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# THE DIGITAL SHADOW OF PREJUDICE IN THE FORM OF RACIAL DISCRIMINATION IN CYBERSPACE: THE LACK OF ACCOUNTABILITY DUE TO THE LACK OF EXPLICIT ANTI-DISCRIMINATION LAWS

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V. Shruthi & P. Ruban Paul, School of Excellence in Law, The Tamilnadu Dr. Ambedkar Law University, Chennai

## ABSTRACT

This article investigates the complex subject of racial discrimination in the digital realm, characterising it as "cyber racism" and analysing its diverse forms and expressions. Racism is the idea that one race is better than others and which leads to unfair treatment, prejudice and discrimination based on race or ethnicity. This behaviour has moved into the digital world, where it spreads through memes, GIFs, pictures and videos on social media. The paper talks on four main types of racism: internalised racism, interpersonal racism, institutionalised racism and structural racism. It gives definitions and examples for each type.

Then it talks about many types of cyber racism, such as hate speech, racial stereotyping, cyberbullying, online exclusion, doxing, digital blackface and algorithmic bias. To show these problems in real life, the article talks about a few case studies, like the racist abuse of chess player D. Gukesh and Black football players. The paper also talks about the Indian legal system and international treaties that deal with racial discrimination. It focusses on important parts of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Indian Constitution. It ends by talking about new laws in India, such as the Bharatiya Nyaya Sanhita (BNS) and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which are meant to fight online discrimination. There are always problems to solve, especially when it comes to finding the right balance between free expression and user privacy. However, these legal steps forward are a big step forward in the battle against digital racial discrimination, showing a strong commitment to fairness and justice online.

**Keywords:** Racism, Cyber racism, Laws, Policies, Discrimination

*No one is born hating another person because of the colour of his skin, or his background or his religion. People must learn to hate, and if they can learn to hate, they can be taught to love, for love comes more naturally to the human heart than its opposite ”*

– Nelson Mandela, Long Walk to Freedom

## INTRODUCTION

Racism is just a belief of humans that one race is superior to others, which ultimately leading to discrimination, prejudice, exclusion and unequal treatment based on race or ethnicity. "Race" refers to the categorization of humans into groups based on shared physical characteristics, such as skin color, facial features, and hair texture etc. Nowadays, the racist behavior and content disseminated through digital media platforms. This racial discrimination often committed with the use of social media via memes, GIFs, images, videos etc. The phrase racism supports the expression of prejudice, unlawful treatment, discrimination, exclusion or aversion in its practices. The racist ideology associated with the social aspects such as nativism or nationalism, superpatriotism, xenophobia, segregation, hierarchical ranking, and supremacism.

## DEFINITION OF RACISM

The term "race" has an unclear origin. Although the linguists typically agree that it came from the Middle French to the English languages, there is no agreement on how it came into Latin-based language.

For example, the Oxford English Dictionary (2008) lists "racialism" as "[a]n earlier term than racism, but now largely superseded by it" and quotes a person who used the phrase in 1902. The shortened word "racism" is mentioned in a 1903 quotation from the updated Oxford English Dictionary. Racism is a synonym for racialism, according to the Oxford English Dictionary (2nd edition 1989), which defined it as "[t]he theory that distinctive human characteristics and abilities are determined by race":

Kendi argues that the opposite of racist is anti-racist rather than simply non-racist<sup>1</sup>, and that there is no middle ground in the struggle against racism; one is either actively confronting

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<sup>1</sup> Tessa L. Adams, Book Review: How to Be an Antiracist. By Ibram X. Kendi, 45 J. Commc'n Inquiry 199 (2021).

racial inequality or allowing it to exist through action or inaction<sup>2</sup>. He defines racism as any policy that creates inequitable outcomes between people of different skin colors; In a book How to Be an Antiracist, Ibram X. Kendi defines racism as: "Any policy that creates inequitable outcomes between people of different skin colours." He underlined that racism is not just about individual beliefs but is profoundly rooted in policies and systems that produce unequal outcomes.

The UN does not define "racism"; however, it does define "racial discrimination". According to the 1965 UN International Convention on the Elimination of All Forms of Racial Discrimination<sup>3</sup> , A distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin is considered "racial discrimination" if it eliminates or hinders the recognition, enjoyment, or exercise of human rights and fundamental freedoms on an equal basis in the political, economic, social, cultural, or any other area of public life. In their 1978 United Nations Educational, Scientific and Cultural Organization (UNESCO) Declaration on Race and Racial Prejudice (Article 1), the UN states, "All human beings belong to a single species and are descended from a common stock. They are born equal in dignity and rights and all form an integral part of humanity."

## THE FOUR DIMENSIONS OF RACISM

### 1. Internalized racism:

It refers to the phenomenon where individuals from marginalized racial groups accept and internalize negative messages or beliefs, stereotypes, and ideologies about their own racial group, often propagated by the dominant society and their culture. This internalization can occur both consciously and unconsciously which results in self-devaluation, resignation, and feelings of hopelessness, leading to self-devaluation and behaviors that reinforce existing racial hierarchies. All kinds of racism are harmful, however this one is more toxic; because its breaking people's self-confidence, can involve undermining their achievements, putting them down, or focusing on their flaws rather than their strengths. Internalized racism often stems from negativity, criticism, or comparisons that make them feel inadequate. I have referred some

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<sup>2</sup> Nicole Rush Harris, Book Review: One World, 58 Urban Educ. 959 (2021).

<sup>3</sup> International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature Mar. 7, 1966, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969). Retrieved 1 June 2025.

scholarly perspectives as follows,

1. According to sociologist Karen D. Pyke, internalised racism is the "internalisation of racial oppression by the racially subordinated."
2. According to Robin Nicole Johnson's research in The Psychology of Racism, internalised racism is "conscious and unconscious acceptance of a racial hierarchy in which a presumed superior race is consistently ranked above other races."
3. The City of Seattle's Office for Civil Rights describes internalized racism as "the internalization of the racist stereotypes, values, images and ideologies perpetuated by the white dominant society about one's racial group."

#### **Internalized racism examples include:**

- a) Thinking of white as "the norm" or the "ideal."
- b) Valuing white or pale skin over dark skin and a preference for lighter skin and the practice of skin lightening and trying to lighten skin color through surgery, harmful skin products those with mercury or hydroquinone, or other means.
- c) Trying to get rid of all "ethnic" features that don't fit Eurocentric beauty standards.
- d) Higher levels of self-loathing, shame, and rejection of one's own identity and/or culture.
- e) Hostility, ill treatment, exclusion and prejudice against members of one's own race or other marginalized people.
- f) Breaking their own self confidence due to their physical appearance.
- g) Focusing on their flaws and weakness rather than their strength which leading to reduced motivation, self-esteem, hinder their personal growth.

#### **2. Interpersonal racism;**

Interpersonal racism is also called **Personally Mediated racism** that occurs during interaction between individuals, might involve making negative comments or disparaging

remarks about a particular ethnic group in person or online, and bullying, harassing, or intimidating them based solely on their race. It happens when someone's interactions and views of other people are influenced by their conscious or unconscious racial bias, which eventually results in the use of hate speech or racial insults against a person or group of people. It is a superior race's prejudice against a lesser race.

Interpersonal racism example includes,

- a) People of colour and Black Indigenous people on their English with the prejudicial belief that their race would make them difficult to understand.
- b) Racial charges against Asian Americans in response to COVID-19 spread being called "The China Virus" or "Chinese Virus".
- c) Shopkeepers or security guards following BIPOC shoppers assuming that they're a shoplifter or thieves, even though they didn't commit any offences.
- d) Claims that immigrant workers like Indians steal American jobs.

### **3. Institutionalized racism**

Systemic racism, another name for institutionalised racism, is the phrase used to describe the explicit or implicit policies and procedures that discriminate against underprivileged groups in an organisation based only on their physical characteristics or ethnicity. It alludes to the long-standing rules, practices, policies, or procedures that result in different ethnic groups receiving different treatment and outcomes. In contrast to individual racism, which manifests intimately and publicly, institutional racism is frequently subtle and ingrained in the prestigious and well-established societal systems, which is detrimental to victims.

A form of institutional discrimination applied to race and considered a form of racism that is embedded as normal practice within an institution<sup>4</sup>. It can lead to such issues as discrimination in criminal justice, employment, housing, health care, political power,

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<sup>4</sup> "Beyond Bakke: The Constitution and Redressing the Social History of Racism". Harv. C.R.-C.L. L. Rev. 8 March 2021. Retrieved on 1 June 2025.

and education, among other issues<sup>5</sup>.

The term "institutional racism" was first coined in 1967 by Stokely Carmichael and Charles Vernon Hamilton in *Black Power: The Politics of Liberation*<sup>6</sup>. Carmichael and Hamilton wrote that while individual racism is often identifiable because of its overt nature, institutional racism is less perceptible because of its "less overt, far more subtle" nature. Institutional racism "originates in the operation of established and respected forces in the society, and thus receives far less public condemnation than [individual racism]"<sup>7</sup>.

I have given some examples of institutional racism.

#### 1. Healthcare:

Black patients are stereotyped as "difficult" or more likely to be medically non-compliant, and doctors are more likely to prefer white patients over Black ones. Compared to white patients, BIPOC patients—especially BIPOC women—receive worse medical care, and their health issues are more likely to be disregarded, ignored, or mistreated.

#### 2. The Workforce

Employers are more inclined to hire people with common "white" names than those with "ethnic" or non-"Americanized" names. In the southern region, separate water fountains for Black people are still in use, demonstrating that employees are not equally protected. Due to their hairdo, applicants with dreadlocks are frequently viewed as "unprofessional" and have a lower chance of getting employed; regrettably, the U.S. Court of Appeals determined in 2016 that this practice was allowed. Dreadlocks may be considered unprofessional in certain Indian professional contexts, particularly those that place a heavy importance on traditional or corporate dress codes, though this isn't always the case. Dreadlocks are frequently viewed as unprofessional due to social conventions and the need to meet particular business requirements.

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<sup>5</sup> Harmon, Amy; Mandavilli, Apoorva; Maheshwari, Sapna; Kantor, Jodi (13 June 2020). "From Cosmetics to NASCAR, Calls for Racial Justice Are Spreading". The New York Times. Archived from the original on June 01 2025.

<sup>6</sup> Reena Bhavnani, Heidi Safia Mirza & Veena Meetoo, *Tackling the Roots of Racism: Lessons for Success* 28 (Policy Press 2005).

<sup>7</sup> Stokely Carmichael & Charles V. Hamilton, *Black Power: The Politics of Liberation* 4 (Vintage, Nov. 1992).

### 3. The Criminal Justice System

There is racial disparities in Law Enforcement Agencies, where the police officers are more likely to stop, ill fully treat or detain BIPOC civilians, particularly Black men, than white ones during the traffic stop. According to statistics, unarmed Black suspects are more likely to be shot by police than white ones. The term "shooter bias" describes this. Compared to white men who commit the same offence, black men are sentenced to longer terms.

### 4. Structural Racism:

It describes discriminatory laws, rules, or procedures that deny some persons access to resources, opportunities, and services because to their race. It alludes to the practices that result in racialised effects even when there is no racial purpose. Deep-rooted social, economic, and cultural disparities that have grown throughout time between various groups of people are the root cause of structural racism. There is system in place in which public policies, practices, cultural representation and other norms have worked in many ways to perpetuate inequality and ill treatment among racially biased group. Structural racism paves the way for disparities in power, unequal access to opportunities etc and a continued unfair advantage for some people and unfair or harmful treatment of others based on their race or ethnic group. History, ideology, culture, and interactions of institutions and policies in place strengthen this racism. History, ideology, society, and the interaction of current institutions and policies all serve to perpetuate this racism. In structural racism, there is a hidden racial thought in the institutions and it's hard to prove the active participation of structural racial discrimination happening. While laws change, structural racism still exists in one or other form particularly in this evolving technological world.

## CYBER RACISM AND THE FORMS OF CYBER RACISM ON THE INTERNET

It has been interpreted that the notion of cyber racism encompasses more than just racial activities that are openly displayed online. In simple terms, Cyber racism is defined as racism which occurs in the cyber world. The detailed definition is that any form of communication through digital or electronic means by groups or an individual which seeks to criticize unfairly or discriminate individuals by denying their equal rights, freedom, and opportunities because of their race or ethnicity. It typically occurs on the cyber world via racial websites, images, memes, jokes, blogs, videos and online comments which cause hurt or offence, verbal abuse,

harassment or intimidation that stokes animosity towards certain people and it has the same effect as traditional racism.

### **Forms and Manifestations of cyber racism on the internet:**

#### **a) Hate Speech and Slurs:**

"Any form of communication or expression through digital or electronic media in which a speaker intends to vilify, denigrate, discriminate, humiliate, or instigate hatred against a group or individual on the basis of their race or ethnicity" is a typical definition of hate speech. This involves the use of derogatory language, racial slurs, and offensive terms to demean or insult individuals based on their race or ethnicity via social media platforms, comment sections, and online forums, which can often become breeding grounds for such harmful language. It led to the normalization of dehumanization narratives and incitement to real-world violence and may rise to the level of criminal or discriminatory harassment.

#### **b) Racial Stereotyping:**

Racial stereotyping in cyberspace describes to the widespread use of generalized, and often harmful presumptions or beliefs about racial or ethnic groups in cyber world. In the Indian context, such racial stereotyping is evident across messaging apps, or gaming environments etc. It is about sharing or spreading negative stereotypes about specific racial or ethnic groups, often in memes, jokes, or viral posts. These misconceptions have the capacity to exacerbate societal divide, spread false notions, and perpetuate harmful myths. The extremely contagious COVID-19 has been racialized and stigmatized in both the real world and the cyber world. The foreigners especially Chinese people were labeled as "Corona carrier" during the pandemic period. To begin with, it was memes and jokes that showing bats in soup, people are eating whole animals or mocking their appearance etc. At the same time, dark-skinned individuals, particularly Indians or Africans, are targeted with colorist or facial feature stereotypes that associate fair skin with beauty and black skin with inferiority, often mocking their appearance in advertisements, memes, jokes, or filters, etc. and comparing Africans with animals or criminals in gaming environments or social media platforms. Statements like "Biharis are poor and uneducated," "South Indians are nerds," and "Punjabis are loud" reflect harmful negative, racial, and regional prejudices that are frequently spread in both online and offline.

**c) Cyberbullying and Harassment:**

Cyberbullying is an act of bullying or racist rhetoric with the use of digital technology. It targets individuals or groups based on their race with harmful messages, derogatory remarks, threats, or personal attacks. This can occur by means of private messages, comments, or public posts, and can severely impact the victim's mental health and well-being. According to a McAfee Corp analysis, the biggest percentage of children in any of the countries surveyed—85%—have experienced cyberbullying. Nearly half (45%) admitted to cyberbullying a stranger, and 48% admitted to cyberbullying a person they knew. These numbers are significantly higher—17% and 21%—than the global averages. In addition, twice as many Indian youngsters as the worldwide average reported experiencing racist cyberbullying (42%), being trolled (36%), and being sexually harassed or threatened with violence (30%). The girls in the age group of 10-16 years are also vulnerable, with 32-34% reporting sexual harassment and threats against them, a bit above the global average. Of course, where the global average was at 64%, more than 45% of Indian adolescents in the survey hid their cyberbullying experiences from parents, perhaps because of lesser conversation around it<sup>8</sup>.

**d) Exclusion from Online Communities and professional network:**

Racial exclusion in digital environments occurs when people are purposefully excluded or deliberately denied access to online forums, communities, or professional platforms or gaming communities solely due to their race. It contributes to digital inequality and might be seen as unfair treatment, unequal access to opportunities, or even bans based on racial identity. This racial exclusion is displayed in both overt and covert forms. Racial exclusion in this digital world often manifests subtly, through gatekeeping, algorithmic bias, or hostile environments that deter participation of underrepresented groups or individuals, hence systemic discrimination and impeding social and economic mobility. In online multiplayer games like PUBG and Free Fire, Indian players from the North-East, and Africans living in India, frequently face verbal abuse, slurs, and they are not allowed to join teams due to their physical appearance. African gamers in India are labeled as “hackers” or “scammers” in chat rooms. A lack of moderation allows racial hostility to go unchecked, creating toxic environments. Many

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<sup>8</sup> 17.85% Indian kids have experienced cyberbullying, highest in the world, finds new survey. available at <https://theprint.in/india/85-indian-kids-have-experienced-cyberbullying-highest-in-the-world-finds-new-survey/1074175/>. Last visited on June 10, 2025

users self-exclude or leave platforms due to repeated racial abuse.

**e) Doxing and Threats:**

Doxing is an action or process of searching for and publishing private or identifying information about a particular individual on the internet, typically with malicious intent and making online threats based on someone's race. In general, the word "doxing" is derived from "dropping documents" refers to the harmful practice of disclosing someone's private information such as home address, email address, phone number, workplace or personal affiliation on digital platforms without consent. This form of cyber racism can escalate quickly, leading to real-world harm.

During the xenophobic and racial incident, the African students were attacked in Greater Noida, close to Delhi. The students were falsely implicated in a local teenager's death, and the parents of the deceased blamed them for giving drugs to his son. This developed into targeted doxing, where the Nigerian student's personal data, including their photos, and hostel address was circulated across WhatsApp, and Facebook, which caused racial epithets, death threats, and incitement to mob violence. Hashtags like #AfricansGoBack exacerbated racial hostility, which led to psychological distress, restriction of movements, and fear of physical victimization.

**f) Whitewashing or Cultural Appropriation:**

Whitewashing is a harmful act of elimination or replacement of Black people with white characters for film industries or for online advertisements, and that ultimately leads to the exclusion of Black people from these industries. It is connected with the concept of colorism, which gives preference to lighter skin tones or a Black person who lost their self-identity and their perceptions of their own beauty by way of makeup. In some cases, individuals or organizations may create a hierarchy within the society, where the white people are perceived as more desirable or attractive without understanding or respecting their origin or culture, often for personal gain or entertainment. This can be a subtle but harmful form of cyber racism, particularly in media and advertising.

**g) Algorithmic Bias:**

In this technological era, the artificial intelligence systems have been used for hiring, law

enforcement, in the field of judiciary, or in healthcare industries. When biased data feeds the AI, it can learn and produce similar biased or discriminatory outcomes based on race. Online platforms and social media algorithms can sometimes reinforce racial biases, leading to unequal treatment, underrepresenting them, or amplifying racist content. This can affect what users see or experience online and can perpetuate harmful racial stereotypes.

According to studies, those with lighter skin tones typically outperform those with darker skin tones when using facial recognition algorithms. This disparity arises primarily because training datasets often overrepresent lighter-skinned individuals, leading to higher error rates for darker-skinned people. For example, a 2018 study found that leading commercial gender classification models, which are facial recognition models, have an error rate up to 7 times higher for those with darker skin tones compared to those with lighter skin tones<sup>9</sup>. Common image compression methods, such as JPEG chroma subsampling, have been found to disproportionately degrade performance for darker-skinned individuals. These methods inadequately represent color information, which adversely affects the ability of algorithms to recognize darker-skinned individuals accurately<sup>10</sup>. The study on the 2022 investigation by The Markup revealed that LinkedIn's algorithms recommending to select job candidates and networking opportunities favored white-sounding names and photos with lighter skin tones. Black professionals reported that they had received only a few recruiter messages. Candidates from African and South Asian backgrounds reported feeling invisible on this platform.

#### **h) Digital blackface and racialized memes:**

**Digital blackface** refers to the practice of non-Black individuals using images, videos, GIFs, or other digital media that depict Black people or Brown people in a stereotypical or exaggerated manner, often for entertainment or humor. While reaction GIFs can be hilarious, when white people use GIFs of black people, it can be a form of digital blackface said by Megan Bigelow. Digital blackface has been described as a "digital expression of societally engrained oppression" experienced by Black individuals, who are often commodified and treated as a labor tool rather than as individuals<sup>11</sup>. Critics argue that it is problematic as it

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<sup>9</sup> Joy Buolamwini & Timnit Gebru, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification*, 81 Proc. Machine Learning Rsrch. 1 (2018).

<sup>10</sup> Snipta Mallick et al., *The Influence of the Other-Race Effect on Susceptibility to Face Morphing Attacks*, 21 ACM Trans. Applied Perception art. 2 (2024).

<sup>11</sup> Francesca Sobande, *Spectacularized and Branded Digital (Re)presentations of Black People and Blackness*, 22 *Television & New Media* 131 (2021).

reinforces negative stereotypes about Black people, reducing their complexity to a single, often negative narrative. This includes portraying Black individuals as overly animated, loud, aggressive, angry, hypersexual<sup>12</sup>, or overly comedic, and, particularly for women, as excessively sassy<sup>13</sup>. Psychologist Jardin Dogan contends that digital blackface is not just about perpetuating stereotypes but also involves cultural appropriation, as non-Black individuals can adopt a Black identity that they can discard at will, contrasting with the daily confrontation Black individuals face with their race, lacking the privilege to shed it when it's no longer convenient or trendy<sup>14</sup>.

Racialized Memes, while not traditionally considered as cybercrime, it can contribute to an environment of online hate speech and harassment. Memes can be a platform for both subtle and overt expressions of racism. These can often be shared widely across the internet and perpetuate harmful racial narratives in a seemingly innocuous or "humorous" way.

## CASE STUDIES REGARDING RACIAL DISCRIMINATION IN CYBERSPACE

### 1. Online racist trolling: Chess player D Gukesh

In a tense endgame during the Norway Chess tournament in Stavanger between two chess players, Carlsen and Gukesh, an exceptional achievement was made by player Gukesh for his first-ever win against Magnus Carlsen in Round 6 of Norway Chess 2025, showcasing his brilliance and dedication. The celebratory video posted on the official Norway Chess TikTok went viral, but it took a disturbing turn in the comment section. Amid praise for Gukesh, some users unleashed blatantly racist remarks, including one suggesting Carlsen had been distracted by the "curry scent"<sup>15</sup>.

### 2. Racial Abuse of Football Players- 2021

After England lost to Italy in the UEFA Euro 2020 final, quite a lot of Black players,

<sup>12</sup> ibid

<sup>13</sup> Aaron Nyerges, Explainer: What Is 'Digital Blackface'? The Historical Context of the Internet Phenomenon, UNITED STATES STUD. CENTRE (Aug. 23, 2018), available at <https://www.ussc.edu.au/what-is-digital-blackface/>. Retrieved 2025-06-10.

<sup>14</sup> Madeline Howard, What Is Digital Blackface? Experts Explain Why The Social Media Practice Is Problematic, Women's Health, Feb. 11, 2022, available at <https://www.womenshealthmag.com/life/a33278412/digital-blackface/>. retrieved 2025-06-10.

<sup>15</sup> Unnamed Author, Norway Chess 2025: Social Media Erupts After Gukesh's Win Over Carlsen Sparks Racist Remarks, ECON. TIMES, June 2, 2024, available at <https://economictimes.indiatimes.com/news/new-updates/norway-chess-2025-social-media-erupts-after-gukeshs-win-over-carlsen-sparks-racist-remarks/articleshow/121624146.cms> last visited on July 5, 2025.

including Marcus Rashford, Jadon Sancho, and Bukayo Saka, were subjected to racist abuse on social media platforms like Twitter and Instagram. The abuse included insulting comments, racial slurs, and even threats of violence. This sparked extensive outrage, with many calling for social media companies to take stronger actions to combat racism. The UK government and football organizations also joined the conversation, demanding better protections for players.

In 2020, the Professional Football Association set up a commission with data science company Signify Group. During 'Project Restart', Signify group deployed machine-learning systems to analyse messages posted publicly through Twitter to 44 high-profile current and former players from across the top divisions of English football. During the six-week timeframe, signify group analysed 8,25,515 tweets aimed at the chosen players, detecting over 3,000 obviously offensive messages. The researchers found during the study that 56% of the discriminatory abuse was identified as racial contents.

The study also found the Premier League players in the survey, 43% reported receiving targeted and overtly racist abuse; 29% of racially offensive posts were emojis; Only three players reporter receiving 50% of all documented online hate during "Project Restart"<sup>16</sup>.

The report's dismal statistics offered concrete proof that the current social media policies needed to be changed. This led to the PFA calling on football's stakeholders to come together and:

- i. fund a centralised AI-driven system to proactively monitor abusive users across social media platforms
- ii. identify abusers, and then pursue real-world consequences including prosecutions, stadium bans and suspensions within amateur and grassroots football
- iii. pressure social media platforms to commit to more proactive interventions and stronger repercussions for abusive posts
- iv. call on social media platforms to address the use of emojis as a form of abuse<sup>17</sup>.

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<sup>16</sup> The PFA, Online Abuse, available at <https://www.thepfa.com/players/equalities/online-abuse> last visited on July 5, 2025).

<sup>17</sup>ibid

### **3. Racist Abuse of Asian and Asian-Americans During the COVID-19 Pandemic 2020:**

In the time of the COVID-19 pandemic, many Asian Americans have experienced an increase in cyber racism, especially in the form of social media posts, memes, TikTok videos, and messages that blame them for spreading the virus. Racist comments like “Chinese virus” and “Kung flu” were highly circulated online due to the worldwide connection of the internet. Some individuals were directly threatened with assault, harassment, and violence. The Stop Asian Americans and Pacific Islanders organization said that it received more than 2,800 reports of hate incidents nationwide during the COVID-19 outbreak. As a result, it increased anti-Asian hate crimes and harassment both the physical and the cyber world. Social media platforms were criticized for not doing enough to eradicate such hate speech, leading to calls for stronger moderation policies.

### **4. Racial Tweets during Black Lives Matter Protest- 2020**

Following the murder of George Floyd in the year 2020 and the global protests under the Black Lives Matter movement, several public figures and private individuals used social media, including Twitter, to spread racist content, particularly those who shared more negative or undesirable tweets, and there were numerous instances where people tweeted racially insensitive or offensive content targeting Black activists, celebrities, and protesters. This increased the visibility of comments, leading to widespread violence all over the country, and in many cases, the racist content was deleted by the concerned social media platforms. The individuals involved either faced backlash or were fired from their jobs. This incident emphasized the importance of better regulation of hate speech online. Moreover, people used the #AllLivesMatter hashtag to denounce racism.

### **5. Racial Attacks on Users in Online Gaming Communities**

Online gaming has always been a breeding ground for cyber racism. Players from different races are frequently subjected to verbal abuse, insults, and racial slurs. For instance, many Black, Asian, and Hispanic gamers were being harassed and excluded by other players with racist comments, particularly in popular games like Call of Duty, Fortnite, and League of Legends. Many gaming companies have included reporting systems and tools to combat online harassment, but there is still an insistent issue of racial abuse in these virtual environments, which affects players experiences and mental health.

## 6. Racist Comments on Social Media Against Individuals from Minority Ethnic Groups (Global)

There have been plentiful notorious cases where individuals from racial or ethnic minorities have come across widespread racist harassment and cyberbullying on social media or other digital platforms. For instance, after the actress Halle Bailey was cast as Ariel in Disney's The Little Mermaid (2019), she received an outpouring of racist comments<sup>18</sup> and insults flooded in the internet, with many questioning her suitability for the role due to her race or her color and spawning the hashtag #notmyariel, which intensified after the company released the first look of the remake last September. After the official video received over 1.5 million "dislikes," YouTube even concealed its dislike counter. The imaginary figure shouldn't be Black, according to critics. This incident, along with others where actors of color have faced similar challenges, demonstrates how Hollywood and pop culture-related events can become flashpoints for racial discrimination online.

## 7. Racialized Online Harassment Targeting Political Figures Global Incident:

Politicians from ethnic minority backgrounds often face cyber racism from opponents or extremists. For example, in the UK, when politicians like Diane Abbott, a Black MP, speak out on issues of race, she received racist and sexist abuse online on daily basis<sup>19</sup>. She had rape threats, death threats, and she was referred to routinely as a bitch and/or nigger, and users sent horrible images on Twitter and they are often met with a torrent of racial abuse online that includes threats and derogatory comments. These incidents seek attention to the challenges faced by people of color in public life and the ways in which social media platforms often fail to adequately address such harmful behavior.

### INTERNATIONAL CONVENTIONS THAT ADDRESSING RACIAL DISCRIMINATION

#### i) UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR) – 1948

<sup>18</sup> Meredith Clark, Halle Bailey Has a Message for 'Racist' Little Mermaid Viewers, THE INDEP., Mar. 20, 2023, available at <https://www.the-independent.com/arts-entertainment/films/news/halle-bailey-racist-messages-little-mermaid-b2305577.html> last visited on July 5, 2025.

<sup>19</sup> Amnesty Int'l UK, Online Violence Against Women MPs, available at <https://www.amnesty.org.uk/online-violence-women-mps> last visited on July 5, 2025.

## Article 1 – Right to equality

Article 1 is the most important part of the UDHR. It says that all people are born with dignity and are equal from birth<sup>20</sup>. These rights apply to everyone, no matter their race, colour, or other status. In the digital realm, this means that technology must treat everyone the same. Algorithms used for financial services, like credit scoring or loan applications, shouldn't be unfair to people of certain races. The National Bureau of Economic Research discovered that those with "white-sounding names" get 50% more callbacks for interviews than people with "Black-sounding names." This shows how racial bias can be built into digital hiring tools and databases.

## Article 2 – Freedom from discrimination

Article 2 not only lists a number of reasons why discrimination is not allowed, such as race, colour, sex, language, religion, political opinion, national or social origin, property, birth or other status, but it also says that the rights and freedoms in the Declaration apply to everyone without exception<sup>21</sup>. It uses the principle of non-discrimination to look at a country's or region's political, territorial, or international position. This means that a person's rights don't change depending on whether they live in an independent nation, a trust territory, a non-self-governing territory, or any other limited sovereignty. This is an important protection that stops people or groups from being denied rights based on random traits or geopolitical situations. It emphasises the universality of human rights.

## Article 3 – Right to life

Article 3 says that everyone has the basic right to life, freedom, and safety<sup>22</sup>. Without it, people can't enjoy their other rights. Freedom from arbitrary detention, slavery, or other types of illegal restraint means being able to make choices and act within the law. The right to be safe from aggression, threats, and harm to one's physical integrity are three interconnected rights that are essential to human survival and personal freedom. They are the foundation of a secure and dignified life.

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<sup>20</sup> Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at 71, art. 1 (Dec. 10, 1948)

<sup>21</sup> Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at 71, art. 2 (Dec. 10, 1948)

<sup>22</sup> Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at 71, art. 3 (Dec. 10, 1948)

**INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR, 1966):**

The International Covenant on Civil and Political Rights stresses the principle of non-discrimination, which clearly requires state parties to ensure that everyone has equal access to the rights listed in the document. It also says that all people have inherent dignity and equal worth, so there can be no distinction based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

**PART II****Article 2(1) & 26: The State's Duty and Equality Before the Law**

The ICCPR says that all states must protect all of the rights listed in the Covenant for everyone who lives in their borders, regardless of race, gender, or religion. This also applies to the digital world. For example, a government must make sure that its online services or law enforcement technologies don't unfairly target certain racial groups. The Stanford Open Policing Project found that Black drivers in the US were around 20% more likely to be stopped than white drivers. They were also more than twice as likely to be searched, even though contraband was detected less often. This shows how new technologies, including algorithms for predictive policing, can make racial bias in law enforcement worse.

Article 20(2) of the ICCPR says that incitement is against the law. This means that any promotion of racial or religious hatred that leads to discrimination, hostility, or violence is against the law. Hate speech like this is common on the internet. Research from the Anti-Defamation League (ADL) in 2021 indicated that 60% of persons who played online games were harassed, and a large number of those were racist. The rise of online hate organisations and the quick transmission of racist content on social media highlight how important it is for governments and platforms to follow this rule and actively fight against digital places that encourage racial violence.

Article 27 of the ICCPR safeguards the rights of ethnic, religious, or linguistic minorities to enjoy their own culture, religion, and language. This involves making sure that online venues encourage and don't censor or silence minority voices and cultural expressions. For example, algorithmic content filtering systems can sometimes wrongly flag and remove

content from minority groups, which silences their voices and makes their cultural presence online weaker.

### **iii) INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR, 1966)**

The International Covenant on Economic, Social, and Cultural Rights, adopted in 1966, is a major step forward in international human rights law since it protects and guarantees the enjoyment of economic, social, and cultural rights for all people. The ICESCR does more than just protect rights like the right to work, health, education, and a decent standard of living. Its article includes a strict principle of non-discrimination, which makes sure that these important economic, social, and cultural rights are not just theoretical goals but real rights that everyone can access without distinction.

#### **Article 2(2) – Rights of individuals without any discrimination**

Article 2(2) says that countries that have signed the Covenant must make sure that everyone can enjoy all the economic, social, and cultural rights it lists without discrimination. This means that no one should be denied these rights because of their race, colour, sex, language, religion, political views, national or social origin, property, birth or any other status<sup>23</sup>.

### **iv) INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ICERD, 1965):**

#### **1. Article 1(1) - Comprehensive Definition of Racial Discrimination**

Article 1 gives a broad definition of racial discrimination. This definition says that racial discrimination is any action, distinction, exclusion, restriction, or preference based on a person's race, colour, descent, or national or ethnic origin that tries to or actually does stop or lessen the equal recognition, enjoyment, or exercise of human rights and fundamental freedoms in any area of public life (political, economic, social, cultural, etc)<sup>24</sup>.

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<sup>23</sup> International Covenant on Economic, Social and Cultural Rights, art. 2, para. 2, G.A. Res. 2200A (XXI), U.N. Doc. A/6316, at 50, 993 U.N.T.S. 3 (adopted Dec. 16, 1966, entered into force Jan. 3, 1976).

<sup>24</sup> International Convention on the Elimination of All Forms of Racial Discrimination art. 1(1), Dec. 21, 1965, 660 U.N.T.S. 195.

## **2. Article 2(1) - State Obligations to Eliminate Discrimination**

Article 2(1) lays out the main promise of the signatory states. It says that they are against racial discrimination and promise to work hard to get rid of all forms of it and promote understanding between different races. This includes making sure that the state and all of its public authorities and institutions do not engage in any act of racial discrimination<sup>25</sup>.

## **3. Article 3 - Condemnation of Apartheid and Racial Segregation**

Article 3 explicitly and vehemently denounces racial segregation and apartheid. The states Parties are committed to stopping, banning, and getting rid of all such practices in the areas they rule. This shows that they really hate systemic and institutionalized racial separation<sup>26</sup>.

## **4. Article 4 - Prohibition of Racist Propaganda and Organizations**

Article 4 says that states must speak out against and vigorously fight against all propaganda and groups that spread ideas of racial superiority or encourage racial hatred and discrimination<sup>27</sup>. It is necessary for the states to take prompt and strong action to stop these kinds of incitement and actions. This includes making it a crime to propagate ideas based on racial superiority or hatred, encourage racial prejudice, or commit violence against any race or ethnic group. It also means making racist groups and propaganda illegal and making it a crime to be a part of them. It is against the law for public officials to promote or encourage racial discrimination.

## **5. Article 5 - Guarantee of Equality in Rights**

This article reaffirms the obligation of states to prohibit and eradicate all forms of racial discrimination, ensuring the right to equality before the law for all individuals, irrespective of race, colour or national or ethnic origin, especially in the exercise of civil rights including nationality, freedom of thought, conscience, religion, opinion and expression<sup>28</sup>. It also covers

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<sup>25</sup> International Convention on the Elimination of All Forms of Racial Discrimination art. 2(1), Dec. 21, 1965, 660 U.N.T.S. 195.

<sup>26</sup> International Convention on the Elimination of All Forms of Racial Discrimination art. 3, Dec. 21, 1965, 660 U.N.T.S. 195.

<sup>27</sup> International Convention on the Elimination of All Forms of Racial Discrimination art. 4, Dec. 21, 1965, 660 U.N.T.S. 195.

<sup>28</sup> International Convention on the Elimination of All Forms of Racial Discrimination art. 5, Dec. 21, 1965, 660 U.N.T.S. 195.

economic, social, and cultural rights, naming public health, medical treatment, social security, and access to public places and services including hotels, parks, and transportation.

## 6. Article 6 - Remedies and Protection

Article 6 makes sure that people have good ways to get help and protection from racial discrimination. For effective protection, states must make sure that victims of racial discrimination can get to competent national courts and other state institutions. They also have the right to seek fair and adequate compensation or satisfaction for any harm they have suffered because of such discrimination<sup>29</sup>.

## 7. Article 7 - Education and Awareness

Article 7 stresses how important it is to take proactive steps in education, culture, and information to fight the biases that cause racial discrimination. The states must take quick and effective steps to encourage understanding, tolerance, and friendship between nations and racial or ethnic groups. This includes actively spreading the ideas in the UN Charter, the Universal Declaration of Human Rights, the UN Declaration on the Elimination of All Forms of Racial Discrimination, and the Convention itself<sup>30</sup>.

# INDIAN LEGAL FRAMEWORK ADDRESSINNG DIGITAL DISCRIMINATION

## i) CONSTITUTION OF INDIA, 1950

The Constitution of India, adopted in 1950, stands as a landmark document globally for its explicit and comprehensive commitment to combating discrimination. Rooted in the ideals of justice, liberty, equality, and fraternity, it provides a robust legal framework to ensure that no citizen is discriminated against on various grounds, particularly religion, race, caste, gender, or place of birth.

### Article 14: Equality before law and equal protection of laws

This Article establishes the principle of legal equality, affirming that the State shall not

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<sup>29</sup> International Convention on the Elimination of All Forms of Racial Discrimination art. 6, Dec. 21, 1965, 660 U.N.T.S. 195.

<sup>30</sup> International Convention on the Elimination of All Forms of Racial Discrimination art. 7, Dec. 21, 1965, 660 U.N.T.S. 195.

engage in arbitrary discrimination against individuals<sup>31</sup>. It guarantees "equality before the law," which means that everyone, no matter who they are or where they come from, is subject to the same legal standards. At the same time, it guarantees "equal protection of the laws," which means that everyone is subject to the same legal framework and has the same legal protections. This article is the foundation of constitutional morality in India. It says that all government activities must be fair, just, and free from discrimination.

### **Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth**

This is the main order. It requires the "State," which includes the government, its agencies, and any group that does public work, to create rules, regulations, or take acts that treat citizens unfairly based only on these five precise reasons.<sup>32</sup> This section has a direct effect on internet platforms and services run by the government or approved by the government. For instance, if a government portal for applying for a public service or getting information turned people away or gave them different features depending on their religion, caste, or gender, that would be an obvious violation of Article 15(1). In the same way, it would be against the law for the State to control online content or services in a way that unfairly targets or hurts people of certain religions, races, or castes and it is unconstitutional.

This section in Article 15 (2) makes that no citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subjected to any disability, liability, restriction or condition. It makes sure that people can't be turned away or treated unfairly at these venues because of the reasons that are against the law. This section is meant to make sure that everyone can get to "shops, public restaurants, hotels, and places of public entertainment" without discrimination. In the digital age, this can mean the same thing as online versions.

For example,

1. It would be against the law for an online store (a "shop") to refuse to serve consumers or charge them different prices depending on their ethnicity or religion.
2. This article could be used to fight against a streaming service or gaming platform that blocks

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<sup>31</sup> Article. 14, Indian Constitution, 1950.

<sup>32</sup> Article. 15, Indian Constitution, 1950.

or limits services for users depending on their race.

3. Big social media sites are often like public places where people may talk to each other and get information, even if they are private. This clause could apply to these platforms if they engage in discriminatory practices like random content moderation or account suspensions based on a user's identity (religion, race, etc.), especially if they are seen as "dedicated to the use of the general public." The interpretation would depend on whether these platforms are seen as doing a "public function" or being "dedicated to the use of the general public" in a way similar to the physical places mentioned.

### **Article 16: Equality of opportunity in public employment**

The Indian Constitution guarantees equal opportunity in public employment, prohibiting the State from discriminating against citizens in government roles based on religion, race, caste, sex, descent, place of birth, or residency<sup>33</sup>. This idea applies to all digital parts of public recruitment, even if it doesn't say anything about online platforms. This means that online job applications, virtual interviews, and any other digital process for government jobs must not be biased in any way. It's a direct violation if an online application form asks candidates to share their race, religion, or ancestry and then uses that information to filter or disadvantage them. This clause also applies to algorithms that unfairly favour some genders, races, or people from certain areas based on IP addresses, language patterns, uploaded photos, color or personal information.

### **Article 17: Abolition of Untouchability**

Article 17 of the Indian Constitution unequivocally abolishes "untouchability" in all its forms, declaring it as a punishable offense<sup>34</sup>. While the article primarily addresses historical caste, religion or race-based discrimination leading to social ostracism and disabilities in physical spaces, its spirit extends to the digital realm. This means any online activity such as hate speech, doxxing, or the creation of discriminatory online groups that propagate or enforce practices akin to untouchability based on a person's caste, religion, race or any other inherent identity would be a violation of the constitutional mandate.

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<sup>33</sup> Article. 16, Indian Constitution, 1950.

<sup>34</sup> Article. 17, Indian Constitution, 1950.

## Article 21- Guaranteeing the "protection of life and personal liberty,"

This article emphasizes that no person shall be deprived of his life or personal liberty except according to procedure established by law<sup>35</sup>. The Indian judiciary has broadly construed it to adapt to technological progress. In the context of online contacts, this means that the right to life now implicitly includes the right to access the internet, which is seen as necessary for a dignified life and being part of modern society. Also, the right to privacy on the internet is an important part of personal freedom. It protects people from random government spying or data breaches, especially if they are based on religion, race, caste, gender, or place of birth. While Article 19 gives people the right to free speech, the law also lets people punish hateful or discriminatory messages on social media that go against other basic rights or public order. This is a balance between free speech and the right to live with dignity and safety online.

## ii) COMPARISON OF INDIAN PENAL CODE, 1860 AND BHARTIYA NYAYA SANHITA, 2023 FOCUSING ON ONLINE DISCRIMINATION

### 1. Section 153A of the Indian Penal Code and its successor, Section 196 of the Bharatiya Nyaya Sanhita

Section 153A of the IPC makes it illegal to "promote or try to promote, on the basis of religion, race, place of birth, residence, language, caste, community, or any other reason, disharmony or feelings of enmity, hatred, or ill-will between different religious, racial, language, or regional groups or castes or communities." The IPC doesn't say anything about "online" activity because it was written a long time before the internet. But most of the time, courts thought that "words, either spoken or written, or by signs or by visible representations or otherwise" included digital forms of communication. This meant that online hate speech, posts on social media that were racist, or content on websites that incited hatred or disharmony based on the specified grounds could be prosecuted under Section 153A. Section 196 of the BNS directly replaces and largely mirrors Section 153A of the IPC, but with a crucial modernization: it explicitly includes "electronic communication"<sup>36</sup> as a means by which the offence can be committed.

It says, "Anyone who promotes or tries to promote disharmony or feelings of enmity,

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<sup>35</sup> Article. 21, Indian Constitution, 1950.

<sup>36</sup> Section 196, Bharatiya Nyaya Sanhita, 2023.

hatred, or ill-will between different religious, racial, language, or regional groups or castes or communities, on the basis of religion, race, place of birth, residence, language, caste, or community, or any other ground whatsoever, shall be punished. It makes it clear that this rule applies to internet sites. This means that any postings, comments, videos, photographs, or other digital content that spreads hate on the defined grounds through social media, messaging apps, websites, or other digital methods is immediately covered.

## **2. Section 153B of IPC and Section 197 of BNS- Imputations, assertions prejudicial to national integration**

These are important rules that are meant to stop actions that hurt national unity, especially when they generate division or weaken the loyalty of certain groups based on their identity. These parts are very important for fighting online discrimination because they go after anything that encourages disloyalty or denies rights based on race, religion, caste, gender, or place of birth. Section 153B clearly mentions "online," but it also uses broad terms like "makes or publishes any imputation" or "asserts, counsels, advises, propagates or publishes." Courts have said that these expressions embrace conduct taken online. This clause could be used to prosecute online publications, social media posts, or videos that made discriminatory statements about the disloyalty of a religious group or called for limiting privileges to a certain caste.

Section 197 keeps most of the meaning of IPC 153B but makes the language much more up-to-date. It is also important that it clearly states that "through electronic communication or otherwise" is one way the crime can happen. This means that any online content, such social media posts, instant messages, website articles, or films, that fits within the areas of doubting loyalty, denying rights, or fostering disharmony based on identity is now clearly protected. BNS Section 197 also adds a new clause (d) that punishes people who publish "false or misleading information that threatens India's sovereignty, unity, integrity, or security" <sup>37</sup>. This is an important addition in the digital age, when false information and misinformation are often used to spread discriminatory stories and make society less stable. In short, BNS Section 197 gives us a clearer, stronger, and more digital legal foundation to fight online discrimination that hurts national integration. This is better than the IPC's use of broader interpretations. India's social fabric and national unity are at stake because it expressly targets

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<sup>37</sup> Section 197, Bharatiya Nyaya Sanhita, 2023.

people who use the internet to propagate hate or divisive content based on their ethnicity, religion, caste, gender, or place of birth.

### **5. Section 505(2) of IPC and Section 353(2) of BNS – Public mischief**

Section 505 indicates that statements creating or promoting enmity, hatred or ill-will between classes. Anyone who, on the basis of religion, race, place of birth, residence, language, caste, community, or any other reason, makes, publishes, or disseminates any statement or report that contains rumours or alarming news with the intent to create or promote, or which is likely to create or promote, faces up to three years in prison, a fine, or both<sup>38</sup>. Section 505 did not explicitly use terms like "online" or "electronic communication." However, the broad phrasing of "makes, publishes or circulates any statement, rumour or report" was interpreted by courts to cover digital content. Thus, sharing fake news, inflammatory messages, or derogatory memes on social media or messaging platforms that incited violence or created animosity between religious, racial, or caste groups could be prosecuted under Section 505. The most significant change in section 353(2) is the insertion of "including through electronic means"<sup>39</sup>. This removes any ambiguity and directly confirms that the law applies to online acts. This covers any form of digital communication used to spread discriminatory content. It became a contemporary legal tool for prosecuting those who engage in online discrimination by spreading hate speech and divisive content, thereby strengthening the legal framework to

### **iii) INFORMATION TECHNOLOGY ACT, 2000**

While the Information Technology Act, 2000 (IT Act) primarily focuses on providing legal recognition for electronic transactions, digital communication, and addressing cybercrimes, its direct provisions do not explicitly "eradicate digital discrimination on the grounds of religion, race, caste, gender or place of birth" in the same comprehensive manner as the Indian Constitution.

#### **1. Sec. 66A- Sending offensive messages through communication service, etc.**

Section 66A of the IT Act, which is now unlawful and has been knocked down, tried to deal with online prejudice in an indirect way. It made it a crime to send "grossly offensive"

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<sup>38</sup> Section 505(2), Indian Penal Code, 1860.

<sup>39</sup> Section 353(2), Bharatiya Nyaya Sanhita, 2023.

communications or false material that caused "enmity, hatred, or ill will" by electronic means<sup>40</sup>. It didn't specifically mention religion, race, caste, gender, or place of birth, but its broad phrases were often used to charge people with internet content that was thought to be discriminatory or hate speech based on these factors. But the Supreme Court said it was an unfair limit on free speech since it was too ambiguous and too broad. This led to its repeal in the case of *Shreya Singhal v. Union of India*.

#### **iv) THE INFORMATION TECHNOLOGY (INTERMEDIARY GUIDELINES AND DIGITAL MEDIA ETHICS CODE) RULES, 2021**

An important step taken by the Indian government to control online material and hold digital platforms, or intermediaries, more accountable is the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules, 2021). They explicitly address online discrimination, particularly on the grounds of religion, race, caste, gender, or place of birth, through a multi-pronged approach that focuses on due diligence obligations and grievance redressal mechanisms for these platforms.

##### **2. Rule 3(1)(b)- Due Diligence Requirements for Intermediaries:**

Rule 3(1)(b) says that an intermediary, like social media sites like Facebook, X, Instagram, YouTube, and messaging apps like WhatsApp and Telegram, "must make reasonable efforts to prevent the user of its computer resource from hosting, displaying, uploading, altering, publishing, transmitting, storing, updating, or sharing any information that is "insulting or harassing on the basis of gender"; additionally, it must notify the user of its rules and regulations, privacy policy, and user agreement. This is a clear reference to harassment and discrimination based on gender.

**"Racially or ethnically objectionable"** means that content that encourages discrimination based on a person's race or ethnicity is not allowed. This law offers platforms a clear legal duty to get rid of racist content like hate speech, insults, and stereotypes.

**"Promoting enmity between different groups on the grounds of religion or caste with the intent to incite violence"**: This part is very important for stopping hate speech. It directly

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<sup>40</sup> Section 66A, Information Technology Act, 2000, \*struck down by\* *Shreya Singhal v. Union of India*, AIR 2015 SC 1523.

applies to content that is meant to make people of different religions or castes hate each other, which is a big problem in India's digital world.

## **2. Rule 3(2) - Grievance Redressal Mechanism:**

Intermediaries must hire a Grievance Officer who lives in India. Users can complain to this officer about any content that doesn't meet the due diligence standards, including the discriminatory content mentioned above. The Grievance Officer must acknowledge the complaint within 24 hours and resolve it within 15 days<sup>41</sup>.

## **4. Rule 4(1)(d) & Rule 4(2) - Proactive Monitoring for Significant Social Media Intermediaries:**

Rule 4(1)(d), part of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, mandates that significant social media intermediaries must publish a monthly compliance report. This report serves as a transparency mechanism, detailing the number of complaints received through their grievance redressal mechanism and the actions taken on those complaints<sup>42</sup>. For these major intermediaries, the report must also say how many specific communication links or parts of information they have proactively removed or disabled access to. This includes cases where content was found through automated tools or other relevant monitoring done by the intermediary itself, giving insight into their self-regulatory efforts beyond just responding to user complaints.

Rule 4(2) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, mandates that significant social media intermediaries primarily offering messaging services like WhatsApp must enable the identification of the first originator of information on their platform. This "traceability" obligation can be triggered by a judicial order or an order from a competent government authority under Section 69 of the IT (Procedure and Safeguards for interception, monitoring and decryption of information) Rules, 2009, but only for the specific purposes of preventing, detecting, investigating, prosecuting, or punishing serious offenses. These offenses include those related to India's sovereignty and integrity, state security, friendly relations with foreign states, public order, or incitement to such offenses, as well as crimes involving rape, sexually explicit material, or child sexual abuse material,

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<sup>41</sup> r. 2(1)(h), The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

<sup>42</sup> r. 4, The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

provided the punishment for these offenses is at least five years' imprisonment. While aimed at combating the spread of highly problematic content and identifying culprits, this rule remains highly controversial due to concerns about its potential impact on end-to-end encryption, user privacy, and freedom of speech, with platforms arguing that compliance would inherently undermine the security features designed to protect all users' communications.

## Conclusion

Digital racial discrimination is a serious problem that is firmly rooted in online interactions and has serious effects in the real world. Racism, which is the assumption that one race is better than another and leads to discrimination, has easily moved to the digital world, where it is spread through memes, GIFs, photos and videos on social media. This ubiquitous online bias has a huge effect on its victims, especially when it comes to cyberbullying and harassment, which can cause serious mental health problems. According to a study by McAfee Corp, 85% of kids in India were victims of cyberbullying, and 42% of them said they were victims of racist cyberbullying, which is twice the global average.

Digital racial prejudice can lead to actual violence, as happened with African students in Greater Noida who were doxxed, which led to racial threats and calls for mob action. The widespread sharing of memes and jokes that promote ugly stories and stereotypes online makes social divides worse and can lead to real-world harm. Digital racism is not only a collection of individual actions; it is also ingrained in institutional and systemic institutions. For instance, algorithmic bias keeps racial biases alive in AI systems used for recruiting and facial recognition, which leads to unfair opportunities and reinforces damaging beliefs. This kind of prejudice shows that the problem isn't just about how people act; it's also about biases that are deeply ingrained in technology and society. It is a serious problem that needs to be dealt with right away and in full. The situation is really serious because it has been around for a long time and affects a lot of people. Racism has easily moved to the digital world and its effects are no longer limited to the online environment; they often lead to real-life suffering. The prevalence of internet platforms has exacerbated the dissemination of detrimental racial narratives, stereotypes and hate speech via memes, jokes, and viral content. This setting not only causes victims a lot of mental pain, but it also makes dehumanisation acceptable and encourages aggression.

**Suggestion**

To fight online racial discrimination effectively, we need to use more than one method. Governments need to make the laws stronger so that hate speech and racial discrimination online are clearly illegal and this will make sure that those who break the law suffer the right punishments. Social media businesses should make their content moderation regulations stronger, make their identity verification systems harsher and improve their reporting and response systems. Also, governments, human rights groups, and IT corporations from around the world need to work together to fight online discrimination on a global basis. To teach people how to spot, report and stop bigotry online, we also need to push for public awareness campaigns and digital literacy programs.

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