The Dark Side of Free Speech: Hate Speech in India

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Abstract:

This paper explores the complex relationship between free speech and hate speech in India, a country known for its commitment to democratic values. While free speech is a fundamental right and an important aspect of democracy, India grapples with the spread of hate speech fuelled by religious, ethnic, and political tensions. Hate speech is a significant challenge to India's diverse society, social harmony, and communal relations. This paper provides an overview of India's legal framework relating to free speech and hate speech, highlighting key constitutional provisions and relevant laws. It highlights the historical context of hate speech incidents and their consequences, including riots, violence, and communal divide. The advent of digital platforms and social media has increased the reach and impact of hate speech, making it a contemporary concern.

Additionally, this research examines the role of political actors, extremist groups, and social media in promoting hate speech. It also addresses the challenges faced by law enforcement agencies and the judiciary in addressing hate speech while preserving free speech principles. This paper outlines the delicate balance between protecting freedom of expression and addressing hate speech for the sake of social cohesion. On one hand, unemployment and inflation are at their peak and people are competing to bring "Kavad" due to religious competition. Crime has also increased on a large scale; unemployed people are praising religion instead of asking about jobs. Based on case studies and empirical data, this paper identifies patterns of hate speech incidents and their impact on individuals and communities. This emphasizes the need for effective countermeasures to reduce the harm caused by hate speech.

Finally, this paper acknowledges the complexity of the free speech versus hate speech debate in India and offers recommendations for policymakers, civil society organizations, and the media. This highlights the importance of striking a balance between protecting free speech rights and tackling hate speech to maintain India's pluralistic and democratic ethos. The summary summarizes important issues including hate crimes, religious and caste-based violence, and notable incidents from different states. This emphasizes the urgent need for comprehensive measures to combat hate speech and promote inclusivity in the country. Governments should also take strict steps to ban this type of speech.

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Introduction:

India, known for its rich cultural diversity and democratic values, is grappling with an alarming surge in hate speech incidents. Hate speech, characterized by speech, conduct,

writing, or expressions that offend, threaten, or insult individuals or groups based on attributes such as race, religion, ethnicity, or gender, poses a grave threat to the social fabric of the country. Recent events serve as a stark reminder of the gravity of the situation.

A close observation of society reveals the common human tendency to establish one's superiority rather than accept any kind of inferiority. This desire often manifests on the basis of caste, religion or various other identities. Individuals often try to assert the superiority of their group, sometimes ignoring the fundamental truth that all human beings have a common identity – that of being human in the first place. This desire for superiority is so deeply ingrained in human nature. People often take pride in their cultural, religious or ethnic background as their identity, and they use these identities to create distinctions and hierarchies in society. Such superiority forces them to stoop at any level.

However, it is important to emphasize that beyond these superficial identities, all human beings share a common humanity. Irrespective of caste, religion, ethnicity or any other social category, every person is part of the same human family. Recognizing this shared humanity is essential to promote inclusivity, empathy and social harmony. When individuals prioritize their shared human identity over divisive distinctions, it becomes easier to embrace diversity and work toward a more equitable and harmonious society. This perspective encourages people to focus on common goals, values, and aspirations, overcoming barriers created by notions of superiority and inferiority based on race, religion, or other factors. Ultimately, the path to a more just and inclusive society lies in acknowledging our shared humanity and celebrating the of diversity that exists within it. This recognition can lead to greater understanding, tolerance and cooperation between individuals and communities, leading to a more harmonious and united world.

DEFINITON OF HATE SPEECH:

United Nations Organisation has defined expounded the term hate speech as [1]*"any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor"*

Supreme Court Directs States to Proactively Register FIRs Against Hate Speech

The Supreme Court of India issued a landmark directive to all states, mandating the automatic registration of First Information Reports (FIRs) in cases of hate speech, without waiting for a formal complaint. The court underscored the need to protect the nation's secular character, emphasizing that this directive applies to all hate speech perpetrators,

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[1]UNITED NATIONS STRATEGY AND PLAN OF ACTION ON HATE SPEECH,(MAY 2019),
https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20o
n%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf, accessed 10 June 2021.

regardless of their religion. Specific penal provisions under the Indian Penal Code (IPC), including Sections 153A, 153B, 295A, and 505, were highlighted for prosecuting hate speech offenders.

The Supreme Court's directive emphasized the imperative to safeguard the secular essence of India and directed states to take immediate legal action against hate speech incidents, even in the absence of formal complaints. The court made it clear that individuals engaging in hate speech must be proceeded against under the aforementioned IPC sections. Furthermore, the court ordered the Director Generals of Police in all states to ensure their subordinates are informed of this directive, emphasizing that any reluctance by law enforcement to comply with this order would be viewed as contempt of court.

While the court's directive received widespread support for its commitment to combatting hate speech, some expressed concerns about potential encroachments on free speech rights. Advocates stressed the importance of upholding free speech while addressing hate speech effectively. They cautioned against the introduction of draconian laws that could inadvertently curtail free speech further, emphasizing the need for a balanced approach based on existing jurisprudence on hate speech and the enforcement of the rule of law.

This directive builds upon a similar order issued by the Supreme Court in October, which called for the immediate registration of FIRs against those inciting communal violence through hate speeches. The court's actions underscore its commitment to upholding the principles of secularism and unity in India, and its concern about the proliferation of hate speech and its consequences for social harmony and national integrity. There are many factors that are responsible for hate speech these are given below:

1. **Social and economic factors**: Socio-economic inequalities give rise to hate speech[2]. People who feel marginalized or disenfranchised become more vulnerable to engaging in or being targeted by hate speech[3]. For those who have not received anything till date, a little hope is enough and they will accept hateful things very quickly. Clever people quickly take advantage of them by deceiving them. Social elites take advantage of this by promoting hysteria. Innocent people fool good people for their own benefit.

2. **Political Climate:**Political rhetoric and policies have a profound influence on the prevalence of hate speech within a society. Inflammatory political discourse can normalize and encourage such behavior[4]or achieve his aim[5]. Political parties, each

[2]Dhammika Dharmapala and Richard H. McAdamsWords That Kill? An Economic Model of the Influence of Speech on Behavior (with Particular Reference to Hate Speech) The Journal of Legal Studies by The University of Chicago Press Vol. 34, No. 1 (January 2005), pp. 93-136 (44 pages)
[3] Nadine Strossen Hate Why We Should Resist It With Free Speech, Not Censorship 2018 P 131
[4] MICHAEL HERZ, PETER MOLNAR, *The Content and Context of Hate Speechrethinking regulation and responses,* Cambridge University Press 2012 P329

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with its own ideology, often wield significant power to manipulate public sentiment for their own benefits.

3. **Access to Technology:**The proliferation of the internet and social media has significantly contributed to the rapid spread of hate speech. Online platforms[6], including WhatsApp, Facebook, Instagram, and others, have provided a convenient medium for the dissemination of hate speech. Moreover, the anonymity offered by these platforms can embolden individuals to express hateful views without facing immediate consequences.

4. **Group Dynamics:**Hate speech can indeed become contagious within certain groups or communities. Group dynamics, including peer pressure and a desire for conformity, can amplify the spread of hate speech. In some cases, specific groups or associations may be associated with the propagation of hate speech, such as Shiv Sena, Bajrang Dal, KarniSena, Bheem sena and others. Online communities and offline groups can become echo chambers where hate speech is repeatedly reinforced and amplified. Group polarization can occur when members of a group adopt increasingly extreme viewpoints through interactions with like-minded individual[7]s.

5. **Fear and Ignorance:**Fear of the unknown or unfamiliar, coupled with ignorance about different cultures, religions, or backgrounds, can indeed contribute to the emergence of hate speech. Representatives of various religions or communities may sometimes lack knowledge about others, leading to misunderstandings and prejudiced statements. Addressing fear and ignorance as root causes of hate speech often requires education and awareness-building efforts. Promoting cultural and religious literacy, fostering interfaith dialogue, and encouraging open-mindedness can help individuals overcome their fears and prejudices. It's essential for representatives of different religions and communities to engage in respectful dialogue and mutual learning to reduce misunderstandings and promote tolerance. Additionally, media literacy programs can help people critically evaluate the information they encounter, reducing the impact of misinformation and stereotypes.

6. **Historical and Cultural factors**: Deep-seated historical biases and cultural biases can perpetuate hate speech across generations. This phenomenon is often seen in debates and controversies involving old epics and religious texts. Our epics and religious texts are the basis of belief systems for many people. Disagreements or doubts about these texts lead to tension and hate speech, with diverse interpretations of older epics giving rise to internal debate and conflict. Atheists or

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[5]Maya MirchandaniDigital hatred, real violence: Majoritarian radicalisation and social media in India observe research foundation aug. 2018, https://www.orfonline.org/research/43665-digital-hatred-real-violence-majoritarian-radicalisation-and-social-media-in-india/#_ednref18
[6]David Ingram, "Twitter bars tactics used by 'bots' to spread false stories", Reuters, 22 February, 2018.
[7]Right-Wing Groups Hold Rally For Release Of Vaibhav Raut In Nallasopara", NDTV, 18 August, 2018.

individuals with secular beliefs may reject the religious narratives found in older epics. Those who speak out against superstition potentially result in hate speech. These old epics and conflicting views on their significance can lead to cultural conflict[8], where one group perceives the beliefs of another as a threat to their cultural identity. These clashes can escalate into hate speech. Such prejudices can lead to hate speech, which is often used to demean others or create stereotypes about them. There is a need to stop such contradictions. Everyone has his own opinion.

7. **Political and Ideological Extremism:**Political and ideological extremism can drive individuals and groups to engage in hate speech as a means of promoting their agendas. In a diverse society, people hold a wide range of political and ideological beliefs[9], which can sometimes lead to tensions and hate speech. For example, some individuals may identify with ideologies such as Sangh Parivar or RSS, while others align themselves with groups like Bajrang Dal, Gau Raksha Dal, or Jai BhimSena. Each of these groups may have distinct ideologies and objectives, and when these ideologies clash, it can lead to the use of hate speech as a tool to further their respective agendas. Addressing this issue often requires promoting tolerance, encouraging respectful political discourse, and discouraging the use of hate speech as a means of advancing ideological or political goals.Media and Entertainment Negative portrayals or stereotypes of certain groups in media and entertainment can reinforce biases and contribute to hate speech.

8. **Lack of Legal Consequences**: Weak or poorly enforced laws against hate speech can embolden those who engage in it, as they may perceive a lack of consequences for their actions. In many cases, people may not have adequate knowledge about the punishments for hate speechacts outraging religious feelings[10]. The severity of legal consequences for hate speech varies by country and jurisdiction, but they often include fines, imprisonment, or both. Additionally, legal penalties may escalate if hate speech incites violence or poses a direct threat to individuals or communities. However, the effectiveness of legal consequences in deterring hate speech depends on the enforcement of these laws and public awareness of their existence and implications.

9. **Psychological Factors:** Psychological factors, such as prejudice, intolerance, and a desire for power or control, can also play a role in the promotion of hate

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[8]Samuel Huntington's essay in Foreign Affairs in 1993, titled, "The Clash of Civilizations?", hypothesised that in the post Cold-War era, the primary source of global, geo-political conflicts, would arise out of cultural differences as opposed to economic, ideological differences. His writing marked a paradigm shift in how governments and non-state actors view conflict and conflict resolution.
[9]The Times of India (TOI) describes the Vishwa Hindu Parishad, or VHP as a conservative Hindu nationalist organisation that abides by the ideologies of Hindutva and is often characterized as "militant" for initiating anti-social activities like the Ram Janmabhoomi movement that resulted in demolition of the Babri Masjid.The group was founded by M. S. Golwalkar and S. S. Apte in 1964. It operates on ideology which is "to organize, consolidate the Hindu society and to serve, protect the Hindu Dharma."
[10] IPC 295 A

speech[11].Hate speech, with its venomous impact on individuals and societies, often finds its roots in a complex interplay of psychological factors. Understanding these underlying dynamics is crucial for devising effective strategies to combat and prevent the spread of hateful rhetoric.

Psychological factors contributing to the promotion of hate speech encompass elements such as prejudice, intolerance, and a desire for power or control. Each of these aspects plays a distinct yet interconnected role in fueling the propagation of hateful language.

Prejudice, deeply ingrained biases against particular groups based on characteristics like race, religion, or ethnicity, catalyzes hate speech. Individuals harboring prejudiced beliefs may express their animosity through discriminatory language, contributing to the normalization of hate speech within their communities[12].

Intolerance, often stemming from ignorance or fear of the unknown, can foster hostility towards those perceived as different. This intolerance manifests in hate speech, as individuals attempt to assert dominance or establish a perceived hierarchy. The expression of intolerance through language reinforces divisions and exacerbates societal tensions.

10. **Desire for Power and Control:** A fundamental psychological motivator for hate speech lies in the human desire for power and control. Those who feel marginalized or disempowered may resort to hate speech as a means of asserting dominance and regaining a sense of control over their surroundings3. This desire for power can lead to the dehumanization of targeted groups, making hate speech a tool for the oppressor.Understanding these psychological factors is crucial for developing comprehensive strategies to address hate speech. Efforts aimed at countering prejudice, promoting tolerance, and addressing power imbalances can contribute to dismantling the psychological foundations that sustain hate speech.

11. **Global Events and Conflicts:**International events and conflicts can spill over into domestic discourse, leading to increased hate speech targeting specific communities.International events and conflicts have a profound impact on domestic discourse, often serving as catalysts for the escalation of hate speech targeting specific communities. As societies grapple with the repercussions of global events, latent tensions may be exacerbated, providing fertile ground for the propagation of discriminatory rhetoric.Global conflicts, such as geopolitical tensions or wars, can trigger a surge in hate speech within domestic spheres. the amplification of prejudice is a common response to heightened international tensions. Individuals may redirect their frustrations or anxieties towards particular communities, fueling hate speech as a form of expression.Moreover, the interconnected nature of the modern world amplifies the impact of global events on local discourse. Social media

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[11]Smith, J. K. The Psychology of Hate. American Psychologist, (2018)73(5), 431–444.
[12]Id.

platforms, as highlighted[13], serve as conduits for the rapid dissemination of hate speech, allowing it to transcend borders and exacerbate tensions domestically.Addressing the influence of global events on hate speech requires a nuanced approach. Governments and civil society must not only monitor and regulate domestic discourse but also engage in international cooperation to mitigate the cross-border impact of hate speech fueled by global conflicts[14].

12. Echo Chambers and Confirmation Bias:Online echo chambers and the tendency to seek out information that confirms one's existing beliefs can reinforce and escalate hate speech within closed networks.

13. **Phenomenon of 'Fake News':** The phenomenon of 'fake news' has become an increasingly prevalent challenge in contemporary society. In 2016, the term 'post-truth' was aptly chosen as the Word of the Year by the Oxford Dictionaries, reflecting not just a passing trend but an enduring characteristic of our times. According to Al-Radhan (2017), this term captures an era marked by extensive virtual communication, where politics thrives on a rejection of factual information and common sense.

Understanding Post-Truth Politics: Post-truth, as defined by the Oxford Dictionaries, is an adjective frequently associated with politics, indicating circumstances in which objective facts exert less influence on public opinion than appeals to emotion and personal belief (2016). In essence, post-truth politics revolves around assertions that appeal to emotions and gut feelings rather than being grounded in empirical evidence and valid information (Al-Radhan, 2017). Keyes (2004) further notes that a post-truth era creates an ethical twilight zone, where the stigma attached to lying is diminished, allowing lies to be told with impunity and without consequences for one's reputation.

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Ethical Implications and the Rise of Misinformation in this environment, misinformation proliferates, leading to the creation of rumors, 'fake news,' and conspiracy theories. These unverified narratives can swiftly go viral, gaining momentum and fostering false realities with the potential to serve propaganda purposes (Al-Radhan, 2017). The ethical fabric of society is strained as the traditional stigma associated with deception erodes, paving the way for the unchecked spread of misinformation. The consequence of living in a post-truth era is a departure from objective and fact-based discourse. Appeals to emotion often take precedence over verifiable information, challenging the foundations of informed decision-making in various spheres, particularly within the realm of politics.

14. **Hate speech in Indian context:** Freedom of speech, a fundamental right enshrined in Article 19(1)(a) of the Indian Constitution, is subject to reasonable restrictions outlined in Article 19(2)[15]. Hate speech, defined broadly as speech that promotes enmity or discriminates based on certain characteristics, is a challenge to this delicate balance. This article examines the legal provisions in India that address hate speech, along with key judicial cases that have shaped the legal discourse.

1. Legal Framework:

Constitutional Provisions:

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[13]https://www.livemint.com/Opinion/ZAHBp4YDLp1BcCnlIuwFON/Hate-speech-and-the-role-of-social-media.html visited 18/02/2018 at 2:00.
[14]Smith, A. N., & Johnson, R. Public Attitudes towards Immigrants and Immigration Policy in the United States: The Role of Personal and Collective Threat. Political Research Quarterly, (2017). 70(2), 366–379.
[15]Dr. J.N Pandey *Constitutional Law of India* central law agency,2016 P189

Article 19(1)(a) guarantees freedom of speech and expression.

Article 19(2) imposes reasonable restrictions to safeguard sovereignty, integrity, security, public order, and more.

2. Indian Penal Code (IPC):

Sections 153A and 153B: Punish acts causing enmity and hatred between groups.

Section 295A: Addresses acts outraging religious feelings.

Sections 505(1) and 505(2): Make the publication of content causing ill will or hatred an offense.

3. Representation of People's Act (RPA),1951:

Section 8: Prevents a person convicted of illegal speech from contesting an election.

Sections 123(3A) and 125: Bar promotion of enmity during elections.

Section 298 of IPC Section 298 of the Indian Penal Code deals with intentionally hurting someone's religious feelings by words, sounds, gestures, or objects shall be punishable with imprisonment for up to one year, or a fine, or both.[16]

4. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:

Prevents hate speech targeting Scheduled Castes or Scheduled Tribes.

5. Protection of Civil Rights Act, 1955:

6. Penalizes incitement to untouchability.

7. **Judicial Cases:**

1. PravasiBhalaiSangathan v. Union of India, 2014:SC refrains from penalizing hate speech but recommends legislative review.Highlights the role of the Law Commission in addressing gaps.

3. Shreya Singhal v. Union of India, 2015:Courts distinguish between free speech, advocacy, and incitement.Invalidates Section 66A of the Information Technology Act.Addressing Hate Speech Effectively:

15 India'sEffective TackleHate Speech To effectively tackle hate speech, India can adopt a multifaceted approach that combines legal measures, educational initiatives, and societal engagement. The following strategies can be considered:

Promote Education and Awareness:

Hate speech in India requires a strategic focus on educational initiatives that highlight the detrimental consequences of such discourse. Education emerges as a potent tool in nurturing a society that values diversity, empathy, and mutual respect.Educational programs must integrate values education, emphasizing the cultural richness and diversity within India1. Instilling pride in the nation's pluralistic heritage enables students to build a robust foundation for rejecting hate speech rooted in religious, ethnic, or cultural differences[17].

Media literacy assumes paramount importance in the digital age, where hate speech proliferates online. Educational initiatives should empower individuals with skills to critically evaluate digital content, discern misinformation, and promote responsible online behavior3. This is particularly relevant in a country where internet penetration is rapidly expanding.Collaboration between

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[16] Indian Penal Code (1860), section 298
[17]National Council of Educational Research and Training (NCERT). (2005). National Curriculum Framework 2005. Retrieved from http://www.ncert.nic.in/rightside/links/pdf/framework/english/ncef.pdf

educational institutions and community organizations is crucial for a comprehensive approach4. Grassroots awareness campaigns, contextualized within local cultural contexts, can effectively communicate the impact of hate speech and empower communities to counter divisive narratives.

Legal literacy modules should be integrated into educational programs to enhance awareness of existing hate speech laws in India[18]. Understanding the legal consequences of engaging in hate speech serves as a deterrent, reinforcing the importance of responsible expression.

promoting education and awareness tailored to the Indian context is vital for combating hate speech. By fostering values, media literacy, community engagement, and legal awareness, educational initiatives can contribute significantly to building a more inclusive and tolerant society.

Emphasize the harmful consequences of hate speech through educational initiatives.
Strengthen Legal Measures: Enhance existing laws or enact new ones specifically targeting hate speech.Complement legal measures with media literacy, dialogue, counter-speech, and civil society engagement.
Establish Codes of Conduct: Enforce codes of conduct for legislators and political parties to curb hate speech.Promote media ethics to discourage the dissemination of hateful content. It is forbidden by Indian Law it is mentioned in The Constitution of India, IPC, and other Acts or enactments.

Conclusion

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In the ever-evolving landscape of communication, the issue of hate speech stands as a formidable challenge with profound societal implications. As we reflect on the multifaceted dimensions of hate speech, it becomes evident that addressing this pervasive problem requires a comprehensive and collaborative approach.The consequences of hate speech extend beyond mere words, permeating the social fabric and leaving lasting scars on individuals and communities. From the psychological impact on victims to the erosion of social harmony, hate speech poses a threat to the very foundations of a pluralistic and inclusive society.

Legal frameworks play a crucial role in defining the boundaries of acceptable expression and delineating the consequences for transgressing those boundaries. However, navigating the intricate balance between freedom of speech and the prevention of harm remains a delicate challenge for lawmakers and society at large.Education emerges as a potent tool in the fight against hate speech, offering the means to instill empathy, critical thinking, and an understanding of the consequences of discriminatory language. Media literacy, values education, and legal awareness are integral components of this educational arsenal.

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[18]Government of India. (1972). The Constitution of India. Retrieved from
https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf

Global events and conflicts, intertwined in the fabric of the modern world, have demonstrated their capacity to amplify hate speech. The interconnectedness facilitated by social media platforms has both accelerated the spread of discriminatory rhetoric and provided opportunities for international cooperation in addressing this global challenge.

In the quest to combat hate speech, individuals, communities, governments, and international entities must collaborate. A collective commitment to fostering a culture of respect, understanding, and dialogue is paramount. Through legal measures, educational initiatives, and global cooperation, we can strive to create a world where hate speech finds no refuge, and the principles of tolerance and inclusivity prevail. The journey ahead requires ongoing vigilance, adaptability, and a steadfast commitment to building a society where the power of words is harnessed for unity rather than division.