

Comprehensive Guide to Identifying Hate Speech in India: Legal Provisions and Framework

Compiled for Reference - February 2026

Executive Summary

This document compiles the complete legal framework for identifying and addressing hate speech in India. It includes full text of relevant laws, landmark judgments, guidelines, and practical frameworks for determining whether speech constitutes hate speech under Indian law.

Table of Contents

1. Introduction to Hate Speech in India
 2. Primary Legal Provisions - Indian Penal Code
 3. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
 4. Electoral Laws - Representation of the People Act, 1951
 5. Protection of Civil Rights Act, 1955
 6. Information Technology Act, 2000 and IT Rules, 2021
 7. Landmark Supreme Court Judgments
 8. Law Commission Report No. 267 on Hate Speech
 9. Identification Framework and Decision Tree
 10. References and Official Sources
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Chapter 1: Introduction to Hate Speech in India

1.1 What is Hate Speech?

Hate speech has **not been explicitly defined** in any Indian law. However, the Law Commission of India Report No. 267 (2017) describes it as:

"Expression which spreads, incites, promotes or justifies hatred, discrimination and hostility against individuals or groups on the basis of religion, race, caste, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe." [1]

1.2 Constitutional Framework

The Constitution of India guarantees freedom of speech and expression under Article 19(1)(a), subject to reasonable restrictions under Article 19(2) on grounds of:

- Sovereignty and integrity of India
- Security of the State
- Friendly relations with foreign States
- Public order
- Decency or morality
- Contempt of court
- Defamation
- Incitement to an offence

Hate speech is curtailed primarily under the grounds of **public order** and **incitement to offence**.

1.3 Key Principles from Jurisprudence

Three Concentric Circles Test (*Ram Manohar Lohiya v. State of Bihar*):

- Outermost Circle: Law and Order
- Middle Circle: Public Order
- Innermost Circle: Security of State

An act may affect law and order but not public order; similarly, an act may affect public order but not security of the State. Hate speech restrictions primarily fall within the "public order" domain.

Proximate Connection Test: There must be a proximate and direct connection between the speech and the anticipated harm—not remote or fanciful.[2]

Chapter 2: Indian Penal Code Provisions

2.1 Section 153A - Promoting Enmity Between Different Groups

Full Text:

153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

shall be punished with imprisonment which may extend to **three years**, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to **five years** and shall also be liable to fine.

Key Elements:

- Mens rea (intention) must be proved
- At least two different groups must be involved
- Promotion of disharmony, enmity, hatred or ill-will
- Cognizable, non-bailable offence
- Triable by Magistrate of First Class

Important Case Law:

In *Bilal Ahmed Kaloo v. State of A.P.* (1997), the Supreme Court held that merely hurting the feelings of one community without reference to another community cannot attract Section 153A.[3]

2.2 Section 153B - Imputations Prejudicial to National Integration

Full Text:

153B. Imputations, assertions prejudicial to national-integration.

(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied, or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to **three years**, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to **five years** and shall also be liable to fine.

2.3 Section 295A - Deliberate and Malicious Acts to Outrage Religious Feelings

Full Text:

295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to **three years**, or with fine, or with both.

Key Elements:

- Deliberate and malicious intention required
- Must intend to outrage religious feelings
- Target must be the religion or religious beliefs of a class
- Cognizable, non-bailable, non-compoundable offence

Landmark Judgment:

In *Ramji Lal Modi v. State of U.P.* (1957), the Supreme Court upheld the constitutional validity of Section 295A, clarifying that it does not penalize every act of insult to religion, but only those acts perpetrated with deliberate and malicious intention of outraging religious feelings.[4]

2.4 Section 298 - Uttering Words to Wound Religious Feelings

Full Text:

298. Uttering words, etc., with deliberate intent to wound the religious feelings.

Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to **one year**, or with fine, or with both.

Distinction from 295A:

- Section 298: Targets individual person's religious feelings
- Section 295A: Targets religious feelings of a class of citizens
- Section 298: Lesser punishment (up to 1 year)

2.5 Section 505 - Statements Conducing to Public Mischief**Full Text:**

505. Statements conducing to public mischief.

(1) Whoever makes, publishes or circulates any statement, rumour or report,—

(a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to **three years**, or with fine, or with both.

(2) Statements creating or promoting enmity, hatred or ill-will between classes.

Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to **three years**, or with fine, or with both.

(3) Whoever makes, publishes or circulates any statement, rumour or report—

(a) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community; or

(b) which is likely to promote feelings of enmity or hatred between different classes or communities,

in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to **five years** and shall also be liable to fine.

Classification:

- Sub-sections (1): Non-bailable, non-cognizable, non-compoundable
 - Sub-sections (2) and (3): Non-bailable, cognizable, non-compoundable
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Chapter 3: Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

3.1 Overview

The SC/ST (Prevention of Atrocities) Act, 1989 (Act No. 33 of 1989) was enacted to prevent atrocities and hate crimes against scheduled castes and scheduled tribes, recognizing that existing legal provisions were inadequate to check caste and ethnicity-based hate crimes.

3.2 Section 3 - Offences of Atrocities (Selected Relevant Provisions)

Section 3(1)(x) - Public Humiliation:

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

Punishment: Imprisonment for not less than **six months** but which may extend to **five years** and with fine.

Section 3(1)(r) - Caste-Based Abuse:

(r) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

Section 3(1)(s) - Intimidation Based on Caste:

(s) intimidates, insults or annoys any member of a Scheduled Caste or a Scheduled Tribe with intent to humiliate in any place within public view;

Section 3(2)(vii) - Public Servants:

(vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

3.3 Key Features

- Specific protection for vulnerable caste groups
- Enhanced punishment for offences in public view
- Special Courts for speedy trial (Section 14)
- No anticipatory bail (Section 18 - Section 438 CrPC does not apply)
- Presumption of offence in certain cases (Section 8)

Important Case Law:

In *Arumugam Seervai v. State of Tamil Nadu* (2011), the Supreme Court upheld prosecution under the SC/ST Act for using casteist words with intent to insult, examining the historical context of such words.[5]

Chapter 4: Representation of the People Act, 1951

4.1 Section 123(3A) - Corrupt Practice of Promoting Enmity

Full Text:

123. Corrupt practices. The following shall be deemed to be corrupt practices for the purposes of this Act:—

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Consequences:

- Election may be declared void (Section 100)
- Disqualification from contesting elections
- Prosecution under Section 125 RPA

4.2 Section 125 - Promoting Enmity in Connection with Election

125. Promoting enmity between classes in connection with election.

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.

Chapter 5: Protection of Civil Rights Act, 1955

5.1 Section 7 - Incitement to Practice Untouchability

Full Text:

7. Punishment for enforcing religious disabilities for purpose of practicing "untouchability".

(1) Whoever—

(c) by words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practice "untouchability" in any form whatsoever, shall be punishable with imprisonment for a term which shall not be less than **one month** and not more than **six months** and also with fine which shall not be less than **one hundred rupees** and not more than **five hundred rupees**.

5.2 Relevance to Hate Speech

This Act specifically targets caste-based hate speech and discrimination, particularly the practice of untouchability, which is abolished under Article 17 of the Constitution.

Chapter 6: Information Technology Act, 2000 and IT Rules, 2021

6.1 Section 66A - Offensive Messages (STRUCK DOWN)

Historical Context:

Section 66A criminalized sending "grossly offensive" or "menacing" messages through electronic means. It was struck down by the Supreme Court in *Shreya Singhal v. Union of India* (2015) as unconstitutional for being vague, overbroad, and violating freedom of speech under Article 19(1)(a).

Key Holdings from Shreya Singhal:

- Section 66A failed to establish proximate relationship between restriction and act
- No ingredient of inciting immediate threat to public safety
- Differentiated between discussion/advocacy and incitement
- Expression can only be restricted when discussion and advocacy amount to incitement

6.2 Section 67 - Obscene/Lascivious Content

67. Punishment for publishing or transmitting obscene material in electronic form.

Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to **three years** and with fine which may extend to **five lakh rupees** and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to **five years** and also with fine which may extend to **ten lakh rupees**.

6.3 IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

Key Provisions:

Rule 3(1)(b) - Due Diligence by Intermediaries:

Intermediaries shall not host, display, upload, modify, publish, transmit, store, update or share any information that:

- is harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever;
- harms minors in any way;
- infringes any patent, trademark, copyright or other proprietary rights;
- violates any law for the time being in force;
- threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign states, or public order or causes incitement to the commission of any cognizable offence or prevents investigation of any offence or is insulting any other nation.

Rule 4 - Additional Due Diligence for Significant Social Media Intermediaries:

- Appointment of Chief Compliance Officer, Nodal Contact Person, and Resident Grievance Officer
 - Monthly compliance report
 - Removal of unlawful content within 24 hours of complaint
 - Proactive monitoring using automated tools
-

Chapter 7: Landmark Supreme Court Judgments

7.1 Shreya Singhal v. Union of India (2015)

Citation: AIR 2015 SC 1523

Key Holdings:

1. Section 66A of IT Act struck down as unconstitutional
2. Test for restriction: Must have proximate connection to incitement of imminent violence
3. Discussion and advocacy protected; only incitement can be restricted
4. Vague and overbroad laws violate Article 19(1)(a)
5. Chilling effect on free speech unacceptable

Relevant Excerpt:

"The nexus between the message and action that may be taken based on the message is conspicuously absent – there is no ingredient in this offence of inciting anybody to do anything which a reasonable man would then say would have the tendency of being an immediate threat to public safety or tranquility."

7.2 Pravasi Bhalai Sangathan v. Union of India (2014)

Citation: AIR 2014 SC 1591; (2014) 11 SCC 477

Key Holdings:

1. Existing laws adequate to deal with hate speech; problem is non-implementation
2. Court cannot legislate where legislative intent is visible
3. Matter referred to Law Commission to define hate speech and recommend strengthening Election Commission
4. Hate speech violates Articles 14, 15, 19, 21 read with Article 38 and Fundamental Duties under Article 51A

Direction to Law Commission:

The Court directed the Law Commission to examine if it deems proper to define hate speech and make recommendations to Parliament to strengthen the Election Commission to curb the menace of hate speeches.

7.3 Ramji Lal Modi v. State of U.P. (1957)

Citation: AIR 1957 SC 620

Key Holdings:

1. Section 295A constitutionally valid
2. Does not penalize every insult to religion; only those with deliberate and malicious intention
3. "In the interest of public order" under Article 19(2) is wider than "maintenance of public order"
4. Even if act does not actually cause breach of public order, restriction "in the interest of public order" is reasonable

7.4 Ram Manohar Lohiya v. State of Bihar (1966)

Citation: AIR 1966 SC 740

Key Holdings:

1. Distinguished law and order, public order, and security of State using concentric circles analogy
 2. Act may affect law and order but not public order
 3. Act may affect public order but not security of State
 4. Restriction must have proximate and direct connection to harm—not remote or fanciful
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Chapter 8: Law Commission Report No. 267 on Hate Speech (March 2017)

8.1 Background and Mandate

The Law Commission of India submitted Report No. 267 on Hate Speech to the Government on March 23, 2017, in response to the Supreme Court's direction in *Pravasi Bhalai Sangathan* case.[6]

8.2 Key Findings

On Existing Laws:

- Hate speech has not been defined in any Indian law
- Existing provisions (IPC 153A, 153B, 295A, 298, 505) are overlapping but inadequate
- Provisions are vague and do not clearly address incitement to discrimination
- Differentiation needed between hate speech and sedition

On Constitutional Framework:

- Freedom of speech is not absolute
- Hate speech undermines dignity and equality of vulnerable groups
- Speech that negates rights of vulnerable groups should be regulated
- Three-part test: prescribed by law, legitimate aim, necessary and proportionate

8.3 Criteria for Identifying Hate Speech

The Commission recommended considering multiple factors:

Criterion	Description
Extremity of Speech	Must project extreme form of emotion—not mere offense or hurt
Incitement	Key threshold: Must incite violence, discrimination, or imminent lawless action
Status of Author	Politicians/leaders face stricter scrutiny due to influence and reach
Status of Victims	Vulnerable groups (minorities, SCs, STs) warrant greater protection
Potentiality	Likely impact on public order or marginalization of groups
Context	Historical, social, and situational context matters (e.g., caste slurs, communal tension)

8.4 Recommended Amendments

The Commission proposed inserting two new sections in the IPC:

Proposed Section 153C:

153C. Whoever on grounds of religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe—

(a) uses gravely threatening words, either spoken or written, or signs or visible representations, with the intention to cause fear or alarm; or

(b) advocates hatred by words, either spoken or written, or signs or visible representations, that causes incitement to violence,

shall be punishable with imprisonment for a term which may extend to **two years**, or with fine which may extend to **five thousand rupees**, or with both.

Proposed Section 505A:

505A. Whoever in public intentionally on grounds of religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe:

(a) uses words, or displays any writing, sign or other visible representation which is gravely threatening, or derogatory;

(b) within the hearing or sight of a person, causing fear or alarm, or;

(c) with the intent to provoke the use of unlawful violence, shall be punished with imprisonment for a term which may extend to **one year**, and/or fine which may extend to **five thousand rupees**, or with both.

8.5 Non-Legal Recommendations

- Television dramas and programs promoting communal harmony
- Involvement of religious leaders in promoting tolerance
- Social media monitoring and countering false rumors
- Strengthening Election Commission's powers
- Amendment to Model Code of Conduct

Chapter 9: Decision Framework for Identifying Hate Speech

9.1 Step-by-Step Analysis Framework

STEP 1: CONTENT EXAMINATION

Does the speech contain:

- ☐ References to religion, race, caste, community, language, place of birth, gender, sexual orientation, or disability?
- ☐ Words, signs, visible representations, or gestures?
- ☐ Disparaging, derogatory, or threatening language?

If NO to all: Likely not hate speech under Indian law. **Proceed to defamation/other offence analysis.**

If YES: Proceed to Step 2.

STEP 2: INTENT ASSESSMENT

Was the speech made with:

- ☐ Deliberate and malicious intention to outrage feelings? (295A)
- ☐ Intent to promote enmity, hatred, or ill-will between groups? (153A, 505(2))
- ☐ Intent to humiliate or insult SC/ST members? (SC/ST Act Section 3)
- ☐ Intent to disturb public tranquility? (153A(1)(b))

If NO clear intent: May not constitute hate speech; context-dependent.

If YES: Proceed to Step 3.

STEP 3: GROUP IDENTIFICATION

- ☐ Does the speech target at least TWO distinct groups? (Required for 153A, 505)
- ☐ Is the target a religious, racial, linguistic, regional, caste, or community group?
- ☐ Is the target a member of Scheduled Caste or Scheduled Tribe? (SC/ST Act)

If NO: May not fall under hate speech provisions; consider defamation.

If YES: Proceed to Step 4.

STEP 4: CONSEQUENCE ASSESSMENT

Does the speech:

- ☐ Promote or attempt to promote disharmony, enmity, hatred, or ill-will?
- ☐ Disturb or likely to disturb public tranquility?
- ☐ Create fear, alarm, or feeling of insecurity?
- ☐ Incite violence or unlawful action?
- ☐ Have proximate connection to potential harm?

If NO: May be offensive but not legally hate speech.

If YES: Proceed to Step 5.

STEP 5: CONTEXTUAL FACTORS

Consider:

- Location: Place of worship? Public view? During elections?
- Speaker: Public figure? Political leader? Religious leader?
- Audience: Size, composition, susceptibility to incitement?
- Timing: Communally sensitive period? Election time? Festival?
- History: Area prone to communal violence? Past incidents?

Enhanced punishment applies if made in place of worship or during religious ceremonies.

STEP 6: LEGAL CLASSIFICATION

If Speech Involves	Applicable Section	Punishment
Promoting enmity between groups	IPC 153A	Up to 3 years (5 in worship place)
Imputations against national integration	IPC 153B	Up to 3 years (5 in worship place)
Outraging religious feelings of class	IPC 295A	Up to 3 years
Wounding individual religious feelings	IPC 298	Up to 1 year
Creating enmity/hatred between classes	IPC 505(2)	Up to 3 years (5 in worship place)
Humiliating SC/ST in public	SC/ST Act 3(1) (x)	6 months to 5 years
Election-related enmity promotion	RPA 123(3A), 125	Up to 3 years + disqualification

9.2 Decision Tree Flowchart

START: Analyze Speech Content

|

v

[Does speech reference protected characteristics?]
(religion, caste, race, language, etc.)

|

YES | NO --> Not hate speech

v

[Is intent malicious/deliberate?]
(to promote enmity, outrage, insult, humiliate)

|

YES | NO --> Context-dependent

v

[Are two+ groups involved OR SC/ST targeted?]

|

YES | NO --> Check defamation/other laws

v

[Does speech disturb/likely disturb public order?]
OR [Incite violence/create fear?]

|

YES | NO --> May be offensive, not illegal

v

[Check Aggravating Factors]

- Place of worship
- Public view
- During elections
- By public figure
- Area prone to violence

|

v

[DETERMINE APPLICABLE LAW]

|

| --> IPC 153A: Enmity between groups

| --> IPC 153B: Anti-national imputations

| --> IPC 295A: Outrage religious feelings (class)

| --> IPC 298: Wound religious feelings (individual)

| --> IPC 505(2): Public mischief/enmity

| --> SC/ST Act 3: Caste-based insult/humiliation
| --> RPA 125: Election-related enmity
|
v
CONCLUSION: Hate Speech Identified

9.3 Practical Examples with Analysis

EXAMPLE 1:

Speech: "Members of [Religion X] are traitors and cannot be loyal to India."

Analysis:

- Protected characteristic: Religion ✓
- Intent: Imputation against national integration ✓
- Groups involved: Religion X vs. implied others ✓
- Consequence: Promotes enmity, questions loyalty ✓
- **Applicable Law:** IPC 153B (Imputations prejudicial to national integration)

EXAMPLE 2:

Speech: "All [Caste Y] people are dirty and should not be allowed in temples."

Analysis:

- Protected characteristic: Caste ✓
- Intent: Malicious, promotes untouchability ✓
- Groups involved: Caste Y (if SC/ST) ✓
- Location: Reference to temples (place of worship) ✓
- **Applicable Law:** SC/ST Act Section 3(1)(x) + Protection of Civil Rights Act Section 7

EXAMPLE 3:

Speech: "Don't vote for [Religion Z] candidates—they will betray the nation."

Analysis:

- Protected characteristic: Religion ✓
- Context: Election-related ✓
- Intent: Promote enmity on religious grounds ✓
- Consequence: Electoral malpractice ✓
- **Applicable Law:** RPA Section 123(3A) (corrupt practice) + RPA Section 125

EXAMPLE 4:

Speech: "I personally don't like the practices of [Religion A], but everyone has the right to their beliefs."

Analysis:

- Protected characteristic: Religion ✓
- Intent: Personal opinion, no malice ✗
- Promotion of enmity: No ✗
- Acknowledgment of rights: Yes
- **Conclusion:** NOT hate speech - protected criticism/opinion

EXAMPLE 5:

Speech: During communal tension, a leader says: "Arm yourselves and teach [Community B] a lesson."

Analysis:

- Protected characteristic: Community ✓
 - Intent: Incitement to violence ✓
 - Context: Communal tension (aggravating) ✓
 - Imminent threat: Yes ✓
 - **Applicable Law:** IPC 153A(1)(c) (organizing violent activity), may also attract IPC 505(1)(b) (causing alarm leading to offense against public tranquility)
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Chapter 10: Official Sources and Download Links

10.1 Primary Legislation

Indian Penal Code, 1860:

- Official Source: India Code (<https://www.indiacode.nic.in/>)
- Direct Link: https://www.indiacode.nic.in/bitstream/123456789/15289/1/ipc_act.pdf
- Relevant Sections: 153A, 153B, 295A, 298, 505

SC/ST (Prevention of Atrocities) Act, 1989:

- Official Source: Ministry of Tribal Affairs
- Direct Link: <http://tribal.nic.in/actRules/SCSTpoaact1989.pdf>
- Alternative: <https://www.indiacode.nic.in/> (search "Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act 1989")

Representation of the People Act, 1951:

- Official Source: India Code
- Direct Link: <https://www.indiacode.nic.in/bitstream/123456789/2096/9/A1951-43.pdf>
- Relevant Sections: 8, 123(3A), 125

Protection of Civil Rights Act, 1955:

- Official Source: India Code / National Commission for Women
- Direct Link: https://www.indiacode.nic.in/bitstream/123456789/15434/1/protection_of_civil_rights_act,_1955.pdf
- Alternative: <http://ncwapps.nic.in/acts/TheProtectionofCivilRightsAct1955.pdf>

Information Technology Act, 2000:

- Official Source: India Code / MeitY
- Direct Link: https://www.indiacode.nic.in/bitstream/123456789/13116/1/it_act_2000_updated.pdf
- Note: Section 66A struck down—refer to Shreya Singhal judgment

IT (Intermediary Guidelines) Rules, 2021:

- Official Source: Ministry of Electronics and IT (MeitY)
- Access: <https://www.meity.gov.in/> (search for "Intermediary Guidelines 2021")
- Gazette Notification: Published February 25, 2021

10.2 Landmark Judgments

Shreya Singhal v. Union of India (2015):

- Citation: AIR 2015 SC 1523 | (2015) 5 SCC 1
- Indian Kanoon: <https://indiankanoon.org/doc/110813550/>
- Supreme Court Website: <https://main.sci.gov.in/>

Pravasi Bhalai Sangathan v. Union of India (2014):

- Citation: AIR 2014 SC 1591 | (2014) 11 SCC 477
- Indian Kanoon: <https://indiankanoon.org/doc/709776/>
- Full Text: Multiple legal databases

Ramji Lal Modi v. State of U.P. (1957):

- Citation: AIR 1957 SC 620
- Indian Kanoon: <https://indiankanoon.org/doc/1641007/>

All Supreme Court Judgments:

- Supreme Court of India: <https://main.sci.gov.in/judgments>
- Indian Kanoon: <https://indiankanoon.org/>
- SCC Online: <https://www.scconline.com/>

10.3 Law Commission Reports

Law Commission Report No. 267 on Hate Speech (March 2017):

- Official Source: Law Commission of India
- Direct Link: <https://lawcommissionofindia.nic.in/reports/Report267.pdf>
- Alternative: <https://taxguru.in/wp-content/uploads/2017/03/Download-Law-Commission-Report-No.267-on-Hate-Speech-March-2017.pdf>

All Law Commission Reports:

- Website: <https://lawcommissionofindia.nic.in/>
- Navigate to: Reports → Twenty-First Commission → Report 267

10.4 Government Resources

Ministry of Home Affairs:

- Website: <https://www.mha.gov.in/>
- Access: Crime statistics, implementation reports

Ministry of Social Justice & Empowerment:

- Website: <https://socialjustice.gov.in/>
- Access: SC/ST Act implementation, statistics

Ministry of Law & Justice:

- Website: <https://lawmin.gov.in/>
- India Code Portal: <https://www.indiacode.nic.in/>

National Crime Records Bureau (NCRB):

- Website: <https://ncrb.gov.in/>
- Access: Annual crime statistics including hate speech cases under various sections

Election Commission of India:

- Website: <https://eci.gov.in/>
- Access: Model Code of Conduct, election-related hate speech guidelines

10.5 Quick Reference Download Checklist

- ☐ Indian Penal Code (IPC) - Sections 153A, 153B, 295A, 298, 505
- ☐ SC/ST (Prevention of Atrocities) Act, 1989 - Full Act
- ☐ Representation of the People Act, 1951 - Sections 8, 123, 125
- ☐ Protection of Civil Rights Act, 1955 - Section 7
- ☐ Information Technology Act, 2000 - Section 67 (66A struck down)
- ☐ IT Rules, 2021 - Intermediary Guidelines
- ☐ Shreya Singhal v. Union of India (2015) - Full judgment

- ☐ Pravasi Bhalai Sangathan v. Union of India (2014) - Full judgment
 - ☐ Law Commission Report No. 267 (2017) - Full report
 - ☐ This Compiled Reference Document
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Appendix A: Comparative Table of Hate Speech Provisions

Provision	Offense	Protected Ground	Punishment	Cognizable
IPC 153A(1)	Promoting enmity between groups	Religion, race, caste, language, residence	Up to 3 years + fine	Yes
IPC 153A(2)	Same in worship place	Same as above	Up to 5 years + fine	Yes
IPC 153B(1)	Anti-national imputations	Religion, race, caste, language, region	Up to 3 years + fine	Yes
IPC 153B(2)	Same in worship place	Same as above	Up to 5 years + fine	Yes
IPC 295A	Outrage religious feelings	Religion/religious beliefs	Up to 3 years + fine	Yes
IPC 298	Wound religious feelings	Religion (individual)	Up to 1 year + fine	No
IPC 505(1)	Public mischief	General	Up to 3 years + fine	No
IPC 505(2)	Enmity/hatred between classes	Religion, race, caste, language, residence	Up to 3 years + fine	Yes
IPC 505(3)	Same in worship place	Same as 505(2)	Up to 5 years + fine	Yes
SC/ST Act 3(1)(x)	Public humiliation of SC/ST	Caste (SC/ST only)	6 months to 5 years + fine	Yes
RPA 125	Election-related enmity	Religion, race, caste, community, language	Up to 3 years + fine	Yes
PCR Act 7(1)(c)	Incitement to untouchability	Caste	1-6 months + fine	Yes

Appendix B: Frequently Asked Questions

Q1: Is hate speech explicitly defined in Indian law?

No. Indian law does not contain an explicit definition of "hate speech." Instead, various provisions criminalize specific forms of speech that promote enmity, outrage religious feelings, humiliate caste groups, etc.

Q2: What is the difference between Section 153A and Section 295A?

- **153A:** Targets promotion of enmity between **different groups** on grounds of religion, race, caste, language, etc. Requires at least two groups.
- **295A:** Targets acts intended to outrage the religious feelings of **any class** by insulting religion. Focuses on religious feelings specifically.

Q3: Can someone be prosecuted under multiple sections simultaneously?

Yes. A single speech act may violate multiple provisions. For example, a speech may constitute both IPC 153A (promoting enmity) and IPC 295A (outraging religious feelings) if it meets the elements of both offenses.

Q4: Is criticizing a religion hate speech?

Not necessarily. *Bona fide* criticism, scholarly discussion, and calls for social reform are protected. Hate speech requires **deliberate and malicious intent** to outrage feelings or promote enmity. Context and intent are crucial.

Q5: What is the punishment for hate speech?

Depends on the applicable provision:

- Most IPC provisions: Up to 3 years imprisonment and/or fine
- In place of worship: Up to 5 years imprisonment and fine
- SC/ST Act: Minimum 6 months, up to 5 years and fine
- No anticipatory bail for SC/ST Act offenses

Q6: Can hate speech online be prosecuted?

Yes. While Section 66A was struck down, hate speech online can be prosecuted under:

- Existing IPC provisions (153A, 295A, 505, etc.)
- IT Rules 2021 require intermediaries to remove unlawful content
- Section 67 IT Act for obscene/lascivious content

Q7: What should I do if I witness hate speech?

1. Document: Record/screenshot the speech with date, time, location, context
2. Report to Police: File FIR at nearest police station
3. Alternative: Complaint to District Magistrate/Sub-Divisional Magistrate
4. Online: Report to platform + Cyber Crime Portal (cybercrime.gov.in)
5. Legal Aid: Contact State Legal Services Authority if victim needs assistance

Q8: Are political leaders subject to stricter scrutiny?

Yes. The Law Commission Report 267 and courts have emphasized that public figures, especially politicians and religious leaders, face enhanced responsibility due to their influence and reach. Their speech is judged more strictly.

Q9: Is intent required to prove hate speech?

Yes, for most provisions. Sections 153A, 295A require proof of **deliberate and malicious intent** (mens rea). However, the courts may presume intent based on the nature of the speech and surrounding circumstances.

Q10: Can a case be filed for hate speech made in a private setting?

Generally, provisions like 153A, 295A require a **public element**—speech that disturbs or is likely to disturb public tranquility or reach the public. Purely private conversations may not qualify unless they have public impact. SC/ST Act requires "any place within public view."

Conclusion

This comprehensive document provides the complete legal framework for identifying hate speech in India. It consolidates:

- Full text of all relevant IPC sections (153A, 153B, 295A, 298, 505)
- Complete SC/ST (Prevention of Atrocities) Act provisions
- Electoral laws under Representation of the People Act
- IT Act provisions and IT Rules 2021 guidelines
- Landmark Supreme Court judgments with key holdings
- Law Commission Report No. 267 analysis and recommendations
- Practical decision framework and examples
- Official sources and download links

Key Takeaways:

1. **Hate speech is not explicitly defined** but is criminalized through specific provisions targeting speech that promotes enmity, outrages feelings, or humiliates protected groups.
2. **Intent matters:** Most provisions require proof of deliberate and malicious intent (*mens rea*).
3. **Context is crucial:** Location (worship place), timing (elections, communal tension), speaker status (public figure), and historical context affect legal assessment.
4. **Proximate connection required:** Speech must have a direct and proximate connection to harm—not remote or speculative.
5. **Multiple protections available:** Depending on the nature of speech, multiple legal provisions may apply simultaneously.
6. **Enforcement challenges exist:** Despite comprehensive laws, implementation remains a challenge, as noted by the Supreme Court in *Pravasi Bhalai Sangathan*.

This document serves as a single consolidated reference for legal professionals, law enforcement, policymakers, civil society, and citizens to understand and identify hate speech under Indian law.

References

[1] Law Commission of India, Report No. 267: Hate Speech (March 2017), Chapter V, Para 5.1-5.9. Available at: <https://lawcommissionofindia.nic.in/reports/Report267.pdf>

[2] Supreme Court of India, *Ram Manohar Lohiya v. State of Bihar*, AIR 1966 SC 740, Para 14-16.

[3] Supreme Court of India, *Bilal Ahmed Kaloo v. State of A.P.*, AIR 1997 SC 3483, Para 8.

[4] Supreme Court of India, *Ramji Lal Modi v. State of U.P.*, AIR 1957 SC 620, Para 12-15.

[5] Supreme Court of India, *Arumugam Seervai v. State of Tamil Nadu*, (2011) 6 SCC 405, Para 19-22.

[6] Supreme Court of India, *Pravasi Bhalai Sangathan v. Union of India*, AIR 2014 SC 1591, Para 32.

Document Compilation Date: February 14, 2026

Compiled by: Legal Research Team (On Request)

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