

Conflict between Hate Speech and Indian Laws

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Abstract - Now –a –days hate speech between two rival persons having different religion, cast, creed etc, political parties, countries have become a fashion in the name of right to speech and expression. India is not untouched from this disease as India is a country where person of all religion is found. Therefore India is called the country of diversity. But in India this right is not absolute as it is given under Article 19 (1) (a) of Constitution and restriction can be imposed on the right on the ground mentioned in Article 19(2) of the Constitution. Apart from this some special Acts are also controlled the hate speech in the name of right to speech and fetters have been imposed on the right.

Introduction - Words war between opposing political, social, and economic ideologies are being witnessed by the international community. It's not hard to imagine that in the not too distant future, speeches made at social events and on social media will ignite a brand-new form of conflict. Defaming and dehumanizing are the new tools that society uses to humiliate individuals on a large scale. These days, hate speech is mistakenly associated with the concept of freedom of expression. Social media's accessibility has allowed people the freedom and chance to express their opinions about concepts or individuals.

We have all experienced hate at some time in our life. The rise in popularity of hate speech can be attributed to the recent development of the mass media as the primary news distribution channel. Hate speech is now the best technique to ruin someone's reputation and cause suffering for others. Mass hate speech has the power to destroy people's lives and goals, as demonstrated by the leader of the CAA's few remarks that sparked riots. The many aspects of hate speech and its legality in India will be covered in this essay.

Hate Speech: Hatred is a common feeling in our culture and one we experience on a daily basis. Many lawmakers, academics, jurists, and others have made statements that are indicative of hate speech. The year 2018 was dubbed "THE ERA OF ONLINE HATE," according to reports, as many people used internet platforms to disseminate hate speech on a large scale[1].

Hate speech is defined as any communication that disparages another person based on their race, ethnicity, gender, religion, age, handicap, or any other comparable reason. However, the greatest testament to our free speech legal system is that it safeguards the right to voice the opinions we find objectionable [2].

Hateful Conduct = Hate Speech + Directed Action

When a communication targets a specific individual and is accountable for the consequences, it is considered hate speech.

Freedom of Speech and expression:The Indian Constitution stipulates in Article 19(1) (a) that every person has the right to freedom of speech and expression [3]. The sole purpose of this article is to allow Indian citizens to speak their opinions while imposing some fair limitations.

The followings are the underlying premises of freedom of speech and expression:

1. No foreign citizen is granted the freedom to exercise this right; only Indian citizens are.
2. This right allows for the freedom to communicate one's opinions in any format, including written or spoken words, images, and more.
3. The government is authorized to enact laws supporting and opposing the freedom of speech and expression since it is not an unalienable right.

Article 19(2) addresses limitations placed on the right to free speech and expression as follows:-

Security of State: When the security of the state is questioned, it is forbidden for someone to freely voice their opinions [4].

Friendly relation between foreign countries: Article 19(2) prohibits speech, expression, and phrases that cause a breach in the relationship between India and other foreign nations. Such acts will be prosecuted as crimes.

Public order:Why State security and public order are distinct. When the public order is called into question, it is crucial to protect it and uphold its legitimacy [5].

Contempt of court: Any remarks that violate the court's decorum[6] are not forbidden under the right to free speech and expression[7].

Incitement of any offence: Any remarks that encourage others to commit crimes are forbidden in any way.

Sovereignty and integrity of India: It is forbidden for anybody to say anything that compromises India's integrity or sovereignty [8].

Defamation: Any statement[9] made by a person at any level via any media that disparages another person or society in any way is forbidden unless it serves the general welfare and lawfulness.

Penal provisions for hate speech:

Indian Penal Code, 1860: Section 124A punishes sedition, Section 153 provides for "promoting enmity between different groups on grounds of creed, race, place of birth, residence, language, etc. and committing acts prejudicial to the maintenance of harmony".

Section 153B punishes accusations, assertions harmful to national integration.

Section 295A punishes "willful and malicious acts aimed at infuriating the religious feelings of any class by insulting its religion or religious beliefs. Section 298 punishes words etc. with intent to offend the religious feelings of any person. Decisions 505(1) and (2) punish the publication or distribution of statements, rumors or messages that cause public nuisance and enmity, hatred or malice between classes.

The Representation of the People Act, 1951: Section 8 prohibits a person from running for office if he has been convicted of an offense involving the unlawful exercise of freedom of expression.

Section 123(3A) and Section 125 prohibits the promotion of hatred on the basis of religion, race, caste, community or language relating to elections as a corrupt electoral practice and disables it.

The Protection of Civil Rights Act, 1955: Decision 7 punishes incitement and incitement of immunity by words, whether spoken or written or by signs or visible images or otherwise.

The Religious Institutions (Prevention of Misuse) Act, 1988:- Section 3(g) prohibits a religious institution or its head from allowing premises owned or controlled by the institution to be used to promote or promote strife, hatred, enmity, ill will between different religious, racial, linguistic or regional groups or castes or communities.

The Code of Criminal Procedure, 1973:- Section 95 empowers the state government to destroy publications punishable under Sections 124A, 153A, 153B, 292, 293 or 295A of the IPC. Section 107 empowers a public officer or breach of public peace or breach of public peace public peace any illegal act likely to cause a breach of the peace or disturb the public peace. Section 144 empowers a District Judge, a Sub-Divisional Judge or any other Executive Magistrate with special powers. the State Government issues an order in that name in case of urgent disturbances or detected dangerous situations. The crimes mentioned above are cognizable. Thus, it affects serious civil liberties and gives the police the right to

arrest without a judge's order and without a warrant, as set out in Section 155 of the Penal Code. Anger is an emotion that can be hidden behind curtains of a person. a statement that people might consider logical and natural. Apart from concealment, there are some key points that help identify hate in a statement or speech. According to the report [11], punishment will be imposed on anyone involved in hate speech against their origin, region or place of birth. up to 2 years or a fine of 5000 or both.

Effect of Internet and Social media\Internet is good and bad for society. Nowadays it is very difficult to imagine our life without the internet, but even though it is so useful and important in our lives, it somehow violates our privacy and also gives rise to hate speech. With the internet, there is a lot of hate speech. And the number of hate crimes is on the rise. It is said that what is said online is the result of offline chaos and because geography and time have no effect on the internet; hate speech affects many people across borders.

How does India regulate online hate speech?

Social media has created new rules for how hate spreads through it. Now the government can order the authorities to delete such a post along with all user data within 24 hours so that action can be taken against him. Although social media platforms like Facebook, YouTube and Twitter have taken appropriate measures to stop hate speech by developing some guidelines, it is difficult to stop hate speech when it comes to leaders who intentionally or unintentionally spread hate through their speech, causing anxiety and harm. to humanity.[12]

Effect of hate speech on Article 19 of Constitution.

The freedom of speech and expression is one of the basic freedoms given to the citizens of the country [13]. The main idea of Liberty was to have different opinions on all new things. Freedom of speech and freedom of expression mainly governs the diversity of popular opinions, so unpleasant[14] or harmful speech is also protected by the state. Nowhere is hate speech defined as property, although there is an application that describes the level of hate speech.

Freedom of speech has always been considered an important part of any democracy. Rather, the doctrine of free speech conflicts with the state's power to regulate speech. The overview of the international legal system regarding hate speech stated that the exercise of freedom of expression is often treated as the freedom to discriminate and insult people in society.

Hate is expected of great importance. In the era of the Internet, when it is available to the public for a very short period of time, the Human Rights Council in its report restricted freedom of expression in some cases for the following reasons: Child pornography Hate speech that affects the community.

Conclusion:Hate is a subject of debate because of its

intellectual nature. Since hate speech is considered part of Article 19 freedom of speech and expression, distinguishing it from healthy speech becomes very difficult. Hate speech can be manipulated in various ways, which makes it difficult to criminalize under the provisions of the IPC, which makes it difficult to prosecute hate speech in court.

After examining all aspects of hate speech and freedom of speech and expression, it can be said that the laws are in place and it is necessary to revise and strengthen the revision penalties. Hate speech has become a universal problem these days because the Internet is accessible to everyone. it is payable for all the contracts of the society.

So that it does not affect the society and does not damage or offend someone's reputation and faith, a hugely transparent system is needed. Speech promoting violence and discrimination in many aspects can be punished. To fight hate speech, we need a wider forum where everything can transparently discussed and results can be achieved, because this is a battle that cannot be fought alone.

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