
MISINFORMATION ON SOCIAL MEDIA AND ITS IMPACT ON DEMOCRACY: LEGAL CHALLENGES IN INDIA

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ABSTRACT

Social media has made the deliberate manufacture of falsehood cheap, scalable and largely unattributable. This paper examines the Indian State's constitutional and regulatory response to online misinformation and argues that it suffers from a structural defect: falsity has never been an independent ground of restriction under Article 19(2) of the Constitution, yet almost every recent legislative and executive instrument treats it as though it were. The paper maps the current architecture the Information Technology Act, 2000, the IT Rules, 2021 as amended in 2023 and 2026, the Bharatiya Nyaya Sanhita, 2023, the Representation of the People Act, 1951, advisories of the Election Commission, and the Karnataka Bill, 2025 and analyses eight decisions that disclose a judiciary confident in striking down executive truth-determination but hesitant before informal, portal-based censorship. It concludes that India requires a narrowly drafted, harm-anchored and independently supervised framework rather than either criminalisation of falsehood or opaque administrative takedown.

Keywords: Misinformation; Deepfakes; Intermediary Liability; Safe Harbour; Electoral Integrity; Synthetically Generated Information.

INTRODUCTION

Democracy presupposes an informed electorate. The Constitution treats the free circulation of ideas as the precondition of self-government, which is why Patanjali Sastri J. observed in *Romesh Thappar v. State of Madras* that free speech lies at the foundation of all democratic organisation, for without free political discussion no public education is possible.¹ That premise is under strain: most Indians now encounter political information through the algorithmically curated feed, whose economics reward emotional intensity over accuracy.

The empirical literature is unambiguous about the asymmetry. In a study of the entire verified Twitter rumour cascade (2006–2017), Vosoughi, Roy and Aral showed that falsehood diffused farther, faster and more broadly than truth in every category, false political news fastest of all.² The effect is not merely informational. A falsehood targeted at an identifiable community degrades its standing as an equal participant in public life, which is why Amish Devgan located hate speech at the intersection of Article 19(1)(a) and the dignitarian guarantee of Article 21.³

India's regulatory answer has developed in three overlapping waves: criminal law and Section 69A blocking under the Information Technology Act, 2000 (2000–2021); conditional safe harbour shifting the burden onto platforms under the IT Rules, 2021; and, since the 2023 fact-check unit amendment and the 2026 Amendment Rules, regulation of synthetic content itself. Each wave has expanded executive discretion without a corresponding expansion of procedural safeguards.

CONCEPTUAL FRAMEWORK: MISINFORMATION, DISINFORMATION AND MALINFORMATION

Legal analysis of “fake news” has been impeded by the imprecision of the term itself. The scholarly consensus distinguishes three categories. Misinformation is false information circulated without an intention to deceive; disinformation is false information circulated with such intent; malinformation is accurate information deployed out of context in order to cause harm. The distinction is not academic. Criminal liability ordinarily presupposes *mens rea*, and

¹ ROMESH THAPPAR V. STATE OF MADRAS, AIR 1950 SC 124, 128 (India).

² Soroush Vosoughi, Deb Roy & Sinan Aral, *The Spread of True and False News Online*, 359 SCIENCE 1146, 1146–51 (2018).

³ AMISH DEVGAN V. UNION OF INDIA, (2021) 1 SCC 1, ¶¶ 33–41 (India).

a statute that punishes the mere sharing of a falsehood will inevitably capture the credulous forwarder alongside the architect of the campaign.⁴

A second, equally consequential distinction is between falsity and harm. A statement may be false yet harmless, or true yet gravely damaging; Indian constitutional law has consistently regulated harm rather than falsity. Chinmayi Arun's analysis of the 2018 lynchings argues that such rumour is better addressed through the settled doctrine of incitement which supplies the intent and proximity requirements that falsity alone lacks than through a new category of "false news".

A third category, largely absent from the pre-2023 vocabulary, is synthetic content. The Amendment Rules of 2026 now define "synthetically generated information" as audio, visual or audio-visual information artificially created or altered so as to appear real and indistinguishable from a natural person or real-world event.⁵ It is deliberately technology-neutral, focusing on the output not the method, and expressly excludes text-only content, routine or good-faith editing, document preparation, and accessibility, or translation tools that do not manipulate any material part of the content.⁶

THE INDIAN INFORMATION ECOSYSTEM: SCALE AND EVIDENCE

The Indian case is distinctive for encrypted messaging, visual and vernacular content, and low institutional trust. Garimella and Eckles, studying over five thousand political WhatsApp groups before the 2019 general election, found that about one in ten shared images and more of the most viral, were known misinformation, and that detection classifiers degraded rapidly as content shifted.⁷ Because the medium is encrypted, neither platform nor regulator can observe content at scale; enforcement therefore fails or migrates towards traceability mandates that compromise encryption for all users.

⁴ Chinmayi Arun, *On WhatsApp, Rumours, and Lynchings*, 54(6) ECON. & POL. WKLY. 30, 32–34 (2019).

⁵ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, G.S.R. 120(E) (Feb. 10, 2026) (in force Feb. 20, 2026); see Khaitan & Co, *MeitY Notifies the IT Amendment Rules 2026* (Feb. 16, 2026), <https://www.khaitanco.com/thought-leadership/MeitY-notifies-the-IT-Amendment-Rules-2026>.

⁶ MINISTRY OF ELECTRONICS & INFORMATION TECHNOLOGY, GOV'T OF INDIA, "Frequently Asked Questions on the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026", <https://www.meity.gov.in/static/uploads/2025/10/065b6deb585441b5ccdf8be42502a49c.pdf>.

⁷ Kiran Garimella & Dean Eckles, *Images and Misinformation in Political Groups: Evidence from WhatsApp in India*, 1(5) HARV. KENNEDY SCH. MISINFORMATION REV. (2020), <https://doi.org/10.37016/mr-2020-030>.

The demand-side evidence is no more encouraging. Badrinathan's field experiment with 1,224 respondents in the 2019 elections found that an hour-long media-literacy session did not, on average, improve respondents' ability to identify misinformation, and that trained ruling-party supporters became measurably less able to identify pro-attitudinal falsehoods.⁸ This matters for policy design: "media literacy", offered as the liberal alternative to censorship, is at best a partial answer and at worst may entrench motivated reasoning.

The 2026 Digital News Report records that in India only 39 per cent trust most news most of the time, 58 per cent are concerned about false or misleading information online, and 58 per cent rely on YouTube as a source of news.⁹ Globally it records the lowest trust since 2015, and the first year social media and video networks displaced both television and news organisations' own properties as the leading route to news. A population that distrusts institutional media but consumes news through platforms is structurally exposed to manipulation, and any legal response that further undermines independent verification will aggravate that exposure.

THE CONSTITUTIONAL FRAME

Falsity Is Not a Ground Under Article 19(2)

Article 19(1)(a) guarantees freedom of speech and expression, subject only to reasonable restrictions under Article 19(2) in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence. The enumeration is closed. In *Kaushal Kishore v. State of Uttar Pradesh*, (2023) 4 SCC 1, a Constitution Bench held that the Article 19(2) grounds are exhaustive and that no further restriction may be read in, even by invoking a competing fundamental right.¹⁰ Falsity, as such, appears nowhere in that list.

The consequence is doctrinally decisive. A restriction on speech cannot be justified merely because the speech is untrue; it must be traced to a recognised ground, the falsity must work

⁸ Sumitra Badrinathan, *Educative Interventions to Combat Misinformation: Evidence from a Field Experiment in India*, 115 AM. POL. SCI. REV. 1325, 1325–41 (2021).

⁹ JIM EGAN ET AL., REUTERS INST. FOR THE STUDY OF JOURNALISM, DIGITAL NEWS REPORT 2026 (2026), <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2026>.

¹⁰ KAUSHAL KISHORE V. STATE OF U.P., (2023) 4 SCC 1, ¶¶ 57–66 (India).

through a recognised ground: public order, defamation, incitement, or the security of the State. This is why *Shreya Singhal v. Union of India*, (2015) 5 SCC 1, struck down Section 66A: it punished information known to be false and sent to cause annoyance or inconvenience, the Court held these are not constitutional grounds, that the terms were incurably vague, and that a chilling effect necessarily followed.¹¹ The Court also read down Section 79(3)(b), holding that an intermediary must remove content only upon a court order or a government notification confined to Article 19(2) grounds.

Proportionality and Procedural Safeguards

Digital expression is now assessed through the proportionality standard of *K. S. Puttaswamy v. Union of India*, (2017) 10 SCC 1, and applied to communication shutdowns in *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637. In *Anuradha Bhasin*, decided in January 2020, the Court held that speech and trade over the internet are constitutionally protected, that any restriction must satisfy legitimate aim, suitability, necessity and balancing, that indefinite suspension is impermissible, and, critically here, that all orders restricting access must be published and open to judicial review.¹² This transparency requirement is the element most often disregarded by the instruments discussed below.

THE STATUTORY AND REGULATORY ARCHITECTURE

The Information Technology Act, 2000

Three provisions carry most of the regulatory weight. Section 69A empowers the Central Government to block public access to information on the Article 19(2)-cognate grounds, subject to the 2009 Blocking Rules (committee, hearing and reasoned orders). Section 79 confers conditional immunity on intermediaries, forfeited where due diligence is not observed. Section 66D penalises cheating by personation using a computer resource and applies readily to identity-based deepfakes. Section 69A is thus the constitutionally supervised route to removal; Section 79(3)(b), as the litigation below shows, has become the unsupervised one.

The IT Rules, 2021 and the 2023 Fact-Check Unit Amendment

The IT Rules, 2021 imposed due-diligence obligations, grievance officers and, for significant

¹¹ SHREYA SINGHAL V. UNION OF INDIA, (2015) 5 SCC 1, ¶¶ 82–95 (India).

¹² ANURADHA BHASIN V. UNION OF INDIA, (2020) 3 SCC 637, ¶¶ 25–28, 152 (India).

social media intermediaries, traceability. In April 2023, Rule 3(1)(b)(v) was amended to require intermediaries to make reasonable efforts to cause users not to host information identified as ‘fake, false or misleading’ about any business of the Central Government by a notified fact-check unit, on pain of losing safe harbour under Rule 7. The amendment made the Union at once interested party, arbiter and enforcer over speech about its own conduct a configuration the Bombay High Court found constitutionally intolerable.

The IT Amendment Rules, 2026: Regulating Synthetic Media

The most consequential intervention since 2021 is the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, notified on 10 February 2026 (G.S.R. 120(E)) and in force from 20 February 2026. Intermediaries that facilitate synthetically generated information must warn users of the legal consequences of unlawful content and deploy reasonable technical measures, including automated tools, to prevent child sexual abuse material, non-consensual intimate imagery, obscene content, content producing a false document, content on arms and ammunition, and content falsely depicting a person or real-world event.¹³ The compliance timelines have been compressed dramatically. The period to act on a court order or reasoned governmental intimation falls from thirty-six hours to three; non-consensual or morphed imagery must be removed within two hours rather than twenty-four. Grievance timelines fall from fifteen days to seven, from seventy-two to thirty-six hours for unlawful content, and to two hours for the most sensitive categories. Significant social media intermediaries must obtain user declarations as to whether content is synthetically generated, verify their accuracy and ensure labelling; the earlier ‘endeavour to deploy’ standard becomes an obligation to ‘deploy appropriate’ measures, converting a best-efforts duty into a strict one enforced by the threat of losing safe harbour.

Civil society has criticised the framework on three grounds: the definition of synthetic information is broad and turns on an undefined ‘reasonable person’ test of authenticity; that compelled labelling is itself a form of compelled speech; and automated synthetic-media detection is not reliable enough to support a strict-liability regime.¹⁴ A three-hour window

¹³ Freshfields, *India Targets Deepfakes and AI-Generated Content: Key Changes Under MeitY’s 2026 Amendments to the IT Rules* (Feb. 2026), <https://www.freshfields.com/en/our-thinking/blogs/technology-quotient/india-targets-deepfakes-and-ai-generated-content-key-changes-under-meitys-2026-102mjwn>.

¹⁴ Internet Freedom Found., *IT Intermediary Amendment Rules, 2026 Contradict Their Purpose* (Feb. 12, 2026), <https://internetfreedom.in/it-intermediary-amendment-rules-2026-contradict-their-purpose/>.

makes independent legal assessment practically impossible, so the rational course for any intermediary is reflexive removal which is to say, over-removal.

Criminal Law: The Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita, 2023, which replaced the Indian Penal Code from 1 July 2024, creates a new express offence of publishing false information affecting national integrity. Section 197(1)(d) penalises anyone who, by spoken or written words, signs, visible representations or electronic communication, publishes false or misleading information jeopardising the sovereignty, unity, integrity or security of India, punishable with up to three years, fine, or both; rising to five years where committed in a place of worship or religious assembly.¹⁵ Section 353 continues the offence of statements conducing to public mischief, now extended to electronic circulation, and Section 356 restates criminal defamation.

Section 197(1)(d) is the provision most vulnerable to challenge. It requires no intent to deceive, no proximity between publication and any actual danger, and leaves ‘misleading’ a term broader than ‘false’ undefined. Measured against Shreya Singhal, it reproduces the very vices vagueness, overbreadth and the absence of a proximate-danger requirement for which Section 66A was struck down.

Electoral Law and the Election Commission

The Representation of the People Act, 1951 addresses electoral falsehood in a targeted way. Section 123(4) makes a false statement of fact about a candidate’s personal character or conduct, made with knowledge of its falsity and calculated to prejudice that candidate’s prospects, a corrupt practice; Section 125 penalises promoting enmity on grounds of religion, race, caste, community or language in connection with an election; and Section 126(1)(b) bars election matter by electronic means in the forty-eight hours before poll closes. The statute is narrow and harm-anchored, requiring proof of knowledge, of falsity of fact rather than opinion, and of electoral prejudice.

¹⁵ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 197(1)(d), (2), INDIA CODE (2023); see CyberPeace Found., *Countering Misinformation: Provisions Under the Bharatiya Nyaya Sanhita, 2023*, <https://cyberpeace.org/resources/blogs/countering-misinformation-provisions-under-the-bharatiya-nyaya-sanhita-2023>.

The Election Commission of India has supplemented this with a series of advisories. Guidelines of 6 May 2024 on ethical social-media use directed parties to refrain from circulating deepfake audio and video. An advisory of 16 January 2025 required prominent labelling of synthetic content ('AI-Generated', 'Digitally Enhanced', 'Synthetic Content').¹⁶ An October 2025 advisory prescribed labels over ten per cent of the display, creator details in metadata, warned against misrepresenting the identity, appearance or voice of any person without consent, and takedown within three hours of such content on official party handles.¹⁷ The advisories are exhortatory: not framed under Section 169 of the 1951 Act, their breach attracts no sanction beyond the Model Code of Conduct.

State Legislation: The Karnataka Bill, 2025

The draft Karnataka Misinformation and Fake News (Prohibition) Bill, 2025 illustrates the constitutional risk of State-level criminalisation. The Bill would punish misinformation prejudicial to public health, safety, tranquillity or free and fair elections with two to five years' imprisonment, and some fake news with up to seven years and a fine up to ten lakh rupees, adjudicated by an authority composed largely of political functionaries.¹⁸ It defines misinformation as any wilful or reckless false statement of fact, using a 'reasonable man' standard for fake news.

Three objections are decisive. First, 'public tranquillity' is broader than 'public order' and is no Article 19(2) ground. Second, the adjudicatory body is neither independent nor judicial, and would determine truth where the State is often an interested party. Third, the Bill trenches on the field occupied by the Information Technology Act, 2000 and its Rules, raising repugnancy under Article 254 and the withdrawal of a statutory safe harbour conferred by Parliament.¹⁹

¹⁶ Election Comm'n of India, *Advisory on Labelling of AI-Generated and Synthetic Content Used in Election Campaigning* (Jan. 16, 2025), reproduced in INDIAai, Gov't of India, <https://indiaai.gov.in/article/election-commission-of-india-embraces-ai-ethics-in-campaigning-advisory-on-labelling-ai-generated-content>.

¹⁷ Shemin Joy, *Contaminating Level-Playing Field: Election Commission Issues Advisory to Political Parties on Using AI-Generated Content*, DECCAN HERALD (Oct. 2025), <https://www.deccanherald.com/amp/story/india%2Fcontaminating-level-playing-field-ec-issues-advisory-to-political-parties-on-using-ai-generated-content-3774347>.

¹⁸ *Karnataka Draft Bill to Curb Fake News Proposes 7 Years Jail*, DECCAN HERALD (June 22, 2025), <https://www.deccanherald.com/dhie/news-and-trends/2025/06/22/karnataka-draft-bill-to-curb-fake-news-proposes-7-years-jail>.

¹⁹ Vidhi Ctr. for Legal Pol'y, *An Analysis of the Karnataka Fake News Bill* (Sept. 2025), <https://vidhilegalpolicy.in/blog/an-analysis-of-the-karnataka-fake-news-bill/>; see also Oxford Human Rights Hub, *Weaponizing Vagueness: The Chilling Effect of Karnataka's Fake News Bill on Free Speech and Democratic*

THE JUDICIAL RESPONSE

Anuradha Bhasin v. Union of India (2020)

In *Anuradha Bhasin (2020)*, the Supreme Court addressed the communication restrictions in Jammu and Kashmir. It insisted that every restriction on digital communication be published, reasoned, temporally limited and reviewable. Accepting the aim of curbing false material, it still required necessity and the least restrictive means: a blanket suspension cannot be justified merely because some traffic on a network is harmful.

Amish Devgan v. Union of India (2021)

In Amish Devgan (2020), is the most sustained treatment of harmful speech in the digital era. It declined to quash first information reports against a television journalist and identified the elements of hate speech as content, intent and harm, requiring a proximate nexus between utterance and apprehended harm. Existing criminal law, so applied, addresses the dangerous subset of falsehood without a general offence of untruth.

Ajit Mohan v. Legislative Assembly, NCT of Delhi (2021)

In *Ajit Mohan (2021)*, the Court declined to quash summons issued by the Delhi Assembly's Committee on Peace and Harmony to Facebook India's Vice-President and Managing Director over its alleged failure to act against inflammatory content before the North-East Delhi riots of February 2020.²⁰ Kaul J. held that platforms wield significant influence and cannot be neutral conduits while resisting all accountability, though it excluded the 'prohibited domains' of law and order and criminal prosecution, which fall to the Union. It established that legislative oversight of platform conduct is constitutionally permissible a form of accountability that operates without prior restraint.

Mohammed Zubair v. State (NCT of Delhi) (2022)

In *Mohammed Zubair (2022)*, the Court granted interim bail to the co-founder of a fact-checking portal facing first information reports across several States over the same posts,

Pluralism (July 2025), <https://ohrh.law.ox.ac.uk/weaponizing-vagueness-the-chilling-effect-of-karnatakas-fake-news-bill-on-free-speech-and-democratic-pluralism/>.

²⁰ AJIT MOHAN V. LEGISLATIVE ASSEMBLY, NCT OF DELHI, W.P. (C) No. 1088 of 2020 (India Sup. Ct. July 8, 2021), <https://indiankanoon.org/doc/23436105/>.

transferred the investigations to one agency, and disbanded the Uttar Pradesh special investigation team.²¹ Chandrachud J. refused to bar the petitioner from posting, holding such an order disproportionate and chilling. It is doubly instructive: multiplicity of proceedings used as harassment, and verifiers of falsehood facing greater legal risk than its manufacturers.

Kaushal Kishore v. State of Uttar Pradesh (2023)

In Kaushal Kishore (2023), a Constitution Bench settled that the Article 19(2) grounds are exhaustive and cannot be supplemented, even by the dignitarian content of Article 21. It also held Articles 19 and 21 may sometimes be enforced against non-State actors. The holding cuts both ways: it forecloses a free-standing ‘falsity’ ground, while opening a route by which platforms whose design amplifies harmful falsehood may face constitutional scrutiny.

Kunal Kamra v. Union of India (2024)

The decisive authority is Kunal Kamra v. Union of India (2024). A Bombay High Court Division Bench split, Patel J. holding the 2023 amendment unconstitutional, Gokhale J. upholding it; on a reference, Chandurkar J. held that it violated Articles 14, 19(1)(a) and 19(1)(g), and the Court struck down the amendment to Rule 3(1)(b)(v).²²

‘Fake, false or misleading’ was held vague and undefined, ‘misleading’ in particular incapable of objective ascertainment. The Rule created no procedural safeguard: no notice, no hearing, no reasoned order and no appeal. It applied only to digital media, not print, and was thus discriminatory under Article 14. Above all, it worked as a coercive takedown mechanism outside Section 69A: since Rule 7 stripped safe harbour, no intermediary would refuse to remove flagged content, achieving indirectly what the statute did not permit directly. The Union’s appeal is pending. Commentary adds that determining truth and falsity is intrinsically interpretive and value-laden, and so is not a legitimate State function over speech concerning the State’s own conduct.²³

²¹ MOHAMMED ZUBAIR V. STATE (NCT OF DELHI), 2022 SCC OnLine SC 897, ¶¶ 20–29 (India), <https://indiankanoon.org/doc/193916847/>.

²² KUNAL KAMRA V. UNION OF INDIA, 2024 SCC OnLine Bom 3086 (Bom. H.C. Sept. 26, 2024) (India), <https://indiankanoon.org/doc/172701335/>.

²³ Abhinav Ravi & Aravind Sundar, *The Constitutional Case Against State-Controlled Fact-Checking: A Case Comment on Kunal Kamra v. Union of India*, 36(2) NAT’L L. SCH. INDIA REV. 1 (2025), <https://repository.nls.ac.in/nlsir/vol36/iss2/1>.

Wikimedia Foundation Inc. v. ANI Media Private Limited (2025)

In *Wikimedia Foundation v. ANI Media* (2025), the Court set aside a Delhi High Court interim order directing removal of a Wikipedia page reporting on pending defamation proceedings.²⁴ Bhuyan J. held that a takedown order amounts to prior restraint, issuable only where a real and substantial risk of prejudice to the administration of justice is demonstrated a threshold rarely met where the tribunal is composed of professional judges and that the High Court had reacted disproportionately. The judgment called judiciary and media foundational pillars of a democracy within the basic structure, each supplementing the other. Its relevance is direct: courts too can become instruments of over-removal, and proportionality binds judicial orders no less than executive ones.

X Corp. v. Union of India (2025)

The countervailing decision is *X Corp. v. Union of India* (2025), decided by a Karnataka High Court single judge. It challenged the “Sahyog” portal, through which officers of ministries, State departments and police issue takedown notices under Section 79(3)(b) of the Information Technology Act, 2000 with Rule 3(1)(d), contending that blocking is lawful only under Section 69A with the 2009 Blocking Rules’ safeguards. Nagaprasanna J. dismissed the petition, holding that Section 79(3)(b) with Rule 3(1)(d) is an independent, facilitative route tied to safe harbour, not censorship, the portal is “an instrument of public good”; and *X Corp.*, a foreign company, cannot invoke Article 19(1)(a), available only to citizens.²⁵

It sits uneasily with *Shreya Singhal*, which read Section 79(3)(b) to require a court order or government notification confined to Article 19(2) grounds, and with *Kunal Kamra*, which condemned precisely the structural coercion removal on pain of losing safe harbour, without notice or reasons that the Sahyog framework institutionalises. The record showed about 1,400 posts or accounts removed between March 2024 and June 2025, largely through the portal, under a 2023 memorandum authorising a wide class of officers to issue such notices.²⁶ An

²⁴ WIKIMEDIA FOUND. INC. V. ANI MEDIA PVT. LTD., 2025 INSC 656, Civ. App. No. 5391 of 2025 (India Sup. Ct. May 9, 2025), <https://indiankanoon.org/doc/107127594/>.

²⁵ X CORP. V. UNION OF INDIA, W.P. No. 7405 of 2025 (Kar. H.C. Sept. 24, 2025) (India); see Columbia Global Freedom of Expression, *X v. Union of India (Sahyog Portal)*, <https://globalfreedomofexpression.columbia.edu/cases/x-v-union-of-india-sahyog-portal>.

²⁶ SFLC.in, *Analysis of X Corp v. Union of India Judgment in Karnataka High Court* (Oct. 1, 2025), <https://sflc.in/xcorp-judgment-analysis/>; see also *An Exhaustive Takedown of Karnataka HC’s Decision Upholding Sahyog Portal in X Corp. v. Union of India*, THE LEAFLET, <https://theleaflet.in/digital-rights/law-and->

appeal is pending. The Bombay–Karnataka divergence on Section 79(3)(b) is now the central unresolved question of Indian intermediary law.

CONCLUSION

The Indian State’s response to online misinformation has been energetic but constitutionally unmoored. Its recurring error is to assume that the problem is falsity and the solution an authoritative determination of truth. The Constitution forbids that assumption: Article 19(2) contains a closed list of grounds, Kaushal Kishore has confirmed it cannot be enlarged, and Shreya Singhal and Kunal Kamra show what happens to instruments that ignore it.

The judicial record between 2020 and 2025 is genuinely mixed. Anuradha Bhasin, Mohammed Zubair, Kunal Kamra and Wikimedia form a coherent line insisting on proportionality, reasons and resistance to prior restraint. X Corp. interrupts it by legitimising an informal, high-volume and largely invisible removal architecture, and by holding that a foreign intermediary cannot invoke Article 19(1)(a) weakening the protection available to the very Indian users whose speech is removed. Resolving that conflict, and the pending appeal in Kunal Kamra, will shape Indian digital speech law for the next decade.

Misinformation is a genuine threat to Indian democracy, and constitutional scepticism about the present instruments is not a denial of that threat but an insistence that the remedy be proportionate to it. The alternative a State empowered to certify truth, enforcing that certification through private intermediaries under a three-hour clock and the permanent threat of losing safe harbour does not protect democratic deliberation. It relocates the power to define reality from the citizen to the executive: the very harm misinformation is said to inflict.

technology/an-exhaustive-takedown-of-karnataka-hcs-decision-upholding-sahyog-portal-in-x-corp-v-union-of-india.