



Hate Crimes: Characteristics & the Laws Related to Them

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ABSTRACT

Although the term "hate crime" is not formally defined in any statute, it carries a specific connotation in the modern international context. However, the concept of a "hate crime" is employed in many different legal systems without a consistent or clear definition. Some people use the term "hate crime" to describe any number of insensitive things done to members of minority groups. This includes things that aren't technically crimes, such as discrimination or hateful speech, as well as those that are. This page provides a general overview of what hate crimes are, the nature of them, and the laws that apply to putting a stop to them and preventing them. Doing so will shed light on the reasons for and solutions to hate crimes, revealing a cycle that has sustained countless lives throughout time. Recent ideas have begun to tie patterns of hate crime to economic cycles, demographic flows, and changes in the political environment, despite the fact that the study literature continues to be on a micro scale and is mostly expressive. Keywords- Secularism, freedom of religion, religious crimes, hate crime, hate speech

INTRODUCTION

A crime motivated by hatred toward another person or group of people is known as a hate crime. Hate crimes can violate civil rights, disability rights, and victims' rights. In many nations, both the expression of hatred and its physical manifestation, the commission of a hate crime, are both considered to be crimes punishable by law. In several of these nations, the sentences for hate crimes are much harsher than those imposed for acts motivated by enmity. These are incidents that are characterised by assaults based not only on race and religion, but also on sexual orientation, national origin, handicap status, and gender. The majority of hate crimes are perpetrated by nonprofessional's, which are individuals who attack on a part-time basis and lack any link with structured hate groups.

Some people engage in hate crimes for the sake of amusement and thrills, while others do it under the impression that they are protecting themselves. Others still take up arms in retaliation for an incident that was first begun by a participant from one of the other factions. Few people are currently embarking on a mission, in their view, to cleanse the world of its wickedness. It would appear that many persons who hate are small-minded of others who are not like themselves. Hate crimes committed against certain groups tend to grow and decline in reaction to the presence of impending threats. However, there are certain groups that are reviled more than others. In many places, there is a separate regulation that makes it illegal to commit acts of violence motivated by hatred.

In certain jurisdictions, the penalty for a current or former offence may be raised if it can be shown that the perpetrator was motivated by bias. This is known as a "penalty enhancement" legislation. They've made accusations of, among other things, crimes involving firearms, those done by people with extensive criminal records, and those committed against vulnerable populations including children and the elderly. When compared to other categories of offences, crimes motivated by hatred are significantly more likely to involve acts of physical violence and result in injury. The relationship between the perpetrator and the victim is yet another significant aspect of hate crimes. Hate crimes, unlike many other types of crimes, are often perpetrated by somebody that the victim does not know and has no prior relationship with, such as strangers and people the victim has never met.¹

The victims of hate crimes are not limited to those directly affected by the incident. Everyone who is a part of that group is a victim of the crime, even if it is not directly them. In the last several decades, there has been a concerted attempt to come up with practical legal responses to hate crime as a result of the fact that many hate crimes end in violent acts that are not prosecuted. In his speech to the Rotary club in Kottayam,² the Governor of Kerala, Shri ArifMohammad Khan, remarked that our ancient religious systems have always entailed seeing one in many and many in one.

"On a societal level what we need is a positive approach to not feel threatened by differences. To not eat lies served to us by biased media houses, political parties. But, to understand that differences promote growth. We wouldn't want to live in a world where everything is the same"

MEANING OF HATE CRIME

Hate crimes are primarily crimes that are committed by persons who are strangers to the victims. These crimes include acts of violence that are spurred by animosity and are motivated by factors such as religion, caste, sex, gender, ethnicity, etc. It is a regular crime that has been committed, such as murder, arson, or vandalism, but there is an additional element of prejudice involved. They have an effect on the cohesiveness of communities as well

¹Thomas Streissguth, Hate Crimes (Library in a Book), p. 3. ISBN 0-8160-4879-7 1 (2003).

²Rotary News, <https://rotarynewsonline.org/rotary-quilon-looks-back-at-70-eventful-years/> (last visited Dec. 4, 2022).

as the social safety of its members. In order to protect oneself and one's community, a vigorous response is necessary in a fundamental sense. The motivation of the person who commits a hate crime is what sets it apart from other sorts of criminal activity. However, the occurrence of hate crimes would stay hidden if the criminal justice system did not employ the notion of "hate crime," which identifies the motivation as a crucial component of the crime. If the legal system improved its ability to comprehend these offences and took into account the potential harm that hate crimes may do to a victim, then and only then would it be possible to put a stop to this type of criminal behaviour and take appropriate action against it.

NATURE OF HATE CRIMES

Hate crimes always have two components: a criminal act carried out with a specific thought process, which is referred to in this context as "bias." The first component of a hate crime is that an act is performed that demonstrates that an offence under fundamental criminal law. The second component of a hate crime is that the criminal act is carried out with a particular thinking process, which is referred to in this context as "bias." Hate crimes are distinguished from other types of crimes by the presence of a biased cognitive process. This lends credence to the notion that the offender chose the target of the crime on purpose with the intention of exploiting a vulnerability in the system. Hate crimes can be done for many different reasons, including:

1. The criminal may have been motivated to commit the crime by a number of factors, including animosity, envy, or a desire to belong with their peer group.
2. The perpetrator may feel nothing at all toward the specific victim, but his or her thoughts or sentiments about the group to which the victim belongs make them a credible threat.
3. The offender may feel resentment toward anyone who is different from or not a part of the group to which the offender identifies.
4. It's possible that the offender's resentment is directed solely against an abstract concept like moving away or living abroad, in which case the target would merely symbolise that concept.

Hate crimes continue to occur, with devastating effects on both the individual victim and the victim's community, despite the fact that many states have implemented unique and varied legislation to identify and punish such offences.

LAWS AGAINST HATE CRIMES AND THEIR NECESSITY

If the appropriate measures aren't taken to deal with hate crimes, the legal system might be in for a major catastrophe. If hate crimes were handled the same way as other crimes, this may create a significant problem if it wasn't classified as a distinct offence. Certain features may be noticed when it comes to investigations, prosecutions, and punishments of hate crimes that aren't handled properly. It only takes a small number of incidents like these for already-vulnerable populations who have been victimised by hate crimes to become disillusioned with the way law enforcement officials are responding to the problem. By codifying the social judgement of hate crimes into legislation, we may influence networks, provide room for proclamation inside the criminal ownership system, and repair social rupture. There has been an increase in the number of people who argue that laws criminalising conduct motivated by hatred are unnecessary since they provide additional punishments for behaviours that are already punished under existing criminal law. In a number of nations, laws that were enacted with the intention of preventing crimes motivated by hatred have been enforced. Words and images that incite hate toward certain racial, ethnic, and religious groups are illegal at all three levels of government in Australia, for example. This includes the federal, state, and territory levels. Following the lead of other countries with anti-discrimination statutes, Australia has outlawed any behaviour that may be seen as "vilification" or "racial hatred," while the United Kingdom and Canada have passed legislation designed to prevent violence against minority groups, and Germany has outlawed public incitement and the provocation of racial hatred, which includes the dissemination of Nazi propaganda or material likely to dishonour the youth. However, the vast majority of legislation enacted in nations other than the United States has a narrow and insignificant perspective on hate crime, focusing largely on acts of violence motivated by race, ethnicity, and religion. Furthermore, hate crime laws do not exist in the majority of countries that are not Western.

In the case of *Tehseem S. Poonawala vs. Union of India*³, the then Chief Justice of India, Deepak Mishra, stated that "India is turning into a mobocracy." These kinds of occurrences contribute to the maintenance of the legal system. Advocate Reepak Kansal submitted a petition in the year 2020, asking for necessary adjustments to be made in the provisions of the Indian Penal Code (IPC) that deal with sexual assault, in order to include "transgender/transsexual/kinnar in the definitions and to direct the government to adopt gender-neutral legislation on sexual harassment."⁴ The petition was filed in response to Kansal's previous petition, which had been submitted in the year 2020. It has been brought to everyone's attention that people who identify as belonging to a third gender are not afforded many of the rights and benefits that other people in this nation take for granted as a result of their citizenship.⁵

HATE CRIMES IN INDIA UNDER INDIAN PENAL CODE 1860

- **Section 153a:**Inciting hostility between various communities on the basis of factors such as "religion, race, place of birth, domicile, language, and so on," as well as engaging in activities that are detrimental to the preservation of peace. It will result in a fine as well as a possible jail sentence that might last up to five years, depending on the severity of the offence.⁶

³Tehseem S. Poonawala vs. Union of India (2018) 9 SCC 501.

⁴Express News Service, Sexual violence against transgenders: SC notice to Centre on plea for changes in law, The Indian Express (Dec. 01, 2022, 9:29 PM), <https://indianexpress.com/article/india/sexual-violence-against-transgenders-sc-notice-to-centre-on-plea-for-changes-in-law-6722761/>.

⁵The Crown Prosecution Service, <https://www.cps.gov.uk/crime-info/hate-crime> (last visited Dec. 5, 2022).

⁶Indian Penal Code, 1860, §153.

According to the court's decision in *Babu Rao Patel v. State of Delhi*,⁷ section 153A "does not confine itself to promotion of enmity solely on grounds of religion but inter alia takes into cognisance other motivations such as race, place of birth, caste or community identity, linguistic affiliation," among others.

- **Section 153B:** "imputations, assertions prejudicial to national –integration" are considered to be illegal under section 153B of the Indian Penal Code.
- **Section 295A:** Acts that are "deliberately and maliciously intended" to "outrage religious feelings of any class by insulting its religion or religious beliefs" are punishable under Section 295A of the Indian Penal Code.

In the case of *Ramji Lal Modi v. State of Uttar Pradesh*,⁸ The Supreme Court made it abundantly clear that it believes the language "in the interest of public order," which is referenced in article 19(2), encompasses a far broader scope than the phrase "maintenance of public order." This is because the banning of an act will be seen as justified if it is considered to be "in the interest of public order," even if the conduct in question does not cause any disturbances in public order. The court reiterated the ideals of national integrity and peace in its decision to preserve the legality of section 295A of the International Criminal Code.

- **Section 505c:** with the intention of "inciting or which is likely to provoke, any group or community of people to commit any offence against any other group or community." It will be punishable by incarceration for a period of up to "three years", a fine, or both of those things, depending on the severity of the crime.⁹

It was determined in the case of *Bilal Ahmed Kaloo vs. State of Andhra Pradesh*¹⁰ that sections 153A and 505(2) of the Indian Penal Code share the same trait of criminalising "the promoting of feelings of enmity, hatred or ill-will between different religious, racial, linguistic, regional, caste, and community groups and doing acts prejudicial to maintenance of harmony." In order to qualify under this provision, there must be participation from a minimum of two of these types of groups or communities. A simple act of harming the sentiments of one community or group without any connection to another community or group will not entice either of the two groups. According to the "Indian Penal Code (IPC), Sections 153A, 153B, 295A, 298, 505(1), and 505(2)25," statements, whether said or written, that incite hate, discord, or insults on the basis of religion, ethnicity, culture, language, area, caste, community, race, etc. are in violation of the law and are subject to legal repercussions. Other statutes with anti-hate speech prohibitions include the Information Technology Act of 2000, the Unlawful Activities (Prevention) Act of 1967, and the Representation of the People Act of 1951.

In the case of *PravasiBhalaiSanghathan v. Union of India & others*¹¹ the Honourable Supreme Court of India came to the conclusion that the subject of hate crimes required a more in-depth investigation by the Law Commission of India. As a consequence, the Law Commission of India issued a report proposing changes to the Indian Penal Code, 1860, including new provisions on 'prohibiting incitement to hatred' in accordance with Section 153B of the IPC and 'creating fear, alarm, or instigation of violence in certain situations' in accordance with Section 505 of the IPC.

Sensitization, Community Policing, Awareness of the Problem of Hate Crimes is Important, Youth Involvement and Counselling, Law Enforcement and Prioritizing Hate Crimes, Training for Officers and Deputies, Create a Special Task Force on Hate Crimes are some of the measures that may be taken to prevent hate crimes in India. Criminal activity motivated by hatred is a risk to the social community. It poses a significant danger to the cohesion and tranquilly of India, which is a very diverse nation. As a result, collaborative action consisting of proactive efforts taken by both the community and the government is required and essential.

CONCLUSION

Despite the fact that hate crimes are not widely recognised as a distinct type of criminal offence, their significance as a threat to the safety of communities and the people who live within them has been recognised on both the state and the national level. As a result of the widespread devastation and disorder that hate crimes bring into the lives of their victims, the perpetrators of these crimes have to be dealt with in a manner that is distinct from that of other criminals. Crimes motivated by hatred can take many forms and are committed in a variety of varied ways around the world. Hate crimes should be handled seriously and should be stopped as soon as it is practically practicable to do so, given the current state of affairs. According to the laws described above, it is abundantly evident that there is an enormous necessity to have an ever-increasing level of strictness towards the rules dealing to issues linked to hate crimes all over the world. Because of this, consumption is nearly impossible, which is not in the least bit healthy for our multi-ethnic culture. Extremists and discriminators are responsible for making sure crimes of this nature occur. When all of these factors are considered, there is an immediate and critical requirement for new and different legislation as well as stringent implementation methods to ban such hate crimes. It is important to acknowledge that the nature of these offences is fundamentally distinct from that of other types of violent crime; as a consequence, it is necessary to examine them from a different perspective. By adhering to these protocols, we can stop hate crimes from spreading like a disease across our society.

⁷ Babu Rao Patel v. State of Delhi (Delhi Admin) (1980) 2 SCC 402: 1980 SCC (Cri) 500: AIR 1980 SC 763: 1980 Cri Lj 529 (1980) 6 ALR 321.

⁸ Ramji Lal Modi v. State of U.P., 1957 SCR 860: AIR 1957 SC 620: 1957 Cri Lj 1006.

⁹ Indian Penal Code, 1860, §505.

¹⁰ Bilal Ahmed Kaloo v. State of A.P (1997) 7 SCC 431.

¹¹ Pravasi Balai Sangathan V. Union of India & Ors, AIR 2014 SC 1591.