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SOCIAL MEDIA IS A TOOL OF HATE SPEECH IN INDIA: A CRITICAL ANALYSIS

AUTHORED BY – KM PREETI & JYOTI AWANA

ABSTARACT

When we talk about the Internet, we cannot deny that it become an important part of our daily life. In the world of digital platform, people around the country totally depends upon Internet whether it is relative talks, communications, shopping or other business needs but with pros there are some cons on Internet where 'Online Hate Speech' has become the major problem around the world especially in India. The political parties are misusing social media platform to attract the people and spreading the hate speech through social media platform like Instagram, Twitter, Facebook, You tube against the targeted groups on the grounds of religious, religion, race, caste and place of birth which incite the violence among different groups. The reason behind this misinformation on Internet platform is lack of effective legislation and proper definition of hate speech. India has different kind of legislation related to hate speech like; Indian Penal Code 1860, Criminal Procedure Code 1973 and Information Technology Act 2000 but these old laws are ineffective and not followed by executive body and people properly. The Supreme Court and Law commission of India has repeatedly emphasized upon the need for a new law regulating the online hate speech in India. This paper will highlight the need of new law for online hate speech in India and try to define how old laws are ineffective in this new digital era.

Keywords: Online hate speech, Constitution, Human Rights, targeted groups, Inflammatory Content, balance between hate speech and free speech.

1. INRODUCTION

“There is a fine line between free speech and hate speech. Free speech encourages debate whereas hate speech incites violence.”

Newton Lee

Human life and technology cannot be separated from each other in this digital World. The dependency of society on technology is totally cyclical and co-dependence on each other. As we know that people day by day totally dependent on technology whether education, business, political or other source of benefits. So, people should be careful to use online digital platform. India is a democratic Country and different people have different cultures, religion, language and place of birth so problems like discriminated behaviour towards minority groups are common but now these problems have been taken wide face on Internet Platform which creates the situation of genocide among different groups. The issue of hate speech firstly brought in the year of 2014 in General election where the president of ‘Bhartya Janta Party’ leader Amit shah gave provocative speech against the targeted group in the city of ‘Muzaffarnagar’ (Uttar Pradesh) but later it was refused by Supreme Court on the basis of lack of evidence of hate speech against minority groups, He addressed that “If Modi wins then Mullah Murayama’s government will fall”.¹ The issue of political propaganda and incited speech was common but now in the digital platform time it has been extended at large platform through social media on the basis of religion, race, caste, place of birth, sexual gender inequalities. The Internet allows the speaker to influence a greater number of public in a short span of time. On 17 December 2017, there was genocide speech delivered by Yati Narsinghanand which was live on many social media group this speech was against Muslim Community on the ground of race, caste, religion, religious and place of birth which was hurtful of their religious feelings and violence. Recently, in July Month 2022, The Supreme Court of India suspended the Nupur Sharma from Bhartya Janta Party for derogatory comments on Prophet Mohammad and held that she loose her tongue and she only responsible for spreading the igniting emotions across the Country and therefore she should apologize to the Nation.²

¹ India Today, Amit Shah exhorts voters to uproot ‘mullah’ Mulayam, rakes up storm, India Today, Updated on: September 5, 2014.

² The Indian Express, Apurva Vishwanath, Prophet remarks row: Supreme Court says Nupur Sharma won’t be arrested for now, available at: <https://indianexpress.com/article/cities/delhi/supreme-court-nupur-sharma-bail-hearing-hate-speech-prophet-mohammad-8039060/>, updated on: July 20, 2022, New Delhi.

Many reports have been dubbed in the year of 2018, this was the year of Online Hate speech in India where Facebook revealed that about 3 million hateful posts were registered on online platform and Facebook gave order to remove such online hateful content.³ Under the Law Commission of India Report 2017, it has discussed that the definition of hate speech is not defined properly in any legislation.⁴ In today's World, the word hate speech includes insult, disrespect, discrimination, inflammatory which incites and encourages the use of violence or culminates in violent retaliation. As a result, Society's overall balance and order are disrupted. Hate speech moreover sometimes terrible of hate crime which brings the direct disruption on targeted groups body and psychological injury to hate crime victims.

When we talk about the other county, the online hate speech is also common, under the Southern Poverty Law Centre (SPLC), there is 69 percent of hate groups rise in the year of 2012.⁵ According to 'Simon Wiesenthal Centre's 2019 Digital Terror and Hate Report, there are 15,000 fake news on website were related to incite the hatred among targeted group on the ground of color, race, caste and place of birth.⁶

These above figures reveal the seriousness of the situation which highlights the inadequacy of the existing laws to address the issue. In India, the gravity of online hate speech was discussed under the Law Commission Report 267th, 2017 but it is still on the table of parliament. Under this paper, the writer has tried to discuss the problem, causes and need to amend the existing law on hate speech and has tried to discuss some feasible solution to curb the problem of online hate speech in India and also discussed some outside countries legal framework and initiative which is helpful to curtail the online hateful speech in India.

2. Meaning Of Hate Speech:

When we talk about the definition of hate speech, the hate speech is the form of speech which includes the words or speech which can be in the form 'libel⁷' (mode of publication and print)

³ Tech Crunch, Facebook's new transparency report now includes data on takedown of bad content including hate speech, Transparency Report, Tech Crunch Commerce Site, Updated on: May 15, 2018.

⁴ The Law Commission of India 2017, Report 267, Chapter 2: Legal provisions of Hate Speech in India, page number 5.

⁵ Southern Poverty Law Centre, What we do? Available at: Southern Poverty Law Centre.com last visited on: November 29, 2012.

⁶ Simon Wiesenthal Centre, New York, Simon Wiesenthal Centre releases 2019 digital terrorism and hate report Card, New York, last updated on: March 14, 2019.

⁷ Libel: it is the written defamation where anything published, print or text message is the part of libel.

or 'slander'⁸ (speech through audio and video) where the main purpose is to hurt the certain group of people which is belonging to minority group, individual or community etc. The word hate speech is not defined formally in any Indian Legislations.

According to Black law dictionary, hate speech means any hatred expression or words for certain group which is related to race, caste, religion, place of birth and any words or speech that can provoke that certain group. The main objective of hate speech is provoking certain group which can result violence and any harmful genocide.⁹

"Hate speech" is defined as "an expression that is abusive, insulting in nature, intimidates, harasses, or incites violence, discrimination, hatred, or rage against groups identified by characteristics such as race, place of birth, caste or community, region, residence, language, sexual orientation, or personal convictions," **according to a report by the Law Commission of India (2017).**¹⁰

In the United States, hate speech is not defined but protected under first Amendment¹¹. Under **Snyder versus Phelps**¹² case, the Supreme Court of United States has said that protection in first amendment of united States Constitution should be extend their area and it is require to protect by government on the issue of public matters vigorous debate when it is disrespectful, offensive nature, hateful nature and causes to feel anger, grief or fear in any targeted individual's mind.

3. Dataset of Hate speech on Social Media Platform:

According to Supreme Court of India, there has been 580 cases of hate speech in 2021-2022 vases has been registered in Uttar Pradesh where 160 out these has been registered on the basis

⁸ Slander: it is oral defamation statement which includes any words, speech, audio, video contents or any electronic means.

⁹ Black Law Dictionary, The legalities of Hate speech – Black's Law Dictionary, Published in: law dictionary, available at: Law dictionary Organisation site.

¹⁰ Hate speech: report 267, Law commission of India, chapter 2: Legal provisions of hate speech, updated on 23rd March 2017 (India).

¹¹ Legal Information Institute, First Amendment, United States Constitution, United States Law, Legal Information Institute, available at https://www.law.cornell.edu/constitution/first_amendment.

¹² SNYDER V. PHELPS (No. 09-751) 580 F. 3d 206, affirmed.

of Suo Moto based¹³. During the hearing of the case of hate speech on the basis of religious the Bench also held that TV channels and their host are playing the pivotal role to peddle the particular “agendas” which basically base upon violation and division to particular religion and instincts in the society to gain the TRP wars.¹⁴

In 2019, the cyber terrorist attack was spread through Internet where two Muslims were killed by mob and approximately 49 worshippers and dozens were wounded in Christchurch, New Zealand.¹⁵The anonymous post on Facebook and Twitter creates the hatred between people of different caste and religions. Intolerable content and hateful material on social media are increasing day by day in India which is mostly related to political propaganda and anti-Muslims. In India, we have seen many examples related to online hatred materials where Kashmir related violence is one of the top most examples of online hate speech where some terrorist attackers gave online training to attack on critical infrastructure against enemy Countries (Bilal Ahmed Kaloo case).¹⁶ The online attack is not only injurious online but it is harmful offline also. The result of such speech creates nuisance and create the problem of cyber-war as well as physical conflict. In India, till today there is no such strict rule or initiatives but Countries across the world have taken the initiatives to curtail the online hate speech and fake news like Germany and France¹⁷.

When we talk about the initiative to curtail online hate speech then Germany and France has taken some rigid policies to curtail online hate speech and fake news which affects the people dignity and raise the issue of incitement, religion discrimination, bias of colour and language.¹⁸ In Germany NETDG or the Network Enforcement Act ensure the strict provisions which helps to prohibit the hate speech on online platform and ensure that if any illegal activities on social

¹³ The Hindu, The Buck stops with the government to stop hate speech, hate crimes: Supreme Court, updated on: January 13, 2023.

¹⁴ The Hindu, The Buck stops with the government to stop hate speech, hate crime: Supreme Court, Available at: <https://www.thehindu.com/news/national/hate-speeches-complate-menance-we-want-free-and-balanced-press-in-india-sc/article66374675>. Updated on: January 14, 2023

¹⁵ Do something Organisation, New Zealand Mosques Attack: What happened and what you can do, 49 people were killed in two anti-Muslim terrorist attacks on Friday, Do something organisation, updated on March 15, 2019.

¹⁶ Aljazeera, Kashmir files, hailed by Modi, triggers anti-Muslims hate speech, updated on: March 17, 2022.

¹⁷ Osborne Clarke, Online harms: The news legal framework for addressing hates speech in France and in Germany, Home headlines UK tech, Media and Commons, Published on June 2nd, 2020.

¹⁸ Osborne Clarke, Online harms: The news legal framework for addressing hates speech in France and in Germany, Home headlines UK tech, Media and Commons, Published on June 2nd, 2020.

media like provoking messages which is against the security of nation, violate the friendly relation of foreigner countries or any other act like pro-Nazi ideology which can create the threats to the dignity of targeted groups and any hateful message on the ground of religion and caste against minority group then it will be will be punishable and these rule will be followed strictly¹⁹. According to survey, Germany is also famous for political propaganda online similar to India²⁰.

In India, Recently the fake news was uploaded on social media site which was related to child traffickers (year 2018) through Whatsapp messages²¹. Recently, during the election of Delhi legislative assembly, the official crowd in rally shouted the slogan “Desh ke Gaddaro Ko Goli Maaro Saalo Ko (shoot the traitors)” and posted it on twitter by Bhartya Janta Party leader Anurag Thakur²². Even in Jamia Millia Islamia University young protesters use hateful slogan through online source and translated these words into their language therefore once again the provoking speech highlighted.²³

The word ‘Hate speech’ is not defined in any law in India but because of using the fundamental right given under freedom of speech under article 19(1) (a)²⁴ in Indian Constitution, this is the reason where people are using incited speech and ignoring the reasonable restrictions under Article 19(2)²⁵. Fake news and online hatred speech are basically related to a person’s caste, religions, gender and caste which should be considered as most sensitive issue not for India but whole nation. Furthermore, the legal framework and rules which is given in Indian Penal Code, Criminal Procedure Code and Information Technology Act are insufficient and irrelevant. Large amount of users spend their whole time on social media sites and applications, therefore cyber-crimes are increasing on social media day by day where hate speech has taken terrible form and also affecting security, integrity and Sovereignty of the nation

¹⁹ Id.

²⁰ Lisa-Maria N. Neudrat, Computational Propaganda in Germany: A Cautionary Tale, University of Oxford.

²¹ Parth M.N., Shashank Bengali, Rumours of child- kidnapping gangs and other Whatsapp hoaxes are getting people killed in India, Whatsapp, an encrypted messaging service, has become a vehicle for rumours and fake news in India, its biggest market, available at: www.latimes.com (updated on: May 30, 2018).

²² Somesh Jha, Delhi Violence: Anurag Thakur ducks question on ‘Goli Maaro’ remark, Business standard site, last updated on: March 06, 2020.

²³ Opindia, Day after violent protests, provocative slogans appear in Jamia Millia Islamia University campus, accessed on: December 15, 2019.

²⁴ INDIA CONST. art.19, cl.1, sub cl. a

²⁵ INDIA CONST. art. 19, cl. 2

The recent judgment passed by the Supreme Court in ‘**Shreya Singhal versus Union of India (2015)**’²⁶ which is reactive approach and under this judgment the Supreme Court gave the direction that what content will be deemed as hate content and if any hate content comes under given guidelines that the person should be liable punishment provided by prescribed law and government will also follow the direction. The present legislative approach ignores the modern hate content. India is the democratic Country and Constitution gave some fundamental rights to people which are related to security, privacy and speech. The supreme Court and government should amend the some legal provisions with restrictions but people fundamental rights and amended law for online hate content should be balanced and advanced level.

4. Elements of Hate Speech:

- (a) Language or content: Any content or language which are used to humiliate or dissuades the self -esteem on the basis of their caste, regions, religious, colour, race, creed, culture, place of birth and their sexual based comment can be part of hate speech.
- (b) Intention: The main important thing is intention behind any crime, under hate speech the content will be recognize on the basis of intention.
- (c) Impact or harm which may lead to violence and genocide in country: Focus on targeted group only and impact on whole society is also important content of online hate speech: The hate speech content should be related to point out targeted community or group.
- (d) After the hate speech statement in public, if there is any conspiracy will happen then it would be comes under the content of hate speech.²⁷

5. Causes of the Hate Speech:

(a) Sense of supremacy:

The sense of supremacy means the particular caste or religion in the state or religion is superior from all other groups and they have all the authority or status to control on minority groups, this is all about the perception of supremacy. India is populated democratic County so matter related to spreading hate speech against targeted groups like Anti-Muslims are common and

²⁶ See Shreya Singhal versus Union of India, AIR 2015 SC 1523.

²⁷ Mojo Story, Hate speech if said with a smile: Court’s startling response, Delhi Riots, Justice Supreme Court Judge Madan Lokur joins Barkha Dutt to discuss the Court’s observations, Daily hunt news, available at: https://youtu.be/8-15AtR_O5Y.

this is also happening on online platform also, the reason behind social media companies are aware about such hate speech but they are focusing on their profit only, such online content and hateful speech increases the attraction of users and they will spend more time on such platforms. There are many incidents happened due to sense of supremacy ideology registered in our history, the best example is 'Nazi Ideology'²⁸ in Germany by 'Adolf Hitler'²⁹.

(b) **Stubborn behaviour towards a particular belief:**

The stubborn behaviour means particular caste or religion is superior and others are dominant to them. The social platform filled with many post and news related to belief on particular ideology and there is no prohibition to such ideology by social media companies because if they block or stop to follow their ideology it will hurt their sentiments and religious emotions.

(c) **Bad stereotypes thoughts for lower communities:**

The manipulative stereotype thoughts on social media leading people to think to follow one ideology and not follows others ideology.

(d) **Free Speech and Expression**³⁰:

The free speech and expression which is guaranteed in the Constitution of India under Article 19(1) (a)³¹ might be one of the main reason to spread the hate speech where citizens thinks that they have right to give opinion on anything whether it is hurtled the sentiments of particular community or not. Although Article 19(2)³² of the Indian Constitution provide some reasonable restriction on free speech which is mainly related to control on hateful content, defaming content, against the integrity, security, sovereignty of the India, but citizens ignore such reasonable restriction and spread hateful content through the Internet portal.

²⁸ Jitendra, what is Nazi ideology: Asked by Jitendra, topper learning, updated on: September 28, 2017.

²⁹ Alan Bullock & Barun Bullock, Adolf Hitler (Dictator of Germany), News report: Britannica, updated on: 2017.

³⁰ Freedom of speech and expression under Article 19(1) (a), available at: [byjus.com>free-ias-prep>freedom](https://byjus.com/free-ias-prep/freedom/).

³¹ INDIA CONST. art.19, cl.1, sub cl. a

³² INDIA CONST. art 19, cl.2

6. Why do we need to ban Online Hate Speech?

(a) Emotional damage and self-hatred:

The first reason to curtail hate speech is psychological harm to targeted group personal life. The daily available content on Internet can be hurtful to self-esteem of victim because when someone continue says that you are wrong and humiliate daily then targeted people eventually begin to doubt their own-worth.³³ According to **Selma research programme**, the young people are more active on social sites and very much active on such arguments which provoked the hate speech via caste, community, colour, religion, regions, place of birth and sexual discrimination.³⁴ The online hate speech weakens individual's happiness. The hate speech sometimes takes traumatic experience among Young people.³⁵ According to **Selma research programme**, the victims of online hate speech sometimes lower the self-esteem, sleeping disorders, increased anxiety and feeling of fear and insecurity, they may feel alone or isolated or feel insulted and feel like whole world's is against targeted victim.

(b) Encourages Racist and Sexist Beliefs:

The online hate speech cannot be easily defined and interpret because the language can be direct or indirect form, the main purpose of hate speech is to attack only the targeted individual or community based on their race, religion, ethics origin, sexual orientation, disability and it can be based on gender discrimination³⁶. In addition, the negative effect of such racist and sexist insults may lead to violence and genocide not only particular state but the whole world can suffer, one of the best example of racial hate speech is 'Jewish Holocaust took place between 1933 and 1945³⁷'.

³³ Kenneth B. Clark & Dark Ghetto 63-64 (1965), journal of American studies, vol.46, no. 4, November 2012, Published by: Cambridge University Press, available at: www.jstor.org/stable/23352469.

³⁴ Selma research programme, Hacking Online Hate: Building an Evidence Base for Educators, available at: www.Hackinghate.eu

³⁵ Sema Partner, The consequences of online hate speech – teenager's perspective, available at: Selma researcher, Updated on: April 8, 2019.

³⁶ Johnson & N.F et al., Hidden resilience and adaptive dynamics of the global online hate ecology, Bib code: 2019Natur.573.261J. DOI: 10.1038/s41586-019-1494-7. ISSN: 1476-4687. PMID: 31435010. S2CID 201118236, updated on August 21 2019.

³⁷ Koen Smilde, Jewish Holocaust: what is holocaust: the meaning of holocaust came from Greek and it means 'burnt offering' in the second world war, which was defined sometimes the death of a large group of people, the world holocaust also known as 'Shoah', this hate speech genocide was happened between 1933 and 1939, Annefrank Organisation news report, available at [www.annefrank.org> go-in-depth](http://www.annefrank.org/go-in-depth).

In India, there are many example related to online speech which sometimes create the situation of violence or genocide for example 'Sudarshan TV News Channel' pass off the hate speech propaganda as news and work as spreading the hate speech through incited communal hatred speech against Muslims Community under the episode "UPSC Jihad³⁸", Supreme Court took action chief editor of 'Sudarshan TV News Channel' and order that channel not to broadcast any hateful content which is incite the violence among the different community.³⁹

(c) **Sexist and misogynist online hate speech:**⁴⁰

Online Hate speech not only humiliate the targeted group but due to proliferation of technological world, the crime against women on social media is also common, it may constitutes any hateful comment on her social media account which can hurt and humiliate her dignity. In democratic country like India, the condition of women is not so good, she is still facing the conservative thoughts and still facing men dominating world. In India, misogyny attitudes towards women are common and it has also become the trend on virtual platform which can be in the form of sexist comment, body shaming, giving sexualised threat of death, threat of rape, or any other form of violence.

Recently in India, the ⁴¹UN special reporter, Dr. Fernando De Varennes stated on his twitter account that 'Sulli' and 'Bulli Bai' app should be deleted soon on social media and take strict action against online offender, these apps has mainly targeted the 'Muslim' women on online platform for auction without their permission and some of the 'Muslim' celebrity's photo has posted on online social media app like; Twitter, Instagram, these contents have uploaded by offender without the consent of victims and without their knowledge then one of the journalist recognize the crime and complaint online against such fake app after the online complaint such issue came into news and it has found that offender targeted only minority 'Muslim' women

³⁸Amrita Nayak Dutta, The print news: 'UPSC jihad' show offensive, could promote communal attitudes-government in affidavit to Supreme Court, The Print News, Updated on November 18, 2020, available at theprint.in/governance/upsc-jihad-show-offensive-could-promote-communal-attitude-govt-in-affidavit-to-sc/547415/?amp.

³⁹Jayant Sriram, With the Sudarshan TV case, can the Supreme Court defines the contours of hate speech? The Hindu in focus podcast, updated on: September 25, 2020.

⁴⁰Tania Gupta, Misogyny in India: A virulent form of Hate Speech, The criminal law blog, National Law University (Jodhpur), updated on: September 30, 2020, available at: criminallawstudiesnlj.wordpress.com/2020/09/30/misogyny-in-india-a-virulent-form-of-hate-speech.

⁴¹ UN Condemns Apps Like 'Sulli deals' as a form of hate speech in India, As a form of hate speech in India, updated on: January 12 2022 , available at: www.oulookindia.com/website/story.india-news-sulli-deals-form-of-hate-speech-in-india-must-be-condemned-un-official/409348/amo.

for auction and earned money through such fake online app⁴².

(d) Online Hate Speech can be become mass violence which can damage both public and private property:

The online hate speech sometimes takes mass violence and genocide which may result the damage of public property and private property also. In India, the protest on the issue of Citizenship Amendment Act has taken the mass genocide among police officials and protestors, where these protestors has damaged the public police car and bikes and police station also. So, the Supreme Court should have supreme power to penalize the offender who destroys the public property intentionally.⁴³

(e) It can even depreciate bilateral relations and lead to battles and conflicts between Countries:

The hate speech can lead the situation of war between the nation through fake online news and fake users can spread the fake news over the whole cyber-space. The reason behind these users cannot be locate easily and they can be member of any country. The recent example of online fake news is related to “The civil war in Libya which was broadcasting by media from the beginning of April and the media was showing the fake news to attract the attention the people on social media sites, it was found on social sites that 30,000 people flee from their homes and thousand were killed and injured, such type of hate speech and fake news incites the bonfires of violence among people and create fear in their mind”.⁴⁴In the context of India, the bigoted speech in ‘Haridwar Dharam Sansad’ which was delivered by ‘Yati Narsinghanand’, where he delivered the genocide hate speech against ‘Muslim’ community and made video to uploaded on all social sites so that other can see the speech. This news was the genocide speech against ‘Muslim’ community⁴⁵.

⁴² Bulli Bai app: Three arrested for fake auction of Muslim women in India, BBC News, updated on: January 5, 2022, available at: <https://www.bbc.com/news/world/asia-india-59835674.amp>.

⁴³Prashant Jha, Delhi Riots: Recovery of damage to public property during CAA/NRC protests, Delhi High Court issues notice, Litigation News, Updated on: March 21, 2022. Available at: www.barandbench.com/news/litigation/recovery-of-damage-to-public-property-of-damage-to-public-proerty-during-caanrc-protests-delhi-riots-delhi-high-court-issues-notice.

⁴⁴Mountazali, Media: Hate speech leads to violence, updated on: April 29, 2019, available at: www.dandc.eu/en/article/civil-war-libya-exacerbated-hate-speech-and-propaganda).

⁴⁵The Hindu Newspaper, Haridwar hate speech FIR filed for promoting enmity, The Hindu, Updated on: December 24, 2021/ 38022839.

7. International law on Online hates speech:

(a) Under Article 20 (2) of the International Covenant on Civil and Political Right, 1966(ICCPR)⁴⁶, includes the free speech rights but with reasonable restriction of free speech which address the discriminatory, offensive and incite to targeted group on the grounds of race, caste, religion, creed and language and other biased behaviour with them.

(b) Under Article 4 and 6 of the International Convention on the Elimination of all forms of racial discriminations, 1966⁴⁷, Under International Convention prohibition, the Article 4 and Article 6 provide the minority groups effective remedies and protection against actions which is against dangerous to humanity and creates violence and genocide in the nation.

(c) European Union and United Kingdom:

European Court of Human Rights (ECTCHR), contributed thoroughly to curb the hate speech under **Article 10⁴⁸ under European Convention of Human Rights (ECHR)⁴⁹**, which constitutes the right of free speech and expression with reasonable restriction given in clause 2 of Article 10⁵⁰ on certain speech which is discriminatory or in incitement nature. **Article 17 of the convention⁵¹** includes the prohibition on rights which is abused against the state, individual and person.

In **Handyside case⁵²**, the European Court held that restriction on Article 10(2) of the European

⁴⁶International Covenant on Civil and Political Rights, United Nations Human Rights Office of the High Commissioner, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (adopted on: December 16).

⁴⁷United Nations General Assembly resolution 2106 (XX), International Convention on the elimination of all form of racial discrimination, OHCHR, adopted on: 21December 1965, Available at: <https://www.ohchr.org/en/instruments-mechanisms/instrumens/instruments/international-convention-elimination-all-forms-racial>.

⁴⁸ European Convention of Human Rights (ECHR), art. 10(1) reads: Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and television of frontiers.

⁴⁹What is the European Convention on Human Rights? Available at: <https://www.equalityhumanrights.com/en/what/european-conventiuon-human-rights>.

⁵⁰ European Convention of Human Rights (ECHR), Art. 10 (2) reads: The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interest of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

⁵¹ European Convention of Human Rights (ECHR), Art. 17 reads: Nothing in this Convention may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedom.

⁵² See Handyside v. United Kingdom, Application no. 5493/72 (1976).

Convention of Human Rights must be carefully inspected on every offensive hate speech which is not illegitimate.

(e) **United States: First Amendment of the U.S. Constitution**⁵³ prohibits the exercise the illegal use of hate speech.

(e) Canada: Section 319 of the Criminal Code of Canada, 1985⁵⁴ forbids the sanctions for public nuisance which is especially based on agitation of hate speech among the minority groups. According to Canadian Charter of Rights and Freedom, this Charter guaranteed the freedom of thoughts, belief and Personal opinion on government measures and expression Subjected to reasonable restrictions and limited by prescribed law. **The Court of “Keegstra**⁵⁵” referred the test for hate speech according to **“R. versus Oakes**⁵⁶” which was defined the limitation that the speech should be proportionate manner in **three forms**:

- The restriction or limitation on hate speech content should be defined with object which was deliberated during the offensive hate speech crime.
- The right of freedom must have substantial question and impair with good faith.
- There should be effects on offensive speech which was delivered or spoken in offline or online platform.

The constitution of India provides the guarantee of freedom of speech and expression under **Article 19 (1) (a)** to citizens which includes all citizens have right to express his feelings and emotions without any hindering because it is most important think for people share his/her opinion, creates friendly environment, help to increase communication skill between citizens, most basic elements for healthy and open-minded democracy⁵⁷. The freedom of speech and expression provides the freedom to participate in the social and political happenings of their country and also help to give idea for increasing economy, wealth of the citizens.⁵⁸ But we have seen many examples in recent days that freedom of speech and expression are misusing by political parties, press and individuals without any reasonable restriction and responsibility. **Article 19(2)** of the Constitution of India provide guarantee of freedom of speech and

⁵³ THE U.S. Constitution (First Amendment) Act, 1951, Legislative Department, Ministry of Law and Justice, GOI, available at: <https://legislative.gov.in/constitution-first-amendment-act-1951>.

⁵⁴ “Criminal Code”, available at: <https://laws.lios.justice.gc.ca/eng/acts/c-46/section-319.html>.

⁵⁵ See R. versus Keegstra (1990) 3 SCR 697.

⁵⁶ See R. versus Oakes (1986) 1 SCR 103.

⁵⁷ INDIA CONST. art. 19, cl.1, sub cl. a, available at: <https://indiankanoon.org/doc/1142233>.

⁵⁸ Neshapriyan M, Social Media and freedom of speech and expression, available at: <https://www.legalserviceindia.com/legal/article-426-social-media-and-freedom-of-speech-and-expression.html>.

expression to all citizens of India but this Article is also subjected to certain restrictions like sovereignty, integrity, unity, friendly relations with foreign states, public orders, politeness or morality or in relation to contempt of Court, defamation or incitement to offence.⁵⁹

(a) Legislations in Indian Penal Code, 1860:

Presently, in India there are following legal provisions on hate speech in India which includes the features of hate speech but not defined particularly. These are as follows:

Section 124A of Indian Penal Code, 1860:⁶⁰

Section 124A talks about Sedition which means any certain acts which creates the disaffection, hatred or incitement against the government called 'Sedition' under section 124A of the Indian Penal Code⁶¹. In **Bilal Ahmed Kaloo Versus State of Andhra Pradesh (1997)**⁶², under this section the accused was acquitted under section 124A, 153A, 505(2) in Indian Penal Code, section 3(3), 4(3), and 5 of the TADA act and section 25 of the Arms act but the real question has raised in Apex Court that the accused is liable under section 124A and section 25 of the Arms Act.

According to section 124A of the Indian Penal Code, any words spoken or written, signs or visible representation which brings the hatred or contempt to hatred, attempt to excite or contempt to excite '**disaffection**' towards government which was established by law then that person would be liable to punish life imprisonment or it can extend the three years imprisonment under the Indian Penal Code.

Section 153A of Indian Penal Code, 1860:⁶³

Section 153A includes any offence which is related to promote any enmity between different groups or targeted groups on the grounds of region, religious, race, residence, place of birth and language and doing any act which is damaging to maintenance the harmony of the Nation. There are different elements where the accused is liable under this section:

⁵⁹ INDIA CONST. art. 19, cl. 2

⁶⁰ Universal, New Delhi, The Indian Penal Code (45 of 1860), and section: 124A sedition, page number: 42-43.

⁶¹ The Indian Penal Code (45 of 1860), section 124A Sedition, page number: 42, Universal law book, India Code (45 of 1860).

⁶² Bilal Ahmed Kaloo V. State of Andhra Pradesh, AIR 1997 7 SCC 431 (India).

⁶³ The Indian Penal Code (45 of 1860) as amended by The Jammu and Kashmir reorganisation Act, 2019 (34 of 2019), Section 153A, page number: 51-52, Universal law book, India Code (45 of 1860).

Commits an act which disturb the public tranquillity: Any act which is harmful to the maintenance of the harmony to the targeted group on the basis of religious, region, caste, colour, place of birth, racial, language and community which may disturb or likely to disturb the peace of the public (**Bilal Ahmed Kaloo Versus State of Andhra Pradesh**⁶⁴).

Organize any movement, exercise or participation which is intended to create violence between different groups: Any act which includes the organisation, any exercise or any movement where main intention to spread the violence among targeted groups on the grounds of religion, region, caste & colour, residence and place of birth or this violence can be result genocide among different groups. The main object to organise the community is to create violence between targeted groups which creates fear alarm and disturb feelings but it should be intended, knowledgeable and incited to targeted groups. Mere discussion, advocacy is not sufficient to proof under this offence but such discussion or advocacy should be incited in future time (**Shreya Singhal Case**⁶⁵). The person is liable for imprisonment which may extend to three years or with fine or both.

Section 153B of Indian Penal Code, 1860:⁶⁶

Under section 153B of the Indian Penal Code, 1860 penalises any imputations, assertions prejudicial which is threat to national integration. It includes any words whether it is spoken or written or by visual representation or otherwise.

Section 295A of Indian Penal Code, 1860:⁶⁷

Whoever, with deliberate and malicious intention of outraging the religious feelings to the targeted person of the citizen of India, this intention can be by words or spoken or by visible representation on the grounds of religious, race, caste, colour, place of birth or targeted community to hurt their religious feelings then that person shall be liable to imprisonment or it can be extend for three years or with fine or both. This offence is non-bail-able, non-compoundable, Triable by any magistrate and comes under the category of cognizable offence.

⁶⁴Bilal Ahmed Kaloo V. State of Andhra Pradesh, AIR 1997 SC, Available at: <https://indiankanoon.org/doc/639296/>.

⁶⁵ Shreya Singhal V. Union of India, AIR 2015 SC 1523.

⁶⁶The Penal Code (45 of 1860), section 153B, Universal law book, page number: 52 (New Delhi), India Code (45 of 1860).

⁶⁷The Indian Penal Code (45 of 1860), section 295A, Universal Law Book, page no: 105 (New Delhi), India Code (45 of 1860).

Section 298 of Indian Penal Code, 1860:⁶⁸

The person is held liable for one year imprisonment, fine or both when he commits any act which is deliberately to wound the religious feelings of the targeted person, this can be by uttering any words, makes any gesture which is related to targeted person place or any objects in the vision of that person. This offence is non-cognizable, bail-able, Triable by any magistrate of the Court and compoundable.

Section 505 (1) and (2) of Indian Penal Code, 1860 (Statement conducing to public mischief):⁶⁹

- (1) Whoever makes or publishes or circulates any statement, the main intention is to cause or likely to causes any public officer including soldiers (sailor or airman), the Army, Navy and Air force of the citizen of the India. Where such officer fail or mutiny to fail his duty or create the fear in the mind of people of India or any act which is against the integrity or security of the nation. The offender shall be liable for imprisonment which may extend to three years or fine or both. This offence is non-cognizable, non-bail-able, non-compoundable or Triable by any magistrate.
- (2) Whoever makes or publish or circulate any statement or spread rumours or any alarming news which creates the fear or disharmony to any targeted groups on the grounds of the religious, race, colour, caste or language or other things which creates the disharmony between different groups and also creates the situation of ill-will condition in the nation. The offender is liable for imprisonment which can be extending for three years or fine or both.

(b) Legal provisions under the Code of Criminal Procedure, 1973:

Section 95 in the Code of Criminal Procedure, 1973:⁷⁰

Under this section the state government and Magistrate have power to declare certain publications forfeited and can issue the search warrant

⁶⁸The Indian Penal Code (45 of 1860), section 298, Universal Law Book, page no: 105 (New Delhi), India Code (45 of 1860).

⁶⁹ The Indian Penal Code (45 of 1860), section 505 (1) and Section 505 (2), Universal Law Book, page no: 195(New Delhi), India Code (45 of 1860).

⁷⁰The Code of Criminal Procedure, 1973, section 95, India Procedure Code (2 of 1974), available at: <https://indiankannon.org/doc/875455/>.

Section 107 in the Code of Criminal Procedure, 1973:⁷¹

This section includes the security for keeping the peace in other cases. When local executive Magistrate of any state receives any complaints or information which is related to breach of peace or create disturbance of public tranquillity or any wrongful act which may result to create breach of peace in the state then an Executive Magistrate may provide the show cause or give order to maintain peace in his local state.

Section 144 in the Criminal Procedure Code, 1973:⁷²

Section 144 of Criminal Procedure Code, 1973, gives power to District Magistrate, A sub-divisional Magistrate, or any other executive especially selected from state government to issue order in urgent cases in case of nuisance or any apprehended danger to peace of the nation.

(c) The Representation of the People Act, 1951:

Section 8 in the Representation of the People Act (1951), under this section the contesting candidate will be disqualified from election if he is convicted for the illegitimate use of his freedom of speech and expression right.⁷³

Section 123 (3A) and Section 125 in the Representation of the People Act, this section prohibits the promotion of enmity on grounds of religion, caste, race, language or community in connection with election corruption or any electoral practice.⁷⁴

(d) The Protection of Civil Rights Act, 1955:

Section 7 of the Protection of Civil Rights Act, 1955 includes the punishment for incitement, encouragement of untouchability through words, spoken or any visible representation on the grounds of religious, region, race, caste, place of birth and community to any targeted groups in India.⁷⁵

(e) The Religious Institutions (Prevention of Misuse) Act, 1988:

⁷¹The Code of Criminal Procedure, 1973 , section 107, India Procedure Code (2 of 1974), available at: <https://indiankanoon.org/doc/1914745/>.

⁷²The Code of Criminal Procedure, 1973, section 144, India Procedure Code (2 of 1974), available at: <https://indiankanoon.org/doc/930621>.

⁷³The Representation of the People Act, 1951, section 8, Central government act, India Act (1951), available at: <https://indiankanoon.org/doc/1662686>.

⁷⁴The Representation of the People Act, 1951, section 123, Central government act, India Act (1951), available at: <https://indiankanoon.org/doc/62390136> and section 125 in the Representation of the People Act, 1951, available at: <https://indiankanoon.org/doc/28226194>.

⁷⁵The Protection of Civil Rights Act, 1955, section 7, India Act (1955), available at: <https://indiankanoon.org/doc/1326407>.

Section 3(g) in Religious Institutions Act, 1988 includes any religious practice by religious institutions on the grounds of race, religious, caste, place of birth, promotes disharmony, feelings of the enmity, any speech which creates hatred, ill-will between different religious, racial, language or regional groups. The person is held liable for punishment who commits such act given on above theory.⁷⁶

(f) The Cable Television Network Regulations Act, 1995:

Section 5 and 6 of the Cable Television Regulations Act forbids any offence which include any transmission or re-transmission of a programme or advertisement through cable network which may result any violence, incitement to targeted groups on the basis of religion, race, caste, colour, place of birth, community, language and others which denotes the targeted group category then owner and news speaker will be held liable for punishment under Cable Television Network Regulations Act⁷⁷.

(g) The Cinematograph Act, 1952:

Section 4, 5B and 7 gives power to the Board of Film Certification to prohibit and regulate any content which is related to disturb the peace of the public on the grounds of community, race, caste, religion, region, language and place of birth which incite the disturbance among different groups.⁷⁸

(h) The Information Technology Act, 2000:

Section 66A includes the punishment for those who send the offensive message through communication service it can be by computer resource, communication device which is related to offensive means or menacing character of victim. It includes any information false message, creates annoyance, danger, insult, injury or any criminal intimidation which incites hatred, ill-will or violence among different community under this section the convicted person will be liable to punish imprisonment for a term 3 years and with fine.⁷⁹

⁷⁶The Religious Institutions (Prevention of misuse) Act, 1988, section 3 (g), India Act (1988), available at: <https://indiankanoon.org/doc/77755996>.

⁷⁷ The Central Government Act, Section 5 in the Cable Television Networks (Regulation) Act, 1995, available at: <https://indiankanoon.org/doc/1122855> and Section 6 in the Cable Television Networks (Regulation) Act, 1995, available at: <https://indiankanoon.org/doc/1158800>.

⁷⁸ The Cinematograph Act, 1952, section 4, Central government act, India Act, available at: <https://indiankanoon.org/doc/1843874>. Section 5B in the cinematograph act, 1952, available at: <https://indiankanoon.org/doc/441329> and Section 7 in the cinematograph act, 1952 available at: <https://indiankanoon.org/doc/1508508>.

⁷⁹The Information Technology Act, 2000 (Act of 2000), section 66A,

Section 69A includes power of Central government or any other officials to issue directions for blocking public access of any information through computer resource. It includes any content which has published or posted on computer resource which creates hatred, ill-will, violence and hurts the feeling of targeted group then Central government or head of communication services can give order to block or seize their account temporary or permanently.⁸⁰

8. Non-State Regulation on Hate Speech:

COVID -19 Pandemic Disinformation: We have seen that during COVID-19 Pandemic time, the trend of disinformation has increased rapidly and this rapid growth called as “infodemic”.⁸¹ For example: A documentary titled “pandemic” where the scientist gave view that SARS-COV2 virus was manufactured and planted to earn profit from vaccine. After the upload of this documentary, the fake news was spread all over the world in few minutes and about 8 million views have extended in eight days.⁸²

In India many example has seen on social media sites like political propaganda, hate speech against minorities especially ‘Muslims’ Communities, In 2019-2020, as per Facebook’s data there were huge spikes of inflammatory disinformation and hate speech has notices in three languages like; Hindi, English and Bengali regard CAA protest and first lockdown during pandemic.⁸³ Recently, many countries took initiative to curb the online hate speech and disinformation around the world, for example Germany, Singapore, and France has taken initiative to imposed fine on that person who will use the online platform to provoke violence through any legal activities⁸⁴. The United Kingdom (UK) has debated on online harms under White Paper newspaper and proposed two new legal initiatives: The Digital Service Act (DSA) and Digital Markets Act (DMA) to counter the online hate speech and harm on it.

⁸⁰ Section 69A in the Information Technology Act, 2000 (Act of 2000), section 69A, available at: <https://indiankanoon.org/doc/10190353>.

⁸¹ World Health Organisation, Novel Coronavirus (2019-nCoV) Situation Report-13, World Health Organisation, updated on: February 2, 2020, available at: 20200202-sitrep-13-ncov-v3.pdf.

⁸² Daniel Funke, Fact-checking ‘Pandemic’: A documentary full of false conspiracy theories about the coronavirus, available at: PolitiFact.com, Last updated on: May 7, 2020.

⁸³ Anuj Srivas, Facebook saw spikes in hate speech in India after CAA protests and during first COVID lockdown, The Wire, last updated on: November 10, 2021, available at: <https://m.thewire.in/article/tech/facebook-saw-spikes-in-the-hate-speech-in-india-after-caa-protests-and-covid-19-lockdown/amp>.

⁸⁴ Archit Lohani, Countering Disinformation and Hate Speech Online: Regulation and User Behavioural Change, ORF, <https://www.orfonline.org/research/countering-disinformation-and-hate-speech-online/?amp>.

9. Regulations on fake news:

In India, the regulation on online fake news is not regulated properly and inadequate to curb the online fake news and harmful speech⁸⁵. Though many provisions given in Indian penal code, 1860 like sedition, defamation, public mischief, promotion and contempt to promote religious hatred, bullying and others are given but these provisions are very ambiguous to define online regulations. The Information Technology Act provided the offences under cybercrime (Chapter XI of the Act)⁸⁶, section 79⁸⁷ which includes the intermediaries and section 66A⁸⁸ was included the fake news which is harmful for state or any public officer but later it was struck down by “Shreya Singhal case⁸⁹”.

The word “disinformation” has defined in the Indian Ministry of Electronics and Information Technology (MeitY) where the main purpose of this definition to recognize the definition of harmful, fake news on online platform.⁹⁰

The regulation on social media platform is very depth concern issue these days as per recent harmful offenses on Internet. Both social media companies and government has failed to regulate or control fake news and hate speech or other crime on Internet. The social media companies are not serious about any online offense, the main objective is to gain main subscribers and profit. In recent times, the Indian government has gave the order to block the 22 sites or social media tools which creates hatred against any minority group this was best initiatives taken by government of India.⁹¹

⁸⁵ Drishthi-IAS, The Problem of Fake News in India: Issues, Concerns and Regulation, available at: <https://www.drishthias.com/daily-updates/daily-news-editorials/the-problem-of-fake-news-in-india-issues-concerns-and-regulation>, updated on: August 09, 2018.

⁸⁶ The Information Technology Act, 2000 (Act 21 of 2000), Chapter XI: Offences, available at: <https://snappar.com/page/information-technology-act-2000-chapter-XI>.

⁸⁷ The Information Technology Act, 2000 (Act 21 of 2000), section 79.

⁸⁸ The Information Technology Act, 2000 (Act 21 of 2000), section 66A.

⁸⁹ See Shreya Singhal versus Union of India, AIR 2015 SC 1523.

⁹⁰ Anirudh Sunil Kumar, Government defines ‘fake news’ in Parliament; says social media being used of weaponisation of information, Republic World, available at: <https://www.republicworld.com/india-news/general-news/governmentdefines-fake-news-in-parliament-says-social-media-being-used-for-weaponisation-of-information.html> (Updated on: July 26, 2018).

“Union Minister Law & Justice, Communications and MeitY Ravi Shankar Prasad have said: Fake news is the type of disinformation which includes fake information through broadcast media, print media, social media or social sites which is harmful for the integrity and security of the nation. He further added that fake news can be made in any form for example it can be spoken, written or visible representation which can damage the agency, data reports or create disturb the society at large”.

⁹¹ Express News Service (New Delhi), Anti-India content: Centre block 22 YouTube Channels, Express News Service, available at: <https://indianexpress.com/article/india/govt-blocks-youtube-channels-anti-india-7853880/lite> (updated on: April 6, 2022).

10. International regulations and initiatives on social media related to Online Hate Speech:

(a) Australia:

Electoral Integrity Assurance Task Force: The first and most important initiative by Australia government is to curtail fake news on online platform especially during the election campaign. Fake news Code: The Australia has launched the new fake news code for their citizens where they can check which news provides fake news or which one provides true information. The Australians people can judge any disinformation on online platform with the help of fake news code. The Europe has recently signed the contract with Facebook, Google, Twitter, Mozilla and several other advertising industry groups.⁹²

(b) France:

Higher Audio-visual Council (CSA): France has launched the broadcasting principles for TV and radio stations called higher audio-visual council for social media platforms. The main purpose of this policy is to assure freedom on broadcasting communication but with reasonable responsibility. This policy is basically made to curtail the fake news and online hate speech.⁹³ Under France Digital Republic Act, under this act, the public authority can take the decision on “algorithmic treatment” and the citizens can seek for explanation if there are any rules made on digital platform.⁹⁴

(c) Germany:

The Germany regulations are very strict regard any illegal content on social media. Germany’s “NetzDG” has whole power and jurisdiction on online platform and it can order to companies and industries to delete or modify the illegal content on online platform otherwise they will face higher penalties to break the rule on online social media.⁹⁵

⁹² Australian Association of National Advertisers, A quick guide to the Australian ‘Fake News’ Code, Australian Association of Advertisement, available at: <https://aana.au/2020/07/02/a-quick-guide-to-the-australian-fake-news-code/> (updated on: July 2, 2020).

⁹³ Law on the fight against information manipulation, Anti-manipulating information manipulation law, Fight against Information manipulation, available at: <https://www.senat.fr/dossier-legislatif/pp117-623.html> (updated on: December 22, 2018)

⁹⁴ Lilian Edwards & Michael Veale, Enslaving the Algorithm: From a Right to an Explanation to a Right to Better Decisions, IEEE Security & Privacy, 2018.

⁹⁵ Network Enforcement Act (Netzdurchsetzungsgesetz, NetzDG), available at:

The Germany has also defined the defined the definition of “Unlawful content” in very wide manner where the word ‘defamation’ and ‘insult’ is also included in it.⁹⁶

(d) Singapore:

POFMA ACT: This act is very powerful as compare to other countries and very controversial too, the main purpose of this act is to detect the misrepresentation on social media platform⁹⁷. This act was criticised at mass level by human rights members and advocates due to susceptibility of government intervention.⁹⁸ This act covers the false and misleading statements on online platform.

Recommendations and suggestions:

(a) Review on definition:

When we talk about the definition of hate speech then it is hard to say that the exact definition of hate crimes around the World, it may be direct hurt or it may indirect hurt. So, the definition of hate speech is in very ambiguous nature. According to Indian Constitution and other provisions in Indian Penal Code, 1860, the definition of hate speech is basically focus on incited the religious on the grounds of race, caste, colour, place of birth, language, religion and religious but the main problem is hate speech contents are not specifically defined so sometimes it may create chaos during the jurisdiction on hate speech. The legal provision given in Information Technology Act, 2000 is very vague and unclear because of this state sometimes take advantage to misuse for their personal purpose for example: In “**Shreya Singhal versus Union of India (2015)**”⁹⁹ the girls who were arrested for hate speech offence under section 66A of the Information Technology Act, 2000, both were innocent and proved not guilty by Apex Court.

<https://germanlawarchive.iucomp.org/?p=1245>).

⁹⁶ Article 19, Germany: The Act to Improve Enforcement of the Law in Social Networks, Article 19, last updated on: August 2017.

⁹⁷ Amnesty International, Singapore: Social media companies forced to cooperate with abusive fake news laws, Amnesty International, available at: [https:// www.amnesty.org/en/latest/news/2020/02/singapore-social-media-abusive-fake-news-law/](https://www.amnesty.org/en/latest/news/2020/02/singapore-social-media-abusive-fake-news-law/) (last updated on: February 19, 2020).

⁹⁸ F Kathleen, Pofma is yet another tool by the Singapore government to suppress criticism and dissent, said Forum -Asia and Civicus, the Online Citizen, last updated on: April, 12, 2019.

⁹⁹ See Shreya Singhal V, Union of India, AIR 2015 SC 1523.

(b) Observation on Freedom of Speech and Expression:

The freedom of speech and expression provides the facility to every citizens in India that every individual have right to speak and give their opinion on the matters of country laws and policies which should be in good-faith and beneficial for the growth of economy, integrity, sovereignty and security of the nation but with reasonable restrict.¹⁰⁰The Article 19(2)¹⁰¹ defines the reasonable restriction on hate speech which is mainly focus on only ‘public order’ not on ‘sovereignty and integrity’ of the nation.¹⁰²The citizens misusing their free speech right without any responsible restriction on free speech which should be discriminate the minority groups, the reason behind is vague definition given in reasonable restriction.

(c) Observation on Laws:

Although India have various legal provisions related to hate speech but theses old law provisions are not sufficient to curb the online fake news and hate speech based on religious biased. Under section 153A¹⁰³ and section 295A¹⁰⁴ of the Indian Penal Code (1860), the classification of hate speech defines only the promotion or incitement on hatred speech against targeted community but is has not defined any content which is related to hurt the public order, it only defines the hate content of “sovereignty and integrity” of the nation which creates the confusion at the time of jurisdiction on hate speech. for example: In “Ramji Lal Modi”¹⁰⁵ case the accused was convicted under section 295A¹⁰⁶ of the Indian Penal Code, 1860 which was read with Article 19(2)¹⁰⁷ of the Constitution, the question has raised in Apex Court that the accused was not comes under the punishment of violation of disturbing the ‘public order’ Then Court held in his decision that after the First Amendment in 1951 the language of Article 19(2)¹⁰⁸ of the Constitution of India should be read with “public order” in a very wide manner.

(d) Observation on Social Media Platform:

In the technology World, the hate speech growing rapidly with the social media tools like; Facebook, Twitter, You tube and Instagram, these are the major tools using to spread ill-speech

¹⁰⁰INDIA CONST. art. 19, available at: <https://indiankanoon.org/doc/1218090>.

¹⁰¹INDIA CONST. art. 19, cl. 2, available at: <https://indiankanoon.org/doc/493243/>.

¹⁰² LAW COMMISSION OF INDIA, REPORT 267, MARCH 2017, CHAPTER: 6, PAGE NUMBER: 39.

¹⁰³ The Indian Penal Code, 1860, section 153A, India Code (45 Of 1860).

¹⁰⁴ The Indian Penal Code, 1860, section 295A, India Code (45 Of 1860).

¹⁰⁵ See Ramji Lal Modi, AIR 2014 SC 2537.

¹⁰⁶ Section 295A, see supra notes 353.

¹⁰⁷ Universal’s New Delhi (India), The Constitution of India as amended by The Constitution (One Hundred and First Amendment) Act, 2016, Article 19 clause 2, page number: 12 (Updated on: 2017).

¹⁰⁸ Article 19 (2), see supra notes 356.

around the whole World on the ground of religious, region, race, caste, language and place of birth so to safeguard from hate speech.¹⁰⁹

Digital education and awareness: Democratic Country like India needs to educate the use of Internet, the main reason behind rapid spike of hate speech is COVID-19 Pandemic where some youngsters were idle and used their data to spread hate news against religious which was posted by political members. So, Indian Country should accept some initiative by other countries. For example: Finland announced a media literacy program at public schools, under this scheme the teachers will teach the students to search right source and ill-hatred news on Internet and also teach them to search for dubious sources in 2014.¹¹⁰

(e) **The end-user:**¹¹¹

The end-users are those who are affected by problematic speech. For example: Suppose any hate speech against 'Muslim Community', 'schedule caste and schedule tribes Community', 'Women', 'Disable', and other affected minority community then that minority people will be considered as "The end-user".

(f) **Review on Broadcasting Media:**¹¹²

The hate speech offense was exist before introduction of Internet, before online hate speech the hateful content was continue to spread by offline broadcast media but due to increase in cases of online hate speech, the broadcast media also played an important role to spread hate speech against targeted group.¹¹³ For example: In "Sudarshan" news the anchor of the news channel has incited the targeted community, where he targeted the Muslims Community and broadcast the episode named "UPSC JIHAD", under this episode the anchor has incited the targeted community, the Supreme Court issued the order of "injunction" of broadcast the discriminated news against "Sudarshan" news and the owner of the news who was broadcasting such ill-hatred news. Furthermore, the Supreme Court stated that there is lack of regulation in broadcasting sector and it will raise the question against Press Trust of India who was failed to

¹⁰⁹R.A.V V. City of St. Paul, 505 U.S. 377 (1992).

¹¹⁰ Finland, HS: Finland adopts new initiative to combat institutional racism and hate speech, Helsinki Times, updated on: October 29, 2021, available at: <https://www.helsinkitimes.fi/finland/news0in-brief-/20262-hs-finland-adopts-new-initiative-to-combat-institutionalised-racism-and-hate-speech-html>.

¹¹¹ See supra notes 365.

¹¹² Archit Lohani, Countering Disinformation and Hate Speech online: Regulation and User Behavioural Change, available at: <https://www.orfonline.org/research/countering-disinformation-and-hatespeech-online> (Updated on: January 25 2021).

¹¹³ RGNUL Student Research Review (RSRR), Broadcasting hate: Media, Law, and Hate Speech in India, updated on: April 8, 2021, available at: <https://rsrr.in/2021/04/08/broadcasting-hate-media-law-and-hate-speech>.

handle such hateful content.¹¹⁴

Conclusions:

As per above discussion, it has found that issues like hate speech are complicated and there is a need to address the same. The online hate speech must be considered to depth debate on regulation, proper law, definition and effective mechanism to curb the proliferation of hate speech. The solution will be useless if no active participation of public, political leader, famous celebrities' awareness and concern from Court. One viable solution to curb or minimise "hate speech" could be by effectively implementing the regulation at the intermediaries. A specialised online portal should be created which is specifically deals with online hate speech contents, the content must be displayed only by registration on website which would require multiple verifications for ensuring that the Indian citizens is the user. The online structure should be organised in a way where content of hate speech and bona-fide speech can be identified. Various campaigns can be launched by government agencies or NFO's for the purpose of rising awareness about what is hate speech and how such speech can be it done physically or through online mediums can have severe effects for harmony and peace of our country. There should be quick redressed to such reporting and actions must be taken immediately. Additionally, online platforms should take action against anonymous or fake ids on internet as these are often used by actual perpetrator in committing the hate speech or hate comment on online platform. Fight against hate speech cannot be solve easily. So, it should be discussed with other countries that have better solution and initiatives to solve the problem and it should also discuss on a wider platform. There should be transparency in laws which are basically related to incitement to targeted groups on the grounds of race, caste, creed, religious, region and place of birth. There is a need to revise the old existing law to strengthen the old legislation so; people can get the relief from such hateful speech which creates fear in their mind and imbalance the mind which can be result genocide in future. In India, the main problem to identify the hate speech is better mechanism to identify any content which is of illicit manner or related to hate speech against the minor community. So, there is need to provide the better mechanism which should be manufacture by own country because if it is import of from other country, there is threat to security, integrity, and sovereignty of the nation.¹¹⁵

¹¹⁴ Bhadra Sinha, Insidious attempt to vilify Muslims- SC stops Sudarshan News from arising 'UPSC Jihad' show, The Print, updated on: September 15, 2020, available at: <https://theprint.in/judiciary/insidious-attempt-ti-vilify-muslims-sc-stops-sudarshan-news-from-arising-upsc-jihad-show/503345/?amp>.

¹¹⁵ Archit Lohani, Countering Disinformation and Hate Speech online: Regulation and User Behavioural Change, available at: <https://www.orfonline.org/research/countering-disinformation-and-hatespeech-online>,

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