THE CONTAGION OF HATE IN INDIA

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Introduction

The COVID-19 pandemic that began its sweep across the globe in early 2020 has had a devastating effect not only on health, life and livelihoods, but on the fabric of society itself. As with all moments of social crisis, it has deepened existing cleavages, as well as dented and even demolished already fragile secular democratic structures. While social and economic marginalisation has sharpened, one of the starkest consequences has been the naturalisation of hatred towards India's largest minority community. Along with the spread of COVID-19, Islamophobia spiked and spread rapidly into every sphere of life. From calls to marginalise,[1] isolate,[2] segregate[3] and boycott Muslim communities, to sanctioning the use of force, hateful prejudice peaked and spilled over into violence. An already beleaguered Muslim community, reeling against the discriminatory Citizenship Amendment Act, passed at the end of 2019, and the implementation of the National Register of Citizens, which was also seen as an exercise in majoritarianism, was hit by a tidal wave of hatred. The already polarised atmosphere provided the ideal environment for hate to spread like wildfire, almost completely unchecked.

This paper attempts to understand the phenomenon of hate speech and its potential to legitimise discrimination and promote violence against its targets. It lays out the interconnections between Islamophobia, hate speech and acts of physical violence against Muslims. The role of social media, especially messaging platforms like WhatsApp and Facebook, in facilitating the easy and rapid spread of fake news and rumours and amplifying hate, is also examined. The complexities of regulating social media platforms, which have immense political and corporate backing, have been touched upon. This paper also looks at the contentious and contradictory interplay of hate speech with the constitutionally guaranteed freedom of speech and expression and recent jurisprudence on these matters. Finally, it presents some examples of the pushback of hate speech and outlines concerns that must be addressed to counter the spread of hatred.

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[1] Halarnkar, S. (2020, 13 April). Coronavirus is proving to be another excuse to marginalise India's Muslims. *Quartz India*. https://qz.com/india/1836768/coronavirus-is-another-excuse-to-marginalise-indias-muslims/

[2] Outlook Web Bureau. (2020, 15 April). Gujarat Govt Hospital Segregates Coronavirus Wards Based on Religion. *Outlook*. https://www.outlookindia.com/website/story/india-news-gujarat-ahmedabad-hospital-segregates-coronavirus-wards-on-religion-says-bjp-govt-decision/350772

[3] Al Jazeera and News Agencies. (2020, 29 April). 'Do not buy from Muslims': BJP leader in India calls for boycott. *Al Jazeera*. https://www.aljazeera.com/news/2020/04/29/do-not-buy-from-muslims-bjp-leader-in-india-calls-for-boycott/

Words can harm

Perceptions of what is hateful, hurtful or offensive are subjective, debateable and context specific. While there is no definition of "hate speech" in international law, the United Nations understands hate speech as:

> *Any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor. This is often rooted in, and generates intolerance and hatred and, in certain contexts, can be demeaning and divisive.[4]*

Hate speech not only hurts, but also prepares the ground for hostility. Even if it is not a direct incitement to violence or discrimination, hate speech allows greater acceptance of such violence and condones if not encourages such acts. Systematic dehumanisation carried out through smear campaigns, slurs, misinformation, sensational and fabricated "news" in the mainstream media and social media, enables the construction of an "other" as a threat to the social fabric or national security. Drawing on decontextualised history, mythology and folklore, there is an attempt to establish the superiority of the majority community, alongside an imagined "internal enemy". In India, this Hindu supremist or Hindutva ideology has the effect of normalising discrimination and even physical violence against those perceived to be violating the tenets of this exclusivist ideology[5]. The reinterpretation and distortion of history through the lens of the majority builds a narrative of their imagined persecution, accompanied by the targeting of minorities as "outsiders". Such ideology, when espoused by the ruling party and unchecked – even promoted – by complicit state authorities, assumes dangerous proportions and fans the embers of communal conflict into raging fires.

As media analyst Suchitra Vijayan says:

> *An established pattern of presenting and commenting on the new transforms political debate into righteous passion against individuals and groups that disagree with the status quo. The targets of violence are marked with precision, taken as public hostages and accused of being enemies of the state. Later they explain what has to be done to this enemy. Through constant repetition, they construct a political, moral and historical alibi that eventually becomes the accepted truth.[6]*

[4] United Nations. (May 2019). *UN Strategy and Plan of Action on Hate Speech*. https://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action_plan_on_hate_speech_EN.pdf

[5] Ghatade, S. (2018, 12 June). Hindutva Unlimited: Time to Militarise Hindus, Hinduise the Nation. *South Asia Citizens Web*. http://www.sacw.net/article13798.html

[6] Vijayan, S. (2018, 15 July). Journalism as Genocide. *The Polis Project*. https://www.thepolisproject.com/journalism-as-genocide/#.XvbXyygzblV
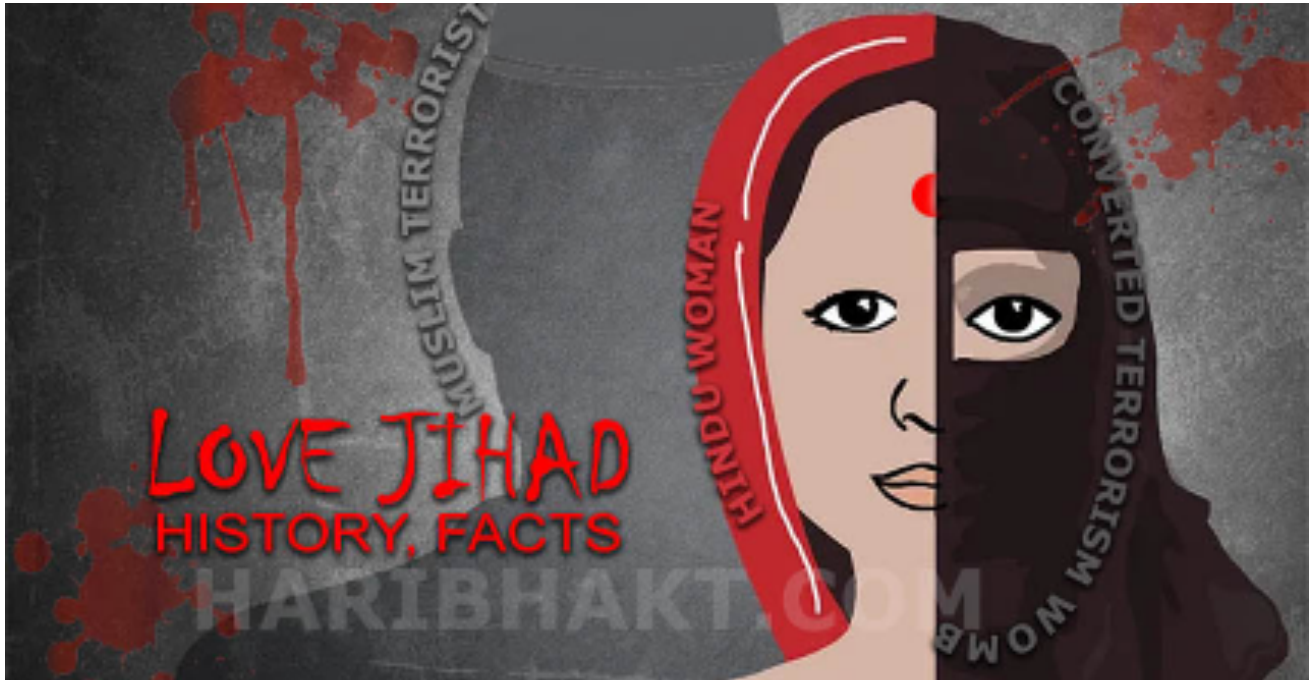
Source: haribhakt.com

What is important to discern is the construction of hatred through systematically planned propaganda, sanctioned and even supported by the state which, when adopted by news media, becomes legitimised as the "truth" or "fact". Alongside is the intolerance of dissent or even diversity, varied opinions and the capacity to interrogate and question.

The global phenomenon of prejudice and "othering" of Muslims has found a new vehicle in the coronavirus pandemic in India, driven by well-worn right-wing themes of Muslims as "alien invaders" and dangerous. Indeed, fear, bordering on paranoia about the virus, was fertile ground for amplifying existing anti-Muslim hatred in India.

Terms like "corona jihad" are on the lines of "love jihad"[7] – the supposed campaign of Muslim men feigning love and luring Hindu women, forcing them to abandon their faith and convert to Islam. Memes on social media, videos and posters reinforce the trope of "innocent" Hindus and "rampaging" Muslims.

According to the latest manifestation of Islamophobia, Muslims deliberately infected an innocent (Hindu) populace with the virus, with malicious forethought, indeed as a form of bio-terrorism. Visuals and memes with Muslims depicted as stereotyped terrorists were circulated with alacrity. Such propositions, unleashed by Hindu extremists on social media, were also validated and promoted by ruling politicians, gave free rein to Muslim-bashing.[8]

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[7] Gupta, C. (2009). Hindu Women, Muslim Men: Love Jihad and Conversions. *Economic and Political Weekly*, 44, (55), 13-15. https://www.jstor.org/stable/25663907?read-now=1&seq=1#page_scan_tab_contents
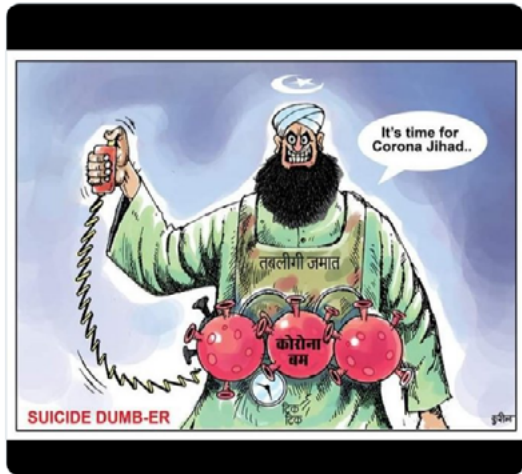
[8] The Hindu. (2020, 4 April, 2020). Tablighi Event: Shobha smells 'Corona Jihad'. *The Hindu*. https://www.thehindu.com/news/national/karnataka/tablighi-event-shobha-smells-corona-jihad/article31259288.ece

Source: Equality Labs

While hate speech has been the hallmark of major genocides through history, new technologies have made it easier to spread hatred with less time and effort, resources or even consequences. Social media is designed to enable users to have widespread access and almost instant outreach, beyond the niche membership of extremist groups of yore. The anonymity provided by platforms like Twitter allow misogynist, casteist, racist and Islamophobic speech to spread virtually unchecked. Since the business model of digital platforms is built on targeted advertising and directing readers to consume certain content, online mobilisation of hate is facilitated by the algorithms of digital platforms themselves, which mediate what users consume. Analysts say, for example, that YouTube's "autoplay" function directs viewers towards similar content, mostly extremist in nature and that it could be "one of the most powerful radicalizing instruments of the 21st century."[9]

The medium and the message

During the coronavirus pandemic, "going viral" is steeped in irony in the context of misinformation and Islamophobic messages circulated on popular social media platforms the world over. Regulation of social media platforms is fraught with concerns about curtailing free speech, increased state control and privacy issues regarding the restriction of "extreme speech". The debates rage on even as these platforms are used as springboards to disseminate hatred. Social media and some platforms in particular have been directly indicted for spreading hate, for example the conflagration of hate against the Rohingya community in Myanmar. Before and during the 2017 genocide that forced hundreds of thousands of Rohingya to flee and seek refuge in neighbouring Bangladesh, there was systematic propaganda, trolling and fake news spread through dummy and celebrity accounts secretly run by military personnel.[10] Facebook commissioned what it called "an independent human rights impact assessment on the role of our services in Myanmar" and in its statement published on 5 November, 2018, admitted that "prior to this year, we weren't doing enough to help prevent our platform from being used to foment division and incite offline violence. We agree that we can and should do more."[11] However, this admission has yet to be translated into actionable moves. In August 2020, taking refuge in a technicality of US law, Facebook rejected a request to release Myanmar officials' data in an investigation into the genocide of the Rohingyas.[12]

[9] Tufecki, Z. (2018, 10 March). YouTube, the Great Radicalizer. *The New York Times*.

[10] Mozur, P. (2018, 15 October). A Genocide Incited on Facebook, With Posts from Myanmar's Military. The New York Times. https://www.nytimes.com/2018/10/15/technology/myanmar-facebook-genocide.html

[11] Warofka, A. (2018, 5 November). An Independent Assessment of the Human Rights Impact of Facebook in Myanmar. *Facebook*. https://about.fb.com/news/2018/11/myanmar-hria/

[12] McPherson, P. (2020, 6 August). Facebook rejects request to release Myanmar Officials' data in Genocide Case. *Reuters*. https://in.reuters.com/article/myanmar-facebook/facebook-rejects-request-to-release-myanmar-officials-data-for-genocide-case-idINKCN2521TM

"Coronavirus, Fear and How Islamophobia Spreads on Social Media"[13] a study by the Anti-Muslim Hatred Working Group (AMHWG) in the UK was conducted with the objective of providing an overview of how anti-Muslim narratives are formed and how they are impacting communities both online and offline. The study found anti-Muslim fake "news" and theories circulating online on the following themes: "Mosques are responsible for the spread of COVID-19"; "Muslims are super-spreaders of the coronavirus"; "Muslims are not observing social distancing rules". These and many similar assertions were fabricated using old photos and videos which were taken out of context. These findings are similar to the scenario in India, as detailed in a later section.

The AMHWG study found that Islamophobia is highly gendered. "Muslim women in particular are more likely to be attacked or abused than men in public settings, especially if they are visibly Muslim. In fact, evidence shows that Muslim women are more likely to be abused online too." This is also reflected in India. Well-known journalist Rana Ayyub has faced hatred and threats of sexual violence on social media, for both her gender and religious identity.

"Coronajihad: An Analysis of Covid-19 Hate Speech and Disinformation",[14] a report by Equality Labs, found that Islamophobic hate speech targeting Muslims across the world, originated on Twitter and spread to other social media platforms. The report says that most users pushing Islamophobic COVID-19 content are young men between the ages of 18 and 34, based mainly in India and the US. "Islamophobic COVID-19 hate speech and disinformation could trigger large scale majoritarian violence. We must act collectively to avoid imminent harm to Indian minorities," it warned. Equality Labs directs its recommendations for change at social media platforms and suggests:

> *Social media staff and moderators should acquire and exercise greater cultural competency, particularly concerning issues of caste and religious minorities of South Asia. Ignorance about Islamophobia during this pandemic has enabled hateful content to inflict direct and immediate harm on millions.*

Among specific recommendations are: remove incitement by means of more attentive moderation; audit human rights impact of content; promote dialogue between internet freedom experts, Muslim civil society advocates and public health officials to promote advocacy, intervention, education and training; assist survivors as a form of remediation and support fact-checking platforms.

[13] Awan, I., & Khan-Williams, R. (2020, 20 April). Coronavirus, Fear and How Islamophobia Spreads on Social Media. *Anti-Muslim Hatred Working Group, UK*. https://anti-muslim-hatred-working-group.home.blog/2020/04/20/coronavirus-fear-and-how-islamophobia-spreads-on-social-media/

[14] Equality Labs. (2020). *Coronajihad: An Analysis of Covid-19 Hate Speech and Disinformation*. Equality Labs. https://www.equalitylabs.org/coronajihad

A letter with the hashtag *#Online Hate becomes Offline death*, from concerned international organisations to the Indian prime minister, head of the WHO and heads of Twitter and Facebook, stressed the need for a multi-pronged strategy to stop Islamophobia stating "using the pandemic to justify hate-based communal and religious politics will not solve it; only scientific rigor and global cooperation will help turn the tide of this deadly disease and its ever-growing impact. That is why, until this crisis passes, we need to do better". Such an exhortation is most relevant in India, where the virus of hatred acquired pandemic proportions.

Made in India

In India, several modalities were used to disseminate disinformation and incite hatred on social media: videos, images and messages created with false connections; inaccurate context; misrepresentation by morphing or manipulating existing footage; impersonation or distortion of genuine speeches; creating fake content designed to provoke and amplifying hate speech by prominent individuals by multiple retweets, forwards and shares. In many instances, the origins of the messages or videos were untraceable as the creators had deleted them after letting them ride high on the sea of misinformation.

Mediascanner.in, a website documenting and busting misinformation, lists 102 Islamophobic videos (as of May 16) which went viral during the pandemic. These ranged from old videos[15] of actual happenings (for example of worshippers[16] at a mosque before the lockdown) being shared as if they were more recent videos; crimes being wrongly attributed to Muslims, for example the gang rape and murder of a minor girl in Rajasthan (the girl is alive, and the video is one of a woman murdered by her policeman husband in Haryana on 16 April); Muslim "appeasement"[17] by the government during the pandemic (a five-year old video from Telangana); or falsely correlating mass resignations[18] of nursing staff at a hospital in Rajasthan allegedly because of misconduct by Muslim patients.

[15] Media Scanner. (2020, 9 May). Fake Alert: Long List of Islamophobic fake news which is going viral during Coronavirus Pandemic. *Media Scanner*. https://mediascanner.in/fake-alert-long-list-of-islamophobic-fake-news-which-is-going-viral-during-coronavirus-pandemic/
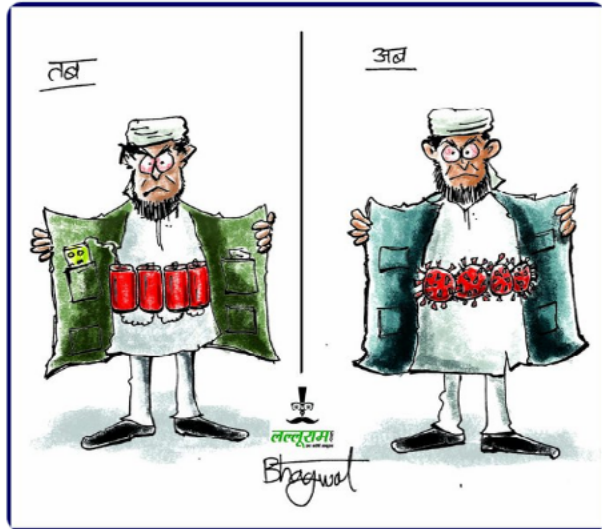
[16] Chaudhury, P. (2020, 18 April). News24 shares old broadcast of namaz at Jama Masjid multiple times to portray mass gathering. Altnews. https://www.altnews.in/news24-shares-old-broadcast-of-namaz-at-jama-masjid-multiple-times-to-portray-mass-gathering/

[17] Archit. (2020, 12 May). Suresh Chavhanke shares at least 5-year-old image as Telangana govt's free gift during Ramzan. *Altnews*. https://www.altnews.in/suresh-chavhanke-shares-at-least-5-year-old-image-as-telangana-govts-free-gift-during-ramzan/

[18] Patel, J. (2020, 8 May). No, nursing staff in Rajasthan's Jhalawar not resign due to misconduct by Jamaatis. *Altnews*. https://www.altnews.in/no-nursing-staff-in-rajasthans-jhalawar-did-not-resign-due-to-misconduct-by-jamaatis/

Source: Equality Labs

14 China Muslims hidden at Bihari mosque has been taken to corona virus test by Bihari police. Erode police has caught Thailand Muslim mullahs infected with corona virus. Today Salem Police has caught 11 Indonesian Muslim mullahs at Salem mosque. This video shows that they are applying and putting saliva on spoons, plates and utensils and also they are in the intention of spreading corona virus disease. Nobody knows what's happening in the Nation.

Some of the most pernicious videos were those creating fear that Muslims were deliberately spreading the virus, an act of terror to unleash "corona jihad" on the Hindu population. A cartoon depicting a suicide bomber with stereotypical clothes and flak jacket (then) with corona virus strapped to his chest (now) was widely spread on social media.

Many of the videos circulated after the lockdown were old and had nothing to do with the coronavirus, but were regurgitated with the aim of demonising the practices of some Muslim communities such as praying in groups[19] or collective eating out of one plate. For example, a video[20] from July 2018 was widely shared with the message:

One particular video[21] shared by the right-wing Facebook Page NamoAlways (Namo is a moniker for Prime Minister Narendra Modi) on April 22 showed a man scooping up food on a ladle and bringing it close to his mouth: "Watch how our country's Islamic brothers involved in relief work for the poor are trying to further spread coronavirus. Try to open your closed eyes." This mischievous messaging, implying that Muslims were spitting on food meant for distribution had been shared and liked 8,200 times by 22 June. In comparison, the verification by fake-news busting website Altnews, was shared on social media 4500 times as of 22 June.

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[19] Alphonso, A. (2020, 2 May). Two-year Old Photo Of Namaz Peddled As Lockdown Violation. *Boom*. https://www.boomlive.in/fake-news/two-year-old-photo-of-namaz-peddled-as-lockdown-violation-7937

[20] Chaudhuri, P. (2020, 1 April). Old, unrelated video shared as Muslims licking utensils to spread coronavirus infection. *Altnews*. https://www.altnews.in/old-unrelated-video-shared-as-muslims-licking-utensils-to-spread-coronavirus-infection/

[21] Many of these videos widely circulated on WhatsApp and Facebook, became unavailable as they have been taken down. Descriptions and references are from the fact-checking sites which analysed these videos.

These sorts of videos surfaced across the country. One from Uttar Pradesh spread alarm[22] by alleging that an elderly Muslim fruit vendor was spreading the virus by sprinkling his urine on bananas before selling them. An old video[23] from Kodagu in Karnataka, claiming that Muslim businesses had been boycotted during the lockdown, also turned out to be fake. Using currency notes as a vehicle for spreading the virus was yet another false conspiracy theory[24] from Indore in Madhya Pradesh and Gujarat[25] that surfaced on social media. These videos were repeatedly circulated on social media and residents' welfare associations' WhatsApp groups, spreading suspicion and fear and encouraging vigilantism. One of the reasons for the success of this propaganda is the grain of truth, or similarity to incidents that actually took place, whipping up fear in the Muslim community. Towards the end of May, a right-wing group installed saffron flags on shops owned by Hindus in order to aid identification to boycott shops owned by Muslims. Despite complaints filed with the police, no first information reports (FIRs) were filed.[26]

The old bogey of Pakistan fomenting trouble in India found support not only among the public but also the Delhi Police. In Project Digital Vaccine: Weaponising Disinformation to Destroy COVID-19 Lockdowns, a report released in early April, cyber experts of Delhi Police's Special Branch suggested, without much evidence, that several videos in circulation "appear to be shot in Pakistan and Middle East but audio in Hindi has been superimposed."[27] The aim of these videos was purportedly "religious instigation against health advisories regarding coronavirus".

[22] Media Scanner. (2020, 22 April). Video of elderly Muslim vendor viral with false claim of sprinkling his urine on fruits. *Media Scanner*. https://mediascanner.in/video-of-elderly-muslim-vendor-viral-with-false-claim-of-sprinkling-his-urine-on-fruits/

[23] Raj, A. (2020, 8 April). Old Video Shared as Call to Boycott Muslim Businesses in K'taka. *The Quint*. https://www.thequint.com/news/webqoof/boycott-muslim-businesses-in-karnataka-viral-video-fact-check

[24] Kinjal. (2020, 20 April). Video of currency notes in Indore falsely viral as 'Muslim conspiracy' to spread coronavirus. *Altnews*. https://www.altnews.in/video-of-currency-notes-found-on-indore-road-shared-with-false-claim-that-it-was-muslims-conspiracy-to-spread-coronavirus/

[25] Zubair, M. (2020, 27 April). Disabled Muslim man hounded for accidently dropping currency, accused of spreading coronavirus. *Altnews*. https://www.altnews.in/disabled-muslim-man-hounded-for-accidentally-dropping-currency-accused-of-spreading-coronavirus/

[26] Bhat, P. (2020, 24 May). Saffron flags installed on shops in Bengaluru: 5 complaints filed, no FIR yet. *The NewsMinute*. https://www.thenewsminute.com/article/saffron-flags-installed-shops-bengaluru-5-complaints-filed-no-fir-yet-125198

[27] Singh, V. (2020, 9 May). Coronavirus | Police get a guide to detect fake news. *The Hindu*. https://www.thehindu.com/news/national/coronavirus-police-get-a-guide-to-detect-fake-news/article31544474.ece

That this distorted messaging was taking hold in the popular (Hindu) imagination was apparent, with incidents of aggression, arson and violence in different parts of the country. On 20 May, petrol bombs were flung at Muslim houses and shops, in Telinipara in West Bengal's Hooghly district, causing widespread destruction. Communal clashes erupted for two to three days. Muslims were allegedly taunted with chants of "corona" and blamed for spreading the virus. Following the verbal spat, the Hindus barricaded the public toilets used by Muslims which led to violence. Reports suggest that a seemingly spontaneous outburst was in fact a systematically planned attack on Muslims.[28]

In the week preceding 3 April, an analysis[29] by Delhi-based cyber security and digital journalism firm Voyager Infosec of more than 30,000 clips revealed massive disinformation and "fake news" campaigns. These targeted and influenced Muslims in India to ignore advisories on COVID-19 in the name of Islam. Since 2016, Tiktok, a platform for sharing 15-second mobile videos which is often used to share light-hearted dance, lip-sync and music clips, also emerged as a vehicle to spread prejudice and disinformation. Short, high-impact videos[30] shared more than 10 million times across various platforms, showed young Muslim-looking men shunning masks and physical distancing protocols, others showing that Muslims will not get coronavirus if they rest their faith in the almighty to save them from the virus. However, the service, owned by Beijing-based company Bytedance, has no mechanism to report inappropriate content.[31]
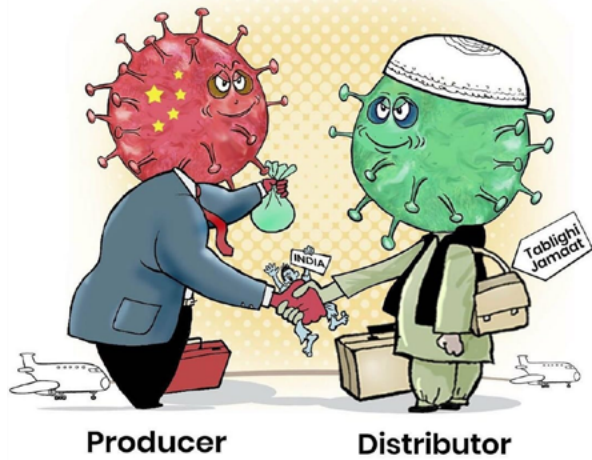
[28] Ghosh, H. (2020, 16 May). Ground report: What really happened in Violence-hit Telinipara, West Bengal. *The Wire*. https://thewire.in/communalism/ground-report-what-really-happened-in-violence-hit-telinipara-west-bengal

[29] Kumar, A. (2020, 3 April). Surge in TikTok videos aimed at misleading Indian Muslims over coronavirus precautions. *India Today*. https://www.indiatoday.in/india/story/surge-in-tiktok-videos-aimed-at-misleading-indian-muslims-over-coronavirus-precautions-1662930-2020-04-03

[30] Following the ban on Tiktok and other Chinese apps on June 30, the original videos are no longer accessible.

[31] Tiktok, along with several other Chinese apps, was banned following border skirmishes between India and China in June, 2020.

Coronavirus Deal

Producer   Distributor

State Times - #SThumour Cartoon of the d…

This time, "Vibhishan" is my side

State Times
#SThumour Cartoon of the day
Timeline Photos · Yesterday at 23:12 ·

Memes doing the rounds found a convenient scapegoat in the Tablighi Jamaat gathering (detailed later), implying that the participants at the meeting were singularly responsible for the spread of the coronavirus across the country. One cartoon (above left) titled "Coronavirus deal"[32] went further, suggesting that it was a deliberately planned act of "distribution" of the deadly virus in cahoots with China, its "producer".

Another image (above right) used symbolism from the popular epic Ramayana, to depict the coronavirus as the ten-headed demon king Ravana. Vibhishana, his "good" brother who supported Lord Rama in the original epic, is shown sporting a beard and fez at Ravana's side. Lord Rama is depicted as Prime Minister Narendra Modi, and Home Minister "Hanuman" Amit Shah his trusted lieutenant, bemused at Vibhishana's treachery.[33]

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[32] Sourced from the website of the Documenting Oppression Against Muslims, the site itself is no longer accessible (https://www.doamuslims.org/cgi-sys/suspendedpage.cgi)

[33] The epic Ramayana, based on the morality of good and evil, is pivoted around the voluntary exile of Lord Rama, his wife Sita and brother Lakshmana. Sita is kidnapped from the forest by the demon king Ravana. In the original story, Vibhishana chooses the path of "good", defects from his own brother Ravana's side and joins forces with the "good" Lord Rama. In this satirical cartoon however, the morally upright Vibhishana is depicted with a beard and fez as an "evil" Muslim, siding with the evil forces represented by Ravana. Showing Prime Minister Narendra Modi of the Hindu-nationalist Bharatiya Janata Party as the "good" Lord Rama, and his all-powerful Home Minister Amit Shah as Hanuman (Ram's trusted lieutenant in the original epic), further cements the good-Hindu-evil-Muslim trope.

The Tablighi Jamaat trigger

The spread of the coronavirus in India had only just begun in March 2020, even though the first case had been reported on 30 January in Kerala. With only 83 cases on 21 March, the figure went up to 227 by 30 March and 545 on 2 April. By then seven individuals – one from Kashmir and six from Telangana – who had attended the Tablighi Jamaat congregation in Delhi had died.

What had been a trickle of Islamophobia in the media soon turned into a flood of hatred against Muslims, triggered by what was publicly perceived as the main "cause" of the spread of the virus in India: a gathering in mid-March of about 3,500 members of the Tablighi Jamaat in Nizamuddin in Delhi.

The Tablighi Jamaat, an Islamic reformist movement founded in Mewat (in present day Haryana) in 1926, is headed by Maulana Saad Kandhlawi, the grandson of the founder Muhammad Ilyas Kandhlawi. Focussed on "purifying" the Muslim faith, the Jamaat reportedly has a presence in about 150 countries with millions of followers worldwide.[34]

The gathering at the Nizamuddin Markaz (Mosque), the global headquarters of the Tablighi Jamaat, from March 13 onwards, was attended by about 3,400 participants from different parts of the world. The Delhi government announced a ban on religious, social and political gatherings of more than 50 people, on 16 March after which participants began to leave the Markaz area, and travel to various parts of the country. When Indonesian nationals who had attended the gathering tested positive in Telangana on 20 March, the Tablighi Jamaat gathering came under the spotlight. On 24 March, Prime Minister Narendra Modi announced the 21-day national lockdown, one of the most stringent in the world, with only four hours' notice. According to reports[35] about a 1,000 participants stayed back at the Markaz, as travel was restricted due to the lockdown. Testing of the participants and their contacts began and a large number tested positive, unleashing a barrage of anti-Muslim diatribes on national television.

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[34] Johny. S. (2020, 2 April). Who are the Tablighi Jamaat?. *The Hindu*. https://www.thehindu.com/news/national/explained-who-are-the-tablighi-jamaat-the-organisation-at-the-epicentre-of-coronavirus-outbreak-in-india/article31238915.ece

[35] PTI. (2020, 31 March). Informed police on March 23 that 1000 people trapped in Nizamuddin Markaz: AAP MLA Amanatullah Khan. *The New Indian Express*. https://www.newindianexpress.com/cities/delhi/2020/mar/31/informed-police-on-march-23-that-1000-people-trapped-in-nizamuddin-markaz-aap-mla-amanatullah-khan-2124036.html

Headlines of hate: Hindi TV channels spew venom. (Translated, clockwide from top left: "In the war on Corona, a blow struck by Jamaat"; "Save the nation from Corona Jihad", "Who is the villain of Nizamuddin?" "Murderous sin in the name of religion")

The media's anti-Muslim campaign was legitimised when the government linked the spread and spike in COVID-19 cases with the Tablighi Jamaat gathering, during a press briefing[36] by Lav Agarwal, Joint Secretary, Ministry of Health and Family Welfare, on 1 April. Misinformed and blatantly Islamophobic comments were made by no less than the Minister for Minority Affairs in the central government, who labelled[37] the Tablighi Jamaat gathering a "Talibani crime". No government agency was willing to take responsibility for a possible lapse that allowed the large gathering to take place.[38]

Criminalising the Nizamuddin gathering appeared to be selective, as several non-religious and religious gatherings took place during the lockdown.[39] On 24 February, a month and a half after the first coronovirus case was detected in the country, nearly 100,000 people gathered in Ahmedabad for the "Namaste Trump" extravaganza to mark US President Donald Trump's visit. On 25 February thousands of people atten-ded a Mahashivaratri celebration organised by Sadhguru Jaggi Vasudev.[40]

[36] https://www.youtube.com/watch?v=FchlApch4Uc

[37] Venugopal, V. (2020, 2 April). Tablighi Jamaat is a Talibani crime, not negligence: Mukhtar Abbas Naqvi. *The Economic Times*. https://economictimes.indiatimes.com/news/politics-and-nation/tablighi-jamaat-is-a-talibani-crime-not-negligence-mukhtar-abbas-naqvi/articleshow/74940835.cms

[38] Venugopal, V. (2020, 2 April). Tablighi Jamaat is a Talibani crime, not negligence: Mukhtar Abbas Naqvi. *The Economic Times*. https://www.thehindu.com/news/cities/Delhi/who-is-to-blame-for-virus-going-viral-from-nizamuddin/article31264902.ece

[39] The Hindu. (2020, 2 April). Defying lockdown, devotees in Bengal assemble at temples on Ram Navami. *The Hindu*. https://www.thehindu.com/news/cities/kolkata/defying-lockdown-devotees-in-bengal-assemble-at-temples-on-ram-navami/article31237211.ece

[40] Sabrang India. (2020, 18 April). Covid-19: Was Tablighi Jamaat event the only mass gathering leading up to the lockdown? *Sabrang India*. https://sabrangindia.in/article/covid-19-was-tablighi-jamaat-event-only-mass-gathering-leading-lockdown

In a virtual press conference on 6 April, Michael Ryan, the emergency programme director of the World Health Organization said, "having COVID-19 is not anybody's fault. Every case is a victim and every case needs to be treated with sensitivity, as the health workers who treat them so it's very important that we're not profiling COVID-19 along racial, along religious, along ethnic lines. This is not helpful."[41]

Despite this the blame game continued. On 18 April the government claimed that 30% or 4,291 of the 14,378 cases in 23 states were found to be linked to the Nizamuddin Markaz event.[42]

An analysis by Article 14 points out that the large number of COVID-19 positive participants at the Tablighi Jamaat event was because around 9,000 individuals were tested – attendees and their primary contacts. According to experts this is an inaccurate reading of data on positive cases because there were other large religious gatherings in Punjab and Kerala in the same period, and even later in April, which were not subjected to the same scrutiny. Asymptomatic persons were not being tested at the time, except for Tablighi Jamaat members and their contacts.[43]

As Saugato Datta, behavioural and developmental economist quoted in Scroll.in explains, "This is basically sampling bias: since people from this one cluster have been tested at very high rates, and overall testing is low, it is hardly surprising that a large proportion of overall positives is attributed to this cluster."[44] There was little attempt on the part of the media to present holistic information about positive cases which were Tablighi Jamaat-related and the number of people tested overall.
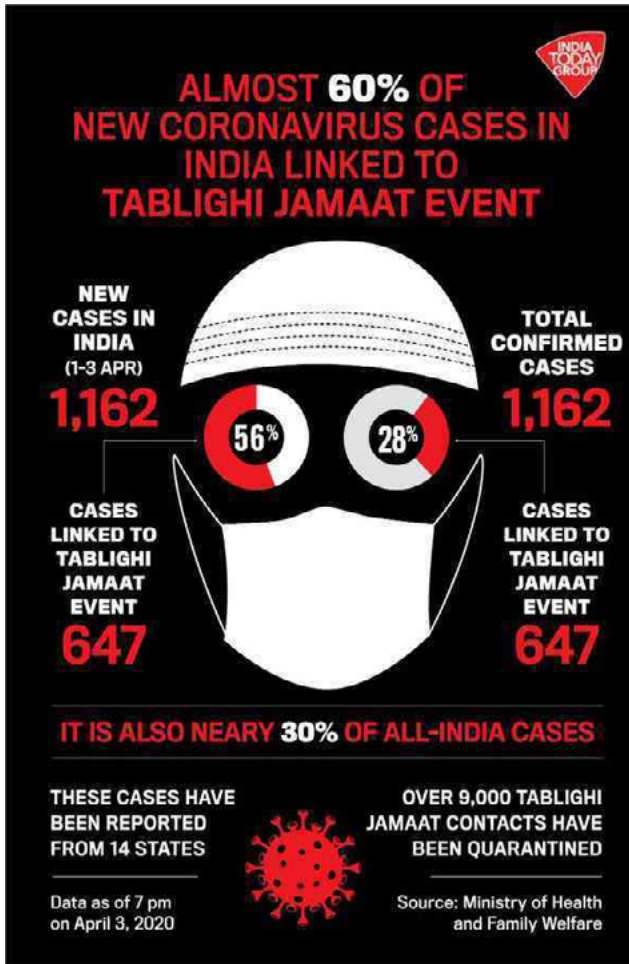
Yet, these misleading figures were reproduced and legitimised through an official source: the Ministry of Health and Family Welfare. To illustrate, this infographic (below left) from India Today mis-represents Muslims (symbolised here by the fez) as the main vector of disease by not placing the numbers in context. Significantly, no state authority took notice of this propaganda or made any attempt to intervene and end this biased narrative.

[41] World Health Organisation. (2020, 6 April). COVID-19 virtual press conference. https://www.who.int/docs/default-source/coronaviruse/transcripts/who-audio-emergencies-coronavirus-press-conference-full-06apr2020-final.pdf?sfvrsn=7753b813_2

[42] The Week. (2020, 18 April). 30% of COVID-19 cases in India are linked to Tablighi Jamaat event: Health ministry. *The Week*. https://www.theweek.in/news/india/2020/04/18/30-of-covid-19-cases-in-india-are-linked-to-tablighi-jamaat-event.html

[43] Jain, R. {2020, 20 April). How India's Government Set off a Spiral of Islamophobia. *article14*. https://www.article-14.com/post/how-india-s-government-set-off-a-spiral-of-islamophobia

[44] Daniyal, S. (2020, 7 April). Explained: Sampling bias drove sensationalist reporting around Tablighi coronavirus cases. *Scroll In*. https://scroll.in/article/958392/explained-sampling-bias-drove-sensationalist-reporting-around-tablighi-coronavirus-cases

ALMOST **60%** OF NEW CORONAVIRUS CASES IN INDIA LINKED TO TABLIGHI JAMAAT EVENT

NEW CASES IN INDIA (1-3 APR) 1,162

TOTAL CONFIRMED CASES 1,162

56% 28%

CASES LINKED TO TABLIGHI JAMAAT EVENT 647

CASES LINKED TO TABLIGHI JAMAAT EVENT 647

IT IS ALSO NEARY **30%** OF ALL-INDIA CASES

THESE CASES HAVE BEEN REPORTED FROM 14 STATES

OVER 9,000 TABLIGHI JAMAAT CONTACTS HAVE BEEN QUARANTINED

Data as of 7 pm on April 3, 2020

Source: Ministry of Health and Family Welfare

"Fake news" spurs violence against Muslims

Even before the Tablighi Jamaat event, TV channels were peddling "fake news" about Muslims. A study[45] of more than 200 instances of misinformation from 23 January to 12 April, 2020, by Akbar, S. et al., "Temporal Patterns in COVID-19 misinformation in India", found that news sources ranging from less widely consumed, regional digital news to heavily engaged national news have been complicit in spreading misinformation. The study found a rise in disinformation in the third week of March (after the announcement of the lockdown) particularly in the category of "Messages with cultural references such as to a religious / ethnic / social group or a popular culture reference", as compared with disinformation about cures, business etc. Using "wordclouds" of tags used to annotate stories in the period between 14 March and 12 April, the discourse changed to Muslims and religion "more significantly" in the misinformation universe, said the study.

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[45] Akbar, S., Kukreti, D., Sagarika, S., Pal, J. (2020). *Temporal patterns in COVID-19 mininformation in India*. http://joyojeet.people.si.umich.edu/temporal-patterns-in-covid-19-misinformation-in-india/

On 14 March Public TV (Kannada) claimed that four Muslims in Bhatkal, Karnataka, refused be tested for COVID-19 due to "religious reasons" after their return from Dubai. This was widely shared on right-wing social media platforms even after officials had clarified that the rumours were unfounded. Altnews debunked[46] the news after verifying with official sources and tracked the misinformation to local residents.

Regional news channels had a field day with a scapegoat selected by consensus. On 31 March 2020, Suvarna News, credited with popularising the term "Tablighi virus" in the Kannada media, declared, "The Nizamuddin mosque has become Delhi's hell" and raised the alarm, "They'll infect innocent people!" Significantly, professional regulatory bodies such as the Press Council and the News Broadcasters Association have been silent on these blatant violations of ethics and law by the electronic media in particular. It was only a Supreme Court order on 2 June that made them party to the case filed by the Jamait Ulema-i-Hind against the vilification of the Tablighi Jamaat[47]. On 7 August, the Supreme Court, while calling for a report from the Press Council of India on complaints of the media spreading communal hatred, in harsh indictment, remarked that governments do not act unless directed by the court.[48]

One incident of violence, which could have been defused at the outset, took place in Indore, Madhya Pradesh, where fear and paranoia had been whipped up within the Muslim community. On 1 April, local residents in a locality of Indore chased away health workers and police, pelting them with stones. Videos of the incident were widely circulated and contributed to further demonising of Muslims.

An investigation[49] by media analysis website Newslaundry revealed that a lack of comm-unication and misinformation had created an atmosphere of fear, intimidation and panic among the Muslim community.

According to the Newslaundry investigation, on 22 March, an elderly tailor who had been hospitalised with symptoms of pneumonia died. His family was informed only two days after his burial that he had tested positive, and the family and 20 other neighbouring families were taken to quarantine. The community had no information about where they had been taken. The tipping point was two WhatsApp messages doing the rounds:

> *People from Muslim slums are taken for check-ups and given fake corona positive reports. Instead of hospitals, they are taken to some other places where they are injected with corona positive blood. Indore has such a huge population, then why are only names of Muslims being revealed as Covid patients? Because they want to scare Muslims in the name of corona and take them away. After being made corona positive, when that person reaches the last stage of the disease, he is given a poisonous injection and his body is thrown away.*

[46] Zubair, M. (2020, 16 March). Public TV falsely claims Muslim youths in Karnataka refuse coronavirus testing for "religious reasons". *Altnews*. https://www.altnews.in/public-tv-opindia-my-nation-run-fake-news-that-four-muslims-refuse-coronavirus-testing-in-karnataka/

[47] Clarion India. (2020, 3 June). Vilification of Tablighi Jamaat: After Press Council, Broadcasters Association Also Made Party on SC Order. *Clarion India*. https://clarionindia.net/vilification-of-tablighi-jamaat-after-press-council-broadcasters-association-also-made-party-on-sc-order/

[48] The New Indian Express. (2020, 7 August). Governments don't act until they are directed by court, says SC on Tablighi Jamaat case. *The New Indian Express*. https://www.newindianexpress.com/nation/2020/aug/07/governments-dont-act-until-they-are-directed-by-court-says-sc-on-tablighi-jamaat-case-2180534.html

Another video showed a Muslim family from Indore in quarantine, claiming that they had been "trapped" and declared COVID-19 positive.[50] Given these rumours masquerading as fact, it is not surprising that the community reacted as it did when health workers showed up unannounced.

In April in Bangalore, Padrayanapura, a ward with a large Muslim population emerged as a hub for a cluster of COVID-19 positive cases but also rampant human rights abuses and overreach of the law. Residents asked why only two wards, including Padrayanapura were sealed when 30 wards had been declared "hotspots". Already restive after lack of provision of essentials during the lockdown, violence broke out in the area on April 19 when about 50 individuals were taken to institutional quarantine, and ASHA health workers were targeted. More than 50 others were arrested, the number going up to 126 by April 27.[51] Arrests, from houses, at odd times of the day and night terrorised the residents, who were demonized as criminals and "mobs" rather than victims of a deadly virus.[52]

The anti-Muslim narrative also directly affected livelihoods because of calls to boycott Muslims and warnings to anyone from working for them, in Ramanagara district in Karnataka.[53] In Uttar Pradesh, vegetable vendors were prohibited from selling their vegetables as groups of people accused them of being members of Tablighi Jamaat and spreading the virus. A BJP legislator was even filmed instigating people to boycott a Muslim vendor because he had apparently been told that Muslims were spitting on vegetables before their sale. Far from any action to stop him from amplifying rumours, the legislator went on to justify his actions on national television.[54]

[50] Ibid.

[51] After local courts denied bail, the High Court of Karnataka ordered their release on bail on 29 May 2020. https://www.livelaw.in/pdf_upload/pdf_upload-375627.pdf

[52] Aditya Bharadwaj, K. V. (2020, 21 April). Communal spin major roadblock to fight against COVID-19 in Padarayanapura. The Hindu. https://www.thehindu.com/news/cities/bangalore/communal-spin-major-roadblock-to-fight-against-covid-19-in-padarayanapura/article31399035.ece

[53] Afeef, M. (2020, 28 May). Does Law Allow Calls to Boycott Muslims During Covid19 Lockdown?. *The Wire*. https://thewire.in/communalism/covid-19-lockdown-muslims-boycott-law

[54] PTI. (2020, 28 April). Uttar Pradesh BJP MLA caught on camera telling people not to buy vegetables from Muslim vendors. *The Hindu*. https://www.thehindu.com/news/national/other-states/uttar-pradesh-bjp-mla-caught-on-camera-telling-people-not-to-buy-vegetables-from-muslim-vendors/article31452761.ece

Fact-checking platform Mediascanner recorded 28 incidents of ostracism, discrimination and outright violence against Muslims from early April onwards. These incidents ranged from Muslim Gujjar families being forced to throw away their milk, and being beaten and boycotted[55] in Punjab, to teachers of Delhi University spewing venom[56] against Muslims and suggesting they be thrown into gas chambers; Muslim truck drivers thrashed[57] in Arunachal Pradesh; to a baby dying[58] after a doctor allegedly refused to treat a pregnant Muslim woman. A bakery owner in Chennai was arrested for his advertisement which announced "Made by Jains. No Muslim staff" a clarification he claimed he had made after receiving several calls to verify the religious background of his employees after WhatsApp messages urged people not to buy bakery products made by Muslims.[59]

A video[60] which surfaced on May 3, 2020 revealed dangerous levels of hatred in the medical establishment. Dr Arti Lalchandani, principal of the G.S.V.M. Medical College in Kanpur, Uttar Pradesh, was recorded on a hidden camera while addressing a group of journalists. Talking about Muslim patients, she rants:

These are terrorists, they should be in jail, instead we are looking after them, our doctors are being made ill because of them, our food is finishing for them, our kits are being used on them. It is because of them that we will go into financial emergency.

Declaring that Muslim patients should be in jails rather than in hospitals, she seemingly concurs with a member of the group interviewing her, that they should be "left in jungles" or given "injections of poison."[61] (She was removed from her post as principal following the incident).

Disproportionate penalties were slapped on Muslims violating quarantine or not following precautionary measures.[62] On 3 April in Uttar Pradesh, the government invoked the draconian National Security Act against six Tablighi Jamaat members, with the chief minister labelling them as "enemies of humanity."[63]

[55] Singh, P. (2020,¬ 7 April). Punjab: Muslim Gujjar Families 'Beaten and Boycotted' in Hoshiarpur Villages. *The Wire*. https://thewire.in/rights/punjab-muslims-gujjar-families-beaten-and-boycotted-in-hoshiarpur-villages

[56] The Wire. (2020,¬ 2 April). Nizamuddin: Minorities Panel Reports DU Teachers for Hate Speech Against Muslims. *The Wire*. https://thewire.in/communalism/nizamuddin-coronavirus-muslims-hate-speech

[57] News 18. (2020, 5 April). Muslim Truckers 'Beaten Up' in Arunchal, Concern Over Supplies of Essential Items. *News 18*. https://www.news18.com/news/india/muslim-truckers-beaten-up-in-arunachal-concern-over-supplies-of-essential-items-2565619.html

[58] Wadhawan, D. A. (2020, 4 April). Rajasthan: Doctor refuses to admit preganant woman because she's Muslim, her child dies after delivery. *India Today*. https://www.indiatoday.in/india/story/rajasthan-doctor-refuses-to-admit-pregnant-woman-because-she-s-muslim-her-child-dies-after-delivery-1663352-2020-04-04

[59] Murali, AP. (2020, 10 May). 'Made by Jains, No Muslim Staff': Chennai Bakery Owner Arrested over Controversial Advertisement. *News 18*. https://www.news18.com/news/india/made-by-jains-no-muslim-staff-chennai-bakery-owner-arrested-over-controversial-advertisement-2613709.html

[60] The video, earlier available at https://www.youtube.com/watch?v=1r7JfgRzCXg has since been removed for violating YouTube's policy on hate speech.

[61] The Citizen. (2020, 1 June). Principal of Kanpur's Medical College Rants Against Muslim Patients in Video, Action Demanded. *The Citizen*. https://www.thecitizen.in/index.php/en/NewsDetail/index/9/18822/Principal-of-Kanpurs-Medical-College-Rants-Against-Muslim-Patients-in-Video-Action-Demanded

[62] The Wire. (2020, 3 April). Adityanath Govt Invokes NSA Against Quarantined Tablighi Jamaat Members. *The Wire*. https://thewire.in/government/adityanath-tablighi-jamaat-coronavirus-nsa

[63] Business Standard. (2020, 3 April). NSA against Tablighi Jamaat members who misbehaved with medical staff, Yogi calls them 'enemies of humanity'. *Business Standard*. https://www.business-standard.com/article/news-ani/nsa-against-tablighi-jamaat-members-who-misbehaved-with-medical-staff-yogi-calls-them-enemies-of-humanity-120040300581_1.html

Legal context

There is currently no specific legal definition of "hate speech" in Indian law. Section 153 of the Indian Penal Code (IPC) which prohibited "Wantonly giving provocation with intent to cause riot" was amended in 1972 on the recommendation of the National Integration Council by Act XXV of 1969 in the aftermath of devastating communal riots in several parts of the country. It was replaced by sections IPC 153A and 153 B, which penalise "promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc.," and also committing acts "prejudicial to maintenance of harmony". Section 295 prohibits "Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons".

Section 295A prohibits "Malignantly insulting the religion or the religious beliefs of any class". Section 298 deals with "religious harmony" and section 298 penalises "deliberate intention of wounding the religious feelings of any person". In all of these offences, intention or *mens rea* is a deciding factor in whether it amounts to any offence. Section 298 IPC penalises "uttering, words, etc., with deliberate intent to wound the religious feelings of any person". Section 505(1) and (2) IPC penalises the publication or circulation of any statement, rumour or report causing public mischief and enmity, hatred or ill-will between classes.

The 267th Report of the Law Commission of India titled "Hate Speech"[64] was released in March 2017. It recommended the insertion of new provisions which come close to articulating a definition of "hate speech" in Indian law. The Law Commission uses the following parameters to lay down criteria of hate speech: extremity of the speech; incitement; status of the author of the speech; status of the victims of the speech; potentiality and lastly, the context of the speech.

The LCI makes an important point:

> *Incitement to violence cannot be the sole test for determining whether a speech amounts to hate speech or not. Even speech that does not incite violence has the potential of marginalising a certain section of the society or individual. In the age of technology, the anonymity of [the] internet allows a miscreant to easily spread false and offensive ideas. These ideas need not always incite violence but they might perpetuate the discriminatory attitudes prevalent in the society. Thus, incitement to discrimination is also a significant factor that contributes to the identification of hate speech.*

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[64] http://www.latestlaws.com/wp-content/uploads/2017/10/Law-Commission-Report-No.-267-Hate-Speech.pdf (2017, March).

Following this recommendation, the Criminal Laws Amendment Bill, 2019, introduced in the upper house of the Indian parliament on 7 February 2020, inserts a new section, 153C to prohibit incitement to hatred:

> *Whoever on grounds of religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language disability or tribe — (a) uses gravely threatening words either spoken or written, signs, visible representations within the hearing or sight of person with the intention to cause or knowledge that it is likely to cause, fear or alarm; or (b) advocates hatred by words either spoken or written, signs, visible representations, that causes or is likely to cause incitement to violence.[65]*

The amendment also addresses the crime of "causing fear, alarm, or provocation of violence" in a proposed new section, 505A:

> *Whoever on grounds of religion, race, caste or community, sex, gender, sexual orientation, place of birth, residence, language, disability or tribe, intentionally or knowingly uses, in public, words, statements containing rumour or alarming news or displays any writing, sign, or other visible representation which is or is likely to be gravely threatening, or derogatory; (i) within the hearing or sight of a person, causing fear or alarm; or (ii) with the intent to provoke or knowledge that it is likely to provoke the use of violence, against that person or another.*

These new provisions could go some way towards acknowledging that hatred directed at Muslims has the effect of treating them as "the other", not full citizens and required to live under the pale of majoritarianism. It is however left up to the courts to interpret these provisions in the interests of citizenship, equality and basic principles of human rights. Given the limited role of the law in curbing communal polarisation, inter-religious dis-harmony and hate speech, state authorities must be held accountable for acts of omission and commission that have led to the current scenario of complete impunity of those responsible for fomenting hate. The complicity of the media in amplifying hate speech and communal polarisation cannot be ended by laws alone. When self-regulation of the media is weak, judicial intervention must step in to fill the breach.

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[65] The Criminal Laws (Amendment) Bill, 2019. (2020). http://164.100.47.4/BillsTexts/RSBillTexts/asintroduced/crim%20laws-E-7%202%2020.pdf

Courting subjectivity

There is no doubt that laws prohibiting the spread of hatred also impose restrictions on the unbridled freedom of speech and expression guaranteed by Article 19 1(a) of the Indian Constitution. However, the vague language used for undefined crimes such as "promoting disharmony" or "feelings of enmity" or "outraging religious sentiments" leaves plenty of scope for multiple interpretations, misuse and overreach. It has been left to courts to adjudicate on the nature of speech with a subjective lens. Indeed, these sections have been disproportionately used against artists and writers, as cultural critic C. N. Ramachandran points out.[66] From better known writers like Salman Rushdie, M. F. Hussain and Shivaram Karanth to others such as Yogesh Master, K. Senthil Mallan, authors have also been charged with "hurting religious sentiments" or creating "potential for communal violence". These cases display the lack of clarity in the applicability of legislative intent, which is to protect the vulnerable against whom hate speech is directed.

The argument of freedom of expression to justify hate speech in the context of the pandemic arose with Republic TV – notorious for hate-mongering and Muslim-baiting – and its star anchor Arnab Goswami. On 19 May 2020, the Supreme Court refused to quash[67] the FIRs against Goswami for allegedly "hurting religious sentiments" and "promoting enmity between religions", observing[68]

that "journalistic freedom lies at the core of freedom of expression, but it is not absolute." In another about-turn, on 30 June the High Court stayed the FIRs against Goswami on grounds that there was no *prima facie* case against him.

On 13 April the Supreme Court, in response to a petition filed by the Jamiat Ulema e Hind (JUH) seeking action against certain sections of the print and electronic media that had demonised the Muslim community and communalised the Nizamuddin Markaz gathering, said that it would take up the petition if the Press Council of India was impleaded.

The petition submitted that terms such as "Corona Jihad", "Corona Terrorism" or "Islamic Resurrection" used by sections of the media demonised the members of the Tablighi Jamaat and promoted hatred towards the Muslim community and also provoked acts of violence and that there was a real threat to life. The bench headed by the Chief Justice said that they could not gag the press and said they would continue hearing the case only if the Press Council of India were made a party.[69] Later, the News Broadcasters Association (NBA) was also made party to the case following a Supreme Court Order.[70]

[66] Ramachamdran, C. N. (2016, 18 October). *The Hindu*. https://www.thehindu.com/opinion/op-ed/Little-reason-to-restrict-the-freedom-of-speech/article11884135.ece

[67] The Wire. (2020, 19 May). Supreme Court Rejects Arnab Goswami's Plea to Quash FIRs, Transfer Probe to CBI. *The Wire*. https://thewire.in/law/arnab-goswami-supreme-court-fir-cbi

[68] IANS. (2020, 19 May). Press freedom not absolute, says SC, asks Arnab to move court to quash FIR. *Outlook*. https://www.outlookindia.com/newsscroll/press-freedom-not-absolute-says-sc-asks-arnab-to-move-court-to-quash-fir-ld/1839735

[69] Scroll.in. (2020, 13 April). Can't gag press, SC says in plea on action against media for communalising Tablighi Jamaat event. *Scroll.In*. https://scroll.in/latest/959090/cant-gag-press-sc-says-in-plea-on-action-against-media-for-communalising-tablighi-jamaat-event

[70] Clarion India. (2020, 3 June). Vilification of Tablighi Jamaat: After Press Council, Broadcasters Association Also Made Party on SC Order. *Clarion India*. https://clarionindia.net/vilification-of-tablighi-jamaat-after-press-council-broadcasters-association-also-made-party-on-sc-order/

In response to the unbridled promotion of hate[71] by Kannada newspapers and television channels, the Bangalore-based Campaign Against Hate Speech filed a public interest litigation[72] in the High Court of Karnataka. The petition urging the government to take action against media houses peddling hate, inciting violence and marginalising the Muslim community was dismissed[73] on May 13, 2020, on grounds that "it was not for the High Court to define hate speech" and that there were "sufficient and effective remedies" to deal with incitement. Yet, self-regulatory bodies like the Press Council of India or the News Broadcasting Standards Authority (NBSA), supposed to monitor and censure violations, have a poor track record[74] of containing hate speech or punishing violators. Since media owners too are members of these bodies, there is also a conflict of interest, since hate sells and rakes in profits. The fact that channels such Aaj Tak, Republic TV which promulgate hate and vitriol are leaders in viewing[75] numbers is no coincidence in today's polarised climate.

However, judicial pronouncements in the past recognising the harmful potential of hate speech, can be used as precedent. In a broad judicial interpretation of hate speech and its harmful potential, the Supreme Court in the matter of Pravasi Bhalai Sangathan vs U.O.I. & Ors (March 2014) declared:

Hate speech, therefore, rises beyond causing distress to individual group members. It can have a societal impact. Hate speech lays the groundwork for later, broad attacks on [the] vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide. Hate speech also impacts a protected group's ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy.[76]

[71] Kajal, K. (2020, 8 April). Kanada media paints the coronavirus crisis communal. *News Laundry*. https://www.newslaundry.com/2020/04/08/kannada-media-paints-the-coronavirus-crisis-communal

[72] Campaign Against Hate Speech & Others v State of Karnataka & Others. (2020, 28 April). https://images.assettype.com/barandbench/2020-05/b7df0e4d-d224-446f-ab9c-ff4280c59646/PIL_Hate_speech.pdf

[73] Biju, R. (2020, 29 May). Not proper for Court to define Hate Speech: Karnataka HC dismisses plea for action against hateful statements after Tablighi Jamaat incident. *Bar and Bench*. https://www.barandbench.com/news/litigation/not-proper-for-court-to-define-hate-speech-karnataka-hc-dismisses-plea-for-action-against-hateful-statements-after-tablighi-jamaat-incident

[74] Seshu, G. (2018, 6 September). A Brahminical Youtube? *The Hoot*. http://asu.thehoot.org/author/geetaseshu-

[75] Adgully. (2020, 14 May). BARC 18 News: Aaj Tak leads genre; Republic Bharat ups market share. *Adgully*. https://www.adgully.com/barc-wk-18-news-aaj-tak-leads-genre-republic-bharat-ups-market-share-93036.html

[76] Pravasi Bhalai Sangathan vs U.O.I. & Ors (2014, 2 March). https://indiankanoon.org/doc/194770087/

Creating counter narratives
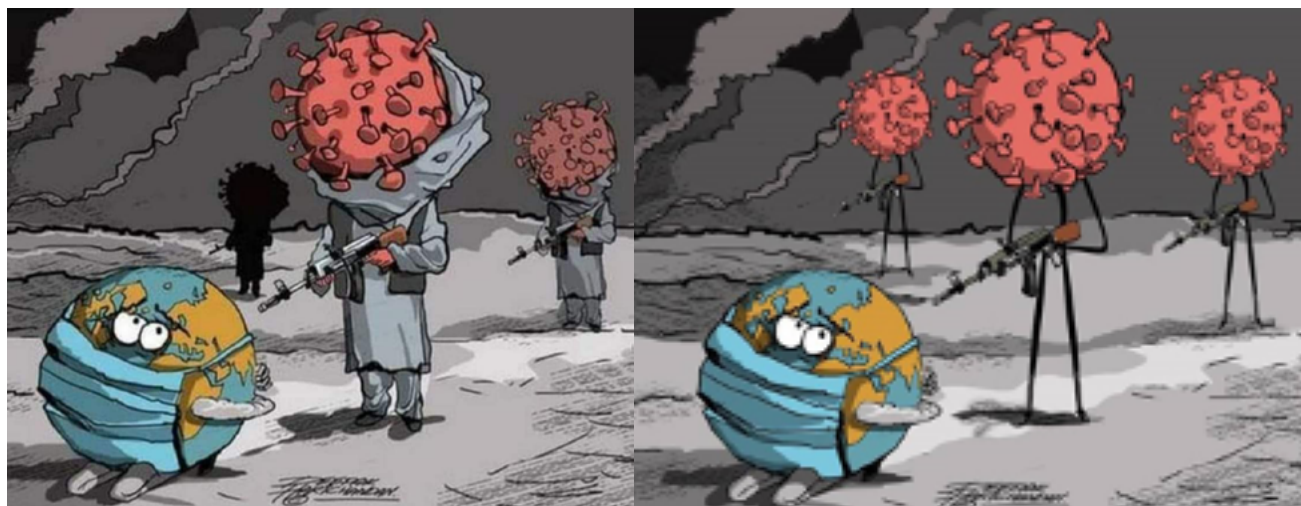
The pushback against hate speech must take several forms. Besides the legal route and using criminal and civil law, banning content, using reporting mechanisms on social media platforms to prompt takedowns and citizens' pushback can also be powerful tools. One example of this was the outrage that prompted The Hindu to revise an editorial cartoon deemed Islamophobic.

On 26 March 2020, The Hindu carried a cartoon by Deepak Harichandran of corona virus shapes holding a helpless planet Earth to ransom. Dressed in clothes and headgear associated with Muslims, a machine gun completed the picture of terrorist. This was just days after the Tablighi Jamaat was in the news for "defying" the nation-wide lockdown and not dispersing from the premises of the Nizamuddin Markaz. Following an uproar on social media and a barrage of emails to the editor condemning the stereotyping of Muslims as gun-toting terrorists, the cartoon was revised and the clothed people changed to stick figures, accompanied by a note from the editor.[77]

In his column on 30 March 2020, "No laughing matter",[78] The Hindu's Reader's Editor A. S. Panneerselvan raises important questions: "Do people have the right to free speech even if they hold offensive and hurtful opinions? What are the limits? Who draws the red lines, the frontiers of tolerance?" While acknowledging that the lines for reportage and analysis are more stringent, he says "there is an element of fluidity" as regards cartoons which are basically symbolic representations. The criticism of "self-censorship" that followed the act of revising the cartoon illustrates the contentious relationship between the principle of free speech and artistic expression on one side and offensive or communally tinged representation on the other. Panneerselvan defended what he called "course correction" and asserted that the idea of a political cartoon is to provoke readers to think and act and not to be divisive.

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[77] Editor's Note: "Some readers have objected to the cartoon published on March 26, 2020 as Islamophobic. Any link to Muslims in the attire of the virus was completely unintentional. The point of the cartoon was to show the world being taken hostage by the virus. However, we agree that the virus should have been shown as just a blob or a stick figure and we express our regret for the hurt or unhappiness caused. Accordingly, we are taking down this cartoon online and replacing it with one that has a neutral representation of the attire."

[78] Panneerselvan, A. S. (2020, 28 March). No laughing matter. *The Hindu*. https://www.thehindu.com/opinion/Readers-Editor/no-laughing-matter/article31200218.ece

In addition to making politicians, religious leaders and those who hold public office and the media accountable for their speech, other interventions are required to tackle the widespread acceptance that anti-Muslim speech enjoys.

"Counterspeech is any direct response to hateful or harmful speech which seeks to undermine it. Just as influential speakers can make violence seem acceptable and necessary, they can also favorably influence discourse through counter-speech," say activists of the Dangerous Speech Project[79]. Rather than defining the speech, they talk about its consequences: danger, and that a "particular type of public speech tends to catalyse intergroup violence, and that this knowledge might be used to prevent such violence."

Counter speech can be spontaneous (such as the response to the Hindu cartoon or Twitter storms) or arise as more organised counter-messaging campaigns. As elucidated by Rachel Brown in Defusing Hate[80] interventions must reduce the likelihood that audiences will accept and spread dangerous speech; reduce the likelihood that audiences will condone or participate in group-targeted harm and increase willingness among audience members to speak out against efforts to foment group-targeted hate. Ceding ground to hate-mongers, especially in online spaces, is not an option in the long run.

The pandemic has also thrown up new opportunities for conversation around practices such as wearing face-covers – identified with Muslim women and frowned upon and even outlawed in parts of Europe and North America.

With masks and other forms of face covers being socially accepted, and even mandatory, the emergence of a new "face politics"[81] might enable a wider interrogation of the hatred directed at cultural practices hitherto identified with certain communities.

These interventions have the potential to be more in line with democratic principles of dialogue and civil debate while upholding freedom of speech and expression. Needless to say, the offline consequences of hate speech – whether religious, social, economic or political discrimination or outright violence – must be dealt with firmly and the law applied consistently, eschewing any kind of bias. However, when it comes to hate speech, which lays the groundwork to legitimise violence, the legal route alone will not suffice. The question of what constitutes "offensive" or hate speech is a matter that must be a constant subject of public discourse and not left to law enforcement agencies and courts alone. What are the ways in which the digital commons can be occupied by diverse voices and those hitherto marginalised and silenced? How might we build a culture of respectful public discourse, create spaces for diverse and dissenting voices and nurture freedoms of expression which do not impinge on others' freedoms? Can humour and satire thrive without outrage factories going into overdrive? While penalties and consequences must accompany violations of the ethics and law, does arming the state and regulatory bodies with more powers to curtail and curb speech work in the larger interest of a democratic culture that accommodates multiple points of view?

[79] https://dangerousspeech.org/
[80] https://www.ushmm.org/m/pdfs/20160229-Defusing-Hate-Guide.pdf
[81] Bullock, K. (2020, 15 May). For years, the West criticised Muslim women's face veils. Now, we're all masked. *Scroll.in.* https://scroll.in/article/961922/for-years-the-west-criticised-muslim-womens-face-veils-now-were-all-masked