

HATE CRIMES IN INDIA

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ABSTRACT

Hate crimes are harsh displays of narrow-mindedness that have a substantial detrimental impact on both the victim and the group with which they identify. They influence social stability and group cohesion. As a result, a robust reaction is required for both individual and societal security.

The motivation of the criminal distinguishes hate crimes from other forms of crime. Because the motivation of the criminal is usually irrelevant to demonstrating the major parts of a crime, it is rarely carefully probed in order to find the underlying reason of the crime. If a criminal justice system does not recognise the phrase “hate crime,” the motive is not seen as a critical component of the act, and hate crimes go unnoticed.

Keywords : Hate crime, Indian penal code, RP act

Introduction¹

Hate crimes are criminal acts performed with a preconceived prejudice. Hate crimes are distinguished from other forms of crimes by this way of thinking. Hate crime is not a solitary offence. It might be a violent act, a threat, property damage, an attack, murder, or another form of crime.

As a result, rather than referring to a specific criminal violation, the phrases “hate crime” or “bias crime” designate a type of crime. Due to bias or prejudice, a person may conduct a hate crime in a nation where there are no explicit criminal repercussions. The phrase describes a concept rather than a legal meaning. One of the two components of all hate crimes is a criminal offence performed with a prejudiced motivation.

The first ingredient of hate crime is conduct that constitutes a crime under fundamental criminal law. This crime is referred to as the “basic offence” in this handbook. There are certain discrepancies in the sorts of behaviour that add up to wrongdoing due to slight changes in legal systems between nations, but they all share a common set of core principles that render some forms of nasty actions criminal. A

fundamental offence must always have happened in order for there to be a hate crime. There can be no hate crime if there is no fundamental offence.

History of hate crimes²

Hate crime is not a new phenomena; it has existed for centuries. The Holocaust, for example, is a recent example of a hate crime. The religious minority, Jews, were persecuted. Anti-Semitism is the view that Jews are the racially “inferior” segment of society, while Germans are the “superior,” and that this was the primary cause of the Holocaust. The Holocaust was the Nazi regime’s premeditated and state-sponsored murder of more than 6 million Jews on the basis of race. These Jews were sent to concentration camps and gas chambers, where they were tortured to death. Such crime exposes society’s narrow-mindedness and disrupts the country’s peace and calm.

One such example is the persecution of minority Hindu Kashmiri Pandits in India. The Muslim majority in Kashmir has made life in the state unbearable for the people who were born there. Kashmiri pandits were given the option of leaving Kashmir or preparing to die. As a result, individuals with guns

1 <https://legalserviceindia.com/legal/article-8812-hate-crime.html>

2 <https://legalvidhiya.com/hate-crimes-their-nature-and-the-laws-connected-with-them/>

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roamed the streets, intending to kill innocent people in order to assert their territorial rights and establish a pure Islamic state. During this time, thousands of Kashmiri pandits were slain. A large number of Kashmiri Pandits fled. Thousands upon thousands of individuals left overnight to save their lives.

Possible ways to deal with hate crimes³

- Awareness Campaigns: Raising awareness about the negative impacts of hate crime on people and society as a whole is the first step in combating it. People can be educated about the effects of hate crime and encouraged to report such instances through mass media campaigns and community engagement programmes.
- Community Participation: Communities may play a significant role in combating hate crime. This may be accomplished by establishing locations for individuals to gather and engage in open and honest talks about the problems that divide them. This can also serve to create greater understanding and respect among diverse communities.
- Use of Technology: Technology may be utilised to improve hate crime reporting and monitoring. This might involve creating on-line reporting systems and employing data analytics to identify hate crime patterns and hotspots. Restorative justice programmes strive to heal harm and develop connections between victims, offenders, and the community. In incidents of hate crime, these programmes can be utilised to foster healing and reconciliation among impacted populations.
- Stricter punishments: Another strategy to combat hate crime is to put harsher punishments on those who engage in it. This may act as a deterrence to those who are thinking about committing hate crimes.

3 <https://www.drishitias.com/daily-updates/daily-news-analysis/hate-crimes-in-india>

Hate speech as a hate crime⁴

Hate speech has no purpose other than to generate hatred for a certain group or community, which can escalate to violence. Hate crimes involve the use of insulting language against any group in order to instill hatred. The Honourable Supreme Court granted a broad meaning of the word hate speech in the case of Pravasi Balai Sangathan versus Union of India.

Hate speech is characterised by incendiary remarks that might pave the way for further apocalyptic attacks on bigger sectors of the marginalised population, whose existence may already be dependent on majoritarian support. These hate statements might also be inspired by politics. One such case may be traced back to Azam Khan's indirect comment that many of the Rashtriya Swayamsevak Sangh's workers are unmarried due to their gay inclination. Returning to Kamlesh Tiwari, the leader of the Hindu Mahasabha, who made a contentious comment against Prophet Mohammed.

As a result, many of these remarks might be considered politically motivated. They are also used to discredit a political party's philosophy. People with radical ideals who support these parties operate as a vote bank for the parties. As a result, hate speeches are a strong weapon that may sow the seeds of prejudice in a community or group and can act as a vandalising force against India's secular nature.

Laws on hate crimes in India

Indian penal code

Some important provisions in the Indian Penal Code address incendiary words and phrases that attempt to penalise hate speech.

- Section 153A of the IPC makes it a crime punishable by three years in jail to promote animosity among distinct groups of people based on religion, race, place of birth, domicile, language, and so forth, and to engage in activities that are detrimental to preserving peace amongst them. If committed at a

4 <https://legalvidhiya.com/hate-crimes-their-nature-and-the-laws-connected-with-them/>

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house of worship or an assembly engaged in religious worship or religious rites, it is punished by a five-year prison sentence.

- Section 295A of the IPC makes it a crime to promote religious hatred against any group of people or religion by insulting their faith or beliefs.
- Any speech that fosters hate or national disaffection against the government is punished as sedition under section 124A of the IPC.
- Section 505 of the IPC makes it a crime to make “statements conducive to public mischief.”
- Furthermore, section 505(1) of the IPC applies to publications, reports, or rumours that inspire military mutiny, produce such dread and concern that individuals conduct crimes against the state or public order, or should urge or promote an offence against a distinct class or group. This is punishable by up to three years in jail.
- Section 505(2) of the IPC criminalises comments that incite hostility, animosity, or ill will between classes.
- According to Section 505(3) of the IPC, committing the same crime at a place of worship or any other assembly that engages in religious worship or religious rites will result in a punishment of up to five years in jail.

1951 Representation of the People Act

The 1951 Representation of the People Act governs the qualification, disqualification, and behaviour of MPs and MLAs. Here are its parts on hate speech:

- Section 8 of the Representation of the People Act, 1951, bars a person from running for office if he is convicted of exercising free speech or expression illegally.
- Promoting hostility based on religion, race, caste, community, or language during elections is an unconstitutional perversion of the democratic process, according to sections

123(3A) and 125 of the Representation of the People Act, 1951.

Case laws

The Honourable Supreme Court held in **Babu Rao Patel vs State of Delhi**⁵ that section 153A of the IPC “does not function exclusively within the confines of promotion of enmity solely on grounds of religion but takes into cognizance other motivations such as race, place of birth, caste or community identity, linguistic affiliation.”

The Supreme Court stated in **Ramji Lal Modi vs State of UP**⁶ that “freedom of speech under Article 19(2) of the Constitution “in the interests of public order” would be valid only if the speech was likely to create public disorder, with its connection to the disorder being proximate.” The court also maintained the constitutionality of IPC section 295A.

Sukumar vs. State of Tamil Nadu⁷ concluded that freedom of speech and expression does not shield individuals from hate speech on social media sites. Article 19 of the Indian Constitution guarantees freedom of speech and expression, but it also acknowledges reasonable constraints on it in Article 19(2).

Conclusion

It has been the practise of the mighty to exploit the helpless from time immemorial. These practises have presented themselves in a variety of ways throughout India, including racism, hate speeches, and maltreatment of minorities. Hate separates society and categorises it into various religions, sects, and so on, which should not be the mind process of any Indian given the country’s pluralism and variety. Those in powerful positions expect obedience from those in inferior positions. The current situation in India is extremely volatile, with reports of hate crimes on the rise. If these crimes are not halted, they can constitute a serious danger to Indian society’s diversity, especially if they are accompanied by public indifference.

5 <https://indiankanoon.org/doc/180564/>

6 <https://indiankanoon.org/doc/553290/>

7 <https://indiankanoon.org/doc/191479360/>

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