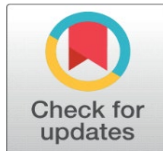


HATE SPEECH AS A THREAT TO INCLUSIVE SOCIETIES: EXAMINING THE LIMITS OF FREE SPEECH

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DOI

[10.29121/shodhkosh.v5.i6.2024.6199](https://doi.org/10.29121/shodhkosh.v5.i6.2024.6199)

Funding: This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

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ABSTRACT

The concern over hate speech is on the rise in contemporary countries, directly undermining initiatives to promote equality, inclusivity, and social cohesion. Despite being a fundamental component of democratic ideals, the abuse of free speech to incite hatred, violence, and discrimination presents serious moral and legal issues. This article examines the nuances of hate speech, emphasising the conflict between defending free speech and preventing harm to people and communities. It looks at the intellectual and legal underpinnings of free speech, emphasising how hate speech is defined and controlled by Indian, international, and covenantal legal systems. The article evaluates the practical effects of unrestrained hate speech, particularly its effects on inclusive societies and marginalised groups, using case studies and comparative analysis. The conversation concludes by taking into account international efforts and governmental solutions meant to achieve a balance between protecting free speech and prohibiting speech that compromises inclusivity.

Keywords: Hate Speech, Freedom of Speech, Inclusive Societies, Legal Frameworks, Social Media, Policy Interventions, Democracy, Human Rights

1. INTRODUCTION

The hate speech is a serious danger to public order, communal relations, and social harmony. India, a multireligious and varied country, must strike a delicate balance between the necessity to prevent damaging speech and the right to freedom of expression. Since hate speech has become more widespread due to the growth of digital platforms, it is even more important to regulate it. Although India doesn't have a law specifically addressing hate speech, there are several laws that deal with communication that incites violence, sows animosity, or jeopardises social order. "Hate speech is any written, spoken, or online expression that incites hatred, caste, race, language, gender, or other social identities against people or groups." The diversity and pluralism of India's society make hate speech a serious threat to both national cohesion and intercommunal harmony. Various provisions of the Indian Penal Code address hate speech by prohibiting actions that incite hostility, fuel enmity, or disrupt public order. 'Section 153A' penalizes efforts to create divisions between different groups based on religion, race, birthplace, residence, or language. (INDIAN JOURNAL OF LAW AND

JUSTICE, 2020) 'Section 295A' punishes intentional and malicious acts aimed at insulting or offending religious sentiments. Additionally, 'Sections 505(1) and 505(2)' criminalize statements intended to provoke violence or incite public disorder. (Indian Kanoon, n.d.) The Information 'Technology (IT) Act of 2000' is essential for controlling hate speech online, particularly on social media sites. Through the terms of this act, the government and law enforcement authorities take action against those who disseminate hate online and delete damaging content.

Whereas, in India, striking a balance between hate speech restrictions and freedom of speech is a difficult task. While the right to free speech and expression is guaranteed by 'Article 19(1)(a) of the Indian Constitution, Article 19(2)' allows for reasonable limits in the sake of national security, morality, and public order. Opponents contend that hate speech laws are occasionally abused for political ends, raising questions about selective enforcement and repression of dissent. (Agrawal, 2024) The spread of hate speech has increased due to the rise of social media, making regulation more difficult. Misinformation and provocative content have spread quickly, causing social instability, violence, and conflicts across communities. More emphasis has been placed on websites like Facebook, Twitter, and YouTube to monitor and filter hate speech, and the Indian government has tightened regulations to hold online media companies responsible. (Mishra, 2023) A balanced strategy that protects freedom of expression while prohibiting speech that incites violence or discrimination is needed to combat hate speech in India. To effectively combat the problem, legal frameworks must be strengthened, impartial enforcement must be ensured, and public awareness must be raised. Government, social media, and civil society cooperation is vital to preserving social harmony and democratic values. (Singh et al., 2024)

2. INTERPRETING THE EXPRESSION OF HATE SPEECH IN THE LIGHT OF LIMITING FREE SPEECH.

1) During British Colonization

In 1926, the expression hates speech deals by High Court first time in a case *P.K Chakravarty v. The King Emperor*, (AIR 1926 Cal 1133) whereas HC of Calcutta held that ruling is a significant precedent in defining the limits of press freedom while maintaining communal harmony. (Casemine, 2023) The court stressed the necessity of proving intent when evaluating inflammatory content, affirming that freedom of the press is not unrestricted. (Casemine, 2023) It also highlighted the judiciary's responsibility in interpreting laws like 'Section 108 of The code of Criminal Procedure, 1973' carefully to ensure fair enforcement without overstepping its authority. Ultimately, the judgment safeguards against arbitrary restrictions on speech while recognizing the state's duty to prevent genuine threats to public order, serving as a reference for similar future cases. (Casemine, 2023)

In 1927, the *Crown v. Raj Pal* (AIR 1927 Lah HC 590) case established that the accused's intent and the factual basis of their statements were relevant in determining liability under Section 153A. The lower courts found Rajpal guilty of deliberately ridiculing Islam and its Prophet, leading to heightened communal tensions. While his initial sentence was severe, it was later reduced on appeal. In Appeal to the Lahore HC, Justice Dalip Singh delivered a landmark ruling, emphasizing that the offense under 'Section 153A' applied to attacks on existing religious communities, not critiques of deceased religious figures. This case set a crucial precedent, distinguishing between distasteful speech and speech that incites hatred—an interpretation that safeguarded free expression. Ironically, this nuanced legal distinction has often been blurred in the modern era, despite constitutional protections for free speech.

2) Post Independence Era

The Supreme Court has, at times, recognized the importance of establishing a legally valid definition of hate speech. In the process, it has acknowledged the necessity of a clear and constitutional framework to address the issue the Court has referred to or taken into consideration 'Article 19 and 20(2)' of the '**International Covenant on Civil and Political Rights, 1966**'. (United Nations, n.d.) According to this covenant, everyone is free to express their thoughts without hindrance. Regardless of boundaries, this includes the freedom to seek, acquire, and disseminate knowledge and concepts via any medium, including writing, speech, art, and other kinds of communication. However, this freedom might be curtailed to safeguard national security, public order, morals, health, or other people's rights and reputations. Furthermore, it must be illegal to promote hatred related to race, religion, or nation in any way that encourages prejudice, animosity, or violence.

However, according to 'Article 4 and 5' of the '**International Convention on the Elimination of All Forms of Racial Discrimination, 1965**', (International Convention on the Elimination of All Forms of Racial Discrimination, n.d.) expresses that 'States Parties' agree to oppose and eliminate any propaganda or organizations that promote racial

superiority, hatred, or discrimination. 'Whereas, they guarantee equal legal protection and rights for all individuals, regardless of race, color, or national or ethnic origin. This includes equality before the law, fair treatment in judicial processes, protection from violence, political rights such as voting and government participation, and civil rights, including freedom of movement, residence, and the right to leave and return to one's country.' (Human Rights NGOs And Research Centers - Japan, n.d.)

In light of this convention and covenant supreme court interpreted the provision of the Indian constitution, 'Article 19(2)' of the 'Indian Constitution' allows reasonable restrictions on freedom of speech under 'Article 19(1)(a)' to protect sovereignty, security, public order, decency, morality, and prevent incitement to offenses. Any law restricting speech, including hate speech, must align with these constitutional grounds. (Article 19(2): Reasonable Restrictions on Article 19, 2023)

The Supreme Court has interpreted 'decency' as adhering to proper societal behavior, which includes preventing divisive and harmful speech. (Sehgal, 2021) Existing laws on hate speech focus on maintaining harmony but do not adequately address the dignity and protection of vulnerable groups. Restrictions on hate speech do not violate free speech as long as they fall within constitutional limits. However, satire or humour should not be classified as hate speech, as overly broad laws could suppress dissent. (Sehgal, 2021) Legal scholars like Jeremy Waldron distinguish between speech that offends and speech that undermines dignity. (An Indian Law on Hate Speech: The Contradictions and Lack of Conversation | CJP, 2022) For example, a comment about someone's fashion choices may be offensive but is not hate speech. However, statements that dehumanize or promote discrimination violate dignity and can be restricted. This distinction should guide laws on limiting free speech. (An Indian Law on Hate Speech: The Contradictions and Lack of Conversation | CJP, 2022)

3) Landmark judgement on Hate Speech by Supreme Court

In the landmark case **Shreya Singhal v. Union of India** (AIR 2015 SC 1523), the **Supreme Court of India** examined the constitutional validity of Section 66A of the Information Technology Act, 2000, which criminalized certain forms of online speech. (*Shreya Singhal Vs U.O.I on 24 March, 2015*, 2015) Due to its ambiguity, excessive breadth, and limiting impact on free speech, the Court invalidated Section 66A.

Key Distinction: Discussion, Advocacy, and Incitement

The Court categorized speech into three types: (Advocate Khoj, n.d.)

- 1) **Discussion** – General engagement with a topic, including the exchange of ideas and perspectives.
- 2) **Advocacy** – Support for a particular viewpoint, belief, or ideology, even if it is unpopular or controversial.
- 3) **Incitement** – Speech that provokes violence, public disorder, or lawless action. 'The crucial ruling was that only "incitement" can justify restrictions under Article 19(2) of the Indian Constitution. This means that speech, no matter how offensive, unpopular, or controversial, cannot be restricted unless it directly incites violence or public disorder.' (Uddin & Yadav, 2024)

Implications of the Ruling (*Shreya Singhal Vs U.O.I on 24 March, 2015*, 2015)

- **Protects Free Speech:** Any restriction on speech must meet the strict standard of incitement; mere offensiveness or unpopularity is not enough.
- **Prevents Government Overreach:** Laws cannot criminalize vague expressions of criticism, dissent, or humour under the guise of maintaining public order.
- **Strengthens Constitutional Safeguards:** The ruling reinforces **Article 19(1)(a)** by ensuring that laws do not arbitrarily limit free expression.

The **Shreya Singhal judgment** is a milestone in Indian free speech jurisprudence. By setting incitement as the key threshold, the Supreme Court ensured that **discussion and advocacy remain constitutionally protected**, strengthening India's democratic principles.

In case, '**Das Rao Deshmukh v. Kamal Kishore Nanasaheb Kadam**' (AIR 1995 SCC (5) 123) is significant because it reinforces that electoral campaigns cannot use religious appeals or inflammatory rhetoric to influence voters. The Supreme Court upheld the Bombay High Court's ruling that Deshmukh's campaign involved hate speech by targeting a religious community, violating Sections '123(3) and 123(3A)' of the 'Representation of the People Act, 1951'. (*Dr.Das Rao Deshmukh Vs Kamal Kishore Nanasaheb Kadam & Ors*, n.d.)

The judgment highlights that: (*Dr.Das Rao Deshmukh Vs Kamal Kishore Nanasahebkdham & Ors*, n.d.)

- 1) **Hate speech in elections undermines secular democracy** – Political campaigns must not exploit communal divisions.
- 2) **Freedom of speech has limits** – While political rhetoric is allowed, speech that incites hatred or discrimination is prohibited.
- 3) **Judicial vigilance against communal politics** – The ruling sets a precedent for strict action against candidates using divisive language.

‘This case serves as a landmark in defining the boundaries between **permissible political speech** and **hate speech** in the electoral process, ensuring that elections remain free from religious polarization.’ (*P.K. Chakravarty V. The King-Emperor: Clarifying Intent in Dissemination Under Section 108, Cr.P.C.*, n.d.)

In the case ‘**Shaheen Abdullah v. Union of India**’ (Writ Petition(s)(Civil) No.940/2022), the SC of India directed **state governments and law enforcement agencies to take suo motu action** against hate speech, even without formal complaints. The ruling emphasized that **hate speech is distinct from free speech** and must be curbed to maintain public order and national security. (*Shaheen Abdulla Vs Union Of India on 21 October, 2022, 2022*)

Key Directives: (*Hate Speech Guidelines Denied*, 2024)

- 1) **Suo Motu Action** – Police must act against hate speech proactively.
- 2) **Equal Application of Law** – Action must be taken **regardless of the speaker’s religion or political affiliation**.
- 3) **Contempt Warning** – Failure to enforce these directives would be treated as **contempt of court**.
- 4) **Legal Framework** – Strengthened the use of ‘**Sections 153A, 153B, 295A, and 505 of IPC**’ to counter hate speech.

This judgment reinforced **accountability of authorities**, strengthened **legal enforcement**, and set a precedent for future hate speech cases and prohibit speech inciting hatred or violence. This case set a strong precedent for proactive measures against hate speech, ensuring that law enforcement remains vigilant and responsive. (*Hate Speech Guidelines Denied*, 2024)

3. EFFECT OF HATE SPEECH IN INCLUSIVE SOCIETIES

The hate speech in India, has a significant and negative impact on society, eroding democratic values, jeopardising national security, and upsetting social cohesiveness. Because of India's great religious, linguistic, and cultural diversity, contentious speech can have a significant impact. “A report from the National Crime Records Bureau (NCRB) reveals a 45% rise in hate speech incidents across India in 2022 compared to the previous year. The number of recorded cases grew from 993 in 2021 to 1,444 in 2022, raising concerns about the increasing prevalence of speech-related offenses.” (“45% Rise in Hate-Speech Cases Over Past 2 Yrs: NCRB Report,” n.d.) ‘Among the states, Uttar Pradesh, Rajasthan, and Maharashtra had the highest number of hate speech cases, whereas Manipur, Sikkim, Arunachal Pradesh, and Telangana reported the highest incidence rates in proportion to their populations. The report also pointed to a significant surge in such offenses in Madhya Pradesh, Rajasthan, Telangana, Chhattisgarh, and Mizoram, particularly during election periods, suggesting a possible connection between political activities and the rise in hate speech incidents. (“45% Rise in Hate-Speech Cases Over Past 2 Yrs: NCRB Report,” n.d.)

As the primary agency responsible for compiling and analysing crime data, the NCRB provides essential insights into these patterns. The increasing number of hate speech cases highlights the urgent need for stronger legal enforcement and public awareness initiatives to curb divisive rhetoric. To address this growing concern, policymakers and law enforcement agencies may need to implement stricter regulations and preventive measures. Additionally, a 2023 study by India Hate Lab, a Washington, DC-based organization monitoring hate speech against India's religious minorities, found that 668 such incidents specifically targeted Muslims. (“Rising Hate Speech: 75% of Hate Speech Events in States Ruled by BJP,” 2024) Their report, “**Hate Speech Events in India**,” noted that 255 incidents were recorded in the first half of 2023, while the figure surged to 413 in the latter half of the year, reflecting a 62% increase. These findings further highlight the growing threat of hate speech and the pressing need for proactive intervention. (“Rising Hate Speech: 75% of Hate Speech Events in States Ruled by BJP,” 2024)

The following are the effects of hate speech on society:

- Violence and Tensions in the Community (“45% Rise in Hate-Speech Cases Over Past 2 Yrs: NCRB Report,” n.d.)
- The Decline of Social Peace (SEBASTIAN, 2022)
- Danger to Democratic Principles (*Hate Speech*, n.d.)
- Vulnerable Communities Are Marginalised (*Walking A Tightrope: Balancing Free Speech And Hate Speech In India*, 2023)
- The Polarisation of Politics (Narain, 2024)
- Emotional and Psychological Repercussions (*Hate Speech*, n.d.)
- Difficulties in Applying the Law (*Hate Speech*, n.d.)

Nonetheless, hate speech poses a serious danger to India's democratic norms, societal cohesion, and individual dignity. Stronger legal action, responsible political debate, moral media coverage, and greater public awareness to encourage inclusivity and national unity are all necessary to counteract its rise.

4. OTHER CONSTITUTIONAL PROVISION AND LEGAL FRAMEWORK AGAINST HATE SPEECH

1) Constitutional provision

- **Freedom of Religion ‘Article 25’.**
- **Safeguarding of the Rights of Minorities ‘Article 29’**
- **Fundamental Duties ‘Article 51A (e)’**
- **Right to Constitutional Remedies ‘Articles 32 and 226’**

These constitutional provision does not directly address hate speech but helps reinforce the main provisions of the Constitution mentioned in Articles 19(1) and 19(2).

HATE SPEECH AS PER THE INDIAN PENAL CODE, 1860

As we have already seen that hate speech is not defined in our laws but it has a general meaning that if a person through his speech either orally or in writing incites hatred towards other person or a group of people on the basis of caste, gender, religion or race then such kind of speech is termed as Hate Speech.

The Indian Penal Code (IPC) had some sections which took the responsibility of hate speech even though it was not defined in our laws. The sections which were responsible to decide if a speech falls under the provisions of hate speech and what was the adequate punishment for it were Sections 153A, 153B, 295A and 505. These sections are being briefly discussed below:

- **Section 153A:** The section 153A of the IPC states that if, “any person by any means of communication be it oral, written or by the mode of signs tries to spread enmity or feelings of disharmony among people of India on the basis of caste, religion, language groups, communities or race; or if a person tries to disturb the public tranquillity, or if a group tries to train people or recruit people to use criminal force to disturb public harmony on the basis of religion, race, caste, gender, language group or communities then such person under all these acts will be punished with imprisonment extending to three years or fine or both.”
- **Section 153B:** In this section of the IPC, it has been stated that if any person makes or publishes statements that might cause disharmony among people on the basis of religion, race, caste, gender, communities or language communities then such person shall be punished for imprisonment which can be extended for a period of three years or with fine or both. A fine example of this section can be taken as when a person posts/publishes something online which is likely to spread enmity among people on the basis of abovementioned reasons.
- **Section 295A:** The section 295A was introduced in the IPC with the intent that no person in any scenario might make any gesture either verbally or through sign or by any other language which might insult religious feelings of other person. Although this section only targets towards one of the reasons among many but since it targets even to only one reason that is the religious sentiments of other thus, it is considered as spreading hate speech

on the basis of religion. This section was introduced in the IPC through amendments after the Rangila Rasul¹ case in 1924. In this case the accused Mahashe Rajpal had published a pamphlet about Prophet Muhammad. This pamphlet was considered highly offensive and thus a case was registered in Lahore and after multiple proceedings he was sentenced for a six months imprisonment. However, after an appeal the judgment was overturned as there was no law existing for such act. This led the British Government to add the section 295A in the then IPC. The punishment under this section is that the accused be punished for imprisonment which can be extended for a period of three years or with fine or both.

- **Section 505:** The section 505 of the IPC again invokes jurisdiction under the scenario that if any person by any means of communication spreads a rumour, statement or report which is likely to cause fear or incite violence among the public then such person is to be persecuted under this section. If the person is found guilty, he shall be punished for imprisonment which can be extended for a period of three years or with fine or both.²

HATE SPEECH AS PER THE BHARTIYA NYAYA SANHITA, 2023

The new criminal laws were passed in the year 2023 and it was enacted from July, 2024 with several amendments. In the new criminal law i.e., the Bhartiya Nyaya Sanhita (BNS), 2023 hate speech was declared as a crime and has been specifically discussed in section 196 of the act. It states that any person by any means of communication tries to spread hatred, violence or enmity among people of India will be considered as spreading hate speech. This section has now given India a definition of hate speech itself which being that any statement which is derogatory to others and might cause hatred or violence is hate speech.

Apart from providing an explicit definition for Hate Speech in the section 196 of the BNS by replacing section 153A of the IPC it has also replaced the other sections with new sections such as the 153B has been replaced with section 197; section 295A has been replaced with section 299 and section 505 has been replaced with section 353. Also, the new criminal laws have explicitly discussed that the online mode of communication will also be considered as a platform for spreading hate speech and any person who uses online medias such as social media platforms will also be persecuted.

Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language etc. and doing acts prejudicial to maintenance of harmony [Section 196]

- **Section 196(1) (a)** provides that whoever by words, either spoken or written, or by signs or by visible representations or through electronic communication or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities shall be punished with imprisonment which may extend to three years, or with fine, or with both.
- **Section 196(1)(b)** provides that whoever commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity shall be punished with imprisonment which may extend to three years, or with fine, or with both.
- **Section 196(1)(c)** provides that whoever organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Imputations, assertions prejudicial to national integration [Section 197]

¹ Rangila Rasul Case, Lahore, 1924; (Available at: <https://ucalgary.scholaris.ca/server/api/core/bitstreams/cf886103-c712-43df-90e8-a451f9dac3c4/content>)

² Available at: [repealedfileopen](https://www.repealedfileopen.com/)

- **Section 197(1)(a)** provides that whoever, by words either spoken or written or by signs or by visible representations or through electronic communication or otherwise, makes or publishes any imputations that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India shall be punished with imprisonment which may extend to three years, or with fine, or with both.
- **Section 197(1) (b)** provides that whoever, by words either spoken or written or by signs or by visible representations or through electronic communication or otherwise asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied, or deprived of their rights as citizens of India shall be punished with imprisonment which may extend to three years, or with fine, or with both.
- **Section 197(1)(c)** provides that whoever, by words either spoken or written or by signs or by visible representations or through electronic communication or otherwise makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons shall be punished with imprisonment which may extend to three years, or with fine, or with both.
- **Section 197(1)(d)** is a newly introduced provision. It provides that whoever, by words either spoken or written or by signs or by visible representations or through electronic communication or otherwise makes or publishes false or misleading information, jeopardizing the sovereignty, unity and integrity or security of India shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs: Section 299 deals with deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs. It provides that whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or through electronic means or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.

Section 353 BNS- Statements conducing to public mischief-

- 1) Whoever makes, publishes or circulates any statement, false information, rumour, or report, including through electronic means—
 - with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such; or
 - with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or
 - with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.
- 2) Whoever makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.
- 3) Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Exception— It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, false information, rumour or report, has reasonable grounds for believing that such statement, false information, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid

COMPARISON BETWEEN BOTH THE ACTS

The key differences between both the criminal laws are being discussed below:

Sl. No.	Indian Penal Code (IPC), 1860	Bhartiya Nyaya Sanhita (BNS), 2023
	<u>Section 153A</u> : Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.	<u>Section 196</u> : The word “or through electronic communication” is added as one of the modes of spreading disharmony, etc.
	<u>Section 153B</u> : Imputations, assertions prejudicial to national integration.	<u>Section 197</u> : Words “or through electronic communication” as the mode of spreading specified activities are added.
	<u>Section 295A</u> : Deliberate and malicious acts intended to outrage religious feelings of any class, by insulting its religion or religious beliefs.	<u>Section 299</u> : Words “or through electronic means” are added.
	<u>Section 505</u> : Statements conducing to public mischief.	<u>Section 353</u> : “false information” and “including through electronic means” are added. ³

1) Representation of the People Act (RPA), 1951: The RPA, 1951, lays down restrictions on hate speech in political campaigns and electoral processes.

Section 123(3): Prohibits candidates or political parties from using religion, caste, or community-based appeals to influence voters.

Section 125: Criminalizes speech or propaganda that promotes hostility between different communities during elections. These provisions ensure that elections are conducted in a fair and unbiased manner, preventing leaders from using divisive rhetoric for electoral gains.

Information Technology (IT) Act, 2000: With the rise of digital platforms and social media, hate speech has increasingly spread online. The IT Act, 2000, provides mechanisms to curb the misuse of the internet for spreading hate, violence, or communal disharmony.

Section 69A: Grants the government authority to block digital content that poses a threat to national security, public order, or communal harmony.

Intermediary Guidelines (2021): Mandates that social media platforms remove hate speech content within 24 hours of receiving an official complaint. These provisions help in addressing hate speech in cyberspace, ensuring that online discourse remains responsible and free from inflammatory content.

Unlawful Activities (Prevention) Act (UAPA), 1967

This law focuses on national security and penalizes hate speech that promotes terrorism, secessionism, or activities that threaten India's sovereignty. Any form of speech that incites violence, supports extremist ideologies, or calls for the overthrow of the government can be prosecuted under the UAPA.

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

Specifically designed to protect Scheduled Castes (SCs) and Scheduled Tribes (STs) from discrimination, this law penalizes hate speech targeting these communities. Any speech or action that humiliates, intimidates, or incites violence against SC/ST individuals or communities is punishable under this Act.

³ Available at: [COMPARISON SUMMARY BNS to IPC .pdf](#)

5. CONCLUSION

Hate speech is a serious danger to social cohesion and democratic norms in a country as multicultural and varied as India. Article 19(1)(a) of the Indian Constitution guarantees the right to free speech and expression; nevertheless, Article 19(2) lays down suitable restrictions on this right. Speech that incites violence, fosters animosity between groups, or disturbs public order is prohibited by these restrictions. Provisions under the Indian Penal Code (IPC), the 'Representation of the People Act of 1951' and the 'Information Technology (IT) Act of 2000' comprise India's legal framework for combating hate speech. Parts of the IPC make it illegal to say or do anything that incites animosity between groups or interferes with harmony. While hate speech in digital spaces is addressed by the IT Act, the Representation of the People Act labels some types of hate speech during elections as corrupt practices. However, there has been uneven application of these rules, frequently due to social and political influences. Because hate speech can spread swiftly and elude detection, its fast expansion on social media and digital platforms makes control even more difficult. The efficacy of the content moderation rules that digital platforms have put in place is still up for dispute.

In India, the legal discussion around hate speech has changed dramatically, striking a balance between the need to preserve social peace and public order and the right to free speech. Early judicial interpretations, such as *P.K. Chakravarty v. The King Emperor* and *Crown v. Raj Pal*, laid the foundation for assessing intent in determining liability for inflammatory speech. These principles were further refined in the post-independence era, with courts aligning Indian jurisprudence with global standards, such as the 'International Covenant on Civil and Political Rights (1966)' and the 'International Convention on the Elimination of All Forms of Racial Discrimination (1965)'. Landmark judgments, including *Shreya Singhal v. Union of India*, have reaffirmed constitutional safeguards for free expression while ensuring that legal restrictions are only imposed when speech incites violence or public disorder. Cases like '*Das Rao Deshmukh v. Kamal Kishore Nanasaheb Kadam*' have reinforced the need for restrictions on hate speech in electoral politics to prevent communal polarization. Additionally, *Shaheen Abdullah v. Union of India* emphasized the proactive role of law enforcement in curbing hate speech, holding authorities accountable for enforcement failures.

Despite a structured legal framework, challenges remain in ensuring consistent application of hate speech laws without political or ideological bias. The need for precise legal definitions and stringent enforcement mechanisms is crucial to prevent misuse while safeguarding democratic values. Moving forward, a balanced approach that upholds constitutional freedoms while countering incitement and discrimination is essential to preserving India's pluralistic society.

CONFLICT OF INTERESTS

None.

ACKNOWLEDGMENTS

None.

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