

Hate Speech

January 3, 2022

Responsible speech is not just something that does not contain abuse, defamation or incitement to violence. It is increasingly seen as an expression that tends not to discriminate against or incite hatred towards groups based on race, gender, caste, religious belief, sexual orientation, nationality or immigration status. **Hate speech threatens two key doctrines of democracy:** The guarantee of equal dignity to all and the public good of inclusiveness. A committee appointed by the Union Home Ministry, tasked with recommending changes in criminal law, has sought to formulate new provisions that will make hate speech a separate offence.

In news: A five-member special investigating team (SIT) to probe the extremely provocative hate speeches delivered at the Dharma Sansad in Haridwar, Uttarakhand, in mid-December, 2021.

Placing it in syllabus: Law & Policy

Dimensions

- What is Hate Speech?
- Recent hate speech controversy in Haridwar
- Proposals of the T.K. Viswanathan Committee
- Different provisions in constitution and IPC
- Importance of the Proposals of the Committee
- Criticism of the Proposals

Content:

What is Hate Speech?

- The Bureau of Police Research and Development recently published a manual for investigating agencies on cyber harassment cases that defined hate speech as a *“language that denigrates, insults, threatens or targets an individual based on their identity and other traits*

(such as sexual orientation or disability or religion etc.).”

- It is increasingly seen as an expression that tends not to discriminate against or incite hatred towards groups based on race, gender, caste, religious belief, sexual orientation, nationality or immigration status.

Recent hate speech controversy in Haridwar-

- Uttarakhand police filed a hate speech case against Yati Narasimhanand – the organiser of a ‘*dharam sansad*’, or ‘parliament of religions’, held in Haridwar in December that triggered outrage after some Hindu religious leaders urged people to take up arms against Muslims and called for genocide.
- Section 295 of the Indian Penal Code (destruction, damage of a place of worship or an object held sacred) was also added to the FIR apart from Section 153A (promoting enmity between different groups on grounds of religion, race, place of birth, residence, language).
- The SIT will be headed by an officer of the superintendent of police level and legal action will be taken against those found guilty.

Proposals of the T.K.Viswanathan Committee:

- In 2017, a committee headed by former Lok Sabha Secretary General T.K. Viswanathan submitted a report recommending stricter laws to curb online hate speech.
- It **proposed inserting Sections 153 C (b) and Section 505 A in the IPC** for incitement to commit an offence on grounds of religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe.
- **Section 78 of the IT Act** primarily dealt with capacity building, needs to be relooked at with a view to sensitize law enforcement agency officers. Under it, a police officer of the rank of inspector or above was

empowered to investigate offences.

- Each state should have a State Cyber Crime Coordinator which should be an officer not below the rank of Inspector General of Police.
- Each district should have a District Cyber Crime Cell headed by an officer not below the rank of sub-inspector.
- It proposed punishment of up to two years along with ₹5,000 fine.

Background to the Committee-

- The committee was formed after the Supreme Court struck down Section 66 A of the Information Technology (IT) Act, 2000 in Shreya Singhal vs. Union of India in 2015.
- Section 66 A of IT Act was added to criminalize sending of offensive messages through a computer or other communication devices.
- Considering the growing menace of hate speech and abuse on the internet in the absence of the provision, the committee was reportedly set up to propose new laws and amendments in existing laws.
- In its report it relied on the 267th report of the Law Commission of India.

Different Provisions:

Constitutional provisions:

- **Article 19(2)** of the Constitution gives all citizens the right to freedom of speech and expression but subject to **“reasonable restrictions”** for preserving inter alia **“public order, decency or morality”**.

Statutory provisions:

- Sections 153A and 153B of the Indian Penal Code (IPC) punish acts that cause enmity and hatred between two groups.

- Section 295A of the IPC deal with punishing acts which deliberately or with malicious intention outrage the religious feelings of a class of persons.
- Sections 505(1) and 505(2) make the publication and circulation of content which may cause ill-will or hatred between different groups an offence.
- Section 8 of the Representation of People's Act, 1951 (RPA) prevents a person convicted of the illegal use of the freedom of speech from contesting an election.
- Sections 123(3A) and 125 of the RPA bar the promotion of animosity on the grounds of race, religion, community, caste, or language in reference to elections and includes it under corrupt electoral practices.

Importance of the Proposals of the Committee

The 5-member Committee for Reforms in Criminal Laws headed by Vice Chancellor of National Law University (NLU), Delhi (Currently – Srikrishna Deva Rao) constituted by the Union Home Ministry in 2020 to suggest reforms to the British-era Indian Penal Code (IPC) is likely to propose a separate Section on “offences relating to speech and expression.” Instead of ad hoc changes, it was decided that all the pending issues such as those on hate speech as recommended by the Viswanathan committee can be examined and comprehensive changes are brought in.

- Instead of ad hoc changes, it was decided that all the pending issues such as those on hate speech can be examined and comprehensive changes are brought in.
- It would clarify what is sought to be punished is incitement to violence or advocacy of hatred.
- It would give a clear picture on the definition of ‘Hate speech’.

Criticism of the Proposals

- Many feared a hurried process without adequate and wide

consultation.

- Some lawyers and activists said it was not inclusive and questioned its ability to gather a wide range of opinion in the midst of a pandemic.

Mould your thought: What is hate speech? Identify the issues involved in regulating hate speech in India.

Approach to the answer:

- Introduction
- Define hate speech in general
- Mention how hate speech is regulated in India at present
- Discuss the problems with the present system
- Briefly discuss the proposals of various committees on the subject
- Conclusion