

India: Police Handles Hate Speech and Violence Depending on the Perpetrator's Community: Shahrukh Alam

Saturday 8 February 2025, by [ALAM Shahrukh](#), [KULRIYA Mukesh](#) (Date first published: 2 January 2025).

“We must assess the lack of diversity in our police force - religious, caste, gender and sexual diversity are almost non-existent,” says advocate Shahrukh Alam.

Music has a complex relationship with social discord in India. While there is a long tradition of music bridging diversity and spreading harmony, the opposite has been true for at least two centuries. In this conversation, I speak with Supreme Court advocate Shahrukh Alam about the legal aspects of hate music: how the law addresses it in principle and practice, its legal and constitutional remedies, or the lack thereof, in India.

Alam is a prominent public intellectual specialising in criminal law, personal law and constitutional matters. She writes and appears regularly in popular media on issues of public concern, aiming to make legal discourse accessible to ordinary people. As a practitioner, she engages with cases involving hate speech. She also writes on literature and cultural issues. Her extensive and sustained engagement with the legal and cultural spheres provides critical insights into the domains of hate speech, hate music and their associated legal and policing discourses.

This conversation is part of my upcoming podcast series, Musicking Religion, which explores the efficacy of music in countering religious hate in India.

Mukesh: Could you explain how the law approaches the issue of “countering hate?”

Shahrukh: Indian law doesn't explicitly recognise the term “hate speech.” Hate speech marginalises target groups, pushing them out of social and political spaces, which is discriminatory. However, Indian law doesn't address discrimination as a core issue - it focuses on maintaining law and order. For example, Section 153A of the Indian Penal Code addresses spreading “disharmony” or being “provocative.” The law's concern is whether an act will lead to a law-and-order problem, not whether a group or individual is being targeted, excluded or discriminated against.

Indian law assumes that groups are on equal social and political footing. If someone from Group A indulges in hate speech against Group B, the law presumes Group B has the social or political capital to take offence and retaliate. It doesn't account for existing social or political hierarchies, making it essentially reactive. Its focus is on preventing public disorder, not addressing systemic discrimination.

Mukesh: What are the alternative approaches to this globally?

Shahrukh Alam: This approach contrasts sharply with how hate speech jurisprudence is evolving in the European Union and the European Court of Human Rights. There, hate speech is increasingly recognised as a form of discrimination. It's not seen as an issue of offending sentiments or causing

public disorder but as creating an environment where certain groups feel excluded from participating in social, political and economic life.

Moreover, they view hate speech as cumulative – its effects build over time. For instance, when I was in school, people would casually say, “*Kal India Pakistan ka match tha to tumne to Pakistan ko support kiya hoga.*” (You must have supported Pakistan in yesterday’s cricket match). Over time, this narrative morphed into a broader belief that Muslims don’t belong in India, with Pakistan seen as their “rightful place.” This illustrates how hate speech doesn’t just target individuals; it reinforces systemic exclusion over time.

Mukesh: How does it start as a process and how does law draw a line to take action in these cases?

Shahrukh: Social media further complicates this. You have various actors – some intellectual but subtly prejudiced, others openly abusive, and some downright violent. While they differ in tone and approach, they all contribute to the same harmful discourse. Yet, the law struggles to address this spectrum. It categorises actions – intellectual commentary, abusive remarks or incitement to violence – but doesn’t know where to draw the line for criminalisation.

A sociologist or political observer might argue that intellectual prejudice can be just as damaging, if not more, than explicit abuse. However, because such speech often falls within the bounds of free expression, it becomes difficult to regulate legally. This allows those laying the groundwork for hate to escape scrutiny, while only the most explicit offenders occasionally face consequences. Structural violence, which is far-reaching and insidious, remains outside the law’s purview. The law can only respond to immediate on-the-ground incidents of violence.

This presents a challenge in courts. Unless hate speech involves clear incitement followed by an immediate violent incident, it’s often dismissed as a breach of free speech rights. While cumulative discourse causes significant harm, the legal framework is ill-equipped to address it. Even in Europe, despite identifying the problem, legislative solutions remain limited.

Ultimately, the answer lies in culture and education. If hate speech builds cumulatively, the response must also be cumulative, requiring patience, consistency and sustained effort. Culture is the most effective tool for this, as the law is inherently limited in addressing deeper, structural issues.

Mukesh: In today’s digital media age, nation-state boundaries have become increasingly porous. A [recent report](#) revealed that 55% of global Islamophobic comments originate from India. How do you see this global flooding of hate?

Shahrukh: It’s already a global problem. This highlights the cumulative nature of hate. Once a hateful narrative takes root, it’s hard to stop because it spreads discursively. An idea is planted, and people take it in all directions, with some becoming more violent than others. This manifests in two ways. First, there’s organised and mercenary social media trolling. These individuals may not even believe in the ideas they propagate but act for profit or on instruction. Second, there’s the reproduction of prejudiced discourse by those who internalise it without questioning, perpetuating it thoughtlessly.

I agree that this reflects poorly on us as a nation. We’ve already seen consequences in a few cases, such as people often from lower or middle-class backgrounds losing jobs in the Middle East after posting inflammatory content. But these are ad-hoc outcomes, not structural solutions. The response needs to be structured and consistent. Just as hate is systematically produced and disseminated, we must intentionally create and promote counter-narratives.

Mukesh: Historical records show that from 1810 onwards, there was significant social unrest among workers, particularly weavers and artisans. Police reports often framed these incidents as communal violence. While communal violence existed, the police records have exaggerated it. Could you elaborate on how communal violence is framed by the police and how sensitively or constitutionally it is handled?

Shahrukh: The Indian police's history is rooted in colonial administration – top-down, rigid and focused on categorisation. Categories like Hindu, Muslim and caste are inflexible and administrative, which mirrors what you mentioned. This rigidity also reflects the hierarchical relationship between the police and the community, which remains unilateral and colonial.

Peace committees or similar bodies formed to mediate such incidents often operate in an equally administrative, inorganic manner. I've seen examples recently in maha panchayats in Uttar Pradesh and Uttarakhand. First, the communities involved are not equal – Muslims and Hindus don't meet on equal footing. Second, the police, acting as mediators, are not neutral; there's an inherent hierarchy between the state, the majority community and the minority community.

For instance, in Uttarakhand, the police dictated terms to the peace committee: Muslims had to agree to several conditions. These included promises not to open their shops on specific dates, not to hire more Muslim workers and not to pray Friday Namaz in public spaces. In return, Hindus would refrain from holding the maha panchayat. This wasn't a negotiation or settlement but a top-down administrative order.

If you question the SP (Superintendent of Police) about such discriminatory practices, they often justify it as the only way to maintain law and order. The police's focus remains on order, much like it was during colonial times. There's little consideration for constitutional principles like equality (Article 14), non-discrimination (Article 15), freedom of speech (Article 19) or the right to life and dignity (Article 21).

Mukesh: I mentioned [Project Taana-Baana](#), where the Rajasthan police used music as a strategy to mitigate hate. What's your opinion on police using music to counter hate and foster harmony in communally charged areas?

Shahrukh: It's an extraordinary and imaginative initiative, and I think this is the way forward. We should focus more on reproducing culture in violence-prone areas. Culture, particularly films, has a cumulative effect – it seeps in, and over time, it might shift perspectives.

This approach should be expanded across India. Arresting a few troublemakers, registering FIRs (first information reports) and initiating criminal cases doesn't resolve the underlying tensions. If anything, it exacerbates the problem. Violence has already occurred, but framing it purely as a law-and-order issue doesn't address lingering prejudice or antagonism. I believe a preventive, pre-emptive approach rooted in cultural production is far more effective.

One of my constant concerns is the lack of cultural production to counter hate. For some reason, this has stalled across mainstream cinema, theatre and music. On the other hand, there's a surge in cultural production that promotes hate. Why aren't we seeing a comparable response from those who should be countering it?

Mukesh: My concern is whether using a cultural form rooted in religious or communal symbolism is a slippery slope. For example, Kabir's songs mention both Ram and Allah. In today's climate, some might interpret this as affirming their religious identity or superiority. We can't always control how people interpret such messages. What's your take on this?

Shahrukh: I still believe it's very effective. For instance, the state's crackdown on groups like Kabir Kala Manch shows they were succeeding in challenging authoritarianism and state power. That said, I've also been reflecting on why there's so little cultural production, even on mainstream platforms like Netflix. We need cultural production across demographics, content that resonates widely and addresses various audiences.

Of course, greater cultural production will invite criticism, but that's a necessary part of the discourse and internal democratisation. For example, the Ganga-Jamuni tradition of cultural harmony has recently faced criticism, particularly from Pasmanda Muslim groups, for being classist and exclusivist, a feudal construct. This critique is valid and should be welcomed, but it doesn't negate the tradition's significant role in countering hate.

We need all kinds of cultural interventions: let Ganga-Jamuni be there, let Kabir be there, let urban, mainstream Netflix productions exist too. Each has a role to play in countering hate and fostering communal harmony. And while they'll all face critique, that's part of the process of internal democratisation, which is equally essential.

Mukesh: The Project Taana-Baana described this as a community policing experiment designed to counter violent extremism, radicalisation, and disinformation. While violence might erupt in the heat of the moment, cumulative hate builds over time. But how do you effectively de-radicalise people?

Shahrukh: Unfortunately, this can't be achieved at one or two police stations or even a single district. The police system is too colonial and the power structure is deeply skewed. Visiting a police station often carries a stigma - you're either a suspect or, worse, an informant.

When police do engage with communities, it tends to be through a state-centric lens. There are instances - especially in Delhi and UP - where young, charismatic officers are sent into Muslim-majority areas, ostensibly to connect with the youth. Instead of de-radicalising, they often radicalise further, leading young men to trust them, join discussions and engage in "addas." Eventually, many of these youths are arrested under arbitrary charges, and the officer withdraws. This is not de-radicalisation - it's entrapment. We're following models that entrench radicalisation rather than dismantling it.

To replicate the efforts of Project Taana-Baana, we need systemic change. First, we must assess the lack of diversity in our police force - religious, caste, gender and sexual diversity are almost non-existent. How can we expect empathetic community policing from such a homogenous force? Second, we need to acknowledge the bias in our system. A significant proportion of undertrials are Muslims, Dalits, tribals and other marginalised groups. The law and police are disproportionately skewed against the poor and minorities while favouring the state. Without recognising and addressing this, the idea of effective community policing is unworkable.

Mukesh: So the policing needs to be re-hauled to make it pro-people?

Shahrukh: Our police institutions remain state-centric, colonial and violent. Change cannot be piecemeal; it must be structural. For example, in India, procedural law allows police to summon someone to the station, creating a stark power imbalance. In contrast, in England, investigators must visit individuals and leave if asked, shifting the power dynamic. How can community policing work in India when the relationship is so hierarchical?

Unless we challenge laws around detention, the power of summoning and the broader structural imbalance, community policing remains an impractical idea. To succeed, we need meaningful diversity within the police force - enough Muslim, tribal, Dalit and other marginalised officers to

foster trust. These officers must be empowered to act independently, not just as state agents.

Mukesh: Counter-cultural practices often speak out against hate but are themselves targeted. For example, you mentioned Kabir Kala Manch. Similarly, Mewati Jogi, who has sung the *Ramayana* for years, is now under attack. Chidiya Bai, a Muslim singer who performed songs for various goddesses, was suddenly reminded of her “Muslimness” by her patron. While their social identities seem fluid, what about their legal counterparts?

Shahrukh: It depends on how people are categorised. Administrative tools like the census or government schemes can either enforce rigid categories or make them more flexible. Unfortunately, we are moving towards a system where these categories are being crystallised as political constructs rather than social ones. I’m not sure how to address this legally.

On a related note, there’s a stark contrast in how the police handle hate speech or violence depending on the perpetrator’s community. If someone from the majority community makes inflammatory hate speech, the police often dismiss it, saying, “It’s nothing; we’re handling it.” They’re reluctant to register an FIR because the person is seen as “one of us.”

In contrast, if the accused is from a minority community, there’s an immediate FIR, often followed by swift arrests. This reflects both state policy and deeply internalised biases. Muslims, for example, are still seen as outsiders or potential threats, making them more vulnerable to police action. This isn’t community policing; it’s a distorted, prejudiced form of it. Take Sharjeel, for instance – what did he do? There’s daily “a call for ban” in Delhi, and everyone laughs it off, knowing nothing will happen. But with Sharjeel, there’s immediate panic and action. This imbalance highlights the inherent biases in policing.

Mukesh: I noticed that some organising committee members from both communities were apprehensive about Project Taana-Baana. For instance, some Hindus saw no contradiction between Hindutva politics and Kabir’s teachings, and some Muslim participants and organisers were concerned about the project’s impact beyond the event. If even the organising committee isn’t convinced of the process’s motives, can it still be an effective strategy?

Shahrukh: In principle, it’s a strong strategy, but when it’s event-based, different groups interpret it in varying ways, as your observations show. Hate is cumulative, so efforts to counter it must also be cumulative and not limited to isolated events. The response needs to be deeper, structural and consistent, which requires systemic reform, particularly within the police.

Why shouldn’t such initiatives be systemic, so that every new officer continues the same efforts? Instead, policing remains inconsistent. In some towns, people idealise “encounter specialists” for using violent methods, saying, “*Violence khatam kar diya isne, maar maar ke*” (They ended violence by force). These figures are glorified without critical examination. Similarly, while one SHO (station house officer) might improve access, the approach remains top-down, with no lasting institutional change.

Mukesh: Long-standing traditions are being appropriated, and people are left without alternatives. Western-style secularism has “failed,” and traditional methods have been co-opted. What can be done to address this?

Shahrukh: I fully support cultural reproduction, but how it interacts with the state and legal institutions is key. Does it engage on equal terms, or does it have to bow down to the SP or the state? If access to a police station depends on the benevolence of an SP or SHO, it’s not community policing – it’s arbitrary and paternalistic. It becomes less about cultural production and more about

the intersection of law and power.

If these practices aren't structural, they'll backfire. For instance, at the Nizamuddin police station, a temple has been built and they might name it their "community outreach" efforts; they rightly can because most officers there are Hindu. They see this as a way to connect with the community, and it is - on their terms. But the concept of "community" they represent is majoritarian and statist, which needs to be questioned. Who defines the community, and how inclusive is it? That's the crux of the issue.

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