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# DIGITAL DEMOCRACY OR DIGITAL CENSORSHIP? AN ANALYSIS OF KARNATAKA'S DRAFT FAKE NEWS LAW

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## I. ABSTRACT

*“Freedom of speech is the bulwark of democracy; it is the first condition of liberty.” – Justice Pralhad Balacharya Gajendragadkar, Former Chief Justice of India<sup>3</sup>. The emergence of digital platforms has changed our relationship to communication, there is little to no distinction among the spaces of political propaganda, citizen expression, and journalism. The Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025 is being proposed as a mechanism to combat the growing problem of false information on the internet as this transformation continues to develop. However, the Bill's sweeping definitions, expansive powers, and absence of independent oversight raise considerable constitutional and ethical concerns. This paper evaluates the Bill from the perspective of Indian media law where, under Article 19(2), appropriate limits on speech and writing coexist with the rights to freedom of the press and freedom of expression under Article 19(1)(a). According to the paper, this Bill decreases constitutional legitimacy in favor of censorship over regulation, pointing to important rulings, like Romesh Thappar v. State of Madras, Shreya Singhal v. Union of India, and Anuradha Bhasin v. Union of India. It appears that the Bill's definition of “fake news” essentially gives the State the authority to determine what is “fake,” jeopardizing journalism's Fourth Estate role and independence. More broadly, there are parallels with overseas media laws in Singapore (i.e., POFMA) and Germany (i.e., NetzDG) that demonstrate the precarious balance between restricting false information and denying opposing voices. Ultimately, the article advocates for a rights-based, open, and media-literate approach to disinformation as a problem of democratic accountability online.*

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<sup>3</sup> Justice P.B. Gajendragadkar, quoted in State of Uttar Pradesh v. Raj Narain, (1975) 4 SCC 428 (for context on freedom of speech as a condition of liberty).

## II. KEYWORDS

Digital democracy; Fake news regulation; Media law; Freedom of speech and expression; Censorship; Constitutional validity.

## III. INTRODUCTION

In this digital age, the boundaries between journalism, political propaganda, and private expression are increasingly unclear. Social media platforms have taken the place of the public square, providing unprecedented access to the exchange of both good ideas and ugly rumors, invented stories, and ideological distortions. As a result, "fake news" now poses a global threat to democracy<sup>4</sup>.

Misinformation has disrupted elections, incited riots, and diminished public confidence in institutions on every continent. In response to the new reality caused by misinformation, some nations, such as Singapore (POFMA)<sup>5</sup> and Germany (NetzDG)<sup>6</sup>, have instituted draconian laws. These laws claim to protect the truth while at the same time allowing for government surveillance and suppressing dissent.

This conflict involves India, the world's most populous democracy. With over 800 million internet users and flexible media environments<sup>7</sup>, India is confronting an unprecedented information crisis. False narratives move more swiftly than verified facts and can lead to real-life consequences such as mob lynchings, communal tensions, and public opinion manipulation<sup>8</sup>.

To curb the spread of misinformation online, the Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025 was introduced. The Bill's loose definitions of "fake news"<sup>9</sup>, and the clear power of government agencies, raise questions about whether it is censorship under the guise of regulation, despite its stated intentions to protect citizens from deception and keep public order.

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<sup>4</sup> UNESCO, Journalism, "Fake News" and Disinformation: Handbook for Journalism Education and Training (2018).

<sup>5</sup> Protection from Online Falsehoods and Manipulation Act, 2019 (Singapore).

<sup>6</sup> Network Enforcement Act (NetzDG), 2017 (Germany).

<sup>7</sup> Internet and Mobile Association of India (IAMAI), Digital India Report 2023, at 12.

<sup>8</sup> Rukmini S., Whole Numbers and Half Truths: What Data Can and Cannot Tell Us About Modern India (Context, 2021), at 198–201.

<sup>9</sup> Karnataka Mis-information and Fake News (Prohibition) Bill, 2025 (Draft Bill).

This study is guided by the following research question: Does the Karnataka Draft Fake News Law enhance India's digital democracy by ensuring accountability of information, or does it violate constitutional freedoms by entrenching methods of digital censorship?

To answer this, the paper will place temporality of the discussion in the understanding of Indian media law, where reasonable limitations of Article 19(2) sit in relative coexistence with Article 19(1)(a) freedoms of speech and expression<sup>10</sup>. The article refers to constitutional jurisprudent reasoning developed by cornerstone cases such as *Romesh Thappar v. State of Madras*<sup>11</sup>, *Shreya Singhal v. Union of India*<sup>12</sup>, and *Anuradha Bhasin v. Union of India*<sup>13</sup>, which insist that free flow of ideas -- and not the state's stewardship of truth sustains democracy.

The objectives of the research are as follows:

1. To analyze the regulatory and constitutional environment for media and disinformation in India.
2. To critically analyze the Karnataka Draft Fake News Bill of 2025 in the context of democratic accountability and freedom of the press.
3. to explore models of misinformation regulation around the world and make points of comparison.
4. To propose solutions that respect fundamental freedoms and foster responsible governance of the digital space.

The research is important because it effectively engages the evolving relationship between democracy, the press, and the law in a timely manner.

#### **A. Research Questions**

1. Whether the *Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025* strengthens democratic accountability in the digital sphere or facilitates unconstitutional censorship of online speech.

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<sup>10</sup> The Constitution of India, arts. 19(1)(a) and 19(2).

<sup>11</sup> *Romesh Thappar v. State of Madras*, AIR 1950 SC 124.

<sup>12</sup> *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

<sup>13</sup> *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

2. Whether the broad statutory definitions of “*fake news*” and “*misinformation*” under the proposed Bill comply with the constitutional standards of *reasonable restrictions* under Article 19(2) of the Constitution of India.
3. Whether the executive-dominated regulatory framework and Special Courts mechanism under the Bill undermines judicial oversight and procedural safeguards guaranteed under Indian constitutional jurisprudence.
4. To what extent comparative international models such as Singapore’s POFMA and Germany’s NetzDG justify or caution against the criminalisation of online misinformation in India.
5. Whether the Bill disproportionately impacts journalistic freedom, digital intermediaries, and citizen speech, thereby weakening the Fourth Estate in a constitutional democracy.

## **B. Objectives of the Study**

1. To examine the constitutional framework governing freedom of speech and expression in India, particularly in the context of digital media and online platforms.
2. To critically analyse the provisions, structure, and enforcement mechanisms of the *Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025*.
3. To evaluate the Bill against established judicial precedents on free speech, vagueness, proportionality, and prior restraint, as evolved by the Supreme Court of India.
4. To undertake a comparative study of foreign legislative responses to misinformation and assess their relevance and limitations within the Indian constitutional setting.
5. To suggest rights-based, proportionate, and constitutionally sustainable alternatives for addressing misinformation without eroding democratic freedoms.

### **C. Statement of Hypothesis**

1. The primary hypothesis of this study is that the Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025, in its present form, fails to meet the constitutional requirements of clarity, proportionality, and reasonableness, thereby posing a serious threat to Article 19(1)(a) freedoms.
2. It is further hypothesised that vesting the State with the authority to determine the veracity of information, coupled with stringent criminal sanctions and limited judicial review, results in digital censorship rather than democratic regulation.
3. The study also hypothesises that comparative international models demonstrate that misinformation can be regulated effectively without resorting to excessive criminalisation or executive dominance.

### **D. Research Methodology**

This research adopts a doctrinal and analytical legal research methodology.

Primary sources include the Constitution of India, the text of the Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025, and authoritative judgments of the Supreme Court of India interpreting Articles 19(1)(a) and 19(2).

Secondary sources include scholarly articles, books on constitutional and media law, reports on misinformation regulation, and comparative foreign legislation such as Singapore's Protection from Online Falsehoods and Manipulation Act, 2019 and Germany's Network Enforcement Act (NetzDG).

A comparative legal approach is employed to contextualise India's proposed response within global trends while assessing its constitutional compatibility.

The research is qualitative, relying on legal reasoning, judicial interpretation, and normative constitutional analysis rather than empirical data.

### **E. Literature Review**

Debates about regulating misinformation happen at the intersection of constitutional government, media responsibility, and free speech. Article 19(2) must be applied as

narrowly as possible, but writers like H.M. Seervai and D.D. Basu note that Article 19(1)(a) preserves individual liberty and the democratic exchange of ideas<sup>14</sup>. In *Romesh Thappar v. State of Madras* (1950)<sup>15</sup> and *Brij Bhushan v. State of Delhi* (1950)<sup>16</sup>, the core principle established was that previous restraint and vague censorship were violations of one's constitutional freedoms.

The evolution of media law in India represents increased judicial oversight and a gradual increase in state oversight. Starting with the Cable Television Networks Act, 1995, the Council of the Press Act, 1978, the (new) IT Act of 2000, and the IT Rules, 2021, have continually expanded the authority of the executive branch to supervise and censor digital media<sup>17</sup>. Moreover, in *Shreya Singhal v. Union of India* (2015)<sup>18</sup>, the Supreme Court struck down Section 66A of the IT Act, clarifying that online speech cannot be restricted just because it is "annoying" or "offensive."

Legislation such as Singapore's POFMA, and Germany's NetzDG, reveal similar tensions between upholding free expression and combating the impact of misinformation<sup>19</sup>. Critics have argued, despite being framed as preventative, that such proposals frequently facilitate expansive government involvement in the digital space.

While there is a robust body of media control and free speech research, there has been little exploration regarding how regulations that state-sponsored fit within the Indian constitutional framework are. The Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025<sup>20</sup> provides a timely opportunity to assess whether the Indian response supports democracy or enables censorship under the banner of truth legislation.

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<sup>14</sup> H.M. Seervai, *Constitutional Law of India*, Vol. I, 4th edn. (Universal Law Publishing, 2013) 857; D.D. Basu, *Commentary on the Constitution of India*, Vol. II, 9th edn. (LexisNexis, 2020) 1255.

<sup>15</sup> *Romesh Thappar v. State of Madras*, *supra* note 9.

<sup>16</sup> *Brij Bhushan v. State of Delhi*, AIR 1950 SC 129.

<sup>17</sup> The Press Council Act, 1978; The Cable Television Networks (Regulation) Act, 1995; The Information Technology Act, 2000; The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

<sup>18</sup> *Shreya Singhal v. Union of India*, *supra* note 10.

<sup>19</sup> Protection from Online Falsehoods and Manipulation Act, 2019 (Singapore); Network Enforcement Act (NetzDG), 2017 (Germany).

<sup>20</sup> Karnataka Mis-information and Fake News (Prohibition) Bill, 2025 (Draft Bill), *supra* note 6.

## IV. ANALYSIS OF THE KARNATAKA MIS-INFORMATION AND FAKE NEWS (PROHIBITION) BILL, 2025

The Karnataka Misinformation and Fake News (Prohibition) Bill, 2025<sup>21</sup> represents a legislative effort to combat the dissemination of false or deceptive information in the state. While the Bill cites its goals as protecting public health, maintenance of public order, and upholding the integrity of elections, deeper consideration of the language of the Bill raises critical issues of proportionality, press freedom, and constitutional validity.

### A. Definition and Scope of "Misinformation" and "Fake News"

In Section 2 of the Bill, broad definitions are provided for key terms, including fake news, misinformation, social media platform, and social media user. Section 2(k) criminalises false representations of fact, and Section 2(i) defines fake news on social media as including misrepresentation by altered videos/audio content which mislead, or information that has been entirely fabricated.<sup>22</sup> Although the Bill states that it is not targeting satire, parody, or opinion, the broad, subjective nature of the definitions grant considerable authority to determine misinformation.

**Concern:** The power to designate information as "fake" essentially places the state in the role of defining reality. The imprecision of these criteria risks infringing Article 19(1)(a)<sup>23</sup>. Analogous to the unconstitutional vagueness struck down in *Shreya Singhal v. Union of India* (2015)<sup>24</sup>, such expansive discretion may lead to arbitrary censorship, which will silence journalism and public debate.

### B. Penalties and Criminalization

Spreading false information that endangers public health, safety, peace, or elections is not permitted under Section 3<sup>25</sup>. Section 7 heightens the terms of punishment for users

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<sup>21</sup> Ibid.

<sup>22</sup> Karnataka Fake News Bill, *supra* note 6, s. 2(i), 2(k).

<sup>23</sup> The Constitution of India, art. 19(1)(a).

<sup>24</sup> *Shreya Singhal v. Union of India*, *supra* note 10.

<sup>25</sup> Karnataka Fake News Bill, *supra* note 6, s. 3.

of social media to seven years and a fine of ₹10 lakh. Subsection 2 imposes imprisonment for two to five years and fines.<sup>26</sup>

**Concerns regarding the punishments:** The seriousness of such punishments gives rise to the issue of disproportionality, particularly in view of the cognizable and non-bailable nature of the offenses under section 12<sup>27</sup>. This law undermines the proportionality principle among constitutional jurisprudences, punishing something like disinformation in a similar fashion to more serious criminal offenses.

### C. Authority for regulation

Sections 5 and 6 create the framework for the Fake News on Social Media Regulatory Authority that is held together with a minister for Kannada and Culture, government approved legislators, a couple of civil service employees, and representatives from social media platforms.<sup>28</sup> The Authority must make sure that every piece of content is "based on authentic research", while fake news, abusive content, and content that disrespects religion and superstition as a whole is off limits.

**Concerns:** The independence is at risk if there is executive control at the regulatory body. The importance of immunity of press from state interference was articulated in *Romesh Thappar v. State of Madras* (1950)<sup>29</sup> and other relevant cases. In this regard, the Authority's powers, and imprecise instructions carrying the possibility of politicization and abuse, could enable the arbitrary targeting of dissident voices.

### D. Disabling Directions and Corrective Directions

Section 13 permits Special Courts to issue Disabling Directions that block access to misinformation, and Corrective Directions that require the rectification of misinformation. Noncompliance can be punishable of daily fines, up to ₹25,000 (maximum at ₹25 lakh), and wrongful imprisonment of up to two years. There is limited right to appeal in the High Court.<sup>30</sup>

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<sup>26</sup> Karnataka Fake News Bill, *supra* note 6, s. 7.

<sup>27</sup> Karnataka Fake News Bill, *supra* note 6, s. 12.

<sup>28</sup> Karnataka Fake News Bill, *supra* note 6, ss. 5–6.

<sup>29</sup> *Romesh Thappar v. State of Madras*, *supra* note 9.

<sup>30</sup> Karnataka Fake News Bill, *supra* note 6, s. 13.

**Concerns:** Pre-publication censorship is effectively created by disallowing or requiring corrections, especially without independent scrutiny before publication. As mentioned in *Anuradha Bhasin v. Union of India* (2020)<sup>31</sup>, which noted that access to information is a fundamental right of democracy, this has the potential to undermine the role of journalism and intermediaries as the Fourth Estate.

#### **E. Procedural Issues: Public Prosecutors and Special Courts**

Sections 8-11 designate Special Public Prosecutors, forum Special Courts for expeditious trials, and do not allow bail for offences.<sup>32</sup> While designed to ensure expeditious administration of justice, these provisions also concentrate power into the hands of the executive and judicial branch of government, which could limit procedural protections. Section 14 limits the inherent jurisdiction of the High Court<sup>33</sup>, forbidding the exercise of Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act No. 46 of 2023)<sup>34</sup> powers as an impediment to procedural abuse.

**Concerns:** Since courts have continued to caution against limiting state control of expression in decisions like Shreya Singhal and Romesh Thappar, the combination of rigid formalities with exorbitant penalties may lead to abuse against journalists, activists, and people.

#### **F. Violations by Corporations and Social Media**

If a corporation publishes false information, Section 15 would expose corporate agents to liability unless it can be established that sufficient due diligence was taken<sup>35</sup>. The concept of corporate responsibility is important, but the broad application of responsibility in law may deter self-expression and creativity on digital platforms, similar to issues with Singapore's POFMA law.<sup>36</sup>

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<sup>31</sup> *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

<sup>32</sup> Karnataka Fake News Bill, *supra* note 6, ss. 8-11.

<sup>33</sup> Karnataka Fake News Bill, *supra* note 6, s. 14.

<sup>34</sup> Section 482, Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act No. 46 of 2023) [hereinafter BNS 2023].

<sup>35</sup> Karnataka Fake News Bill, *supra* note 6, s. 15.

<sup>36</sup> Protection from Online Falsehoods and Manipulation Act, 2019 (Singapore).

### **G. Alignment with Constitutional Values**

The Bill's expansive definitions, harsh penalties, centralized authority, and lack of safeguards run contrary to Article 19(1)(a) and the judicial standards of reasonable restrictions under Article 19(2)<sup>37</sup>, although the Bill seeks to combat misinformation. The Bill leans more towards censorship than regulation and threatens the democratic value of freedom of expression in digital spaces by giving the government unfettered power to determine what is true and punish offenders.

### **H. Conclusion of the Analysis**

The Karnataka Mis-Information and Fake News (Prohibition) Bill - 2025 is once more a paradigm of how to tread a fine line between the legitimate interests of preventing false information and freedom of speech. The legislation does grant the State extensive power to regulate digital information (which is reflected in Section 2, 3, 5, 6, 7 and 13 of the Bill), however it does not offer sufficient pragmatic safeguards for judicial review, transparency, and oversight to ensure that it does not infringe on freedom of expression.

From the perspective of Indian media law, there is a risk that the Bill would undermine press freedom, hinder public debate and discourse, and exceed constitutional limitations. It is important to take a rights-based, transparent and proportionate approach - with independent safeguards and oversight, the careful development of definitions (and a broad approach that recognizes the existing framework), and procedural safeguards to ensure that attempts to limit false news does not undermine the very democratic freedoms the Bill seeks to protect.

### **I. Comparative Table**

**Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025 ("Karnataka Bill") vs. Protection from Online Falsehoods and Manipulation Act, 2019 ("POFMA", Singapore) vs. Network Enforcement Act (NetzDG) (Germany)**

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<sup>37</sup> Constitution, arts. 19(1)(a) and 19(2), supra note 8.

Feature	Karnataka Bill (India) <sup>38</sup>	Singapore POFMA <sup>39</sup>	Germany NetzDG <sup>40</sup>
<b>Definition of false information</b>	Fake news: misquotations, edited/distorted audio/video, fabricated content; misinformation: knowingly/recklessly false (Sec 2) <sup>41</sup>	False statements of fact affecting Singapore; satire/parody excluded <sup>42</sup>	Platforms must remove “obviously illegal” content; user reports guide action <sup>43</sup>
<b>Regulatory body</b>	State Authority chaired by Minister + legislators + platform reps (Sec 5-6) <sup>44</sup>	Minister/POFMA Office issues directions; judicial appeal limited <sup>45</sup>	Platforms themselves enforce; transparency reporting required <sup>46</sup>

<sup>38</sup> Karnataka Fake News Bill, *supra* note 7.

<sup>39</sup> POFMA, *supra* note 3.

<sup>40</sup> NetzDG, *supra* note 4.

<sup>41</sup> Karnataka Fake News Bill, *supra* note 3, s. 2.

<sup>42</sup> POFMA, *supra* note 3, ss. 4-5.

<sup>43</sup> NetzDG, *supra* note 4, s. 3.

<sup>44</sup> Karnataka Fake News Bill, *supra* note 7, ss. 5-6.

<sup>45</sup> POFMA, *supra* note 3, ss. 8-9.

<sup>46</sup> NetzDG, *supra* note 4, ss. 1-2. NetzDG, *supra* note 3, ss. 1-2.

<b>Penalties</b>	Misinformation: 2–5 yrs; Social media fake news: up to 7 yrs + ₹10 lakh fine; cognisable & non-bailable (Sec 3,7,12) <sup>47</sup>	Individuals: up to 5 yrs; Organisations: fines up to SGD 500k/1m <sup>48</sup>	Platforms fined up to €50 m for non-compliance <sup>49</sup>
<b>Procedural safeguards</b>	Special Courts; Section 14 bars Section 482 powers; limited prior judicial review <sup>50</sup>	Recipient may apply for review; minimal independent oversight <sup>51</sup>	Complaint mechanisms; risk of over-blocking; no direct criminalisation <sup>52</sup>
<b>Territorial reach</b>	Persons inside or outside Karnataka if affecting state (Sec 3(1)) <sup>53</sup>	Persons communicating in/into Singapore <sup>54</sup>	Platforms accessible in Germany <sup>55</sup>
<b>Constitutional / Free Speech Risk</b>	Broad/vague definitions, executive control, harsh punishments → high risk of censorship	Ministerial discretion; potential suppression of dissent	Over-blocking by platforms; pressure on freedom of expression

<sup>47</sup> Karnataka Fake News Bill, *supra* note 7, ss. 3, 7, 12.

<sup>48</sup> POFMA, *supra* note 3, ss. 12–13.

<sup>49</sup> NetzDG, *supra* note 4, s. 3.

<sup>50</sup> Karnataka Fake News Bill, *supra* note 7, s. 14; cf. Section 482, Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act No. 46 of 2023) [hereinafter BNS 2023].

<sup>51</sup> POFMA, *supra* note 3, s. 10.

<sup>52</sup> NetzDG, *supra* note 4, ss. 2–3.

<sup>53</sup> Karnataka Fake News Bill, *supra* note 7, s. 3(1).

<sup>54</sup> POFMA, *supra* note 3, s. 3.

<sup>55</sup> NetzDG, *supra* note 3, s. 1.

### **J. Contingencies from the Comparative Table**

While the Karnataka Bill imposes prison sentences (up to seven years) and non-bailable status comparable to POFMA and the NetzDG, it is indefinitely harsher. This harshness is problematic for digital democracy because it suggests a shift away from regulation and toward deterrence through criminal law.

While both Singapore's POFMA and Germany's NetzDG shy away from private-sector or government intervention, they incorporate some procedural protections—such as Singapore's appeal and Germany's transparency requirements. The lack of these procedural protections in the Karnataka Bill creates a greater potential for abuse or censorship.

The state-controlled mechanism in Karnataka is comparable to the POFMA (the minister's discretion) situation but is without Singapore's allegedly restrictive framework. This enhances the likelihood that the state will determine the truth, eroding the media's monitoring responsibilities and the inviolate independence prescribed by Indian media law.

The geographical scope of the Karnataka Bill (including people living outside of Karnataka) sets out a broad regulatory perimeter that creates issues of enforcement, jurisdiction, and chilling effects on situated regulations and that may immunize against and chill cross-border digital speech.

The comparative models show that there need not be a strict criminal penalty or a state monopoly over the "truth" to achieve regulation of disinformation. The Karnataka Bill's approach is thus more oppressive and poses greater risks to free speech.

## **V. LEGISLATIVE AND CONSTITUTIONAL COMPARISON OF FAKE NEWS LAWS IN INDIA**

The Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025<sup>56</sup> provides a very broad definition of fake news and misinformation that includes produced

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<sup>56</sup> Karnataka Fake News Bill, *supra* note 7.

material, altered audio or video, misquotations, or any statement that is inaccurate, whether intentionally or negligently. By contrast, the IT Act, 2000, which includes the Intermediary Guidelines and Digital Media Code 2022<sup>57</sup>,<sup>58</sup> is focused on intermediaries rather than individual users and mainly addresses "objectionable content," such as comments that are damaging, obscene, or defamatory. Similarly, other states, in particular Tamil Nadu and Uttar Pradesh, are developing or have drafts that are overall less severe than Karnataka laws and usually define fake news in a narrower manner than Karnataka, such as inaccurate information that threatens public health or order.

The regulatory arrangement outlined in the Karnataka Bill, which would create a State Authority chaired by a Minister and comprised of lawmakers and social media representatives, is exceedingly executive-centric and concentrates substantial power in an entity with a political mandate.<sup>59</sup> In stark contrast, the IT Act does not create a permanent regulatory entity, but rather delegates enforcement responsibilities to the IT Ministry and other officers assigned on a case-by-case basis. This lesser intrusiveness is evident in many of the other state-level drafts, which suggest an advisory or complaint-based authorities with very limited enforcement ability.

The Karnataka Bill establishes heavy penalties that impose criminal liability on users. For example, if misinformation is shared, then the maximum penalty applicable is two to five years in prison. If the misinformation is shared via social media, the penalty increases substantially to up to seven years in prison and/or a fine of up to ₹ 10 lakh. Each of these offenses is a cognizable, non-bailable offense. Unlike the Karnataka version, the IT Act does not punish ordinary users, and it only punishes intermediaries when insufficient action is shown post-removal or blocking orders. Draft rules in other

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<sup>57</sup> Ministry of Electronics & IT, Intermediary Guidelines and Digital Media Code, 2022 [hereinafter Digital Media Code 2022].

<sup>58</sup> Information Technology Act, 2000 (India) [hereinafter IT Act 2000].

<sup>59</sup> Smith Mehta, Karnataka's Fake News Bill is vague, dangerous and shows how policy-making tools can be used to serve ideological interests, The Indian Express (2025)

[https://indianexpress.com/article/opinion/columns/karnatakas-fake-news-bill-is-vague-dangerous-10105610/lite/?utm\\_](https://indianexpress.com/article/opinion/columns/karnatakas-fake-news-bill-is-vague-dangerous-10105610/lite/?utm_) (accessed 8 November 2025).

states are typically gentler, because they typically will rely either on civil penalties or light periods of incarceration.

The Karnataka Bill limits the protections present in the judicial and procedural process. Specifically, Section 14 prohibits the use of the High Courts' authority under Section 482 and, therefore, limits the mechanism for judicial oversight and raises the potential for procedural bullying. Special Courts are established to hear matters pertaining to offenses. In contrast, most bills at the state level address Section 482 powers and provide for appeals to state agencies and/or courts, with the IT Act allowing for judicial review through the High Court and the inherent powers of the Supreme Court.

The Karnataka Bill has a broad geographic scope of impact, invoking the law for those within and outside of Karnataka, as long as their conduct impacts residents of the state. While other state laws often restrict application to people or content that affects the state, the IT Act is applicable nationwide, with Section 69A permitting extraterritorial restriction of content available in India.<sup>60</sup>

Overall, the Karnataka Bill poses significant threats to free speech and the constitution because of its broad definitions, severe penalties, and concentrated executive authority, which could result in censorship and overreach. Karnataka's approach appears to be far more intrusive and potentially harmful to the democratic principles of free expression. In contrast, the IT Act balances free expression with reasonable restrictions and judicial safeguards, and other states' draft bills mitigate chilling effects through narrower definitions and procedural protections.

While the application of many state laws is restricted to people or content that has an impact in that state, the scope of the IT Act extends throughout the country, permitting extraterritorial limitation of information available in India under Section 69A. The proposed Karnataka Bill poses serious threats to free speech and constitutional principles by virtue of its wide definitions, harsh penalties, and concentrated executive power that may result in ministry censorship, and overreach, particularly

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<sup>60</sup> IT Act 2000, *supra* note 56, s. 69A.

when compared to the IT Act, which attempts to balance free speech and reasonable restrictions with judicial safeguards. Beyond that, other state draft bills include narrower definitions and procedural protections that mitigate chilling impacts on speech contrary to the Karnataka Bill, which is far more invasive and harmful to the democratic notions of free expression<sup>61</sup>.

## VI. CRITICAL APPRAISAL: DEMOCRACY VS CENSORSHIP DEBATE

The Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025 raises significant questions about how to achieve a balance between state control and democratic freedoms in the digital age. Supporters argue that the Bill is necessary to prevent the rapid spread of misinformation, which can put public safety, health, and electoral integrity at risk. A specialized regulatory body is established, as well as Special Courts, to provide accountability in the digital ecosystem and create a formal mechanism to respond to potential misinformation.

Nonetheless, the Bill's broad definitions of "fake news" and "misinformation" points to genuine overreach from a constitutional perspective. The prescription might conceal lawful expression, investigative journalism, and public dialogue by creating content that may be subjective or have context, and by affirming broad powers to an executive-dominated body. Section 14 restricts judicial review even further by prohibiting the use of any powers bestowed to the High Court under Section 482. This raises the specter of procedural abuse while curtailing the remedies available to parties wrongfully treated<sup>62</sup>.

These matters are emphasized by comparative perspectives. The Karnataka Bill is particularly harsh as it penalizes users directly, where India's IT Act, and proposed bills at the state level allow for judicial oversight and typically, assign responsibility

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<sup>61</sup> NewsLaundry, 'Bill needs to be binned': Karnataka government slammed for its fake-news bill (3 July 2025) <https://www.news laundry.com/2025/07/03/bill-needs-to-be-binned-karnataka-government-slashed-for-its-fake-news-bill?utm> (accessed 8 November 2025).

<sup>62</sup> Citizen Justice Project, Truth on Trial: Why Karnataka's Misinformation and Fake News (Prohibition) Bill, 2025 threatens free-speech, due process and democracy (2025) <https://cjp.org.in/truth-on-trial-why-karnatakas-misinformation-and-fake-news-prohibition-bill-2025-threatens-free-speech-due-process-and-democracy/?utm> (accessed 8 November 2025).

to intermediaries instead of individuals. Instances across the globe, including Singapore's POFMA and Germany's NetzDG, stress the importance of proportionality, independent review and transparency, and show that even well-intentioned laws can violate free speech or promote excessive blocking when safeguards are inadequate<sup>63</sup>.

Ultimately, the Bill exemplifies the tension between two imperatives: the responsibility to protect free speech as a necessary democratic value and the obligation to protect citizens against harmful disinformation. However, the explanations of "fake news" and "misinformation" are so broad that they signal genuine constitutional overreach. The remedy could therefore limit lawful expression, investigative journalism, and the public conversation, simply by creating content that is subjective or contextually situated, while vesting the executive exercise broad powers. Section 14 further limits the capacity for judicial review by stopping the High Court from exercising any powers it has under section 482. This raises the risk of an abuse of process, while also limiting the remedies available to any party improperly treated.

## VII. RECOMMENDATIONS AND SUGGESTIONS

1. The statutory definitions of "fake news" and "misinformation" should be narrowed, precise, and objective, eliminating vague terms that permit subjective executive interpretation.
2. Criminal sanctions, particularly *non-bailable offences* and long terms of imprisonment, should be replaced with graded civil and regulatory penalties, especially for individual users.
3. The proposed *Fake News Regulatory Authority* should be reconstituted as an independent, quasi-judicial body with minimal executive control and mandatory judicial representation.

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<sup>63</sup> Reuters, Indian tech hub state pushes jail terms for 'fake news', sparks worries (30 June 2025) <https://www.reuters.com/business/media-telecom/indian-tech-hub-state-pushes-jail-terms-fake-news-sparks-worries-2025-06-30/?utm> (accessed 8 November 2025).

4. Judicial oversight must be strengthened by restoring the inherent powers of High Courts, ensuring effective remedies against abuse of process.
5. Corrective and disabling directions should be subject to prior judicial scrutiny, except in narrowly defined emergency situations.
6. Greater emphasis should be placed on media literacy, fact-checking mechanisms, and platform transparency obligations, rather than punitive criminal law.
7. The Bill should expressly protect journalistic investigation, satire, dissent, and opinion, recognising their constitutional and democratic value.

## VIII. CONCLUSION

The Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025 illustrates the challenge of appropriately navigating the democratic principle of freedom of speech, while also protecting individuals from the harm of misinformation. Although intended to mitigate fake news, the Bill's wide-ranging definitions, executive authority and stringent penalties risk turning the digital ecosystem in India into a place of censorship, rather than moderation. Defining and precisely narrowing "fake news" and "misinformation" and introducing independent judicial or specialists sober and instructive protections for corrective and disabling orders, becomes crucial to upholding digital democracy's values<sup>64</sup>.

While promoting media literacy and citizen awareness programs can empower citizens to critically assess information on the internet, preserving the authority of the High Court under Section 482<sup>65</sup> will help to avoid an abuse of process. If India takes a rights-based, transparent, and appropriate form of regulation, India can manage misinformation effectively while upholding the fundamental liberties that are essential to its democracy.

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<sup>64</sup> Committee to Protect Journalists (CPJ), Indian state's proposed misinformation law opens door to criminalising press (2025) <https://cpj.org/2025/07/indian-states-proposed-misinformation-law-opens-door-to-criminalizing-press/?utm> (accessed 8 November 2025).

<sup>65</sup> Section 482, Bharatiya Nagarik Suraksha Sanhita, 2023 *supra* note 42.

## IX. BIBLIOGRAPHY

### A. Cases

1. Romesh Thappar v. State of Madras, *AIR 1950 SC 124*.
2. Brij Bhushan v. State of Delhi, *AIR 1950 SC 129*.
3. Shreya Singhal v. Union of India, (2015) 5 SCC 1.
4. Anuradha Bhasin v. Union of India, (2020) 3 SCC 637.

### B. Statutes and Bills

1. The Constitution of India, 1950.
2. Information Technology Act, 2000.
3. Karnataka Mis-Information and Fake News (Prohibition) Bill, 2025 (*Draft*).
4. Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

### C. Foreign Legislation

1. *Protection from Online Falsehoods and Manipulation Act*, 2019 (Singapore).
2. *Network Enforcement Act (NetzDG)*, 2017 (Germany).

### D. Books and Articles

1. Seervai, H.M., *Constitutional Law of India*, Universal Law Publishing.
2. Basu, D.D., *Commentary on the Constitution of India*, LexisNexis.
3. Anand, A. & Singh, Y.V., "Digital Democracy or Digital Censorship? An Analysis of Karnataka's Draft Fake News Law" (2025).