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Pendulum Study of Impact of Hate Speech in Indian Society

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ABSTRACT

“That the law shall be certain, and that it shall be just and shall move with the times”.

-Lord Reid, Judge as Law Maker

On the pretext of the aforesaid quote this paper shall analyse the impact of the hate speech in the Indian society over the past decade and how laws are inefficient to acknowledge the crime from its origin. The paper introduces the concept of hate speech and how the sociologists have given their respective theories in it, then the paper talks about the three major issues which are the birth of hate speech that are mob lynching, hate speech during elections and role of social media in promoting the crime respectively. The paper before the conclusion provides a short comment on the new IT guidelines to regulate the content of social media and gives view that why the nation need such polices to reduce the crime of hate speech and answers the question as to whether or not the policy is a positive for the society or the negative.

Keywords: *Hate speech, mob lynching, election, social media, Indian penal code.*

I. INTRODUCTION

"Like an unchecked cancer, hate corrodes the personality and eats away its vital unity. Hate destroys a man sense of values and his objectivity. It causes him to describe the beautiful as ugly and the ugly as beautiful, and to confuse the true with the false and the false with the true."

- Martin Luther king Jr.

Hate speech definition is elusive in nature as said in the above statement it is generally characterised by its own potential effects which mean that it “promotes fear, incites violence, articulates identifies as divisive, indoctrinates prejudice and promotes discrimination” (Aman panchayat, November 2009).³ Although there is no common or one universal definition of hate speech but it is generally defined by various sociologists and anatomist crime analyst as an expression or sets of expression which promotes hatred on the basis of national, racial or

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³ Ritika Patni & Kasturika Kaumudi, Regulation of Hate Speech, 2 NUJS L. REV. 749 (2009).

religion (Helen darbishire, 2009). In hate speech, person gets offended on the basis of racial, national or religious comment the most distinctive feature of this hate crime is that a person is attacked on basis of Representation of groups rather than being an individual.

India is a diverse nation with respect to cast, religion, cultures and ethnicities and it is due to this nature of India, nation becomes fragile in nature due to protecting rights and respecting all these diversifications. In India the influx of hate speech with respect to political sphere revolves around by the rise of communalism in politics due to religious groups on different side such as Muslim leagues on one side and the Rashtriyaswayamsevaksangh, hindumahasabha, vishwahindu parishad on the other (Donna M wulff, 2015). These groups have idolised the nation with one religion for example the second side always wanted the Hinduism to be supreme in India while the first wants Muslims to be supreme in the mid conflicts of these groups the politicians create a scene of vote bank and become a self-interest group with the crime.

Recently from the past five year the cases of hate speech have increased drastically, even the reports of the national crime bureau have claimed that India needs improvement with respect to the execution of laws that still persist in India while the judiciary have suggested certain amendments from the law makers with this in mind the authors chose this topic and will be covering different nuances of hate speech in India and how it has taken political and national turns over the years.

(A) Statement of Problem

In India problem of hate speech has been a prevalent problem with rising cases over the year on the chart of National crime record bureau the government has taken it seriously and have included it even in their election manifestos but is this what is actually happening? Since the Muzaffarnagar riots that took place in 2013 every political wing invest their time in this crime as a vote bank for them even our central government who often promised the laws against mob lynching till now have not taken any consolidated steps even after getting a recommendation from the apex court of the country, the social media has played a major role in spreading the fake news which has also benefited the interest groups with regards to the communal riots as they are only one click away in spreading the fake news. The laws with regards to it have many loopholes and is silent on the cause of it therefore with rising crime of hate speech in india it brings a question mark on the work of our forefathers of the nation.

(B) Research questions

1. What is the impact of hate speech in Indian society with a sociological theory?

2. How are hate speech as a crime is politically driven.
3. How laws are executed to curb the crime of hate speech in India?

(C) Research objectives

1. To analyse the problem of hate speech in giving rise to mob lynching.
2. To analyse the efficiency of laws with respect to hate speech.
3. To analyse the work of social media on contributing to the crime of hate speech.
4. To analyse the scope of recommendation on the basis of the existing laws.

II. REVIEW OF LITERATURE

(A) Review of Penal Laws

It's difficult to depict hate speech, and any term's vulnerability could impair its ability to be articulated. The previous section 66A of the Information Technology Act, 2002⁴, which was overturned in *Shreya Singhal*, is an example of how the legal arrangement's ambiguity contributed to its abuse. The accuracy of the resolution is one of the criteria used by the ECtHR in determining the validity of a state-imposed restriction. As a result, any attempt to represent despise speech should take into account the preceding guidelines.

Prompting to violence is the only model for determining whether or not an articulation is despise discourse. Indeed, even non-encouragement of hatred may be used to marginalise a group or person. In the current mechanical time, the anonymity of the web encourages a scoundrel to spread delusory and aggressive thoughts quickly.

These hypotheses don't usually lead to misuse, however they do potentially support the public's bigoted mentalities. As a result, in determining whether or not anything is despise rhetoric, urging to dogmatism is an important consideration.

Hate Speech has the power to persuade people or social orders to engage in psychological militant attacks, bombings, ethnic purification, and other forms of annihilation. This form of articulation is considered to be beyond the realm of guarded expression. Individuals' lives are irrefutably harmed by forceful speaking, putting their health and government assistance in jeopardy. It is harmful to communities and causes problems, and it stymies social progress. Hate rhetoric, if left unchecked, would have a significant impact on everyone's right to live.

⁴ Information Technology Act, 2002, S66-A, Act no. 10 of 2002.

(B) Review of Judicial Doctrines

Courts have repeatedly attested to the substantial authenticity of despise discourse provisos, including sections 153A and 295A IPC, on the basis of the 'general request' proviso cut out in article 19. (2). In *State of U.P. v. Lalai Singh Yadav*⁵, the Supreme Court attested to "the religious importance of sought guarantee." The State's need for assurance was established as a primary value to be defended in this decision, and courts can allot the State's need if their motivation is to protect health and harmony. Here is expressed the useful theory of organised insurance, without which the inventive mind and communication are aimless.

(C) Journal and articles

Jeffery Howard in **“free speech and hate speech”** explains the concept of the hate speech and what are the steps to distinguish it from the the freedom of expression. The author further examines whether or not hate speech should be banned and how stringent laws one country need regarding the hate speech the author talks about the moral rights of the freedom of expression.

Aditya Kumar Shukla in **“Balancing Freedom of Expression and Hate Speech: Case of India”** the author examines that the cases of hate speech in India either by a renowned person or from the media has increased which has caused distrust among the citizens. The author explains how government revoked the freedom of expression of few citizens to full fill their personal vendetta, the author also examines how media houses use this tool to increase their TRP of the shows. The author demandes stringent laws with cureent amendment to criminal law bill.

Ziya us salam in **“The forgotten saga of victim of hate crime”** discussed the case of lynching of mohammedakhlaq due to beef trade near Uttar Pradesh, the journal helped in ascertaining the point as to how hate speech helps in convincing people to commit a crime how mental state work with respect to sensitive issue like religion here they potrayed how Hinduism was considered supreme and was a basis of lynching. It helped the author to understand the various nuances of the crime.

III. CONCEPTUAL FOUNDATION: SOCIOLOGICAL THEORY

Hate speech directed at external groups is divided into two main categories The First, which is often associated with hate speech, involves degrading and demonizing the outside party and its members. The second goes from mental to physical and involves the promotion of violence

⁵State of U.P. v. Lalai Singh Yadav, AIR 1977 SC 202.

and even the death of outsiders.

(A) Dehumanization and demonization

Dehumanization practices involving humiliating groups and comparing them to subordinates are traditionally despised. Dehumanization of human dignity can achieve at least two political outcomes if passed successfully. First, it can gather members of an external group into one hated entity, robbing them of their unique personality and personality. This leads to a “collective guilt” in which all members of the group can be collectively blamed and charged with wrongdoing of any members. Second, by exposing certain groups as subordinate, the party within the party is exempt from any charge arising out of supporting or committing violence against them.

Demonic activity, on the other hand, involves portraying a group as superhuman, such as a giant beast, a robot, or a deadly disease such as cancer that is a deadly threat to the group. When presented in this way, the destruction of the enemy is not only acceptable, but also desirable and beneficial for the survival of the group. Demonstrating and degrading humanity is an extremist form of sectarianism and is a well-established tool to prevent political violence; therefore, they are worth their category more than the usual negative symptoms.

Example: The entire Muslim community was blamed for the talibaghjamat during the start of covid 19 in India.

(B) Violence and incitement

While the extermination of humanity and demonism expose groups of people in extremely evil ways, they do not condone the violence directed at them. However, another significant form of hate speech involves violence. In many cases, inciting violence against a particular group is a crime.

Example: Hate speech given at political rallies against a particular sect or religion.

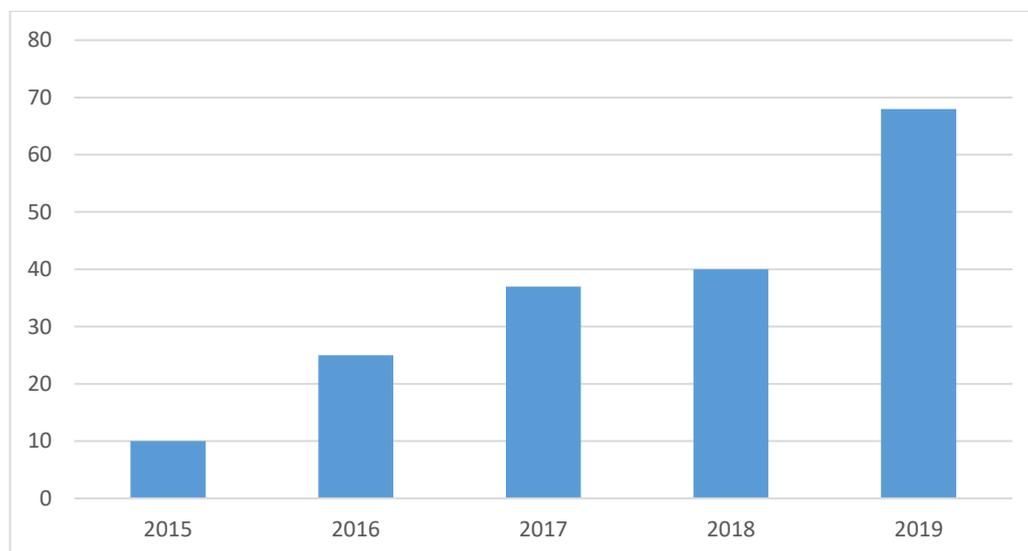
IV. ANALYTICAL THE ROLE OF HATE SPEECH IN MOB LYNCHING

Lynching is a type of illicit executing by hanging by a horde, acting freely of nearby police and law requirement authorities. Presently, be that as it may, it has gotten more extensive and can be portrayed as a demonstration or arrangement of activity by a gathering of individuals holding an unlawful gathering, going rogue and perpetrating a wrongdoing on an individual or gathering premise to force extra authorizes. In India lynching shows, interior strains between ethnic networks, networks now and again lynch suspects or dubious detainees.

There has been a great deal of ejection regarding steers stirring in India since 2014

predominantly including Hindu masses murdering Muslims and Indian Dalits. India is additionally encountering WhatsApp lynching, which is the issue of viciousness and killings related with the spread of reports, particularly identified with youngster kidnapping and mutilation, by means of WhatsApp message administration. Horde savagery, incredible equity and the ejection of numerous frenzies with a long history in India, yet will in general be nearby occasions.

What recognizes Indian WhatsApp lynching for 2017-2018 is that web-based media has empowered demonstrations of brutality to be recorded and scattered cross country in a manner to make and expand the condition of dread and bogus data that fills further viciousness in disconnected conditions. For instance, a video of lynching in Karnataka is connected to a progression of vicious lynching in Maharashtra.



Mob lynching deaths in India

(A) Cases

A programming master from Hyderabad was murdered when three of his companions, including a Qatari man, were squashed by a crowd they associated with being grabbing, in Kamalnagar in the Bidar locale of Karnataka.

- A Muslim man was assaulted by a horde in Kharsawan locale in Jharkhand on doubt of burglary on June 18. He was ruthlessly beaten for over 18 hours prior to being given over to police. Another video shows the casualty had to sing "Jai Shri Ram" and "Jai Hanuman".
- In 2018 in Bihar, a man was executed by a crowd with the message that individuals of one local area tossed stones at another local area walk.

- In 2019 a 44-year-elderly person was ruthlessly killed in the Bihar locale for a disdainful message of cows stirring.
- In 2018 a monstrous crowd assault in Andhra Pradesh for Hindi-talking individuals as disdainful messages spread that packs conveying youngster molesters from Bihar and Jharkhand were working in government.

Mob lynching is a type of coordinated disdain wrongdoing executed by a horde. Individuals ought to be thoughtful to such violations and not detached. Government should view this issue appropriately at any rate in territories where the rate of these cases is high. There should be an alternate law for IPCs to manage murder and regard for wrongdoing as there are no particular laws to manage this wrongdoing. In the event that fundamental isolated and new segments ought to be remembered for the IPC as there is another and separate classification to manage corrosive assault cases to be specific, segments 326A and 326B. Tragically this case has been dismissed since the finish of government as of not long ago. Severe lawful arrangement and brief condemning in horde lynching cases will fill in as a public security.

(B) Remedial Measures

- Except for the safety efforts taken by the public authority and police, with regards to neighbourhood police that an episode of lynching or crowd brutality has occurred, an official police headquarters will be introduced right away.
- It is the obligation of the station administrator to do this immediately moved toward a very much regarded locale official who it will likewise guarantee that there could be no further abuse of the relatives of the people in question.
- Such cases will be researched actually selected by the approving official, who will be he is answerable for guaranteeing that the examination is done effectively and charging paper included inside the law time.
- Cases of lynching misuse and hordes will direct preliminary by assigned courts in each region. Such courts will attempt cases each day. The case should be finished inside a half year.

(C) Some of the bills in relation to mob lynching are:

1. U.P combat of mob lynching bill

As indicated by information accessible from 2012 to 2019, 50 incidents of group savagery have occurred in Uttar Pradesh. In around 50 cases, 11 have kicked the bucket. Twenty five these were instances of genuine attack, including cattle observing (Gau-Rakshak). Uttar Pradesh law The Commission has incorporated a proposed charge that proposes it until he was condemned

to life in jail for criminal crimes.\ Chairperson of the Commission, Justice (retired.) AN Mittal gave the report crowd lynching, and no draft Bill to Prime Minister Yogi Adityanath. The commission said the current laws were not enough to battle lynching and demanded that there ought to be an alternate law to manage them. Recommended a sentence going from seven years in jail to life imprisonment for a wrongdoing.

2. Rajasthan's mob lynching bill

Rajasthan Legal Conference August 6, 2019, passed a bill against decimation in state.

- Anti-horde viciousness bill proposes arrest up to seven years and a fine of up to Rs. 1 lakh on the off chance that of easily harmed casualty.
- Those captured will be condemned to as long as 10 years in prison fine of Rs. 25,000 to Rs. 3 lakhs in case of an assault swarm or a truly harmed casualty.
- In case of a casualty's passing, Rajasthan Protection from the Lynching Bill, 2019 accommodates imprisonment and a fine from Rs. 1 to 5 lakhs for those saw as blameworthy in criminal cases of crowd lynching.

3. West Bengal (Prevention of lynching) Bill

The enactment, which has arrangement for capital punishment, says "nodal officials" will be named to "screen and organize anticipation of lynching". It proposes a prison term from three years to life for those engaged with attacking and harming an individual. The Bill, while characterizing terms, for example, "lynching" and "horde", says the West Bengal Lynching Compensation Scheme might be outlined under this Act

4. Religious Institutions Act (Prevention of Misuse), 1988

Section 3 (g) prohibits a religious institution or its administrator from authorizing the use of any premises under or under the control of that institution to promote or attempt to promote discord, hostility, hatred, hatred between different religions, race, language or regional or castes communities

5. Criminal Procedure Code, 1973

- Section 95 empowers the State Government to dispose of penalties under sections: 124A, 153A, 153B, 292, 293 or 295A IPC.
- Section 107 empowers the Presiding Magistrate to prevent a person from committing a breach of the peace or disturbing the peace of the community or committing any other act which is likely to cause a breach of the peace or disturb the peace of the community.

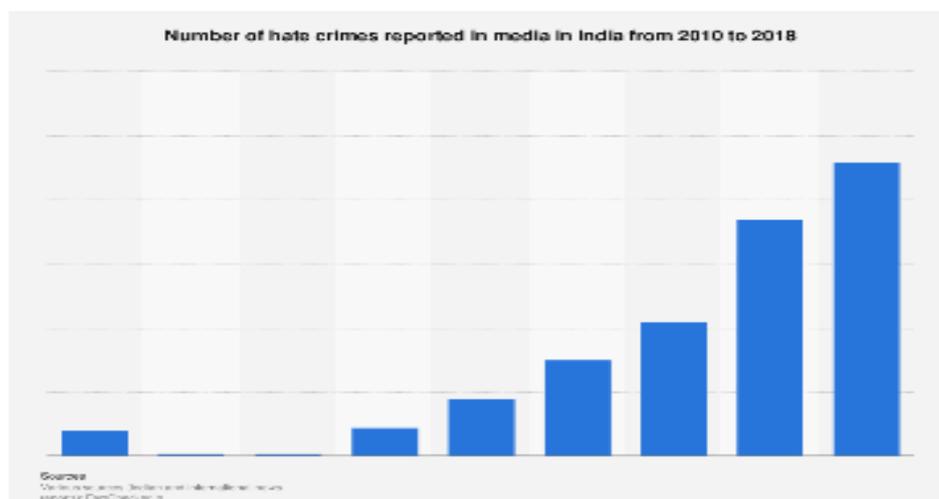
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- Section 144 empowers a Regional Magistrate, subordinate magistrate or other Presiding Magistrate empowered by the State Government in his or her name to issue orders in the event of an emergency or emergency. The above cases are known or perceived to be hundreds of.

V. ANALYTICAL-II THE ROLE OF HATE SPEECH DURING ELECTION

From the beginning of the election in India during 1952 at both level that is centre and states we have opted for a parliamentary form of democracy (Mohinder hill v the chief election commissioner, 1978). However nowadays since the beginning of this century and end of previous there have been a lot of inconsistencies and many problems which has framed its way for “anti-social elements” to enter the electoral system. However Election commissioner at times on the basis of the various committees recommendation has followed that there is a need for a amendments in the existing system of laws which governs the election (sumandeep Kaur, 2009) and at several occasions the EC have posted the guidelines and requested the government to review and work accordingly but electoral reforms are only in the books and reports but it’s execution and working is still to be implemented.

During 1961 when section 123 (3)(a) of the representation of people’s act was amended to comply the provision of Section 153 of IPC and moreover to have checks upon the violation of freedom of speech and expression during the elections over the years we have time and against failed the provision of all the legislation which exist in the subject matter. According to the latest report prepared by the election commission on the violation of the model code of conduct, there is an increment of cases by 2.6% on the domain of hate speech delivered during electoral speeches and campaign on the context of religion and anti-national statements.



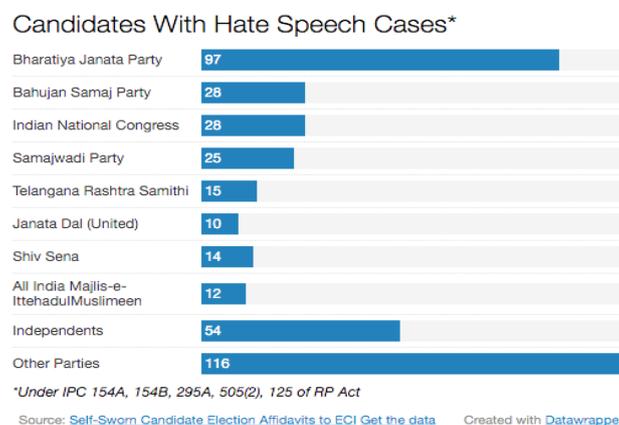
SOURCE: NCRB REPORT 2018

The above graph clearly shows the uprising of the hate speech cases in India with the advent of time over the year. Due to the careless attitude of the execution and the legislation in take in cognizance of such matter the crime has increased like a global warming rate where one can find approximately 489 cases of it on an average in each level of election be it local, state or centre at every level the cases of it can be traced quite evidently.

(A) Political Driven Agenda

How often do we come across the slogans of “Jai Shree Ram” “jaat ki maang hai, arakhshan ki Shaan hai” “Brahmin ke vikas pr lathi chalegih neechi jaat pr” it has become quite common these days to hear slogans which favour particular community and demean the sentiments of the minority community just for the sake of vote bank politics, we have laws but do we actually have laws is the ideal question which have been left unanswered. Politicians over the years took this sensitive issue of the society which is religion and nationalism to drive their way out of victory in elections by demanding votes on the basis of the cast, religion and various other sensitive issue. They are the same people who vows to the preamble of the constitution but do they actually stands upon the pillars of the preamble is the ideal questions which is left unanswered.

At each level of the election in our society politicians have demanded the votes on the basis of religion and caste. Don't forget the historic election of the Uttar Pradesh where the MCC was breached on numerous times on the pretext of the demanding votes on the basis of religion and inciting the communal tension. The same was observed during the recent election in Delhi where the protesters of CAA and NRC was the biggest issue made of religion, the politicians made it an opportunity to play with the sentiments of citizens to act as a self-interest groups to gain votes.



Source: Report of Election Commission

The above data clearly shows us the true picture of our electoral system, the same people who we expect to protect the law of the land are the one who breaks the most. Whom to blame is the real question that we need to ask ourselves is it them who delivers the speech which are religious and cast centric or the people who get influenced by it, the author believes that it is the later part it is the people who promote the motive of such people by getting influenced by them and voting for them.

This leads to the theory which author believes in is that who run the country it is the politician or the people the author believes the people since it is the people who get influenced by the actions which the politicians want them to do and hence they end up doing what the politicians asked them to do, so ultimately the motive of the politicians is completed but only by the people of the country.

(B) Non Political Agenda: A Myth

1. CASE STUDY 1: THE JNU PROTEST



The tukde-tukde gang of India which many of the people believe resides inside the prestigious campus of Jawahar Lal Nehru college of delhi in 2016 were charged of sedition under Section 124-A of IPC, but nearly all of the citizens are not aware as to what actually happened on February 9, 2016 in the campus only thing which was sure was that protest amongst the student union happened which lead to various derogatory slogans, but the question is when centre government was so sure of the anti-national statements and even the opposition criticised the issue but neither of them took effort to file a prompt FIR or charge sheet it was after six months of the Incident the charge sheet was filled and later it was also discovered that 7 out of 13 videos which were recorded and circulated are morphed video and holds no true evidence value according to Indian evidence act 1872.

This create a state of dilemma in the society that whether this act was left funded or right

funded, everyone finds and conclude that a riot between student wings are a political in nature but everyone is aware of the true picture of Indian Student wings and their association with politics.

2. Case Study 2: CAA NRC Protest



During the protest of the citizenship amendment act and NRC, various students wing leaders and politicians were accused of the derogatory statements which they made against the nation to originate hatred in the heart of the people, one such prime example was Sergil Ahmad who was arrested by the Delhi police under the IPC section 124-A and section 295-A. Similarly on various part of India students claimed to have exercised their power of doing peaceful protest but there rights were infringed by the police massacre. The social media was flooded with twisted facts to benefit the interests of different wings of politics which against give rise to the question was it an apolitical agenda or just a myth.

(C) Laws Applied with Respect to Subject Matter

1. Under Indian Penal code, 1860

- Section 124A IPC penalises sedition
- Section 153A IPC penalises “promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony”.
- Section 153B IPC penalises “imputations, assertions prejudicial to national-integration”
- Section 295A IPC penalises “deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs”.
- Section 298 IPC penalises “uttering, words, etc., with deliberate intent to wound the religious feelings of any person”.

- Section 505(1) and (2) IPC penalises “publication or circulation of any statement, rumour or report causing public mischief and enmity, hatred or ill-will between classes.”

2. The Representation of the people act, 1951

- Section 8 “disqualifies a person from contesting election if he is convicted for indulging in acts amounting to illegitimate use of freedom of speech and expression”.
- Section 123(3A) and section 125 “prohibits promotion of enmity on grounds of religion, race, caste, community or language in connection with election as a corrupt electoral practice and prohibits it”.

3. The protection of civil Rights act, 1955

- Section 7 “penalises incitement to, and encouragement of untouchability through words, either spoken or written, or by signs or by visible representations or otherwise”

VI. IMPACT OF SOCIAL MEDIA ON CRIME OF HATE SPEECH

Social media is one of the very fluids and flexible medium to spread the information, one is only a click away to include any kind of information they wish to post in the society. Over the years the crime of hate speech in terms of speeding fake news and inciting the sense of hatred in the society have increased like cloud creation process. Naturally since we lack a stringent law under the IT act 2000 the people take an undue advantage of it.

Over the year many stakeholders have demanded a separate legislation to curb the cybercrime or crimes which are happening at a digital world, a world which is a birth of this Century has its own merits and demerits. Digitalisation have helped achieved the injunction of news and information at ease. It has made people Connected with each other who have common believe and ideology in a digital space together.

One hand social media has been a boon for commercial purpose and has increased the reach of information drastically but on the other hand it has also increased the level of crimes in the digital space and one of such crime is spread of fake news which has a direct impact on hate speech crimes as well.

During elections the amount of fake news with respect to different wings of the political arena increases, since the information which digital space stores can be bought and manipulated very easily therefore during such times morphed photographs, videos and statistics are often circulated over the social media platform which at times incites the particular community as it leads to violation of their sentiments and therefor this leads to riots among groups.

(B) Review of Recent IT Guidelines

Recently the government has passed the new IT guidelines for regulating the content on the social media in the form of “**Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021**” whose ultimate aim is to protect the dignity of the content which is being shared over the digital space without infringing anyone’s freedom of speech and expression.

India claims to be the one of the largest open internet society in the world. However there have been issues and incidences where this tool was used in violating the rights and dignity of the citizens over the content which was shared over the digital space, which ultimately lead to rise to many digital crimes and one of them was the hate speech crime. Therefore on the recommendation of various reports of the committee and apex court of India the government issued the new IT guidelines which regulated the Content which will be shared over the internet, it includes indirect inclusion of government but they have claimed that no one’s right to speech will be taken away as it is a defence against the hate speech and not free speech. The setting up of the compliance officer in each media house was to ensure that the media house qualifies for the provision of the IT act and they do not breach any obligation arising in the said legislation. The government made sure that the officer will be an independent officer and the person will be held accountable on the pretext of the breach of the duty. Therefore such progressive policies are much needed in India if implemented in the right way as promised on paper then it can work wonders was eliminating the crime of hate speech in digital space.

VII. CONCLUSION

Therefore the above paper has in depth has analysed the effect of hate speech on the society and has further analysed the various instances in which innocent people have lost their lives the cases of mob lynching have been rising considerably for the past 5 years under the reign of current government. The main reason behind the rise of mob lynching is the absence of fear of judiciary and the police. Hate speeches of renowned political figures have also acted as a cause. The criminal law in our country faces a huge loophole as there is no law that criminalises mob lynching Under IPC which has punishment for crimes like murder, culpable homicide etc there is no law to punish mob lynching

The supreme court again and again has advised the parliament to make laws regarding mob lynching. However only laws without any proper interpretation will give no results new laws under ipc should be implemented related to. Mob lynching like section 326 A of IPC which

deals with acid attack.

A centralised system of strict laws is also required as now only few states like Rajasthan and UP have passed bills related to. Mob lynching which has also not got proper media coverage

The above paper also analysed how the hate speech which is delivered during election has a political agenda and major issues which arises from it are claimed to be a political is mere a myth. India needs more

Comprehensive and stringent laws to regulate the subject matter for example section 295-A of IPC defining public order with regards to state restriction under article 19(2) of the Indian constitution need to have a more liberal interpretation.

The impact of social media cannot be over looked on spreading the crime, therefore it is very important that policies like new IT guidelines and many other censorship and regulation as recommended by the law commission report. Because if it is not us then who? And if not now than when?

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