



PREVENTION AND REGULATION OF HATE SPEECH IN DIGITAL ERA

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Abstract-- Hate speech control has proven to be a difficult task. The anti-hate speech law is controversial since it interferes with a person's right to freedom of expression. In actuality, the law always walks a very fine line between control and total restriction. But despite the implementation of strict legislation, incidents of hate speech are still increasing. In order to stop this, the Law Commission of India advocated even stricter rules in 2017. As a result, there are now many laws and speech-related offenses are being over criminalized. It is time to look beyond the current framework and find best practices that can be implemented because of the clear harm that hate speech does.

Key word: hate speech, freedom, regulation, media, violence, criminals

INTRODUCTION

In recent years, there has been an increase in hate speech instances that have incited public violence, whether it comes from politicians or the media. An individual's or community's reputation has been tarnished as a result of sensational reporting and conversation on important issues done solely for the purpose of gaining viewers and attention. This study analyses various authors' and columnists' work that has been posted on reliable websites. It is done to assess the current level of the right to free speech and the challenging working conditions for Indian journalists. The research also examines the state of press freedom and the rise in hate speech in recent years. The goal of the study is to determine how the Indian government restricts people's freedom of expression and how Indian politicians and the media contribute to hate speech by offering prejudicial viewpoints and fabricated news, respectively. It illustrates examples of hate speech where a politician's remarks or skewed media coverage lead to a public uproar, violence, and homicides in communities. The study also shows how social networking sites are currently being abused to spread divisive ideas among the general public. I did this by looking at examples of political parties abusing social media for negative PR, corrupt media coverage, and government censorship.

The investigation exposed the risky conditions under which Indian journalists are now working. This study highlights the misuse of hate speech in contemporary society and offers important information on the deteriorating state of press freedom as a result of restrictions. 'Freedom of Expression' or 'Freedom of the Press' has always played a crucial role in the history of India's fight for independence from British colonialism, especially in the nineteenth and twentieth centuries. We are well aware of the role the "Indian Press" played in instilling nationalistic attitudes among the populace in order to get independence. Despite being blue-penciled and prohibited numerous times, the press nonetheless learned how to persuade people all around the nation, which ultimately contributed to our independence. The importance of free speech is demonstrated by the fact that it is recognized as a fundamental right in the Indian Constitution. Each and every one of India's citizens is granted the right to expression and speech under Article 19(1)(a) of the Indian Constitution. In accordance with Article 19 of the Universal Declaration of Human Rights (UDHR), it is also regarded as one of the fundamental human rights. Free speech has preserved and preserved the Indian democracy ever since its independence. There were a few occasions when the government carried out an act improperly or dishonestly, and the populace was consistently there to question the administration through their right to free speech by asking "why?" Without this freedom to exercise without restraint, the Press, which is sometimes referred to as the



"Fourth Pillar of Democracy," would not have been able to function effectively and legitimately. As a result, maintaining checks and balances on the government has always been crucial to enabling democracy, which is defined as being "of, by, and for the people." Nevertheless, this freedom has been abused in the current instance. It should be noted that while hate speech may not fall under the category of free expression, it is nevertheless a significant issue. The government and or the media are making conscious efforts to limit the freedom of expression. The politicians are seen delivering hate speeches that aim to sow division in society or to gain political advantage by inciting hatred, intolerance, or abuse against a particular religious network or group of people. Hate speech can cause riots, looting of public property, shared violence, and, worst of all, the murder of individuals. The 1992 incident involving the destruction of the Babri Masjid is just one of several instances where sectarian violence between the Hindu and Muslim communities took place as a result of triggers, resulting in the deaths of nearly 2000 people. As a result, there was additional Hindu murder in Bangladesh and Pakistan. The press should act impartially while reporting the incident when a person or politician makes a hate remark. As the fourth pillar of a democracy, the press has a great influence on society. In doing so, it takes on a significant role; nonetheless, it presents news or portrays a person on national television, which might tarnish someone's reputation. One may rely on the media to tell the truth by conducting a fair study and investigation of an event. However, rather than being objective, it can be observed that the media favors political viewpoints and presents its utterly unreliable viewpoints. Pakistan. Hate speech in the media is also subject to accountability. The detention of JNU students in February 2016 when they were accused of sedition (which has yet to be proven in court) and the detention of human rights activists in the Bhima Koregaon incident are two significant instances in which media can be blamed for contributing to the spread of hate speech. In the two instances, the accused were referred to as "Maoists" or "enemies of the nations" by the media. Since people rely on the media for information, this raises serious concerns because when senior columnists label students or activists as anti-nationals or urban naxals, it becomes hate speech and people start to believe it to be true, which could lead to an explosion. Because it is also referred to as the "watchdog of the government," the press should operate freely and without interference from the executive branch. A free press aims to communicate information that affects the general public while standing up for what is morally correct between the general public and the government. According to the World Press Freedom Index, 2022, India's ranking has declined from 138 to 161, which is a troubling development. One of the many causes could be the growing animosity in India toward journalists. This develops into a significant issue because it reveals the vulnerability that modern Indian journalists are working under. The constraints on the press that are currently held by politicians or government officials show a serious danger to democracy. Therefore, it is imperative that India strike a balance between freedom of expression and hate speech.

WHY HATE SPEECH IS TO BE REGULATED?

The definition of "hate speech" varies from country to country. Its relevance is derived from the particular context in which it acts, which was shaped by the effect of peculiar senses, "identities," and "assessments" in certain circumstances. According to Black's Law Dictionary, hate speech is defined as "speech that has no other meaning than to express hatred for a particular group, such as a particular race, especially in situations where the communication is likely to incite violence." Thus, it is possible to define hate speech as "speech that is generally derogatory towards someone else."

Most common grounds of hate speech across countries are race, ethnicity, religion or class. India presents a peculiar case for regulation of hate speech with its rich diversity of language, caste, race, religion, culture and beliefs. The words either spoken or written, or employing signs or any kind of



visual representation qualifies as ‘speech’. If such speech offends the religious, ethnic, cultural, racial groups by vilification and is capable of spreading ‘hatred’ among the heterogeneous populace, we categorise it as ‘hate speech’. In the introduction to this article, it was emphasised how words employed have significant detrimental impact, both, on the individual and the society at large. Jeremy Waldron states that targeting a person’s “immutable characteristics, ethnic background or religious identity causes a harm”. Thus, to protect individual liberty, freedom and to ensure dignity it is essential that speech that targets a person’s identity, based on ethnicity, race, religion etc., be not allowed to be propagated untrammelled. As victims of hate speech, such individuals “feel fear, may be nervous to enter public spaces or participate in discourse and may change their behaviour or appearance in an attempt to avoid hate speech.” In this way, hate speech constructs its targets as those who are not only “discriminated against but are also seen by others as undesirable target and legitimate objects of hostility.” Such intangible effects of hate speech are the most insidious and damaging to an individual’s sense of security and right to live with dignity.

INDIAN LAWS TO CURBS HATE SPEECH

There are many laws to regulate the hate speech and also curb to regulate media content but in spite of these laws the number of incidents increases day by day. The provisions are as follow presently, in our country the following legislations have bearing on hate speech, namely:

(i) *the Indian Penal Code, 1860* (hereinafter IPC)

- Section 124A IPC penalises sedition
- Section 153A IPC penalises ‘promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony’.
- Section 153B IPC penalises ‘imputations, assertions prejudicial to national-integration’.
- Section 295A IPC penalises ‘deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs’.
- Section 298 IPC penalises ‘uttering, words, etc., with deliberate intent to wound the religious feelings of any person’.
- Section 505(1) and (2) IPC penalises publication or circulation of any statement, rumour or report causing public mischief and enmity, hatred or ill-will between classes.

(ii) *the Code of Criminal Procedure, 1973*

- Section 95 empowers the State Government, to forfeit publications that are punishable under sections 124A, 153A, tranquillity or to do any wrongful act that may probably cause breach of the peace or disturb the public tranquillity.
- Section 144 empowers the District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf to issue order in urgent cases of nuisance or apprehended danger. The above offences are cognizable. Thus, have serious repercussions on liberties of citizens and empower a police officer to arrest without orders from a magistrate and without a warrant as in section 155 CrPC. 153B, 292, 293 or 295A IPC.
- Section 107 empowers the Executive Magistrate to prevent a person from committing a breach of the peace or disturb the public



(iii) *the Cinematograph Act, 1952*

- Sections 4, 5B and 7 empower the Board of Film Certification to prohibit and regulate the screening of a film.

iv) *the Religious Institutions (Prevention of Misuse) Act, 1988*

- Section 3(g) prohibits religious institution or its manager to allow the use of any premises belonging to, or under the control of, the institution for promoting or attempting to promote disharmony, feelings of enmity, hatred, ill-will between different religious, racial, language or regional groups or castes or communities.

(v) *The Cable Television Network Regulation Act, 1995*

- Sections 5 and 6 of the Act prohibits transmission or retransmission of a programme through cable network in contravention to the prescribed programme code or advertisement code. These codes have been defined in rule 6 and 7 respectively of the Cable Television Network Rules, 1994.

(vi) *the Protection of Civil Rights Act, 1955*

- Section 7 penalises incitement to, and encouragement of untouchability through words, either spoken or written, or by signs or by visible representations or otherwise.

(vii) *the Representation of The People Act, 1951*

- Section 8 disqualifies a person from contesting election if he is convicted for indulging in acts amounting to illegitimate use of freedom of speech and expression.
- Section 123(3A) and section 125 prohibits promotion of enmity on grounds of religion, race, caste, community or language in connection with election as a corrupt electoral practice and prohibits it.

INDIAN JUDICIAL RESPONSE ON HATE SPEECH

The evil spirit of hate speech has long plagued our nation's sociopolitical and legal systems and defies both exorcism and pacification.

The Hon'ble Supreme Court of India, in Writ Petition (Civil) No.940/2022, *Shaheen Abdulla Versus Union of India & Ors.* has recently mandated the police forces of all Indian states to Suo moto register FIRs in hate speech cases attracting offences under Section 153A, 153B, 295A and 505 of the Indian Penal Code (IPC), 1860, etc., even if no complaints are forthcoming and any failure to do so would place the concerned officers in contempt of court.

The Supreme Court of Canada, however, in *Saskatchewan Human Rights Commission vs. William Whatcott*, 2013 propounded a definition of hate speech as an effort to marginalize individuals based on their membership in a group. Using expressions that expose the group to hatred, it seeks to delegitimize group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, thus, rises beyond causing distress to individual group members and has a societal impact, laying the groundwork for later, broader attacks on vulnerable groups that can range from discrimination to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide. It also impacts a protected group's ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy.

The said definition has been adopted by the Indian Apex Court in *Pravasi Bhalai Sangathan vs. Union of India*, (2014) wherein it was prayed that the state should take preemptory action against makers of hate speech. However, the Court did not go beyond the purview of existing laws to penalize hate speech



as that would amount to 'judicial overreach' and referred the matter to the Law Commission of India to examine.

CONCLUSION

One could argue that the extent to which citizens can utilize their right to free expression determines its value. A fundamental civil right is the freedom of speech. It serves as the foundation for democratic governance. Additionally, it is required for the democratic process to function correctly. Everyone has the right to unrestricted expression of their thoughts and opinions. Speech is essential because it enables one to express thoughts, emotions, and sentiments to others. It is a privilege that every human being is born with. Recent events have made hate speech the most worrying problem since it has led to racial intolerance and instability in the society. It has fostered animosity toward specific people, religious groups, and communities. The Politicians and the media are both accused of delivering hate speech. Media outlets do it to attract people by producing content that is divisive and exciting, whilst politicians use hate speeches to win support. The freedom of expression is likewise restricted by social media platforms and applications. Recent times have also seen instances of social networking sites constantly monitoring user activity and editing their posts. WhatsApp is being abused to spread fake information, which has resulted in people being killed in error because of crowd suspicion. On these platforms, fake news, particularly news relating to politics, has increased. Corrupt users create offensive communications, which are blindly shared and forwarded. The researcher concludes through our study that journalistic freedom and the freedom to express one's opinion have decreased it resulted that hate speech has increased, and there is not enough balance to monitor both.

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