

HATE SPEECH AND INCITEMENTS IN CYBER WORLD

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ABSTRACT

In the lush turf of Indian democracy, the free expression philosophy of our Constitution continued to thrive. The sovereignty of the people and their liberation are at the heart of our founding declaration, and the right to free speech and expression enshrined in Art. 19 (1) (a) provides citizens with the assurance they need to accomplish this admirable goal. Our judicial system has embodied the spirit of the Constitution to the fullest extent possible, expanding the scope and scope of the right to free speech and expression, subject to certain constraints. As the decades passed by, new modes of expressing oneself were introduced. Television and the press are instruments in the possession of a small groups and they are subject to self-imposed limitations. The internet, on the other hand, is a platform for vast groups of people to share their ideas and views. What was once exclusive to private conversations will now be made public in cyberspace. This paper would address how India's constitution defines free expression, the Information and Technology Act of 2000's rules on free speech, and relevant judicial pronouncements on free speech in India.

BRILLOPEDIA

RESEARCH OBJECTIVES

The objectives of the current research are as follows:

- To understand the detailed concept of Hate Speech and its constituents.
- To learn to differentiate between free speech and Hate Speech.
- To understand what is the International law regime around Hate Speech.

RESEARCH QUESTIONS

- What is standing of Hate speech under Article 19 of the Indian Constitution?
- How can hate speech on the internet be controlled?
- What are legislations to check hate speech in the cyber space?

RESEARCH METHODOLOGY

This research paper is written by taking qualitative data from various sources. It will be written after analysing secondary data already available on the topic of 'Hate speech and Incitements in the Cyber World' and will make sure that the data is reliable and convincing. This paper will use the descriptive data found in various sources and will come to a conclusion of the aforementioned topic. Various law journals, research papers, official websites and essays will be referred to in order to get an overview of different opinions and ideas regarding the topic, which in turn will help to arrive at a conclusion. Content analysis will be done of all the sources and material connecting it with the topic to clearly understand and differentiate between hate speech and free speech. This approach will be useful for further research as it analyses the existing data and encourages more attention and research on this topic.

INTRODUCTION

The Constitution has empowered its people by providing them with fundamental rights. One such fundamental right is the "freedom of speech and expression"¹. It also includes the right to obtain and publish information². Free speech, however, is an intricate right and hence can be subject to legal constraints³. In **Romesh Thappar v Union of India**⁴, the Supreme Court held that the reasonable restrictions should be such that they should not hinder the rights of other people due to the actions of one person, which happened in **Maneka Gandhi vs Union Of India**⁵.

The Constitution gives the liberty to express one's views and opinions on any subject by any means, including the cyber world. It encompasses freedom of communication as well as the right to propagate or publish ideas but, it has now become a weapon for citizens to use if they want it in their favour and to claim the wilful ignorance of the same to those with whom they disagree⁶. Restrictions of any kind must not be imposed on the basic right of expression but if the peace or law and order of the community is disturbed, then the fundamental right is

¹INDIAN CONST. art 19 §1, cl. (a).

²Secretary, Ministry of Information and Broadcasting, Govt. of India v. Cricket Association of Bengal, 1995 AIR 1236.

³INDIAN CONST. art 19 §2.

⁴Romesh Thappar v Union of India, 1950 AIR 124.

⁵Maneka Gandhi vs Union Of India, 1978 AIR 597.

⁶Lyca Production Pvt. Ltd vs The Government Of Tamil Nadu, 2014 SCC OnLine Mad 8448.

subject to restrictions⁷. A balance between the right to freedom of speech and expression and the duty to maintain a peaceful and safe environment in the country, must be maintained⁸.

In India, the question of policing hate speech on the internet is still unsolved. Although there has been success in limiting the government's powers, there are also cases where individuals have been prosecuted for what was hate speech on the internet. Curbing digital hate speech is a big issue. The abundance of content online, which can be accessed for free by everyone in the world, has exacerbated the problem. The web, on the other hand, can be used to combat hate speech by teaching everyone, anywhere around the globe or in a particular region, about the importance of being less disrespectful to others.

LITERATURE REVIEW

- i. **“The Ungovernability Of Digital Hate Culture”⁹**: In the dissemination of hateful and extreme speech, social media and the Internet play an important part¹⁰. Bharat Ganesh, in this article discusses the shape and complexities of the digital hate culture and the possibilities for governance. This article outlines its cultural style and ungoverning characteristics and enables policymakers and scholars to understand and offer advice for current hate cultures.
- ii. **“Hate Speech And Free Speech”¹¹**: In his article named *Hate Speech and Free Speech*, A.G. Noorani talks about communal riots and how the government is guilty of doing nothing to stop it. Lacking government readiness and regulatory determination illustrates why the legislation remains a letter gone. Rules are not insufficient in legislation, but lack of “political commitment” and “management determination”, explains why it has not been implemented more successfully, says Noorani.
- iii. **“Striking a Balance: Hate speech, freedom of speech and non-discrimination”¹²**: This selection of essays by Article 19: Censorship International Centre, London are very important to our case. The core truth in India is not violation of rules, but constant

⁷K.A. Abbas v. Union of India, 1971 AIR 481.

⁸*ibid.*

⁹Bharath Ganesh, *The Ungovernability Of Digital Hate Culture*, 71 JOURNAL OF INTERNATIONAL AFFAIRS EDITORIAL BOARD, 30-49 (2018).

¹⁰ WHITNEY PHILLIPS, THIS IS WHY WE CAN'T HAVE NICE THINGS: MAPPING THE RELATIONSHIP BETWEEN ONLINE TROLLING AND MAINSTREAM CULTURE (MIT Press 2015).

¹¹A. G. Noorani, *Hate Speech and Free Speech*, 27 ECONOMIC AND POLITICAL WEEKLY 2456, (1992).

¹²Sanda Coliver, *Striking a Balance: Hate speech, freedom of speech and non-discrimination*, 32 FREE SPEECH Y.B. 198 (1994).

rejection of criminal justice even in the case of strong demands for reform. The book contains posts on 15 nations, their hate speech policies, and the reasons for and against them. The question of whether free expression should be limited to avoid racial or religious harassment or insult is currently being debated.

- iv. **“Hate In Cyberspace:Regulating Hate Speech On The Internet”¹³**: In this article, Alexander Tsesis opines that hate speech of the Internet, which presents a significant danger to equalitarian society and its constituents, should be banned instead of tolerating this antisocial behaviour. Part I of the article talks about how the data is transmitted over the cyber-space. Part II includes a growing variety of websites promoting racist, ethnic and oppressive hate. Part III briefly describes how Canada and Germany have succeeded in honouring freedom of expression on the Internet while banning hatred rhetoric at the same time. Part IV provides an overview of the authority of private filtering systems and of their ineffectiveness. Part V examines whether the legislation is sufficient and appropriate.
- v. **“Controlling Hate Speech on the Internet: The Indian Perspective”¹⁴**: Hate speech has always led to censorship. Hate speech has a nebulous meaning, but it is generally narrow and targeted to the needs of the state's dominant power. Although the internet has facilitated rapid technical advancement, it has also raised complex legal issues. Since it could be generated by anybody in the world and downloaded by anyone, the concept of "hate speech," which was still vague, was made even more so when it was applied to something written on the internet. The aim of this paper is to find a potential solution to this dilemma in the Indian context.
- vi. **“Let's Meet Halfway: Sharing New Responsibilities in a Digital Age”¹⁵**: This essay begins by describing and analysing how states deal with hate speech and disinformation in their respective regulatory projects. Second, it looks at how social media sites deal with offensive content and how they incorporate legal rules like appeals and due process principles into their moderation strategies. Large social media networks are increasingly adopting administrative law-like systems, which is an unusual trend for non-state actors.

¹³Alexander Tsesis, *Hate in Cyberspace: Regulating Hate Speech on the Internet*, 38 SAN DIEGO L. REV. 817 (2001).”

¹⁴Ketan S Modh, *Controlling Hate Speech on the Internet: The Indian Perspective*, SSRN ELECTRONIC JOURNAL (Jan. 2015).

¹⁵AmélieHeldt, *Let's Meet Halfway: Sharing New Responsibilities in a Digital Age*, 9 JOURNAL OF INFORMATION POLICY, 336-369 (2019).

vii. **“What Is Hate Speech? Part 1: The Myth Of Hate”¹⁶**: It moves beyond statutes and judgments and legal definition of hate speech, in order to grasp the concept of hate speech. One crucial implication is that there is every need to accept an interpretation of hate speech as a heterogeneous set of expressive phenomena while considering the wide spectrum of approaches to address hate speech, including but not limited to the application of criminal legislation. Another reason is that it would be unsound to dismiss hate speech legislation on the grounds that they effectively criminalise hateful thoughts, feelings, or behaviours.

UNDERSTANDING HATE SPEECH

MEANING AND INTERPRETATION OF HATE SPEECH

Hate speech and its meaning is dynamic. But to generalize, anything that specifically targets people based on their “protected characteristics”- race, ethnicity, national origin, religious preference, sexual orientation, sex, religion, gender identification, or serious impairment or disease, is considered hate speech. Because the Constitution empowers the government to impose limits on the basis of public order, decency, or morality, which are broad in reach and unclear in definition, the government can also pass laws restricting freedom of speech and expression. The Indian Constitution is unclear and can be used by the government to enact sweeping rules to limit hate speech on the internet. The administration, in actuality, did this with the passage of the Information Technology Act of 2000. Digital hate speech is defined by this Act as any data sent via a computer resource or communication device that is slanderous or menacing in essence, or any data that the communicator recognises to be fallacious but sends anyway, with the motive of “causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will.”¹⁷

CYBER SPEECH MISUSE

The COVID-19 pandemic demonstrated how quickly and widely information may spread: so quickly, in fact, that the event was dubbed a “infodemic”. In the event of a large-scale pandemic, such as COVID-19, social media can be utilised as an instrument of mistrust to

¹⁶Alexander Brown, *What Is Hate Speech? Part 1: The Myth Of Hate*, 36 LAW AND PHILOSOPHY, 419-46 (2017).

¹⁷Information Technology Act, 2000, § 66 A, Acts of Parliament, 2000 (India).

spread terror, chaos, and discord¹⁸. Abuse of these forums may have negative economic, psychological, and political consequences, as well as prejudice and even aggression, both online and offline¹⁹.

When seen from a different perspective, it is clear that there are many cases where so-called free expression in the internet realm has overstepped its legal bounds and veered into unwelcome contours of petty intolerance and personal mudslinging. Opinions and perspectives in the cyber world have the disruptive potential of touching millions of people on the internet. This is where the issue starts. Often times, online freedom of speech and expression has tragic repercussions.

In the internet world, vulgar, immoral, excessively offensive, insulting, harassing, fraudulent, rumours, controversial, hostile, and frightening speech and expression are on the upswing. Multiple factors are at play in this unfavourable circumstance. One of the reasons is that it is impossible to monitor millions of online activity. The concept of pre-censorship or control is incompatible with the fundamental concept of freedom of speech and expression since it might lead to anarchical executive practises and, as a result, a significant impediment to the free flow of ideas. This unusual condition in the Internet world encourages people to attack others without hesitation, using free speech as a weapon²⁰. It leads to rejection of unpopular viewpoints or minority opinions in the digital world, and hence to violations of many societal rights. It's referred to as "misuse of free speech".

In the case of "**ShreyaSinghal v. Union of India**"²¹, the Supreme Court of India was confronted with certain unique difficulties to the basic right to freedom of speech and expression posed by the web. The defendants in the case made the baseline argument that the limits on freedom of speech on the Internet are not constrained by Article 19(2) since it is a different medium. This reasoning was not accepted by the Court. The court rejected this argument by citing *Secretary, Ministry of Information & Broadcasting v. Cricket Association of Bengal*²², which found that "the right to collect and spread information is part of the right to free speech and expression"²³.

¹⁸Annie Gowen and Manas Sharma, *Rising Hate in India*, THE WASHINGTON POST(Oct. 31, 2020).

¹⁹UN NEWS, <https://news.un.org/en/story/2019/09/1047102>, (Last visited June 6th, 2021 12:30 pm.)

²⁰BarlaMallehYadav, *Misuse of free speech in cyber world and conflicting rights*, 2 INTERNATIONAL JOURNAL OF ADVANCED RESEARCH AND DEVELOPMENT, 534-537 (2017).

²¹*ShreyaSinghal v Union of India*, AIR 2015 SC 1523.

²²*Supra* note 2.

²³*Supra* note 2

INDIAN LEGISLATIONS COMBATTING HATE SPEECH IN THE CYBER WORLD

Though the phrase “hate speech” is not used in any of the statutes that cover this type of communication, its many manifestations are described. The Indian Penal Code, specifically Sections 153A, 153B, 295A, 298, 505(1) and 505(2), declares that any word, spoken or written, or using signs or any kind of visual representation that “promotes disharmony, enmity, hatred or ill-will or offends or insults on the basis of religion, ethnicity, culture, language, region, caste, community, race, or any other basis is a punishable offence”²⁴. Following that, there are several laws, such as the Representation of People Act²⁵, the IT Act²⁶, Protection of Civil Rights Act²⁷, The Cable Television Networks (Regulation) Act²⁸, etc. Article 19(2) of the Indian Constitution provides constitutional protection to these legislations in the form of a “reasonable restriction”.

The Supreme Court, in **ShreyaSinghal v. Union of India**²⁹ struck down Section 66A of the IT Act which read,

“Any person who sends by any means of a computer resource any information that is grossly offensive or has a menacing character; or any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult shall be punishable with imprisonment for a term which may extend to three years and with fine.”

Two other components of the IT Act, sections 69A and 79, were not struck down by the court, and they can be implemented with specific conditions. Section 69A of the IT Act allows the government to block public access to intermediaries “in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognisable offence relating to above”. While Section 69A gives the government the authority to do so, the “Information Technology (Procedure and Safeguards for Blocking Public Access to Information) Rules”³⁰ define the measures to be taken.

²⁴ Indian Penal Code, 1860, No.45, Acts of Parliament, 1860 (India).

²⁵The Representation of People Act, 1951, No. 43, §8, §123(3A), §125, Acts of Parliament, 1951 (India).

²⁶Information Technology Act, 2000, No.21, § 69, § 69A, Acts of Parliament, 2000(India).

²⁷Protection of Civil Rights Act, 1955, § 7, Acts of Parliament, 1955 (India).

²⁸The Cable Television Networks (Regulation) Act, 1995, §5, §6, §11, § 12, §16, §17, §19, §20, Acts of Parliament, 1995 (India).

²⁹*Supra* note 21.

³⁰Information Technology (Procedure and Safeguards for Blocking of Access of Information by Public) Rules, 2009, § 87, Acts of Parliament, 2009 (India).

Apart from the IT Act, Section 95 of the CrPC also allows the legislature to pronounce specific publications forfeited and grant search warrants for them. Section 124A of the IPC which talks about sedition, is also applicable to the cyber speech which incites people to rebel against the State. A person can also be liable for defamation under Section 499 of the IPC and be liable for a “simple imprisonment for a term which may extend to two years, or with fine, or with both”.

Whilst hate speech laws are meant to reduce hate speech from occurring in the first place, they have shown to be ineffective in this regard, with relatively minimal effectiveness in controlling hate speech in the country³¹. This calls for an examination of our rules and how they operate, as well as whether the multitude of legislation has contributed to the overcriminalization of hate speech in the very first place.

MAJOR INSTANCES OF HATE SPEECH IN THE CYBER WORLD

Murder of a Muslim Migrant worker in Rajasthan

Mohamed Afrazul, a Bengali Muslim migrant labourer, was beaten to death with a butcher knife on December 6, 2017, in Rajsamand, Rajasthan, and then burned just at spot. Shambhulal Regar, the man on charge for his killing, had the entire incident filmed and put on YouTube, including a lecture condemning what he termed Muslim men's “entrapment” of Hindu females. Regar's act garnered him a following, mainly among the Vishwa Hindu Parishad, who saw him as a leader who took action to prevent “love jihad”. “He gathered information related to videos of Hindu extremists, love jihad, Section 370, Islamic jihad, state of terrorism in Kashmir, increasing population of Muslims, Ram Mandir, Padmavati, PK (film), caste division in Hindu religion, and reservation, among other subjects,” according to the chargesheet against Regar. He recorded a total of five films on communal and religious topics on his phone before to the murder.

³¹Alison Saldanha, 2017 : *A year of hate crimes in India: Number of violent incidents related to cows, religion is rising*, , FIRST POST, (Dec. 28, 2017), <https://www.firstpost.com/india/2017-a-year-of-hate-crimes-in-india-number-of-violent-incidents-related-to-cows-religion-is-rising-4278751.html>

Response of the Judiciary

GulbaharBibi, Afrazul's wife, filed a petition. A bench comprising of Chief Justice DipakMisra, Justices AM Khanwilkar and DY Chandrachud were inclined to give notice on her request for an unbiased SIT inquiry into the heinous murder. The bench was inclined to evaluate the plea and offer necessary orders after calling the video "horrendous." The petition, however, was badly worded, and the top court instructed senior counsel Indira Jaising, who represented Gulbahar, to prepare a stronger case.

Administrative action

Mamata Banerjee launched an attack on the BharatiyaJanata Party, which controlled Rajasthan at the time, shortly after Afrazul Khan was killed. Afrazul Khan's family received Rs 3 lakh in restitution and aRs 750 monthly allowance from her government, as well as a job with the local block development office for one of his daughters. There was however, no change in the laws prevailing over hate speech on social media.

INCITATION OF COMMUNAL HATRED: ISLAMOPHOBIA

- ***LOVE JIHAD- Interfaith partners listed on a Facebook page, Hindus asked to "hunt" for the men³²***

A Facebook page named "HindutvaVarta" published a list of 102 names of interfaith couples, mainly Hindu females and Muslim males, and encouraged Hindus to assault the men. The account eventually removed the article, but in another inflammatory post, the page encourages parents to educate their daughters how to use guns to protect themselves against "Jihad." The "HindutvaVarta" page regularly publishes provocative statements with the clear goal of polarising communities and radicalising Hindu youth. This type of provocative speech on the internet incites violence, yet the legislature has taken no action against the page in question.

³²THE QUINT, <https://www.thequint.com/news/politics/hindutva-fb-page-calls-for-attack-on-interfaith-married-couples#read-more>, (Last visited June 6th, 2021).

- **CORONA JIHAD**³³

As millions of people throughout the world struggle with the COVID-19 epidemic, a troubling trend of Islamophobic COVID-19 hate speech and misinformation has emerged on social media. The Islamophobic hashtag #Coronajihad is the most extreme example of this discourse. This hashtag implies that Muslims are terrorists who spread the illness on purpose as a kind of bioweapon. Intolerant hashtags first debuted on March 1, 2020, with the Islamophobic hashtag #Quranovirus emerging alongside #BanTheBook, referencing to the prohibition of the Qur'an, Islam's sacred book.

Wrestler turned politician Babita Phogat, on April 17th, 2020, tweeted in Hindi that the pandemic is India's second most serious concern, and that 'uncivilised Jamaati' are the country's first, alluding to Tablighi Jamaat Markaz in Nizamuddin, Delhi. This incited tremendous amount of communal hatred and the Muslims were blamed for the coronavirus outbreak in the nation. Several muslim visitors from foreign countries were arrested under various sections of the IPC. The Bombay HC, the Delhi HC³⁴, the Karnataka HC³⁵ and the Madras HC³⁶ squashed the FIRs against these foreigners. "A political government tries to find the scapegoat when there is pandemic or calamity and the circumstances show that there is probability that these foreigners were chosen to make them scapegoats", the Bombay HC ruled. According to the ruling, there was "big propaganda" in print and electronic media against Muslim pilgrims, accusing them of spreading Covid-19. Consequently, before the Madras and Karnataka High Courts, the pilgrims submitted affidavits acknowledging they had broken visa rules and promising not to return to India for ten years in exchange for a punishment.

QUEERPHOBIA AND HOMOPHOBIA

The members of the LGBTQ community are discriminated and abused in the offline as well as the digital world. In trolling political opponents or religious identities on Facebook, the terms "kinnar" and "hijara" are frequently used to criticise the "other". Misinformation fuels this hatred, with assertions such "queerness is a sickness or condition that must be cured". A

³³ AL JAZEERA, <https://www.aljazeera.com/opinions/2020/4/18/how-the-coronavirus-outbreak-in-india-was-blamed-on-muslims>, (Last visited on June 6th, 2021).

³⁴ Mohammad Jamal and Others V Union of India and Others, 2020 SCC OnLine Del 603.

³⁵ Farhan Hussain, V State and Others, 2020 SCC OnLine Kar 1194 : (2020) 4 AIR Kant R 478.

³⁶ Md Kameul Islam and Ors. V The Inspector of Police and Another, 2020 SCC OnLine Mad 1171.

Facebook post states that “homosexuality is not accepted” and implies that accepting the LGBT population increases the likelihood of sexual assaults in society. It goes on to imply that preachings of a man named “SantRampalMaharaj” can help us overcome our “problem”³⁷. As a step to make the LGBTQ community feel equal and safe, the SC decriminalised homosexuality³⁸ and it also recognised the “third gender” or transgender³⁹. There is no comprehensive anti-discrimination law in India. While the Constitution forbids inequality, the prohibition only applies to the government and its agents. While there is debate regarding the necessity for such legislation, there appears to have been some political agreement in favour of its passage. Despite the fact that the Transgender Persons (Protection of Rights) Act of 2019 was enacted by Parliament, it does not permit transgender self-determination. In addition, the Act does not provide for reservations in public employment and education, as required by a previous Supreme Court decision. It is critical to provide the LGBTQ population with equal constitutional rights both offline and online in order to empower them and protect them from cyberbullying and incitements.

FACEBOOK, GOOGLE AND YOUTUBE

On May 31, 2016, Facebook, Google, Microsoft, and Twitter signed a code of conduct with the European Union that requires companies to assess “the majority of valid notifications for removal of illegal hate speech” posted on their sites within 24 hours. Prior to this, in 2013, Facebook agreed to change their hate speech policies in response to pressure from over 100 activist groups after data released regarding content that lauded domestic and sexual violence against females led to the dissolution of marketing by 15 huge corporations. Facebook and YouTube have anti-hate speech policies. In 2018, Facebook deemed a post featuring a passage of the US Declaration of Independence that refers to Native Americans as “merciless Indian savages” as hate speech and deleted it from its platform. Under YouTube's hate speech policy, the website demonetized channels like US radio personality Jesse Lee Peterson in 2019 for hate speech incitements.

³⁷THE QUINT, <https://www.thequint.com/news/webqoof/how-hate-speech-impacts-mental-health-lgbtq-queer-community-online#read-more>, (Last accessed on June 7th, 2021).

³⁸Navtej Singh Johar v. Union of India, AIR 2018 SC 4321 (India).

³⁹National Legal Ser.Authvs Union Of India, AIR 2014 SC 1863 (India).

POSITION OF HATE SPEECH IN OTHER COUNTRIESUSA

The issue of free speech vs hate speech has been much louder since the introduction of social media. The CEOs of Facebook, Twitter, and other social media platforms have a lot of troubles because people are saying whatever they want. According to recent studies, stating what you want is more acceptable in the United States than anyplace else⁴⁰. They also favour journalistic freedom and the ability to access the web without government censorship the most. America does not have hate speech regulations, as the American Supreme Court has found that regulations criminalising hate speech violate the protection to freedom of expression inherent in the First Amendment to the U.S. Constitution⁴¹. Hate speech may only be penalized under existing First Amendment law if it explicitly incites impending criminal behaviour or consists of specific threats of violence directed at a particular group of people or individuals.

THE EUROPEAN UNION

The European Union's Charter of Fundamental Rights, which states the right to freedom of speech in Article 11, has a section that outlaws rights abuse⁴². The article on freedom of speech in the European Convention on Human Rights, which emphasises that exercising freedom of speech includes obligations and obligations, is an example of a constraint that requires a severe test of necessity and proportionality.

The European Court of Human Rights makes a distinction between hate speech and an individual's freedom to freely express their opinions, even if others are offended⁴³. There are certain regional examples that are applicable to internet hate speech. In 2000, the Council of Europe (CoE) released a General Policy Recommendation on Combating Racist, Xenophobic, and Anti-Semitic Material Dissemination on the Internet. The CoE Convention on Cybercrime, which regulates mutual cooperation regarding investigative authorities and was established in 2001, gives member nations a method to deal with digital data, which includes transnational hate speech on the internet. In 2003, the CoE published an addendum to the Convention on Cybercrime that tackles online racism and xenophobia. Outside of

⁴⁰Richard Wike, *Americans more tolerant of offensive speech than others in the world*, PEW RESEARCH CENTRE (Oct.12, 2016), <https://www.pewresearch.org/fact-tank/2016/10/12/americans-more-tolerant-of-offensive-speech-than-others-in-the-world/>

⁴¹Snyder V. Phelps, (No. 09-751) 580 F. 3d 206.

⁴²Ar 54, The Charter of Fundamental Rights of the European Union, 2000.

⁴³Handyside v United Kingdom, (1979) 1 EHRR 737.

Europe, the convention and its protocol are open for signing and ratification, and nations like Canada and South Africa are already party to the convention. The Protocol requires States to criminalise i) racist and xenophobic insults directed at I persons because they belong to a group differentiated by race, colour, descent, ethnicity, or religion, if any of these aspects is used as a premise; or (ii) a group of individuals differentiated by any of the aforementioned premise⁴⁴.

UK

The current laws in England and Wales that can be utilised in situations involving cyberhate may be classified into two categories: personal/impersonal and public/private. There are the offences under the Malicious Communications Act 1988, the Communications Act 2003, and the Protection from Harassment Act 1997, all of which aim to protect individuals from behaviour that causes or was intended to cause harassment, alarm, distress, annoyance, inconvenience, or anxiety to the recipient. These offences are intended to address targeted attacks on people rather than impersonal attacks. The Public Order Act of 1986, on the other hand, makes it illegal to incite hate on the basis of race, religion, or sexual orientation.

CONCLUSION

Since scandalous comments on the internet can hit thousands or lakhs of people, they can cause unforeseeable damage. Cyberbullying can have an effect on the individual's right to a peaceful life and freedom of speech and expression. Hence, regulation of hate speech on the internet is the need of the hour. When Article 19(2) was added, the framers of our Constitution did not anticipate the cyber explosion. The negative consequences of misusing cyber speech were not in their minds, so it is up to Parliament to amend Art. 19 (2) to include a ban on misusing cyber free speech in its scope. Otherwise, the ShreyaSinghal⁴⁵ judgment would undoubtedly apply to the current rule as well. Human rights must be protected in their entirety by the state, and activities that violate cultural and civil values must be eliminated. A perfect balancing of rights is unavoidable in order to prevent a

⁴⁴Council of Europe, Additional Protocol to the Convention on Cybercrime, 2003.

⁴⁵*Supra* note 21.

dispute in which certain rights are trampled. In the case of abuse of free expression in the digital realm, this is entirely plausible.

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