

HATE CRIMES: LAW & IMPACT

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ABSTRACT

Hate crimes¹, fueled by prejudice and bias, represent a disturbing part of contemporary society. They are referred to as criminal offenses committed by a more extensive group against a specific individual, group, or community, usually on socio-religious or racial grounds. This article explores the multifaceted nature of hate crimes, delving into their origins and impact on targeted communities. Additionally, it provides an in-depth analysis of how the law addresses these offenses, examining the complexities around hate crime legislation, prosecution, and prevention strategies.

NATURE OF HATE CRIMES

Hate crimes have become an alarming phenomenon in today's diverse and interconnected world. This article aims to elucidate the nature of hate crimes, shedding light on the motivations that drive individuals to commit acts of violence, harassment, or vandalism against others based on their race, ethnicity, religion, etc. It is, however, not a new phenomenon but is prevalent throughout history.

The Holocaust² in Germany is a prime example of hate crimes. The Holocaust was mainly caused by the feeling of anti-Semitism³, which saw Jews as a racially "inferior" group within society and Germans as the "superior." The planned and state-sponsored extermination of over 6 million Jews by the Nazi regime on the basis of race was known as the Holocaust. Jews were detained in concentration camps, put in gas chambers, and tortured until they died. Such crimes sabotage other groups' and society's peace and tranquillity.

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¹ U.S. Department of Justice, 'Learn About Hate Crimes' (U.S. Department of Justice, 21 July 2023) < [Hate Crimes | United States Department of Justice | Hate Crimes | Learn More](#)>

² Micheal Berenbaum, 'Holocaust' (Britannica, 18 Nov 2023) <[Holocaust | Definition, Concentration Camps, History, & Facts | Britannica](#)>

³ *Ibid*

In India, the persecution of the minority Hindu Kashmiri Pandits⁴ is also one such example. The Muslim majority in Kashmir made the Pandits leave Kashmir or be killed. This led to men on the streets with weapons, intending to kill innocent people to claim their territorial rights. Thousands of Kashmiri Pandits were killed during this period, and several thousand people had to leave their homes and flee to save themselves.

Understanding the roots of hate crimes requires an exploration of the motivations behind such acts. Hate crimes often stem from deep-seated prejudices against particular groups. It is often rooted in historical biases, cultural tensions, or personal grievances. The crimes manifest in many forms, including physical violence, verbal abuse, vandalism, and cyberbullying. These offenses impact more than just the individual victims and affect the entire community. The psychological and sociological consequences of hate crimes have adverse effects on social cohesion and trust.

LEGAL PERSPECTIVE ON HATE CRIMES

Jurisdictions worldwide have responded to the rise in hate crimes by enacting legislation specifically designed to address offenses committed with a biased motive. The imposition of enhanced penalties for offenses is required to control and prevent hate crimes. For example, the punishment for assault and vandalism may be more severe if the crime was motivated by hatred against that race, religion, or any other protected characteristic. However, persecuting hate crimes presents a unique challenge as the perpetrator's discriminatory intent must be proved first.

Several mechanisms have been put in place to track and report hate crimes separately from other criminal offenses. This helps law enforcement, and policymakers understand the prevalence of hate crimes and develop strategies to address them. Reliable data is crucial for tracking and understanding the prevalence of these crimes, yet the issue of underreporting still needs to be addressed. Analyzing reporting mechanisms and data collection practices shows the disparities and the scope of the problem.

In addition to punitive measures, many jurisdictions implement educational programs and community outreach efforts to prevent hate crimes. These programs help promote

⁴ India Today Web Desk, 'Exodus of Kashmiri Pandits: What happened on January 19, 26 years ago?' (India Today, 19 Jan 2016) < [Exodus of Kashmiri Pandits: What happened on January 19, 26 years ago? - India Today](#)>

understanding, tolerance, and inclusivity between communities. Community-based education dialogues and similar initiatives help build inclusivity and play a pivotal role in challenging discriminatory beliefs and hate.

HATE SPEECH

Hate speech⁵ is defined as any communication, conduct, or expression that offends, threatens, or insults a person or group based on attributes such as race, religion, gender, etc. It often seeks to demean and dehumanize individuals or communities, creating an atmosphere of hostility. Classifying hate speech as a hate crime involves recognizing it as a criminal act committed with bias or prejudice. This elevates the offense from mere offensive speech to a criminal act, acknowledging its potential to incite violence or contribute to a climate of fear and intimidation.

Many countries have implemented legislation addressing hate speech. The legal laws vary widely, reflecting the cultural, historical, and political differences of countries. In the United States, for example, the First Amendment⁶ protects free speech, making it challenging to criminalize hate speech, emphasizing the need to balance freedom of expression and the need to protect individuals from harm.

A strong message that hate speech is unacceptable and will have legal repercussions is sent when it is recognized as a hate crime. It also serves as a deterrent, discouraging people from speaking in a way that encourages violence and discrimination. The acknowledgment will also give vulnerable groups more protection and aid in holding people accountable for the harm that their words have caused.

The Supreme Court provided a broad definition of hate speech in the *Pravasi Sangathan v. Union of India*⁷ case. It was defined as “an effort to marginalize individuals based on their membership in a group which seeks to delegitimize group members in the eyes of the majority, reducing their social standing and acceptance within society.”

⁵ William M. Curtis, ‘hate speech’ (Britannic, 26 Nov 2023) < [Hate speech | Definition, Examples & Consequences | Britannica](#)>

⁶ Eugene Volokh, ‘First Amendment’ (Britannica, 26 Nov 2023) < [First Amendment | Contents, Freedoms, Rights, & Facts | Britannica](#)>

⁷ *Pravasi Bhalai Sangathan v. Union of India*, (2014) 11 SCC 477

WHY ARE HATE CRIME LAWS REQUIRED?

Hate crimes are frequently not appropriately dealt with if they are not classified as distinct crimes. This is particularly evident in the way that people act, for example, when experts cast doubt on the victim and fail to thoroughly investigate allegations of biased motive. Certain patterns can be seen in cases of inadequate hate crime investigation, prosecution, and punishment. When an individual belonging to a marginalized community is the target of criminal activity, prejudice may cause the victim to be portrayed as the guilty party. Communities impacted by such incidents become disenchanted with the way law enforcement responds to them. Conversely, the victims are comforted by the officials' open admission of their bias and the fact that their experience has been fully understood. The creation of hate crime laws can motivate the trust of different individuals in the legal system and assure them that the crimes will not go unpunished. The laws can help in fixing the problem of hate crimes and act as a measure to deter individuals from partaking in them.

LAWS RELATING TO HATE CRIMES IN INDIA

In India, there are no separate laws to deal with hate crimes. However, several sections of the Indian Penal Code (IPC)⁸ take hate crimes into consideration. While these laws are helpful in deterring hate crimes, they are inadequate in effectively preventing hate crimes.

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Important sections of the Indian Penal Code dealing with hate crimes are:

- "Promotion of enmity between different groups on the grounds of religion, race, place of birth, residence, language, etc., and committing acts prejudicial to the maintenance of harmony" is punishable under Section 153A⁹ of the IPC.
- "Imputations, assertions prejudicial to national integration" are punishable under Section 153B¹⁰ of the IPC.

⁸ Central Government Act, Indian Penal Code, 1860, Indian Kanoon <[The Indian Penal Code \(indiankanoon.org\)](#)>

⁹ Vedika Goel, 'Section 153 and 153A IPC, 1860' (iPleaders, 28 May 2022) <[Section 153 and 153A IPC, 1860 - iPleaders](#)>

¹⁰ Central Government Act, 'Section 153B in The Indian Penal Code', Indian Kanoon <[Section 153B in The Indian Penal Code \(indiankanoon.org\)](#)>

- The IPC penalizes "publication or circulation of any statement, rumor, or report causing public mischief and enmity, hatred, or ill-will between classes" under Section 505(1)¹¹ and (2)¹².
- "Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs" are punishable under Section 295A¹³ of the IPC.

Provisions other than the sections mentioned above that talk about hate speech include the Representation of People Act (RPA) 1951¹⁴. Sections 8, 8A, 123, 123(3), and 125 deal with the offense of hate speech.

OTHER SIGNIFICANT CASES ARE

The Supreme Court ruled in the case of Babu Rao Patel v. State of Delhi¹⁵ that section 153A of the IPC considers various factors, including race, place of birth, caste, and other factors, in addition to promoting animosity based only on religious beliefs.

In the case of Ramji Lal Modi v. State of U.P.¹⁶, it was held that freedom of speech under Article 19(2) of the Constitution in the interest of public order would be valid only if that speech were likely to create public disorder with its connection to the problem being proximate. The court also upheld the constitutional validity of section 295A of the IPC.

Clarification regarding the type of law required to stop similar crimes from happening in the future is desperately needed. Gaps ought to be filled and eliminated as quickly as feasible. These crimes encourage violence against people who practice different religions, speak different languages, or are of different ethnicities, upsetting the social order and harmony of the community.

¹¹ Central Government Act, 'Section 505(1) in The Indian Penal Code', Indian Kanoon <[Section 505\(1\) in The Indian Penal Code \(indiankanoon.org\)](http://indiankanoon.org)>

¹² Central Government Act, 'Section 505(2) in The Indian Penal Code', Indian Kanoon <[Section 505 in The Indian Penal Code \(indiankanoon.org\)](http://indiankanoon.org)>

¹³ Central Government Act, 'Section 295A in The Indian Penal Code', Indian Kanoon <[Section 295A in The Indian Penal Code \(indiankanoon.org\)](http://indiankanoon.org)>

¹⁴ Central Government Act, The Representation of the People Act, 1951, Indian Kanoon <[The Representation of the People Act, 1951 \(indiankanoon.org\)](http://indiankanoon.org)>

¹⁵ Supreme Court of India, Babu Rao Patel v. State of Delhi, 1980, SCC (2) 402

¹⁶ Ramji Lal Modi v. State of U.P., 1957 SCR 860

ARE HATE CRIME LAWS DISCRIMINATORY?

A few critics of the hate crime laws mention that the laws tend to provide more security to certain groups than others and, therefore, may be oppressive. Even though hate crimes are frequently carried out against individuals from minority communities, they can still happen against bigger groups as well. In such cases, the perpetrators may belong to a minority group, and the target may have been selected due to them being part of a majority group, or both the perpetrator and target may be members of different minority groups.

There is a need for balance in the law to ensure that the hate crime laws do not protect one group over the other. For example, if a hate crime law incorporates ethnicity as a characteristic and does not mention a specific one, such a law could be an unfortunate casualty of any race, including a majority one.

CHARACTERISTICS OF THE LAW

Although all laws against hate crimes have similar features, some laws must include specific terminology and language in order to be effective. One of the most crucial components of anti-hate crime laws is the selection of protected characteristics. There isn't a precise solution or set of rules for what qualities should be included. But these are usually the ones that are more noticeable to others and, as a result, more concentrated on by the guilty parties. Race, sexual orientation, religion, and disability are a few examples of protected qualities.

Some people are not the victims of crimes because they belong to a particular group. The victims are frequently chosen because of their relationships with other people who share the same quality rather than because they possess it. The victim may also have been chosen by the criminal because of their false impression of the victim's affiliation with a specific organization. An example of this is how Muslims were treated and the subsequent spike in crimes against them following the terrorist attacks in New York on September 11, 2001¹⁷.

The availability of evidence determines whether or not a charge should be filed under a particular arrangement. The ability to demonstrate that a crime was committed with bias determines whether it qualifies as a hate crime. The nature of the crime, the type of law that

¹⁷ Peter L. Bergen, 'September 11 attacks' (Britannica, 21 Nov 2023) <[September 11 attacks | History, Summary, Location, Timeline, Casualties, & Facts | Britannica](#)>

needs to be examined, and any additional legislative provisions regarding the proof that may have an impact on the crime's determination.

Hate crimes typically have a complicated justification. A mixed rationale suggests that the offending party may have been motivated by more than one goal when they committed the crime. Research has revealed that hate crimes are occasionally perpetrated for motives other than the perpetrator's personal bias, despite the well-known creation of "average" wrongdoing, which occurs solely because of the offender's bias. Situational circumstances frequently have a more significant impact on offenders than their opinions regarding the objective gathering.

CONCLUSION

Hate crimes manifest themselves in many ways, such as racism, hate speeches, or abuse of minority groups. Hate divides society and categorizes them into different groups, and these groups are treated differently and with discrimination. Such practices should be stopped as they disturb the harmony and peaceful co-existence of different people in society, especially in a country as diverse and plural as India. Existing legislation has proven to be insufficient in preventing such crimes from occurring. This issue can only be addressed by introducing stringent laws and ensuring their strict implementation. There is a need to bring reforms to the existing laws and make specific legislation for such crimes in order to achieve the ideals of equality, fraternity, and integrity.

This article provides a comprehensive examination of the nature of hate crimes and the legal framework designed to address them. By understanding the motivations behind hate crimes, analyzing legal perspectives, and exploring societal implications, there can be the promotion and development of holistic strategies that promote tolerance, inclusivity, and the eradication of prejudice from our communities.