
A CRITICAL STUDY ON HATE SPEECH AND COLLECTIVE VIOLENCE

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ABSTRACT

The complex relationship between hate speech and collective violence is critically analyzed in this extensive study, which also addresses the various factors that contribute to and sustain these phenomena. With an emphasis on how hate speech contributes to collective violence, the research aims to disentangle the complex issues surrounding hate speech by looking at its causes, expressions, and effects on society dynamics. Drawing on a variety of academic fields, including sociology, psychology, and communication studies, the study starts by clarifying the conceptual framework of hate speech. It looks at how the concept of hate speech has changed over time and how it has adapted to the digital age, when hateful stories can spread quickly through internet channels.

In order to understand the fundamental mechanisms that turn provocative discourse into a trigger for collective violence, the research looks at linguistic patterns and environmental elements. Finally, by providing a thorough knowledge of the connections between hate speech and collective violence, this critical analysis hopes to provide insights that can guide more focused and successful preventive and resolution initiatives. This study adds to ongoing efforts to promote social peace, inclusion, and tolerance in an increasingly linked world by bridging perspectives from academia, the legal system, and society.

A thorough examination is conducted to determine the limitations and efficacy of policy measures and legal frameworks aimed at preventing hate speech. In addition to making recommendations for flexible and proactive legal methods, the paper critically evaluates the difficulties legal institutions have in dealing with hate speech in a quickly changing digital environment. In addition, it looks at how international cooperation and organizations can play a part in creating a coordinated worldwide strategy to oppose hate speech and stop group violence.

Keywords: Hate speech, collective violence, group violence, digital environment

INTRODUCTION

In India, the legal system addresses hate speech and its connection to collective violence in order to maintain social harmony and avoid harm. The Indian Penal Code (IPC) and other relevant laws have several clauses that govern hate speech. Hate speech is defined as expressions of opinion that incite hatred, violence, or discrimination against people or groups on the basis of their gender, race, religion, or other characteristics. In particular, hate speech is dealt with under Section 153A and Section 295A of the IPC, which prohibit acts that incite hatred between groups based on race, religion, or other factors and, respectively, insult religious beliefs.

Hate speech is frequently the driving force behind collective violence, which can cause chaos in the public sphere and harm to both persons and groups. In order to preserve peace, the Indian legal system emphasizes the need to prohibit hate speech and acknowledges the link between it and the possibility of violence. The influence of hate speech on collective violence in India has been studied by law commissions and other agencies on a regular basis, with recommendations made to amend current legislation.

CONCEPT OF HATE SPEECH

Hate speech is defined as expressions that incite hatred or disdain for a group or groups, especially those who belong to a certain race or sexual orientation.¹ There are two general definitions for hate speech. First, by a predetermined notion of what hate speech looks like, such as referring to Black people as niggers. The second method is to characterize hate speech based on the responses that it has received. Therefore, anything can be considered hate speech if it has caused an abnormal and irrational reaction in a group of rational individuals. The first meaning makes more sense since, really, why would you refer to a Black person as a nigger? However, there are a few issues with it. First of all, it is unfair because only minority groups are protected by the US constitution, notably the 14th Amendment, meaning that a Black man can call a White person a SCAB and get away with it. Additionally, it fosters a feeling of belonging to the community.² Why should people who are simply coincidentally members of our respective communities get offended if I call a Black person a nigger or if he calls me a

¹ IPC, 1860

² Dworkin, R. (1994). "Hate Speech in the United States." In Ronald Dworkin (Ed.), *The Rights of Citizens and Other Subjects: Essays on Various Subjects in the History of Ideas*. Harvard University Press.

nasty Indian? If we thought more like people and less like groups, I believe the world would be a better place. No? Regretfully, hate speech is becoming more widely defined in the globe as the responses of a specific minority.

The debate that surrounded the release of the well-known Danish cartoons is the best illustration. I mean, everyone who has seen those cartoons would quickly admit that, despite being extremely unfunny and in poor taste, they do not qualify as hate speech. Many people have protested and died, yet millions of people have never seen those cartoons and never will. For what reason? It could be that they realize that using violence to express their perceived concerns is the simplest option. The Iranians, who appear to use the word "Zionist conspiracy" almost as an affectionate term, were, of course, the most vocal in their criticism.

Whether it's the Shiv Sena bigots who stormed the streets over Laine's suggestion that Shivaji had an affair with his mother, or the Islamo-fascists who wanted Rushdie killed. Because I am not a historian, I cannot confirm that such a view is accurate historically, but does this mean that the Bhandarkar Institute should be set on fire? Actually, there's no protection even for the truth. Because it portrayed how Hindus handled widows, Deepa Mehta's *Water* sparked violent demonstrations. The movie was harming "Hindu sentiments" in some way, and not even the protesters contested that what it was trying to communicate was incorrect.

Understandably, the government lacks courage and will to comply, and it is too willing to crawl. Ah...The truth should make you dismiss your sentiments if they hurt. Is hatred itself morally wrong? Since hate speech itself is hate, hate itself is ultimately hate as well—an acknowledgment that hate is but another human feeling, similar to love, albeit one that is perhaps less desirable but nonetheless inevitable. Or whatever, which is better? When individuals engage in verbal communication or physically alter altercations? I don't doubt that hate speech facilitates individuals venting. To be honest, restricting the right to free speech is abnormal since it is such a valuable principle. Thus, I do believe that hate speech should be allowed unrestrictedly. In other words, although it's acceptable for someone to state that "all Indians are dirty," I draw the line at declaring that "all Indians are dirty and should be killed."

RELATION BETWEEN HATE SPEECH AND COLLECTIVE VIOLENCE

Free speech is essential in democracies because it permits the exchange of opposing ideas. In representative democracies, dialogue is a helpful tool for evaluating competing ideas and

gathering diverse viewpoints for political decision-making. Freedom of expression is also necessary to exercise one's right to personal autonomy. When it comes to hate speech, the libertarian idea of free speech conflicts with the objective of equal dignity. India and other pluralistic societies have a responsibility to uphold freedom of expression while promoting egalitarian principles and preventing threats to the safety and dignity of others.³

In preserving public order and upholding the rights of speakers, the government must strike a balance. Defending their physical security and dignity may be riskier for them than it is for others when they utilize scary symbols like burning crosses and swastikas to instigate violence. The publication of cartoons featuring the Islamic prophet Muhammad in a Danish newspaper sparked protests by Muslims all around the world. On the other hand, France prohibited the wearing of religious symbols in schools due to worries that it was a propaganda tool. These instances raise questions regarding free speech rights and limitations imposed for the greater good.

Hate speech is defined as "words that are used as weapons to ambush, terrorize, wound, humiliate, and degrade." Hate speech affects not only the physical and emotional health of the targeted group or individual but also their freedom, dignity, and personhood, as well as society at large.

Fifty-eight persons were allegedly killed on February 27, 2002, when a Muslim mob set fire to two rail wagons carrying Hindu activists in the Gujarati town of Godhra. In reprisal, Hindus attacked Muslims in large numbers throughout Gujarat, including killings, sexual assaults, torturing, destroying property (including places of worship), and uprooting residents within their own communities. The violence continued for several months after the Indian army was dispatched to Gujarat.

Attackers from the Hindu community specifically targeted Muslim women as symbols of the community they wished to degrade and destroy. In addition to using Muslim women as childbearing roles, Muslim women were also used as a target for retaliation against Muslim men for allegedly defiling Hindu women in the past during multiple "Muslim" invasions of the "motherland." Some survivors claimed that rapists had yelled that they wanted to conceive "little Hindus" for them, and that pregnant women had been attacked with the intention of

³ United Nations. (2019). "United Nations Strategy and Plan of Action on Hate Speech." Retrieved from <https://www.un.org/en/genocideprevention/documents/SOASstrategyandPlanofActiononHateSpeech>.

killing the fetus. The riots were "resulting from the natural and justified anger of the people," according to Gujarat Chief Minister Narendra Modi, on March 1, 2002, at the height of the deaths.

As stated by the VHP's international general secretary Praveen Togadia, "the time was ripe for forming a separate army of Hindu youths who would protect the religion from attacks by jihadis." It is alleged that Togadia declared in December 2002 that the "Hindutva lab" experiment will be replicated in other regions of the country and that "[a] Hindu Rashtra [state] can be expected in the next two years" following the BJP party's resounding victory in the state assembly elections in Gujarat. By that time, the geography of Pakistan and the history of India will have changed.

The harsh criticism of North Indians by Raj Thackeray in Maharashtra raises significant legal questions around hate speech.

Section 153A of the Indian Penal Code penalizes those who engage in activities detrimental to the preservation of peace and who try to incite hatred between various groups on the basis of religion, race, place of birth, domicile, language, etc.⁴ The court found the accused in Baburao Patel [1980 Cr LJ 529] guilty under this part of the law for writing two articles portraying modern Muslims as descended from repugnant Moghuls who were murderers and lustful perverts. S. 153B penalizes statements and imputations that are detrimental to national integration. According to S. 295A, it is illegal for anybody to intentionally and maliciously denigrate a class's religion or religious beliefs in order to offend them. This clause falls under the protection of Art. 19(2) of the Constitution, according to the ruling in **Ramji Lal Modi [1957 SCR 860]**.⁵ A person who intentionally hurts someone's religious sentiments through words, etc., is punished under S. 298. Speech that would incite animosity, hostility, or malice among social classes is prohibited by S. 505(2).

The state government, judiciary, police, and bureaucracy are all still operating dysfunctionally, and the genocide in Gujarat indicates that the secular fabric of this country is being attacked. However, since fascist expressions are widespread throughout the nation and are demonstrated

⁴ ibid

⁵ Ramji Lal modi, 1957 SCR 860

by numerous occurrences around the nation, Gujarat cannot and must not become the central focus.

A state and society that is both religiously and culturally tolerant is constrained by vested interests and misguided strategic plans. Ideologies based on hatred render the nation's priceless cultural and intellectual legacy worthless. Sadly, pulpits have frequently been used to instigate citizens against different sects and religious minorities in the nation. To counter ingrained hate-based indoctrinations that only serve to deepen societal segregation based on religion and sect, we must foster a culture of tolerance within our own communities. Law enforcement faces a difficult task in trying to find a middle ground between speech that is acceptable and aggressive provocation that may turn violent.

Speech that incites or encourages violence, prejudice, or hatred towards individuals or groups on the basis of characteristics like race, religion, ethnicity, gender, or nationality is known as hate speech, and research has indicated that hate speech can be a significant contributing factor to the outbreak of collective violence. There are several mechanisms and aspects that show how the two are related. First of all, hate speech has the power to incite pre-existing tensions and grievances within groups, which can act as a trigger for collective violence. A hostile atmosphere that fuels animosity and rage can be created when people or groups are the target of disparaging and degrading speech. Violent acts of self-defense or retaliation may result from these elevated emotions.

Hate speech can also be a part of the “othering” process, which is the portrayal of some groups as outsiders or dangers to the norm. As a result of being perceived as less worthy of compassion or safety, the targeted group may be dehumanized and acts of violence against them may be justified.

Additionally, hate speech can spread through a variety of media outlets, such as social media, which can increase its impact and reach. Via echo chambers that propagate extreme views and raise the possibility of mass violence, hate speech on the internet has the power to unite like-minded people.

Furthermore, powerful people and political figures who use hate speech have the power to further normalize it and to subtly condone acts of violence against the groups they denigrate. The use of hate speech by politicians to further their goals or win support can have disastrous

effects on social harmony and peace. Numerous contextual factors influence the relationship between hate speech and collective violence, making it nonlinear. Political divisiveness, historical grievances, and unstable economies can all increase the risk of violent reactions to hate speech.

Thus, combating hate speech and its connection to mass violence necessitates a multipronged strategy that involves education, legal actions, and community-building initiatives to foster tolerance and understanding. There is a complex and alarming relationship between hate speech and acts of collective violence. By escalating already-existing tensions, defending aggressiveness, and inspiring people through a variety of media platforms, hate speech has the potential to incite violence. Promoting tolerance, resolving underlying issues, and holding hate speech perpetrators accountable through societal and legal channels are crucial for reducing this link.

PROVISIONS RELATED TO HATE SPEECH AND COLLECTIVE VIOLENCE UNDER IPC, 1860 AND OTHER LAWS

The principal criminal code of India, the Indian Penal Code, 1860 (IPC), specifies and classifies a wide range of offenses, including hate speech and group violence. These rules are essential for upholding societal harmony, averting confrontations motivated by hatred, and punishing people or organizations who incite hatred or violence against particular communities or groups.

The IPC's Section 153A prohibits activities that are detrimental to the preservation of harmony and encourage hostility between various groups based on factors such as religion, race, place of birth, domicile, language, etc. This section intends to penalize people or groups who participate in statements or actions that have the potential to stoke animosity among different communities and disturb community harmony. The penalty may include a fine, a period of jail that may last up to three years, or both.

The Indian Penal Code's Section 295A addresses intentional and malevolent conduct meant to offend a certain class's religious sentiments by disparaging their faith or religious convictions. Any activity that insults or offends the religious feelings of any community is the subject of this section, including hate speech and offensive writing. An imprisonment sentence of up to three years, a fine, or both may be imposed upon conviction under this section.

Remarks Causing Public Distress are covered under Section 505 of the Indian Penal Code. This section deals with reports, rumors, and remarks that are spread with the intention of encouraging any group of people to commit an infraction against another group or class. Additionally, it includes remarks that could encourage hatred or violence among other communities. A fine and a maximum three-year jail sentence are possible for violations of this clause.

Section 298: Speaking in a Way That Is Designed to Offend Someone's Religious Sentiments: This section addresses any speech or action intended to hurt someone's religious sentiments. It primarily targets behaviors that are directed towards an individual as opposed to a larger society or group. If this clause is broken, there could be a one-year jail sentence, a fine, or both.

Part 153B of the Indian Penal Code deals with charges pertaining to imputations and claims that are detrimental to national cohesion. It aims to stop acts or words that incite animosity between various groups and jeopardize the country's integrity and unity. A fine, a term of imprisonment that may not exceed three years, or both may be imposed as penalties under this section.

The IPC's provisions against hate speech and group violence provide law enforcement with vital instruments. They give rise to a legal framework that facilitates the prosecution of people who incite hatred, discord, or violence among various racial, religious, or linguistic communities in India through their actions or speech. Because these legal requirements are not absolute, it is crucial to remember that they should be carefully read and applied. It is the duty of the courts to strike a balance between upholding the fundamental right to freedom of speech and expression and suppressing hate speech that endangers communal harmony and public order, as protected by the Indian Constitution.

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Other laws and regulations, such as the Information Technology Act, 2000, also handle hate speech in addition to the IPC, particularly when it comes to internet communication. These laws give law enforcement the instruments they need to look into and bring charges against people or organizations who spread hate speech online.

Moreover, there may be particular laws and rules in India's states concerning hate speech and collective violence. In addition to the provisions of the IPC, these state-level legislations may offer extra safeguards for preserving harmony and peace within their particular regions.

Law commission of India report on hate speech

In the case of **Pravasi Bhalai Sangathan v. Union of India (AIR 2014 SC 1591)**⁶, the Law Commission of India was requested by the Hon'ble Supreme Court of India to investigate whether it is appropriate to define hate speech and offer suggestions to the Parliament for bolstering the Election Commission in order to prevent the threat of "hate speeches," regardless of when they are made. The Law Commission has started researching the laws in India that prohibit hate speech in response to this referral. Among the most important rights protected by the Constitution is the freedom of speech and expression. Article 19(2) of the Indian Constitution, however, sets reasonable limitations on this privilege.

There are multiple tests that determine if this restriction is appropriate. The goal of laws that aim to suppress speech that targets the weaker segments of society is to balance the right to equality with the freedom of expression. It is vital to restrict forms of expression that have the potential to incite hatred and violence in order to shield this group from discriminating attitudes and actions. International law, particularly the European Court of Human Rights, has emphasized the necessity of using free expression responsibly, particularly in a society that is becoming more and more multicultural and pluralistic.

On March 23, 2017, the Law Commission of India sent its Report No. 267, titled Hate Speech, to the Central Government for review in light of the aforementioned information.

The Commission believes that speech that negatively impacts the rights of a vulnerable group should be considered when enforcing anti-discrimination laws. The Commission suggests taking into account a number of criteria before imposing restrictions on speech, including the

⁶ *Pravasi Bhalai Sangathan v. Union of India (AIR 2014 SC 1591)*

speech's context, the victim's status, the speaker's standing, and the speech's potential to incite discrimination or cause disruptions.

The Indian Penal Code, 1860 has been proposed to be amended by the Commission by the addition of new provisions following sections 153B and 505A, following a comprehensive investigation of the matter and a study of surrounding international law. In addition to officially recognizing this kind of speech, it is suggested that other tactics, such as public awareness campaigns and education campaigns about responsible speech, be used to promote harmony amongst various societal groups.

ROLE OF JUDICIARY IN DEVELOPING HATE SPEECH JURISPRUDENCE

The case Pravasi Bhalai Sangathan v. Union of India⁷

In this instance, the petitioner asked that hate speech be punished. However, because India does not now have any laws against hate speech, the Supreme Court declined to penalize. Although it is regarded as judicial overreach, the Supreme Court did not act beyond its authority. The Court noted that hate speech issues could be resolved if recent statutes were modified. Therefore, the Law Commission was asked by the Supreme Court to investigate, define, and fortify the laws pertaining to hate speech.

Jafar Imam Naqvi v. Election Commission of India⁸. The petitioner in this case requested that the Election Commission take appropriate action in response to the candidate's venomous remarks during the election by filing a writ of mandamus. The petition was denied by the court, which also ruled that the legislature must be present for any decisions made by the court and that speeches made during election campaigns are not subject to PIL consideration.

Subramanian Swamy v. Union of India⁹. One of the most notable cases challenging the constitutional validity of criminal defamation Sections 499 and 500 of the IPC is this one. However, the Indian Supreme Court subsequently rejected the petitions and ruled that the Freedom of Expression was restricted by the provisions included in Sections 499 and 500 of the Indian Penal Code. The Supreme Court ruled that the meaning of "defamation" as employed in Article 19(2) cannot be narrowed down. The phrase "incitement of offence" cannot be

⁷ *ibid*

⁸ *Jafar Imam Naqvi v. Election Commission of India*

⁹ *Subramanian Swamy v. Union of India*

defined by the doctrine of "noscitur a sociis," as this would unnecessarily restrict it, which is against what the founding authors of the Constitution intended. It is not possible to interpret the term "defamation" in a way that restricts its meaning to include When it is done criminally, it inspires others to commit an offense. Accepting the submission is challenging. Only when defamation encourages the commission of an offense will it be criminalized. Every person's reputation in the eyes of the general public is safeguarded by the law against defamation. In society's perspective, it matters to a person. Social stability depends on the protection of individual rights. The damage done to one person has an impact on society as a whole. The argument that the crime was intended to serve the individual's private rights rather than any general public or community objectives is unfounded. The legislature wisely decided to maintain the criminal provisions under Section 499 of the IPC, which do not impede the freedom of speech and expression. Reputation is an intrinsic component of the right to life and a fundamental component of Article 21 of the Constitution. Conclusion: It is hard to say that the existence of criminal defamation is inherently harmful to the right to free speech and expression. It does not contradict any of the Constitution's articles, nor can its very existence be viewed as a limitation. Hate speech may be restricted under Article 19(2) for the reasons of maintaining public order, encouraging criminal activity, and protecting the state. The Supreme Court decided in *Brij Bhushan v. State of Delhi* (2013) that public order was equated with state security and related to public security. Following the First Constitutional Amendment, this view was supported by Article 19(2).

The Supreme Court distinguished between state security, public order, and law and order in **Ram Manohar Lohiya v. State of Bihar**¹⁰, ruling that "one has to imagine three concentric circles." Within the main circle, which stands for law and order, there are two smaller circles that represent public order and state security, respectively. Hence, it is simple to understand that a given action may impact public order but not law and order, or vice versa. If Article 19(1)(a) is being applied for the purpose of protecting the State, the highest standard is being employed to limit it. Furthermore, an equitable limitation in line with Article 19(2) suggests that there is a direct and intimate connection between the limitation and public order in comparison to a distant or fantastic connection.

¹⁰ *Ram Manohar Lohiya v. State of Bihar*

The Supreme Court ruled in **Ramji Lal Modi v. State of U.P.**¹¹ that section 295A IPC is constitutionally valid. It further held that this section only penalizes acts of insult or attempts to "insult the religion or the religious beliefs of a class of citizens, which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class." "In the public interest of public order" refers to statements that have the potential to cause chaos in addition to those that are directly meant to lead to disorder. Therefore, even though some actions may not necessarily result in a breach of peace, a law that publishes statements made with the intentional intent to offend any class of people's religious sentiments is legitimate because it restricts the right to free speech in the interest of maintaining public order. This is because such speech or writing has the potential to cause public disorder. The constitution imposed appropriate limitations on the right to free speech and expression in the public interest.

The freedom of speech and expression guaranteed by Art. 19(1)(a) of the Constitution includes the right to "carry out public demonstrations, but demonstrations that are political, religious, or social in nature or that operate as nuisances, create public disturbances, or clearly threaten some tangible public or private mischief are not covered." due to the judiciary's difficulties with hate speech and its inability to make decisions because of a lack of legislation. The Union Minister of Law and Justice received a letter from Dr. Justice B. S. Chauhan with the goal of amending the numerous hate speech laws. Art. 19(1)(a) must be controlled and regulated in order to prevent abuse of this right.

Furthermore, in **Pravasi Bhalai Sangathan v. Union of India & Ors**¹², the Supreme Court noted that the Law Commission of India ought to give the problem of hate speech more careful thought. "We request that the Law Commission also thoroughly examine the issues raised herein and consider, if appropriate, defining the expression "hate speech" and make recommendations to the parliament to strengthen the Election Commission to curb the menace of "hate speeches" regardless of when they are made," the statement reads. In light of this, Dr. Justice B. S. Chauhan guided the consideration of hate speech in the submission of the 267th Law Commission Report in March 2017.

The commission took into account the current hate speech rules in India as well as rulings from the courts in other nations, including the United States, Canada, South Africa, the United

¹¹ *ibid*

¹² *ibid*

Kingdom, and the European Union. According to the Commission, in order to stop hate speech, the Indian Penal Code, 1860, and the Code of Criminal Procedure, 1973 should be amended to include new sections like "Section 153B Prohibiting incitement to hatred" and "Section 505 IPC Causing fear, alarm, or provocation of violence in certain cases." Additionally, the First Schedule of the CrPC is amended by this.

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