
THE RIPPLE EFFECT: INCENDIARY ROLE OF HATE SPEECH AND THE OMNIPOTENCE OF RESTORATIVE JUSTICE IN INDIA

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ABSTRACT

In this paper, the author & co- author analyses the role of hate speech in the process of communal violence in India and the possibility of using restorative justice as a method to avoid the effects of such speech. The research looks at how hate speech in both traditional and digital platforms, as seen in the 2020 Delhi Riots, the 2013 Muzaffarnagar Riots, Haryana Riots 2023, has contributed to rousing social divisions and caused widespread violence. Despite this, Sections 196 and 299 of the Bharatiya Nyaya Sanhita do exist but have been inconsistently enforced, and the legal system has faced difficulties in tackling hate speech that has social, political as well as religious roots. The study recommends that there should be a dual approach of strengthening legal frameworks and incorporating them with which system of restorative justice principles that rely on a culture of reconciliation, victim healing, and offender responsibility. The finding implies that restorative justice can be utilised to repair the damage, reduce frictions, and promote long-term social cohesion as a complement to traditional punitive prescription.

Keywords: “Hate Speech”, “Restorative Justice”, “Communal Violence”, “India”, “Legal Reform”.

Introduction

Research context in India

Recently, the issue of hate speech in India has gained prominence in Indian society owing to the varied and rich social fabric of India. Communal, caste-based, religious or ethnic hatred are common forms of hate speech in India, which often take the form of nasty clashes, discrimination and exclusion of certain communities¹. While India's legal framework essentially does have to deal with hate speech, such as under sections 196 and 299 of the Bharatiya Nyaya Sanhita (BNS), which was previously IPC relating to offences of endorsing animosity between diverse groups and of hurting religious perspectives, respectively, these can be raised as a reason for limiting the free expression of someone. Yet, the laws on hate speech are unused, and their application is irregular, leading to victims remaining unprotected.

It involves the further complication of hate speech in India with the role of social media and online platforms. The incendiary content spreads rapidly through these mediums, so it has been hard to control or regulate hate speech, as people and groups use online platforms to spread intolerance and violence. On top of all this, Indian society is becoming more polarised with political and religious ideologies, often worsening their reactions to hate speech.

With the rising threat of hate speech to disturb society as well, the idea of restorative justice has gained prominence in India as an alternative to other punitive methods. According to the concept, restorative justice will focus on healing and reconciliation and will attempt to redress the harm that the conflict or crime has taken by fixing the offence. Restorative justice can provide a way for perpetrators to take responsibility for their actions, to be in dialogue with victims and affected communities to try to help others understand and to repair broken relationships in the context of hate stance².

In the infant stages is restorative justice in India, but there are instances where it has become successful in dealing with communal violence and other such forms of social unrest. Local restorative justice principles have been quietly on trial in the government and with numerous civil society organisations, searching for how healing working principles can be

¹Sharma, I. (2019). Contextualising hate speech: A study of India and Malaysia. *Journal of International Studies*, 15, 133-144.

²Viswanath, R. (2016). Economies of offense: Hatred, speech, and violence in India. *Journal of the American Academy of Religion*, 84(2), 352-363.

applied in cases of hate speech, even when individuals or groups have been targeted³. Through these initiatives, these groups set out to build safe spaces for dialogue, mediation and conflict resolution to repair the friction caused by hate-driven rhetoric.

Problem Statement and Rationale

The formation of Hate Speech as a challenge in the social sphere of the country, such as religious, ethnic and caste-based, appears to be developed in India. On top of waking the beast, it perpetuates crime and further separates society. Because of the ease with which hate speech can spread, social media platforms in particular, where hate has become so accessible, it is in many ways impossible to bottle and regulate. This research thus seeks to understand the incendiary function of hate speech in India as damaging to social harmony and to consider the possibility of a helping role of restorative justice in countering the harm caused by such speech⁴.

Even in the wake of laws like Sections 196 and 299 of BNS, as well as regulation efforts by the government, hate speech prevails and has thrived, in particular in the online medium. In 2020, as per the National Crime Records Bureau (NCRB), over 3000 cases of communal violence were reported, and a large number of them started through hate speech or inflammatory rhetoric⁵.

On top of that, the legal imperative to combat hate speech often does not act swiftly or effectively as a legal loophole because of underreporting the problem or due to political influence. There is a dearth of a unifying structure of rules tailored to address hate speech without passing punitive laws, which, in turn, calls for a rejig that focuses on the healing, reconciliation, and restoration of social trust, which are fundamental to the practice of restorative justice. The rise of hate speech in India is becoming increasingly frequent and, at the same time, increasingly pugnacious and hence it is important to grasp how hate speech fits into the larger social dynamics bogging down the fabric of society⁶. This research is based on

³Arun, C., &Nayak, N. (2016).Preliminary findings on online hate speech and the law in India. Berkman Klein Center Research Publication, (2016-19).

⁴Yadav, A. (2018). Countering hate speech in India: Looking for answers beyond the Law. ILI Law Review, 2, 1-17.

⁵ National Herald., (2022). Close to 3000 cases of communal violence registered in country says union minister.

⁶Jafri, F. A., Rauniyar, K., Thapa, S., Siddiqui, M. A., Khushi, M., &Naseem, U. (2024). CHUNAV: Analyzing Hindi Hate Speech and Targeted Groups in Indian Election Discourse. *ACM Transactions on Asian and Low-Resource Language Information Processing*.

the rationale to explore restorative justice as a possible nonpunitive approach to hate speech. Restorative justice has proven successful in these contexts of other types of crime or conflict, but its use for hate speech has not been explored very much yet.

Scope of the study

This study's scope includes an analysis of the role of hate speech as an incendiary issue in India in terms of undermining social cohesion, communal harmony and violence. The paper will analyse hate speech within an Indian socio-political context and review the response to it. The study will attempt to explore the possibility of restorative justice, as a suitable alternative to punitive measures, in engaging communities which were arsed by hate speech in healing. Finally, case studies, particularly in the aftermath of post-communal conflict, will be studied to understand restorative justice's contribution to healing and social repair.

Materials and Methods

This study uses secondary data collection to examine hate speech as an incendiary and how restorative justice can steer Indian hate speech in a better direction. For the study, both qualitative and quantitative methods would be integrated, where case reviews will be conducted through an in-depth case evaluation that would be combined with statistical analysis as a process to know the comprehensive nature of the issue⁷.

The second component of this study is the qualitative component, which consists of evaluating the case studies, legal precedents and social impacts of hate speech incidents in India. The author & co- author will examine relevant cases to determine the impact of hate speech among communities, social rift and cases of violence. The paper will also examine restorative justice initiatives in these contexts on the basis of the success and failure of these initiatives to restore social harmony. To understand how restorative justice has been applied in the case of hate speech and whether it has aided the reconciliation or healing, the review of the secondary sources will be made from the judicial opinions, government reports, media articles and NGO reports⁸.

In this study, the author & co- author will apply statistical analysis to provide the

⁷Mishra, S.B. &Alok, S., (2022). Handbook of research methodology.

⁸Pandey, P. &Pandey, M.M., (2021). *Research methodology tools and techniques*. Bridge Center.

quantitative part on the basis of data from government, NGOs, and academic studies about the occurrence as well as impression of hate speech in India. Statistical data will be presented on communal violence, hate speech incidents and related criminal acts, among others, using data drawn from the National Crime Records Bureau (NCRB). This study will offer a numerical representation of the issue so that the problem can be better understood to a particular extent, and the need for restoration as a potential solution will then be emphasised. Both the qualitative and quantitative information will triangulate the elements to comprehend the problem holistically and also to evaluate the subsequent worth of restorative justice in tackling the societal harm that hate speech entails⁹.

Results

2020 Delhi Riots

The Delhi riots that occurred in 2020, or the Northeast Delhi riots, were marked by vast violence and unrest in the wake of the pro and anti-CAA (Citizenship Amendment Act) protests. This refers to the series of riots that took place from the 23rd of February 2020 to the 26th of February 2020, as a result of which there was a loss of above 53 lives with some 300 plus people injured. Delhi Police said that because of the violence, more than 1,100 cases were registered, and more than 500 people were arrested. Estimates suggest that about 1,000 houses, shops and vehicles were either damaged or set on fire, as property damage was significant¹⁰.

Role of Hate Speech:

The controversial CAA, which many perceived as discriminatory against Muslim communities, were amongst a few factors leading to the outbreak of the 2020 Delhi riots. Protests and counter-protests followed the law, fast-tracking citizenship for non-Muslim refugees from neighbouring countries. Inflammatory speeches and hate speech were prompted by political leaders and activists, escalating the situation when communal threat further heightened. Social networking platforms were also in spreading rumours and provocative content and adding fuel to the fire of animosity and insecurity among the communities.

⁹Pandey, P. & Pandey, M.M., (2021). *Research methodology tools and techniques*. Bridge Center.

¹⁰TOI, (2024). 2020 riots flashback.

Broader Impact:

It was the 2020 Delhi riots that were marked by both human and social repercussions. The violence added to historically tense communities, where Muslims were mostly impacted. Places of worship were vandalised or destroyed, and many Muslim-owned businesses were targeted. The riots, however, increased distrust and fear between different religious communities in the affected areas. Because the riots affected so many survivors with high trauma, displacement and economic losses, the psychological toll was very high¹¹.

Legal Aspects:

The investigation and legal process of the Delhi riots has been complicated. Delhi Police came under criticism for how they handled the scenario and were accused of bias and flunking the investigating charges of hate speech, along with communal violence. Issues of who was to blame for inciting violence, in part because of the role of politicians and social media, played a part in legal debates. Activists were charged with inciting violence, and in sections 153A (promoting enmity between groups) and 295A (deliberate acts to insult religious feelings) of the IPC, which have now changed into Bharatiya Nyaya Sanhita (BNS), others were charged with spreading hate speech. The case has stirred serious questions about the efficacy of current legal methods in responding to hate speech, social networking domination and policing in anticipation of communal violence. As a case study of the incendiary effect of hate speech in promoting violence and of the legal and social challenges of such complex incidents, the 2020 Delhi riots provide a good lens for studying¹².

Muzaffarnagar Riots, 2013

In 2013, there was a series of violent communal clashes between Hindu and Muslim groups in the Muzaffarnagar district of Uttar Pradesh in India, which occurred over a period of two days, known as the 2013 Muzaffarnagar riots. The riots, which broke out in late August to the middle of September, killed at least 62 people and displaced more than 50,000 people. The violence injured more than 200 people and spread to a number of surrounding districts. During the unrest, the government reported they were that more than 150 incidents of arson and rioting

¹¹Business Standard, (2023).What are Delhi Riots 2020.

¹²Economic Times, (2025).2020 Delhi riots: Court acquits six, doubts witnesses.

had occurred, with many properties, homes and cars being destroyed¹³.

Role of Hate Speech:

It is hate speech that the Muzaffarnagar riots helped escalate. Inflammatory speeches made by political leaders and local figures added an effort to stir up hatred between Hindu and Muslim communities, which further led to the violence. Social media is awash with rumours and false info that are spread quickly with videos and messages of misleading depictions of an incident involving two young men that lit the match for the violence. The use of derogatory language to frame the Muslims as a threat to Hindu society and inflame communal passions had also been cited by the local leaders. It whipped up this rhetoric, and especially among the mass media, that set the stage for retaliatory violence which only served to ramp up the conflict.

Broader Impact:

The Muzaffarnagar riot's far-reaching impact was witnessed with the long lasting social and economic adverse effects. Communal violence made the Hindu Muslim populations in the region more divided, and an atmosphere of distrust and fear developed. Loss of livelihood, homes, and property affected the Muslim displaced families. Furthermore, many of the survivors had been beaten and displaced as a result, leaving many survivors suffering from psychological trauma. The development of the region, particularly the affected areas, stalled the regional economy in that the businesses and agricultural productivity went into a tailspin. The riots also broke community unity and peace, leaving impacts on the lifetime scars of relationships between communities¹⁴.

Legal Aspects:

The Muzaffarnagar riots were responded inadequately to with regard to justice and accountability legally. Several arrests were made, but charges were brought against those arrested for rioting, murder and property damage, and the investigation and legal proceedings were widely criticised as being lacking in transparency and politicised. Hate speech have been used by key political figures and influential local leaders to incite violence, and few legal consequences have resulted for them. The ways of social media and the distribution of

¹³The Hindu, (2025). 2013 Muzaffarnagar riots case: Charges framed against U.P. Minister Kapil Dev Aggarwal, priest Yati Narsinghanand, VHP leader Sadhvi Prachi.

¹⁴Carvan, (2023). Calling the Clans.

inflammatory content only added to the legal in which authorities try to police hate speech on the internet. In spite of Section like 196 and Section 299 of the BNS previously IPC, justice for the victims of the Muzaffarnagar riots has been farcical; many families are still waiting for compensation as well as for facing the perpetrators of the acts during the Muzaffarnagar riots. Hate speech has the dangerous role of instilling the social and political causes that led to the Muzaffarnagar riots and the failure of the legal framework to address these issues¹⁵.

2023 Haryana Riots

Communal tensions erupted during a Bajrang Dal procession in the Nuh district, which was attacked by a mob. The violence was allegedly sparked by rumours and provocative speeches during the procession. At least 10 people were hurt in the riots, and one person was confirmed killed. At least 100 people were jailed, and many homes, vehicles and shops were trashed. More than 50 cases were registered by the police related to disturbances, although the scale of destruction was overall contained compared to other huge communal riots in India¹⁶.

Role of Hate Speech:

Haryana riots were done based on hate speech. At first, the conflict had been caused by a personal altercation, and then communal tensions were increased by inflammatory speeches and rumours running wild through local networks, including social media. Some local politicians and some religious leaders were accused of open statements that instigated the masses. These messages were also able to spread on legs on social media platforms, making it spread quickly and widening the divide between the two groups involved.

Impact:

Socially and economically, it had a great impact on the affected communities. These communal tensions left deep psychological scars and heightened mistrust between the local Hindu and Muslim communities, while the number of casualties (though relatively small compared to larger riots) was very low. The affected areas suffered losses of property damage and destruction, which, in turn, resulted in the displacement of many people from their homes

¹⁵CJP, (2015).Muzaffarnagar riots: Statement of DM recorded | CJP.

¹⁶The Hindu, (2023).Clashes break out between two groups during VHP procession in Haryana's Nuh; prohibitory orders imposed.

and also caused businesses in those areas to suffer losses. The associations between the two groups became stressed, and social cohesion was affected severely.

Legal Aspects:

Haryana Riots are the legal response that targeted only curbing further violence and the peace thereafter. Several people were arrested by the Haryana Police, who were charged under Section 153A (up to 3 years in jail) and Section 295A (punishment of up to 3 years) of the IPC, now Bharatiya Nyaya Sanhita (BNS) for hate speech and instigating violence. Because of this, the investigation into the role political leaders and social media played in inciting violence was controversial, with accusations of political bias in the legal processes against social media and political leaders involved. Cases were made and some legal action undertaken, but the degree of resolution that was achieved was highly criticised for lack of effectiveness in tackling the causes of the violence: hate speech (particularly) and lack of preventive measures (Business Standard, 2023).

Aspect	2020 Delhi Riots	2013 Muzaffarnagar Riots	Haryana Riots 2023
Role of Hate Speech	Incendiary speeches by radical and religious leaders	Inflammatory speeches and social media rumours	Provocative speeches by local leaders, social media
Impact	Deepened communal divide, trauma, displacement	Psychological trauma, loss of livelihoods, economic losses	Substantive dispute in the relations between Hindu and Muslim communities
Social and Political Context	Anti-CAA protests, religious polarisation	Tensions between Hindu and Muslim communities	Religious conflict and hate speech have exacerbated the religious conflict.
Root Causes	Communal tensions, citizenship law protests	Caste and communal tensions, political interference	Hate speech and rumours lead to local alteration.

Table 1: Riots with their details

Issues of hate speech in India

Recently, in the last few years, hate speech over social and political polarisation has grown increasingly popular in India. Hate speech, often driven by religious, caste, or communal ideologies, has potentiated in society, creating divisions and violence and eroding the social fibre of the country. Indian law has directives to address hate speech, but enforcement accountability is often inconsistent, and communities are subject to the poisonous effects of the rhetoric of hate.

The Rise of Hate Speech in India

Tracing hate speech in India, thus far, is usually traced to religious and communal issues between Hindus and Muslims, although in recent years, hate speech has expanded the caste and ethnic differences. Hate speech is not only present in traditional platforms and basic forms (speeches, pamphlets), but it also finds open ground in social networks and digital spaces. Since the advent of the digital media world, the spread of hate speech has been democratised, and it has risen in widespread growth among geographic boundaries and social conditions. Because of the proliferation of hateful content on platforms, including but not limited to WhatsApp, Facebook, and Twitter, authoritative has found it difficult to control and regulate¹⁷.

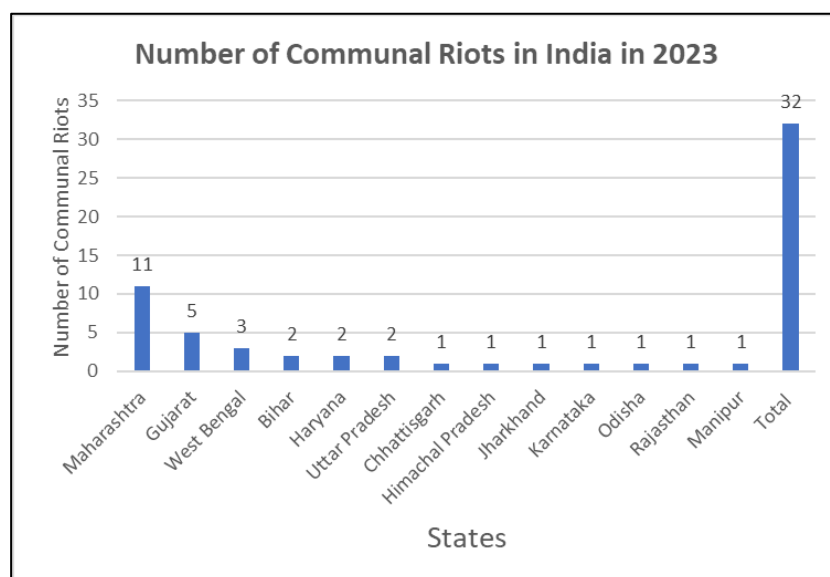


Figure 1: Communal Riots

¹⁷Yadav, A. (2018). Countering hate speech in India: Looking for answers beyond the Law. *ILI Law Review*, 2, 1-17.

The communal violence scale in India is a point brought out by National Crime Records Bureau (NCRB) data. Last year, more than 3,000 cases of communal violence were reported in 2023, and the first 1000 cases of hate speech were also recorded in that year by the NCRB¹⁸. These numbers are still far from counted, especially as many cases are not reported or mishandled, allowing hate speech to reign unchecked. In addition, the use of online platforms such as Facebook and Twitter has been criticised for their slowness in cracking down on hate speech, with many cases of inflammatory content not checked until they are viral¹⁹.

Factors Contributing to the Prevalence of Hate Speech

Political Climate: There has been a rise of politicians in India who employ the use of hate speech as a means to increase their popularity and build their base of supporters. This is especially true during election periods, where communal narrations have been very instrumental in raising fear and distrust among the communities. There have been accusations against politicians of different parties for spreading hate speeches that target religious minorities and instigate violence. For instance, inflammatory statements by political leaders, such as the so-called 'protection' of one religion or community but denouncing the other, also add to religious tensions.

Radical Awareness: Radical awareness and its understanding pave the way for the identification of messaging formats. Earlier, platforms like WhatsApp, Facebook, Twitter, and Instagram became abodes of extremist rhetoric. In the year 2020, a study by the University of California, Berkeley found that India had the highest number of online hate speech cases in the world, with approximately 8.5 million cases on social media platforms. Hate speech, in particular, is hard to control on the web because hate speech spreads very quickly, reaching millions of people within hours in the form of viral videos, memes and messages that very often provoke violent clashes²⁰.

In India, religious and Caste Based identity politics have consistently been a part of hate speech and herein lies the focus on religious identity, especially the split between Hindus and Muslims. Many religious leaders, political leaders, and other influential people use these divisions to express disagreement, speaking about these divisions in provocative ways to stir

¹⁸Indian Express., (2023). 'Hate speech': NCRB data shows 31% rise in offences promoting enmity between groups in 2022.

¹⁹CSS, (2024). Deepening of Hatred, Hate Speeches and Impunity in 2023: Communal Violence in India.

²⁰Sellars, (2016). Defining hate speech. *Berkman Klein Center Research Publication*, (2016-20), 16-48.

up anger and fear. Moreover, there has been a rise in caste-based hate speech in those areas where caste is still the pivot of political life. Systemic discrimination of Dalits, OBCs and Adivasis through casteist rhetoric has been present in both rural and urban areas.

Factors	Impact
Political Climate	Divides people and justifies hate speech for the purpose of political gain.
Social Media	It spreads hate speech and mobilises the groups for violence.
Religious and Caste-Based Identity Politics	The same thing has the effect of fostering discrimination and violent conflict along sectarian lines.

There is a lack of effective enforcement of regulations in contradiction of hate speech in the developing nation of India. Hate Speech is criminalised under various provisions of the Bharatiya Nyaya Sanhita (BNS), for instance, Section 196 and Section 299. However, such laws are rarely enforced adequately unless the perpetrators are themselves influential political or social figures. Additionally, the legal process is too slow, and several cases of hate speech still remain unresolved. The absence of accountability only spurs the use of hate speech as a political or social tool, as these people know that the chances for penal measures are almost nonexistent.

Hate Speech as Incitement to Violence: Hate speech can incite violence immediately, one of the most imminent results of it. Often, hate speech results in real-life consequences, ranging from riots in the community to mob attacks and targeted killings. Inflammatory speeches and hate-filled social media content about the 2020 Delhi riots fall into the norm and are a prime example of this. Following, 53 people were killed and over 200 injured, with most of the casualties approximately from the Muslim community. By way of example, hate speeches can turn peaceful communities into war zones, just as during the 2013 Muzaffarnagar riots or the 2002 Gujarat riots. In India, Hate speech plays a pivotal role in conveying social divisions of religious, ethnic, and caste²¹. It teaches an 'us vs. them' attitude, and people start perceiving

²¹Alam Bhat, M. M. (2020). Mob, murder, motivation: the emergence of hate crime discourse in India. *Socio-Legal Rev.*, 16, 76.

those from other communities as enemies. Social divisions are becoming deeper and deeper, leading to social cohesion and increases in doubt and hostility. In the case of the Haryana Riots 2023, social platforms contributed to worsening the situation as hate-filled messages circulated during the riot, causing further polarisation of the communities involved.

Failures to Crack Down on Hate Speech: Failures to crack down on hate speech fail to uphold such democratic values as equality, liberty and fraternity. The legal consequences for hate speech also ensure that not only is it appropriately censured, but it doesn't give them space to foster in that sense. It is precisely because it chipped away at the very genesis of democracy — the freedom to protect minorities' rights — that this undermines this very foundation of democracy. For example, in the 2019-2020 Citizenship Amendment Act (CAA) protests, hate speech was one of the main factors that increased protests that turned into large-scale unrest and brutal fights between protesters and security forces.

Public Opinion Polarisation: Hate speech is capable of making public opinion so polarised that scare-mongering and messaging these times play on the fears of Americans to polarise public opinion. The criticism of media in India ranges from mainstream to digital media outlets for allowing the space to hate speech and carry the weight of political agendas. The way these issues are framed divides the people into opposing camps, making it impossible to have common ground or encourage good dialogue. Take, for example, the CAA protests in the country, which saw the country divided between the supporters and opponents of the law; the hate speech on both counts narrowly polarised the country²².

Restorative Justice in Addressing Hate Speech

Hate speech is a major social challenge, intensifying the polarisation of society, engendering fear and mistrust, and intending violence. In some countries such as India, where the reference is made to communal, caste, and religious differences, hate speech is not just mere rhetoric but a useful tool to instigate riots, social unrest, and harm that lasts over time. However, during most instances in the past when hate speech was dealt with, it was by punitive measures, being sent to prison or paying a fine. Nevertheless, a growing alternative that finds its footing already is restorative justice, which is not about punishment but repair, reconciliation, and healing

²²Jacob, C., &Kanth, M. (2023). 'Kill Two Million of Them': Institutionalised Hate Speech, Impunity and 21st Century Atrocities in India. *Global Responsibility to Protect*, 15(2-3), 209-245.

collectively.

Understanding Restorative Justice

Restorative justice (RJ) is a theory and practice of doing drama in the criminal justice field that uses the priority of repair of crime (rather than intimidating the offender alone). It involves not the passive attitude of a victim getting whatever comes to them but, most of all, an active participation of the offender, the victim and the community in the crime. Restorative justice would deal with the cause of the speech by addressing it, entering into a discussion about what harm the speech caused, and promoting a dialogue where the offenders accept accountability for their actions and reach a degree of reconciliation with the community²³.

Root Causes of Hate Speech

The key to restorative justice is understanding how the root causes of harmful behaviour negatively impact one's personality. With hate speech, this approach motivates individuals to look at what had led them to use discriminatory language or promote harmful ideology. Hate speech is often instigated from fear, ignorance, prejudice or politics. By providing a forum in which offenders can think about these motivations, first, understand what their words mean to other people, and second, confront any prejudices or mistaken ideas they might have, restorative justice provides a platform for offenders to reflect on their motivations. Restorative justice seeks to diminish the likelihood that such behaviour will recur; in doing so, its purpose goes beyond being a mere temporary legal remedy.

The restorative justice that Indians have proposed in relation to hate speech goes beyond considering its legal implications of hate speech and engages with societal constructs on which such rhetoric stands. The workshops, community meetings, and dialogue circles could serve as a way for people involved in hate speech to learn about the nuances of these issues and how these words are causing harm in discriminating ways²⁴.

Promoting Healing and Reconciliation

The greatest advantage of restorative justice is its focus on healing and reconciliation.

²³Amarasingam, A., Umar, S., & Desai, S. (2022). "Fight, die, and if required kill": Hindu nationalism, misinformation, and Islamophobia in India. *Religions*, 13(5), 380.

²⁴Dar, S. A., & ShairGojri, A. A. (2021). Hate Speech in social media: An Exploration of the Problem and its proposed Arrangement in India. *Texas Journal of Multidisciplinary Studies*, 1, 27-33

As opposed to punishing the offenders with punitive measures, RJ is about rebuilding relationships and the fabric of the community. Harm from hate speech is often inflicted beyond the person targeted by the speech to the entire community. Hate speech can ostracise the whole of an entire group, exacerbate social partition and establish long-lasting mistrust between communities²⁵.

The process of restorative justice may be highly suitable in the Indian context in communal situations, particularly where the target group of the hate speech (generally marginalised communities such as Muslims, Dalits, etc.) have been historically victimised in terms of being subject to discrimination and violence. The point of offering restorative justice in these cases is to allow victims to hear their pain and allow victims to hear directly from the perpetrator of the words. And this can make everyone a bit more empathetic, a bit more understanding, and a possibility of reconciliation.

Restorative Justice as a Preventative Measure

Besides being reactive, restorative justice has a preventative role. It would allow society to propose and implement restorative justice practices in educational systems, workplaces, and community settings so that before hate speech occurs, understanding and empathy are forged. For instance, schools and colleges can allow dialogue, diversity training and conflict resolution programs, which can help to equip individuals with skills for dealing with differences in a constructive way²⁶. Restorative justice can also further prevent the spread of hate speech by attending to systemic issues that lead to the emergence of hate speech. An example of that is addressing the routes of caste-based discrimination or religious intolerance with restorative justice practices and mitigating the environment for hate speech. Such initiatives of creating safe spaces for inter-community dialogue and understanding can be more helpful in preventing the escalation of hate speech into violence.

Legal Framework and Challenges in Implementation

Restorative justice has many benefits that it can bring to address hate speech; however, there are a lot of challenges to implementing restorative justice. However, restorative justice

²⁵Kumar, S., &Riegner, M. (2020). Freedom of Expression in Diverse Democracies: Comparing Hate Speech Law in India and the EU. *Democratic Constitutionalism in Continental Polities: EU and India compared*.

²⁶Kumar, S., &Riegner, M. (2020). Freedom of Expression in Diverse Democracies: Comparing Hate Speech Law in India and the EU. *Democratic Constitutionalism in Continental Polities: EU and India compared*.

does not feature heavily within the mainstream legal system, as it has in this particular case; the use of restorative justice in hate speech cases in general is rare.

Without a significant infrastructure for doing restorative justice in large numbers, this is one of the biggest challenges. On the other hand, a number of parts of India do not have enough trained mediators or conducive environments to facilitate dialogues between the victims and offenders. Also, some communities or political groups could resist restorative justice when they just conceive of it as insufficient and ineffective to confront such serious hate speech both offline and online²⁷. A second challenge includes the social and cultural consciousness which is generally inclined to prefer punishment to restoration. Likewise, there may be scepticism about whether offenders will actually change their attitude, particularly if politically or ideologically motivated. Overcoming these barriers requires the corresponding cultural shift to adopt a critical view in seeing the value of restorative justice as an approach to healing and rebuilding the community.

Changes in Policy Making

In recent times, India has been seeing a build-up around the need for policy reforms to properly treat the spread of hate speech — in the digital age. In view of increased communal, caste-based and religious tensions, hate speech has become a pervasive phenomenon with policy responses beyond the punitive measures necessary. As restorative justice emerges as an alternative or complementary approach to addressing this polarising divide, it has come forward as a way to shalom communities instead of continuing to perpetuate the divide in the name of republican justice. As an answer to these challenges, different shifts have taken place in policymaking²⁸.

Strengthening Laws on Hate Speech

The legal framework on hate speech in India is mainly based upon the BNS, and Sections 196 and Sections 299 are the most relevant. While these provisions were never fully applied, enforcement is often weak and inconsistently applied in particular when hate speech is expressed by important individuals or political figures. Increasingly, recent calls for reform

²⁷Bhutkar, G., Raghvani, V., & Juikar, S. (2021). User survey about exposure of hate speech among Instagram users in India

²⁸Udapa, S. (2019). India needs a fresh strategy to tackle online extreme speech. *Economic and Political Weekly*, 54(4), 7-8.

in hate speech have focused on expanding the reach of the concept to cover digital platforms which allow the spread of content at the speed of light causing significant harm. Earlier in 2020, the Ministry of Electronics and Information Technology had suggested changes to the Information Technology (Intermediary Guidelines) Rules, with a focus on making social media platforms responsible for spreading hate speeches²⁹.

Integration of Restorative Justice Principles

There is an increasingly greater interest in incorporating restorative justice into the legal and social spheres for the issue of hate speech. It is being recognised as a viable alternative to the traditional punitive responses because it emphasises repairing harm, dialogue and reconciliation in the communities. Nowadays, India's hate speech strategy encompasses consideration of restorative justice in the shape of community dialogues, victim-offender mediation and awareness programs. Some states in 2021 are experimenting with community-based restorative justice practices in cases of minor hate speech incidents. For instance, Indonesia, Brazil and Kerala introduced the idea of facilitating restorative justice dialogues between religious communities when such language is used. It is important for victims to comprehend what hate speech does to them, to challenge offenders to accept their words, and to promote reconciliation³⁰.

Discussion and Conclusion

Discussion of Results

This study shows the results of this study from examining hate speech and how restorative justice could tackle its consequences. It provides a full picture of the pandemic and legal challenges that hate speech presents in society. While drawing Conclusions from the 2020 Delhi Riots, the 2013 Muzaffarnagar Riots and the Haryana Riots 2023 are drawn on to find out how hate speech has played a role in instigating communal violence and aggravated affected communities and the loopholes in legal frameworks that buttress its effectiveness. However, the research shows that hate speech is a catalyst but an omnipotent catalyst when it comes to intensifying communal tensions.

²⁹Werleman, C. J. (2021). Rising violence against Muslims in India under Modi and BJP rule. *Insight Turkey*, 23(2), 39-50.

³⁰Raghunath, P. (2022). 'Hated speech' and the costs of freedom in India.

It also charters the loopholes in the existing legal framework in India and, in particular, its enforcement of laws against hate speech. However, Section 299 and Section 196 of BNS, which are provisions to deal with hate speech, have been inconsistently applied. Reparative justice was, at this point, beginning to appear as an attractive alternative to conventional punitive action, namely, repairing the harm done, agreeing to unite and reconcile, and allowing for community healing. The research shows that the practices of restorative justice could provide a more successful method of solving the problem of hate speech and its negative impact on society in the long term. Restorative justice works to create changes in the underlying causes of hate language by way of processes such as victim-offender dialogue, community mediation, or education programs, which aim to enhance both empathy and accountability about the outcomes of the experience. Findings from the study indicate that policy reform is needed to solve the problem of hate speech and its side effects.

Conclusion

Hatred speech in India, especially in its contribution to communal violence, multiplies societal fragmentation, and the civic injury itself becomes a pain that lingers for the affected communities; in the long run, the pervasive and destructive role of hate speech in India has been emphasised throughout this study. The case studies that claim the 2020 Delhi Riots, 2013 Muzaffarnagar Riots, and Haryana Riots 2023 demonstrate that social unrest and violence are intimately related to hate speech and inflammatory rhetoric that can spew poison and set the scene for massive stoking of tensions with the rise in violence. It is both immediate and fostering displacement, psychological trauma, economic loss, and reversion.

Although reasonable effort is made to curtail hate speech through the existing legal framework, the Indian Penal Code also contains provisions it is not expectedly effective and consistent in its enforcement. In addition to this, the study highlights the suitability of restorative justice as an additional way of dealing with hate speech. Restorative justice concentrates on healing, reconciliation, and accountability. It is a way that focuses attention on healing, not necessarily on punishment, in order to achieve long-term healing of society as a whole. The only way for India to begin curbing the effects of hate speech and foster lasting social cohesion is through such an integrated approach.

Implications of the Results

The outcome of this study provides important lessons for governments, legal

practitioners, and social leaders in dealing with the problem of hate speech in India. Yet, the findings reveal that social media makes use of existing legal avenues, which, in this case, is the Indian Penal Code, but applications have been inconsistent, usually due to lack of enforcement and political bias, as well as the rapid spread of harmful content. The fact that this is happening leads one to believe that there is a pressing need for stronger laws and regulations to punish the spread of hate speech on social sites. The study also argues that hate speech does not necessarily lead to hate crime because it has the power to mitigate its effects through restorative justice. Restorative justice changes the tone from punitive measures to processes of reconciliation, outcomes of accountability and healing in the community. This approach can help build dialogue, empathise, and long-term social cohesion in the context of communal and caste divides in India.

Recommendations

Empower the authorities

Update and strengthen existing laws: The rapid spread of hate speech in digital and social platforms has been a huge area of expansion, and therefore, laws like Information Technology (Intermediary Guidelines) Rules need to be updated and strengthened immediately. Social media platforms hosting such content should be responsible for this content and should be obliged to implement a robust monitoring system to avert the spread of hate speech. Policymakers work on clearer and more comprehensive legal definitions of hate speech, which consider different forms of hate speech, including online hate speech. This would speed up law enforcement agencies' response in cases of incitement to violence or social unrest³¹.

Promote Restorative Justice Practices

Policymakers have the need to incorporate principles of restorative justice for the purpose of constituting a proper legal response in the context of hate speech. Victim-offender dialogues, community reconciliation programs and the education of hate speech are some of these. Restorative justice in communities: The application of restorative justice should continue as a community mediation and dialogue program, particularly in an area where commonality

³¹Fahad, A., Mustafa, S. E., &Luqman, M. (2024). The Rise of Social Media and the Fall of the Muslim Minority in India: The Case of WhatsApp. *Journal of Mass Communication Department, Dept of Mass Communication, University of Karachi*, 31.

is prone to get tenses. Processes engaging such local leaders, influencers, victims, etc., can build empathy, eliminate prejudices and promote long-term social healing.

Awareness and Education

Collaboration among governments, NGOs and community organisations in the conduct of public education campaigns in combating tolerance, diversity and understanding. Hate speech should be taught as dangerous in schools and universities, and the consequences of hate speech have to be educated about. Ethical guidelines must be adopted by media outlets to report on delicate issues so that the content they broadcast does not aggravate the waves of divisiveness or exacerbate hate speech³².

Train Law Enforcement and Mediators

Law enforcement training: Such as law enforcement officers should start being sensitised to discern hate speech and know the ripple effects of hate speech. If they were to become aware of these principles of restorative justice, they would be able to utilise their mediation and reconciliation in post-hate speech incidents. Given that implementing restorative justice requires training very skilled mediators and restorative justice facilitators, it is imperative to invest in this in order to ensure that restorative processes take place in communities and in the law³³.

Future directions for study

Future research could explore the usefulness of restorative justice in various socio-political contexts of India, such as areas exposed to acute communal tension. The community-based restorative justice programs could be studied to find out how long they would be affecting hate speech and promoting social cohesion in the long run. Also, there could be potential for investigating the participation of digital platforms in spreading hate speech and the efficacy of new regulation or self-regulatory means.

Declaration of interest statement

There are no conflicts of interest related to this research, as the author & co-author

³²Kar, S., & Guha, M. (2020). Hate Crime: A Threat to Secular India. *Issue 3 Int'l JL Mgmt. & Human.*, 3, 2006.

³³Singh, A. (2018). Conflict between Freedom of Expression and Religion in India—A Case Study. *Social Sciences*, 7(7), 108.

states. There was no kind of financial or non-financial influence from any external organisations, individuals and institutions. This paper presents the findings and recommendations from the analysis of case studies, legal frameworks and principles of restorative justice in relation to the issue of hate speech without providing an analysis of the situation that is given in the practice. The research was not funded by any sources and the author & co- author has no affiliations, financial ties or conflicts to such organisations which might influence the outcome of this work.

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