

ISSN: 2582-6433



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

[www.ijlra.com](http://www.ijlra.com)

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ISSN

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# ANALYSIS OF HATE SPEECH

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## **ABSTRACT**

*Hatred is a deteriorator of one's own personal beauty. It destroys a person's sense of value as an individual. Hate ideology is frequently transformed into "sociocultural rational thinking," which demeans societal convictions and manifests itself as hateful speech. This phenomenon occurs because hate ideology is frequently transformed. Free speech can unfortunately lead to hate speech as an unintended consequence. Getting rid of hate speech completely is something that can never be achieved in a country that claims to be democratic. It is indisputable that there is a pressing need to limit hateful speech; as a consequence, the primary focus of this research project is on the legal framework that currently exists in India to govern hate speech. This study makes reference to the various legal measures that have been taken in India to combat the foundations of hate speech as well as its subsequent dissemination. This research is being done with the intention of examining the idea of hate speech as well as the difficulties that it presents to the legal system. In addition to this, it discusses the judicial and legislative efforts that have been made at the multilateral level to limit hateful speeches and respect the individual expression of freedom of speech. The suppression of hate speech has proven to be a difficult and time-consuming endeavor. The law that prohibits inciting hatred through speech is being challenged on the grounds that it violates a person's right to freedom of expression and opinion. In light of the undeniable harm that is caused by hate speech, it is essential to go far beyond the framework that is currently in place and search for standard practices that can be implemented in conjunction with the framework described above in order to address the problems that are caused by hate speech.*

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**KEYWORDS:** *Hate speech, social common sense, democracy, free speech, law, judgments.*

## **INTRODUCTION**

*Speech that is insulting, derogatory, discriminatory, provocative, or even incites and supports the use of force or ultimately results in violent reprisal is considered hate speech in today's society. As a direct consequence of this, the existing equilibrium and order of society as a whole are both thrown off. In addition, hate speech has developed into a truly horrific sort of hate crime, causing victims of abuse to suffer actual harm to their bodies as well as their minds. It has an effect on its targets that cannot be seen, restricting their freedom to speak freely and prohibiting them from taking part in democratic processes and public dialogue.*

*The term "hate speech" refers to any type of communication (including contact that takes place online) that incites or seeks to incite hatred or contempt for a person or group of people in any manner. This may be done intentionally or unintentionally. Hate speech seeks to promote prejudice and produce undesired societal divides. It is a kind of communication that*

is very derogatory and has the potential to result in aggressiveness, hostility, and social inequality. Discourse based on bigotry may result in a broad variety of unfavourable outcomes, one of which is the activation of terrorist actions.

There are four primary categories of individuals who are guilty of engaging in hate speech and are to blame for the proliferation of such speech. The following classes are appropriate for dividing them up into:

1. People who actively employ hostile speech in order to get pleasure and excitement from the unpleasant circumstances that their hateful speech has brought into existence are known as "thrill seekers."

2. Protective: to preserve and uphold their own standards and principles.

3. Retaliators are those who retaliate in response to an occurrence that occurred directly to them.

4. Task: seeking to attain a vested goal via the use of hostile speech as a motivation.

It is difficult to trace the roots of hostile speech in India back to their original sources. On the other hand, this problem has very certainly been made worse by the meteoric rise in internet use. There is no question that the unrestricted use of social media platforms has contributed to an increase in the number of hate messages. It is also possible for communications based on hatred to be gendered in a way that incites a group to commit crimes against women, for instance. It might be based on a group, for instance, instigating violence or a social ban on a certain group, but it could also be based on an individual. It also plays an important role in mob violence, as shown by the fact that in 2018, many mob assaults were organized and carried out against the citizens of Bihar and Jharkhand in the state of Andhra Pradesh, allegedly as a response to the spread of bogus hate messages. This is evidence that it plays an important role in mob violence. It would be elaborated upon more during the course of this study report.

## **AIM**

To understand the concept of hate speech

To analyze the factors that contribute to the propagation of hate speech

To understand hate speech in terms of criminal law perspective

## **RESEARCH QUESTIONS**

What constitutes of hate speech in India?

What are the legal provisions to limit hate speech in India?

How can the government control the propagation of hate speech in India?

## **LITERATURE REVIEW**

Ayush Raj in the research paper titled "**HATE SPEECH LAWS IN INDIA**" centers on the legal frameworks that have been implemented in India to address the source and dissemination of hate speech. In order to provide a full grasp of this subject, the researcher has also addressed the origins, effects, instances, and remedies of this societal behemoth evil.

Anandita Yadav in the research paper titled "**COUNTERING HATE SPEECH IN INDIA: LOOKING FOR ANSWERS BEYOND THE LAW**" discusses how Hateful speech regulation has proved to be a challenging undertaking. The anti-hate speech statute is being challenged because it interferes with a person's freedoms of speech and expression, it further discusses how the current framework can be improved.

In the article titled "Hate speech in India: an analysis in light of Section 153A and 295A of

IPC” the author explains the two most important laws pertaining to hate speech crimes, it further explains the role of religion and politics in the furtherance of hate speech in India.

In the article titled “Hate Speech and Freedom of Expression: Balancing Social Good and Individual Liberty” the author aims to analyze the concept of hateful speech and the challenges it poses to the legal system. It also discusses the judicial and legislative efforts done at the multilateral level to limit hateful speech and respect personal liberties of expression and speech.

**MEHVISH ASHRAF** in research titled “Online Hate Speech in India: Issues and Regulatory Challenges” this paper emphasizes the necessity for a strong regulatory framework to address current forms of hatred content emerging on the internet.

## ANALYSIS

In recent years, hate speech has had a significant impact on the right to freedom of expression. Inflammatory remarks disseminated by media outlets have resulted in major violent protests, putting the accused's life in jeopardy. Only a few renowned media individuals abuse their press authority. Their skewed reporting, which favors one political party or philosophy over another, has resulted in the loss of public discussion and impartial critique. Today's media focuses on a single group and people, branding them as "antinational" or "Naxalites." On primetime tv, shows dubbed "TraitorsvsPatriots" air. In an attempt to acquire an audience, the media builds a cynical storyline, twists the truth, and provides dramatic news.

As the propagation of disinformation across social media platforms is frequent these days, the issue of inciting hatred has also increased on social networks. WhatsApp and other social media applications are the most popular means of disseminating hate speech. Despite WhatsApp's efforts to educate its users about the dangers of providing false news or messages that constitute hate speech, incidences of public lynching and assaults on people based on inaccurate assumptions continue to occur. Trolls on social networks have become a major source of concern for social media platforms. Trolling is when someone makes an inflammatory or disrespectful statement on social media in order to malign someone.

Politicians are now known for offering hateful speech in order to obtain selfish political victory as well as to promote their personal religious convictions. Politicians have been caught on camera making alarming remarks " The broader populace reacts with religious hatred and community violence as a result of this. The lack of rigorous legislation to prohibit hate speech and hold those responsible for its transmission responsible has resulted in an increase in hateful speech lawsuits.

### LEGAL PERSPECTIVE

There are a number of autonomous, self-regulatory, and governmental measures that are aimed at stopping the dissemination and practice of hate speech. The Indian Penal Code of 1860, which was created a long time before India attained its independence, has a provision that addresses hate speech as well. Additionally, a variety of laws, legislation, and rules have been adopted with the purpose of restricting and penalizing the use of hateful speech. These laws were enacted with the intention of minimizing the use of hateful speech.

In Section 153A of the Indian Penal Code, the provisions for the punishment of persons who commit the following offenses are outlined:

- Through words, gestures, drawings, or other similar things, discord is sown among people who belong to different castes, creeds, beliefs, regions, dialects, or any other groupings of the same sort.
- Cause a disturbance in the calm and serenity that exists in the public realm.

- *Form armed troops inside a religious or social organization with the intention of inciting violence against another religious or social organization.*

*People who commit such offenses might get a jail term of up to three years. If any of the inappropriate activities described above are carried out in front of a religious community, the punishment might be raised to years behind bars. This section as a whole solemnly swears to defend the character of our country. Anyone who threatens the peace in India, which has a population comprised of people from many different backgrounds and is renowned internationally as a nation that places high importance on "togetherness," is susceptible to criminal punishment.*

*Ramesh v. UOI (1988)*

*A movie called 'Tamas' was broadcast on television in the year (1988). The film focuses on a work by a well-known academy-winner author that has been widely read in institutions for a long time. The petitioners claimed that showing the video was in violation of Section 153-A. The Court found the respondents not responsible, stating that the impact of a movie, TV show or other media must be viewed through the eyes of a rational man, who, according to English precedent, is someone riding the Clapham omnibus.*

*Section 153B of the IPC deals with matters relating to imputations that endanger state security.*

*Section 505 of the IPC criminalizes any activity that convinces members of the armed forces and authorities to fail to serve their authorized duties, whether spoken or written in any manner.<sup>1</sup>*

*The arousing of hate or violent provocation against some communities is required for Sections 153A and 505 and 505(2) to apply.*

*Section 295: In circumstances when a person violates, damages, or desecrates any religious icon or image or even anything regarded as holy by a community of individuals, Section 295 of the IPC puts down the measures for punishments. A person who does either one of the foregoing crimes will be arrested for up to 2 years, punished, or penalized including both imprisonment and fine. This Act does not protect unintentional acts. One such instance is Jan Mohd. v. Narain Das (1883), in which a person who had no intent to propagate hate chipped stones from a crumbling mosque so was not held guilty.<sup>2</sup> However, where the crime is deliberate, such as in Saidullah Khan v. State of Bhopal (1995), and the perpetrator is mindful that the item is holy, he is held accountable.*

*Section 295A: People who wilfully offend or try to offend a religion or religious feelings of a group of individuals by speech, actions, or items incur a term of imprisonment up to 3 years, a penalty, or both under Section 295A of the IPC. Section 295-A is a non-bailable and non-compoundable offense, and the police can readily apply Section 41 of the Code of Criminal Procedure, 1973, to prosecute it (CrPC). Both sections 153A and 295A deal with faith, with the difference being that the first deals with inciting hatred between two different groups, whereas the latter concerns individuals who disrespect a community or faith<sup>3</sup>.*

*Ramji Lal Modi v. State of U.P (1957)*

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<sup>1</sup> Raj, A. (n.d.). Hate speech laws in India (paper). Retrieved November 09, 2021, from <https://www.probono-india.in/research-paper-detail.php?id=722>

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*The Indian Supreme court affirmed a man's sentence for deliberately insulting Muslims in a feature article. Ramji Lal Modi wrote a piece in Guarakshak, a cow-protection publication, that was considered to be deliberately offensive to Muslims and hence in breach of Indian Penal Code Section 295a. The Court decided that the limitation to protect the community order from shock and provocative speech was legally valid.*

*The petitioner stated that any law that restricts the right to free speech under Article 19(2) of the Constitution "in the interest of the public order" <sup>4</sup>would only be permissible if the statement was probable to provoke public disturbance and had a direct link to the disturbance. In this regard, disrespecting a society's faith does not usually result in public unrest, though this may in some situations. As a result, the petitioner argued that where legislation encompasses both protected by the constitution and prohibited speech, the Court would rule that law unconstitutional.*

*This contention was dismissed by the Court. It began by pointing out that the constraints listed in Article 19(2) are mitigated by the phrase "in the interests of," which has a much broader spectrum than "for the preservation of." "A law may have not been established in the interest of the public order even if it was not intended to actively protect public order." The Decision went on to say that provision 295A only punishes religion insults committed "with the conscious and deliberate goal of enraging the religious emotions of that group." As a result, insults delivered "inadvertently" or without intention do not fall under section 295A. The Court defended its position by stating that intentionally meant remarks have a "planned intention" to undermine state security.*

*The petitioner further stated that section 295A belongs in Chapter XV of the IPC, which deals with religious violations, rather than Chapter VIII, which deals with state security offences. As a result, religious crimes have no influence on the maintenance of law and order. The Judge dismissed this claim, citing Articles 25 and 26 of the Constitution, which protect freedom of religion. The exercise of these freedoms is constrained by civil safety. As a result, the Court rejected the notion that a statute enacting a crime in the light of faith can be used to prevent public unrest.*

*As a result, the Court rejected the Petitioner's plea and determined section 295A of the IPC to be valid.*

## **ONLINE HATE SPEECH: CRIMINALISING HATE SPEECHES**

*Section 66A of the Information Technology Act, 2000, which was affirmed by the Landmark Judgment of Shreya Singhal vs Union of India in 2015, makes it unlawful to propagate hostile speech online. After this clause was removed from the Act, the Parliamentary Standing Committee put up a proposal to alter the Act so that it more effectively and appropriately incorporates hate speech that may be found on the internet.*

*The state may restrict any online tool from any website or publication if it damages civil order, sovereignty, integrity, or fosters hostile speech, according to Section 69A of the same IT Act.*

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<sup>4</sup> Ramji Lal Modi v. state of uttar pradesh. (2021, July 07). Retrieved November 09, 2021, from <https://globalfreedomofexpression.columbia.edu/cases/modi-v-uttar-pradesh/>

## ***Impact of hate speech on freedom of expression***

*In recent years, hate speech has significantly impeded individuals' rights to freedom of expression and speech.*

*As was mentioned earlier in the piece, hate speeches that are disseminated by various media channels have led to unrest and violence in the general public, which has even put the accused person's life in jeopardy. There are only a few prominent figures in the media who abuse their power. Their unbalanced reporting that favours one particular political party or ideology over another has led to a reduction in the amount of public debate and criticism that is objective. The media of today targets a particular group and individuals within that group, and it labels them as "antinational" or "Naxalites." There are programmes broadcast on national television with titles like "Traitors vs. Patriots." In order to increase viewing, the media builds a narrative that is cynical, it distorts the facts, and it provides news that is spectacular.*

*As the proliferation of false information throughout the many internet platforms has become more frequent in this day and age, the issue of hate speech has also increased with it. The use of social networking applications such as WhatsApp has become the most prevalent method for the dissemination of hate speech. Despite the efforts of the WhatsApp firm to educate its users about the dangers of spreading false information or any message that may be considered hate speech, incidents of mob lynching and assaults on people as a result of false suspicion are still occurring. Trolls on social media have emerged as yet another major concern for websites that facilitate social networking. Trolling is the practise of defaming a person via the use of social media by making comments that are intentionally provocative or hurtful.*

*Hate speeches are often given by politicians in today's world for the purpose of garnering personal political benefits and also elevating their own religious ideas. Politicians have been caught on several occasions making alarming remarks, such as "Muslims should shout Bharat Mata ki Jai if they wish to survive in India." This leads to intolerance of other religions and violence among communities among the general population.*

*There has been an increase in the number of incidents of hate speech as a direct result of the absence of stringent regulations to limit hate speech and to hold the person responsible for its distribution.*

## ***SUGGESTIONS/CONCLUSION***

*It is difficult to differentiate between free speech and hate speech in a country like India because of the large number of people who come from a diverse range of backgrounds and traditions. As a result, dealing with contentious issues such as hate speech has become one of the most challenging problems facing the country. When attempting to limit speech, there are a number of considerations that need to be given attention. These include the number of contrasting viewpoints, the potential for offending certain groups, and the effect on the principles of dignity, freedom, and justice. Although there are laws that prohibit such acts, there is still a significant amount of work that has to be done.*

*It is not an easy undertaking to apply laws in a manner that is both effective and reasonable in the context of the situation. Concurrently, the issue that needs to be addressed is whether or not the existing legislation is sufficient to manage the difficulties of controlling hate speech. Considering the delicate balance that needs to be achieved when dealing with instances of*

*hateful speech and administering justice to those who were involved, this is a question that needs to be answered. The damage that is caused by hate speech is not only harmful, but also exceedingly dangerous. It is a double-edged sword. There is no way to repair the damage that is done to the public as a whole as a result of hateful speech, and there is also no opportunity for victim rehabilitation or any other kind of form of vengeance. As a consequence of this, it is very necessary for individuals to search for a solution to an effective response to hate speech that goes beyond the confines of the criminal justice system.*

*The Indian laws that ban hate speech must to be examined and revised according to the requirements of the situation. A number of components of the legislation against offensive speech are far too open to interpretation. These aspects include those that deal with encouraging animosity between classes and groups, inciting a riot, and willfully insulting a religion. A rule of this kind would cover an extremely wide range of situations.*

*On the surface, this seems to imply that legal action may be taken if a person's sentiments are injured in any way. Even if a more objective point of view is adopted, in the end it will be up to the court to decide whether or not the work in question is offensive to the prototypical reasonable man.*

*The Viswanathan Committee recommended including Sections 153 C (b) and 505 A in the Indian Penal Code (IPC) as a punishment for inciting others to commit a crime on the basis of their faith, colour, class or group, gender, sexual preference, birthplace, domicile, dialect, impairment, or ethnicity. This was one of the recommendations made by the committee.*

*Although there is a valid concern that these social networks may resort to excessive censorship, it is possible that this worry might be alleviated by recruiting material censors who have received enough training and are better conversant with India's socio-political system. Activists from all across the world have made the suggestion that websites, rather than enforcing a single rule globally, should instead investigate the possibility of crafting region-specific censoring criteria.*

*In conclusion, the significance of independent, high-quality reporting cannot be understated. This kind of reporting emphasises telling the truth, cultivating a critical mentality, providing assistance to disadvantaged populations, and verifying material found online. The only way to ensure individuals who have been wronged by such actions get justice is if we wait until that point.*

*The true objective here is to pinpoint the underlying reason for hateful speech and put an end to it. This will not only be accomplished via the implementation of stringent legislation, but also through the dissemination of information about nonviolent and inclusive methods. It is necessary for the effective healing of social miscommunications in order to keep the likelihood of hateful and hurtful communication in the community to a minimal. This will allow for the possibility of hatred to be reduced. When it comes to rules and regulations regarding hate speech, it is essential to ascertain the motive for these laws, as well as to ensure that their smooth execution is ensured. It is very necessary to find a middle ground between the right to free expression and the practise of stirring hate in order to keep the latter under control. It is necessary to have both effective education and robust discussion within a democratic framework in order to address the primary factors that contribute to hate speech. It not only tries to stop hatred, but also to raise awareness about the negative consequences of hateful speech.*

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