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Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

LEGAL LIABILITY OF AI-GENERATED DEEPFAKE CONTENT IN ELECTORAL MISINFORMATION: A NOVEL INDIAN PERSPECTIVE

AUTHORED BY - SHREEJAL TRIPATHI

B.A., LL.B (H, 4th Semester

Amity University Lucknow Campus

CO-AUTHOR - DR. SARITA YADAV

Assistant Professor (Grade-1)

Amity University Lucknow Campus

ABSTRACT

This study examines deepfake technology in the context of election misinformation, with a particular emphasis on India. India doesn't have a targeted legal framework to deal with AI-created synthetic media in elections, but other democracies around the world are starting to legislate against this. This study looks at responses from around the world, looks at current Indian laws, finds important gaps, and suggests a custom-made regulatory model to protect electoral integrity while protecting constitutional rights.

Keywords: Deepfakes, Electoral Law, AI Regulation, Indian Legal System, Misinformation, Representation of the People Act, IT Act, BNS 2023

INTRODUCTION

Background: The Evolution of Deepfakes and Their Electoral Threat

Advances in artificial intelligence, namely in deep learning and generative adversarial networks (GANs), gave rise to deepfake technology. Deepfakes, which were first created for research, entertainment, and artistic purposes, have quickly matured into instruments that can produce incredibly lifelike artificial audio and video content. This technology can be used in political settings to create fake speeches, edit historical video, or very accurately imitate a candidate's voice and look. The potential for abuse during elections rises dramatically as deepfake generation becomes more affordable and more accessible.

The propagation of false deepfakes can have a disproportionately negative impact on local people in India, where voter diversity and regional differences significantly shape public opinion. The quick dissemination of information through apps like WhatsApp, which frequently act as the main source of news in rural regions, increases this threat. Therefore, creating a legal framework that can effectively reduce the threat requires an understanding of the development and workings of deepfakes.

Artificial intelligence (AI) and political communication have created new legal and moral issues. The spread of deepfake technology, which is artificial intelligence-created synthetic media designed to resemble real people and events, is among the most significant of these. Deepfakes can be used inventively and satirically, but their use in elections poses a threat to the fundamentals of democratic governance. India, the world's largest democracy, is increasingly digitizing its elections and political discourse. It is crucial to assess whether its legal infrastructure is prepared to deal with this new threat.

This essay examines the extent and effectiveness of current Indian laws in addressing deepfake elections. It also suggests a novel legal framework that guarantees electoral integrity without violating constitutional freedoms. The main thesis is that India's law currently doesn't have any specific provisions to control deepfake electoral misinformation, which calls for immediate legal reform.

LITERATURE REVIEW

The effects of deepfakes, especially in democratic settings, have been a concern for the global legal community. States like California and Texas in the US have passed laws specifically targeting deceptive deepfake videos during election times. Minnesota's 2024 deepfake law, on the other hand, has been under scrutiny for possible violations of the First Amendment. New Danish laws aim to combat deepfake identity theft by giving people copyright-like control over their digital likenesses.

Deepfakes and electoral misinformation are still in the early stages of academic research. A 2024 paper on arXiv discussed the psychological effects of hyper-realistic deepfakes on voter behavior and how hard it is to counter visual disinformation once it is spread. According to articles published on platforms like White Black Legal, Indian legal scholarship has highlighted

the inadequacies of the IT Act and cybercrime laws in addressing this threat, calling for doctrinal clarity and statutory recognition.

According to comparative legal research, especially from ISPI and the Law Society Online, democracies are trying out regulatory models like mandatory watermarking, disclosure obligations, and proactive platform takedown. Although deepfakes are being used in elections, no specific laws have yet been passed in India regarding this issue, which this paper aims to address.

THEORETICAL FRAMEWORK

Constitutional and Jurisprudential Dimensions of Deepfakes

The issue of electoral deepfakes engages critical constitutional values — notably, the right to freedom of speech and expression under Article 19(1)(a), and the right to free and fair elections implied under Article 324. While Article 19 protects political dissent and satire, the spread of malicious synthetic media tests the limits of permissible expression. Legal scholar Ronald Dworkin’s “rights as trumps” theory would argue that state restrictions on speech must pass the highest burden of justification.

In India, the Supreme Court has held in *People’s Union for Civil Liberties v. Union of India* (2003) that free and fair elections are a basic feature of the Constitution. Thus, regulating deepfakes — when they harm public understanding or manipulate voting behavior — can be justified as a reasonable restriction under Article 19(2).

The jurisprudence must evolve to reflect these new digital threats while respecting democratic values.

LEGAL FRAMEWORK IN INDIA

India does not currently have a standalone statute that addresses deepfakes. However, certain provisions within the existing laws are tangentially relevant:

- ***Representation of the People Act, 1951:***

Sections 123 and 126 of the Representation of the People Act of 1951 deal with corrupt activities and limitations on propaganda during elections, but they don't take into consideration misinformation produced by artificial intelligence or manipulated digital

media.

- ***Information Technology Act, 2000:***

In certain deepfake scenarios, Sections 66D (cheating by impersonation using computer resources) and 67 (posting obscene information) may be used. However, the Act lacks specificity regarding electoral disinformation.

- ***Bharatiya Nyaya Sanhita, 2023:***

There may be sections on slander, forgery, and cheating. However, enforcement is unclear due to the lack of terminology on modified digital information.

- ***Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021:***

These rules outline platform responsibilities but are vague on proactive detection and takedown of synthetic media.

The absence of statutory clarity and definitional precision hinders the Indian legal system's ability to address deepfakes during elections effectively.

CRITICAL ANALYSIS

The primary shortfall of India's current legal approach lies in the absence of explicit recognition of deepfakes as a distinct category of harm. This poses several challenges:

- ***Ambiguity in Enforcement:***

Courts and police lack specific statutory tools to prosecute deepfake creators effectively.

- ***Jurisdictional Overlaps:***

Conflicts often arise between cybercrime units, election commissions, and intermediaries over responsibility and authority.

- ***Freedom of Speech vs. Electoral Integrity:***

Legislators face a delicate balance between punishing malicious misinformation and preserving legitimate political satire and criticism.

- ***Technological Asymmetry:***

Deepfakes are increasingly difficult to detect and attribute. The absence of legal standards for admissibility of AI-related evidence further complicates enforcement.

The global experience—such as legal challenges faced by Minnesota's deepfake law—

demonstrates the need for nuanced legislation that safeguards constitutional rights while protecting democratic institutions.

There are certain cases we can look upto. Few of them are:

Case Example 1: The Delhi Deepfake Incident (2023)

In a controversial campaign video circulated in Delhi during the 2023 municipal elections, a deepfake clip emerged portraying a well-known opposition leader delivering a fabricated anti-national statement. The video, initially dismissed as satire, went viral across multiple platforms before being debunked. Although public outrage followed, law enforcement struggled to trace the origin due to lack of legal clarity and limited platform cooperation. No one was prosecuted, highlighting the enforcement vacuum.

Case Example 2: The US Elections and Legal Pushback

During the 2024 U.S. elections, a deepfake video falsely showing a candidate conceding defeat hours before voting ended led to public confusion and premature voter disengagement. Although state laws criminalizing deepfakes existed, litigation ensued over First Amendment rights. This incident shows how regulation must balance misinformation control and free speech — a challenge India too will face.

PROPOSED REFORMS

Drafting a Deepfake-Specific Electoral Integrity Law:

- Define and criminalize malicious electoral deepfakes.
- Include exceptions for satire, parody, and political commentary.

Amending the Representation of the People Act:

- Introduce provisions for digitally manipulated content.
- Mandate pre-election platform disclosures of AI-generated political content.

Strengthening the IT Act and Rules:

- Impose stricter content moderation timelines for deepfakes during elections.
- Require watermarking or metadata tagging for all AI-generated media.

Empowering the Election Commission:

- Grant investigative and takedown authority over electoral deepfakes.
- Establish partnerships with tech platforms for AI detection tools.

IMPLEMENTATION CHALLENGES

- **Technology Gaps:**

Advanced deepfake generating techniques may surpass detection technologies, which are still developing.

- **Building Capacity:**

AI literacy and digital forensics training are essential for the judiciary and law enforcement.

- **Coordination:**

Coherent enforcement requires a multi-agency strategy incorporating MeitY, ECI, and CERT-In.

- **Global Platforms:**

There are diplomatic and jurisdictional challenges when it comes to enforcing regulations against international platforms.

COMPARATIVE LEGAL ANALYSIS SECTION

Case Law on Digital Expression and Electoral Fairness

- *Shreya Singhal v. Union of India* (2015):

The Supreme Court struck down Section 66A of the IT Act, reinforcing the importance of free speech online.

- *Anuradha Bhasin v. Union of India* (2020):

Reaffirmed that access to the internet is a fundamental right under Article 19.

- *Ramesh Thappar v. State of Madras* (1950):

An early judgment emphasizing the centrality of political speech to democracy.

- *Citizens United v. FEC* (USA, 2010):

While allowing corporate political ads, dissenting judges warned about misinformation in media.

These cases offer judicial insight into how courts protect — and limit — digital political expression.

CONCLUSION

Deepfake technology poses a significant threat to electoral integrity, particularly in vibrant and diverse democracies like India. This paper demonstrates that existing Indian legal frameworks fall short of addressing this evolving threat. A multi-pronged legislative reform—combining new deepfake laws, amendments to electoral statutes, and empowered enforcement mechanisms—is necessary to future-proof India’s democratic processes. Simultaneously, safeguarding freedom of expression and digital rights must remain a priority as India charts its regulatory response.

WAY FORWARD

India is at the nexus of democracy and digitalization. The Election Commission needs to be ready for AI-based dangers as it starts implementing AI technologies for voter engagement and surveillance. Legal scholars, political stakeholders, civic society, and technologists should all be consulted on future laws. Additionally, India should think about setting up a separate "Digital Election Integrity Board" to monitor political information powered by AI and coordinate reactions with sites like YouTube, Meta, and X (previously Twitter). Lastly, a worldwide alliance on AI election standards, akin to the Paris Call on Cybersecurity, will assist India in influencing and gaining knowledge from global standards.

REFERENCES

1. Representation of the People Act, 1951, Sec. 123, 126, No. 43, Acts of Parliament, 1951 (India).
2. Information Technology Act, 2000, Sec. 66D, 67, No. 21, Acts of Parliament, 2000 (India).
3. Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Gazette of India.
4. Bharatiya Nyaya Sanhita, 2023, Sec. 171, 356 (India).
5. White Black Legal, “Deepfakes Unmasked: Decoding India’s Legal Landscape,” <https://www.whiteblacklegal.co.in>
6. arXiv, “A Survey of Deepfake Detection,” arXiv:2406.14290 (2024).
7. ISPI, “Impact of GenAI and Deepfakes on Electoral Processes,” <https://ispionline.it>
8. Business Insider, “Elon Musk’s X Lawsuit Over Minnesota Deepfake Law,” May 2025.

9. The Times, “Denmark Copyright Over Digital Likeness,” June 2024.
10. Law Society Online, “Legal Implications of Deepfakes,” 2024.

APPENDIX A: Timeline of Global Legal Responses to Deepfakes

YEAR	COUNTRY	LEGAL ACTION ON DEEPFAKES
2018	USA(California)	Ban on malicious deepfakes in elections
2020	China	Mandatory watermarking for synthetic media
2024	EU	AI Act – deepfakes as “high risk” category
2025	India	Draft bill discussed in Parliamentary Committee