



Date: November 18, 2020

To,

Dr. A.K. Garg,
Web Information Manager
Ministry of Electronics and Information Technology
Electronics Niketan 6, CGO Complex
Lodhi Road
New Delhi 110003
Email id: ajaik@meity.gov.in

Sub: Complaint by CJP against Kapil Mishra for his anti-minority activity on social media

Dear Sir,

Citizens for Justice and Peace (CJP) is a human rights movement dedicated to upholding and defending our fundamental freedoms, in the courts and beyond. With a presence in all states of India, CJP draws its strength from the people who are determined to protect the rights of every individual, especially the weak and marginalised.

CJP has been actively campaigning against Hate Speech. Our objective is to not just bring to light such instances, but also help people understand what constitutes hate speech and the fundamental difference between Freedom of Speech and Hate Speech. We seek to empower citizens with knowledge of the law and mechanisms of its application with concerned authorities. We have pursued our objectives on two fronts; by publishing informative and educative content about hate speech on our website, and by filing complaints and petitions against the perpetrators.

We have also flagged instances of hate speech, like that of religious televangelist Zakir Naik's hateful utterances that continue to pose a threat to the ideals of secularism and plurality, embedded in our Constitutional framework. He claims to reach a massive audience of over 20 million followers worldwide. The video by CJP can be seen here:

<https://cjp.org.in/hate-watch-zakir-naiks-unchecked-bigotry-promotes-religious-discord/>

In this consistent and thorough endeavour to counter hate crime, we have recently come across Kapil Mishra's Twitter account where he is busy recruiting a private Hindutva gang, that he calls the 'Hindu Ecosystem'. He has announced, across his social media pages including Twitter and Facebook that he is recruiting a 'Team - Hindu Ecosystem'. This can be accessed on the following link:

https://twitter.com/KapilMishra_IND/status/1328178717974093824

The Hindu Ecosystem Membership Form describes itself to be devoted to the idea of working together on social media and on the 'ground' together. The team members of this ecosystem will be provided training and sessions shall be conducted to "build the right

narrative in social media and media.” Gathering people exclusively from the Hindu faith and ‘training’ them without revealing the mechanism seem highly dangerous and communal in an already hostile environment against the minorities of India. The description can be read here:

<https://twitter.com/TheDeelip2020in/status/1328181441293807618/photo/1>

This following post which is pinned to Kapil Mishra’s Twitter account has received around 8000 likes and hundreds of responses informing him that the form has been duly filled. Some comments also suggest that the google form must include Aadhar details so that no Muslim infiltrates. The suggestion reads: “HOLD ON KAPIL MISHRA JI: URGENT. I saw the Google form. There is no column asked to provide an Aadhar Card. Please rework the form and resend it to include Aadhar Card. Otherwise like love jihad and to sabotage internally, "Abdul" will join as "Ramesh". Cancel form & resend PLS”. This can be viewed here:

https://twitter.com/Ravi_Indian9/status/1328183684407521281

Kapil Mishra has also managed to garner support through other netizens who are willing to “work for the protection of Hindu Culture.” One comment also made the suggestion: “Kapil ji Please rename it Sanatan Dharma Ecosystem which shall include Jains, Sikhs and Buddhist too as they all are part and parcel of Sanatan Dharma.” The intention behind creating a Hindutva army is blatantly clear and that is to isolate Muslims in order to protect the Hindu tenets of the society. This can be accessed at the following link:

https://twitter.com/navin_nath/status/1328215801560670208

In the google document that he has been circulating, in addition to asking personal details of his followers, Kapil Mishra has asked if they have any ‘special interests’. The ‘special interests’ include: Fight Love Jihad, Gharwapsi, Gaurakhsa, gausewa, halal, mandirnirmal-terms created by the already existing right-wing ecosystem, that are often used to unleash violence, especially on Muslims, Dalits, Christians, and also on women. This can be accessed at the following link:

https://docs.google.com/forms/d/e/1FAIpQLSe0_T7oEs4V854-YNqQ_tU4iH-P5Z6VYN9G3Oq_wp--7Xl_w/viewform

He has also claimed that 18,000 members have already joined the Ecosystem which is a testimony to the fact that hate sells rapidly. The link has already been identified by Twitter as “potentially unsafe”. Twitter policy states that this link is “violent or misleading content that could lead to real world harm.” This can be viewed here:

https://twitter.com/safety/unsafe_link_warning?unsafe_link=https://forms.gle/71wHfGkY

But despite such a warning there are suggestions by netizens on his post to make the form available on another platform where it can be accessed by people easily. Some have also commented that this action by Twitter India is heavily biased against Hindus. This can be accessed at the following links:



https://twitter.com/KapilMishra_IND/status/1328552292526669824

Kapil Mishra, who joined BJP in has been infamous for spewing venom on social media platforms inciting violence. CJP has compiled his series of deeply disturbing tweets that appear to promote hate and violence in a bid to demand revenge in the aftermath of the Pulwama Attacks in 2019. As a previous Aam Aadmi Party MLA from the Karawal Constituency in Delhi, he called for the destruction of the “wombs that give birth to terrorists”.

CJP had reported that The Aam Aadmi Party was quick to distance itself from the MLA who had earlier been suspended, though not explicitly expelled from the party. “Kapil Mishra has been removed from AAP and remains officially suspended. We have no association with him and condemn his divisive and opportunistic statements,” said Preeti Sharma Menon, National Executive Member, AAP. This may be read here:

<https://cjp.org.in/hate-watch-delhi-mla-spews-venom-on-social-media-after-pulwama-terrorist-attack/>

Mishra has been a serial hate speech offender, with each threat becoming more blatant by the day. On February 23, 2020, Mishra led a pro-Citizenship Amendment Act (CAA) rally close to the site of the anti-CAA protest near the Jafrabad metro station. At the protest site, standing next to a uniformed police officer he said, “We will remain peaceful till Trump leaves. After that we will not listen to you.” In the video he is also heard saying, “*Desh ke gaddaro ko, goli maaro saalo ko*” (Shoot the traitors of India)

The Delhi High Court had made the Delhi Police watch 4 videos in court establishing hate speeches that had been made by politicians but not acted on by the police. One of the politicians was Kapil Mishra who remains scot free. His hate speech video compiled by CJP may be viewed here:

https://www.youtube.com/watch?v=aFpevw3rrtI&feature=emb_title&ab_channel=CitizenforJusticeandPeace

We, at CJP had initiated an Online Petition appealing to the Chief Justice of India, SA Bobde, to hold Kapil Mishra – said to be the chief instigator – accountable for instigating violence using hate speech and prosecute him. CJP’s online petition may be viewed here:

<https://cjp.org.in/sign-cjps-online-petition-to-cji-bobde-to-hold-kapil-mishra-accountable-for-instigating-the-delhi-violence-and-prosecute-him/>

Violation of Indian Penal Code

The nature of his social media activity stands in contravention of the IPC sections:

153A states that, [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];

153B(1)(c) [Whoever, by words either spoken or written or by signs or by visible representations or otherwise - 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 religious, 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];

295A [Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs];

298 [Uttering, words, etc., with deliberate intent to wound the religious feelings of any person] and

505 [Statements conducing to public mischief].

In order to respect the diverse religions and composite cultures of India, it is essential to keep a check on the unverified claims and hate propaganda against Muslims. Targeting a particular community fosters a spirit of discrimination and needs immediate attention. Hate on social media platforms can have catastrophic impacts of communal violence, offline.

For instance, CJP had uploaded a 2-minute-long video citing the Equality Labs report raising the rising hate speech on Facebook India during 2018. Real threat presented by Facebook to an estimated 300 million Indian caste, religious, gender, and queer minorities both in India and abroad is a ticking bomb of communal violence, caste and hate speech. The video can be seen here:

<https://cjp.org.in/facebook-looks-away-as-hate-speech-multiplies-equality-labs/>

Violation of the Information Technology Act

Section 2(1) (w) of the Information Technology Act, 2000 defines intermediary, “with respect to any particular electronic records, as any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, webhosting service providers, search engines, online payment sites, online-auction sites, online market places and cyber cafes”. So, platforms like Facebook, Twitter, YouTube are considered intermediaries that facilitate exchange of information amongst people.

According to the *Intermediary Guidelines of 2018*, Rule 3 lays down the due diligence that needs to be done by Intermediaries. It says that the intermediaries are mandated to rules and regulations, privacy policy and user agreement for access-or usage of the intermediary's

computer resource by any person and such rules shall inform the users of computer resource not to host, display, upload, modify, publish, transmit, update or share any information that:

Rule 3(2)(b)- is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner;

Rule 3(2)(e)- violates any law for the time being in force;

Rule 3(2)(i)- 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 any other nation.

The content shared by Kapil Mishra on Twitter with malicious intentions of creating a Hindu Army and consolidating strength through mass appeals reeks of the brazen impunity he has enjoyed up until now. Despite a viral hate speech video on YouTube, authorities have not been able to register an FIR against him for his communal and abusive online activities. Kapil Mishra has been notorious for his fanatical nature and this time his brazen act of forming such an “ecosystem” on social media that will potentially lead to mischief and in turn harm national integration and values of secularity and fraternity enshrined in the Indian Constitution.

It is due to such anti-Muslim narratives that viewers and followers develop animosity towards other members of the society and start discrimination. Inciteful hate speech creates a hostile and complicit environment that can lead to targeted killings and riots. The Law Commission Report, 2017 stated that “Hate speech has the potential of provoking individuals or society to commit acts of terrorism, genocides, ethnic cleansing etc. Such speech is considered outside the realm of protective discourse. Indisputably, offensive speech has real and devastating effects on people’s lives and risks their health and safety. It is harmful and divisive for communities and hampers social progress. If left unchecked hatespeech can severely affect right to life of every individual.”

The **Twitter Rule** too have a strict policy against harassment, glorification of violent threat, promotion of violence on grounds of religious affiliations. Kapil Mishra already had his February 23, 2020 tweet taken off by Twitter India for its hateful content.

PRAYERS

It is prayed that the Ministry of Electronics and Information Technology takes cognizance of the violations and it is further prayed that the MEITY:

- 1) Directs the Intermediaries to inform its users that in case of noncompliance with rules and regulations, user agreement and privacy policy for access or usage of intermediary computer resource, the intermediary has the right to immediately terminate the access or usage rights of the users to the computer resource of Intermediary and remove noncompliant information, as per the Ministry of



Electronics and Information Technology, the Information Technology [Intermediary Guidelines (Amendment) Rules] 2018.

- 2) Directs the Intermediaries to take down prohibited content within 36 hours of actual knowledge of the existence of such content on their platform and preserve records relating to such content for 90 days to facilitate investigation, as per the Ministry of Electronics and Information Technology, the Information Technology [Intermediary Guidelines (Amendment) Rules] 2018.
- 3) Directs Kapil Mishra to offer an apology for the malicious and hateful content that he has been posting online.
- 4) Directs the local police cyber cell to thoroughly investigate his online activities through his channel on YouTube as well as his Twitter account
- 5) Directs a permanent ban or permanent scrutiny on his social media accounts.
- 6) Any and all actions that the Authority deems fit.

Yours sincerely,

Authorised representatives of CJP

Anil Dharker, President

Teesta Setalvad, Secretary