

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 9 | Issue 2

2026

© 2026 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

From Street Corners to Social Media: Recalibrating the Hate Speech Threshold in Modern Democracies

PRINCESS CHOPRA¹

ABSTRACT

Traditionally, both hate speech and free speech revolved around physical means such as rallies, demonstrations, violence, etc. But today, the right to speech and expression is being exercised mostly through digital platforms and algorithms. According to an Ipsos survey, two in three people often encounter hate speech online. The environment of expression of opinion has changed globally. Today, most modern democracies, including India, USA, and many European nations, struggle with the legal issues of regulating the content and communication on digital platforms. Countries still lack the standards for preventing online hate. For countries that have legal framework for online hate, face gap in effectively regulating practices such as radicalism, dog whistles, etc. This calls for an inclusive, modern, innovative, and comprehensive legal frameworks which accounts for all forms of online speech. This article argues that modern democracies should shift from traditional over-regulation on free speech, instead, it should recognise the role of digital speech and online content in eroding unity and equality before violence erupts. It examines the historical context, transformation, challenges, case studies, and the role of social media in free speech and expression. This articles also proposes legal and policy innovations to balance democratic expressions with digitally amplified hate.

I. INTRODUCTION: THE EVOLVING LANDSCAPE OF FREE EXPRESSION

In early democracies, free speech was generally practiced by male members of the society to voice their views and opinions in the society. In ancient Athens, isegoria was followed, the equal right to address the public assemblies. The early Athens promoted open, truthful, even if unlawful and rowdy speech in the public assemblies. The Romans also had a similar ideal named Libertas, which allowed all the citizens of the state expression of opinion without arbitrary suppression by the state.

The legal framework for free speech and expression began to be established when early democracies started to transition from absolute monarchy to parliamentary rule. In England, the

¹ Author is a Student at Institute of Legal Studies and Research, GLA University, Mathura, India.

constitutional right to freedom of speech within the Parliament was established by the Bill of Rights, 1689. In USA, the right of expression of the citizens were protected from the Congress through the First Amendment (Ratified 1791). In India, the right to free speech and expression have been guaranteed in the Constitution under Article 19(1)(a).

In the modern age, the public expression is not just through physical means, it has evolved into algorithmic amplifications, echo chambers, and dog whistle politics. The digital revolution, such as social media, AI, algorithms, has had a transformative impact on free speech. This transformation clearly challenges the existing legal framework for free speech and expression. As a result, it is up to democratic countries to establish if current regulatory measures are still appropriate or if a major overhaul is required to maintain civil discourse².

II. HATE SPEECH AND DEMOCRACY: A CONTESTED TERRAIN

Hate speech can be defined as “any form of expression through which speakers intend to vilify, humiliate, or incite hatred against a group or class of persons”³. In modern times, almost all democracies face the dilemma of balancing fundamental rights- which provides the citizens the freedom of speech and expression, with accountability and prevention of harm caused by incitement and misinformation which can erode the democracy. There have been a wide course on academic debates between principles of liberty and human dignity. Free speech forms the essence of democracy, while hate speech can act as a harm to the social harmony. This makes hate speech a contested terrain.

A. Historical Context of Hate Speech Regulation

Hate speech regulation can be traced back to the early 19th century, where laws were established against hate against state and blasphemy in Europe. After the World War II, the atrocities of the war and holocaust forced the focus of the regulations to shift for the protection of minorities and targeted communities. In India, Section 295A of the Indian Penal Code criminalized insulting of religious feelings. The Supreme Court has also upheld restrictions on free speech to maintain public order. Electoral laws, specifically Section 125 of the Representation of People Act, 1951, prohibits manipulation of voters on lines of caste or religion. However, modern extremist rhetoric on the Internet is a test for these traditional principles, as social networking technology extends social division beyond the boundaries of direct face-to-face

² Simões, A. P. (2025). ENTRE A LIBERDADE DE EXPRESSÃO E O DISCURSO DE ÓDIO: LIMITES E IMPLICAÇÕES JURÍDICAS. *Aracê.*, 7(12). <https://doi.org/10.56238/arev7n12-145>

³American Library Association. (n.d.). *Hate speech and hatecrime*. <https://www.ala.org/advocacy/intfreedom/hate>

interaction⁴

B. The Digital Transformation of Public Discourse

Earlier, public discourse was in the form of physical gatherings such as rallies, demonstrations, and printed media such as newspapers. But in the present times, social media and digital platforms play the primary role in spreading information. This technological update allows people to create, share, and exchange information. Algorithmic amplification platforms, such as social media, often prioritize content which is more engaging, but sometimes, it is also extreme, provocative, or polarized. This triggers the rapid spread of misinformation across geographical boundaries, reaching international audiences within seconds. Unlike traditional discourse, it creates a long-lasting impact as the content remains clicks away and can be shared anytime.

III. RECALIBRATING THE THRESHOLD: CHALLENGES AND IMPERATIVES

The technological evolution now requires us to evaluate the critical tension between protecting fundamental rights and the necessity of curbing hateful speech that incites violence or undermines democratic values. Redefining the hate speech threshold is difficult, but at the same time, necessary. The traditional hate speech tests should be updated as they were primarily developed in context of physical speech. Digital platforms present their own set of challenges, such as rapid transmission, which remains uncovered in present tests. According to an Ipsos survey, 56% of Internet users use social media as their primary source of news⁵.

To balance free speech with social protection, speech that causes harm has to be limited, while democratic expressions have to be promoted. The restrictions should directly aim to suppress violent or discriminatory content, instead of restricting all. Social media platforms also need to come forward to report and remove extremist and provocative content.

IV. CASE STUDIES IN CONTENTION: GLOBAL PERSPECTIVES

All modern democracies are dealing with balancing hate speech and free expression, especially in the digital era.

1. **United States of America:** The U.S. protects free speech unless it is intending and likely to incite immediate violence.

⁴ Guiora, A. N. (2018). Inciting Terrorism on the Internet: The Limits of Tolerating Intolerance. In *Brill | Nijhoff eBooks* (p. 135). Brill. https://doi.org/10.1163/9789004359826_016

⁵ Ipsos. (n.d.). *Elections, social media, the battle against disinformation and trust issues*. <https://www.ipsos.com/en/elections-social-media-battle-against-disinformation-and-trust-issues>

2. **India:** The Article 19(1)(a) of the Indian Constitution provides the freedom of speech and expression, but is subject to reasonable restrictions under Article 19(2).
3. **Europe:** The European Court of Human Rights has stricter regulation of free speech to protect vulnerable groups. European countries emphasize human dignity and equality.
4. **Germany:** Germany criminalises incitement to violence and hatred and also requires social media to remove such content under the Network Enforcement Act (NetzDG).
5. **Canada:** Canada regulates online hateful and violent content through its national online safety framework.

V. TOWARDS A NEW FRAMEWORK: POLICY AND ETHICAL CONSIDERATIONS

The change in the nature of public discourse through the use of digital technology has meant that democracies need to rethink the way in which hate speech is dealt with in the context of the law and ethics. It has been seen that the traditional measures set up for physical media are no longer appropriate in the context of the digital revolution. This has meant that the law needs to be adapted in order to take into account the rapidity and reach of the communication in the digital world.

However, it has also been necessary to ensure that the right to freedom of expression is not infringed in the context of any attempt to regulate hate speech. It has been seen that democracies are based on the principles of free expression and the right to dissent. It has also been necessary to ensure that any attempt at regulation does not end up inhibiting political expression and the right to hold minority views.

It has been necessary for governments and other stakeholders in the digital world to come together in order to ensure the development of an appropriate model in order to regulate hate speech in the digital world. It has also been necessary to ensure that the right to freedom of expression is protected in the context of any attempt at regulation.

VI. CONCLUSION: SAFEGUARDING DEMOCRACY IN THE INFORMATION ERA

As the platform of dissemination moves from physical spaces such as street corners to online spaces such as Twitter and Facebook, hate speech needs re-evaluation of current standards. Compared to previous forms, online speech is immediate and wide-reaching, thus increasing the scope of impact.

In modern democracies, the government needs to find an appropriate balance between protecting people's dignity while at the same time preserving free speech rights. Too much regulation can stifle the exercise of dissent, whereas too little regulation can allow for

destructive narratives, causing divisiveness. The key point to consider is how to differentiate between offensive speech and damaging speech.

This is something that needs to be handled by all parties, including the state, the internet platforms themselves, and civil society groups. Moderation, transparency, and education are crucial to the discussion of hate speech in this context.

To preserve the spirit of democracy in the information age, governments need to maintain the delicate balance between preserving free speech and protecting against harm.
