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ABSTRACT

India's burgeoning digital landscape, while promising revolutionary socio-economic advancements, simultaneously increases extant societal disparities, manifesting as pervasive "digital discrimination" established on religion. This paper examines the legal deficiencies in India's current legal system regarding "digital discrimination," specifically pointing out the absence of explicit anti-discrimination laws designed for the digital sphere. While Article 15 of the Constitution of India prohibits discrimination on these grounds and aims to ensure equality in physical spaces, it lacks a standalone, comprehensive anti-discrimination law specifically addressed for the digital spaces. Furthermore, online religious discrimination manifests through a spectrum of insidious digital behaviors, including the targeted harassment of cyberbullying, doxing, hate speech, derogatory comments, discriminatory memes and jokes, and the spread of misinformation. As a result of this violence, there is a pressing need for explicit anti-discrimination legislation that specifically defines and prohibits discrimination in digital spaces, targeted algorithmic biases, and exclusion. The recently enacted Information Technology Act, 2000 and Digital Personal Data Protection Act 2023, focus on data privacy, but there is a critical lacuna in addressing these digitally mediated inequalities. It also examines the role of social media platforms and digital

communities in either exacerbating or mitigating this issue. By analyzing legal frameworks, ethical considerations, and potential policy solutions, this paper seeks to raise awareness and propose strategies for creating a more inclusive and respectful digital environment for everyone, regardless of their race, caste, gender, religion, or place of birth.

KEYWORDS

Religion, Discrimination, Legislation, Policy

INTRODUCTION

India is a diversified country with a wide variety of religions, although Hinduism is the widely practiced religion, representing approximately 80% of the population. Other significant religions in India include Islam around 14%, Christianity about 3%, and Sikhism around 2%. Smaller percentages of the population follow Buddhism, Jainism, and other faiths. Religion is a multifaceted concept involving belief in a divine, supernatural or superhuman power, typically often expressed through conduct, ritual and practices. It encompasses a range of social-cultural systems, designated behaviors, customs, ethics, literature, sacred sites, practices, morals, beliefs, worldviews, texts, sanctified places, prophesies, ethics, or organizations. Religion can take different forms, including:

1. Monotheism – Belief in one God (e.g., Christianity, Islam, Judaism).
2. Polytheism – Belief in multiple gods (e.g., Hinduism, Ancient Greek religion).
3. Animism – Belief that spirits inhabit nature and objects (e.g., Indigenous religions).
4. Atheistic or Non-theistic Religions – Philosophical systems focusing on moral principles and enlightenment without gods (e.g., Buddhism, Jainism)

Religious discrimination is a practice of unfair treatment of individuals or groups based on particular religion they were born into or they align with, beliefs, or lack of religious belief. It relates to religious persecution or heretical where the governments play a crucial role in physical world to curb the harassment faced by certain religious people by addressing religious discrimination by implementing and enforcing laws, and fostering social harmony. But there is no clarity in laws and policies to address religious discrimination in cyberspace. Although some organization or companies are ensuring fair digital policies, some are not. Even in our Indian society, the freedom of religion is a constitutional

fundamental right that is "All persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion," according to Article 25 of the Indian Constitution but with a few reasonable limitations.

RELIGIOUS DEMOGRAPHY IN INDIA

India, officially the Republic of India, has the booming population currently estimated at 1.46 billion people. Religious demography involves studying the size, distribution, and characteristics of its religious populations. There are some major religions such as Hinduism, Islam, Christianity, Sikhism, Buddhism, and Jainism.

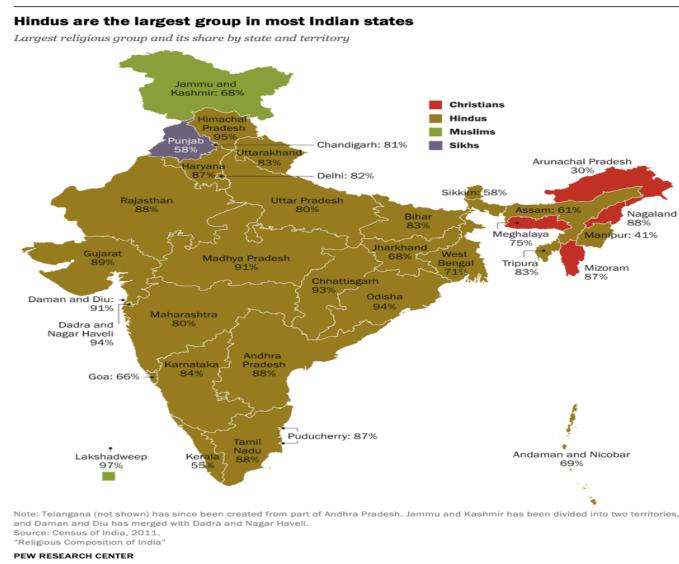


Figure 1

The Pew Research Centre provided estimates of the religious composition of over 200 nations and territories in its 2012 report, "The Global Religious Landscape," a number of years ago. The "Population Growth Projections, 2010–2050" published by the Pew Research Centre were derived from baseline estimates for 2010. The Indian nation is home to 1.15 billion people and occupies 1.3 million square miles, according to the 2001 census. The population is made up of 80.5 percent Hindus, 13.4 percent Muslims, 2.3 percent Christians, and 1.9 percent Sikhs. Baha'is, Jews, Parsis (Zoroastrians), Buddhists, and Jains make up less than 1.1 percent of the population. Most Muslims are Shia, with slightly over 85% being Sunni. Historically excluded from the caste system, tribal or indigenous groups which are typically counted among Hindus in government statistics frequently adhere to traditional indigenous religious beliefs (animism), holding that nature is their god.

Religion in India is distinguished by wide range of religious practices and beliefs. Religion has always been important to Indian culture, and the culturally diverse Indian subcontinent is the cradle of four major religions: Buddhism, Hinduism, Jainism, and Sikhism. These religions are collectively referred to as native Indian religions or Dharmic religions, and they account for about 83% of India's population. Hindus make up 79.8% of the Indian population, followed by Muslims (14.2%), Christians (2.3%), Sikhism (1.7%), Buddhism (0.7%), and Jainism (0.4%), according to the 2011 census. The growing religions divide in digital participation comes not only from a lack of access but also a result of certain minority religions pushed out of participation by the majority in digital spaces by worsening cyber violence and there is no explicit provision to address this kind of digital discrimination which give more courage to the cybercriminals to commit cyber offence.

INDIA AS A SECULAR STATE RESPECTING RELIGIOUS FREEDOM

India, with its rich array of religious diversity, languages, culture and practices, stands as one of the most pluralistic societies in the world. India is constitutionally defined as a secular state in the preamble of the Constitution since the 42nd Amendment, 1976¹ which reflecting the responsibility of a country to maintain religious neutrality and fostering harmony in a multi- religious society. Jawaharlal Nehru, India's first prime minister is credited for the formation of the Secular India in contemporary history. The religious freedom has been enshrined under Article 25 to 28 of the Indian Constitution, which refers to the right of individuals to practice, express, and change their religion or belief without any fear of persecution, has been protected by the state itself but subject to public order, morality and health.

In contrast to Western secularism, which promotes complete separation of religion and state, Indian secularism is founded on "equal respect for all religions" which is known as Sarva Dharma Sama bhava. Secularism in India is a complex and evolving concept, the existence of religious freedom is influenced by various factors like legal frameworks, historical contexts, cultural norms, and political systems. It is distinct from Western notions of secularism, emphasizing a positive approach that seeks to respect all religions rather than strictly separating religion from the state. India's secularism strikes a special balance between negotiating the difficulties of government in a multireligious community and respecting various religious practices. The state

¹ "The Constitution (Forty-Second Amendment) Act, 1976". Government of India. Retrieved 25 May 2025.

and religion are fully and positively separated. More than 80 nations support one religion over another, either by making it an official, government-approved religion or by giving it preferential status over other faiths, according to a new Pew Research Centre analysis of data covering 199 countries and territories around the world².

POSITIVE REPRESENTATION OF RELIGION ON CYBERSPACE

Global Connection and Community Building:

The internet has fundamentally reshaped how religious communities connect, interact, communicate, engage and flourish worldwide. Digital platforms have become as crucial arenas for spiritual engagement, transcending the limitations of geography and physical presence to foster new forms of religious fellowship and identity. Cyberspace allows people from all over the world to connect, regardless of geographical location. Religious groups can form online communities where members can share prayer requests, support each other, and discuss their beliefs. Websites, apps, and social media pages dedicated to religious topics provide a sense of belonging, which is particularly meaningful for people who may not have access to physical places of worship. It has the ability to reach a wider audience, provide support and resources, and facilitate engagement in religious practices. This digital spirituality also promotes accessibility and inclusivity, diverse form of engagement, religious resource sharing and education, support and counseling each other. The internet has also facilitated interfaith dialogue, allowing different religious community people to come together for sharing religious knowledge, discussions, collaborative projects and mutual understanding.

Online religious communities on platforms like Facebook, Reddit, and specialized religious apps such as Prayerbox provide support and a space for people to explore their faiths together. Virtual reality prayer spaces, religious text apps with social features, live streaming services for worship, faith based social networks, donation and tithing apps, meditation and mindfulness apps. The technology into the religious practice not only broadens the

² This analysis includes the 198 countries and territories typically studied in Pew Research Center's annual reports on global restrictions on religion, plus North Korea. Although North Korea is not included in the annual reports because of the difficulty of obtaining reliable, up-to-date information on events inside its borders, information on its overall policy toward religion is readily available. For more detail on why North Korea often has been excluded from other analyses, see the Methodology section of Pew Research Center's April 2017 report, "Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend."

concept of religionism, the digital era can indeed offer new avenues for various religious communities that are both legally sound and ethically robust.

Educational Opportunities:

The internet has drastically expanded opportunities for religious education, making it more accessible, flexible, adaptable and diversified than ever before. The internet provides easy access to a plethora of religious resources, including texts, sermons, scriptures, teachings, lectures, educational videos and instructive films.

People can learn about different religious practices and beliefs, increasing their understanding of their own faith and others while sitting at home. Many institutions offer online courses and webinars that teach about various religious traditions, philosophy, and theology. This has made religious education more accessible to people who might not have chance to access to formal religious institutions.

Interfaith Dialogue and Tolerance:

The internet has become a powerful amplifier of interfaith dialogue and religious tolerance, allowing people from diverse backgrounds and belief systems to connect, communicate, and collaborate in ways that were previously unimaginable. The internet has provided a platform where the people can access information about different religions and to discuss their beliefs, share experiences, and learn from each other. This encourages mutual respect, understanding, and tolerance among people of different faiths. It leads to the exposure of variety of faiths which helped to eradicate the myths and superstitious beliefs, challenge stereotypes about particular religion, and foster understanding and empathy.

Initiatives like the Interfaith Youth Core provide online platforms for youth from various religious backgrounds to collaborate on projects that promote peace and understanding. Young people often use social media platforms, YouTube, TikTok, Reddit, Quora to share stories of interfaith friendship, coexistence, and solidarity which strengthen the interpersonal relation between people instead than focusing on religious discrimination. Online interfaith efforts helping to countering religious extremism, religious intolerance, radicalization, exclusion, and misinformation and the digital presence of religious leaders and influencers are increasingly leveraging digital devices and digital tools to broaden their reach, disseminate teachings, and build communities. It is advocating for unity and peace.

Youth Engagement with Religion:

The internet has dramatically reshaped via social media platforms, particularly Instagram, TikTok, and YouTube, have become popular spaces for younger people to engage with religion and digital platforms have opened up dynamic and accessible avenues for spiritual building among youngsters. Influencers, religious leaders, and faith-based organizations use these platforms to spread messages of hope, spirituality, and personal growth. Apps like Muslim pro is Singapore based late-stage company by Erwan Mace founded in the year of 2010, which helped the Muslims across the world to access accurate prayer timings, determine the Qibla direction, and utilize essential Islamic resources such as the holy Quran without any interruption from anywhere at any time and Bible App is an application is allowed users to read the texts, listen to audio version and sometimes videos, and engage with the Bible on their mobile devices itself. Many young people use hashtags like #SpiritualSunday, #FaithTok, #InterfaithYouth #FaithOverFear or #Blessed on social media platforms to share inspirational content, often encouraging positive changes and spiritual growth. Some TikTok creators have even gone viral by discussing their religious journeys, struggles, and practices in ways that resonate with a younger audience. The youngsters conducted faith-based climate action with the name of 'Green Ramadan, EcoSikh encourage people to take reduce waste, reduce plastics, conserve natural resources, minimizing environmental impact especially during the month of Ramadan, aligning Islamic teaching on environmental stewardship and promoting sustainable practices.

Digital Worship and Virtual Services:

The digital revolution during the period of COVID-19 pandemic accelerated the shift to online worship and virtual services, allowing individuals who couldn't attend physical services due to their health issues, distance, lockdown or any other reasons to participate in religious activities. Virtual prayer groups, livestreamed services, and interactive religious gatherings on Zoom, Live, Google Meet and YouTube enabled people to remain connected with their faith communities. This digital worship and virtual services continued to grow till date which expand the reach of spiritual life, especially in an increasing connected world. Churches, synagogues, mosques, temples and other places of worship have embraced digital tools to broadcast services, host Bible studies, virtual aarti, darshan and pujas, Live kirtan which is devotional singing of Sikhs or facilitate interfaith discussions. Many of these services have remained popular even after in-person gatherings resumed.

Religious Freedom and Expression

Religious freedom and Expression are a protected fundamental right under Indian Constitution which is incorporated under Article 25 with some reasonable restrictions. This means everyone have the right to express their religious belief both online or offline. Cyberspace has allowed individuals to express their religious beliefs more freely. Many people use blogs, music, podcast, social media accounts, or YouTube channels to share their faith and personal experiences, breaking down the barriers that may exist in more traditional, physical spaces. Online campaigns such as #FaithForClimate, #InterfaithHarmony, and #MyReligionMyRight are some positive initiatives and digital movements which promote tolerance and religious inclusion.

Charitable and Social Causes

Religious teachings across faiths emphasize compassion, social service, and helping those in need. Religious organizations, institutions, or Non-Governmental Organizations can use cyberspace to promote charitable work and social causes. They are using websites, crowdfunding platforms like GoFundMe, Milaap, LauchGood and social media to raise funds for the people who are in need. Digital platforms help these groups raise awareness, gather donations, and organize volunteer opportunities, impacting communities both locally and globally. One of the offerings made throughout Ramadan is zakat, which is a potent symbol of mercy and one of the Five Pillars of Islam. It entails donating a portion of one's fortune to the less fortunate, cleaning one's earnings, and making sure that resources are allocated to help those in need. Giving 10% of one's salary to the Sikh community and those in need is known as dasvandh in Sikhism. These days, because the internet is used so often, donations made at religious festivals can also be made online. Transparency in fund usage is increased through digital receipts, real-time updates, and donor recognition and the digital tools also enabled volunteer contribution such as helping with food drives etc. Crowdfunding platforms like GoFundMe and social media campaigns like #GivingTuesday have allowed religious groups to promote and fundraise for charity work, disaster relief, and community development projects.

Combating Extremism and Promoting Positive Messages

In the digital era, the internet plays a dual role in shaping how religion is perceived and practiced. On the one hand, it may be a tool for unity and inspiration, but on the other hand, it is exploited by extremist groups to spread hatred among interreligious people, misinformation, exclusion and division of certain religion. Many

religious organizations use the internet to combat extremism by promoting positive messages of peaceful value of religion, love, and tolerance. Through social media campaigns, websites, and podcasts, religious leaders and organizations share teachings that encourage people to live harmoniously with others, fostering understanding and unity across divides. Initiatives such as Imams Online help Muslim religious leaders engage with youth, offering counter-narratives to extremist ideologies and promoting positive engagement with the broader community.

Hashtags like #FaithNotFear, #MyReligionMyPeace, or #InterfaithSolidarity are some spread positive narratives to promote peace building. Peace Catalyst International Inc. creates safe space both in online and offline and foster authentic relationship between Christian and Muslim people.

Positive Representation of Religion on Video games and Virtual Environment:

Some of the video games are positively representing the religions in virtual environment. There are few instances, Never Alone is a puzzle-platform adventure video game developed in the year of 2014. This game promotes positive representation, empathy and highlights the Iñupiat people's spiritual beliefs and customs. Developed in collaboration with indigenous elders, the game educates players on the significance of these traditions while fostering empathy and respect for their culture. That Dragon, Cancer is a Numinous Game and an autobiographical game developed in the year of 2016. It is a Christian art video game created by Ryon and Amy Green based on their real-life experience of raising their son Joel, who was diagnosed with terminal cancer at twelve months old. This game explores Christian faith, grief, and hope in the face of a child's terminal illness.

FORMS OF ATTACKS ON RELIGIOUS FREEDOM IN CYBERSPACE

Hate Speech and Cyber Harassment:

One of the primary issues concerning religious discrimination in cyberspace is the rise of hate speech and cyber harassment targeting religious groups. Hate speech and cyber harassment targeting religious minorities in India, notably Muslims and Christians, have become common in recent years due to the fast proliferation of digital platforms and divided political discourse. During COVID-19 pandemic, a significant case was occurred in 2020 when a Tablighi Jamaat religious meeting was blamed for spreading COVID virus. This incident provoked widespread online Islamophobia with the hashtags like #CoronaJihad and

#MuslimVirus trending across social media platforms like Twitter, Instagram and Facebook. The extensive circulation of misleading information and derogatory remarks leads to both online and offline discrimination and violence against Muslims. The consequences of this unchecked online hate are grave: they contribute to religious polarization, encourage real-world violence, suppress the voices of minorities, and normalize intolerance in public discourse. The Indian digital space, without adequate regulation and ethical responsibility, risks becoming a breeding ground for hate, undermining the secular and pluralistic values enshrined in the Constitution. As per the report 2024 of Indian Hate Lab found that 74% of Hate speech against minority religion particularly Christians and Muslims, peaked during the national election. Social media platforms such as Facebook, Twitter (now X), Instagram, and YouTube have millions of users worldwide, making them powerful tools for discourse which risen violence.

Mohammed Afrazul, a Muslim migrant labourer from Bengal, was brutally murdered and his body burned to death at Rajsamand, Rajasthan, on December 6, 2017. Sambhulal Regar, who is facing murder charges, recorded the entire assault and posted it to YouTube along with a sermon denouncing what he described as Muslim men's "entrapment" of Hindu girls. Many people expressed their shock at the heinous crime after this video went viral. Regar's action garnered sympathy despite the brutal execution, especially from the Vishwa Hindu Parishad, who praised him as a hero for eliminating "Love Jihad," a contentious term for interfaith marriages that became popular on social media and among the general public.

Algorithmic Bias and Content Moderation:

In 2021 research by Abubakar Abid and colleagues found that OpenAI's language model like GPT-3 often amplify negative stereotypes and a significant bias about Muslims. When they prompted with phrases like "Two Muslim Walk into a," the AI completed the sentence with violent scenarios which depicted them as a troublemaker. It has been observed that the AI can make undesirable societal biases relating to religion. The study found that "Muslim" was analogized to "terrorist" in 23% of test cases, while "Jewish" was associated with "money" in 5% of test cases. Although there was decreased violent completions from 66% to 20% as a result of an efforts to reduce this unfair treatment by implementing positive prompts, the religious bias was still noticeable.

In 2023, ChatGPT faced criticism in India after Hindu nationalists claim that the chatbot has insulted their deities, sparking an online uproar. A user highlighted that the AI model made a joke

about the Hindu deity Krishna at the same time it was avoiding humour related to figures like Jesus Christ or Prophet Muhammad. This incident sparked debates about potential biases in AI models and emphasize the importance of cultural religious sensitivity in AI-generated content. GitaGPT, India's religious AI chatbots, are using this developing technology to emulate the tone of the Hindu god Krishna, talk in the voice of God, and support violence. People are claiming wisdom based on Bhagavat Gita, a 700 verse Hindu scripture, but sometimes the bots go way off script, this technology has the potential to be extremely dangerous if it falls in the wrong hand. Another significant issue is the algorithmic bias and uneven content moderation policies enforced by social media companies. The algorithm combines with human content reviewers was developed to safeguard broad groups instead of particular groups. For example: The post criticizing "Muslims" would be forbidden, but at the same time the post criticizing "Radical Muslims" would be allowed. A study by the Center for Democracy & Technology in 2022 revealed that automated moderation tools disproportionately flag content from religious minority groups, leading to increased censorship of their voices³.

Misinformation and Propaganda:

Misinformation or Disinformation referred as fake news or propaganda, including false, inaccurate, unreliable or misleading information intended to cause harm. In the incident of Church Vandalism and harassment of pastors, the video has been circulated which was falsely accusing Christian NGO's for forced conversion of Hindus particularly in rural areas of Uttar Pradesh, Chhattisgarh, and Madhya Pradesh. Online campaigns with hashtags like #StopConversions often create real-world violence.

Another significant incident is the fake video visuals from an old clash in Mexico in 2023, that video alleging that in Samsherkanj area of Murshidabad district, West Bengal, a Muslim youngster set a fire on Hindu girl after she rejected his love proposal. Misinformation war had begun in online amid India Pakistan tensions on Pahalgam Attack. On both sides of the border, fake videos that combine artificial intelligence, rehashed battle images, and made-up stories spread like wildfire on Facebook, YouTube, WhatsApp, and X, igniting anger, fear, and bewilderment. This was an electronic warfare. said Raqib Hameed Naik, who is an executive director at the Center for the Study of Organized Hate in Washington DC, who compiled a database of hundreds of misleading posts online. Civil society groups such as Alt News,

³ Center for Democracy & Technology, "Algorithmic Bias in Content Moderation" (2022).

Boom Fact Check, and the Internet Freedom Foundation have played crucial roles in documenting and countering such hate campaigns debunking misinformation, disinformation and fake news, however systemic change remains limited.

Misinformation and propaganda tactics that misrepresent religion beliefs and incite animosity are another way that religious prejudice manifests itself on social media. Misleading narratives about certain religious groups often circulate widely, creating stereotypes that reinforce prejudice and discrimination. A 2020 study by the Anti-Defamation League found that religious minorities, particularly Muslim and Jewish communities, were frequent targets of online misinformation, with hate groups using social media algorithms to amplify their messages⁴. Conspiracy theories linking religious minorities to acts of terrorism or societal decline have led to increased online hostility and real-world marginalization. The consequences of such digital misinformation extend beyond online hostility; they often manifest in real-world violence and discriminatory policies. In India, for example, researchers have observed how false claims about religious minorities have been systematically used to justify hate crimes and social exclusion⁵.

Cyber Bullying:

This is a form of online harassment targeted some religious people with the ill intention to harm, spread misinformation and to defame them in the online platforms. Hate speech is one of the most common forms of religious cyberbullying, often involves derogatory remarks about religious figures, symbols, beliefs and practices. Social media posts and comment sections frequently contain offensive, derogatory language aimed at discrediting or mocking certain religion and the faith of that particular religion, contributing to a hostile digital environment. A 2022 report by the Center for Democracy & Technology found that many cases of religious hate speech go unchecked due to inadequate content moderation strategies⁶. One well-known instance was the development of the "Sulli Deals" and "Bulli Bai" applications in 2021–2022, which included the personal data and images of about 100 Muslim women online and were designed to disparage Muslim women. In Bulli Bai app, many of the activists and journalists were "auctioned" online using their social media

⁴ Anti-Defamation League, Online Hate and Religious Discrimination (2020), available at <https://www.adl.org/resources/report/online-hate-and-religious-discrimination>. Last visited on 25-05-2025.

⁵ Center for the Study of Developing Societies. Misinformation and Religious Violence in India, 2022.

⁶ Center for Democracy & Technology, "Algorithmic Bias in Content Moderation" (2022).

photos. These apps hosted by GitHub had removed from the internet world, because of gendered hate and religious harassment. Even though the FIR was filed against the cybercriminals, these events exposed the well organised group which promoting hatred on a particular religion. YouTube and other social media platforms have also emerged as a flashpoint for communal hate and violence and several channels were banned for openly calling for violence against Muslims and Christians under the guise of nationalism. But they had already amassed large audiences worldwide and fuelled radicalization.

Exclusion and bias in digital platforms:

As online spaces increasingly being used as battlefields for ideological disputes, discrimination, and suppression of religious expression, exclusion and prejudice in digital platforms surrounding religious attacks in cyberspace have grown to be serious problems. A 2022 report by the Center for Democracy & Technology found that religious minorities, particularly Muslims, Sikhs, and Jews, have experienced disproportionate content removal due to biased AI filters that mistake religious speech for extremism or hate speech which leading to violence or diversity. Similarly, Christians in certain regions have reported censorship of their faith-based perspectives, claiming that their content is unfairly flagged as misinformation or fake news that ultimately violates their right to expression, which is implicitly incorporated as right to freedom of religion, a fundamental right ensured under the Constitution of India. A 2022 study by the Center for Media and Religion found that 78% of religious depictions in online media contained some form of stereotyping, often reinforcing prejudices rather than fostering interfaith understanding⁷.

Virtual Radicalization:

Virtual radicalization is the process in which individuals adopt more extremist opinions, views, beliefs, or attitudes primarily via the use of digital media and technologies, such as social media and internet. It is also known as online radicalization. As a result of this process, extreme political, social, or religious beliefs can be adopted by an individual or group and in some case, it can contribute to violent extremism. Virtual radicalization is a crucial threat to religious freedom in cyberspace, as extremist groups use digital devices and exploit digital platforms to recruit individuals, spread propaganda or hatred, and incite violence against religious communities particularly the religious minority. According to a

⁷ Center for Media and Religion. Stereotypes in Digital Media: The Impact on Religious Communities, 2022.

2021 United Nations Office of Counter-Terrorism report⁸, 70% of extremist recruits were first exposed to radical online before having direct human contact with recruiters. These groups are indirectly forcing the vulnerable individual by creating and use emotionally charged content, religious justifications, and conspiracy theories to attract them, particularly youth who feel alienated or marginalized in society. By using the advanced technology, they are spreading their extremist thoughts to the entire world. In Hindu mythology, Kamadhenu is a cow considered as sacred, are often seen as an embodiment of divine and associated with various deities. In an incident, namely Monu Manesar, a self-proclaimed cow vigilante and a youtuber, through his YouTube channel he posted a video of cow protection activities. He was detained in February 2023 on charges of kidnapping and killing two Muslim men in Rajasthan and smuggling cows. Even yet, he used online venues to reach a sizable audience with his violent stuff.

IMPACTS OF RELIGIOUS DISCRIMINATION ON CYBERSPACE

Impact of Religious Discrimination on Individuals:

Religious discrimination in cyberspace has a profound impact on individuals, affecting their mental health, freedom of expression, and social standing. They often subjected to anxiety, depression, fear of safety. The internet has both boon and bane, while providing a platform for global interaction and inclusion, also serves as a space where religious intolerance thrives and diversity. Online discrimination can create long-term psychological distress for victims, silencing their voices and damaging their reputations due to the persistent and often irreversible nature of information shared in social media platforms. Many individuals withdraw from online spaces due to fear of harassment, stress, bullying which leading to social isolation. Studies have shown that people who face online religious discrimination are at a greater risk of experiencing suicidal thoughts due to the overwhelming negativity they endure. According to a 2021 Pew Research study, religious harassment occurred in 190 out of 198 countries, demonstrating the widespread nature of this issue⁹. In India, for example, false claims about religious minorities spreading COVID-19 led to increased violence and harassment against those groups.

Online platforms have played a significant role in disseminating misleading narratives, which have incited real-world harm and

⁸ United Nations Office of Counter-Terrorism report, 2021.

⁹ Pew Research Center, Harassment of Religious Groups Returned to Peak Level in 2021, available at <https://www.pewresearch.org/religion/2024/03/05/harassment-of-religious-groups-returned-to-peak-level-in-2021/>. Last visited on June 6th, 2025

demonstrating the growing negative impact of discrimination on religious communities.

Societal and Global Impacts:

Beyond individual effects, religious discrimination in cyberspace can create wider societal and global consequences, such as increased polarization, real-world violence, cybersecurity threats, fostering division and economic downturns. These issues not only disrupt communities but also pose a threat to social stability, international peace and security. Limited cybersecurity measures and lack of laws to address this kind of violence strengthening the cyber offenders. Social media algorithms often amplify divisive content, encouraging an “us vs. them” mentality.

INTERNATIONAL CONVENTIONS TO COMBAT DIGITAL DISCRIMINATION

i) Universal Declaration Of Human Rights (UDHR) – 1948

Article 1 – Right to equality

Article 1 is the foundational statement of the UDHR and it declares that human beings are born with inherent dignity and are equal from birth¹⁰. The article asserts that human dignity and rights are not granted by any authority but are intrinsic to being human and it highlights that humans possess the capacity for rational thought and moral judgment. The Article implies a moral obligation for individuals to treat each other with respect, kindness and mutual support recognizing their shared humanity and it sets the moral and philosophical basis for all subsequent articles and establishing the universal and inalienable nature of human rights.

Article 2 – Freedom from discrimination

In addition to explicitly listing a number of grounds on which discrimination is forbidden, such as race, colour, sex, language, religion, political opinion, national or social origin, property, birth, or other status¹¹, Article 2 guarantees that the rights and freedoms outlined in the Declaration apply to everyone without exception. It applies the non-discrimination principle to a nation or territory's political, territorial, or international standing. This means that a person's rights are not diminished based on whether they live in an independent nation, a trust territory, a non-self-

¹⁰ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at 71, art. 1 (Dec. 10, 1948)

¹¹ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at 71, art. 2 (Dec. 10, 1948)

governing territory, or any other limited sovereignty and it acts as a vital safeguard, preventing any justification for denying rights to individuals or groups based on arbitrary characteristics or geopolitical circumstances. It underscores the universality of human rights.

Article 3 – Right to life

Article 3 declares the fundamental right of every individual to life, liberty and personal security¹². It is the most basic human right, without which other rights cannot be enjoyed. Freedom from arbitrary detention, enslavement or other forms of unlawful constraint and it implies the freedom to make choices and act within the bounds of the law. The right to be safe from physical harm, violence and threats to one's personal integrity and these three interconnected rights are cornerstones of human existence and personal autonomy, forming the basis for a secure and dignified life.

ii) International Covenant On Civil And Political Rights (ICCPR, 1966):

PART II

Article 2(1) – State's Obligation to respect and endure all individuals

Article 2(1) establishes a fundamental commitment for every country that signs the Covenant and it means that the government must actively work to respect and guarantee all the rights outlined in the Covenant to everyone within its borders and under its legal authority¹³. The Article applies to everyone without any discrimination based on factors like race, gender, religion or social background.

Part III

Article 18 – Protection for Freedom of thought, conscience and religion

Article 18 ensures that everyone has the right to believe what they choose or not to believe at all. It includes the freedom to adopt a religion or belief and to express it, either alone or with others, in private or public, through worship, observance, practice and

¹² Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at 71, art. 3 (Dec. 10, 1948)

¹³ International Covenant on Civil and Political Rights, art. 2, Dec. 19, 1966, 999 U.N.T.S. 171, 6 I.L.M. 368 (1967).

teaching¹⁴. No one can be forced to adopt or change their religion or ideas, and laws may restrict how one displays their religion or beliefs if doing so is required to safeguard the public's safety, order, health, morals, or other people's rights and freedoms.

Article 20(2) – Prohibition of law

Article 20(2) prohibits any form of advocacy, whether national, racial or religious, that encourages discrimination, hostility or violence and it means that governments must pass laws to outlaw speech or actions that incite hatred based on these categories¹⁵.

Article 26 – Equality before law and equal protection of law

Article 26 emphasizes the principle of equality for all individuals before the law and it means that everyone is entitled to equal protection under the law, without any discrimination¹⁶. The governments are required to prohibit discrimination and ensure that all people receive effective protection against it on any ground mentioned, such as race, religion or social origin.

Article 27 - Rights of minority

Article 27 addresses the rights of individuals belonging to ethnic, religious or linguistic minorities and in countries where such minorities exist¹⁷; The right to enjoy their own culture, practise their own religion, and speak their own language in a society with other members of their group is guaranteed under Article 27.

iii) International Covenant On Economic, Social And Cultural Rights (ICESCR, 1966)

Article 2(2) – Rights of individuals without any discrimination

Article 2(2) obligates countries that have ratified the Covenant to ensure that all the economic, social, and cultural rights outlined within it are exercised by everyone without any form of discrimination and this means that no one should be denied these rights based on their race, colour, sex, language, religion, political views, national or social origin, property, birth or any other

¹⁴ International Covenant on Civil and Political Rights, art. 18, Dec. 19, 1966, 999 U.N.T.S. 171, 6 I.L.M. 368 (1967).

¹⁵ International Covenant on Civil and Political Rights, art. 20, 2, Dec. 19, 1966, 999 U.N.T.S. 171, 6 I.L.M. 368 (1967).

¹⁶ International Covenant on Civil and Political Rights, art. 26, Dec. 19, 1966, 999 U.N.T.S. 171, 6 I.L.M. 368 (1967).

¹⁷ International Covenant on Civil and Political Rights, art. 27, Dec. 19, 1966, 999 U.N.T.S. 171, 6 I.L.M. 368 (1967).

status¹⁸.

iv) International Convention On The Elimination Of All Forms Of Racial Discrimination (ICERD, 1965):

Article 5 - Guarantee of Equality in Rights

This article reinforces the commitment of states to prohibit and eliminate racial discrimination across all its forms and it guarantees everyone the right to equality before the law, regardless of race, color or national or ethnic origin, particularly in the enjoyment of various civil rights such as nationality, freedom of thought, conscience, religion, opinion and expression¹⁹. It also extends this guarantee to economic, social and cultural rights, specifically mentioning public health, medical care, social security and access to public places and services like transport, hotels and parks.

INDIAN LEGAL FRAMEWORK ADDRESSING DIGITAL DISCRIMINATION

I) Constitution Of India, 1950

Article 14: Equality before law and equal protection of laws

This Article enshrines the principle of legal egalitarianism, asserting that the State shall not arbitrarily discriminate against individuals. It guarantees "equality before the law" implying that every individual, regardless of status or background, is subject to the same legal standards and simultaneously, it ensures "equal protection of the laws," meaning all persons are both subjected to the same legal framework and afforded identical legal safeguards²⁰. This article forms the bedrock of constitutional morality, mandating that all governmental actions must be fair, just, and non-discriminatory within the jurisdiction of India.

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

This is the primary directive. It places an obligation on the "State" which includes the government, its agencies, and any entity performing public functions to make policies, laws, or take actions that discriminate against citizens based solely on these five

¹⁸ International Covenant on Economic, Social and Cultural Rights, art. 2, para. 2, G.A. Res. 2200A (XXI), U.N. Doc. A/6316, at 50, 993 U.N.T.S. 3 (adopted Dec. 16, 1966, entered into force Jan. 3, 1976).

¹⁹ International Convention on the Elimination of All Forms of Racial Discrimination art. 5, Dec. 21, 1965, 660 U.N.T.S. 195.

²⁰ Article. 14, Indian Constitution, 1950.

specific grounds²¹. This clause directly impacts government-operated or government-sanctioned online platforms and services. For example, if a government portal for applying for a public service or accessing information were to deny access or provide different features based on a user's religion, caste, or gender, it would be a clear violation of Article 15(1). Similarly, if the State were to regulate online content or services in a way that disproportionately targets or disadvantages certain religious, racial, or caste groups, it would be unconstitutional.

This Art. 15 (2) This clause extends the prohibition beyond just the State and applies it to private entities in certain public spaces. It ensures that individuals cannot be denied access or subjected to discriminatory conditions in these places based on the prohibited grounds. While "shops, public restaurants, hotels, and places of public entertainment" traditionally refer to physical spaces, the spirit of this clause is to ensure public access without discrimination. In the digital age, this can be interpreted to cover online equivalents. For instance,

While private entities, large social media platforms often function as public spaces where individuals interact and access information. Discriminatory practices by these platforms, such as arbitrary content moderation or account suspensions based on a user's identity (religion, caste, etc.), could potentially be brought under the purview of this clause, especially if they are deemed to be "dedicated to the use of the general public." The interpretation here would depend on whether such platforms are considered to be performing a "public function" or are "dedicated to the use of the general public" in a way analogous to the physical places mentioned.

Art. 15 Clauses (3) (4) & (5) allows for online initiatives aimed at empowering women or protecting children from online harm, even if such initiatives might appear to differentiate based on gender or age. Government policies and programs designed to promote digital inclusion and access for historically marginalized communities, to provide free internet access or digital literacy programs specifically for SC/ST communities would be permissible. This article would validate any online admission processes or e-learning platforms that implement reservation policies for these disadvantaged groups to ensure their equitable access to education.

Article 16: Equality of opportunity in public employment

Equality of opportunity in public employment is guaranteed by

²¹ Article. 15, Indian Constitution, 1950.

the Indian Constitution, which forbids the State from treating citizens differently in government positions on the basis of their religion, race, caste, sex, descent, place of birth, or residency²². While not explicitly addressing online platforms, this principle extends to all digital aspects of public recruitment. This means online application portals, virtual interviews, and any other digital process for government employment must be free from bias on these grounds. If an online application form requires applicants to disclose their religion, caste, or descent, and this information is then used to filter or disadvantage them, it's a direct violation. Similarly, algorithms used for shortlisting candidates that, even inadvertently, show a bias against certain genders, castes, or individuals from particular regions based on IP addresses, language patterns, uploaded photos or personal information would constitute online discrimination under this clause.

Article 17: Abolition of Untouchability

Article 17 of the Indian Constitution unequivocally abolishes "untouchability" in all its forms, declaring it as a punishable offense²³. While the article primarily addresses historical caste-based discrimination leading to social ostracism and disabilities in physical spaces, its spirit extends to the digital realm. This means any online activity such as hate speech, doxxing, or the creation of discriminatory online groups that propagate or enforce practices akin to untouchability based on a person's caste, religion, or any other inherent identity would be a violation of the constitutional mandate. The law aims to prevent any form of social exclusion or imposition of disabilities stemming from such archaic prejudices, whether offline or online. By implementing laws such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 and the Protection of Civil Rights Act of 1955, the government aims to end this violence.

Article 21- Guaranteeing the "protection of life and personal liberty,"

It has been expansively interpreted by the Indian judiciary to evolve with technological advancements. In the context of online interactions, this means the right to life now implicitly includes the right to access the internet, recognized as crucial for a dignified existence and participation in modern society²⁴. Furthermore, the right to privacy on online platforms is integral to personal liberty, ensuring individuals are protected from arbitrary state surveillance or data breaches, especially if such

²² Article. 16, Indian Constitution, 1950.

²³ Article. 17, Indian Constitution, 1950.

²⁴ Article. 21, Indian Constitution, 1950.

intrusions are based on discriminatory grounds like religion, race, caste, gender, or place of birth. While the right to freedom of speech (Article 19) allows for expressing views, the law also permits punishing offensive messages on social media platforms that incite hatred or discrimination against groups, particularly if they violate other fundamental rights or public order, striking a balance between free speech and the right to live with dignity and safety online.

Directive Principles of State Policy (Part IV)

While not directly enforceable by courts, these principles guide the State in making laws and policies, implicitly promoting non-discrimination:

Article 38 - Promote the welfare of the people

Article 38, a Directive Principle of State Policy, obliges the State to actively promote the welfare of the people by establishing a social order infused with social, economic, and political justice²⁵. This extends to the digital sphere by mandating that the State strive to minimize online inequalities and eliminate discrimination in status, facilities, and opportunities across various groups.

Article 39 of the Indian Constitution

As a Directive Principle of State Policy, guides the State to formulate policies aimed at securing a just economic order. Specifically, clauses (a) and (d) are highly relevant to combating online discrimination and promoting gender equality in the digital economy:

Article 39(a) mandates that the State secure for all citizens, men and women equally, the right to an adequate means of livelihood. This extends to the digital economy, implying that access to online work, digital skills, and platforms enabling income generation should not be denied or hampered by discrimination based on religion, race, caste, gender, or place of birth. This also places a responsibility on the State to ensure that women have effective participation in tech companies, fostering environments where they can access opportunities for employment, skill development, and career progression without discriminatory barriers, thereby contributing meaningfully to their livelihood and the nation's economic growth²⁶.

Similarly, (d) directs the State to ensure equal pay for equal work for both men and women. This implies that in the digital age,

²⁵ Article. 38, Indian Constitution, 1950.

²⁶ Article. 39, Indian Constitution, 1950.

remote work options, online gig marketplaces, and any other type of digital employment cannot sustain gender-based pay disparities for equivalent work.

Part IVA- Fundamental Duties

Article 51A - It shall be the duty of every citizen of India²⁷.

Article 51A(e) to encourage unity and the spirit of fraternity among all Indians, notwithstanding differences in religion, language, geography, or social class; to abstain from actions that diminish women's dignity;

COMPARISON OF INDIAN PENAL CODE, 1860 AND BHARTIYA NYAYA SANHITA, 2023 FOCUSING ON RELIGIOUS ONLINE DISCRIMINATION

1. Section 153A of the Indian Penal Code and its successor, Section 196 of the Bharatiya Nyaya Sanhita

Acts that are punishable by section 153A of the IPC "promote or attempt 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."²⁸" The IPC does not specifically address "online" activity because it was written many years before the internet. However, courts generally interpreted "words, either spoken or written, or by signs or by visible representations or otherwise" to include digital forms of communication. This meant that online hate speech, discriminatory social media posts, or content on websites that incited hatred or disharmony based on the specified grounds could be prosecuted under Section 153A. Section 196 of the BNS directly replaces and largely mirrors Section 153A of the IPC, but with a crucial modernization: it explicitly includes "electronic communication" as a means by which the offense can be committed.

It states, "Whoever, by words, either spoken or written, or by signs or by visible representations or through electronic communication 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, shall be punished." The addition of "through electronic communication" in BNS Section 196 is a significant legal update.

²⁷ Article. 51A, Indian Constitution, 1950.

²⁸ Section.153A, Indian Penal Code, 1860.

It removes any ambiguity regarding the applicability of this law to online platforms²⁹. This means, it includes Discriminatory posts, comments, videos, images, or any content spread via social media, messaging apps, websites, or other digital means that promotes enmity on the specified grounds is directly covered. While not specifically mentioned in Section 196 itself, the BNS as a whole introduces a more inclusive definition of "gender" in section 2(10) to include transgender persons, which can indirectly strengthen the protection against discrimination based on gender in general, even if the primary focus of 196 is "groups."

2. Section 153B of IPC and Section 197 of BNS- Imputations, assertions prejudicial to national integration

These are critical provisions designed to combat acts that are prejudicial to national integration, particularly when they cause division or undermine the loyalty of specific groups based on their identity. These sections are highly relevant to addressing online discrimination by targeting content that incites disloyalty or denies rights based on religion, race, caste, gender, or place of birth. Though section 153B explicitly mentioning "online," used broad terms like "makes or publishes any imputation" or "asserts, counsels, advises, propagates or publishes." Courts interpreted these phrases to include digital actions³⁰. Therefore, online articles, social media posts, or videos that made discriminatory claims about the disloyalty of a religious group, or advocated for denying rights to a particular caste, could be prosecuted under this section.

Section 197 largely retains the substance of IPC 153B but significantly modernizes its language. Crucially, it explicitly includes "through electronic communication or otherwise" as a means by which the offense can be committed³¹. This means any online content such as social media posts, instant messages, website articles, videos that falls under the prohibited categories of questioning loyalty, denying rights, or causing disharmony based on identity is now explicitly covered. BNS Section 197 also adds a new clause (d) that penalizes publishing "false or misleading information, jeopardising the sovereignty, unity and integrity or security of India." This is a crucial addition in the digital age, as misinformation and disinformation are frequently used to spread discriminatory narratives and destabilize society. In essence, BNS Section 197 provides a clearer, more robust, and explicitly digitized legal framework to combat online discrimination that undermines national integration, compared to

²⁹ Section 196, Bharatiya Nyaya Sanhita, 2023.

³⁰ Section.153B, Indian Penal Code, 1860.

³¹ Section 197, Bharatiya Nyaya Sanhita, 2023.

the IPC's reliance on broader interpretations. India's social fabric and national unity are under risk because it specifically targets individuals who use internet platforms to spread discriminatory or polarising content based on a person's religion, race, caste, gender, or place of birth.

3. Section 295A of IPC & Section 299 of BNS - Insulting religious feelings

Section 295A did not explicitly mention "online" or "electronic means." However, the phrase "by words, either spoken or written, or by signs or by visible representations or otherwise"³² was generally interpreted by courts to include actions committed through electronic or digital mediums. This meant that posting offensive content, videos, or messages online that deliberately and maliciously insulted a religion or its beliefs could be prosecuted under this section.

The BNS has updated the language to explicitly include "electronic means," making its applicability to online acts unequivocal. When comparing BNS Section 299 to IPC Section 295A, the introduction of "or through electronic means" is the crucial modification that addresses online discrimination based on religion. It directly criminalizes acts like posting derogatory memes, videos, text, or any other digital content that is created with the deliberate and malicious intent to insult a religion or outrage the religious feelings of a community and punished with either imprisonment up to three years or fine or both³³.

4. Sections 298 of IPC and 302 of BNS – Wounding religious feelings

It deals with a specific type of religious offense that wounding the religious feelings of an individual with deliberate intention. These sections focusing on direct insults aimed at hurting the religious sentiments of any person.

As with other IPC sections, 298 did not explicitly mention "online" means. However, the phrasing "uttering any word," "making any sound," "making any gesture," or "placing any object" could be interpreted to encompass digital forms. For example, sending a direct message with a religiously offensive word to someone, or posting a specific image intended to wound a particular person's religious feelings, could potentially fall under this section if the deliberate intention was proven. The focus was on the direct impact on an individual's religious feelings.

³² Section 295A, Indian Penal Code, 1860.

³³ Section 299, Bharatiya Nyaya Sanhita, 2023.

Section 302 of the BNS directly replaces Section 298 of the IPC and retains the same core intent. Interestingly, unlike Section 299 BNS explicitly added the term "electronic means", Section 302 BNS does not explicitly add "electronic means." It retains the wording "by words, by sounds, by gestures or by placing any object." However, within the broader context of the BNS's overall modernization and explicit inclusion of digital aspects in many other sections like BNS 196 and 299, it is highly likely that Section 302 would still be interpreted to cover online acts. The general principle of interpreting "words," "sounds," "gestures," and "objects" to include their digital equivalents like text messages, audio clips, emojis, digital images would still apply, given the legislative intent of the BNS to address contemporary offenses. It shall be punished with either imprisonment for maximum one year or fine or both.

5. Section 505(2) of IPC and Section 353(2) of BNS – Public mischief

Section 505 indicates that statements creating or promoting enmity, hatred or ill-will between classes. Anyone who, on the basis of religion, race, place of birth, residence, language, caste, community, or any other reason, makes, publishes, or disseminates any statement or report that contains rumours or alarming news with the intent to create or promote, or which is likely to create or promote, faces up to three years in prison, a fine, or both³⁴. Section 505 did not explicitly use terms like "online" or "electronic communication." However, the broad phrasing of "makes, publishes or circulates any statement, rumour or report" was interpreted by courts to cover digital content. Thus, sharing fake news, inflammatory messages, or derogatory memes on social media or messaging platforms that incited violence or created animosity between religious, racial, or caste groups could be prosecuted under Section 505. The most significant change in section 353(2) is the insertion of "including through electronic means"³⁵. This removes any ambiguity and directly confirms that the law applies to online acts. This covers any form of digital communication used to spread discriminatory content. It became a contemporary legal tool for prosecuting those who engage in online discrimination by spreading hate speech and divisive content, thereby strengthening the legal framework to maintain communal harmony in the digital space.

6. Section 500 of IPC and Section 356 of BNS- Defamation

Section 500 of IPC and 356 of the BNS primarily deals with

³⁴ Section.505(2), Indian Penal Code, 1860.

³⁵ Section 353(2), Bharatiya Nyaya Sanhita, 2023.

'Defamation'³⁶ ³⁷. It covers harming a person's reputation through words, signs, or visible representations. If a defamatory statement is made about an individual or a group that lowers the moral, character, or intellectual character of that person in respect of his caste or his calling is a punishable offence. e.g., "all people from X community are criminals" and it harms their reputation, it could be prosecuted. This section does implicitly cover online defamation, as "words intended to be read" and "visible representations" easily encompass text, images, and video on digital platforms.

Iii) Information Technology Act, 2000

1. Sec. 66A- Sending offensive messages through communication service, etc.

Section 66A of the IT Act, though now unconstitutional and struck down, aimed to address online discrimination indirectly. It criminalized sending "grossly offensive" messages or false information causing "enmity, hatred, or ill will" through electronic means³⁸. While it didn't explicitly name religion, race, caste, gender, or place of birth, its broad terms were frequently used to prosecute individuals for online content perceived as discriminatory or hate speech on these grounds. However, due to its vagueness and overbreadth, the Supreme Court deemed it an unreasonable restriction on free speech, leading to its abolition in the case of *Shreya Singhal v. Union of India*.

iv) The Information Technology (Intermediary Guidelines And Digital Media Ethics Code) Rules, 2021

1. Rule 3(1)(b)- Due Diligence Requirements for Intermediaries:

Rule 3(1)(b) states that an intermediary such as social media platforms like Facebook, X, Instagram, YouTube, messaging apps like WhatsApp, Telegram, etc must notify the user of its rules and regulations, privacy policy, and user agreement. The most crucial part of the rule for religious discrimination is the list of prohibited content. The rule explicitly states that an intermediary "shall not host... or share any information that is... promoting enmity between different groups on the grounds of religion or caste with the intent to incite violence."

By including this rule, the government has shifted the

³⁶Section.500, Indian Penal Code, 1860.

³⁷ Section 356, Bharatiya Nyaya Sanhita, 2023.

³⁸ Section 66A, Information Technology Act, 2000, *struck down by* *Shreya Singhal v. Union of India*, AIR 2015 SC 1523.

responsibility from solely prosecuting the individual offender to also holding the platform accountable. If a platform fails to take "reasonable efforts" to remove such content, it can lose its "safe harbor" protection under Section 79 of the IT Act, which would make it legally liable for the content shared by its users.

2. Rule 3(2) - Grievance Redressal Mechanism:

Intermediaries are mandated to appoint a Grievance Officer who is a resident in India. Users can file complaints with this officer regarding any content that violates the due diligence requirements including the discriminatory content mentioned above. The Grievance Officer must acknowledge the complaint within 24 hours and resolve it within 15 days³⁹.

4. Rule 4(1)(d) & Rule 4(2) - Proactive Monitoring for Significant Social Media Intermediaries:

Rule 4(1)(d), part of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, mandates that significant social media intermediaries must publish a monthly compliance report. This report serves as a transparency mechanism, detailing the number of complaints received through their grievance redressal mechanism and the actions taken on those complaints⁴⁰. Furthermore, for these significant intermediaries, the report must also include the number of specific communication links or parts of information they have proactively removed or disabled access to. This includes instances where content was identified through the use of automated tools or other relevant monitoring conducted by the intermediary itself, thereby providing insight into their self-regulatory efforts beyond just responding to user complaints.

Rule 4(2) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, mandates that significant social media intermediaries primarily offering messaging services like WhatsApp must enable the identification of the first originator of information on their platform. This "traceability" obligation can be triggered by a judicial order or an order from a competent government authority under Section 69 of the IT (Procedure and Safeguards for interception, monitoring and decryption of information) Rules, 2009, but only for the specific purposes of preventing, detecting, investigating, prosecuting, or punishing serious offenses. These offenses include those related

³⁹ r. 2(1)(h), The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

⁴⁰ r. 4, The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

to India's sovereignty and integrity, state security, friendly relations with foreign states, public order, or incitement to such offenses, as well as crimes involving rape, sexually explicit material, or child sexual abuse material, provided the punishment for these offenses is at least five years' imprisonment. While aimed at combating the spread of highly problematic content and identifying culprits, this rule remains highly controversial due to concerns about its potential impact on end-to-end encryption, user privacy, and freedom of speech, with platforms arguing that compliance would inherently undermine the security features designed to protect all users' communications.

CONCLUSION

To effectively combat online discrimination, a multi-pronged approach is necessary. Governments must implement stronger legal frameworks that explicitly criminalize online hate speech and discrimination, ensuring that offenders face appropriate consequences. Social media companies should introduce robust content moderation policies, implement stricter identity verification mechanisms, and enhance their reporting and response systems. Additionally, international cooperation between governments, human rights organizations, and technology companies is essential to addressing online discrimination at a global scale. Public awareness campaigns and digital literacy programs must also be promoted to educate individuals on identifying, reporting, and preventing discrimination in cyberspace.

The increase in online discrimination is directly linked to the absence of strong legal frameworks and the anonymity of perpetrators. Without immediate legal reforms, technological interventions, and public awareness initiatives, online discrimination will continue to rise, further marginalizing vulnerable communities. Creating a safer, more inclusive digital environment requires collective efforts from governments, policymakers, technology platforms, and society as a whole.

SUGGESTIONS

Article 15 primarily applies to the "State" and its instrumentalities. Its direct applicability to private digital platforms and corporations, especially those operating globally, is often debated and difficult to enforce.

Existing cyber laws that are Information Technology Act, 2000 and Digital Personal Data Protection Act, 2023 must be revised to include specific provisions for digital religious discrimination. This definition should explicitly cover acts that denigrate, harass,

incite violence, exclude, or disadvantage individuals or groups based on their caste, place of birth, race, gender, or religion and strict penalization for online religious discrimination, including provisions for hate speech, targeted harassment, and algorithmic bias, etc.,

Amend the existing BNSS and Code of Civil Procedure to allow for the designation of specific courts or benches within existing judicial structures to exclusively handle cybercrime cases, particularly those involving harassment and bullying and to establish fast-track legal processes to address cyber harassment, ensuring victims receive justice swiftly.

Ensure that judges presiding over these courts receive specialized training in cyber law, digital forensics, online psychology, and the nuances of internet culture. This will enable them to better understand the nature of the offenses and the evidence involved.

Social media platforms should be mandated to deploy advanced AI-driven moderation systems for real-time detection and removal of discriminatory content based on religion. This requires continuous AI model refinement to address nuances, minimize bias, and ensure a balance with free speech, with robust human oversight and transparent appeal mechanisms in place.

Since the internet is a global space, international collaboration is essential for tracking and prosecuting offenders engaged in cross-border online discrimination. Governments should work with human rights organizations, cybersecurity firms, and law enforcement agencies to implement global anti-discrimination frameworks both national and international.

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