

Sabrang Factsheet INDIAN LAW

Hate speech and hate writing are two mechanisms that have been systematically used in recent times, during and after elections, to whip up anti-minority hatreds and in many cases, actual violence.

What should the police do, and human rights group insist that they do, when repeated misuse of hate speech polarizes communities and often actually, degenerates into outright violence?

Invoke the relevant sections of the Indian Penal Code and the Representation of People's Act that are **meant to deal with these offences but are rarely used**. There are roughly four sections in Indian criminal law and election law that clearly and unequivocally *restrict* or *restrain* the use of such hate speech and writing and empower the executive, that is government (state and central) and the police, as also the judiciary with the task of enforcing them. Sections 153 a and b of the Indian Penal Code (IPC-offences for promoting enmity between different groups on grounds of religion, race, place of birth, language etc and doing acts prejudicial to maintenance of harmony or prejudicial to national integration) and sections 123 a and b of the Representation of People's Act (RPA—that, under the definition of a 'corrupt practice' forbids the use of undue influence, appeal on grounds of religion, promoting enmity or hatred between different classes of citizens on the ground of religion, race or community and character assassination).

Quite apart from the fundamental rights to equality, equal protection by the law, right to life, freedom of expression, association and residence and freedom to promote, practice and propagate one's faith and the rights of religious minorities to run their own institutions, the consistent and honest application of these sections of the IPC and the RPA are critical to ensure and assert the protection of basic democratic and human rights and especially, the Constitutional rights of Indian religious minorities. As importantly, the regular application of these sections in the public arena, by actions of the executive and judiciary, whenever violations of these laws takes place is as much necessary for upholding the secular intent of the Constitution of India.

Hate Speech:

Indian Penal Code 1860

153-A. 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.

Offence committed in place of worship, etc. - (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.

153-B. 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, consents, 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.

295. INJURING OR DEFILING PLACE OF WORSHIP WITH INTENT TO INSULT THE RELIGION OF ANY CLASS.

Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two year, or with fine, or with both.

295-A. 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.

296. DISTURBING RELIGIOUS ASSEMBLY.

Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

297. TRESPASSING ON BURIAL PLACES, ETC.

Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

298. UTTERING WORDS, ETC., WITH DELIBERATE INTENT TO WOUND 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.

505. STATEMENTS CONDUCTING 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) Offence under sub-section (2) committed in place of worship, etc. -

Whoever commits an offence specified in sub-section (2) 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.

Exception : It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it [in good faith and] without any such intent as aforesaid.