

Executive Summary

1. What do you believe are the key challenges raised by disinformation? What measures would you recommend to address them?

- We are specifically addressing India where disinformation has been especially toxic and used as a tool for propaganda, lawfare, suppressing freedom of religion and expression, and political and religious persecution.
- A fundamental problem in India is the widespread [government / political ownership of media](#) where a large proportion of Indian media operations are owned by politicians or political parties, therefore undermining their journalistic independence. This dynamic leads to the weaponization and politicization of media where lies, propaganda, and political persecution via media spread unchecked and India's [media cannot speak truth to power](#). A recent report by Reporters Without Borders published report "Media Ownership - India" concluded that *"Some of the leading outlets are controlled by individuals with political ties. The majority of the media companies have business and political affiliations...the convergence of politics and media and the resulting interdependence between media, business and politics presents a high risk to media freedom and pluralism in India."* Indian media often engages in rampant manipulation of news to gain ratings. A recent [article](#) documents this toxic dynamic and concluded that *"Television news channels have long ceased to be driven by news or news values. Their sole pursuit is to score television rating points (TRPs) by any means—be it through fake news, hate propaganda, witch hunts, media trials, polarising communities, demonising people and personalities or airing lies and falsehoods."* [Popular media personalities such as Arnab Goswami](#) and others have been shown to engage in such actions. The NBA (National Broadcasters Association) can only make recommendations, but these have not been enforced by the government.
- India's judiciary is often adversely influenced and undermined by a [phenomenon](#) referred to as "trial by media" whereby media coverage and narratives are used to shape public opinion in such a way that courts are improperly influenced to rule in cases based on media propaganda rather than the facts of the case. This pernicious dynamic undermines the rule of law in India and has been extensively [documented](#) by qualitative and quantitative methods.
- Such "trial by media" is often driven by govt owned media to create an overwhelming scenario of "guilty until proven innocent". Often when asked to prove these facts in court, government machinery is used to generate false witnesses or give false evidence.

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- Fake news also spreads unchecked through social media, [resulting in causing riots, lynching, mob violence and hatred](#) among people. Gossipy tidbits, edited pictures, misleading content sources, spurred and planted stories spread like a forest fire among 564.5 million internet users in India through social media platforms, like- Whatsapp, Facebook, Twitter. Some popular examples of fake news in India are- [Muzzafarnagar riots of 2013](#), Najeeb Ahmed missing JNU student to have joined ISIS, [false persecution of Swami Nithyananda](#), etc.

2. Question 2:

- a. What legislative, administrative, policy, regulatory or other measures have Governments taken to counter disinformation online and offline?**

India has laws that prohibit misinformation (Sections 505(1), 153, 499, and 500 of the Indian Penal Code. But these laws are not [consistently](#) enforced due to political bias and instead heavy-handed measures such as internet shutdowns are often employed instead.

- b. What has been the impact of such measures on i) disinformation; ii) freedom of opinion and expression; and iii) other human rights?**

Some recourse exists in India to file complaints, but these are mainly to media self-regulatory bodies such as NBA, BCCC (Broadcast Content Compliance Council), IBF (Indian Broadcasting Foundation) but these are toothless against fake news spread on social media. Even Section 153 (sharing false information leading to violence or harm) has never been used against violence stemming from social media.

- c. What measures have been taken to address any negative impact on human rights?**

3. Question 3:

- a. What policies, procedures or other measures have digital tech companies introduced to address the problem of disinformation?**

Digital companies have introduced the capability for individuals to report on individuals and content on their platform based on a broad set of pre-defined criteria including but not limited to suicide, fake news, impersonation, copyright violation, trademark violation, impersonation, abuse against minor, religion, etc. Once reported it goes through an in-house review and the user is informed about the result. The action could

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lead to the taking down of the content or user depending on the nature of the violation. Accounts of repeated violators are taken [down](#).

Additionally, Most of the actions of global digital media companies have been around bringing transparency to political ads and fake news. In the case of political ads, the companies instituted mandatory disclosure forms. In the case of fake news, they rely on media designated as fact-checker.

b. To what extent do you find these measures to be fair, transparent and effective in protecting human rights, particularly freedom of opinion and expression?

Except in the case of copyright and trademark violations, the platforms have been ineffective in stemming the rise of abuse of women, children of especially persecuted communities like ASMT.

Most of the measures by digital companies are reactive in nature i.e. they rely on vigilant users or aggrieved parties to report. The experience for many in the ASMT community has been too traumatic leading to self-imposed deplatforming. The ASMT community responded to this crisis by running various support and counseling groups.

Many motivated and professional groups have successfully gamed the reporting system provided by the companies. This has resulted in repeated deplatforming of persecuted communities like ASMT. For a persecuted and disenfranchised community like ASMT digital platforms are the only means to exercise freedom of expression. Often it's the difference between life and death.

The process of adjudication of complaints by users on the platform is not transparent. Since the details of the process are not shared resulting in fuelling the perception of the arbitrary nature of the process.

Transparency to political sending is a welcome move but it's not a major problem to have any meaningful impact.

The problem with fake news is so severe and politically motivated for any fact-checkers to make any impact. As demonstrated in the case study below, Indian media is severely compromised to effectively deal with disinformation in India. The digital platforms don't hold them accountable.

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c. What procedures exist to address grievances and provide remedies for users, monitor the action of the companies, and how effective are they?

There is no oversight or monitoring by the Indian government on any of the digital media companies. In India, aggrieved parties can approach the companies themselves, police, or courts.

The companies are not transparent about their review process and act after the fact after a complaint. The judiciary process in India is known to be very slow and easily accessible for regular citizens.

There is no legitimate recourse available for ordinary citizens especially in the case of deplatforming.

There are no mechanisms in place for persecuted companies to find a safe haven on social media platforms. There are no outreach efforts by companies to protect communities like ASMT from deplatforming those who rely on social media for protection and survival.

4. Please share information on measures that you believe have been especially effective to protect the right to freedom of opinion and expression while addressing disinformation on social media platforms.

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5. Please share information on measures to address disinformation that you believe have aggravated or led to human rights violations, in particular the right to freedom of opinion and expression.

India has [proposed](#) draconian content laws known as the Intermediary Guidelines to address disinformation that would seriously undermine free speech on social media platforms as well as the use of encryption. End-to-end encryption is essential for persecuted minority groups, political dissidents, whistleblowers, and human rights activists to communicate freely without government censorship and surveillance (which can then be used to persecute such groups). Privacy is a fundamental human right and it is critical that persecuted groups and individuals can communicate freely online free from government monitoring and interference.

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6. Please share any suggestions or recommendation you may have for the Special Rapporteur on how to protect and promote the right to freedom of opinion and expression while addressing disinformation.

The politicization and weaponization of the media is the root cause of misinformation in India. Rather than performing its traditional role as an unbiased and neutral source of information or holding politically and economically powerful people and institutions accountable, the role of the media has instead been subverted to become a tool for the powerful that is used to demonize minorities, political dissidents, and anyone who poses a threat to the power structure. A compromised media ecosystem represents a grave threat to India's democracy and its communal harmony.

It is incumbent upon India to take strong measures to address the corruption in its media ecosystem, including but not limited to:

- India's justice system should fairly and consistently enforce existing misinformation laws [Section 153, Section 499 and 500 of Indian Penal Code](#). (change the link to point to our supplementary document)
 - India's legislature should pass and enforce [Rights of Reply](#) laws in India.
- Politicians, political parties, and major political donors should be prohibited from having any ownership interests in media operations to ensure their journalistic integrity. Existing media operations should be required to divest themselves from any such politically aligned individuals and institutions.
- India's legislature should pass media ownership transparency laws requiring all media operations to comprehensively disclose their ownership interests and financial ties on an annual basis to substantiate their independence from political and economic interests.
- India's legislature should pass laws requiring that diversity in media ownership to address the current situation where a powerful few own the vast majority of major media operations.
- Media houses and outlets that violate the law and incite hate and violence should be punished heavily with punitive damages awarded to deter future violations and criminal punishment where appropriate. The current mechanisms for reporting and addressing a violation amount to a mere slap on the wrist at best.

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**PLEASE FEEL FREE TO SHARE ANY RELEVANT DOCUMENTS, REPORTS, NEWS OR
ACADEMIC ARTICLES THAT YOU BELIEVE SHOULD BE CONSIDERED BY THE
SPECIAL RAPPORTEUR IN THE PREPARATION OF HER REPORT.**

**Media Disinformation as a Weapon for Persecution, Lawfare and
Genocide: A Case Study of the Adi Shaivite Minority Tradition (ASMT)
in India**

ABSTRACT

In this case study, we present evidence of deliberate media disinformation that has been used as a weapon to harm an entire community. In this particular case members of the minority Adi Saivite tradition were victims of a deluge of disinformation which resulted in the intensification of continuous persecution which manifests as mob lynching, violation of human rights, cyber-bullying, destruction of property, illegal arrests and lawfare.

The media disinformation is intersectional. It is created by politically affiliated [paid media](#) tied to majority political parties ([Media houses in India are mostly owned and controlled by political houses](#)) who are trying to suppress minority religious voices (whether those from other religions and also subsects of the same religion), and amplified by the nexus of media and police.

The strategy of lawfare and persecution in each instance has been the same - (1) first launch a media disinformation campaign using compromised media (2) incite public violence against the community, (3) false legal charges brought with presumption of guilt, (4) post-arrest police engage in disinformation leaks to the media, (5) ending in a prolonged trial (over decades) leading destruction of reputation. (6) The false cases include criminal accusations as well as civil actions against the community to usurp their properties and block their financial accounts thereby rendering them defenseless.

The lawfare places tremendous financial hurdles on the persecuted community since legal charges are very significant in India especially when fighting against entrenched players such as Media Houses and the Government which have a large legal army at their disposal. Media counter campaigns are too expensive and only affordable by large businesses and political players who own their own media infrastructure. (For example over 100 cases were filed against the ASMT community; the community has spent close to 10 years in dismissing all cases but one, which has depleted their resources).

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More significantly the [Judges themselves are not immune to these media campaigns](#) since they implicitly believe the media houses - if not completely to a significant extent. The task of exonerating members becomes that much more difficult and expensive.

ASMT and His Divine Holiness Sri Nithyananda Paramashivam (SPH or SPH)

The Hindu Adi Shaivite Minority Tradition (“ASMT”) in South India is an ancient, indigenous, spiritual tradition led by His Divine Holiness Sri Nithyananda Paramashivam. It follows both the Shiva Agamas and the Shakta Agamas (spiritual texts which along with the Vedas form the core of Hindu teachings). Currently, they have 30 million followers worldwide.

In particular, the extremist elements are opposed to ASMT’s progressive stance when it comes to the rights of women and the rights of members of the LGBTQ and transgendered communities. The spiritual head of ASMT has publicly declared himself to be of indeterminate gender and composed of more than 11 gender identity components. In this regard, ASMT represents one of the most progressive ideologies in the world as it freely ordains women into sanyaas (the monastic order), recognizes 11 genders, and performs specific temple rituals for gay marriage, all from the depth of the more than 5,000 year old indigenous spiritual tradition. To dehumanize the tradition and their leader, the media disinformation has been primarily focused on accusations related to women and sexual misconduct, which aims to delegitimize the community’s stance on gender equality.

The story of the persecution of indigenous Hindu spiritual traditions such as ASMT is not an isolated happening. It is the saga of the persecution of linguistic and religious minority groups, of dark-skinned humans, of indigenous spiritual traditions, and of ethnic tribes that have existed in India for millennia.

In the next sections we outline five sequences of events in the ongoing persecution of the ASMT community between the years 2010 and 2021: each sequence follows the same pattern outlined before. They all begin with media disinformation using politically owned media, followed by police action leading to mob attacks, illegal arrests and cases, destruction/seizure of property and harm to life and liberty.

1. 2010 Attack using a Morphed Video broadcast on State-owned media

On 2nd March 2010, a TV Channel Sun TV owned by the ruling party in the state of Tamil Nadu released a morphed video purporting to show the leader of ASMT and a leading movie actress, and this [character assassination continued for the years to come](#). The video went viral and was re-telecasted by all local and national media houses continuously for many months, spread misinformation in various geographies from Asia to [Americas](#) and [was later shown to be false](#).

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On 2nd and 3rd March 2010, mobs simultaneously attacked various monasteries of the ASMT community in various cities. The main building housing the leader was burned down by the mob in an attempt to kill him while the police stood by and watched. This [event was telecasted live on national TV](#).

Based on State influenced media pressure caused due to the video alone, and a complaint filed by a third party about suspicion of a crime, the leader of ASMT - His Divine Holiness Sri Nithyananda Swami (SPH) was illegally arrested by police on allegation of sexual misconduct even [though there was no victim or accuser](#).

SPH was in custody for 53 days from 21 April 2010 till 13 June 2010. Courts observed that SPH was jailed on mere suspicion without any evidence of crime or accuser or victim. In violation of SPH's human rights, the police leaked videos of SPH in prison, being interrogated. They muted the audio and then leaked false information to the media of "confessions". Later when challenged in court to produce the full video, [the police falsely claimed that the video was stolen](#).

On 13 June 2010, Court in the bail order prohibited SPH from exercising his right to speech and practice his religion as a bail condition, (which includes preaching, giving religious sermons, and teaching any form of classes).

In May 2010, influenced by the media campaign and the fear of the government, all bank accounts of the ASMT were frozen by various banks. This made them defenseless against further attacks. And their [ability to feed the residents of the monastery including women and children was snatched away](#).

Five years later in 2015 Crime Branch of the Criminal Investigation Division (CB-CID) in Chennai, Tamil Nadu state of India filed a report stating the video was morphed for extortion of Sri Nithyananda. (<https://nithyanandatruth.org/2015/03/02/chargesheet-filed-against-paramahansa-nithyanandas-conspirators-in-chennai-magistrate-court/>)

In 2017, fake news was re-circulated by the Times of India that the video was verified to be true by forensic labs. (<https://m.timesofindia.com/videos/news/swami-nithyananda-case-authenticity-of-ex-tape-confirmed/videshow/61751260.cms?frmapp=yes>).

This initial disinformation using fake video became the foundation of decade-long persecution. The initial false charges filed only came to court 10 years later, and are still being litigated. Conversely, the perpetrators of the false allegations in India attempted to bring the same case against SPH in the USA in 3 states. Between 2012 and 2014, SPH was exonerated and the accusers were jailed and fined nearly \$1M for defamation, malicious prosecution among others. Indian media has not recorded the exoneration till-date.

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2. 2012 Attacks against the ASMT monastery instigated by fake news broadcast on TV [https://nithyanandauniversity.github.io/2021-02-15_appendix-a/#h.aezxyv u2h95v]

From June 2012, a [local TV channel in Karnataka which was owned by a politician \(and a leading businessman\) belonging to the](#) ruling political party of the state where the ASMT monastery (headquarters) is located re-broadcasted the fake accusation of the [false rape accuser](#).

On 07 June 2012, the ASMT monastery was [attacked by violent mobs. Instead of arresting the mob, police arrested many residents of the monastery](#).

On 9 June 2012, the [Chief Minister of Karnataka called SPH “an enemy of the state” on public television and ordered the property of the community seized illegally](#).

Subsequently, on June 13, 2012, [SPH was arrested by the police, when he approached the Court for anticipatory bail against the false accusations](#) against him of disrupting the peace when militants had attacked him and his disciples and monks in his home. [The next day, when he was released on bail](#), he was again re-arrested in the Court yet again this time allegedly “for his own protection”, and as the solution for being threatened by militants.

The order being absolutely baseless and a gross violation of the fundamental right to liberty itself, the disciples of SPH filed a petition in the High Court against the government seeking the release of SPH from illegal custody. [SPH was released on 15 June 2012](#).

The ASMT community petitioned the High Court of Karnataka. [The High Court declared the arrest as "without any authority and illegal", "contrary to law" and "without any jurisdiction"](#). (CRL.P. 3253 of 2012)

3. Broadcast of events to humiliate and dehumanize [[Read full document](#), https://nithyanandauniversity.github.io/2021-02-15_appendix-a/#h.q3ytqhd1tke]

On 8 September 2014 SPH was tortured by State doctors to a [humiliating "potency test"](#) (a euphemism for gender determination test) [which was discussed live and caricatured](#) widely on National Television. The medical team [subjected SPH to abuse](#) of his right to religious freedom as a monk, vows of celibacy by being subjected to masturbation, exposure to pornography, physical abuse to the extent that he was wheeled out of the potency test on a wheelchair in deep pain. The media indulged in a [paparazzi chase threatening the life of SPH](#), extreme defamation, hate speech, ridicule, and sexual bullying against SPH. The community [was ridiculed](#) for their gender-neutral identity and implying promiscuity and sexual perversions to them.

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Media created an environment of hostility against SPH and normalized all attacks against him and his team which include mob attacks - some pretending to be media reporters. On his way back to the monastery on the evening of 8 September 2014, his cars were [chased and attacked](#) by these groups. Many of the vehicles trusted with protecting SPH were damaged with stones and their occupants sustained heavy injuries. Some were stopped on the way and the people inside dragged out and beaten. SPH narrowly escaped assassination.

The results of the tests - [verified independently by US, Indian and Canadian independent experts](#) - show [extremely low male hormone levels](#) that support SPH's claim of gender identity and proved his innocence in the false case against him. However, [the conclusions of the same medical test have been altered maliciously by the State doctors](#), leaked illegally to the media, and amplified by disinformation in the media in order to avoid the closure of the case at hand. <https://nithyanandatruth.org/2014/10/04/yogi-beyond-gender-potency-test-prove-th-at-paramahamsa-nithyananda-is-impotent/>

<https://nithyanandatruth.org/2014/10/01/medical-tests-establish-paramahamsa-nithyananda-beyond-sexuality/>

4. 2017 Downstream Effects of False Media Stories including Judicial Prejudice and Financial Throttling of the Community

On 11 Oct 2017 based on persisted media reports and in spite of lack of any conviction against the ASMT leader a single Judge of the High Court of Madras, Justice Mahadevan issued an order. [The order barred ASMT leader and his community from entering their primary temple of worship in Madurai violating their right to practice religion guaranteed by Indian Constitution.](#)

On 29th Jan 2018 the same judge threatened to illegally arrest the ASMT Leader in a civil case, made negative observations about his character based solely on the morphed video broadcast 8 years earlier. This is [further evidence of the trial by media influence on Indian judicial system where the accused is guilty until proven innocent.](#)

5. [2019 Attack on the Women's Monastery in Gujarat, India](#) [Read Main document]

In October and November 2019, all women monastery and religious university (University) run by [the ASMT community was a victim of disinformation campaign](#) led by [Republic TV controlled by a prominent businessman and member of the ruling](#)

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[party](#). A [false allegation was made that two adult women who are residents of the University were kidnapped](#), in spite of the fact that [these women were making representation to police, media, and other government officials that they were not kidnapped](#).

On 15 November 2019, police conducted an [illegal raid on the monastery](#) and confirmed there was no case for kidnapping.

These women, [fearing that the police would coerce them into false testimony](#), left India during the media disinformation campaign and submitted [sworn affidavits](#) to the Indian High Commission as well.

Subsequently, [on 20 November 2019 the administrators of the University \(two young women\) were arrested and imprisoned](#) for more than 3 months on false charges of kidnapping the two women, in spite of the evidence against the false allegations.

On 20 January 2020, a charge sheet was filed against His Divine Holiness, accusing him of kidnapping the two women even though he was clearly not even in the same country (India) at the time of the alleged crime, and neither had he ever visited the state of Gujarat.

Between October and November 2019, about 50 minor children in the school run by ASMT in the same monastery were illegally detained and [interrogated by the police and the officials of the CWC](#) (Children and Welfare Commission) without the presence of their parents. The officials in plain clothes, without properly identifying themselves, barged into the campus of the school past midnight, woke up the minor girl and boy students, and questioned them with intimidation and illegal persuasion tactics. Some of the minor students were shown pornography, intimidated about their tradition, ridiculed for their traditional clothes, hairstyle, food habits, and force-fed non-vegetarian food when by their tradition they follow a strict vegetarian lifestyle. The children were traumatized by the defamatory and derogatory comments about their religious lifestyle. The parents filed a case against the police with the courts on [March 6 2020](#).

On 28 Dec 2019, the [Monastery buildings were razed to the ground](#) without any formal notification or right to respond. The owner of the building was illegally arrested, and other schools administered by her were closed down without due process in the middle of the school year.

In 2019 ASMT members from the USA submitted a report documenting these human rights violations against SPH and the ASMT community in India. On 6 December 2019, the media in India began running a [misinformation campaign against SPH and ASMT and labelled them “traitors”](#).

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On 20 January 2020 fearing for the safety of one of the other administrators of the all women's religious university and monastery who moved to Nepal in the light of the above attacks was [suspiciously killed in an automobile accident while other women heads of the University were seriously injured in the same](#). It is widely believed that the accident was orchestrated murder by Indian law enforcement authorities trying to chase the ASMT members in a foreign country and is currently under investigation.

Because of the Media Hype in the case, the courts [refused to give injunctive relief to the women monks](#) who were arrested or to protect the children of the community from abuse. Any observations of impropriety on the part of the officials or the media has come in too late and after the damage has been committed.

Other attacks

2020 Palgar Lynching

The attacks on the ASMT is part of a wider pattern of persecution by special interests in India. In 2020, two Hindu monks along with their aide traveling to a funeral were waylaid by 100 villagers. These monks (Sadhus) were [gruesomely beaten with sticks and mob-lynched to their death](#). The media houses portrayed them as child kidnappers, flared up religious tensions, and corroborated the police version of the events for many days until a citizen video of the mob-lynching went viral on social media. The video confirmed the police involvement in the mob-lynching and debunked the media disinformation.

Conclusion

Media disinformation has become a fundamental weapon for persecution of minorities in India. They are used in a systematic campaign of disinformation, creating negative public opinion, leading to coordinated mob attacks, lawfare, false cases. Trial-by-Media campaigns prejudice the Judges and the rest of the law enforcement system against the victims of the persecution. This leads to false convictions. Even if the victims are exonerated, these decisions come decades later which leaves them financially bankrupt and defamed beyond repair, thereby destroying their mission. The example of ASMT is a great example of this cycle of disinformation based persecution.