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legal@support.youtube.com

Fax: +1 650 872 8513

Legal Support, YouTube (Google LLC)

901 Cherry Ave.

San Bruno, CA 94066

USA

Sub: Complaint against Youtube channels repeatedly posting hateful content online

Dear Legal Team of/at You Tube,

We at Citizens for Justice and Peace (CJP) Mumbai, a human rights movement dedicated to furthering the constitutional rights of all Indians, are deeply concerned about the hate spewing content widely shared against the Muslim minority on your platform despite YouTube's community guidelines on 'Hate Speech'. The extent of hateful content on the website poses a serious threat to the secular fabric of our country which needs to be acted against at every instance to nip it in the bud.

The extent of hate and anti-minority sentiment is on the rise all over the country where right-wing groups, often enjoying political patronage, repeatedly use abusive language and visuals that amount to a targeting of the Muslim community. This becomes an extension of spreading an ideological project online, an extension of what large mobs of non-state actors, do offline. Callous and brazen statements addressed to millions on a platform as yours have far reaching impact and rather perilous repercussions. If such instigating and inciteful speeches are allowed to continue unabated, such miscreants will only be encouraged to cause mental and physical harm to a politically marginalised section of Indians, create social conflict and tension and cause mischief that will disturb public peace and order across India. The importance to act strictly and earnestly in this matter cannot be stressed upon enough and we are certain that you understand the magnitude of the situation. If there is a robust *and independent* scrutiny of the content being uploaded on the website or quick action to delete the flagged content, it will avoid targeted violence against vulnerable sections to erupt and communal clashes to follow. That a social media platform like YouTube should be amenable and open to such brazen manipulation and degrading abuse and misuse is shocking, defying as it does your platform's own "community guidelines" and worldwide reputation.

We would like to bring to your notice that we have flagged many such hate spewing channels on YouTube through the complaint procedure, **but no action has been taken against them.** The channels continue to spread hate online threatening the communal harmony of the country.

It is this perpetual inaction that has led us to take the next step towards redressal, making a detailed and comprehensive complaint enlisting our grievance.

Here are some examples of hateful content some accounts have posted on their channel which have been flagged but haven't been taken down yet:

1. Channel Name: Pavitr Sanatan

Video Name: Yati Narsinghanand Giri Maharaj Savage Reply II Yati Narsinghanand thug life II Bharat Hindu Rashtra

Date uploaded: February 23, 2022

Link: <https://www.youtube.com/watch?v=VwEj4f3-9t8>

On being asked by a reporter if Muslims don't belong in India, repeated Hate Offender and a political Hindutva leader says, ***“The country of India is of Hindus only. Who are you in this? Who are you? On what basis are you asking this question? As a journalist or as a Muslim? If you are asking as a Muslim, then I want to tell you that you have taken your share by dividing the country. Took away double the share of the entire population. This India belongs to Hindus, should remain of Hindus and we want to make it a country of Hindus only.”***

Reported on: 27.04.2022 by Citizens for Justice and Peace

2. Channel Name: Pavitr Sanatan

Video Name: Musalman gaddar hote hain | Pushpendra Kulshreshtha II #shorts

Date uploaded: March 03, 2022

Link: <https://www.youtube.com/shorts/1PG-JAimn80>

While talking about the controversial movie Kashmir Files, Hate Offender Pushpendra Kulshreshtha says, ***“The powerful political parties of India never make a Muslim the Home Minister. Because they are afraid, that they will betray the country someday. We thought maybe it would have happened, maybe this is the reason. In 1989, the government of V.P Singh, appointed India's first Muslim Home Minister on 8 December 1989. The name of that man was Mufti Mohammad Sayeed. It is made on 8th December and between 8th December and 19th January, even a month was not completed and on 19th January, from Kashmir five and a half lakh Kashmiri Hindu Pandits were killed, raped, children were tossed and then killed. Pipaland Takrum's biggest intellectual, when he was murdered on the road, sayeed was spinning a motorcycle around him and said that if someone gives water to this infidel, we will not leave him too.”***

Reported on: 27.04.2022 by Citizens for Justice and Peace

3. Channel Name: CarryLime

Video Title: **मतलब समस्या की जड़ ही सेक्युलरिज्म है** (The root of the problem is secularism)

Link: <https://www.youtube.com/shorts/zzAeWVKkwIU>

Hate Offender Yati Narsingh Anand says, ***“Look, if I worship Ram, then I am a Hindu, even if I do not worship Ram, I am a Hindu and even if I abuse Ram, I am a Hindu. So the real secular person is a Hindu. But those who call themselves secular here are not really secular. They are the people licking the spit of Zakat for the jihad of Islam. You are on Muslims' money, Muslims' parole, Saudi Arabia's parole. They are not director of Dharam, son, they are not secular; they are supporters of Islam and want to bring Islamic rule in India. So if there is anything most dangerous in the world, it is the Jihad of Islam, it is Islam. They are the cancer of the earth. If it stays for a few more days, it will destroy the whole earth, my daughter.”***

Reported on: 27.04.2022 by Citizens for Justice and Peace

4. Channel Name: CarryLime

Video Title: जागो हिन्दुओं जागो

Link: https://www.youtube.com/shorts/C7_S_9MVDxA

Talking about the controversial movie The Kashmir Files, a member from the audience says, ***“Don't say it's a movie, this is not a movie, this is a fact of this country, our country's secular people, don't even address them as seculars, call them hi**, coward. They have hidden this truth. I will thank this director who brought this truth out. Hit them with shoes, those seculars, those dogs who have kept so much truth hidden. This country has been ruined. Everything is known. Don't clap, first of all hate those Hindus who are secular, otherwise our coming generation will be ruined. I'm talking to you guys. They have ruined our country. Too much has happened. I don't hate any Muslim, I hate the Hindus of the country who maintain these people. Hate Seculars. die b**”***

Reported on: 27.04.2022 by Citizens for Justice and Peace

5. Channel Name: Ishwar Lal Pracharak

Video Title: मुस्लिम हिन्दुओं का सम्मान करना सीखें । विश्व हिंदू परिषद का उद्देश्य ।
ishwar lal pracharak । ईश्वर

Link: https://www.youtube.com/watch?v=YIA_7fc76N8

A so-called Hindutva supporter commenting on Ram Navami violence says to a reporter, ***“We celebrate Ramji's birth anniversary peacefully, shouting slogans of Jai Shri Ram, but only those people do the uproar. Look, the police should have taken care of it. I strongly condemn and criticize it. If these 100 houses belong to Muslims and 1000 houses belong to Hindus then there is no danger to Muslims. But if it is reversed, then it is a problem for Hindus to live there. They should be respecting Hindus.”***

Reported on: 27.04.2022 by Citizens for Justice and Peace

6. Channel Name: Ishwar Lal Pracharak

Video Title: भारत में मुस्लिम व ईसाई षड्यंत्र | Bharat mein Muslim Christian Sadyantra | Ishwar Pracharak |

Link: <https://www.youtube.com/watch?v=fMbLdH01DD0>

In the said video, the Hindutva supporter says, (1:31 – 1:53) - *“How many Muslim dominated countries are there? 58 countries belong to Muslims. In order to make India a Muslim country, there are five lakh Muslim campaigners inside India, who roam around and work to spread jihad. There are 18 terrorist organizations in India. They have a network of ISIS inside three hundred and fifty districts inside India.”*

(2:26 – 3:33)- *“There are five lakh mosques in India which alert people five times a day that Muslims do not go to sleep and have to occupy the country. 10 thousand crore rupees in India comes from Arab countries. what will you do with that money, there is extra money, send it to India. That's why they propagate their religion. If you buy things, it is written in English and Urdu on it Halal - HALAL, don't take cheese. Why ? Halal money goes indirectly to Muslims. It should be HALDIRAM BHUJIYA, it should be VADILAL, it should be AASHIRWAAD AATA and PATANJALI should also have some production, all these Muslims take crores of rupees from them for giving HALAL tag from companies and from that they do the work of promoting their religion. Buying Halal items means helping Muslims indirectly.”*

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CJP would like to state that this list is not exhaustive but illustrative and we reserve the right to bring further examples of such violations.

Repercussions of online hate speech

The repercussions of incitement of violence against Muslim community sees its history in the incidents of communal violence and genocidal pogroms that have damaged India's social fabric for decades. Both the 2002 Gujarat genocidal carnage and the Muzaffarnagar pogrom of 2013—apart from spates of violence through the decades-- demonstrates the grave impact of hate speech and hate writing *that precedes* targeted violence against the minorities in our country.

Right before the anti-Muslim carnage broke out in Gujarat, we saw mass distribution of hundreds of pamphlets with all sorts of messages spreading hatred against Muslims. This was our organisation and it's secretary, Teesta Setalvad's first-hand experience at the time (2002).

Details of this hate speech preceding the 2002 genocidal pogrom was documented in *Communalism Combat, March-April 2002*, chapter entitled [Pamphlet Poison](#). The Concerned Citizens Tribunal, *Crimes Against Humanity, Gujarat 2002* also documented this thoroughly ([Role of the Media](#)), [Hate Speech](#) and [Hate Writing](#). On the 20th anniversary of the Gujarat

pogrom, secretary, CJP had documented the lineage of this kind of hate speech in that state since the early 1990s which has now [gone national](#).

At that time, the mode of communication was limited to pamphlets but now the same message is being circulated on a much wider, national level scale which is facilitated by social media platforms like Youtube. Suspending a few accounts or deleting some content are measures that are merely small dents on these concerted, wide-ranging, politically driven campaigns that are also aimed at misusing and manipulating platforms like Twitter for their illegal acts. India has had a history of targeted communal disturbances even when social media was absent and not a reality, so we can only imagine the kind of consequences such incitement on social media can have now.

The systemic nature of this online Islamophobic, racist, casteist and misogynist abuse indicates that it is produced and circulated by organised groups. [Studies](#) such as those conducted by Professor Shakuntala Banaji who teaches at the Department of Media and Communications, London School of Economics endorse this.

The accounts, mostly anonymous, know that there is hardly any precedent for anyone in India from being prosecuted for misogynistic or hate speech. They are also aware that even if one handle is banned by a platform, it is easy to set up another account using another anonymous handle. The fact that they are able to have such a wide reach despite their content that is violative of Youtube's community guidelines, means they are able to thrive and mushroom into more and more accounts.

Violations of Youtube Guidelines:

The hateful content posted on YouTube clearly goes against the Community Guidelines prescribed by YouTube:

Hate Speech Policy

Hate speech is not allowed on YouTube. We remove content promoting violence or hatred against individuals or groups based on any of the following attributes:

- *Age*
- *Caste*
- *Disability*
- *Ethnicity*
- *Gender Identity and Expression*
- *Nationality*
- *Race*
- *Immigration Status*
- *Religion*
- *Sex/Gender*
- *Sexual Orientation*
- *Victims of a major violent event and their kin*
- *Veteran Status*

Monetization and other penalties

In some rare cases, we may remove content or issue other penalties when a creator:

- *Repeatedly encourages abusive audience behavior.*
- *Repeatedly targets, insults and abuses a group based on the attributes noted above across multiple uploads.*
- *Exposes a group with attributes noted above to risks of physical harm based on the local social or political context.*
- *Creates content that harms the YouTube ecosystem by persistently inciting hostility against a group with attributes noted above for personal financial gain.*

Violation of laws

The Information Technology (Guidelines for Intermediaries And Digital Media Ethics Code) Rules, 2021, which are the latest set of laws concerning social media intermediaries such as Twitter, set out certain rules. The Rules require platforms like Twitter to exercise due diligence in terms of any content that is “defamatory, obscene, pornographic, paedophilic, invasive of another’s privacy, including bodily privacy, insulting or harassing on the basis of gender, libellous, racially or ethnically objectionable, relating or encouraging money laundering or gambling, or otherwise inconsistent with or contrary to the laws of India” [Rule 3(1)(b)].

3. (1) Due diligence by an intermediary: An intermediary, including social media intermediary and significant social media intermediary, shall observe the following due diligence while discharging its duties, namely:—

(b) the rules and regulations, privacy policy or user agreement of the intermediary shall inform the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share any information that,—

(viii) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign States, or public order, or causes incitement to the commission of any cognisable offence or prevents investigation of any offence or is insulting other nation;

In addition to the due diligence observed under rule 3, a significant social media intermediary shall also appoint, under rule 4, a Chief Compliance officer who shall be responsible for ensuring compliance; a nodal contact person for 24x7 coordination with law enforcement agencies and officers; appoint a Resident Grievance Officer; publish periodic compliance report every month.

Such content also amounts to offences under the Indian Penal Code:

Sec. 153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence language, etc., and doing acts prejudicial to maintenance of harmony.—Whoever by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or

castes or communities, and which disturbs or is likely to disturb the public tranquillity, or shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Sec.153B. Imputations, assertions prejudicial to national integration.—

(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise, -

(a) makes or publishes any imputation that any class of person cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of person shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religions, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Sec. 295A Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.—“whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

Sec. 298 Uttering, words, etc., with deliberate intent to wound the religious feelings of any person— Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that persons or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Sec. 504 Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to belikely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Sec. 505 Statements conducing to public mischief.—[(1)] Whoever makes, publishes or circulates any statement, rumour or report,—(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to [three years], or with fine, or with both.

(2) Statements creating or promoting enmity, hatred or ill-will between classes.—Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Indian Jurisprudence

In *Pravasi Bhalai Sangathan v. Union of India, 2014 11 SCC 477*, the Supreme Court has unambiguously stated that hate speech is an effort to marginalise individuals based on their membership to a group, that can have a social impact. Moreover, the Court stated that hate speech lays the groundwork for broad attacks on the vulnerable that can range from discrimination, to ostracism, deportation, violence, and even to genocide.

In the same case, the Supreme Court cited *Canada (Human Rights Commission) v. Taylor, (1990) 3 SCR 892*, stating, “Three main prescriptions must be followed while interpreting the word “hatred” as is used in legislative provisions prohibiting hate speech. First, courts must apply the hate speech prohibition objectively. The question courts must ask is whether a reasonable person, aware of the context and circumstances, would view the expression as exposing the protected group to hatred. Second, the legislative term “hatred” or “hatred or contempt” must be interpreted as being restricted to those extreme manifestations of the emotion described by the words, “detestation” and “vilification”. This filters out expression which, while repugnant and offensive, does not incite the level of abhorrence, delegitimization and rejection that risks causing discrimination or other harmful effects. Third, tribunals must focus their analysis on the effect of the expression at issue, namely whether it is likely to expose the targeted person or group to hatred by others. The repugnancy of the ideas being expressed is not sufficient to justify restricting the expression, and whether or not the author of the expression intended to incite hatred or discriminatory treatment is irrelevant. The key is to determine the likely effect of the expression on its audience, keeping in mind the legislative objectives to reduce or eliminate discrimination.”

In the case of *Amish Devgan vs Union Of India 2021 1 SCC 1*, the Supreme Court quoted Benjamin Franklin, “It remains difficult in law to draw the outmost bounds of freedom of speech and expression, the limit beyond which the right would fall foul and can be subordinated to other democratic values and public law considerations, so as to constitute a criminal offence. The difficulty arises in ascertaining the legitimate countervailing public duty, and in proportionality and reasonableness of the restriction which criminalises written or spoken words. Further, criminalisation of speech is often demarcated and delineated by the past and recent significant events affecting the nation including explanation of their causes. Therefore, constitutional and statutory treatment of ‘hate speech’ depends on the values sought to be promoted, perceived harm involved and the importance of these harms. 57 Consequently, a universal definition of ‘hate speech’ remains difficult, except for one commonality that ‘incitement to violence’ is punishable.”

The court elaborated on the concept of Hate Speech by identifying three elements:

- **Content-based:** Open use of words and phrases generally considered to be offensive to a particular community and objectively offensive to the society.
- **Intent-based:** Speaker's message to intend only to promote hatred, violence or resentment against a particular class or group.
- **Harm-based/ impact-based:** There is an element of harm to the victim which can be violent or such as loss of self-esteem, economic or social subordination, physical and mental stress, silencing of the victim and effective exclusion from the political arena.

In the same case, the Apex court also cited Andre Sellars from his essay 'Defining Hate Speech' where he examined the concept of hate speech in different democratic jurisdictions and formulated common traits in defining 'hate speech'. He says:

- Hate speech targets a group, or an individual as a member of the group
- One should be able to objectively identify the speech as an insult or threat to the members of the targeted group, including stigmatising the targeted group by ascribing to it qualities widely disregarded as undesirable
- Speech should cause harm, which can be physical harm such as violence or incitement and true threats of violence
- Speech should have no redeeming purpose, which means that 'the speech primarily carries no meaning other than hatred towards a particular group'

In the case of *State of Karnataka and anr vs. Dr Pravinbhai Togadia (2004) 4 SCC 684*, the Supreme Court held, "Communal harmony should not be made to suffer and be made dependent upon the will of an individual or a group of individuals whatever be their religion bit of a minority or that of the majority... the valuable and cherished right of freedom of expression and speech may at times have to be subjected to reasonable subordination to social interests needs and necessities to preserve the very core of democratic life preservation of public order and rule of law. At some such grave situation at least the decision as to the need and necessity to take private reactions must be left to the discretion of those entrusted with the duty of maintaining law and order and interposition of courts..."

International Human Rights Law

As per United Nations Secretary-General António Guterres, June 2019, "Addressing hate speech does not mean limiting or prohibiting freedom of speech. It means keeping hate speech from escalating into more something more dangerous, particularly incitement to discrimination, hostility and violence, which is prohibited under international law."

Under the International Human Rights Law, there is no formal definition of 'hate speech' but most UN instruments refer to 'incitement to discrimination, hostility or violence'.

Prohibition of Hate Speech under International Law:

- 1) Universal Declaration of Human Rights provides equal protection to all against any discrimination in violation of the Declaration and against any incitement to such discrimination. (art. 7)

- 2) The International Convention on the Elimination of all Forms of Racial Discrimination (CERD), adopted by the UN General Assembly in 1965, prohibits “propaganda” and “dissemination of ideas” in relation to racial superiority and racial discrimination, including from public authorities or public institutions (art. 4).
- 3) International covenant on Civil and Political Rights provides that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. [art. 20(2)].
- 4) The Convention on the Prevention and Punishment of the Crime of Genocide (or Genocide Convention) – punishes direct and public incitement to commit genocide. (art. 3).
- 5) The Rome Statute of the International Criminal Court adopted in 1998 also holds “criminally responsible and liable for punishment” those who “directly and publicly incites others to commit genocide” (art. 25).

The prohibition of hate, discrimination, hostility or violence is also reflected in the 1969 American Convention on Human Rights (ACHR).

Most importantly, under the United Nations Guiding Principles on Business and Human Rights, Business enterprises have responsibility to respect human rights, address adverse human rights impacts with which they are involved and provide for their remediation. As per the Guidelines, business enterprises should carry out human rights due diligence (HRDD) in order to identify, prevent, mitigate and account for how they address their adverse human rights impact. Under the HRDD process, they should assess actual and potential human rights impacts, integrate and act upon the findings, track responses and communicate how impacts are addressed.

Realizing the potential significant effects on citizens’ rights and freedoms with the proliferation of fake news and hateful content prevalent on social media, the European Parliament and EU Member States have reached consensus on the Digital Services Act (DSA) which establishes accountability standards for online platforms and protects European users from hate speech, disinformation and other harmful content. Under this law, the social media platforms will have to add new procedures for faster removal of content deemed harmful and would be liable if the platforms do not remove any illegal content they detect or brought to their attention despite being aware of such acts. **Though this move is in the pipeline it is still relevant, YouTube surely cannot adhere to one set of standards in India and another in Europe?**

Keeping in mind the gravity of the issue, it is expected from YouTube, with a large global reach and millions of users, that such content that violates its policies and which is evidently illegal, is regulated and to ensure that there are certain algorithms or any other method to embargo such content from being published in the first place. Misuse of Social media platforms has become a common practice. It is the moral and social obligation of platforms like YouTube to take concrete steps to ensure that its platform is used for the purpose it was meant for in the first place instead of becoming a breeding ground for targeted harassment, hateful content and abuse.

Among various media platforms, social media has emerged as the strongest. Therefore, there is an urgent need to ensure responsible usage of the same. In fact, self-regulation should be

seen as a moral and ethical practice. We believe, as a social media platform, YouTube owes it to its users to be a responsible company fulfilling its purpose.

We hope that you consider this matter seriously in the light of the environment in our country and take some serious measures to implement better technology in order to remove such abusive, communal and illegal content, at the earliest. We strongly urge you to take concrete steps in order to stop such abuse on your platform as the same has the potential to incite crime in real time and in all possibility can convert into targeted violence towards the Muslim Community. This will give a sense of security to the minority community and also strengthen the values of fraternity and secularism that our Constitution of India upholds.

We urge and expect urgent action in this regard. We also anticipate and expect a detailed response on this complaint from the YouTube platform failing which we shall initiate alternate remedies.

Yours sincerely,

Nandan Malsute, President

Teesta Setalvad, Secretary