

# Online Hate Speech: Need For Stronger Laws

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*Abstract—In the growing world, the use of internet and social media platforms has risen significantly because of which hate speech has become a growing concern in the digital era. Hate speech means any form of statement utterance, articulation, voicing, etc based upon any discrimination about caste, race, religion, culture, gender, etc. The primary focus lens is the Information Technology Act, 2000<sup>1</sup> and the contemporary regulation were added in intermediary guidelines and digital media ethics code rules, 2021<sup>2</sup>. It also makes a comparison on free speech and hate speech which is to be driven into the components of societies. To curb hate speech, multiple nations have passed legislation that either targets digital forum expressly or regulates existing regulations for online content. The court's interaction to online hate speech frequently entails achieving a balance between the need to protect both individuals and organizations from harm and the right to free expression. The nebulous equilibrium tries to protect freedom of expression while making sure that social peace, public order, and individual dignity can be preserved.*

## I. INTRODUCTION

Present-day digital era has seen an upward trend in the prevalence of online hate speech as a matter of concern. It refers to any form of online hate speech, interaction, or conduct which propagates or incites rivalry, discrimination, or violence against certain people or groups on the basis of someone's ethnicity, religion, nationality, gender, sexual orientation, or other protected characteristics. As social media platforms, internet discussion boards, and forums continue to rise in widespread acceptance, it has been more easier for people to propagate and reinforce hate speech. Hate speech could have a substantial adverse impact, harming the persons or groups it targets, exacerbating disputes, and eroding societal cohesiveness.

Hate speech means any form of statement utterance, articulation, voicing, etc based upon any discrimination in regard to caste, race, religion, culture, gender, etc. On the basis of their race,

religion, nationality, gender, sexual orientation, or other protected characteristics, it includes hate speech directed at specific people or groups. Section 153A of Indian Penal Code, 1860<sup>3</sup> prohibits instigating hatred among various groups based on factors like as language, race, place of origin, or religion. The affirmations that are detrimental to national integration are outlawed under Section 153B of Indian Penal Code, 1860<sup>4</sup>. The books of Acts that are maliciously and wilfully done with the express purpose of offending religious sentiment are covered by Section 295A<sup>5</sup>. On top of that, the publication or dissemination of words that incite animosity, intimidation, or malice among various groups is punishable under Section 505 of the Indian Penal Code, 1860<sup>6</sup>.

Online hate speech had initially been addressed under the Information Technology Act, 2000 with particular to section 66A of the Act<sup>7</sup>, notwithstanding it was repealed in 2015 as a result of Constitutional violations by the Supreme Court of India. In order to combat hate speech, the Information Technology Act's other provisions such as Section 69A of IT Act<sup>8</sup>, which at first deals with restricting internet content can still be used.

In accordance with the nature of the offence, offences incorporating hate speech may be reported to and tried in the pertinent Magistrate Court or Sessions Court. Online hate speech deserves to be reported to the proper authorities, or you may submit a complaint with the cybercrime cell, who can investigate it and take the required legal action against the perpetrators.

## II. BACKGROUND

Online hate speech finds itself at the crossroads of several tensions. It is the manifestation of disagreements between various groups inside as well as across societies, and it is an eye-catching example of how technologies like the Internet,

which have the capacity to revolutionise society, bring with them both the chances and difficulties. It also entails a difficult balancing act between basic rights, fundamental values, such as the protection of human dignity and the right to free speech. UNESCO, the UN organisation entrusted with advancing press freedom, information freedom, and freedom of expression, is working diligently to advance reconciliation among peoples through all forms of mass communication, including social media networks in particular and the Internet more in general.

The 195 Member States of UNESCO pledged in November 2013 to fulfil Resolution 52 of the organization's 37th General Conference, which happens to be where the research described in this paper has its origins.<sup>9</sup> Within the constraints of UNESCO's mandate, this resolution asked for a thorough and consultative multistakeholder research of Internet-related concerns of privacy, freedom of expression, and access to information and knowledge, as well as the ethical repercussions of the Information Society.<sup>10</sup> The investigation of hate speech contributed to the larger field of study. This paper offers an in-depth evaluation of the characteristics of hate speech on the internet and the steps taken to combat and mitigate it. It also emphasises innovative methods that have been used both regionally and globally. The study delivers an extensive examination of the national, regional, and international normative frameworks created to address hate speech online and its implications for the right to free speech, but it centres especially on social and non-regulatory mechanisms that can be used to reduce the impact, production, and dissemination of hateful messages online.

### III. HATE SPEECH AND ITS ONLINE PERSPECTIVE

In common language, "hate speech" refers to offensive discourse targeting a group, or an individual based on inherent characteristics (such as race, religion or gender) and that may threaten social peace.<sup>11</sup> To provide a unified framework for the United Nations to address the issue globally, the UN Strategy and Plan of Action on Hate Speech defines hate speech as... "any kind of communication in speech, writing or behaviour,

that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor."<sup>12</sup> However, international human rights law has yet to establish a consensus definition of hate speech. The idea is still being debated, particularly in light of equality, non-discrimination, and freedom of speech.

Under Cambridge Dictionary, hate speech is defined as "public speech that expresses hate or encourages violence towards a person or group based on something such as race, religion, sex, or sexual orientation."<sup>13</sup> The word "hate speech" is vague and controversial. Its boundaries have been attempted to be defined by multilateral treaties like the International Covenant on Civil and Political Rights (ICCPR)<sup>14</sup>. Multi-stakeholder procedures have been initiated in an attempt to provide more clarity and offer recommendations on how to detect racist texts. Despite this, the phrase "hate speech" is still widely employed in free speech, combining instances when people are expressing frustration at those in authority with real threats to the safety of individuals and communities. Internet intermediaries, which include corporations like Facebook, Twitter, and Google that mediate online communication, have developed their own definitions of hate speech that impose restrictions on users and give businesses the right to restrict some types of expression.

In the case of *Ramji Lal Modi v. State of Uttar Pradesh*<sup>15</sup>, the subject of hate speech and its effects on public order was addressed by the Indian Supreme Court. The case concerned a political leader named Ramji Lal Modi's statement, which was judged to be provocative and likely to incite conflicts between communities. The Court examined the parameters of the Indian Constitution's Article 19(1)(a) right to free speech and expression. It underlined that restrictions on the right to free expression are possible in order to uphold the rule of law and avoid violence. The Court decided that hate speech can be restricted by law if it poses a risk of upsetting public order and inciting conflict between groups.

In this instance, it was decided that the State might impose limitations on free speech and expression in order to maintain public order and safety. The Indian Penal Code, 1860<sup>16</sup> laid down Section 295A<sup>17</sup>, which addresses wilful and intentional conduct meant to incite religious sentiment, which has been upheld by the court. By reaffirming that hate speech endangers public order can be suppressed to deter violence and preserve social peace, this ruling established a significant precedent. It acknowledged the fine line that must be drawn between people's rights to free speech and expression and their obligations to use those rights responsibly.

Hate speech in its online perspective comprises of its jurisdiction and comprehension on defining its scope under internet. Governments finds it troublesome to enforce national laws in the virtual world because of the speed and reach of the Internet. Problems with hate speech on the internet illustrate the rise of private platforms (like Facebook and Twitter) that are also public forums, as well as the difficulties the government have in controlling these platforms. Though they haven't been fully included in international discussions about how to recognise and respond to hate speech, some of the companies that own these spaces have become more receptive to addressing the issue of hate speech online after facing initial resistance and public pressure. It is unclear what constitutes hate speech online and how it relates to speech and behaviour offline. Politicians, activists, and scholars often discuss these subjects, but the debates are rarely grounded in systematic empirical data. Due to the nature of hate speech and the potential repercussions, a lot of attention has been focused on the problem's remedies and how they should be based on international human rights standards. However, this exact focus has also impeded efforts to delve further into the mechanisms behind the phenomena and the ways in which kinds of material arise, spread, and either directly or indirectly result in actual animosity, violence, or prejudice. This paper underlines the dearth of research studying the connections between hate speech online and other social issues, such as increasing inequality and access to education, while also providing a variety of

examples of studies that attempt to map the genesis and dissemination of speech online.

#### IV. FREE SPEECH VS. HATE SPEECH

Certain individuals mix up hatred with free speech since they both deal with the expression of ideas and opinions. In fact, hate speech is not prohibited in United States as doing so would compromise the right to free speech. Furthermore, these emotions are encouraged because of the anonymity that digital progress affords.

There are kinds of boundaries that separate hate speech from free expression, according to our research. Free speech allows people to freely express their opinions, ideas, and beliefs, nevertheless, this right has restrictions. On the other hand, free expression is frequently linked to the growth of society.

There is a positive growth that encourages healthy social advancement towards the end, despite some divides. Nonetheless, hate speech targets minorities with discrimination, by airing offensive comments, while free speech defends minorities by encouraging tolerance as well as appreciating the unique contributions made by each group. Those people are not marginalised when one observes a set of rules for using free speech. On the contrary hand, the first step in any defence of criminalising hate speech is to demonstrate that it is not covered by the moral right to freedom of expression. A critical analysis of the subsequent contentious debate took up the latter part of the study. We may say that hate speech is "morally protected" if the same principles that uphold the moral right to free speech also justify its protection. On the other hand, there may be a basis to criminalise or otherwise regulate hate speech if the principles that underpin free speech do not support the protection of hate speech. Crucially, hate speech is not criminalised just because it is morally unacceptable.

## V. INTERNATIONAL FINDINGS OF HATE SPEECH

**BANGLADESH ON HATE SPEECH** - In Bangladesh, the argument for criminalizing or otherwise regulating hate speech may be made if the principles that constitute free speech do not support the protection of hate speech. Crucially, hate speech is not criminalized only because it is morally unacceptable. Numerous actions, counting grass blades, has nothing to do with the fundamental concepts that guide our most essential rights, referred to as "basic liberties" by Rawls but we do not punish these. Think about the criticism directed at popular Rabindra Sangeet singer Rizwana Choudhury Bannya<sup>18</sup>, who was recently affected with coronavirus. Following the news, several individuals cheered by criticizing the musician and posting insulting comments on social media. Using social media to harass people, spread misinformation, and start arguments is a common practice in today's world. Governments, corporations, and individuals have all been affected. Although the Digital Security Act (DSA)<sup>19</sup> is currently in force, this issue cannot be resolved by it or other similarly severe measures.

**UNITED STATES ON HATE SPEECH** - The Supreme Court's 1942 ruling in libel, collective defamation, and hate speech regulation in American constitutional law marks the beginning of the history of the case law *Chaplinsky v. New Hampshire*<sup>20</sup>, wherein the Court declared that certain speech categories have only "low" First Amendment value and are therefore not fully protected by the constitution. It states that "There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words. It has been well observed that such utterances are no essential part of any exposition of ideas and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."<sup>21</sup> As the Court turned to the work of defining these standards, it noted that "we consider this case against the background of a profound national commitment to the principle that debate on public issues should be

uninhibited, robust, and wide-open."<sup>22</sup> The fundamental issue is that even false remarks must be "protected if the freedoms of expression are to have the 'breathing space' that they 'need to survive,'"<sup>23</sup> the Court noted, adding that "erroneous statement is inevitable in free debate."<sup>24</sup>

Thus, just as the government cannot refrain from constitutionally constraining the promotion of communism, protesting against an ongoing war, burning the American flag, or expressing opinions that profoundly offend others, it is also prohibited from constraining speech that denigrates or insults specific racial, religious, ethnic, or gender groups. It's not that such expressions are safe. Rather, the issue is that there are more effective ways to minimize the harm than granting the government the authority to dictate what thoughts and beliefs the people of a free and independent country may and may not voice.

## V. EXISTING LAWS ON HATE SPEECH

Indian Constitution deals with existing laws that regulates hate speech on all platforms.

- Section 153A<sup>25</sup> is a provision that forbids inciting hatred between various ethnic, racial, or religious groups and punishes speech that disturbs the peace in the public domain. Additionally, it punishes acts that are likely or intended to inspire violence against any population or group. It defines as "Whoever--

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, [or]

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.”<sup>26</sup>

- Section 295A<sup>27</sup> addresses intentional and malicious actions that offend religious sentiments by denigrating religious sites or beliefs. Its objective is to stop hate speech and contempt for any religious group from being spread. It defines that “Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of [citizens of India], [by words, either spoken or written, or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to<sup>28</sup>[three years], or with fine, or with both.”<sup>29</sup>
- Section 298<sup>30</sup> addresses statements that could offend religious sensibilities. It also relates with utterances meant to offend a person's or a group's religious feelings. It defines that “Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that persons or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”<sup>31</sup>
- Section 505<sup>32</sup> forbids the dissemination or printing of remarks, hearsay, or reports that incite animosity, hostility, or malice toward various

social strata and cause public disruption. It defines that “Whoever makes, publishes or circulates any statement, rumour or report,

(a) with intent to cause, or which is likely to cause, any officer, soldier, [sailor or airman] in the Army, [Navy or Air Force] [of India] to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to [three years], or with fine, or with both.”<sup>33</sup>

## VI. NEED FOR STRONGER LAWS ON HATE SPEECH

Hate speech is a major problem in India given that it may violate people's fundamental rights, promote violence, and strain communal peace. Although hate speech is covered by laws in India, further regulation is still required to stop the spread of hate speech and lessen its detrimental effects on society.

- Protection of Fundamental Rights - Hate speech violates people's and communities' fundamental rights, especially the freedom of speech, equality, and dignity. More solid legislative structures can offer enhanced safeguards and recourse to victims, guaranteeing the protection of their fundamental rights.
- Preventing Violence and Discord in Society - Hate speech escalates societal divisions and frequently results in violent attacks. Tightening the rules against hate speech can help keep the peace in the community and stop violence from bursting out.
- Accountability and Deterrence - More challenging legislation would make hate speech perpetrators more accountable while discouraging future

offenders and making it abundantly evident that such behavior will not be accepted.

- Educational and Awareness Programmes - More inclusive and tolerant societies may be fostered by using stricter laws as the foundation for educational initiatives and public awareness campaigns about the negative effects of hate speech.

### CONCLUSION

Hate speech has severe negative effects on the targets of it as well as on society at large. It is harmful to the non-discrimination principle and the objective of equality or equal treatment, which are the cornerstones of every democratic society. Hate speech has the power to severely damage the social fabric and drive a wedge between communities, which has a detrimental effect on the order and peace of society as well as the standard of living in the community. Last but not least, hate speech has the capacity to morph into hate crimes, which can then result in genocide.

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