The Dilemma of Hate Speech Boundaries in a Society Striving for Inclusion

GROUP -16

Introduction

In a world where the pursuit of inclusivity and diversity has become a societal

imperative, the issue of hate speech has emerged as a significant obstacle. Hate speech, in its various forms, poses a significant challenge to the harmonious co existence of diverse communities. As societies strive to remove all barriers of peace and form an environment of inclusion, the dilemma of defining and regulating hate speech becomes a critical topic to think about.

The impact of hate speech is far-reaching, affecting individuals and communities in profound ways. It goes against the idea of an inclusive society, by spreading stereotypes, creating conflict, and dividing people. Addressing this issue is not merely a matter of legal concern but a moral imperative for creating a space where all individuals feel respected, valued, and safe.

In this report, we thus try to explore the complexity between hate speech and the societal pursuit of inclusion. By examining the definition and theories of hate speech, exploring legal perspectives, and considering the psychological impacts, we aim to understand the multifaceted nature of this challenge. The report will primarily explore the conflict between upholding freedom of speech and the need to establish limits on expressions promoting hatred. It aims to illustrate the challenge faced by both society and the judiciary in determining whether spoken words fall within the bounds of freedom or if they cross the line.

Understanding Hate Speech

Hate speech is one of those terms which is very oftenly used, though it has no universal definition, mostly due to its nature of varying widely as per individual perspective. However an informal definition for hate speech could be as any kind of communication in speech, writing or behaviour, that attacks or uses discriminatory language to a person or a group on the basis of who they are, i.e their inherent characteristics such as caste,religion, nationality, race, gender or other identity factor. It is totally one’s perception, as Robert C Post writes in his paper "Legitimacy and Hate Speech" (2017), “ one person’s hate can be another persons’s sense of justice or even truth.” If so, why do we care about understanding it?

It’s simple, if we intend to live in an inclusive society, we need to act like secular individuals, respecting the differences in opinions and beliefs. Given the freedom of expression, there will be times when something might hurt oneself, but we need to compromise and tolerate, which philosopher Bollinger says as developing the virtue of “magnanimity”. There are always going to be things conflicting to religions, the society thus develops ground rules to be followed so that peace could be maintained despite differences in beliefs. Philosophers like J S Mills have called for unregulated speech based on its positive aspects. According to him, it is only through the free exchange of ideas and opinions between dissenting individuals that the truth or falsity of an opinion can be ascertained. His Market Place of Ideas Theory is regarded as the basis for the Freedom of Speech concept however this ideology is prone to problems because the assumption that there is a free market place is not the case in the world we live in. It's not a free or open market, here power dictates the market place, deciding what is to be heard, and what to be suppressed. It's not necessary that whatever comes after discussions is the truth. As I once heard in a TEDx by Katia Campbell “truth comes from a clash of arguments, not from a clash of ill informed opinions.”. A lot is discussed about freedom of speech relating to finding truth, but is truth really what we always search for, what if truth spoken hurts other and lead to riots in the society ?,We will look into it in the Nupur Sharma case study.

Hate speech regulation in India

Hate speech is a legal category, and each country has its own laws defining what kind of speech is considered hateful. Sometimes, even when the judicial system makes a decision, the public may still find it questionable. General public often doesn't know which speech is protected and which is not. This confusion makes things tricky.

In our country India, cases regarding hate speech are dealt with certain laws.

The Indian Penal Code, under Sections 153A, 153B, 295A, 298, 505(1) and 505(2)25 declares that word, spoken or written, that promotes disharmony, hatred, or insults on basis of religion, ethnicity, culture, language, region, caste, community, race etc., is punishable under law.

Case Studies

Here we will be taking up different cases on how hate speech cases are handled in India, showing how thin the boundary is between one’s liberty to free speech and the hate speech thing, often invisible at least to the communitarian view.

1. (Ramji Lal Modi VS state of UP) and (Bilal Ahmad Kaloo VS state of Andhra Pradesh)

In Ramji Lal Modi's case, he got in trouble for writing something offensive about a certain religion. The Supreme Court said there's a balance between free speech and stopping speech that causes hate. Even though Modi argued for free speech, the court said his article was harmful, so he had to pay a fine and go to jail.  
Now, in Bilal Ahmad Kaloo's case, he was accused of spreading hate, manipulating youth and supporting armed rebellion. But the Supreme Court let him go. They said the lower court messed up the case. Also, the Supreme Court explained that the laws about promoting hate didn't apply to Bilal because he didn't create hatred between specific groups. He was only guilty of having weapons.  
These stories show how it's not easy to define and deal with hate speech. Even if someone seems to be promoting hate, the law might not always catch them because it's tricky to decide what counts as hate speech. It makes us think about how to balance the right to speak freely with stopping speech that could cause problems, especially when it comes to religion, race, or region.  
According to JS Mill I’m free to share my ideas and opinions and no one should restrict me to do so. That’s why Mill might criticize penalizing Modi but supports Bilal’s case.  
But according to Scanlon,he might endorse restricting Modi’s speech as it creates religious conflict while appreciating legal precision in Bilal’s case.

1. Nupur Sharma:  
   In May 2022, a BJP Spokesperson made a controversial remark about the Islamic prophet Muhammad in the heat of the moment on a Time Now debate on the Gyanvapi Mosque dispute.

On the next day, an FIR was registered against Nupur, in Mumbai’s Pydhonie Police Station under Section 153A of IPC for accusing her of outraging the religious feelings of Muslims all over the world. Many cases were filed against her in different states and some specific groups giving her death threats. She appealed to the Supreme Court to club all the cases and send them to Delhi. In Delhi, The court said the remark was made either for cheap publicity, political agenda or some nefarious activities.”She actually has a loose tongue and has made all kinds of irresponsible statements on TV and set the entire country on fire. Yet, she claims to be a lawyer of 10 years standing… She should have immediately apologised for her comments to the whole country”(The Wire).

Here, according to Fredrick Schauer 'sticks and stones can break my bones, but words can never harm me.' Believes that speech should be free and unregulated because, unlike actions, speech does not have the power to cause real damage to its recipients.

But here as we can see the remark given by Nupur not only created chaos in the country but also put her life in danger also so, here Schauer’s philosophy failed.

Is Nupur right? If yes, then how can you say that she didn’t cross her boundaries?

A Dilemma!

1. Munawar Faruqui:

Comedians often talk about religious topics in their shows. Some jokes make people laugh, while others can upset the community. Most of the time, comedians don't mean to hurt anyone's feelings or disrespect any religion. They are usually trying to talk about things that affect our daily lives, making it relatable and funny. It's like a balance. On one side, there's the right to speak freely while on the other side, there are rules against hate speech. One such case was of Munawar Faruqui, a popular stand up comedian from Gujarat. In a comic show in a club with an audience of 100, Munawar was found mocking Hindu deities by passing indecent comments to Hindu gods and goddesses. Following which a case was filed on him and his friends for hurting religious beliefs, with all being arrested the same day. The court case still continues, though he was released about a month later on bail. It's one such classic example, where it has been hard identifying for the society and even the judicial system to decide on whether he overstepped the free speech boundaries or not.

Conclusion:

Individual opinions are always going to be different, when would a person get hurt is always going to remain uncertain. It happens like that, doesn’t it? We friends do use vulgar words to each other, we take it for fun mostly, but isn’t it also the reason for fights? The thing is we individuals need to be a little careful, think for a moment before we utter words. ‘Sticks and stones can break my bones, but words can never harm me’, is not true, there are psychological impacts on people because of hate speeches. Nupur Sharma tried defending herself saying they could fact-check her statements. Maybe she was correct, but does it matter? Saying someone is black in America, isn’t it the same thing. It’s certainly true that he may be black, but it hurts to them right? It's also the case that when the nationality issue arises, when we think of muslims in India, some people do make them feel that it's not their country. These kinds of things are not going to make our country or humanity proud. Truth isn’t always the best thing. If the truth brings disharmony in the society, no point saying that truth out loud. "सत्यं ब्रूयात् प्रियं ब्रूयात् मा ब्रूयात् सत्यमप्रियम्", its a shlok from Bhagwad Gita, which means exactly the same, even if something is true, it need not be spoken if its not for the good. The boundaries between exercising our freedom of speech and hate speech, will always be thin, and decisions on cases regarding these things will always be controversial. If we really want to make an inclusive society for ourselves, let's make space for everyone, make ourselves able to tolerate some differences in opinion, try to think once before saying, at least the influential personnels need to certainly.What we can do is try to encourage more deep and open minded debates and discussions and let the truth come out as a result of these clashes. We should never try to suppress the opinion of one , as according to Mill , we have no right to do so and it will only lead to tyranny and dictatorship. We as a society should try to understand each other’s backgrounds and take steps to make sure that the dilemma of free speech can never come between the longstanding peace between any groups.

References:

Bhargava, Rajeev, “Political Theory: An Introduction”,9788131795613

<https://books.google.co.in/books?id=LewOngEACAAJ>

Legal Wire “Case Study: Ramji Lal Modi v. State of UP”,by Nishant Singh Rawat,uploaded on Nov 8,2022

<https://legal-wires.com/case-study/case-study-ramji-lal-modi-v-state-of-up/>

Post, Robert C., "Legitimacy and Hate Speech" (2017). Constitutional Commentary. 944. <https://scholarship.law.umn.edu/concomm/944>

The Wire “Nupur Sharma Must Apologise for ‘Disturbing’ Remark, Igniting Emotions: SC”,last modified on July 1,2022

<https://thewire.in/law/nupur-sharma-must-apologise-for-disturbing-remark-igniting-emotions-sc>

WordPress “Case comment…Bilal v State of AndhraPradesh (1997) 7 Supreme Today 127”,by arjungupta1993, uploaded on March 1,2015

<https://arjungupta1993.wordpress.com/2015/03/01/case-comment-bilal-v-state-of-andhra-pradesh-1997-7-supreme-today-127/>