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HATE CRIMES IN INDIA

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Abstract:

There is no room for crime in a secular country 'the supreme court said. The apex court expressed distress over the huge delay in lodging FIR in an incident where a Muslim man was robbed by a gang while waiting to travel to Aligarh. There is no room for hate crimes in a secular country like India. If we have it, it should be rooted out. Any person irrespective of caste, creed, gender, and religion can walk freely at any point in time. Justice K. M. Joseph heading the division bench said.⁹¹

INTRODUCTION TO HATE CRIMES

Hate crime is known as a bias-motivated crime or bias crime. Hate crimes generally refer to criminal acts that are motivated by bias against one or more social groups. When a perpetrator targets a victim because of their membership in certain groups which are exclusively limited to nationality, physical appearance, ethnicity, and disability.

The term 'Hate crime' originated from common usage in the United States during the 1980s. A major part that determines hate crimes is determining whether they are committed against the members of the oppressed groups. Hate speech is different from hate crimes as it is the use of offensive language against a person belonging to a particular community based on certain characteristics such as race, religion, etc.⁹²

Hate crimes are not new to a diverse country like India where many religious groups co-exist. These are also known as communal riots. The anti-Sikh riots after the assassination of prime minister Indira Gandhi are an example of hate crime. The political atmosphere influences hate crimes. There were 84 incidents of hate crimes between October 2021 and March 2022 in the poll bounds of states where assembly elections took place. These incidents take place due to political statements made by politicians targeting a specific religious community. 'Cow vigilantism' is another form of hate crime that became more prominent in recent times. It can be explained as the use of force by various mobs in the name of cow protection. Minorities who historically relied upon beef, leather, and cattle industries were targeted. Hate speech is also prominent in the recent world. It is the use of offensive language to indicate hatred against the members of a particular community. The freedom of speech and expression guaranteed by our constitution are often misused by the people⁹³

HATE CRIMES: A DETAILED VIEW

Hate crimes are motivated by intolerance towards certain groups in society. They have two main elements, that is the act should be a crime in the criminal procedure code and the crime should be committed with a biased motivation. The target of the perpetrator can be a person, a group of people, or a property owned by the group. The prejudices against a person are demonstrated through the attack. Hate crimes can also target people who are

⁹¹ Indian express, <https://indianexpress.com> › India [last visited on 6th March 2023]

⁹² Wikipedia, https://en.wikipedia.org/wiki/Hate_crime [last accessed on 9th March 2023]

⁹³ Tulika Singh, 'Hate crimes in India: An analysis' jus corpus, [last accessed on 9th March 2023] <https://www.juscorpus.com/hate-crimes-in-India-an-a>

merely associated with the targeted people. The bias of the crime does not necessarily have to be the sole motivation. For example, robbing a disabled person is perceived as an easy target because of his disability, and this can also be combined with financial gain. Members of minority communities often become the frequent targets of these hate crimes. These crimes can also affect the property associated with the person belonging to the targeted groups such as places of worship etc.

Each hate crime should be treated equally regardless of the victim and the offenders. Perpetrators always tend to morally justify their acts. If they are not effectively punished by the communities, they will continue to do such acts which will result in an increasing number of hate crimes. These offenders start by committing minor crimes and often engage in more violent ones. Therefore, firm responses are required for minor offenses. If the targeted person or a community is harmed by the messages and acts of the perpetrator, they will feel unsafe and unprotected. They will retaliate against the offenders in groups creating a spiral of violence. Therefore, state authorities should strongly respond and break this chain before moving into further violence.

Bias indicators are the tools for identifying these hate crimes. Police and prosecution should use this indicator to investigate further about perpetrators' motive⁴ term hate crimes and hate motive can be confusing. Crimes motivated by hatred are not always considered hate crimes. For instance, a person murdering with hatred is not termed as a hate crime. There are certain motives behind hate crimes. The offender may be motivated by many factors such as hatred, jealousy, anger, or desire for acceptance from his peers. The perpetrator may not have any personal problems against the victims but only with his group⁹⁴.

WHAT IS HATE SPEECH?

Hate speech is a speech that carries no other meaning than the expression of hatred towards a specific group. It can provoke violence in certain circumstances' case *Pravasi Balai Sangathan v Union of India & Ors*⁹⁵ held that hate speech is an effort to marginalize individuals based on their membership in a group. The impact of these hate speeches can attack an entire community. These attacks may assume the form of violence, segregation, deportation, and even genocide. The ultimate intention of hate speech is to suppress the group of weaker sections⁹⁶.

There are three main categories of hate speech. The first one is dehumanization and demonization. Dehumanization of a group involves the equating of human beings to subhuman entities such as cats, pigs, fish, dirt, or even filth. Most two political outcomes can be achieved through their correct conveyance. Demonization refers to the portraying of a group as superhumans like robots or fatal diseases like cancer. The next one is violence and incitement. Dehumanization and demonization depict these groups negatively, but they never call for violence. Inciting violence among a particular group is a crime. The third category is called "early warnings", early signs can prevent more intense language. A very early sign to hate speech is created by distinguishing them as separate groups with variant beliefs and ideas. These are mild forms that only involve referring to groups with negative traits such as stupidity, laziness, and dishonesty.

Further categories differ in their intensity. To make this intensity more accurate and easier an intensity scale is prepared for the same. Different colors depict the intensity scale. The green color of the scale depicts disagreement with an idea and belief. It is the earlier stage. Disagreement makes this category an early warning for future crimes. The second, which is yellow, depicts nonviolent negative actions involved with the group such as the group

⁹⁴ OSCE Office for Democratic Institutions and Human Rights (ODIHR), "Understanding hate crimes in India, Pg no.7,8,9,2015, www.osce.org/odhr"

⁹⁵ *Pravasi Balai Sangathan V. Union of India & Ors*, AIR 2014 SC 1591

⁹⁶ Legal service in India, <https://www.legalserviceindia.com> [last accessed on 9th March 2023]



stealing from a positive event. The third category is negative nonviolent characterization and insults. It is worse than the second category. The fourth category which is depicted by the orange color shows dehumanization and demonization's fifth and sixth categories, red and black are defined as the most intense ones. Those are violence and death.⁹⁷

In privately expressed forms of hate, there will not be any expressions containing hatred towards certain individuals and groups daily. Some individuals may express their harsh opinion on certain groups only in private communication. They are not usually termed hate speech as they do not publicly invite hatred towards a group or a society. That is not considered a human rights violation and is not punishable. That is not the case when it comes to publicly expressed hate crimes. They are very serious and are punishable under the law. Hate speech seems to be tolerated more online as it is easy to be abusive in online mode compared to offline. Real-life situations are hard to control. Sometimes hate speech online will be equal to hate speech offline. In this century the internet provides a huge platform that will spread these speeches like wildfire. Comments are not removed, and it leads to a timely **war**⁹⁸.

HATE CRIMES UNDER THE INDIAN PENAL CODE

Hate crime is dangerous and can spread through an entire community creating violence and destruction crimes are punishable under the Indian penal code, the Representation of peoples act 1951, and the Information and technology act 2000.

I. Hate crimes under the Indian penal code

A.IPC section 153A

⁹⁷ Anuparna Chatterjee1 and Sadiya Afreen, THE SUBVERSIVE TENDENCIES OF RELIGIOUS MAJORITARIANISM: THE RUBRIC FOR HATE CRIMES IN INDIA,6&7, [2020] <https://papers.ssrn.com/sol3/papers>

⁹⁸ Babak Bahador" Classifying and identifying the intensity of hate speech, social science research council [November 17, 2020, at 10:05 am] <https://items.ssrc.org/classifying-and-identifying-the-in>

This section punishes whoever promotes enmity by words either spoken or written or by any signs or by visible representation or otherwise promotes or attempts to promote on the grounds of **religion** race sex, caste, place of birth, residence or any other grounds creates disharmony or feelings of enmity, hatred or ill will between different religions, racial languages or regional groups or castes or communities or commits any prejudicial acts to the maintenance of harmony between different groups and which disturbs public tranquility. Organization of any such exercise, movement or drill, or other similar activity intending that the participant in the activity shall use force or trained to use criminal force or violence against any regional group, caste, or community and such act is likely to cause fear, alarm or feeling of insecurity among the members of such groups shall be punished with imprisonment up to three years, fine or both.

B.IPC section 153B

Whoever commits these offenses specified in subsection [1]in any places of religious worship or religious ceremonies shall be punished with imprisonment of up to five years and a fine.

C.IPC section 295A

This section states that whoever with deliberate and malicious intention outrages the religious feelings of any class of any citizens of India by words either spoken or written or by any signs, gestures or places any object in the sight of that person, insults or attempts to insult the religion or religious beliefs of that class shall be punished with imprisonment extending up to three years or fine or with both.

C.IPC section 298

Whoever utters any words or makes any sounds or gestures in the hearing and sight of that person wounding their religious feelings shall be punished with imprisonment for up to one year or a fine or with both.

D.IPC section 505[2]



Whoever makes, publishes, or circulates any statement or report containing rumor or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

E.IPC section 505[3]

An offense under sub-section (2) committed in place of worship, etc. Whoever commits an offense specified in sub-section (2) in any place of **worship** or any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years, and shall also be liable to fine⁹⁹

II. The representation of peoples act 1951

It is an act of the parliament of India, and it provides the conduct of elections of the houses of parliament and to the houses of legislature of each state. This act includes the qualifications and disqualifications for membership of those houses, corrupt practices, and other offenses in connection with elections and the decision of doubts and disputes arising out of such decisions. The act was enacted under article 327 of the Indian constitution.¹⁰⁰

III. Information act 2000

Information and technology act 2000 under section 66A punishes the person who sends using computer resources or communication service any information that is grossly offensive or has a menacing character or any information known to be false but for causing annoyance, inconvenience, danger, obstruction, injury, insult, criminal intimidation, enmity,

hatred or ill will persistently by making use of such devices or any information in the form of electronic mail for causing annoyance and inconvenience or to deceive or mislead the addressee or the recipient about the origin of those messages shall be punishable with imprisonment for a term extending up to three years and fine.¹⁰¹

WAY FORWARD

India has witnessed a vast number of hate crimes during the past years. In 2018 two Muslim men were beaten by mobs in Jharkhand and Mumbai. They were demanded to shout, 'Jai Shri Ram'. It was so merciless that one of them died. In Tripura, a tribal man was lynched for being a suspected-on cattle theft. 24 men were accused of being cattle smugglers and beaten up. They were forced to shout, 'Gau Mattha Ki Jai'.

Hate crimes have increased over the past years. Many studies clearly show that 721 incidents were documented by Amnesty International honor killings and cow-related violence were the most common ones. Hate crimes are also very frequent on social media. Internationally India is added to the growing list of countries that were more prominent in hate crimes. Concerns are rising both internationally and domestically. We have strict laws and sections in the Indian Penal code which punish and prevent hate crimes but only a few policemen are aware of them. Hate speech always encourages violence and motivates hate crimes. The accused will be released on bail and the prosecution will take years.

Many countries have taken steps to prevent hate crimes. France has drafted a bill that prohibits hate crimes. Germany has already enacted its criminal procedure code for dealing with the sentencing of hate crimes and they have already enacted a bill. More steps should be taken in our country to end the menace of

⁹⁹ K.D.Gaur, Indian Penal Code, 1038 [lexis Nexis 2020]

¹⁰⁰ Wikipedia, https://en.wikipedia.org/wiki/Representation_of_peoples_act_1951 [last accessed on 10th March 2023]

Representation of peoples act 1951

¹⁰¹ Indian code, <https://www.indiacode.nic.in/show-data> [last visited on 10th March 2023]

Information technology act 2000

hate crimes. Police should ensure and take proper actions including the protection of witnesses. Fast-track courts should be set up and actions should be taken against those officials and policemen who failed to do their part. The legislature along with the political parties can suspend the members who deliver hate speeches. Recording of hate crimes should be strengthened. Electronic modes should stop publishing hateful comments and threats. Courses should be given in schools about the directive principles of the Constitution¹⁰².

CONCLUSION

Hate crimes are like a virus that spreads quickly and has the power to destroy a whole country. It should be prevented from the starting stage to avoid more violent clashes and death. It can even lead to death. State authorities should take strict actions and ensure the safety of the people. Although laws are enacted they should be made applicable in every state. The areas which are prone to hate crimes should be strictly supervised especially during election time. Martin Luther king once said "Darkness cannot drive out darkness, only light can do that. Hate cannot drive out hate only love can do that"

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