Hate speech

What is the issue?

A religious conclave in Haridwar witnessed inflammatory and provocative speeches by proponents of Hindutva.

What was the Hate speech about?

- According to reports leaders of some religious organisations called for organised violence similar to Myanmar-type ‘cleansing campaign’.
- Also if the government resisted the formation of a ‘Hindu Rashtra’ they threatened to organise a revolt similar to one in 1857.
- Political parties and concerned citizens have termed these as ‘hate speech’ and demanded legal action.

What is Hate speech?

- There is no specific legal definition of ‘hate speech’.
- According to Law commission report hate speech is an incitement to hatred primarily against a group of persons in terms of race, ethnicity, gender, sexual orientation, religious belief and the like.
- Hate speech can be of any form (writings, actions, signs and representations).

How hate speech is treated in Indian law?

- In general, hate speech is considered a limitation on free speech.
- The intention is to prevent such speech that exposes a person or section of society to hate, violence, ridicule or indignity.
- Sections 153A and 505 of IPC deal with inflammatory speeches and expressions.
- **Under Section 153A**
    - promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language, etc.,
    - doing acts prejudicial to maintenance of harmony

  is an offence punishable with 3 years of imprisonment.

- However if the act is committed in religious gatherings or ceremonies the term of imprisonment shall be 5 years.
- **Under Section 505 of IPC**
- 505 (1) - Making statements conducing to public mischief is an offence.
- However the statement should be one that
    - promotes mutiny by the armed forces,
    - causes fear so that people are induced to commit an offence against the state or public tranquillity

    - intend to incite or incites any class or community to commit an offence against another class or community.
- This attracts a jail term of up to 3 years.
- 505(2) – Making statements creating or promoting enmity, hatred or ill-will between classes is an offence.
- 505 (3) - The same offence will attract up to a 5 year jail term if it takes place in a place of worship, or in any assembly engaged in religious worship or religious ceremonies.

What are the recommendations of Law Commission?

- The Law Commission has proposed
    - to add separate offences to the IPC
    - to criminalise hate speech quite specifically rather than being subsumed in the existing sections
- It has proposed to add two new sections Section 153C and Section 505A.
- **Section 153C** should make it an offence if anyone
    - **uses gravely threatening words** (spoken/written /signs/visible representations) with the intention to cause fear or alarm.
    - **advocates hatred** that causes incitement to violence, on grounds of religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe.
- It proposes a two-year jail term or a fine of ₹5,000 or both.
- **Section 505A** proposes to **criminalise words** or display of writing or signs that are
    - gravely threatening or derogatory, within the hearing or sight of a person.
    - causing fear or alarm with intent to provoke the use of unlawful violence against that person or another.
- It proposes a prison term of up to one year or a fine up to ₹5,000 or both.
- Similar proposals have been made by the M.P. Bezbaruah Committee and the T.K. Viswanathan Committee.
- Now, The Committee for Reforms in Criminal Laws is examining the issue of having specific provisions to tackle hate speech.

Reference

1. https://www.thehindu.com/news/national/explained-what-is-hate-speech-and-how-is-it-treated-in-indian-law/article38089872.ece

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