



UPSC & STATE PCS CURRENT AFFAIRS · UJIYARI.COM

EDITORIAL ANALYSIS

Hate Speech and the Limits of Judicial Restraint -- Why Existing Laws Are Not Enough

 **INDIAN EXPRESS**16 May 2026 · **POLITY** · **SOCIAL ISSUES** · **GS2**

CURATED & WRITTEN BY

**Bharat Choudhary**

UPSC Educator & Content Creator

 [linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)**ALSO FROM THE CREATOR****BharatNotes**Free UPSC notes, MCQs, PYQ analysis. **100% Free.**bharatnotes.com →**ADVERTISE****Advertise with Ujiyari**

Reach thousands of UPSC aspirants daily.

 epicbharat@gmail.com

Hate Speech and the Limits of Judicial Restraint -- Why Existing Laws Are Not Enough

 The Indian Express 16 May 2026 **GS2**

IE The Indian Express

3 tags ▾



INTERVIEW ANGLE

"When the Supreme Court holds that existing law is adequate to address hate speech but enforcement demonstrably fails, what constitutional mechanism can compel the executive to act -- and does judicial restraint on legislative gaps become complicity in inaction?"

EDITORIAL SUMMARY:

Indian Express argues that the Supreme Court's April 2026 ruling declining to issue fresh directions on hate speech – on the ground that existing laws are sufficient – misunderstands the nature of the problem. The failure to prosecute hate speech is not a legislative gap but an executive accountability failure: the police do not register FIRs, the state machinery looks away, and existing provisions (BNS Sections 196, 298 – formerly IPC 153A, 295A; IT Act; Representation of People Act) remain dormant. The editorial calls for a statutory broadcasting regulatory body with genuine enforcement teeth to replace the self-regulatory NBSA.

THE SUPREME COURT'S APRIL 2026 RULING

The Supreme Court, in a recent writ petition seeking directions against hate speech in media and public platforms, held that:

- ❶ India's existing legal framework (BNS/former IPC, IT Act, Cable TV Networks Act) is **adequate** to address hate speech
- ❷ The Court declined to issue **additional legislative directions** – holding that this would be an intrusion into the legislative domain
- ❸ The Court directed affected parties to approach appropriate authorities under existing law

Indian Express's critique: This reasoning – “the law is adequate; go to the executive” – is circular. The petitioners are before the Court precisely because the executive is not enforcing the existing law. Telling them to go back to the executive is not a remedy.

INDIA'S HATE SPEECH LEGAL FRAMEWORK – WHAT EXISTS

PROVISION	SCOPE	PENALTY
BNS Section 196 (formerly IPC 153A)	Promoting enmity between groups (religion, race, language, etc.)	Up to 3 years imprisonment
BNS Section 298 (formerly IPC 295A)	Deliberate acts intended to outrage religious feelings	Up to 3 years imprisonment
BNS Section 353 (formerly IPC 505)	Statements conducing to public mischief	Up to 3 years imprisonment
IT Act Section 66A (struck down 2015)	Online communication causing annoyance/danger – struck down by SC in Shreya Singhal	N/A
IT Act Section 79 + IT Rules 2021	Intermediary liability; takedown obligations	No criminal liability on platform
Cable TV Networks (Regulation) Act, 1995	Programme Code; regulates cable TV content	Rs 1,000 fine / suspension
Representation of People Act, 1951, Sections 123, 125	Electoral hate speech (appeals to religion, race, caste in elections)	Disqualification of candidate

The structural gap the editorial identifies: BNS Sections 196 and 298 (formerly IPC 153A/295A) require **prior government sanction** (BNSS Section 218, formerly CrPC Section 196) before prosecution can proceed. The government itself becomes the gatekeeper – if the government chooses not to sanction prosecution, no case can be filed.

THE NBSA PROBLEM – SELF-REGULATION'S FAILURE

The **News Broadcasting Standards Authority (NBSA)** is the news media's self-regulatory body:

- Established by the **News Broadcasters Association (NBA)** in 2008
- Adjudicates complaints about broadcast news content
- Maximum penalty: **Rs 1 lakh** (approximately USD 1,200)

Why this is structurally inadequate:

- ❶ **Voluntary membership:** Not all channels are NBA members; channels that repeatedly violate norms simply leave (or were never members)
- ❷ **Toothless penalties:** Rs 1 lakh is a rounding error for channels with crore-rupee advertising revenue
- ❸ **Industry capture:** The regulator is funded and staffed by the same industry it regulates
- ❹ **No injunctive power:** NBSA cannot pull a channel off air, even temporarily

The editorial cites the contrast with **Ofcom (UK)** – a statutory independent regulator with power to:

- Revoke broadcast licences
- Impose multi-million pound fines
- Issue mandatory corrections
- Conduct investigations independent of the government

THE STATUTORY REGULATOR DEBATE

Indian Express advocates for a **statutory broadcasting regulatory body** – independent of both government and industry – with:

- ❶ **Licence revocation power** for systematic violators
- ❷ **Proportionate fines** (1-5% of annual revenue, not fixed low amounts)
- ❸ **Mandatory correction orders** with prime-time broadcast obligations
- ❹ **Transparent complaints process** with right of affected communities to file complaints

The government’s hesitation: Any statutory media regulator risks becoming a government tool for content control – the BBC-Ofcom model works in the UK because of a culture of regulatory independence that India’s institutions have not yet established. The editorial acknowledges this but argues that the current vacuum – no regulation – is worse.

UPSC MAINS ANALYSIS

GS Paper 2 – Polity and Governance

Key arguments:

- The distinction between legislative adequacy and executive failure is crucial – courts can direct the executive to act even when the legislature has provided the tools
- The Shreya Singhal (2015) judgment (striking down IT Act 66A) is a cautionary tale: courts cannot endlessly defer to executive claims of “existing adequacy”

- A statutory media regulator is not inherently inconsistent with free speech (Article 19(1)(a)) – the question is whether it respects the proportionality test under Article 19(2)

GS Paper 4 – Ethics

- Institutional responsibility: when multiple institutions (legislature, executive, courts, self-regulators) can all act but none does, who bears moral accountability?
- Hate speech and democratic discourse: the tension between free expression and dignity/equality

Keywords: Hate speech, BNS Section 196 (former IPC 153A), BNS Section 298 (former IPC 295A), NBSA, Cable TV Networks Act, Shreya Singhal 2015, statutory broadcasting regulator, Ofcom, BNSS Section 218 (former CrPC 196) prior government sanction, executive accountability, Article 19(2).

Indian Express identifies the hate speech debate as a test of institutional accountability rather than a legislative problem. India has enough laws – what it lacks is a credible enforcement chain that does not run through a government that has its own political interest in the speech it chooses to police. The editorial’s case for a statutory regulator is essentially a case for separating enforcement from government control – the same logic that underlies the independence of SEBI, RBI, and the Election Commission. Whether India’s political class will accept an independent media regulator with real teeth is the real question, and the editorial does not pretend the answer is obvious.

PRACTICE TODAY’S QUIZ



[Take the 16 May 2026 Quiz →](#)

RELATED DAILY ARTICLES

16 May [Current Affairs Today -- May 16, 2026](#)

16 May [Bhojshala-Kamal Maula Verdict: MP High Court, ASI...](#)

16 May [Tripura First State to Complete All Deregulation...](#)

16 May [Rathindra Bose Elected Speaker of West Bengal 18th...](#)

← NEWER EDITORIAL

[The Bhojshala Verdict and the Unfinished Business of the...](#)

OLDER EDITORIAL →

[Trade as Strategy: India Needs a Formal Economic Statecraft...](#)



CURATED & WRITTEN BY

Bharat Choudhary

UPSC Educator & Content Creator

[linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)[Read Full Article on Ujiyari →](#)<https://ujiyari.com/editorials/2026/05/ie-hate-speech-supreme-court-executive-accountability/>

ALSO FROM THE CREATOR

BharatNotes

Free UPSC study platform — subject-wise notes across all 4 GS papers, Prelims MCQs, Mains answer frameworks, PYQ analysis & progress tracking. **100% Free • No Login Required.**

[Start Preparing → bharatnotes.com](http://bharatnotes.com)

📌 OPPORTUNITY

Advertise with Ujiyari

Reach **thousands of serious UPSC & State PCS aspirants** daily through our PDFs, website, and social channels.

Ideal for: Coaching institutes • EdTech platforms • Book publishers • Exam prep apps

[✉ epicbharat@gmail.com](mailto:epicbharat@gmail.com)

Write to us for rates & media kit

Free UPSC & State PCS Current Affairs · ujiyari.com · bharatnotes.com