public good, it needs public support" (UNESCO, *Global Report 2021/2022*, 2022, 20). Open and inclusive societies prioritize the protection of press freedom, recognizing its crucial role in promoting sustainable development. To achieve SDG 16.6 i.e. Developing effective, accountable, and transparent institutions at all levels (UN, 2016), it is crucial for the press, as a fourth institution, to enhance its effectiveness, accountability, and transparency.

Regulating deep fake journalism is a pressing need at present. The primary responsibility of the courts is to protect and uphold freedom, specifically by invalidating any regulations or administrative decisions that violate the constitutionally guaranteed freedom of the press (*Press Council of India, 19799*, n.d.). Strict scrutiny mandates that laws restricting speech be carefully crafted in order to prevent individuals from expressing truthful statements. While it is understandable that nations may want to regulate fake news, it is crucial to avoid the serious and unacceptable risk of suppressing truthful expression. The freedom of the press is more for the well-being of the general populace than for the advantage of the press. The community has a right to access information, and it is the responsibility of the government and media to educate the public about the dangers of deepfake technology. The advancement of technology has made it increasingly easy and inexpensive to produce deepfakes. Therefore, journalists must stay alert and proactive in order to anticipate and address potential future risks. Deepfakes also compel journalists to establish an image's authenticity. In the battle between trustworthy reporting and deceptive media, journalists must be armed with the most efficient instruments and techniques for combating fake journalism

Suggestions

To mitigate the risks possessed by Deepfake Technology in the Journalism industry, there's a need for strong regulations and technological solutions to detect and counter deepfake content. Additionally, media literacy efforts can help the public identify and critically assess potentially deceptive content, ensuring that journalism remains a trusted source of information. And also:

1. Introduce fact-checking initiatives: News media organisations should invest in fact-checking initiatives because they have to check the credibility of the media, thereby limiting the source of deepfake.
2. Creating effective tools for identifying deep fakes: News Institutions are collaborating to create tools that can identify deep fakes. For instance, Agence France-Presse is partnering with Google on its "Assembler" platform, while the German radio broadcaster "Deutsche Welle" is participating in the research project "Digger". Such cooperative efforts have the potential to improve the integrity and general caliber of journalism, as well as the knowledge gained from instances of deepfake deception.
3. Usage of Watermarks or Evidence: Journalists, when they publish, should include evidence for their readers that the content is not false. They can use watermarks or any

type of material as evidence to showcase their authenticity and develop a sense of media literacy among the viewers.

4. Law enforcement authorities must proactively enhance their investigative capabilities: Addressing the potential threats of deep fakes demands increased research efforts and financial support. Law enforcement authorities must proactively envision plausible criminal scenarios and enhance their investigative capabilities in response. That is why countries are taking initiatives to enhance their research capabilities and counter the effects of deep fakes in society. A study shows that China leads the list of most research funding organisations, followed by the United States. Indian policymakers should also invest in research and development to combat such techniques.

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