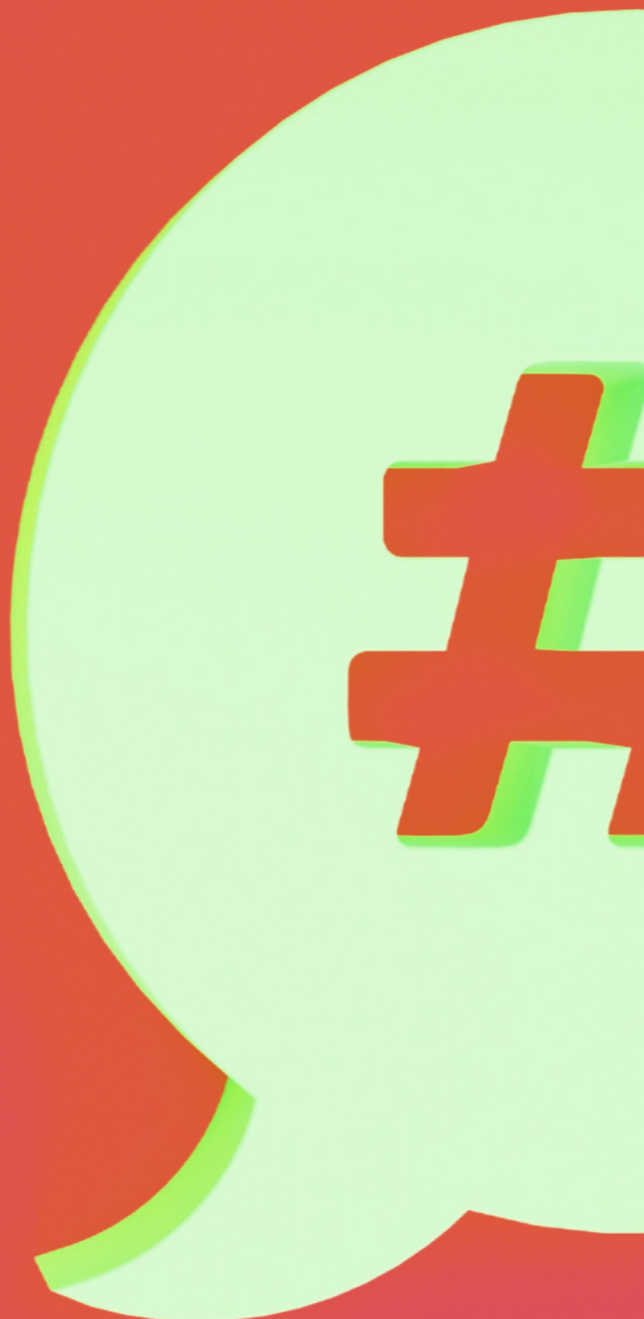


# Rethinking Legal-Institutional Approaches to Sexist Hate Speech in India

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## How Women from Marginalised Communities Navigate Online Gendered Hate and Violence

Mariya Salim



IT for Change  
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Mariya Salim is a women's rights activist and co-founder of [Zariya](#): Women's Alliance for Dignity and Equality.

This paper is part of a series under IT for Change's project, [Recognize, Resist, Remedy: Combating Sexist Hate Speech Online](#). The series, titled Rethinking Legal-Institutional Approaches to Sexist Hate Speech in India, aims to create a space for civil society actors to proactively engage in the remaking of online governance, bringing together inputs from legal scholars, practitioners, and activists. The papers reflect upon the issue of online sexism and misogyny, proposing recommendations for appropriate legal-institutional responses. The series is funded by EdelGive Foundation, India and International Development Research Centre, Canada.

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# How Women from Marginalised Communities Navigate Online Gendered Hate and Violence

## Introduction

Online hate speech against women, much like abuse in offline, physical spaces, is intended to silence them. It signals to them that their voice need not be heard and that the spaces that they are occupying do not belong to them. Women, who belong to, or are identified as belonging to, religious, racial, or ethnic minority groups, Dalit and Bahujan women, the LGBTQ+ community, and women with disabilities face disproportionate abuse, misogyny, and violence online.

One cannot discount the intersectionality of abuse, even in online spaces. Direct references to a person's identity in response to the views they express, and derogatory, religious or caste-based slurs, such as 'Jihadi Jane', 'Pakistani agent', 'Meemti', 'Bheemti', 'Jahil Jihadan', 'Mulli', 'Kaali', used against Muslim and Dalit women are intended to punish them for their views and directly undermine their resolve to assert their presence in online spaces.

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The hate speech provisions enshrined in different sections of the Indian Penal Code do not consider how such hate affects communities differently, let alone how gender-based hate within communities needs special attention. Neither do they acknowledge the power differences between marginalised

communities and the dominant group. While it may not be necessary to enact new laws to address online violence and hate, a clearer definition of hate speech, which acknowledges and addresses sexism and gender-based hate on the internet, is required.

This paper is largely based on interviews with women from marginalised communities<sup>1</sup> who are active users of social media platforms. It aims to highlight their experiences of online hate and violence while exploring if legal recourse is a useful strategy, or even an option for them at all.

## Identity and Hate

In August 2011, after receiving two threatening emails from an unknown account, journalist and Muslim activist Sheeba Aslam Fehmi filed a complaint with the Cyber Cell, fearing for her safety. One of the emails sent to her read, “Warning\*\*\*Warning\*\*\*Warning\*\*\*Warning\*\*\* Sheeba Aslam, stop posting Anti-Indian and Anti-National comments on face book [sic]. Stop immediately. Otherwise be prepared for it’s [sic] consequences.”

The content of these e-mails clearly showed that the man who sent them had been stalking her because he knew where she studied. The police filed a First Information Report (FIR) against the sender (without Aslam’s knowledge) under Section 66A of the Information Technology Act. Subsequently, he was arrested. Aslam recounted the fallout of this incident in her interview with the author:

In Court, Dwivedi, the man who had been threatening me, placed my Facebook posts as a justification of his warnings to me and I was stunned to see the Metropolitan Magistrate discharging the man against whom I had complained of all offences, and directing the SHO [station house officer], in his order, to register a separate FIR against me and investigate my Facebook posts where I had been critical of the present Prime Minister, but also vocal about the Nirbhaya case and of anti-women laws in general.<sup>2</sup>

Shocked by the decision of the Trial Court, Aslam filed a revision petition<sup>3</sup> challenging the order discharging Dwivedi. The revision petition filed against the order discharging Dwivedi was dismissed by the Delhi District Court with the reasoning that the mere use of improper words on one occasion cannot attract criminal consequences for the accused. The Tis Hazari (Delhi District Court) Judge stated that, “He [Dwivedi] to the best of his capability and intelligence was trying to put forth his

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<sup>1</sup> The author reached out to many women from different backgrounds for their inputs. Not all responded.

<sup>2</sup> Sheeba Aslam Fehmi’s interview with the author on November 13, 2020.

<sup>3</sup> *Mrs. Sheeba Aslam Fehmi v. The State Of (NCT of Delhi)* on May 13, 2014, Criminal Revision No.:–30/14, <https://indiankanoon.org/doc/78407982/>

opinion in contra to the argument of the petitioner.”<sup>4</sup> Thus, while the revision petition was said to have no merit and dismissed, the case against Aslam was registered under Sections 153A, 153B, and 295A, as directed by the Court,<sup>5</sup> and went on for nearly four years. The charges against her were only dropped after pressure and support from national and international organisations. Aslam, who continues to be trolled and receive rape and death threats for her activism and views, says that she has never thought of approaching the law enforcement agencies to address online violence after the ‘lesson’ she learnt from merely filing a complaint with the Cyber Cell. She reckons that she cannot go through “that trauma again” and chooses now to ignore online hate. She believes that her identity as a Muslim woman with a political opinion played a major role in the legal battle she had to fight for years because she had filed a complaint against a man who thought her views were anti-national.

**Aslam’s experience indicates that the institutions of law and justice carry deep prejudices that not only delegitimise the rights of women belonging to minority social groups, but also penalise them for their very aspiration and agency to seek justice.**

Dwivedi’s views found resonance with those of the Metropolitan Judge’s, who also believed that being critical of the anti-corruption and anti-rape movement was a “criminal” act on Aslam’s part. It is imperative to note here that Aslam was not even aware that the police had taken *suo moto* cognisance of her complaint to the Cyber Cell and a case had been filed on her behalf, naming her as a victim. Furthermore, she was not informed that court proceedings against Dwivedi had commenced. In a strange miscarriage of justice, the order of the District Court justified the threats Dwivedi made against Aslam in 2011 based on the content of her Facebook posts in 2012 and 2013, which were deemed to be “assertions prejudicial to national integration”.<sup>6</sup> Aslam’s experience indicates that the institutions of law and justice carry deep prejudices that not only delegitimise the rights of women belonging to minority social groups, but also penalise them for their very aspiration and agency to seek justice. At a procedural level, it also points to how the registration process for complaints about online trolling needs urgent changes.

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<sup>4</sup> *Ibid.* 3.

<sup>5</sup> Sheeba Aslam Fehmi. [https://en.wikipedia.org/wiki/Sheeba\\_Aslam\\_Fehmi](https://en.wikipedia.org/wiki/Sheeba_Aslam_Fehmi)

<sup>6</sup> Section 153B in The Indian Penal Code. <https://indiankanoon.org/doc/771276/>

## Special Procedures at the United Nations

The mandate of the United Nations Special Rapporteur on Minority Issues for the year 2020 is an important mechanism in the context of online hate. In an interview with the author,<sup>7</sup> the Special Rapporteur, Dr. Fernand de Varennnes, spoke about the need to acknowledge hate speech as a predominantly minority issue:

I was frankly disappointed to see that many of the initiatives or reports emanating from UN institutions and declarations until recently made little or no reference to minorities directly, and certainly not minority women specifically. This has changed slightly, and there are exceptions such as the Rabat Plan of Action on the prohibition of advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence. However, it was obvious to me that there was a glaring omission; how is it possible to seek to tackle and curtail the poison of hate speech in social media if there is no acknowledgement of the main situations where hate speech occurs and their main victims, i.e. minorities?

As a special procedure mechanism at the United Nations, the Special Rapporteur also underlines the role that caste and religion play at the intersections of online gendered abuse, emphasising how:

In the case of online violence targeting minority women such as Muslim and Dalit women, and in countries such as India, Pakistan, and Nepal, it's important for governments to be aware and acknowledge that it is not only a gendered issue. These women are doubly targeted and disadvantaged – as women and as members of minorities groups who still face abuse, prejudice, and even persecution because of their religion or caste.<sup>8</sup>

Women's experiences in online spaces are much more complex and toxic than men's – this has been well-documented in various reports and studies.<sup>9</sup> For women from minority religious groups and Dalit and Bahujan castes, the gendered abuse, almost always invoking their identity markers, is much more aggravated.

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<sup>7</sup> Dr. Fernand de Varennnes' interview with the author on October 22, 2020.

<sup>8</sup> *Ibid.* 7.

<sup>9</sup> Born Digital, Born Free? A Socio-Legal Study on Young Women's Experiences of Cyberviolence in South India. <https://itforchange.net/born-digital-born-free-a-socio-legal-study-on-young-womens-experiences-of-cyberviolence-south-india>; Free to be online? A report on girls' and young women's experiences of online harassment. <https://plan-international.org/publications/freetobeonline>

## Reporting Online Abuse

The Government of India launched a cyber-crime reporting portal<sup>10</sup> in August 2019, catering to the reporting of all cyber-crimes on a centralised platform. In February 2020, in a written reply<sup>11</sup> to a question regarding cyber-crimes in the Rajya Sabha, the Union Minister of State for Home Affairs G. Kishan Reddy said that from August 30, 2019 to January 30, 2020, a total of 33,152 cyber-crime incidents were reported on the portal, out of which 790 FIRs were registered by the concerned law enforcement agencies. It was also reported<sup>12</sup> that whereas the portal had received over 200,000 complaints since its launch in 2019, FIRs were registered for merely 5,000 cases. This data is not exclusive to online abuse or crimes faced by women and certainly not limited to platform-related abuse.

The Ministry of Women and Child Development launched a dedicated email helpline ([complaint-mwcd@gov.in](mailto:complaint-mwcd@gov.in)) to address issues of hateful conduct and stalking on social media platforms such as Twitter, Facebook etc., in July 2016. As part of this initiative, the Ministry shared the following data in January 2018, based on an enquiry filed by the author about the status of complaints and initiatives taken by the Ministry to address the online abuse faced by women. The author received the following details from the dedicated helpline.<sup>13</sup>

Status of complaints received from July 6, 2016 to January 24, 2018	
Social media platform	Total number of complaints
Facebook	54
Twitter	23
Instagram	16
Other platforms (WhatsApp/e-mail/SMS message)	86
<b>Total complaints</b>	<b>179</b>

<sup>10</sup> National Cyber Crime Reporting Portal, <https://tinyurl.com/maug9i2t>, accessed October 28, 2020.

<sup>11</sup> 33,152 Cyber Crime Incidents reported on National Cybercrime Reporting portal till 30.01.2020; 790 FIRs registered. 21 States/UTs agree to setup the Regional Cyber Crime Coordination Centres: Shri G. Kishan Reddy. <https://pib.gov.in/PressReleasePage.aspx?PRID=1602018>, accessed on November 4, 2020.

<sup>12</sup> MHA tells States to register more FIRs for cybercrime', The Hindu, New Delhi, November 1, 2020, <https://tinyurl.com/1sx3fcb9> accessed on November 5, 2020.

<sup>13</sup> Email received from [complaint-mwcd@gov.in](mailto:complaint-mwcd@gov.in) on January 25, 2018. No reply received so far on a follow up e-mail asking for an update on the number of complaints.



The numbers above are indicative of how, despite the growing hateful content and threats against women online, few women choose to report these to government portals and law enforcement agencies. Considering the prolific nature of hate and abuse in online spaces, especially against women, the fact that merely 179 complaints were filed in a period of nearly one and a half years demonstrates that government-run reporting portals are not being used. The author's interactions with women from religious- and caste-oppressed minority groups highlighted their lack of trust in these mechanisms, the time-consuming nature of the processes, and the hassles associated with them, as some reasons for them not taking recourse to legal action to address online violence.<sup>14</sup>

Dalit journalist Meena Kotwal has received rape and death threats online for her articles discussing caste and criticising the current political dispensation. Speaking about her experience of online harassment, Kotwal said:

Direct death and rape threats are common [experiences for me]. Since my coverage of the Bihar elections this year [2020], trolls have threatened me with violence and targeted my Dalit identity. I am scared because I travel with my child. However, I have never thought of taking a legal course of action yet because I know from prior experience how time-consuming and financially draining the entire process can be.<sup>15</sup>

Kotwal faced online threats for the first time in 2016, when she was working with the BBC (where she later faced casteism), and her Dalit identity is almost always targeted in such threats.

Kiruba Munusamy, who is a Supreme Court advocate and Dalit rights activist, was advised by some officials to withdraw a case about the online abuse she faced on Facebook, and most of the abusive comments on her profile were deleted without her consent. In an interview conducted by the author in 2018,<sup>16</sup> Munusamy had pointed out that:

While the abuse and violence faced online is gendered, it gets even worse when the abuser finds out that the person posting her picture or opinion belongs to a 'lower caste'. Comments on a short dress turn into comments on a woman belonging to a lower caste wearing them.

Shehla Rashid, a PhD candidate at Jawaharlal Nehru University (JNU) and the former vice president of the JNU Student's Union, with over 700,000 followers on Twitter, is trolled and abused online for her views as well as her identity. Rashid, in an interview with the author,<sup>17</sup> shared why Muslim women activists like her find it difficult to approach law enforcement agencies to file complaints.

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<sup>14</sup> As substantiated by the case of Sheeba Aslam Fehmi, mentioned in the beginning of this paper.

<sup>15</sup> Meena Kotwal's interview with the author on November 24, 2020.

<sup>16</sup> See 'It's time to address online violence against women in India', Mariya Salim, May 13, 2018, <https://www.aljazeera.com/opinions/2018/5/13/its-time-to-address-online-violence-against-women-in-india/> accessed on 2 October, 2020.

<sup>17</sup> Shehla Rashid's interview with the author on October 29, 2020.

She spoke about how the very process of taking legal action to address online violence and abuse often implies further compromising one's safety. When a man who stalked her on all her social media profiles a couple of years ago sent her a gift to a physical address, she decided to lodge a formal complaint. An FIR was registered and the investigation began. However, she was then asked to submit her phone for further investigation. This request from the police station to deposit her phone made her feel "uncomfortable and unsafe", discouraging her from taking the complaint further. Rashid added that as an activist from a minority community, she knows that she is vulnerable to being targeted by those in positions of power.<sup>18</sup>

Rashid also talked about the intersectionality of the abuse. Not all the misogyny and the trolling that she faces amounts to hate speech<sup>19</sup> or threats online, but it can still lead to immense agony and distress. For instance, when she was associated with a political party, social media users attributed any failure in the party to her and not her male colleagues. However, praise for the success of the party was never shared with her. She was always the one who was trolled, "attacked by both the right-wing and the liberals, not to forget, men from [her] own community as well". Rashid pointed out how comments openly critical of the present regime on a post by a "radical person from dominant groups" are startlingly different from the comments on a similar post by her: "When I see no abuse on a post by a friend sharing a similar opinion as me, to me it is abnormal. I wonder what sin I have committed by being born as a Kashmiri Muslim woman."<sup>20</sup>

**The experiences of women belonging to marginal social locations point to routinised misogyny and abuse online, without any concrete avenue to seek redressal, thus suggesting a failure of current institutional processes.**

The experiences of women belonging to marginal social locations point to routinised misogyny and abuse online, without any concrete avenue to seek redressal, thus suggesting a failure of current institutional processes. They also reflect the need to urgently rethink and address the chilling normalisation of harm that some individuals must bear disproportionately owing to their gendered and socio-structural locations.

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<sup>18</sup> *Ibid.* 17.

<sup>19</sup> As currently understood under the law.

<sup>20</sup> *Ibid.* 17.

## Conclusion

Based on detailed conversations with, and research about, women belonging to marginalised backgrounds who actively share their views on social media, it is apparent that most of them have little or no faith in the available legal recourse for tackling online violence. Despite the threats that they face in online spaces, most have pursued non-legal strategies to counter this hate and violence, given their debilitating past experience with law enforcement authorities. While some ignore the hate and trolling, others either block the abusers or report them to the platforms.

International intervention has worked in extreme cases like that of journalist Rana Ayyub. In 2018, five Special Rapporteurs of the United Nations issued a statement<sup>21</sup> urging India to urgently provide Ayyub with protection because she was facing an online hate campaign which included violent calls for her to be “gang-raped and murdered”.<sup>22</sup>

While legal recourse can be one way for women to deal with the online abuse that they face, there is a need for other strategies, including interventions from social media platforms. For instance, platforms often do not remove harmful content immediately unless the abuse is reported multiple times. This could be because they lack the linguistic knowledge and context to do so in countries as diverse as India. Building online networks with like-minded friends who can consistently report abusive content, and working with civil society organisations to hold social media giants accountable to their own policies about hate speech and to develop them further, can help address sexist hate online.

**While legal recourse can be one way to deal with the online abuse that women face, there is a need for other strategies, including interventions from social media platforms.**

Shehla Rashid also spoke to the author about the importance of structural reform in platform processes to stop the predominantly right-wing trolls who target women like her for their political opinions and identity with communal and casteist misogyny. Such reform would involve creating mechanisms that investigate the identities of the trolls, the identity of the person repeatedly being targeted, the timing of when such attacks become systematic and coordinated, the affiliation of the trolls, etc. A plan of action can be developed based on this data.

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<sup>21</sup> UN experts call on India to protect journalist Rana Ayyub from online hate campaign  
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23126&LangID=E>

<sup>22</sup> *Ibid.* 21.

We must hold social media platforms accountable to act against this hate, not in the least because they make millions in profits from markets like India. Platforms should conduct human rights audits that include human rights risk assessments, understanding the vulnerabilities faced by minorities, examining their hiring practices, and updating their taxonomy of slurs to filter content in diverse societies, like India. Such a human rights audit is the bare minimum that must be demanded from platforms given the disproportionate impact of hate speech on women's right to participate in online public spaces.

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