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**HATRED, FREEDOM OF SPEECH, REFUGEES
CHALLENGES AND REFORMS**

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ABSTRACT

Hate speech is any kind of utterance that disparages an individual or individuals because they are purportedly members of a social group that is defined by characteristics like age, gender, sexual orientation, race, or ethnicity. Because it may reveal people who are the object of abuse, assault, and prejudice as well as social and economic marginalization, it is detrimental to society. The purpose of this study is to provide light on how hate speech impacts society with particular attention to their causes and consequences, Indian perspective, constitutional aspect of the speech, comparison between freedom of speech and hate speech, whether hate speech is an offence and its impact on the refugees in other words the migrants while dealing with the issues faced by them and the role of the government to deal with the issues faced by them. An analysis of the reforms and also legal aspect which deals with the problem of hate speech in India and also in the International Arena. This article also looks into the initiatives taken by the State in dealing with the events which results into violence and its role to maintain law and order in the society,

Keywords: Hate speech, Race, Ethnicity, Sexual orientation, Economic exclusion, Refugees, Reforms.

INTRODUCTION

The subject of freedom of speech, hate speech, and hate speech laws has generated a lot of discussion. According to some countries' laws, hate speech includes any words, gestures, behavior, writing, or displays that encourage violence or other discriminatory acts against a group or individual based only on that person's membership in that group. Some nations do not consider hate speech to be illegal, and the United States is one of them that has constitutional protections against hate speech. In response to the horrors of World War II, a number of American civil rights organizations began to push for limitations on hate speech that targeted racial and religious groups in the 1940s and 1950s. These organizations addressed the violence of hate speech and its harm by using collective libel as a legal framework. According to his (Website-lexscriptamagazine.com) 3 (lexscriptamagazine@gmail.com)

account of the development of criminal libel, the United States Supreme Court's 1952 affirmation of the group libel legislation was a judicial success for this perspective in the case of **Beauharnais v. Illinois**. But in the 1960s, as support for individual rights increased within civil rights movements, the group libel strategy lost ground. Advocates of individual rights are not the only ones who criticize groups' defamation laws. Legal theorists that favor legal restrictions on hate speech include Richard Delgado, a critical race theorist. However, they contend that defamation is an insufficiently broad category to effectively combat hate speech. Ultimately, Delgado cites the challenges of obtaining restitution under the current legal system in support of a legal strategy that would create a particular component of tort law for responding to racist remarks.

Because the laws against hate speech in India are designed to prevent strife among its numerous communities and people, discussing hate speech is forbidden under a number of parts of the Indian penal code. Any written or spoken remark that disparages or dehumanizes a group of people because of their race, caste, gender, religion, or any other factor is considered hate speech. The speech expresses hatred for other people and has no other meaning.

Hate speech is becoming more prevalent in India every day as a result of people's ignorance, leading them to believe that one can say anything they want to say. Given that India is a heavily populated nation with many different religions and caste systems, discrimination against one another and adherence to the caste system are becoming important issues. Instead of promoting hate speech, people should be more tolerant of one another.

In an effort to bolster efforts to address the root causes of hate speech and its effects on society, the UN has unveiled its strategy and plan of action on the subject. The plan calls for a number of actions, such as data monitoring and analysis, technology use, and interaction with new and reasonable media. It also promotes further study on the connection between the factors that lead people to commit violent crimes and the misuse of the internet to disseminate hate speech. Traditional media outlets must take accountability for ensuring that the information they provide about immigration is factual and supported by evidence, just as the UN must.

- **Advocate against bigotry:** Apathy and silence can be seen as consent. Social media comments are more than just words and shouldn't be taken lightly, particularly when these platforms help migrants learn and be a source of information. The US Department of Justice states that insults have the potential to turn into harassment, which in turn can turn into threats, which can turn into acts of physical violence. Both in the digital and in-person

realms, forceful intervention is crucial; nevertheless, in order to prevent hazardous circumstances, each context's risk must be evaluated.

- **Produce uplifting content:** It's important to produce and distribute sympathetic content in order to offset the influence of hate speech. Cristina Gallach, the 2030 Agenda's High Commissioner, says that in order to address this issue, we need to showcase images that speak to our greatest qualities and concentrate on strong, enduring messages that bind us together by our common ideals.
- Steer clear of posting sensational images and videos since, despite criticism, doing so will drive more viewers to the websites and individuals who disseminate false information.
- File a report on the platform; every social network has policies governing what kinds of content are permitted and which are not. Although teams are devoted to confirming this information, it is frequently required to disclose it for it to be seen.¹

DEFINITIONS OF HATE SPEECH

The United Nations Organization defines hate speech as objectionable statements that may endanger social harmony and targets a group or an individual based on innate qualities (such as gender, race, or religion).

The UN Strategy and Plan of Action on Hate Speech defines hate speech as "any kind of communication in speech, writing, or behavior, 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, color, descent, gender, or other identity factor" in order to give the UN a unified framework to address the issue globally.²

"We must confront bigotry by working to tackle the hate that spreads like wildfire across the internet"

-Antonio Guterres

However, international human rights law does not yet have a consensus definition of hate speech. The idea is still being debated, particularly in light of equality, nondiscrimination, and freedom of speech.

¹ Department International Organisations of migrants 'Hate speech against of Migrants'www.rosanjose.iom.int/en/blogs/responding-hate-speech-against-migrants-social-media-what-can-you-do

² United Nations(1945) hate speech< www.un.org/en/hate-speech/understanding-hate-speech/whate-is-hate-speech >

CAUSES OF HATE SPEECH

The Women's Reservation Bill was passed during the historic five-day special session of parliament held in the new location. After two days of heated discussion, lawmakers from all political stripes came to almost unanimous agreement on the bill. The desire for a sub quota for other backward classes (OBC) was a point of disagreement amongst the parties, but they refused to allow their disagreements to destroy the cordial environment that pervaded the house.

This above-mentioned instance shows that the Indian parliament has emerged as a leading example for the control of disagreements to have a positive approach towards the new bill. But it is not the same in all the cases. On the last special session held in the new parliament building, the BJP member was accused of use of foul words against the other member of the Bahujan samaj party.

Hate speech has been disseminated online more and more in recent years. Online hate speech can spread faster than ever before, within seconds, making it particularly difficult to prevent and resist.

Hate speech endangers democracy, causes harmful rifts in society as a whole, and hinders the engagement and inclusion of everyone it targets. The targets of hate speech are silenced, driven from public discourse, and further marginalized in society.

History reveals that hate speech has also been intentionally used to stir up conflict between communities and groups, inciting hatred, criminality, violence, and genocide.

The European Commission Against Racism and Intolerance (ECRI) has been releasing country monitoring and annual reports that detail the prevalence and growth of hate speech that is ultra-nationalistic, xenophobic, racist, and LGBTI-PHOBIC in a number of member states. These publications include studies and statistics.

It is crucial that member states take strong, long-lasting action to stop hate speech in order to prevent such an increase and instead create and preserve inclusive societies.

Hatred is primarily motivated by the desire to release stress, and aggressive behavior is directed towards strangers. The urge to injure and degrade others is a significant contributing factor to hate speech in online spaces.

HATE SPEECH –INDIAN PERSPECTIVE

A recent instance of this was the arrest of two girls for a Facebook post that, although it was merely political content, was deemed "hate speech" under the aforementioned statutes.

Section 66A (punishment for sending offensive messages through communication services) was famously overturned by the Supreme Court on March 24, 2015, for being unconstitutional due to its disproportionate impact on the right to free speech under Article 19(1)(a) of the Constitution. This provision penalized extremely offensive and insulting online speech and targeted political opposition with multiple arrests.³

The Indian Supreme Court noted in 2022 that harmony between various religious sects is a prerequisite for fraternity. The country's escalating cases of hate speech have alarmed the Supreme Court, which has ordered the government and law enforcement agencies to take *Suo Moto* action.⁴

Since hate speech was not prohibited by any of India's previous laws, the Supreme Court decided not to punish it in 2014. Rather than entering the realm of judicial excess, the Supreme Court asked the law commission to handle the matter.⁵

HATE SPEECH'S LEGAL STATUS IN INDIA

1. The right to free expression and speech

This freedom is restricted by the Indian Constitution's Article 19(1)(a). The interests of sovereignty, integrity, security, amicability, public order, dignity, and morality justify the imposition of the limits.

2. Section 153A and Section 153B of the Indian Penal Code

Punish behaviors that sow discord and animosity within groups.

3. The IPC's Section 295A

Focuses on penalizing actions that intentionally or maliciously offend a class of people's religious sentiments.

4. Sections 505(1) and 505(2) prohibit the printing and distribution of materials that could incite animosity or hostility between them.

5. The 1951 Representation of Peoples Act

Election contestation is prohibited for an individual found guilty of violating the right to free speech under **Section 8 of the RPA, 1951**.

³ Shreya Singhal v/s union of India (24th March 2015 AIR 2015(SC) 15 23C NO.167 of 2012

⁴ Sheehan Abdulla v/s Union of India and ors,2022 (21th October 2022) AIR(940) SC(872) WPC No. 940/2022

⁵ Pravasi Bhalai Sangathan v/s Union of india,2024(12th March 2014)AIR(2014)(11)SCC 477 W PC No.157/2013
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In relation to electronics, **Sections 123(3A) and 125 of the RPA** prohibit the encouragement of animosity or hostility amongst various Indian citizen classes on the basis of race, religion, community, caste, or language and classify it as corrupt electoral practices.

Hate speech directed towards Scheduled Tribes is prohibited anywhere in public view by the **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989**.

A "REASONABLE RESTRICTION" OF THE FREEDOM OF SPEECH AND EXPRESSION, IS THE BANNING OF HATE SPEECH?

Hate speech is regarded as a legitimate limitation on the right to free speech and expression. The constitutionality of hate speech laws was contested in the case of **Canada v. Taylor, 1990 3 SCR 892**, on the grounds that the laws infringed upon the right to freedom of speech and expression. It was decided that hate speech and propaganda don't really further Canada's goals in the pursuit of truth, the advancement of personal growth, or the defense and upkeep of a thriving democracy in which everyone is welcome to participate. The court further noted that it erodes the target group member's sense of dignity and self-worth and, more broadly, contributes to the discordant relationships between different racial, cultural, and religious groups, undermining the tolerance and open-mindedness that are essential to the flourishing of a multicultural society that is dedicated to the principles of equality. The Canadian Supreme Court held that hate speech regulations are, in fact, a component of the international effort to end racism and social discord.

In 2014, the Indian Supreme Court also made reference to this ruling. The court also noted the Supreme Court's holding of another observation, which stated that reasonable, strong-minded, firm, and courageous men should be the ones to judge the words' effect rather than those with weak and vacillating minds or those who see danger in every opposing viewpoint. In **1989(2) SCC, 574, Rangarajan etc. v. P. Jagjivan Ram** the Supreme Court ruled that there has to be a clear and direct connection between speech restrictions and any immediate threat to the public. This connection cannot be implausible, distant, or speculative. The court ruled that unless there is an urgent issue resulting from allowing freedom of expression and the community interest is in jeopardy, it cannot be suppressed, in accordance with our commitment to that right. The expected danger shouldn't be improbable, distant, or unrealistic. It should be directly and immediately related to the expression; ideas should be expressed in a way that is inherently harmful to the interests of the public.

WHY IS IT SO IMPORTANT TO TALK ABOUT AND RESIST HATRED AIMING AT MIGRANTS AND REFUGEES?

All migrants, regardless of their nationality or reason for migrating, are entitled to equal and effective protection under international human rights law, as well as the realization of their human rights. Article 8(1) of the Federal Constitution of Malaysia stipulates that "all persons are equal before the law and entitled to the equal protection of the law," which is consistent with the equality principle.

In 2018, the Malaysian government committed to ratifying the remaining six basic international human rights treaties, despite the country having not yet ratified six of the nine. Additionally, Malaysia's duty as a member of the UN Human Rights Council is to advance human rights. When the country declared its candidature for membership in the HRC, it pledged to advance and defend the rights of the nation's marginalized, vulnerable, and minority communities.

- Malaysia was elected to the Human Rights Council, serving a three-year term from 2022 to 2024. The election took place at the 76th session of the United Nations General Assembly (UNGA), with 183 votes cast for Malaysia.

Most Malaysians hold unfavorable opinions about immigrants and refugees. Refugees and migrants are frequently held accountable for a variety of issues, including crime and employment loss. In a 2019 survey, 83% of Malaysian participants said that refugees and migrants were to blame for the country's rising crime rate. This view is refuted by data showing that migration has a causal effect on crime. Actually, data indicates that a 100,000 increase in migrant laborers in Malaysia lowers crime rates by 9.9%.

However, the political discourse in Malaysia has consistently depicted migrants and refugees as a possible threat to national security and as having a negative impact on the long-term social and economic growth of the nation. This was made worse by the COVID-19 outbreak. The authorities launched anti-Rohingya migrant posters online, carried out immigration raids, sprayed people with disinfectant, and forced back boats carrying refugees. While the number of COVID-19 cases skyrocketed, all of these actions were taken in an effort to stop the virus's spread.

The public were desensitized to hate speech and there was an increase in unfavorable attitudes and discrimination towards these communities as the government normalized statements of hate and fear mongering towards migrants and refugees. As a result, hate speech directed towards refugees and migrants has increased in Malaysia.

WHAT POSSIBLE GOALS ARE THERE FOR SUPPORTING NEGATIVE STORIES ABOUT HATRED AND REFUGEES?

- Dispels falsehoods, misinformation, and negative preconceptions about immigrants and refugees.
- Speak to susceptible audiences who might identify with extreme viewpoints and dissuade them from getting involved in more of them.
- Offer many perspectives on migration and persuade the impressionable audience to back narratives centered on human rights and oppose hate speech.
- Speak with those who already have extreme opinions and help them to modify their attitudes and actions.

HOW CAN MPS ADDRESS HATE SPEECH DIRECTED AT REFUGEES AND MIGRANTS BY PROMOTING POSITIVE NARRATIVES?

- Network with other lawmakers, using this list to inspire one another to create and spread uplifting stories in opposition to hate speech directed towards refugees and migrants.
- Make use of the parliament's committees and obligations to bring immigration and refugee problems mainstream.
- Examine and modify current legislation to unambiguously delineate the legal prerequisites for hate speech in compliance with global human rights norms. Consultation with professionals and civil society organizations that support human rights is necessary for this. The same ought to be applied to any pending laws or suggested policies.
- Implement legislation and policies that priorities human rights frameworks and labor administrations over immigration control.
- Pass legislation and set aside funds to guarantee that immigrants and refugees have access to necessities like healthcare, education, and legal assistance.
- Urge pertinent ministries and organizations to create an integrated referral system for refugees and migrants who are subjected to physical or verbal abuse as a result of hate speech.⁶

SUGGESTION

- Encourage education and public understanding of the negative impacts of hate speech, with a focus on how it affects both people and society as a whole.

⁶ Ms Mei Ching Liu "toolkit for parliamentarian" United Nations Human Rights Office for South East Asia (2023) (Website-lexscriptamagazine.com) 10 (lexscriptamagazine@gmail.com)

- Enact new laws or strengthen current ones that expressly target hate speech, and pair them with other initiatives like media literacy, discourse, counter-speech, self-regulation, and civil society.
- Create and implement standards of behavior for legislators; this will help to promote media ethics and hold legislators and political parties responsible for hate speech.

CONCLUSION

The necessity for moral behavior among individuals in positions of authority is critical. Hate speech has far-reaching effects and is dangerous for both individual and societal well-being. Promoting education, fortifying laws, and upholding conduct rules are necessary for a responsible administration in the nation in order to successfully address the issue.