

Hate Speech and Its Impact on the Democracy of India: A Critical Study

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ABSTRACT

The proliferation of hate speech in India has emerged as a critical challenge to its democratic ethos, threatening social cohesion, pluralism, and constitutional values. This study critically examines the nexus between hate speech and its ramifications on India's democratic framework, focusing on the socio-political, legal, and cultural dimensions. By analyzing contemporary incidents, legislative gaps, and judicial responses, the article underscores how hate speech often weaponized along religious, caste, and ethnic lines, fuels communal polarization, erodes public trust in institutions, and marginalizes vulnerable communities. The research employs qualitative methods, including case studies of hate speech-related violence, content analysis of political rhetoric, and interviews with civil society stakeholders, to reveal systemic patterns of exclusion and discrimination.

Findings indicate that hate speech not only normalizes violence but also undermines participatory democracy by silencing dissent and perpetuating fear among minorities. Despite constitutional safeguards like Article 19(2) and laws such as the Indian Penal Code (Sections 153A, 295A), Bharatya Nyay Sanhita, 2023 (Section- 196), ineffective enforcement, political complicity, and ambiguous definitions weaken accountability. Furthermore, the weaponization of free speech rhetoric by majoritarian groups exacerbates divisions, challenging India's secular-democratic identity.

The article argues for urgent legal reforms, robust digital governance, and grassroots initiatives to foster inclusive dialogue. It emphasizes the need to balance free expression with social responsibility, ensuring that democracy thrives on equity rather than exclusion. By situating India's struggle within global debates on hate speech, this study contributes to broader discussions on safeguarding democratic integrity in multicultural societies.

Keywords: Hate speech, Indian democracy, communal polarization, legal frameworks, social media amplification, constitutional values.

INTRODUCTION

Hate speech is a universal problem. It's not confined with India only; all world is facing such serious issue in their own country. Hate speech, a pervasive and insidious phenomenon, poses a profound threat to the democratic fabric of nations, particularly in pluralistic societies like India. Defined as expressions that incite violence, discrimination, or hostility against individuals or groups based on identity markers such

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as religion, caste, ethnicity, or gender. Hate speech undermines the foundational principles of democracy equality, fraternity, and constitutional morality. In India, a nation celebrated for its "unity in diversity," the escalation of hate speech has triggered alarming levels of communal polarization, eroded institutional trust, and marginalized vulnerable communities, raising urgent questions about the resilience of its democratic ethos.

Democracy is all about bunches of different opinions. Democracy, literally, rule by the people. The term is derived from the Greek *dēmokratia*, which was coined from *dēmos* ("people") and *kratos* ("rule") in the middle of the 5th century BCE to denote the political systems then existing in some Greek city-states, notably Athens. Democracy is a form of government in which supreme authority is in hand of the people, exercise directly or indirectly by way of representation. In shorts, democracy means "rule of the people". In a democratic state, the citizens have right to elect the government, and play the role in state making policy, through the elected member of the parliament and state assembly. The elected government is accountable for the state functions, towards the people.

In the words of Abraham Lincoln, democracy is a government "of the people, by the people, and for the people."³ In democracy, citizens make freely political decision through majority rule.

In the words of Dr. B.R. Ambedkar "Democracy means fundamental changes in social, political, and economical life of the people and the acceptance of those changes by the people without resorting to disputes and bloodshed."⁴

In India, democracy is rest upon the adult suffrage, means every man and woman above 18 years have rights under Article 326 of Constitution, to elect representatives for legislatures.⁵ The essentials feature of democracy is the Liberty, Justice, and equality which enshrined in the Preamble of the Constitution. In ***Keshavanand Bharati vs state of Kerala***,⁶ Chief Justice K.M. Sikri pronounced that Republic and Democracy is one of the basic structures of the Indian Constitution. In another leading case ***Indira Nehru Gandhi v. Raj Narain***⁷, the apex court reiterated that rule of law is the essential part of the democracy and added that free and fair election is *sine que non* for the democracy.

Constitution of India contain the fundamental rights, under Part- 3. Freedom of speech and expression is one of the fundamental rights, declared by the Article 19(1). This Article empower the people of India to express his/ her opinion freely. But this right is not an absolute right. The state has power to restrict the use of this rights if it promotes disharmony, enmity between the nations, security of the state, against public order, etc.⁸, The freedom of speech and expressions has a very wide extension and it include verbal and Non-verbal expression both.

The internet provide gateway to stay tune with the whole world. It connects people of one country to people of another country. Therefore, we can say that it makes dreams of global villages comes true. India is the Second highest internet user in the word, first one is China. Around 881.3 million internet users are in India and spend approximately Six and half hour on internet, daily.⁹ They used to express their emotions with others using social media platform and also some time share information, which may be rhetoric,

³ <https://web-archive-2017.ait.org.tw/zhtw/DOCS/whatsdem/whatdm2.htm>

⁴ B.R.Ambedkar: Writing and Speeches, Vol-1 .pg 412

⁵ Dr. J.N.Pandey, Constitutional Law of India, central law Agency, 54th edition 2017, pg. 27

⁶ (1973) 4 SCC 25

⁷ 1975 Supp SCC 1

⁸ See Article 19(2) of the Indian Constitution.

⁹ <https://worldpopulationreview.com/country-rankings/internet-users-by-country#top-10-countries-with-the-highest-amount-of-internet-users>

cause violence and disharmony in the society. The news or information spread rapidly on social media platforms as there is no any check and balance tool, which can control the false news from spread. The false/fake news sores on the democracy of India. An unfair practice is more dangerous than anything else for the democracy. In present time, use of AI makes it worse than anything else because it quite difficult to find out what is real or original and what is altered, modified or fake.

DEFINITION OF HATE SPEECH

There is no any concrete definition of Hate speech. In general parlance, hate speech denote any words made deliberate to mutilate sentiments of a particular community, which is significant to cause violence and disharmony in the society. It is wilfully made to insult of a particular community, on the basis of cast, creed, religion, sex etc.

The Law Commission of India in the 267th Report defined that Hate speech is stated as an incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, gender, sexual orientation, religious belief and the like.¹⁰

Black's Law Dictionary, 9th Edn. defines the expression 'hate speech' as under:

"Speech that carries no meaning other than the expression of hatred for some group, such as a particular race, especially in circumstances in which the communication is likely to provoke violence." `

The UN Strategy and Plan of Action on Hate Speech defines hate speech as... "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."¹¹

International Covenant on Civil and Political Rights Article 20(2) state that "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law".¹²

Measures to recognised hate speech

There are no any universal tools to gauged out that a particular statement is hate speech or not. Freedom of speech is a fundamental right, so to put restrictions on free speech would cause violation of fundamental rights. Therefore, to measures that whether a statement is a hate speech or not, we have to analyse the other relative factors also. for example, in case of *Manzar Sayeed Khan vs State of Maharashtra & Anr*¹³ the apex court made it very clear that for a publication to be punishable under Section 153A IPC, there must be a deliberate intention to incite hatred, and isolated sentences cannot be taken out of context. Now it can be said that a mere a stance of hate speech is not sufficient to constitute the offence of hate speech under Sec.196 of B.N.S Act, 2023.

Thus, to measures hate speech following factors should be taken into consideration.

1. Intention: To constitute a crime *mense rea* is one of the essential elements. Any act which is void of *mense rea* will not constitute any offence. Intention is a crucial one to constitute offence of hate speech.

¹⁰ 267th Report of the Law Commission Report.

¹¹ <https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech#:~:text=To%20provide%20a%20unified%20framework,person%20or%20a%20group%20on>

¹² <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights#:~:text=health%20or%20morals.-,Article%2020,shall%20be%20prohibited%20by%20law.>

¹³ AIR 2007 SUPREME COURT 2074

Here, very thin line between criticism and hate speech. It's demarked between the freedom of speech and hate speech. In case of *Amish Devgan v. Union of India*¹⁴ apex court held that hate speech includes content, intent, and the likelihood of causing harm. To draw the intention of a perpetrator, previous act, relationship, intensity etc. of the statement shall be taken into consideration.

2. **Contextual Analysis:** To constitute, whether a statement is a hate speech, the statement of the speaker should be taken with its entirety. Any statements is a rhetoric or not shall not be decide on the basis of a sole statement as it does not reflect the actual sense of the maker. Therefore, the entire statement will be meaningful in determination of hate speech. **For** example, the eminent Bangladeshi writer Taslima Nasrine wrote a novel and named "Lajja" based on the ironical and barbaric act, done by majority group (muslim) in Bangladesh, in revenge of "Babari majsjid" demolition. She through her novel, scrutiny the Islamic ideology and demand equality of women. After that Islamic religious group asked to execution of her death by hanging and ban on the book. In August 1994, she was brought up on "charges of making inflammatory statements" and faced criticism from Islamic fundamentalists. *The court Manzar Sayeed Khan v. State of Maharashtra* One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning.¹⁵
3. **Intensity of Speech:** The right to free speech and expression does not give one the right to encourage criminal activity. Liberty and equality have always been at odds with hate speech ideals. They both work in tandem with one another. The goal of freedom of expression is to give the weaker segments of society an equal voice, not to ignore them. As a result, it has been acknowledged that inciting violence also incites discrimination, which impedes the right to free speech. Any content share or addressed, if it not such intensify to raise violence then the content will not be hating speech, regardless to the identity of its makers. In case *Arup vs. State of Assam*, (2011)¹⁶ ruled that that mere membership in a banned organization is not criminal unless accompanied by active incitement to violence. This aligns with the Rabat factor of assessing whether speech reaches a wide audience capable of causing harm.
4. **Frequency of Act:** An act is an offence or mistake, depend on the nature, gravity, effects and seriousness of a particular act or statement. If the act or statement is inadvertent then it will not constitute an offence, but if it happens frequently then it will amount a crime. The particular act is malic and offensive if it done by the perpetrators with the knowledge and deliberately. The political leaders for the polarisation of votes makes the statement which is inflammatory in nature and against the interest of social security. The statement made repeatedly by the leaders. 122 cases of hate speech were reported in 2024, according to the Centre for Study of Society and Secularism's (CSSS) monitoring, which was based on reports from the Mumbai editions of well-known newspapers like The Indian Express, The Times of India, The Hindu, Inquilab, and Sahafat. On the other hand, 33 hate speech recordings were made in 2023. This represents a noteworthy 270 percent growth.¹⁷

Factors Responsible for Hate Speech in India

In India, there is a growing concern over hate speech, which is broadly defined as communication that

¹⁴ (2021) 1 SCC 1

¹⁵ https://www.verdictum.in/pdf_upload/kar-hc-bjp1-1675736.pdf

¹⁶ <https://www.lawfinderlive.com/archivesc/642095.htm>

¹⁷ <https://csss-islam.com/secular-perspective/270-increase-in-hate-speeches-in-india-in-the-year-2024/>

incites violence, prejudice, or animosity toward individuals or groups based on characteristics like religion, race, caste, or gender. Its spread is caused by a variety of reasons, many of which interact with social, political, and technological dynamics.

1. Polarization of Vote: India is a diversified country. It has a multicultural, multi-religious, multilingual attributes, which makes it unique and colourful. But the other side these are the darkest sides for India as the political leaders use it to vote polarization. In India, here six majors' religions like, Hindu (approx. 80%), Muslims (approx. 14%), Sikh, Budh and Jain and others are (approx. 6%) jointly.¹⁸

In India, there are so many national and state political parties. At national stage, nine registered national parties, Aam Adami Party is the newly one, and at state level more than fifty parties. These parties often make statement, while addressing, which is inflammatory in nature and against any particular cast or community. A substantial percentage of hate speech occurrences in 2024 were sparked by the national election in India, the state elections in Maharashtra and Jharkhand, and hate rallies that were sparked by inflated allegations of violence against Hindus in Bangladesh.

Hate speech in India in 2024 followed an alarming trajectory, deeply intertwined with the ideological ambitions of the ruling Bharatiya Janata Party (BJP) and the broader Hindu nationalist movement. The number of hate speech incidents targeting religious minorities surged from 668 in 2023 to 1,165 in 2024, marking a staggering 74.4% increase. Dangerous speech—defined as speech that “increases the risk that its audience will condone or participate in violence against members of another group”—also saw a significant rise.¹⁹

2. Social Disparity: India covers a very vast geographical area. Therefore; we can see much more diversity from North to South and East to West region. Thus, each region has its own peculiarity, like economic status, political status, industrial status etc. for example, in West region, like Gujarat and Maharashtra, industrial development is on its top level but in the East region is in very low level. These differences cause migration of people from East to West. The hate speech and hate crime cause due to such migration. In year 2008, in many parts of Maharashtra, violence took place against the 'Bihari' and an open statement was made by M.N.S chief Raj Thackray, to leave Mumbai and other city of Maharashtra, who is non- Marathi.

Social disparity means inequality in the society. Caste system prevailed in India and it rooted deeply in the society. Caste system was main cause of economical inequality. This causes caste conflict and hate crime, especially in rural areas.

3. Sense of superiority: One of the primary factors that contributes to hate speech is when someone feels superior to others, and that person then starts to dominate other people, groups, or communities. In India, 70% population live in India. Though, we are living in 21st century, but in rural areas caste discrimination still persists and maintains by the villagers. The villagers divided in upper caste and lower caste categories. After the 76th years of independence, untouchability sticks with the society.

4. Negative stereotypes: People who have negative preconceptions make us believe that another person is less valuable and deserving, which breeds hate speech. Negative stereotypes are caused by oppressive institutions, such as discriminatory structures. Over the past ten years, hate crimes and hate speech have significantly increased. Most significantly, hate speech has also surfaced at the top echelons of some Member States' public administration, where it is just a matter of time until it is turned into policy. The liberal position on hate speech was based on the idea that the government and

¹⁸ <https://www.pewresearch.org/short-reads/2021/09/21/key-findings-about-the-religious-composition-of-india/>

¹⁹ <https://www.csohate.org/2025/02/10/hate-speech-report-india-2024/>

the majority of society would always respect democratic norms and keep their distance from hate speech producers, who would unavoidably continue to be marginalized. This presumption, however, is disproved when state officials keep silent or publicly condone hate speech and hate crimes. The lack of government action gives the unorganized, individual hatemongers power.

Hate speech's impact on democracy

Government is a mechanism to run the society smoothly. The word government include "body of individual" or "group of people". Government serves as both a tool for formulating policy and a way of enforcing organizational policies. We can classify the government into form of Anarchy government, Autocracy government and Democratic government. The democratic form of government is the new one in comparison to earlier two. Today's most of the nation have democratic form of government.

India, which is frequently referred to as the "world's greatest democracy," is proof of how resilient democratic principles can be in a complex and diverse culture. Based on the principles of justice, liberty, equality, and fraternity found in its constitution, India has embraced democracy as a way of life as well as a political system since attaining independence in 1947. This essay highlights the importance of Indian democracy in promoting inclusive governance and social cohesiveness by examining its core principles, structural components, and difficulties. B.R. Ambedkar believed that the Buddhist principles of equality, fraternity, and liberality served as the cornerstones of democracy, while the religious basis of caste served as the primary barrier to democracy in India. He states, "It is a typical occurrence for certain names to be linked to particular ideas and feelings, which dictate an individual's perspective on people and objects."²⁰ Thus, we can conclude that the core values of democracy are justice, liberty, equality, fraternity and secularism.

- 1. Justice:** The relationship between hate speech and India's legal system has sparked serious worries about institutional trust, delayed justice, and unfairness distortions. Despite India's constitutional protections (such as Article 19(2)) and anti-hate speech statutes (such as Sections 153A, 295A, and 505 of the IPC, Sec.196 of B.N.S), its abuse or lax enforcement has frequently caused stress on the legal system. Most of the hate speech case are against the political leaders and they use their power and position to create hindrance in justice delivery. Justice delay is justice denial and in case of hate speech, it can be seen.
- 2. Equality:** Equality is one of the essential components of a democracy. The preamble of many democratic constitutions explicitly enshrines this principle. For instance, the Indian Constitution's preamble declares "equality of status and opportunity," while the U.S. Declaration of Independence asserts that "all men are created equal." These foundational statements reflect the democratic ideal that governance derives legitimacy from the equal worth and participation of all citizens. Because inequality upholds hierarchies that impede fairness and participation, it is in direct opposition to democracy. Racial segregation in the past in the United States and caste prejudice in India are examples of structural injustices that obstruct civic participation and resource allocation. According to political theorist Robert Dahl, enduring disparities result in "competitive oligarchies," in which privileged groups control power and democratic accountability is undermined. Similar to this, economic inequality causes wealthy people to have a disproportionate amount of influence on policy, as seen by campaign finance, which tilts government away from the interests of the general public.

²⁰ Speeches delivered by Dr.B.R.Ambedkar before the Poona District Law Library on 22nd December,1952;

3. Secularism: In India, secularism, as defined by the Constitution (Preamble, Articles 25–28), does not mean state atheism; rather, it means that the government treats all religions equally and protects them. While guaranteeing that no person or group is subjected to discrimination on the basis of their faith, the state maintains its neutrality in religious affairs. However, by encouraging distrust, division, and hierarchy among citizens, hate speech which targets communities based on religion, caste, or ethnicity directly threatens this secular framework. By using religious identification as a weapon to marginalize communities, hate speech undermines secularism and creates an environment in which one community is presented as "superior" or "entitled" over another. For example, disparaging Christians as "converters" or Muslims as "infiltrators" in speeches skew the idea of equal citizenship. Such discourse not only transgresses Article 15 of the Constitution, but it also shapes public opinion, normalizing discrimination and undermining faith in plurality. *S.R. Bommai vs Union of India*²¹ the apex court have pronounced that secularism is part of basic structure of the constitution.

CONCLUSION

It's still up for debate what constitutes hate speech. Since there are no specific legal criteria for hate speech, the court cannot punish anyone for using hate speech. The freedom of speech and expression and hate speech have been used in a variety of ways to further their hidden agendas. Hate speech is a complicated issue in a country like India, which has a large population and a heterogeneous society. A lot of elements, such as the quantity of strong opinions and content that may offend particular communities, must be taken into account when limiting hate speech. Lawmakers should take the necessary actions to define hate speech, and public awareness-raising is urgently needed.

To safeguard democracy, India must bridge the gap between legal frameworks and their implementation. Judicial interventions, like the Supreme Court's emphasis on curbing hate speech (*Amanullah v. State of UP*, 2023), and civic education to promote pluralism are critical. As B.R. Ambedkar cautioned, constitutional morality must transcend textual provisions to become a lived culture of mutual respect. Combating hate speech, ensuring equitable representation, and upholding secularism are not merely legal obligations but moral imperatives to sustain India's democracy. Only through collective commitment to these values can the nation counter divisive forces and honor its founding promise of "unity in diversity."

²¹ AIR 1994 SC 1918