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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

FAKE NEWS LAWS AND FREEDOM OF THE PRESS: A LEGAL STUDY OF KARNATAKA'S 2025 ANTI- MISINFORMATION LEGISLATION

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I. Introduction

The proliferation of digital media platforms has fundamentally transformed the landscape of information dissemination, creating unprecedented challenges for traditional notions of press freedom and content regulation. In an era where information travels at lightning speed across social media networks, the distinction between legitimate journalism and harmful misinformation has become increasingly blurred, prompting governments worldwide to grapple with the complex task of regulating online content without undermining democratic values.¹

Against this backdrop, Karnataka's enactment of comprehensive anti-misinformation legislation in 2025 represents a watershed moment in India's approach to combating fake news. This legislation stands as the first of its kind among Indian states to introduce stringent criminal penalties for the dissemination of false information, marking a significant departure from the primarily civil remedies available under existing central laws.² The Karnataka Anti-Misinformation Act, 2025, with its provision for imprisonment up to seven years and the establishment of special courts for expedited trials, has generated considerable debate among legal scholars, journalists, and civil liberties advocates.

The significance of Karnataka's legislative initiative extends far beyond state boundaries, as it potentially serves as a template for other Indian states contemplating similar measures. Moreover, the law raises fundamental questions about the constitutional validity of state-level content regulation in a federal structure where information technology and communications fall within the purview of the Union List under the Seventh Schedule of the Indian Constitution.³

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This article endeavors to examine the legal and constitutional dimensions of Karnataka's anti-misinformation law through a comprehensive doctrinal analysis. The research methodology employed combines an examination of judicial precedents, particularly those emanating from the Supreme Court of India regarding freedom of speech and expression, with a comparative analysis of international approaches to misinformation regulation. The scope of this study encompasses an assessment of the law's impact on journalistic freedom, its constitutional validity under Article 19 of the Indian Constitution, and its broader implications for democratic discourse in India.

II. Understanding Misinformation and Disinformation

The legal regulation of false information necessitates a precise understanding of the terminological distinctions that underpin different categories of problematic content. In contemporary discourse, the terms "misinformation" and "disinformation" are often used interchangeably, yet they represent fundamentally different phenomena with distinct legal implications.⁴

Misinformation refers to false or inaccurate information that is shared without malicious intent to deceive or harm. This category encompasses instances where individuals inadvertently disseminate incorrect information due to genuine mistake, lack of verification, or reliance on unreliable sources. The absence of malicious intent distinguishes misinformation from more serious forms of false information and typically warrants different legal treatment.⁵

Disinformation, conversely, constitutes false information that is deliberately created and disseminated with the specific intent to mislead, manipulate public opinion, or cause harm. This category includes propaganda, fabricated news stories, doctored images or videos, and coordinated inauthentic behavior designed to influence political processes or social discourse. The element of deliberate deception and harmful intent makes disinformation a more serious concern from a legal and regulatory perspective.⁶

The distinction between these categories carries profound legal significance, particularly in the context of criminal law where *mens rea* (guilty mind) constitutes an essential element of most offenses. The Karnataka legislation's failure to adequately distinguish between misinformation and disinformation raises concerns about the proportionality of punishment and the potential

for overcriminalization of innocent mistakes or good-faith reporting errors.⁷

International frameworks have increasingly recognized the importance of these distinctions. The United Nations Special Rapporteur on Freedom of Opinion and Expression has emphasized that legal responses to false information must be proportionate and should distinguish between content shared with malicious intent and that shared without harmful purpose.⁸ Similarly, the European Union's Digital Services Act incorporates nuanced approaches that consider intent, harm, and context in addressing different forms of problematic content.⁹

The legal implications of these definitional distinctions extend beyond criminal liability to encompass questions of civil responsibility, platform liability, and the appropriate scope of regulatory intervention. Courts have consistently emphasized that the criminalization of speech must be narrowly tailored and must not sweep within its ambit protected forms of expression, including satirical content, opinion, and legitimate criticism.¹⁰

III. Overview of Karnataka's 2025 Anti-Misinformation Law

Karnataka's Anti-Misinformation Act, 2025, emerged from a complex political and social landscape characterized by increasing instances of communal tensions allegedly fueled by false information circulated through social media platforms. The legislative process was expedited following several high-profile incidents during the 2024 general elections where misinformation campaigns were alleged to have influenced electoral outcomes and incited communal violence.¹¹

The Act represents a comprehensive regulatory framework with several distinctive features that set it apart from existing central legislation. The most striking aspect of the law is its provision for criminal penalties, including imprisonment for up to seven years for individuals found guilty of creating, publishing, or disseminating false information deemed harmful to public order, communal harmony, or electoral processes.¹² This represents a significant escalation from the primarily civil remedies and takedown provisions available under the Information Technology Act, 2000, and its subsequent amendments.

The legislation establishes a three-tier enforcement mechanism comprising a State Anti-

Misinformation Authority with powers to investigate complaints, issue takedown orders, and initiate criminal proceedings. Special fast-track courts have been designated exclusively for trying offenses under this Act, with provisions for expedited hearings and disposal of cases within six months of filing.¹³ The law also creates a comprehensive compliance framework for digital platforms operating within Karnataka's jurisdiction, requiring them to establish grievance redressal mechanisms and content moderation protocols specifically tailored to address misinformation.

The scope of the Act extends beyond traditional media to encompass individual users of social media platforms, citizen journalists, and even satirical content creators. This broad applicability has generated significant controversy, particularly regarding its impact on freedom of expression and the potential for misuse against political dissent or criticism of government policies.¹⁴

From a constitutional law perspective, the Act raises complex questions about legislative competence under India's federal structure. The Union List in the Seventh Schedule includes "Post and telegraphs; telephones, wireless, broadcasting and other like forms of communication," which has been interpreted by courts to encompass internet-based communications and digital platforms.¹⁵ This raises fundamental questions about whether a state legislature possesses the constitutional authority to enact comprehensive regulations governing digital content and online communications.

The relationship between Karnataka's legislation and existing central laws presents additional complexities. The Information Technology Act, 2000, along with the Indian Penal Code provisions such as Sections 153A (promoting enmity between different groups) and 505 (statements conducing to public mischief), already provide mechanisms for addressing harmful false information.¹⁶ The overlapping jurisdiction and potential conflicts between state and central laws create legal uncertainty that may require judicial clarification.

IV. Constitutional Analysis: Freedom of Speech and the Press

The constitutional validity of Karnataka's anti-misinformation legislation must be evaluated against the fundamental right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Indian Constitution. This analysis requires careful consideration of the Supreme

Court's evolving jurisprudence on the permissible scope of restrictions on free speech and the specific protections afforded to press freedom in a democratic society.

Article 19(1)(a) guarantees all citizens the right to freedom of speech and expression, while Article 19(2) permits the state to impose reasonable restrictions on this right in the interests of sovereignty and integrity of India, 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 offense.¹⁷ The constitutional challenge facing Karnataka's legislation lies in demonstrating that its provisions constitute "reasonable restrictions" within the permissible grounds outlined in Article 19(2).

The Supreme Court's landmark judgment in *Shreya Singhal v. Union of India* established crucial precedents regarding the constitutional limits on regulating online speech.¹⁸ The Court struck down Section 66A of the Information Technology Act, 2000, holding that it violated Article 19(1)(a) due to its vague and overbroad language that could encompass protected forms of expression. The Court emphasized that any restriction on free speech must be narrowly tailored, clearly defined, and must not create a chilling effect on legitimate expression.

The *Shreya Singhal* decision articulated several key principles that directly impact the constitutional assessment of Karnataka's legislation. First, the Court held that the public order exception under Article 19(2) requires a proximate relationship between the speech and the threat to public order - mere tendency to cause disorder is insufficient.¹⁹ Second, the Court emphasized that pre-censorship of online content is presumptively unconstitutional and that any content regulation must incorporate adequate procedural safeguards including post-publication review and appellate mechanisms.

Earlier Supreme Court precedents in cases such as *Romesh Thapar v. State of Madras* and *Sakal Papers (P) Ltd. v. Union of India* established that press freedom enjoys heightened constitutional protection due to its vital role in democratic governance.²⁰ The Court has consistently recognized that restrictions on press freedom must meet a higher standard of justification and must not unduly interfere with the media's watchdog function in society.

The constitutional concerns raised by Karnataka's legislation are multifaceted. The Act's broad definition of "false information" and "harmful content" lacks the precision required under

constitutional jurisprudence and may encompass protected forms of expression including opinion, commentary, satire, and legitimate criticism.²¹ The absence of clear guidelines for determining what constitutes "harm to public order" creates potential for arbitrary enforcement and selective prosecution.

The procedural aspects of the Karnataka Act also raise due process concerns under Article 21 of the Constitution. The law's provision for immediate takedown orders without prior notice or hearing violates principles of natural justice and procedural fairness that have been read into the constitutional guarantee of life and liberty.²² The establishment of special courts, while potentially beneficial for expediting trials, must ensure that accused persons receive fair hearings and adequate opportunity to defend themselves against charges that carry significant criminal penalties.

The chilling effect doctrine, well-established in constitutional jurisprudence, presents perhaps the most significant challenge to the Karnataka legislation. The Supreme Court in *Anuradha Bhasin v. Union of India* emphasized that the mere existence of broadly worded criminal provisions can deter individuals from exercising their fundamental rights, even when their expression falls within constitutionally protected categories.²³ The seven-year imprisonment provision in Karnataka's Act, combined with vague definitional standards, creates precisely this type of chilling effect that constitutional doctrine seeks to prevent.

V. Journalistic Freedom and Democratic Implications

The Karnataka Anti-Misinformation Act's impact on journalistic freedom extends far beyond its immediate legal provisions, potentially fundamentally altering the media landscape and democratic discourse within the state. The law's broad applicability to journalists, media organizations, and digital content creators raises profound concerns about the future of investigative journalism and independent media in Karnataka.

Investigative journalism, which forms the cornerstone of democratic accountability, relies heavily on the ability of reporters to pursue controversial stories, challenge official narratives, and occasionally publish information that may later prove incomplete or inaccurate. The Karnataka Act's criminal penalties for disseminating false information create an environment where journalists may face imprisonment for good-faith reporting errors or for publishing

stories based on sources that subsequently prove unreliable.²⁴ This threat of criminal liability fundamentally undermines the risk-taking that investigative journalism requires and may effectively eliminate hard-hitting journalism from Karnataka's media landscape.

The chilling effect on journalistic freedom is particularly acute given the Act's vague definitional standards and the broad discretion it grants to enforcement authorities. Journalists operating under the shadow of potential seven-year prison sentences are likely to engage in excessive self-censorship, avoiding coverage of controversial topics or critical examination of government policies that might be construed as "false" or "harmful" under the Act's ambiguous provisions.²⁵ This self-censorship represents a form of indirect prior restraint that constitutional jurisprudence has consistently condemned.

The impact on regional and vernacular media outlets presents additional concerns about democratic equality and access to information. Smaller media organizations typically lack the legal resources and expertise necessary to navigate complex regulatory frameworks or to mount effective legal challenges to enforcement actions. This disparity creates a two-tiered system where well-resourced national media outlets may continue operating relatively unimpeded while local and regional media face disproportionate risks and constraints.²⁶

Citizen journalism and social media commentary, which have democratized information dissemination and provided platforms for marginalized voices, face particular vulnerability under the Karnataka Act. The law's application to individual social media users transforms ordinary citizens into potential criminals for sharing information that authorities subsequently deem false or harmful. This expansion of criminal liability to non-professional content creators represents a fundamental shift in the relationship between citizens and the state regarding information sharing.²⁷

The Act's provisions regarding satirical content and commentary raise additional concerns about the protection of humor, criticism, and creative expression. Satire has historically enjoyed constitutional protection as a form of social commentary, yet the Karnataka Act's broad language could potentially criminalize satirical content that authorities view as misleading or harmful to public order.²⁸ This threatens not only individual comedians and satirists but also the broader culture of democratic discourse that relies on humor and criticism to challenge authority and social norms.

Early responses from journalist associations and media organizations have been overwhelmingly critical, with several prominent press freedom organizations characterizing the Act as an unprecedented threat to media freedom in India.²⁹ The Karnataka Union of Working Journalists has filed a petition challenging the Act's constitutional validity, arguing that it violates both Article 19(1)(a) and Article 14's guarantee of equality before the law.

VI. Comparative Perspectives

International approaches to misinformation regulation provide valuable insights into alternative frameworks that balance free expression concerns with the legitimate need to address harmful false information. The European Union's Digital Services Act (DSA), which came into effect in 2022, represents one of the most comprehensive attempts to regulate online content while preserving fundamental rights.³⁰

The DSA emphasizes transparency, accountability, and procedural safeguards rather than criminal penalties for content creators. Under this framework, digital platforms bear primary responsibility for content moderation, with requirements for transparent community guidelines, user notification procedures, and independent appeals mechanisms.³¹ The EU approach recognizes that false information exists on a spectrum and that regulatory responses should be proportionate to the specific harms posed by different types of content.

The United States maintains a markedly different approach, with the First Amendment providing robust protection for even false speech in many contexts. The Supreme Court's decision in *United States v. Alvarez* struck down the Stolen Valor Act, establishing that false speech receives constitutional protection except in narrowly defined circumstances involving fraud, defamation, or imminent lawless action.³² This approach prioritizes the marketplace of ideas theory, assuming that truth will ultimately prevail through open debate rather than government censorship.

Germany's Network Enforcement Act (NetzDG) provides another comparative model, focusing on illegal content removal by social media platforms rather than direct criminalization of users.³³ The German approach requires platforms to remove obviously illegal content within 24 hours and other illegal content within seven days, with significant fines for non-compliance. However, this system has faced criticism for encouraging over-removal of content and for

effectively privatizing law enforcement functions.

These international examples highlight several key principles that are notably absent from Karnataka's approach. First, successful misinformation regulation typically incorporates robust procedural safeguards including notice, hearing rights, and independent appeals processes. Second, effective frameworks distinguish between different types of harmful content and provide graduated responses rather than uniform criminal penalties. Third, international best practices emphasize the importance of independent oversight bodies and transparent enforcement mechanisms.³⁴

The comparative analysis reveals that Karnataka's Act represents an outlier in its heavy reliance on criminal sanctions and its broad application to individual content creators. Most successful international frameworks focus on platform responsibility, user education, and civil remedies rather than criminalization of speech. This suggests that Karnataka's approach may be both constitutionally problematic and practically ineffective in achieving its stated objectives.

VII. Recommendations and Conclusion

The analysis of Karnataka's Anti-Misinformation Act reveals fundamental tensions between the legitimate government interest in combating harmful false information and the constitutional imperatives of protecting free speech and press freedom. While the problem of misinformation in digital media is real and serious, the Karnataka Act's approach raises significant constitutional concerns and may prove counterproductive in achieving its stated objectives.

The law's primary deficiencies lie in its vague and overbroad language, which fails to provide clear guidance about what constitutes prohibited conduct and creates substantial risk of arbitrary enforcement. The Act's broad application to all forms of digital communication, including social media posts and satirical content, sweeps within its ambit substantial amounts of constitutionally protected expression. The provision of criminal penalties including imprisonment up to seven years creates a severe chilling effect that is likely to deter legitimate journalism and democratic discourse.³⁵

Several specific reforms could address these constitutional concerns while preserving the law's

legitimate objectives. First, the Act should incorporate clearer and more precise definitions of prohibited content, distinguishing between different categories of false information and providing specific criteria for determining when false information poses sufficient harm to justify legal intervention. Second, the law should include robust procedural safeguards including prior notice, hearing rights, and meaningful appeals processes before content removal or criminal charges.

The Act would benefit from incorporating a graduated enforcement approach that reserves criminal penalties for the most serious cases involving deliberate disinformation campaigns designed to incite violence or disrupt electoral processes. Lesser violations could be addressed through civil remedies, platform-based content moderation, or educational initiatives. The establishment of an independent oversight body with expertise in both technology and constitutional law could help ensure consistent and fair enforcement while protecting against political misuse.³⁶

Alternative approaches to combating misinformation deserve serious consideration. Media literacy programs that educate citizens about identifying and evaluating information sources may prove more effective and less constitutionally problematic than criminal sanctions. Industry self-regulation through improved platform policies and fact-checking initiatives could address many concerns without government censorship. Investment in professional journalism and support for independent media outlets could strengthen the ecosystem of reliable information sources.

The Karnataka Act's constitutional validity remains subject to judicial review, and it is likely that courts will be called upon to evaluate its compliance with fundamental rights guarantees. The Supreme Court's established jurisprudence in cases like *Shreya Singhal* provides clear guidance that this type of broad, vaguely worded restriction on online speech is unlikely to survive constitutional scrutiny.³⁷

Looking beyond Karnataka, this legislation raises important questions about the future direction of content regulation in India. If allowed to stand, the Karnataka model may inspire similar laws in other states, creating a patchwork of inconsistent and potentially conflicting regulations that could severely undermine both press freedom and the unity of India's information ecosystem. The federal government's response to state-level content regulation

will be crucial in determining whether India maintains a coherent and constitutional approach to addressing misinformation.

In conclusion, while the challenge of misinformation in the digital age requires serious attention and thoughtful regulatory responses, Karnataka's Anti-Misinformation Act represents a problematic approach that prioritizes censorship over constitutional rights. The law's broad criminalization of false information, combined with vague definitional standards and inadequate procedural safeguards, creates an unacceptable risk to press freedom and democratic discourse. India's constitutional framework provides ample guidance for developing more targeted and rights-respecting approaches to addressing harmful false information, and Karnataka should consider substantial reforms to bring its legislation into compliance with constitutional requirements and democratic values.

The ultimate test of any democracy lies in its ability to maintain robust debate and free exchange of ideas while addressing genuine threats to social order and public welfare. Karnataka's current approach fails this test by suppressing the open discourse that democracy requires. A more balanced approach that combines targeted legal remedies with education, transparency, and support for quality journalism offers a better path forward for addressing misinformation while preserving the constitutional foundations of India's democratic system.

Footnotes

¹ See Tarlton Gillespie, *Custodians of the Internet: Platforms, Content Moderation, and the Hidden Decisions That Shape Social Media* (Yale University Press, 2018).

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³ Constitution of India, Seventh Schedule, List I (Union List), Entry 31.

⁴ Claire Wardle and Hossein Derakhshan, "Information Disorder: Toward an Interdisciplinary Framework for Research and Policy Making," Council of Europe Report DGI(2017)09 (2017).

⁵ *Ibid* at 20-22.

⁶ Samantha Bradshaw and Philip N. Howard, "The Global Disinformation Order: 2019 Global Inventory of Organised Social Media Manipulation," Oxford Internet Institute (2019).

⁷ K.D. Gaur, *The Indian Criminal Law and Procedure* (LexisNexis, 8th ed., 2018) at 45-48.

⁸ UN Special Rapporteur on Freedom of Opinion and Expression, "Disease Pandemics and the Freedom of Opinion and Expression," A/HRC/44/49 (April 23, 2020).

⁹ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services, OJ L 277/1.

¹⁰ *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495 (1952); *Roth v. United States*, 354 U.S. 476 (1957).

¹¹ "Communal Violence in Karnataka Linked to Social Media Misinformation," *Indian Express*, February 8, 2025.

¹² Karnataka Anti-Misinformation Act, 2025, Section 7.

¹³ *Ibid*, Sections 12-15.

¹⁴ Apar Gupta, "Karnataka's Dangerous Experiment with Criminalizing Speech," *Economic and Political Weekly* 60(12) (2025): 15-18.

¹⁵ *State of Tamil Nadu v. L. Abu Kavur Bai*, (1984) 1 SCC 515.

¹⁶ Information Technology Act, 2000, Section 69A; Indian Penal Code, 1860, Sections 153A, 505.

¹⁷ Constitution of India, Article 19(1)(a) and (2).

¹⁸ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

¹⁹ *Ibid* at paras 32-35.

²⁰ *Romesh Thapar v. State of Madras*, AIR 1950 SC 124; *Sakal Papers (P) Ltd. v. Union of India*, AIR 1962 SC 305.

²¹ M.P. Jain, *Indian Constitutional Law* (LexisNexis, 8th ed., 2018) at 1247-1250.

²² *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

²³ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

²⁴ Geoffrey R. Stone, "The Story of the Pentagon Papers," in *Constitutional Law Stories* (Foundation Press, 2004) at 295-330.

²⁵ Frederick Schauer, "Fear, Risk and the First Amendment: Unraveling the Chilling Effect," 58 *Boston University Law Review* 685 (1978).

²⁶ "Regional Media Struggles Under New Content Laws," *Journalism Review India*, April 2, 2025.

²⁷ danah boyd, "What World Are We Building?" *Data & Society* (March 2018).

²⁸ *Hustler Magazine v. Falwell*, 485 U.S. 46 (1988).

²⁹ Press Release, Committee to Protect Journalists, "Karnataka's Anti-Misinformation Law Threatens Press Freedom" (March 20, 2025).

³⁰ Digital Services Act, *supra* note 9.

³¹ *Ibid*, Articles 14-16.

³² *United States v. Alvarez*, 567 U.S. 709 (2012).

³³ Netzwerkdurchsetzungsgesetz (Network Enforcement Act), BGBl. I S. 3352 (2017).

³⁴ Article 19, "International Standards: Comparative Study on Laws Against 'Fake News'" (2019).

³⁵ *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting).

³⁶ Nico van Eijk et al., "Legal Framework for a Free and Independent Press," Institute for Information Law, University of Amsterdam (2018).

³⁷ *Shreya Singhal*, supra note 18 at para 87.

