



Hate Crimes in India

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Abstract

A criminal action committed against a person, property, or society that is motivated, in whole or in part, by the offender's bigotry against a race, religion, handicap, sexual orientation, or ethnicity/national origin. This definition is widely accepted, although it is not legally binding. It's typically violent, however subtler forms do exist. This type of crime occurs when an individual is attacked because of his or her association with a certain group. This, in one form or another, is widespread in many nations worldwide. The same can be said about India. In India, religion and caste-based forms of hate crime are more prevalent, while other forms are also very much a part of the crimes that are perpetrated. There is no specific law against mob lynching, but there are laws against inciting hatred amongst groups and against using hate speech. These laws can be found in the Indian Penal Code (IPC) in sections 153, 153-A, 295-A, and 298.

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I. Introduction

Any violent act committed against another person because of their sex, religion, caste, race, or other characteristic is considered a hate crime. When an offender chooses a victim solely on the basis of the victim's membership in a particular social group or racial demographic, they have committed what is known as a hate crime, sometimes called a bias-motivated crime or bias crime. Ethnicity, handicap, language, country, appearance, age, religion, gender identity, and sexual orientation are all examples of such groups. The term "bias incident" is commonly used to refer to non-criminal acts that have these motivations as their root cause.

The term "hate crime" is commonly used to refer to violent or other criminal acts that are believed to have been inspired by prejudice against one or more of the aforementioned social groups or their offspring. Assault, homicide, vandalism, slurs, insults, mate crime, and vandalism/defacing of property are all examples of incidents that fall under this category. When passed, the goal of a hate crime law is to make it illegal to commit an offence based on bigotry. Laws against hate speech penalise an entire category of speech, as opposed to hate crime laws, which merely increase the penalties for behaviour that is already illegal under other laws.

Violence against people of Asian descent spiked dramatically in the wake of the COVID-19 epidemic, as they were disproportionately blamed for the virus's spread. The "NEVER AGAIN" Association of Poland released a report in May 2020 titled "The Virus of Hate: The Brown Book of Epidemic," which detailed numerous incidents of racism, xenophobia, and discrimination in the wake of the coronavirus pandemic, as well as instances of the Alternative Right spreading hate speech and conspiracy theories about the epidemic (Alt-Right).

India faces challenges that no other country can match due to the sheer variety of its population. Various colours have been mixed into our past. Conclusions, emotions, and feelings expressed by individuals are far more ubiquitous in this country than in others. Our motto is "Unity in Diversity" because we know deep down that our country's residents' vast differences are what make us a cohesive whole. In addition to the tranquil backwaters of Kerala, we get to enjoy the beautiful valleys of Kashmir. We are able to sample both the Gujarati Dhokla and the Assamese Khar. Having such favour bestowed upon one requires one to be responsible. We have a tendency as a nation to become irrational over relatively minor setbacks. That's what makes us so unseemly. Unchecked, our rich diversity can be our undoing. This is one of the fundamental causes of unrest in our country.

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All the misbehaviour we witness today has political or religious roots, or else it is rooted in a person's sense of self. Hate crimes are despicable manifestations of bigotry that have far-reaching effects on not only the victim but also the community in which they occur. They have an impact on the cohesiveness of networks and the social stability of their communities. That's why a forceful response is crucial for personal and national safety.

Since the reason is usually unimportant in demonstrating the main components of a wrongdoing, it is occasionally investigated well enough to draw the true clarification behind the wrongdoing; yet, hate crimes are separated from other forms of crime by the perpetrator's aim. However, hate crimes continue to occur, with devastating effects on both the victim and their community, despite the fact that individual states have enacted their own laws to combat this problem. The harm caused by hate crimes can be mitigated if law enforcement officials, prosecutors, and judges are educated on how to recognise and respond to them.

Understanding Hate Crime

A Hate Crime is an act of violence committed because of an individual's or group's prejudice or bigotry. The perpetrator's bias may be based on the victim's sexual orientation, ethnicity, race, religion, gender, disability, or identity. Hate crimes are violent offences motivated by bigotry. It is precisely this line of thinking that distinguishes hate crime from other types of crime. There isn't a singular act that constitutes all hate crimes. It could be a public display of dread, danger, damage to property, ambush, murder, or any other illegal act.

Instead, than being a distinct infraction within a rehabilitative code, "hate crime" or "bias crime" refers to a kind of misconduct. Prejudice or bias can lead an individual to commit a crime in a country where no legal consequences exist for doing so. The phrase is indicative of an idea rather than a formal definition.

Hate crimes always comprise two elements:

- A criminal offence
- Committed with a biased motive.

The **first** requirement of a hate crime is the commission of an act constituting an offence under general criminal law. Although there are certain differences in the nature of conduct that constitutes wrongdoing from country to country due to minor variations in legal procedures, all countries share essential requirements that condemn the same kind of nasty behaviour. Hate crimes always involve some sort of initial offence. If there was no initial offence, then there could be no hate crime.

Second, the perpetrator must have a specific mindset when committing a hate crime. This aspect of biased reasoning is what sets hate crimes apart from other types of crimes. This indicates the wrongdoer selected their victim on the basis of a protected trait.

Factors that Lead to Hate Crime

Distinguishing Factors: These elements are associated with the actual act of violence or crime. They can also be stated as the criminal's motivation or the thoughts that led to the crime. The data were then used to form the following groups:

Crimes listed below have been perpetrated because of a person's or a group's preconceived notions about that person's or that group's line of work, ideology, or set of beliefs. They select their victims based on their employment and ideology with the sole goal of harming them. Individuals or groups can both be victims and perpetrators.

Incite Riots/Clashes in Multiple Communities: This is the result of, or contributes to, a climate of dread. The culprit set out to create conditions that would be ideal for their criminal enterprise. such as by causing widespread fear and perplexity. Most cases in this field tend to be approached from a single direction, and conflicts between parties are commonplace, sometimes resolved by experts using Sec. 144 of the Code of Criminal Procedure. Assaults, robberies, and other criminal acts that occur during or immediately before a community's festival are classified under "Celebration of Festivals." Most of the casualties in this region are part of a group that is out celebrating a holiday.

• Conflicts over religious buildings frequently result in acts of bigotry. They usually revolve on a piece of property or the people who live there. Most victims are members of a marginalised group, but there are always outliers. Marriages between members of other religions or social classes have traditionally been frowned upon, therefore it's not uncommon for communities to conflict when members of different faiths or social classes marry one another. The communal element is heightened by the search for and execution of those who have eloped.

• Meat sales and consumption: for a very long time, this wasn't a problem, but with the growth of an ideology that condemns these practises, it has become a major role in defining the motivations of criminals. Criminals typically go unpunished when they target members of a minority group.

Nature of Violence

When used as a means, violence causes pain and suffering. Any given perpetrator's mental state can be inferred from the specific form(s) of violence they employ. As the number of hate crimes rises, experts have begun to classify violent acts as one of the following:

- **Communal Tension/Violence/Riot:** Conflicts have a communal background. Sec. 144 of the Code of Criminal Procedure is usually enacted as a result, and many people are hurt as a result. Such incidents frequently stain the background of a place's historical development.

- **Social Boycott:** Isolation due to membership in a certain group, holding a particular set of beliefs, or adhering to a particular ideology, is the most extreme kind of discrimination that can be imagined. We Indians talk about prejudice as if it were uprooted from our culture, but the unfortunate truth is that prejudice runs deep in our blood. Preventing a pattern from being passed on from one generation to the next is no easy task.

It's important to note that there is a fine line separating institutional discrimination and the denial of access to a public space or institution. Like any institution, a public park belongs to the people, yet there may be unforeseeable restrictions on how certain groups of people can gain entry.

To wit: "hate speech," or words spoken in a disparaging, provocative, or inciting manner that may have negative repercussions. It's possible that the law enforcement wouldn't take any action in such a circumstance, but a crime that the majority of people accept can't have its definition adjusted to accommodate them.

Specifically, only non-public structures have been accounted for in the categories of demolition/attack on property. A single person or a collection of people could be responsible.

Any violence committed against a place of worship or a place otherwise held sacred by a religious group is classified as a "attack on religious infrastructure." Both single and several attackers are possible.

Need for Hate Crime Laws

Hate crimes could be handled poorly if they are treated like any other crime. For instance, investigators may limit the nature of the crime when deciding on charges, and courts may not use their discretion to impose longer sentences that take into account the offender's state of mind.

Hate crimes are not isolated occurrences; rather, they serve as a proxy for underlying preferences that can be difficult to avoid in a larger social context. Poor patterns can be detected in the investigation, prosecution, and punishment of hate crimes. In cases when the victim is a member of a stigmatised group (for example, if the group is commonly perceived to be involved in wrongdoing), this may colour the evaluation by making the victim seem at fault.

Legal Protection against hate crimes

According to Article 17[9] of the United States Constitution, untouchability is no longer legal. Offenses against members of the scheduled castes and tribes are severely punished by the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

Articles 25–28 of the Indian Constitution establish the country as secular, guaranteeing citizens the right to freely express, disseminate, and engage in religious activities within reasonable bounds.

Some of the clauses of the Indian Penal Code that address hate crimes are as follows[11]:

Section 153A addresses the malicious defamation of any religious group or its founders on the basis of their faith, race, nationality, place of birth, domicile, language, etc. Deliberate and malicious acts intended to outrage the religious feelings of any class by insulting its religion or beliefs are sought to be punished in Section 295A. Section 295 addresses the destruction or desecration of a place of worship or an object held sacred with the intent to insult the religion of a class of persons.

Arguments in Favour of Hate Crime Laws

Potentially significant results from enacting hate crimes legislation have been observed. In an ideal world, legislation is passed following extensive, productive discussion between the government, experts in law implementation, and the general public.

This helps put the scope and seriousness of the criminal acts to the forefront of discussion, where they rightfully belong. This will help bring more attention to hate crime and prompt more effective responses. Once hate crime legislation is passed into law, it must be implemented with careful planning that enhances police investigation skills and judicial knowledge. This leads to a quicker response from the justice system to hate crimes, which is based on equity.

Society's dismissal of crimes based on bias can and should be shown through the representative evaluation of the law. The establishment of laws punishing hate crimes is a ground-breaking expression of society's judgement that certain transgressions are particularly unforgivable and need more remarkable discipline.

The statute provides for criminal punishment. When compared to other types of crimes, the victim of a hate crime suffers a much more profound emotional and psychological toll, and members of the victim's

community are also impacted. Because of the increased harm done to the individual and the community, longer sentences are warranted.

People who intentionally cause harm to another person or group are targeted by hate crime laws because they bear the greatest responsibility for the harm they do. Bias has a significant effect since the offender's motivation makes the crime more genuine than if it had been performed without such motivation.

As a general rule, the criminal law imposes harsher penalties for intentional crimes that have a cumulative effect, rather than penalising the perpetrator based on his or her motives. To support this claim, it must be assumed that the offender either intended to produce unequal harms or was careless about the possibility of doing so.

II. Conclusion and Suggestions

The Indian government has a "Reformative Policy" for criminals. One of its core tenets is that wrongs can be made right if the perpetrator is shown the way (via legal channels) to right behaviour. There has been an alarming rise in crime, and criminals appear unfazed by the severity of their actions, thus it is time for a new approach.

One way to accomplish this is to adopt the same strict penalties for such crimes as have been implemented in Middle Eastern countries, which have resulted in a vanishingly low crime rate in those regions. The rationale behind this strategy is to set a strong example for society as a whole, and that means making sure that any potential perpetrators are aware of the maximum consequences that are available.

As a result, people are more reluctant to engage in such behaviour, as they have a clear idea of the consequences that would follow their actions. In light of the current era's circumstances, a more stringent legal system, a consistently effective judicial system, and legal protections for the oppressed are all necessities.

Legislation addressing hate crimes should account for the fact that both people and property can be victimised. Strict penalties for hate crimes should apply equally to both sides. The law should mandate that these be considered by courts as proof of intent. In order to ascertain the true motivations behind a penalty enhancement, it is important that courts clarify their reasoning for applying or denying such an addition on the record. The states should consider a range of offences as well as punishment increases.

Constant or fundamental aspects of a person's character should be taken into account when drafting legislation regarding hate crimes. Like the historical and societal patterns of discrimination, patterns in the legislation pertaining to hate crimes should be noted. For laws against hate crimes to be effective, they must take into account characteristics that are either immediately apparent or readily observable by the offender.

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