

HATE SPEECH IN INDIA

AN OVERVIEW



JUSTICE AND EMPOWERMENT
OF MINORITIES

(A Jamiat Ulama-i-Hind Initiative)



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Executive Summary

Hate speech and hate crimes poison societies by threatening individual rights, human dignity and equality, reinforcing tensions between social groups, disturbing public peace and public order, and jeopardising peaceful coexistence. They effect private lives, or in cases of violent bias crimes, even victims' life and limb. They stigmatise and terrify whole communities. They erode social cohesion, solidarity, and trust between members of society. Hate speech blocks rational public debate, without which no democracy can exist; it leads to an abuse of rights that endangers the rule of law.

India is a democratic country and freedom of speech is one of our fundamental rights, but there are certain limitations on free speech like if the speech is harmful to others or if it threatens someone or if it is repulsive then, in that case, that person will be punished.

Talking about hate speech in India is prohibited under several sections of the Indian penal code because the laws of hate speech in India are to prevent discord among its many communities and people. Hate speech is any word written or spoken to someone that defames or dehumanizes a class of people based on colour, caste, gender or religion, etc. The speech only carries no meaning other than an expression of hatred for other people.

Hate speech is growing day by day in India because of negligence, people misunderstood that freedom of speech does not mean that a person can speak whatever he feels right. India is a highly populated country and it has various religions and caste so people will discriminate against each other and will follow the caste system it is becoming a major problem of spreading hate speech in India. People need to understand that they should not spread hate speech rather they should be united towards each other.



CAUSES OF HATE SPEECH IN INDIA:

Sense of superiority

It is one of the main reasons that give voice to hate speech when there enters a feeling of superiority of oneself over other than at that point the person starts dominating the other person or groups or communities.

Stubborn behaviour towards a particular ideology

When a person or group or community starts showing their stubborn behaviour, do not listen to the other person, opinion, thoughts, or perception then at that particular time it leads to the spread of hate speech in India because people are losing their patience and trying to rule over the other person that causes hatred.

Negative stereotypes

The people who are negative stereotypes lead us to think of another individual as inferior and less worthy which creates a sense of hate speech and the reason why negative stereotypes occur is because of the systems of oppression – discriminatory structures, etc.

Hate speech and hate crime have been steadily on the rise during the past decade. Most importantly, hate speech has also appeared at the highest level of the public administration of some Member States, where transformation into policy is just one step away. The liberal stance towards hate speech

No society is immune from the signs of hatred, but whether they get tamed or deepened, depends on the social measures that are applied vis-à-vis the phenomenon

was built on the presumption that the state and the social majority would uphold democratic standards under all circumstances, and distance themselves from hate speakers, who would inevitably remain outcasts. But when state representatives remain silent or openly support hate speech and hate crimes, this assumption holds no longer. The non-organised, individual haters derive authority from the failure of the state to intervene.

No society is immune from the signs of hatred, but whether they get tamed or deepened, depends on the social measures that are applied vis-à-vis the phenomenon. Whether by speech, action or omission, the state's reaction creates norms, and informs society about the current acceptable standards. According to recent academic literature, counter-speech is crucial in the fight against racism and other forms of intolerance. Counter-speech should be backed up also by action: official policy on social inclusion, such as education, awareness-raising, and social programmes to level economic and other inequalities. Besides, counter-action is also recommended:

Hate crimes target people for their innate, unchangeable or other characteristics, which are part of their identity

strengthening the institutional system to combat hate speech and hate crime.

In order to build social resilience, notice should be taken of the fears and concerns that make people susceptible to populist, discriminative or even racist views. Linguistic and psychological research could greatly contribute to yielding fresh knowledge about the intriguing success of hate speech and populism. Research to process and decode the ‘hate narrative’ and to define what is the real concern behind hate should be supported by all. Those concerns should be addressed and managed with adequate and substantial social policy, and also addressed with credible narratives, which respond to the fears, inform citizens and reinforce the values of human rights, equality, tolerance and solidarity.

Beside soft measures that serve to build social resilience against hate speech, hard measures are also recommended to create a solid framework and institutional network to tackle hate speech and hate crime. Enforcement of legal prohibitions of hate crimes and hate speech should be more consequent on the level of investigation, prosecution and the judiciary.

A predominant part of hate speech incidents ought to be tackled by administrative law rather than criminal law, so as to employ the least intrusive measures when it comes to speech restrictions, but also in order to avoid that those engaging in hate speech present themselves as martyrs or victims of the justice system.

Victims who are perceived by perpetrators – whether correctly or mistakenly – to be members of protected groups, and also persons affiliated with others belonging to protected groups should be covered by hate crime laws and provisions. Penalty enhancements in case of bias motivation should apply to the widest possible range of crimes.

Bias indicators, i.e. a pre-defined list of factors should be considered by the investigation authorities that might point to a bias motive. It is important to act promptly and consider bias indicators from the beginning of the investigation. Albeit they do not qualify as conclusive evidence to prove the motivation, bias indicators might also be revisited by the prosecution when establishing the motive in hate crime cases.

Hate crimes target people for their innate, unchangeable or other characteristics, which are part of their identity. These characteristics may be connected to marginalisation, vulnerability, sexuality or other sensitive aspects of life people do not wish to disclose or address at all, and certainly not in front of state authorities.



Victims should also be given a chance to oppose the dropping of a case. Should the prosecutor decide to discontinue the case, the victim should be able to press on with the charges. If a court decides not to apply the sui generis provision or the enhanced penalty and the victim disagrees with this decision, the victim should have possibility to avail of a legal remedy, which could lead to a revision of the court's decision by a higher court.

Courts should establish criminal responsibility in hate crimes and not just the base crimes, in case a criminal act was committed out of a bias motive. Bias indicators, albeit soft factors are a good point of departure helping the prosecutor and the judge where to search for circumstantial evidence. Inferring motives – such as revenge, jealousy – from the words, actions and circumstances of the crime is an everyday practice in criminal proceedings. It should be no different with the bias motivation either. Courts should acknowledge bias motivations also in case motives are mixed.

Alternative punishments are recommended which promote social understanding and cohesion, rather than further deepen the problems of polarisation, stigmatisation and hostility. Along adequate victim protection measures and in parallel to ensuring voluntariness of all parties, victim-offender mediation or other forms of restorative justice could be introduced and applied.

HATE SPEECH

The term “Hate Speech” is used inclusively according to its everyday meaning, covering all expressions and manifestations of racism, xenophobia, homophobia, etc., and for distinction of the legal category “criminal hate speech” or specifically “incitement to hatred” is used.

Hate speech has been a steadily growing social problem since the new millennium. The past five years have brought yet new challenges in Europe: a migration crisis, political upheaval due to populism, disinformation and the pandemic – processes which increase feelings of insecurity, and make the future unforeseeable. Populism is not only part of the problem but also a symptom.

Hate speech is becoming especially prevalent in the social media where both political actors and citizens express their thoughts without inhibition. The attempts to regulate hate speech on social media so far have brought ambiguous effect.

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Freedom of speech is a cornerstone of democracies, and the threshold of criminal hate speech is high in most modern societies. Decisions of ordinary and supreme courts have declared principles, which protect freedom of expression. Indeed, the substantial body of extreme, intolerant and racist speech would not reach the threshold of criminal regulation, and yet they induce social changes: polarise the society, raise hostility between majorities and minorities and induce violent hate crimes. Views which are “perfectly legal” gain recognition, hate speakers gain parliamentary seats or even executive power, and the incriminate views threaten to turn into governmental policies.

In theory, long-standing, prosperous and stable democracies should be able to battle hate with social instruments only and without criminal restriction: unambiguous representation of the values of tolerance and plurality in all public institutions, banning haters from resources which would lead to financial, political or media power and label them as an extreme and despicable minority

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themselves – whose rights to speak are however respected equally. This ideal situation is not what we are observing in Europe. On the contrary, haters are gaining media attention, gaining social influence, political power, and through their infiltration to politics, public institutions are unable to consequently represent tolerance and plurality any longer in several modern societies.

And yet, lowering the threshold of criminal hate speech is not an option, and it would not provide a remedy. The problem of hate speech and hate crime should be regarded as a complex social problem, and a symptomatic response given by societies to the challenges, which have not been adequately managed. The policy response should be similarly complex: addressing the underlying issues and the symptoms at the same time. While it may appear that populist politicians respond to the needs of their electorate, in reality they serve only a tiny but loud minority. But it should be noted that the underlying problems are more general problems of the wider majority, and that a political alternative should be provided which offers solution to the problem and communicates this, as well.

Nevertheless, legal – albeit not necessarily only criminal – prohibition is and remains one among the important symbolic messages and actions with which a state can express its values and set its standards.



HATE CRIMES

“Hate Crime” is a criminological concept, an umbrella term that refers to a group of crimes as defined by national criminal laws. Accordingly, a hate crime is not one particular offence; instead it can take many forms from damaging property to killing people.

The first element of a hate crime is an act that constitutes a crime under ordinary criminal law. The base offences may in theory include any criminal offence against persons or property, or the public peace, including manslaughter, assault, harassment, damage to property, hooliganism, etc. The gravity of the criminal offence is irrelevant: hate crimes can take the form of petty crimes, misdemeanours or serious offences equally. The spectrum of base crimes varies from jurisdiction to jurisdiction, as national substantive criminal law provisions show great differences in this regard.

Should there not be a base crime, only a bias motive, the act will not qualify as a hate crime. One such example is discrimination. It refers to a less favourable treatment of individuals in various areas (for example in employment, education, vocational training or access to goods and services) on the basis of certain protected characteristics. Discrimination may pave the way to hate crimes, but discrimination alone does not qualify as a hate crime, since typically discrimination is covered by civil or

Both discrimination and also certain forms of hate speech might be the stepping stones to violent hate crimes, these behaviours must be addressed by the state

administrative law, and does not amount to a crime under the national criminal code. Another textbook example for bias motivated behaviour that does not amount to hate crime is hate speech. The human behaviour underlying hate speech is speech, which is obviously not a crime, quite to the contrary, it is a constitutionally protected human act. Lacking a base crime, these behaviours are not regarded as hate crimes, even when they are criminalised. This does not mean that these manifestations can be left unanswered. Quite to the contrary, since both discrimination and also certain forms of hate speech might be the stepping stones to violent hate crimes, these behaviours must be addressed by the state, so as not to allow minor manifestations of hostility have a ripple effect and escalate into violent bias crimes.

The second element of a hate crime is that the criminal act is committed with a particular motive, a so- called bias. It is this element of bias motive that differentiates hate crimes from ordinary crimes. The bias motive is the perpetrator’s

prejudice towards the target: victims, premises, or the target of the offence are selected because of their real or perceived connection, attachment, affiliation, support, or membership with a protected group. Protected characteristic typically include race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, but the bias may be triggered also by other factors.

Hate is often the motive behind criminality (see crimes committed out of jealousy or revenge). In case of hate crimes however perpetration is fuelled by hatred against the group to which the victim belongs, and that is the sole or primary motivation behind the crime. Borrowing the words of André Frossard, French Academician: a hate crime occurs when one kills or assaults “someone under the pretext that he was born.”

Hate crimes have a considerably greater impact than ordinary crimes on direct victims, the victim’s community and society as a whole.

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Since the victims of hate crimes are often targeted for an immutable, unchangeable characteristic, or one that is the core of one’s identity, the impact of the crime, the feeling of vulnerability, helplessness and hopelessness on the side of the direct victim may be especially grave. The act also has a severe impact on the wider community, the targeted group, which typically is a historically disadvantages one, or a minority in the sense of a powerlessness. Hate crimes may well erode societal cohesion, reinforce social tensions, and trigger retaliation that results in a vicious circle of violence and counter-violence. These special characteristics offer good enough reasons for addressing hate crimes differently than ordinary crimes, for example in the form of sui generis hate crime provisions incorporated into the criminal code or by making hate against the victim’s group a qualifying circumstance.

UN documents addressing hate speech and hate crimes

Member states of the United Nations recognised by the adoption of the **Universal Declaration of Human Rights (UDHR)** in 1948 that all humans are born free and are equal in dignity and rights, without distinction of any kind, such as racial, ethnic origin, colour, religion, gender identity and sexual orientation or any other status. Even though the document fails to impose any specific legal obligations on states, it has become highly persuasive and provided a basis for



more specific binding and justiciable international norms.

The first global human rights treaty specifically addressing the most heinous forms of bias is the **Convention on the Prevention and Punishment of the Crime of Genocide**, which was adopted unanimously by the United Nations General Assembly in 1948. According to Article III.c. of this Convention, direct and public incitement to commit genocide shall be punishable as a crime under international law, and states undertook to prevent and punish such crimes. Genocide is defined narrowly: it requires the intention to destroy, in whole or in part, a national, ethnical, racial or religious group (Article II). Therefore, “incitement to genocide” could only be established in the most straightforward case of the Rwandan genocide, where radio broadcasts instigated the civil population against the minority ethnic group.

The Genocide Convention was in part built on the legal foundation of the International Military (Nuremberg) Tribunal, which convicted Julius Streicher, publisher of the anti-Semitic weekly “Der Stürmer”, and subsequently Otto Dietrich, who controlled the press section in the propaganda ministry under Joseph Goebbels from 1938 until 1945.

The International Tribunal for Yugoslavia had also discussed Article III.c., but finally was unable to establish the cause and effect relationship

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between the expressions of Vojislav Šešelj – calling for the expulsion of the non-Serbian population – and the war crimes. Nevertheless, his responsibility was established for instigating deportation, forcible displacement, forcible transfers, and persecution as crimes against humanity and he was sentenced to 10 years imprisonment.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) of 1965 in Articles 4 and 6 prohibits discriminatory speech and action on a significantly broader scale. It obliges states to criminalise certain forms of hate speech and the commission of or incitement to acts of violence against any race, group of persons of another colour or ethnic group; furthermore, states must create the legal and institutional basis to provide effective protection and remedies against any acts of racial discrimination, and must provide for reparation and satisfaction for damages suffered as a result of discrimination.

In 2018, the UN Secretary-General launched the UN Strategy and Plan of Action on Hate Speech. The initiative was to respond to a surge in global hate speech

The International Covenant on Civil and Political Rights (ICCPR) of 1966 (entered into force in 1976) especially its Article 20 – as interpreted together with Article 19 – is the most relevant international provision relating to “hate speech.” Its definition is sufficiently narrowly defined: the list of protected characteristics is short and closed (national, racial or religious hatred), it requires “advocacy”, that is, an intentional and public promotion of hatred; the advocated “hatred” is supposed to constitute incitement to discrimination, hostility or violence, i.e. illegal material actions.

Beyond the above international treaties, in the UN framework various debates and programmes against hate speech deserve attention. One major disagreement in the 21st century was around the distinction of blasphemy and hate speech for religious identity. UN Resolution 16/18 intended to solve this contradiction, and the Rabat Plan of Action was designed as a tool to guide its implementation. The Rabat Plan of Action clarified the relationship of Article 19 and Article 20(2) of ICCPR,

and set out practical guidance to clarify the obligations of states under Article 20(2). Most importantly, the Rabat Plan of Action sets out a six-part threshold-test to help draw the line between objectionable and offensive, but not punishable expressions, and illegal hate speech. The six factors are: context, speaker, intent, content and form, reach or magnitude of the speech, and likelihood of the harm. The particular importance of the Rabat Plan of Action lies in its distinctive factors that are able to separate low-value online speech from speech, which is likely to have a higher social impact.

In 2018, the UN Secretary-General launched the UN Strategy and Plan of Action on Hate Speech. The initiative was to respond to a surge in global hate speech, which has moved into the mainstream, and started to threaten democratic values even in established democracies. The Plan identified 13 Key Commitments, which together represent a complex social and political strategy to fight against intolerance – without mentioning legal restrictions of speech at all. The strategic plan relies on searching for causes through research and data analysis, applying counter-speech in the form of spreading knowledge and strategic communication as well as advocacy. It aims to address hate speech through a coordinated response that tackles the root causes and drivers of hate speech, as well as its impact on victims and societies. From the European



perspective, this approach is certainly more apt to tackle the problem of hate speech especially seen as the stepping stone of hate crimes in an era when the dripping of hatred through the myriads of communication channels is hardly controllable without turning off the tap.

The UN has also initiated several civil society-based action plans globally to prevent violent extremism, in particular with respect to the terrorism. Several of these programs are rooted in the United Nations Development Programme (UNDP), and support the design of regional, national and local strategies with a variety of tools and plans. While their focus is more specific, their accumulated knowledge and lessons learned are worth considering. UNESCO has published a comprehensive overview of the international legislative actions that addressed online hate speech and also the social responses by the IT industry (Gagliardone et al). **The United Nation Alliance of Civilisations (UNAOC) launched an initiative #SpreadNoHate**, to engage global media in a dialogue on hate speech and the sharing of best practices to promote counter narratives in media. UNAOC has a range of other projects to promote global solidarity and dialogues.

WHAT IS HATE SPEECH?

The Supreme Court in the case of *Pravasi Bhalai Sangathan vs. UoI* (2014) has analysed the issue and stated that Hate Speech marginalises individuals

Hate speech lays the groundwork for later, broad attacks on vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide

based on their identity that Hate Speech lays the foundation for attacks on the vulnerable people including violent ones. The Court stated as follows:

“Hate speech is an effort to marginalise individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have a societal impact. Hate speech lays the groundwork for later, broad attacks on vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide. Hate speech also impacts a protected group’s ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy.”

India’s legal regime does not have a statute concerning hate speech nor does

it have a definition for it. If a person has to be charged with such act, there are various provisions under the Indian Penal Code and –as an extension– the Representation of Peoples Act, 1951 or the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Additionally, the state is empowered under Criminal Procedure Code to curb speech or such representation of hatred in various forms by banning these etc. In the years since India became independent, there are various instances of the state's excesses in banning a book in deference to the sentiments or beliefs of a section of the population. Of late, the growing phenomenon of public figures and politicians propagating views (hate speech) that target and marginalise sections of societies, in their speeches in rallies and yatras, has become rampant. Before getting into the discussion on Hate Speech and how can it be distinguished from speech that is satirical and humorous, it is important to briefly look at the provisions that the Indian legal system employs to deal with Hate Speech.

The regime can be roughly divided into two branches. One is the Penal Code, and another are the specific laws.

1) Indian Penal Code

Sections 153A, 153B, 295A, 298 and 505 are the ones that can be understood to constitute elements of hate speech.

Section 153A deals with promoting enmity between different groups on the grounds of religions, race, place

of birth, residence, language etc. and committing acts prejudicial to maintenance of harmony. Section 153B deals with imputations, assertions that are prejudicial to national integrity. Section 295A narrows down the scope from national integrity and harmony to deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs. Section 298 too, deals with speech that is deliberately intended to wound religious feelings. Section 505 is a distant one from the paradigm of insult to religious feelings or promoting enmity, but it does deal with statements conducing to public mischief.

Section 95 of the Criminal Procedure Code states that the state government has the power to ban a new paper or a book or any documents, via notification, that has content-as appears to the state government-punishable under Sections 153A, 153B and 295A.

The Representation of Peoples Act, 1951 also has provisions regarding Hate Speech (manipulation of religion for political ends). Section 125 states that – Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable, with imprisonment for a term which may extend to three years, or with fine, or with both.”



This is on the lines of 153A but just within the contours of an election, and it can be safely assumed that this specific provision is to deter elections and political processes from becoming grounds for division, given the secular nature of the country and Secularism being an inherent characteristic of the Indian state despite its late entry into the preamble.

2) Specific Laws- The SC ST (Prevention of Atrocities Act), 1989

Section 3(1)(x), The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989(SC/ST Act) states that one who intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within

public view shall be punished with imprisonment of not less than 6 months that can extend up to 5 years.

This law holds significance in understanding the difference between speech that is satire and speech that constitutes hate speech. This provision does not speak of punishing the promotion of enmity or ill will against the members of the Scheduled Castes or the Scheduled Tribes. There is a separate provision in the act, within the same section i.e. Section 3(1) (u), to address such acts. Section 3(1) (x) however deals with a more sensitive and specific kind of speech and forbids it to correct the historical injustices done to the marginalised. This provision recognises that the any attempt to devalue and dehumanise a person

based on their belonging to a caste, would create a hostile environment for the whole community.

Need for redefining and adopting Hate Speech to Indian Legal regime.

The reason we need a separate understanding of Hate Speech is that the existing penal provisions regarding hate speech are legacies from not only a colonial past but they have constructed hate speech within the contours of acts that are ‘detrimental to harmony’ between two groups of society and therefore with a potential to cause harm to public order. For example, one can be charged under IPC for promoting enmity between two religions under Section 153 A and not for vile insults that de-value and de-humanise certain communities.

In *Bilal Ahmed Kaloo vs State of AP* (1997), the Supreme Court had held that merely hurting other people’s religious sentiments cannot amount to the crimes made Section 153B or Section 505 of the IPC. The Judgement stated:

“The common feature in both sections being promotion of feeling of enmity, hatred or ill-will “between different” religious or racial or language or regional groups or castes and communities it is necessary that at least two such groups or communities should be involved. Merely inciting the felling of one community or group without any reference to any other

community or group cannot attract either of the two sections.”

A clear identification of groups and pitching them against one another with clear intention is required under Section 153A. However, to put them on par with hate speech is an unwise mistake. Enmity and Hatred or Ill-Will have a different impact that Hate Speech does. The same distinction can be seen in the provisions of the SC ST act between Section 3(1)(x) which deals with specific Hate Speech and the Section 3 (1) (u) which deals with promoting enmity. Hate Speech not just promotes enmity but it slowly, like an opiate, given in consistent doses has a deleterious effect on the confidence and dignity of the whole community against whom the hate is being spewed. That is why we need to have a separate approach, in dealing with Hate Speech.

UNDERSTANDING HATE SPEECH RESTRICTIONS

Article 19 (2) of the Indian Constitution provides for an exception to Article 19 (1) (a) i.e., to the right to freedom of speech and expression. Article 19(2) states – “Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India], the security of the State, friendly



relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.”

Therefore, if there needs to be a law that is to restrict freedom of speech, it should be formulated under the grounds available in Article 19(2). The closest grounds for restriction on Hate Speech can be narrowed down to Incitement of an Offence, Public Order, Decency and Morality. The strength of a Hate Speech Law could be derived from the restrictions on the violent actions that are incited on the basis of hate speech, discrimination that is caused against a section and the curtailment of equality and dignity that results. Public Order, decency and morality under the Indian Constitutional Scheme envisage that one and all sections feel they are treated as equals and live lives of non-discrimination and dignity. The decency or the morality is construed not on the basis of public perception but on the basis of Constitution. A simple question and our answer to that question can indicate whether a law restricting hate speech falls under morality restriction of Article 19(2). The question would be -Is it within the contours of Constitutional Morality to allow the de-basing and de-humanising treatment of the minorities- gender and religious and marginalised castes that subject them to a vulnerable state, an aggressive and non-conducive environment? The answer should be NO, given that the Articles 14, 15, 16, 17, 21, 25, 26, 27, 28, 29, 30 of the Constitution

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assure otherwise[8] The emphasis on the special provisions for the minorities and the marginalised section indicates that the Constitutional morality does not allow such non-conducive environment. The Supreme Court in the case of Dr. Ramesh Yeshwant Prabhoo v. Prabhakar Kashinath Kunte, dealt with the scope of the word ‘decency’ in Article 19 (2) and it stated:

“Thus, the ordinary dictionary meaning of ‘decency’ indicates that the action must be in conformity with the current standards of behaviour or propriety, etc. In a secular polity, the requirement of correct behaviour or propriety is that an appeal for votes should not be made on the ground of the candidate’s religion which by itself is no index of the suitability of a candidate for membership of the House.

It is in this reasoning lies the conclusion that restriction on Hate Speech is very well covered in Article 19(2).

Until now, two issues have been dealt with, in this discussion. One is that the existing legal regime that deals with Hate Speech is inadequate, rightly so, since it was designed to deal with harmony

Hate Speech is perpetuated not just against identities based on religion or castes. It is a product or systemic phenomenon and a tool normally used by the powerful to further alienate the powerless

within the country and to make sure there is not enmity between different sections. The second issue is that the restriction on Hate Speech would not be infringing the right enshrined in Article 19(1)(a) of the constitution since it would fall under the Incitement to Offence, Decency and Morality restriction, given the interpretation of Decency and Morality within the system of constitutional values.

The final issue to be formulated is, what actually constitutes as Hate Speech to enable a restriction to be placed on it. Would humorous or satirical comment on a sects or identity be construed as Hate speech? Arguably, this should not be considered as such. Not only would such a restrictive definition be used by an already powerful state to stifle

dissent. Even were that not so, it would be an unconstitutional restriction to have in place. The distinction, Jeremy Waldron, says is rooted in protecting the dignity of the individual. He argues that there is difference between protecting an individual from getting offended and a protecting an individual from losing their dignity.

The 267th Law Commission report did give recommendations to insert a 153C and 505A and associated provisions in the CrPC to deal with Hate Speech.

Hate Speech is perpetuated not just against identities based on religion or castes. It is the product or systemic phenomenon and a tool that is normally used by the powerful to further alienate the powerless, in a polity. If we recognise this characteristic of Hate Speech, it will be easier to legislate against it. And for that, the conversations that go into arriving at such a definition have greater impact than the law itself. The law on restricting hate speech too, if made, will probably do more via the conversations it propels rather than the convictions it may or may not effect.



2022

Review of Hate Speeches

For the Indian Muslims and other minorities including the Christian and Dalits (Backward classes), 2022 was yet another year of continued harassment at all levels, be it physical or psychological. New methods were adopted to intimidate them; coinage of new vocabulary linking unrelated Arabic words, like ‘Jihad’ to different socio-political acts was started.

In addition, it also followed the time-tested script of state machinery kowtowing to the powers that be, particularly the right-wing Hindu elements at every step, which further emboldened them. Assured of the state’s leniency and patronage, these anti-social elements devised new strategies to mentally harass and physically torture and abuse the country’s minorities with an obvious full support of the state and the media, which continued to spew venom against the Indian minorities and in particular the Muslims.

Most of the times, the media fabricated

new narratives based on distorted facts and lies and adopted new machinations to indulge in and further the agenda setting and narrative formation in the Indian media, widely.

The year saw a flurry of anti-Muslim activity on various social media platforms. The most wrongly used Arabic word in this activity was Jihad. It was linked to various acts and new coinages spread like wildfire, Jihad was manifested through, ‘Love Jihad’, ‘Biryani Jihad’, ‘Flood Jihad’, ‘Population Jihad’, ‘Thook (spit) Jihad’.

In addition, a yearlong campaign against the Hijab (headscarves) continued, targeting the young Muslim students, apparently in an effort to force them to withdraw from educational institutions and thus remain illiterate.

Another tactic to intimidate the Muslim and Dalit communities was to start demolition drives against whole

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localities or a selected few. In this instance making a mockery of the judicial system, the affected families or communities were not given any advance notice of the demolition and the reason given for demolishing their homes were mostly flimsy. In most cases the local administration and the police justified the action as allegedly these peoples were involved in either raising anti-Hindu slogans or allegedly indulging in an anti-Hindu activity.

Another worrisome development was the consistent attack on the idea of rights. In recent times the word “rights” has been conspicuous in its absence from the government’s outreach and public focussed activities. A start was made when it innocuously invoked ‘duties’ as a complement to ‘rights’. This was done in spite of the fact that even the Indian Constitution does not put them on the same level. Now, it is not only about duties with rights, but also that duties, must in effect, exceed rights. Thus, the common citizen should not demand ‘rights’ as he is more obligated to serve his ‘duties’.

2022 saw a total of 560 cases of Hate

Crimes against Muslims, Dalits and Christians in India. The number relates to those cases, which have been verified by JEM. The numbers of unverified cases run into thousands.

The point to be noted here is that though 560 may sound a small number in a country of more than a billion people. But we have to understand that the spread of polarisation through these Hate Cases using the electronic and social media, affects the mindset of millions of people across the country. With the help of this narrative building the right-wing Hindu elements wanted to convey, and indeed they were able to convey and convince the millions of Hindus across the country that they are under threat, because if the minorities are not shown their right place in the country, then they’ll ultimately again rule over the Hindus.

Apparently, all these efforts are towards making India a ‘Hindu Rashtra’. Through these campaigns right-wing Hindu organisations were trying to create an atmosphere of hate and create animosity amongst the majority and minority communities. Though by and large the Indian populace is not ready to buy these tactics of the right-wing Hindu organisations. This fact is further buttressed by the fact that 67% of the voters didn’t voted for the Bharatiya Janata Party in the country’s last general elections. Yet, by focussing on just 33% of the voters the right-wing elements are hell bent on creating a



vicious and poisonous atmosphere in the country.

To spread this hate narrative they have captured the majority of the media particularly the electronic media, which through various news channels continue to spew venom and create a false narrative against the minorities of the country. In addition these right-wing organisations have established IT cells which pedal false news and incidents to further spread their hate narrative to polarise the country on communal lines.

The first quarter of 2022, saw a relative decrease in targeted anti-Muslim Hate Crimes, but it saw an increase in Hate Speech made by the right-wing extremist leaders against Indian Muslims, Christians and Dalits. The rising tide of targeted multi-pronged violent attacks continued on the Muslim community, and it also took new overt forms of direct and indirect violence, discrimination, exclusion and dehumanisation.

The past year started on an ominous note for many Indian Muslim women, who woke up on the first day of the new year to find their profiles listed for an 'online auction' at 'Bulli Bai' on the open-source platform GitHub. Photographs of more than 100 Muslim women including several journalists, scholars, activists and politicians were displayed on the app for auction as 'Bulli Bai' of the day.

These auctions displayed the moral

degradation of some of the Indian public and betrayal of its constitutional values. But no stern action was taken, against such rampant Islamophobic, misogynist and communal targeting by the authorities. Some alleged low-level perpetrators got arrested but they were released soon.

In the first month of the new year, six female Muslim students staged a weeks-long protest after they were told to either remove their Hijab (headscarves) or stop attending class at a government college in the Udupi district of Karnataka.

The right to freedom of religion of Muslim girls was violated and denied by educational institutions, which chose to impose a ban on Hijab, as the Karnataka state government directed schools and colleges to impose a ban on 'Hijab'. This illegal and unconstitutional ban was challenged in the state's High Court, but the court upheld the Karnataka government's ban order. These girls were even not allowed to appear for their final exams.

In the same time period, hate propaganda and incitement against minorities scaled

The right to freedom of religion of Muslim girls was violated and denied by educational institutions, which chose to impose a ban on Hijab



a new high with the release of the movie - *Kashmir Files*. The movie based on the exodus of Kashmiri Pandits from Srinagar and other parts of Kashmir to mainland India, during the 1990s, provided communal fodder to right-wing extremist leaders and organisations for further peddling the false and misleading narrative against Muslims.

The right-wing elements launched a 'Biryani Jihad' campaign against Muslims, which claimed that eating Biryani causes infertility and it is a conspiracy against Hindus, especially the unmarried Hindus are the prime target.

On the positive side, Yati Narsinghanand, who has a history of giving Hate Speeches and inciting violence against Muslims, was arrested on 15th January 2022 by the Haridwar police in two separate cases, one for hate speech against Muslims

and the other for his derogatory remarks against women made in August 2021, saying "The women you see in politics have or had been mistresses of at least one male politician."

However, he was released on bail on 16 February, just a month after his arrest, and to date he continues spewing venom through his Hate Speeches.

Shortly after the *Dharm Sansad* in December 2021 where the Hindu Raksha Sena president Swami Prabodhanand Giri had called on the police and army to conduct a 'cleaning drive' (safai abhiyan) like Myanmar, he repeated his call at two more events. The first of these events was in Haridwar on 1st January 2022 and the second in Ghaziabad, the next day i.e 2nd January.

Addressing a crowd of mostly women in Haridwar, Giri said, "The way Myanmar



had to pick up weapons to defend itself, Hindus must also pick up weapons and take action to defend themselves. Hindus should keep weapons in their homes in order to “kill jihadis before they come to kill you,” he said.

Narsinghanand also spoke at the 1st January gathering in Haridwar where he called upon Hindu women to “produce more kids”, saying those who had one child were “snakes”.

In Ghaziabad, Giri said, “We will stand up against each ‘jihadi’ of India and will work towards cleaning them.”

Prabodhanand was giving a call for a “cleansing drive” like that of Rohingya Muslims in Myanmar thrice within a span of 15 days.

While Narsinghanand and Tyagi were in jail, other Hindu religious leaders gathered in Uttar Pradesh’s Prayagraj for a ‘Sant Sammelan Against Islamic Jihad and for the Creation of Hindu Rashtra’ on 29th January 2022. There were calls for violence, to pick up arms, to attack mosques and madrassas at this event where a resolution to declare India a ‘Hindu Rashtra’ was passed.

“One eye of the jihadi cat which needs to be attacked are masjids and madrassas, and the other eye are maulvis and mullahs, who are the ones responsible for creating jihadis,” Giri said.

This was the fourth instance of Giri giving a Hate Speech and calling for

violence, within a span of 40 days. The others were the Haridwar Dharm Sansad on 17-19 December 2021, the religious congregation in Haridwar on 1st January 2022, and the felicitation event for Prabodhanand in Ghaziabad on 2nd January 2022.

The shankaracharya of the Sumeru Matha in Varanasi Swami Narendranand Saraswati gave a call to kill “anti-national people”, saying, “Pick up weapons and go and stop anti-national people. Stop them, scold them, and if they don’t listen, kill them.”

Another Haridwar Dharm Sansad speaker and head of a Hindutva outfit ‘Kali Sena’ Anand Swaroop said, “If non-violence doesn’t get us to our goal, then we should take up violence.”

Swaroop threatened violence if Narsinghanand and Tyagi were not released within a week and threatened action like that of the “Bhagat Singh Assembly Bomb case”. This statement makes it evident that these right-wing

While Narsinghanand and Tyagi were in jail, other Hindu religious leaders gathered in Uttar Pradesh’s Prayagraj for a ‘Sant Sammelan Against Islamic Jihad and for the Creation of Hindu Rashtra’

elements used people and places to their advantage, though their past doesn't provide any instance if they were associated with these people. Using our freedom fighters and other national heroes to their advantage has become a new tool in their hands.

A complaint was filed against the organisers and speakers of the Sant Sammelan at the Hazratganj police station in Lucknow seeking immediate action. But no FIR was registered.

“Nothing was done by the police of UP on our complaint. I tried to pursue it but all my attempts proved futile,” said Rooprekha Verma, one of the complainants and a former vice-chancellor of the Lucknow University.

While Narsinghanand and Tyagi were in jail, two other religious events were organised in Haridwar and Aligarh.

At Haridwar's Sarvanand Ghat on 16th January 2022, Dharm Sansad (Religious Parliament) speaker and Kali Sena chief Anand Swaroop while addressing a “revenge meet” to protest against the

arrests of Narsinghanand and Tyagi asked, “After the partition of India, what right do believers of Islam have to live in India? They have their own Islamic Republic of Pakistan,” and said that Dharm Sansads won't stop until “Islam is finished”.

Another such protest meet was organised by Haridwar Dharm Sansad speaker and the mahamandaleshwar of Niranjani Akhada, Annapurna Bharti, also known as Pooja Shakun Pandey in Aligarh on 16th January 2022.

The BJP MLA from Aligarh district's Koil constituency Anil Parashar went to this event and sought blessings from Bharti, who had given a call to “eliminate their population” meaning Muslims, at the Haridwar Dharm Sansad and repeated her call saying, “We will definitely kill those who speak against our religion and our Hindustan” on a *Times Now* debate.

The Save India Foundation president Preet Singh who was out on bail in the August 2021 Jantar Mantar hate speech case, organised another hate event in Delhi's Burari ground on 3rd April 2022.

The event known as the ‘Hindu Mahapanchayat’ was organised to demand Uniform Civil Code, population control law, law against religious conversions and had the support of 108 Hindu organisations including the Hindu Army president Sushil Tiwari and the Hindu Raksha Dal president Pinky Chaudhary - both out on bail in the Jantar Mantar hate speech case.

A ‘Hindu Mahapanchayat’ was organised to demand Uniform Civil Code, population control law, law against religious conversions and had the support of 108 Hindu organisations



The event was addressed by Narsinghanand, who was granted bail in the Haridwar Dharm Sansad hate speech case with the instructions specifying his condition: “The accused is ordered to submit an undertaking before the learned magistrate that after this (bail) order he won’t give speeches that would spread hatred in the society and would disturb communal harmony, neither will he be part of any such events whose aim would be to promote enmity between different groups and to disturb the communal harmony.”

Violating both these bail conditions, Narsinghanand gave a call for Hindus to pick up weapons, saying, “In 20 years, 40% Hindus will be killed. If you want to change this, be a man. A man keeps weapons.”

The event was also addressed by editor-in-chief of *Sudarshan News* Suresh Chavhanke who said that he is against equal rights and that Indian Muslims should get the same rights as Hindus in Pakistan. (The preamble of the Constitution of Pakistan says, “Pakistan would be a democratic state based on Islamic principles of social justice”. It also says, “Wherein adequate provision shall be made for the minorities freely to profess and practise their religions and develop their cultures.”)

An FIR naming Narsinghanand, Preet Singh and Suresh Chavhanke was filed by Delhi Police invoking section 153A (promoting enmity between different

At an event Editor-in-Chief of Sudarshan News, Suresh Chavhanke said that he is against equal rights and that Indian Muslims should get the same rights as Hindus in Pakistan

groups) and Section 188 (disobedience to order duly promulgated by public servant) of the IPC.

The FIR stated that the Delhi Police denied the permission for the event but Preet Singh organised it without permission and that hate speeches were delivered against a specific religion.

However, the Delhi Police made no arrests, in this regard. A mob allegedly beat up seven journalists who went to cover this event. The Delhi Police said they have registered two cases against unknown persons in relation to the manhandling and assault on journalists.

In a second FIR, Delhi Police also booked independent journalist Meer Faisal, who was one of the journalists reportedly attacked, and news portal Article 14 for their tweets about the attack on journalists under Section 505 (2) (statements creating or promoting enmity, hatred or ill-will between classes) of the IPC.

Another ‘Hindu Mahapanchayat’ to decide “how to deal with terrorists,

Rohingyas and Muslims who are a danger to Hindus”, scheduled for 27th April, was stopped before taking place after the Supreme Court said Uttarakhand’s chief secretary, home secretary and the inspector general of police would be held responsible if any “untoward incident” happens at this event.

Section 144 of the Code of Criminal Procedure, 1973 (CrPC) was imposed in Roorkee. The main organiser, Kali Sena chief Anand Swaroop, who had threatened a day before of consequences if section 144 is imposed, was put under preventive detention.

Another organiser of this mahapanchayat and state convenor of Kali Sena, Dinesh Anand Bharti also known as Sagar Sindhu Maharaj was arrested on 27th April 2022 in connection with his speech at the Haridwar Dharm Sansad in December 2021 where he had given a call for Hindus to pick up weapons. This was the third arrest in the Haridwar Dharm Sansad case. Bharti was granted bail by the Uttarakhand High Court on 19th May 2022.

On 18th April 2022, Bharti, while addressing his supporters, called Muslims “modern day demons” and gave an ultimatum of two days to the Uttarakhand Police to arrest the imam of the mosque from which they claim an announcement was made to attack the Hanuman Jayanti procession on 16th April in Roorkee’s Dada Jalalpur village.

“People were taking out Shobha Yatra on Hanuman Jayanti when the modern day demons, who are known as Muslims tried to stop it,” he said.

On 20th April 2022, Bharti organised a protest meeting with his supporters demanding the arrest of the imam, and raised the slogan, “We will wake up Hindus. We will make Hindu Rashtra”.

At this protest meeting organised at the Bhagwanpur toll plaza, Kali Sena’s Haridwar city convenor Rajiv Joshi threatened violence against the administration and said, “Kali Sena has trained soldiers all across the country. If our demands are not met, then our soldiers will enter the Bhagwanpur border and you (administration) won’t be able to stop us. If the administration does not bulldoze the houses of criminal Muslims, then after a week our protest will turn so violent that you won’t be able to control it.”

Another three-day ‘Dharm Sansad’ was organised in Himachal Pradesh’s Una from 17-19 April 2022, where an oath was administered to do weapons training and kill Muslims. Narsinghanand also addressed this hate event, violating his bail conditions for the second time within two weeks.

Narsinghanad stoked the fear of “rising Muslim population” and called upon Hindus to give birth to more kids.

Another Haridwar ‘Dharm Sansad’ speaker Annapurna Bharti, while



addressing the Una Dharm Sansad, said that she is proud of being called “Lady Godse”, and said, “if needed I can even shoot.”

She went on to administer an oath to the people to train themselves and their families to “use weapons” to “kill vidharmis” (those who they think are against their religion) as per Hindu religious texts like the Gita and shashtras. “We won’t hesitate to even take someone’s life if he attacks our soul,” attendees said, repeating the oath with her.

Another speaker who introduced himself as Popin Arya from Delhi, asked Hindus to “make gangs” and carry out “targeted killings”.

On 18th April, the second day of the Una Dharm Sansad, Una Police served a notice that said, “The organisers must ensure that no remark is made against any caste or community or they will be liable to strong legal action”.

After 21 days on 10th May, the Uttarakhand Police registered an FIR under Section 153 A (promoting enmity between different groups) of the IPC against unnamed persons in relation to this Dharm Sansad. However, no arrests were made despite clear calls for picking up weapons and indulging in violence against Muslims.

Narsinghanand violated his bail conditions for the third time within a month when he addressed the ‘Sanatan Sant Sammelan’ in Aligarh on 2nd May 2022.

Annapurna Bharti, addressing the Una Dharm Sansad, said that she is proud of being called “Lady Godse”, and said, “if needed I can even shoot”

In his speech, Narsinghanand called on Hindu women to give birth to more and more kids in order to protect their religion.

Another speaker Kalicharan Maharaj, who was arrested earlier for using abusive language against Mahatma Gandhi in Raipur Dharm Sansad on 25-26 December 2021, asked the crowd “who will Indian Muslims support if Modi ji declares war on Pakistan”.

Mahamandleshwar of Niranjani Akhada Annapurna Bharti also addressed this event and exhorted Hindu women to give birth to more children. The event was also attended by the Aligarh BJP MLA, Mrs Mukta Raja and former MLA Sanjeev Raja.

Aligarh district administration served notice to the organisers of this event for “violating the terms of permission” and for giving “inflammatory speeches against a particular community”. However, no FIR was registered in connection with the hate speeches made at this event.

On 1st May 2022, editor-in-chief of *Sudarshan News*, Suresh Chavhanke,

A prominent priest of the Niranjani Akhada, Raghvendra Bharti organised an event in Rohtak known as ‘Sanatan Dharm Sabha’ with an aim to declare India a “Hindu Nation” and demand “population control law”

administered an oath in Ambala to make India a “Hindu Rashtra”.

The event organised by the ‘Samajik Chetna Sangathan’ on the Uniform Civil Code, taking the oath to “make or take sacrifice to declare India a Hindu Rashtra”, was attended by Ambala’s BJP MLA Aseem Goel, also.

On 16th May 2022, members of different communities took out a protest march in Ambala demanding action against Goel. Media reports suggest no FIR was registered in relation to this event.

Another hate event against which media reports suggest police did not take action was organised in Rohtak on 1st May 2022 by a prominent priest of the Niranjani Akhada, Raghvendra Bharti. The event known as ‘Sanatan Dharm Sabha’ was organised with an aim to declare India a “Hindu Nation” and demand “population control law”. However, the Police stopped two hate

events planned in Uttar Pradesh in the first week of May.

The first of them publicised as ‘Hindu Samagam’ was to be held on 3rd May 2022 in Ghaziabad. The event, which was organised by ‘Hindu Raksha Sena’, had the photos of its president Swami Prabodhanand Giri and Uttar Pradesh’s Chief Minister Yogi Adityanath on its poster.

DCP Central Noida said on Twitter that no permission was taken to organise the event or to use the CM’s photo on the event’s poster.

The Police said an FIR was registered against Praveen Chaudhary, vice president of Hindu Raksha Sena, and Rajkumar Chaudhary, the general secretary.

A day before the event on 2nd May, Prabodhanand said in a Facebook post that both of them were detained by the Uttar Pradesh Police till the next day to stop the event from taking place.

The other hate event, to be held on 8th May 2022 in Ghaziabad, was organised by Narsinghanand and was to be attended by other Hindutva leaders. At the event they were planning to distribute the Bhagvad Gita, as well as bows and arrows to the people was stopped by the UP police.

On 3rd May 2022, an event was organised



by the ‘Rashtriya Parshuram Parishad’ at the Constitution Club, New Delhi, on the occasion of ‘Parshuram Jayanti’, a Hindu festival for the craftsmen and skilled artisans, where traditionally the workers worshipped their tools of trade, but in the current atmosphere a completely different connotation has been given to this Hindu tradition.

Repeat offender Anand Swaroop featured as a speaker on the event’s poster. The New Delhi Municipal Corporation’s (NDMC) vice chairman and BJP leader Satish Upadhyay featured as the chief guest of the event on the poster. U.P.’s minister of state for labour and founder of the ‘Rashtriya Parshuram Parishad’, Sunil Bharala featured as the event’s head organiser.

At the event, while talking to the media, Swaroop gave a call to free India of ‘Islam’ and ‘Christianity’ and said, “Our country is free. Now we have to free it from Islam and Christianity. For this we have formed an army of youth called ‘Kali Sena’ which will fight a war.”

“When the people working for religion will come forward to fight against the Supreme Court then it will be good,” said Swaroop. He said that India would be declared a “Hindu Rashtra” in the next four years and saffron flags would be hoisted on every mosque.

A detailed overview of the events during the first and second quarter of 2022 has been given to show the repeat offenders,

the administration and police’s response to these activities and also identify the key phrases used by them, which found an echo throughout the year.

In the third quarter of the year, the Hate Crimes and Islamophobia in India touched a new low. It added new narratives and acts of bigotry, injustice and repression.

The idea of “instant justice” is not new to the Indian society. Mob-justice, mob-vigilantism, mob-lynching, extra-judicial killings and other similar forms of repression have always been there in one form or another. A new addition was made to the series in the form of “Bulldozer Justice”. Bulldozer Justice has become a new normal in India. In reality, the very idea of the Rule of Law, following a due process, of being treated as “innocent until proven guilty” has being turned upside down. Through Bulldozer Justice, instant justice is being served against the minorities of the country at the behest of the right-wing elements and organisations. Indian law does not give the

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right to anyone individual, organisation or even the local administration and Police officials to demolish the home of anyone accused of a crime, however, this is what is happening in India repeatedly, further this pattern has been repeatedly observed across BJP-ruled states. There is an absolute sense of impunity and arrogance amongst the majoritarian power, which seems to be driving this utter disregard for the rule of law and the constitution of the country, with central dispensation keeping mum. However, a silver lining in this regard emerged when some state high courts questioned the legal validity of these unlawful actions by the local administrations and police officials in their state.

“Instant justice” is not the way of any civilised society. The tendency of the law enforcement agencies to pronounce verdicts and dispense instant punishment, at the behest of right-wing individuals and organisations without following the due process of law, signals a erosion of basic democratic system in the country

The tendency of the law enforcement agencies to pronounce verdicts and dispense instant punishment, at the behest of right-wing individuals and organisations without following the due process of law, signals an erosion of the basic democratic system

and makes a mockery of the country’s judicial system.

The demolitions in Delhi’s Jahangirpuri locality have stopped - for now. Thanks to the timely intervention of the highest court of the land, the Supreme Court, acting on the petition filed by Jamiat Ulama-i-Hind. But this “Bulldozer Justice” still rages on.

Unless the judiciary at the highest level steps in to intervene, swiftly, firmly and decisively, the entire edifice of constitutional governance that has been so carefully and meticulously constructed ever since our independence, is likely to face credibility crisis soon.

We also strongly condemn the offensive and deeply insulting comments made by now suspended ruling BJP’s spokespersons about our beloved Prophet Muhammad (peace be upon him).

The last quarter of the year 2022 saw a total of 145 ‘Hate Crimes’ cases in India. Out of these 44 cases took place in October, 52 in November, and 49 cases in December.

The states leading in such cases were Uttar Pradesh, Karnataka and Madhya Pradesh in addition to a Hate Campaign being run Online through different social media platforms.

The use of Hate Speeches to sow the seeds of animosity and hatred against the minorities in the country dominated the narrative during this

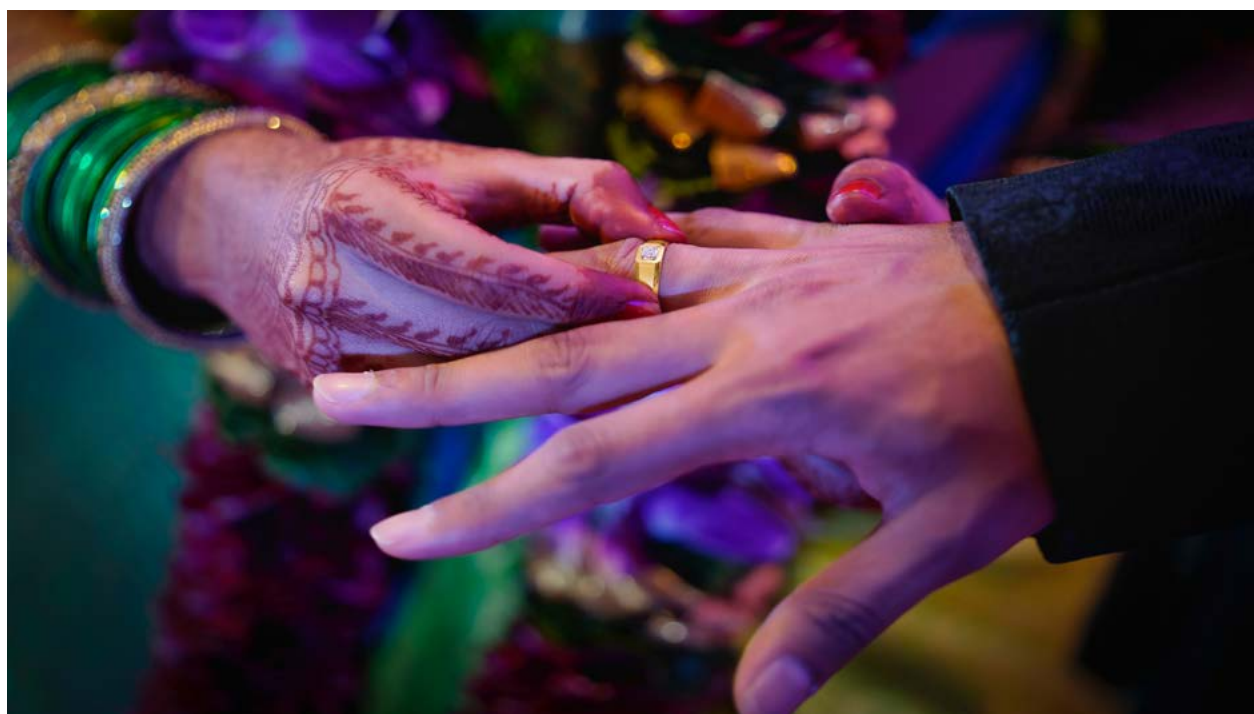


period. Another modus- operandi adopted to harass the Muslim community was the use of ‘Bulldozer Politics’. The right-wing elements in power in different states instructed the local administration and police officials to launch a demolition drive against the Muslims and Dalits, without any apparent reason or giving advance notice to the residents, who were punished just due to their identity and was a clear act of their opponents enjoying the spoils of power. Also during the month, demands were raised to demolish Darul Uloom, Deoband, the oldest Islamic seminary in India, and one TV channel even aired a completely biased show with vitriolic headlines and captions demonising the Darul Uloom. In addition, a spurt against Muslim men who were caught offering

Namaaz at open spaces by the Police in various states was also noticed.

Additionally, the period saw a continuation of the ‘Love Jihad’ narrative, rise in cases of atrocities against Dalits, but it would also be remembered as the one in which the home minister of India and a state chief minister indulged in ‘hate speeches’ against the Muslim community, the home minister even went to the extent of saying that after 2002, Muslims in Gujarat have not dared to raise their voice against those who taught them a lesson in 2002.

Meanwhile, the ‘Love Jihad’ narrative continued to dominate the news in the month of December, but the month also saw a sharp rise in cases of demolition of Muslim homes, violence against Dalits and Christians, and the Hindu populace being urged by a controversial BJP MP



to keep sharpened weapons at home in order to teach them (Muslims) a lesson, if needed. We also witnessed a large number of cases where the majority community's various organisations under different names conducted open armed training sessions for the participants, participants walking down the streets with arms and ammunitions in their hands and these programmes being held in various schools to poison the minds of young school goers against the minorities of the country. The point to be noted here is that if the minority communities resort to such activities then they are termed anti-national and booked under various laws of the land, which doesn't allow an individual to possess arms or conduct arms training for others. In all, the various activities of the right-wing elements during the period contributed a lot of spreading an atmosphere of hate and viciousness against the minorities of the country.

A critical review of the happenings of 2022, makes it clear that the right-wing

The right-wing elements had a very clear script of instigating hate against the minorities and Dalits, the characters to peddle these were identified in advance, with support by the political, local judicial and administrative machinery

elements had a very clear script of instigating hate against the minorities and Dalits, the characters to peddle these were identified in advance and they were supported by the political and administrative machinery and to a certain extent even the judiciary.

During the last year they took to the route of mobilising anti-Muslim sentiments against the Muslims using 'Hate Speeches' at religious functions organised by various Hindu outfits in every nook and corner of the country, but they focussed more on three to five key states like UP, MP, Karnataka, Gujarat and Rajasthan and their biggest supporter emerged to be the various social media platforms from where these elements continued to spew venom and post often fake videos and narratives, accompanied with inflammatory and misleading messages.

The year also saw a flurry of anti-Muslim activity on various social media platforms. The most wrongly used Arabic word in this activity was Jihad. It was linked to various acts and new coinages spread like wildfire, Jihad was manifested through, 'Love Jihad', 'Biryani Jihad', 'Flood Jihad', 'Population Jihad', 'Thook (spit) Jihad'.

In addition, a yearlong campaign against the Hijab (headscarves) continued, targeting the young Muslim students, apparently in an effort to force them to withdraw from educational institutions and thus remain illiterate.



Another tactic to intimidate the Muslims and Dalit communities was to start demolition drives against whole localities or a selected few. In this instance making a mockery of the judicial system, the affected families or communities were not given any advance notice of the demolition and the reason given for demolishing their homes were mostly flimsy. In most cases the local administration and the police justified the action as allegedly these peoples were involved in either raising anti-Hindu slogans or allegedly indulging in an anti-Hindu activity.

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The point to be noted here is that though 560 may sound a small number in a country of more than a billion people. But we have to understand that the spread of polarisation through these Hate Cases using the electronic and social media, affects the mindset of millions of people across the country. With the help of this narrative building the right-wing Hindu elements wanted to convey, and indeed they were able to convey and convince, the millions of Hindus across the country that they are under threat, because if the minorities are not shown their right place in the country, then they'll ultimately again rule over the Hindus.

2022 saw a total of 560 verified cases of Hate Crimes against Muslims, Dalits and Christians in India

Apparently, all these efforts are towards making India a 'Hindu Rashtra'. Through these campaigns right-wing Hindu organisations were trying to create an atmosphere of hate and create animosity amongst the largest majority and minority communities. Though by and large the Indian populace is not ready to buy these tactics of the right-wing Hindu organisations. This fact is further buttressed by the fact that 67% of the voters didn't vote for the Bharatiya Janata Party in the country's last general elections. Yet, by focussing on just 33% of the voters the right-wing elements are hell bent on creating a vicious and poisonous atmosphere in the country.

To spread this hate narrative they have captured the majority of the media particularly the electronic media, which through various news channels continue to spew venom and create a false narrative against the minorities of the country. In addition these right-wing organisations have established IT cells which pedal false news and incidents to further spread their hate narrative to polarise the country on communal lines. In addition, the media trolls of the right-wing Hindu organisations continued with harassing the sane voices through various social media platforms.

2023

Review of Hate Speech Cases, from January-March

An impartial and in-depth analysis of the manner in which majoritarianism has progressed in India over the last 15 years particularly, shows that it has been furthered as a very well-thought-out plan. Speaking of which it could be established that the ideating authority behind this plan is the right-wing Hindu organisation, the Rashtriya Swayamsevak Sangh (RSS), it has always preferred to give a well prepatred script and chosen players to play this script in the public space. In the first three months of the current year, it becomes obvious that its activities against the Christians, Dalits (Scheduled Castes), Adivasis (Scheduled Tribes), and Muslims follow a certain pattern and key messages. Muslims are the major sufferer of this campaign of hate speeches, hate crimes, and Islamophobic activities. Most civil society activists agree that now it seems that the RSS has allowed somewhat lesser-known organisations like the Karni Sena, Vishwa Shriram Sena, Hindu Rashtra

Sena, Hindu Janjagruti Samiti, Hindu Pratisthan, Janjati Suraksha Manch, Sakal Hindu Samaj, Gauraksha Samitis, etc., and given their charge to lesser known or third rung Hindu leaders, as in order to prove their loyalty and rise in the hierarchy, they often go beyond their brief and are more extreme than other Hindu leaders, further these leaders have been given previously identified states in which they are to carry on their activities and continue delivering the key messages, as due to their amplification only, they are able to increase their mass support base.

The never-ending stream of expletives against Muslims and Islam was evident in a negative tweet, posted by a French journalist, [François Gautier¹](#)@fgautier26, questioning why a particular shop at Mumbai Airport's Terminal 1 displayed the sign that it uses Halal meat in its food products.



January also saw a revelation about the decline in Muslim girls' students at various government schools and colleges in the state of Karnataka. The data, which was accessed by the Indian Express, shows that a total of 1,296 children enrolled in Class XI (also known as Pre-University College PUC in Karnataka) during the year 2021-22. In 2022-23 the number was 1,320. Following the Karnataka government's ban on hijab in educational institutions, many Muslim students have shifted to private colleges from government colleges. In government colleges, however, 388 Muslim students were enrolled in Class XI in 2021-22, and the number decreased to 186 in 2022-23. According to the research, only 91

Muslim girls enrolled in government colleges this academic year, compared to 178 in the 2021-22 academic year.

In a scathing report on the current state of affairs, particularly against the minorities in India, the British newspaper *The Spectator* quoting a report by United Christian Front (UCF), a leading Christian organisation in India reported that though there are 28 million or so Indian Christians who constitute around two per cent of the country's total population. Yet the community's very survival has never been under such threat. In 2022, there have already been over 550 violent attacks on India's Christians, according to an Indian NGO. This is the largest number for any year on record.

The alarmist, often incendiary allegations of ‘love jihad’ have been a prelude to each one of the recent anti-conversion laws

Spectator’s report further said that India is ruled by the Bharatiya Janata Party (BJP) and headed by Narendra Modi, the country’s hugely popular prime minister, who was re-elected in 2019. Under Modi’s tenure, few would doubt that India doesn’t deserve a seat at the global top table. The country’s economy recently overtook the United Kingdom to become the fifth largest on the planet. For India’s Christians, the future has never been so uncertain. the report commented that to consolidate their power domestically, though, the BJP has implemented a series of divisive Hindu nationalist policies. Their aim has been to appeal to the country’s majority Hindu electorate at the expense of its minorities. This has included stoking hatred against India’s Christians. The BJP has proposed state benefits be withdrawn from Christians and that believers should be banned from holding political office in the country. The BJP’s rhetoric has emboldened India’s myriad of powerful right-wing Hindu groups, like the Rashtriya Swayamsevak Sangh (RSS), which has around six million members.

These groups are now increasingly leading violent mob attacks against Christians, their churches, and pastors.

The alarmist, often incendiary, allegations of ‘love jihad’ have been a prelude to each one of the recent anti-conversion laws, but in no case have but in no case have any actual facts, figures, or statistics been cited. The relentless march of ‘love jihad’ laws continues even when courts have been vigilant in protecting citizens’ rights. Coming full circle, while the judiciary has time and again acted like the B-team of communal zealots in playing up the fiction of love jihad, there has also been a marked pushback by some. In an accompanying interview on [Livelaaw](#) web portal Justice Deepak Gupta, a former chief justice of Himachal Pradesh High Court stated that Anti-conversion laws are coming for political reasons rather than actual reasons.

A report published by the news web portal [Scroll](#). *in* raised concerns about the activities of the right-wing Hindu organisation *Janjati Suraksha Manch*, an affiliate of the Rashtriya Swayamsevak Sangh, led by a former legislator from the Bharatiya Janata Party, in Chhattisgarh state, against the Adivasis (tribals).

A year-long mobilisation by the *Janjati Suraksha Manch*, preceded the worst ever wave of violence against Christian Adivasis in Chhattisgarh’s Bastar region.



Chhattisgarh, with a 30.6% Adivasi population, has long seen conflict over religion. Christian missions came to the region during colonial times. As they began to attract followers among Adivasi communities, which lived outside the Hindu caste hierarchy, the Rashtriya Swayamsevak Sangh sought to counter them by establishing the Vanvasi Kalyan Ashram in north Chhattisgarh in 1952. The organisation introduced “ghar wapsi”, or homecoming ceremonies, to reconvert Christian Adivasis to Hinduism.

While Hindutva groups have sought to subsume Adivasis in the Hindu fold, many Adivasi communities assert the distinctiveness of their traditional, animist faith. In the villages of Bastar, tensions over religious conversions have centred around fears of loss of Adivasi identity. But the *Janjati Suraksha Manch* has attempted to cast the conflict in religious terms, by labeling Christianity and Islam as threats to Adivasis.⁵

On 1st February the JUH filed a petition in the Supreme Court seeking it to get transferred all pleas against anti-conversion laws filed in 6 different High Courts to the Supreme Court and bunch them together.⁶ The month also saw the Japanese government’s initiative to create a new state agency to counter fake news⁷, a step that should be copied by India also. During February vitriolic speeches against Muslims continued being given by Yati Narsingha Nand

and Baba Ramdev, in a clear indication how various state administrations and governments in spite of clear orders by the Supreme Court to minor, curtail and curb the hate speeches they are ignoring. On 3rd February former Commerce Minister and senior Congress leader [P. Chidambaram](#) in a statement on anti-minority policy of the government, questioned the reason for scrapping the Maulana Azad National Fellowship (MANF) and the subsidy on education loans taken by students of minority community to study abroad, he accused the Narendra Modi government of “displaying its anti-minority policy” as a badge of honour. In government’s defence, Finance Minister Nirmala Sitharaman said those chosen before 2022 will get funds, but students claim money wasn’t received. It was during the Winter Session of the Parliament last year that Minority Affairs Minister Smriti Irani had told the Lok Sabha that MANF had been discontinued from the 2022-23 academic session as it “overlaps with various other fellowship schemes for higher education being

While Hindutva groups have sought to subsume Adivasis in the Hindu fold, many Adivasi communities assert the distinctiveness of their traditional, animist faith

implemented by the government and minority students are already covered under such schemes”.

Under MANF, a minority student pursuing higher education was eligible to receive a sum of Rs 31,000 per month in addition to a periodic contingency amount and house rent allowance.

A yet another hate speech, doing rounds on various social media platforms was given by Pradeep Khakkar on 4th February at Delhi’s [Jantar Mantar](#), asking for Muslims’ genocide¹⁰ in the country. On 5th February 2023, speakers at two events held at Delhi’s Jantar Mantar openly called for the slaughter of Muslims and Christians. The first programme, the ‘Sanatan Dharma Sansad’ (Hindu religious Parliament), was organised in support of Dharendra Shastri, a religious leader of Bageshwar Dham. The second was titled the ‘Hindu Aakrosh Demonstration’ (Hindu Fury Demonstration) and organised in support of *Sudarshan News* editor [Suresh Chavhanke](#). Students from ‘gurukuls’ were also invited to bolster the

turnout at both the programmes, and speakers went on a hate-speech spree in front of them. Abuses and calls to kill members of minority communities were made under the guise of a ‘Dharma Sansad’. According to reports, a large number of religious leaders, sadhus, and members of Hindutva organisations demanded Z+ security for Dharendra Shastri. They also demanded that the *Ramcharitmanas* be declared the national book and the cow be declared the national animal of the ‘Hindu nation’ i.e. India. Mahamandaleshwar Hari Singh, who spoke in support of Dharendra Shastri, boasted that at 83 years of age, he had already killed 80 people (Muslims). He also said that he would die only after killing 100 people (Muslims). Singh brazenly urged the crowd to kill Muslims and Christians and keep weapons in their homes.

In a whiff of fresh air, the Supreme Court in February observed that “abjuring hate speech is a fundamental requisite for the maintenance of communal harmony” in the country. Justice KM Joseph and BV Nagarathna made an observation asking to list all the applications against hate speech and observed that till the time there is a common enemy, i.e., hate, nothing could be achieved. “Remove hate from the mind and see the difference”, Justice Joseph said. Justice Joseph also said that the Court ought to exercise caution as there is no definition of hate speech in the Indian Constitution, thus,

The Supreme Court in February observed that “abjuring hate speech is a fundamental requisite for the maintenance of communal harmony” in the country



it has to rely on allied provisions of the constitution.

The American newspaper *Wall Street Journal* in a report revealed that guns are being offered for sale on Facebook groups devoted to religious extremists in India. At first, the Facebook rejected complaints about the posts violating the company's rules, then later took them down as pointing triangle identified users who have offered for sale on the platform arms including handguns, rifles, shotguns and bullets to members of a forum devoted to an extremist Hindu organisation with a history of violence in India. Eight posts, some of which had been up since April, caught the eye of Raqib Hameed Naik, the founder of a group that monitors attacks against religious minorities in India. He began reporting them to Meta Platforms Inc. identifying META's 0.77% increase in green up pointing triangle in late

January as contravening the company's publicly stated policy that prohibits private individuals from buying or selling firearms or ammunition on Facebook platforms.

The vitiating and stifling hate it seems has reached every section of the Indian society, even the Indian corporate world is not safe from the anti-Muslim sentiments and mentality. This was evident when unintentionally a recruiter at *Infosys* boasted on Twitter how he discriminated against a Muslim candidate and rejected him outright. There were angry posts on Twitter against the individual and the company, such as: It's time to inform the world about discrimination in Indian corporate workplaces.

Singer Anup Jalota, famous for his unique style of singing ghazals and Hindu religious songs in a video interview was



reported as saying that India should be declared a 'Hindu Nation' as there is no such nation in the world. He said that India should be considered a Hindu nation as the Hindu population in the country is the maximum. In a video that is going viral, the devotional singer said it will not make much difference and only an announcement is to be made to this effect.

A news report has brought out the fact that 71 per cent of total complaints and petitions received by the [National Commission for Minorities \(NCM\)](#) in the past five years were related to the Muslim community alone. Uttar Pradesh has been the only state for the last five years, from where the maximum number of complaints related to the Muslim community have been received by the commission. According to the Ministry of Minority Affairs' data, of the total 10,562 complaints received by the commission related to all the minority communities, namely Muslims, Christians, Sikhs, Parsis, Jains and Buddhists between 2017-18 and 2022-23 (till 31 January, 2023), 7,508 pertain to the Muslim community alone. This is 71 per cent of total complaints received by the minorities' panel from all the minority communities.

German state-owned public broadcaster *Deutsche Welle (DW)*, in February released a documentary on alleged hate-mongering through 'Hindutva pop' songs on their YouTube channel. The documentary,

available in both German and English, comments on songs by independent Hindu singers themed around the Hindu-Muslim conflict. In April 2022, a rally in the Indian town of [Karauli, Rajasthan](#), turned violent when anti-Muslim songs were played during Hindu New Year celebrations. The town witnessed the worst communal violence since independence, reported Indian news publication *Scroll*. One of the songs played had lyrics in Hindi: "The day Hindus wake up, those who wear skull caps will bow down and say victory to lord Ram. The day our blood boils, we will show you your place. We will not speak, only our swords will." The song is an example of a musical genre that comes under the banner "Hindutva Pop." These songs often contain violent lyrics with auto-tuned vocals set to catchy upbeat rhythms. As minority communities in India witness a wave of religious hate crimes under Prime Minister Narendra Modi's tenure, Hindutva pop can be used to inflame the tension. Both of these songs are available on multiple channels on YouTube and have garnered hundreds of thousands of views. An analysis by the [Tow Centre](#) spanned 100 songs across 40 channels on YouTube that were manually analysed to check for hateful content. Twenty-six of the forty channels in our dataset participate in the YouTube Partner Programme, which provides access to monetisation features including allowing channels to place



ads on their videos. Ad revenue is split between YouTube and the video publisher; popularity is an incentive for both.

In an opinion piece in *The Indian Express* Rights Activist Harsh Mander wrote: The line between the vigilantes and the state seems to be blurring in Haryana. The Haryana government created a Cow Protection Task Force headed by an Inspector General of Police. But raw power seems to have shifted from the police to violent vigilante groups. These operate as gangs, openly terrorising people, undeterred by the lawlessness of their actions. And the lines that separate them from the uniformed police have dangerously blurred.

The two Supreme Court Justices K M Joseph and B V Nagarathna,

were in news again in March, when they dismissed a plea by Ashwini Upadhyay, who wanted the ministry of home affairs to set up a committee to restore the names of such cities who been named after Muslim rulers. Asking him not to dig up history in a bid to keep the present and future generations” prisoners of past”, Justices K M Joseph and B V Nagarathna said, “you want to bring ascertain point of view on history... and create more disharmony.” [Dismissing his PIL](#), the judges told Upadhyay, “We cannot wish away the invasions. But can’t we move forward and deal with the problems at hand?”

In an opinion piece in *The Hindustan Times*, Yashowardhan Jha Azad, former IPS officer, who also served as: Special Director-Intelligence



The News Broadcasting and Digital Standards Authority of India found several TV news programmes to have violated the Ethics Code

Bureau, Secretary Security-MHA, GOI, and also as a Central Information Commissioner urged the government to reign in cow vigilante groups the article delves in detail about cow vigilantes role in states and why it's important to rein them in and associate them in rehabilitation, provide beef kits to cops, IDs to cows etc.

Perhaps for the first time in recent years, the News Broadcasting and Digital Standards Authority of India found several TV news programmes to have violated Ethics Code. With reference to a *News18* news debate of 18 January, 2022, the NBDSA observed that the thrust of the programme had religious undertones. "By starting the debate on the premise that 20% people were ganging up against Hindus constituting 80%, the anchor had given the debate a thrust, which is communal in nature and not appropriate," it said. As regards to "Desh Nahi Jhukne Denge with Aman Chopra live" show relating to the Praveen Netti murder case, the NBDSA noted that "during the debate the anchor instead of blaming

a few miscreants for the murders and violence in fact blamed the religion for the violence that occurred".

Another side of the judiciary was shown by Justice Shamim Ahmad of Allahabad High Court, when deciding a cow-slaughter case, he made the remark, "Those who kill cows are deemed to rot in hell". The HC judge refused to quash criminal proceedings against man accused of cow slaughter in UP, referring extensively to scripture & legends while speaking about the qualities of a cow. The judge, made the observations while passing an order on 14th February - incidentally declared as "Cow Hug Day" by the Animal Welfare Board of India, though the directive was later cancelled.

A report from Haryana described how the real targets for saving the cow have not been achieved in Haryana, but on the other hand cases of cow vigilantism have increased in the state. The [report](#) says that since Haryana's decision in 2015 to enact a law banning cow slaughter and consumption of beef, vigilante groups have taken it upon themselves to stop cattle smuggling. But the law hasn't achieved its basic objective of bringing offenders to book. Conviction rates under the law have been and remain extremely low while investigations plod along. Last year, for instance, 402 cases were filed invoking provisions of the Haryana Gauvansh Sanrakshan and Gausamvardhan (HGSG) Act, but just eight reached the trial stage.



News about a two-day conclave organised by the RSS's mass communication wing *Vishva Samwad Kendra (Global Communication Centre)* on proposal to extend reservation to Dalit Christians and Muslims in Greater Noida, U.P., has unanimously held that the current system to reservations for the Scheduled caste must not be tinkered with and no quota should be extended to Muslims and Christian Dalits since the two religions claim to be egalitarian. As per the report, "The Conclave unanimously reiterated that the reservation for Schedule Castes is an article of faith and shall continue," VHP working president Anil Agarwal said. More than 150 persons participated in the Conclave, including former Judges, serving and Former vice chancellors, deans, professors, journalists, advocates, column writers and other academics.

A report on news web portal *cjp.org.in* delved into, 'How 'love jihad' rallies are spreading hate against Muslims in Maharashtra'. The report stated that "Love jihad" is a conspiracy theory

A report from Haryana described how the real targets for saving the cow have not been achieved in Haryana, but on the other hand cases of cow vigilantism have increased in the state



peddled by Hindu supremacist groups that claims that there is a plot by Muslim men to seduce Hindu women in order to convert them to Islam. Similarly, "land jihad" proponents accuse Muslims of waging a campaign to encroach on public land and property owned by Hindus. But even the Supreme Court's scrutiny announced on 4th February on a PIL against such rallies did little to stem the flood of provocative speeches at these rallies, which are being organised under the umbrella of the *Sakal Hindu Samaj*. In the weeks after the court order, at least 11 major rallies were organised in Maharashtra. Groups like Vishwa Hindu Parishad, Bajrang Dal, Sanatan Sanstha and Durga Vahini, lesser-known organisations like Vishwa Shriram Sena, Hindu Rashtra Sena, Hindu Janjagruti Samiti, and Hindu Pratisthan, as well as trustees and priests of temples have led the events. The organisations say they are part of the *Sakal Hindu Samaj*. "This is a collective under which all Hindu organisations come together," said Vishwa Hindu Parishad leader Anand Pandey. "It has existed for a long time."

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JUSTICE AND EMPOWERMENT OF MINORITIES
(A Jamiat Ulama-i-Hind Initiative)

No. 1, Bahadur Shah Zafar Marg, New Delhi - 110002
www.jem.org.in, Email: contact@jem.org.in / jemindia22@gmail.com



Justice and Empowerment of Minorities (JEM) is an initiative of Jamiat Ulama-i-Hind, the country's oldest and largest socio-cultural organisation of Indian Muslims.

JEM's mission is to safeguard the human rights of country's minorities while countering hate speech targeted against them. It endeavours to collect, collate and present cases of harassment, in any form, perpetrated against the minorities by right-wing elements. It's aim is to promote Rule of Law and access to justice, equal rights, citizen's security and human rights, in addition to defending and empowering religious minorities, marginalised and persecuted individuals, groups and communities through Advocacy.

JEM's aim is to empower and provide justice and judicial assistance to the victims of such crimes, which could be categorised under 'Hate Crimes'. It further aims to strengthen the constitutional edifice of the country, which guarantees the rights and dignity of minority groups, apart from helping to build a vibrant, thriving and affluent India.

JEM publishes four Quarterly Reviews and an Annual Review every year, highlighting the hate crimes against minorities, and additionally responding to marginalisation and persecution of minorities, in addition to ensuring implementation of equal rights, justice and peace, religious tolerance and coexistence in the country.



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No. 1, Bahadur Shah Zafar Marg, New Delhi - 110002

Email: contact@jem.org.in / jemindia22@gmail.com, www.jem.org.in



@jemindia



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@jemindia22