

Hate Crimes and Legal Protections: Efficacy of Anti-Discrimination Laws

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Abstract - A crime perpetrated against an individual, their property, or society with the intent to harm them because of their race, religion, disability, sexual orientation, or ethnicity or national origin. Even though it lacks binding legal force, this term has widespread acceptance. It's usually aggressive, although there are more nuanced kinds as well. When someone is assaulted because to their membership in a certain group, this kind of crime takes place. This is common in many countries throughout the globe. And the same holds true for India. There are many different types of hate crimes committed in India, the most common of which are those based on religion or caste. Although mob lynching is not explicitly forbidden by law, it is against the law to use hate speech or to incite animosity between groups. Sections 153, 153-A, 295-A, and 298 of the Indian Penal Code (IPC) contain the relevant legislation.

Keywords: Hate crime; hate-crime laws; history; origins, Civil Society

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INTRODUCTION

The immediate victim and the group with whom the victim identifies are both profoundly affected by hate crimes, which are violent expressions of intolerance. Social stability and community cohesiveness are impacted. Therefore, for the sake of personal and community safety, a strong reaction is required. When investigating a hate crime, it is important to determine the perpetrator's motivation. However, investigators never go into enough depth to uncover the true reason for a crime since motive is often immaterial in establishing the fundamental parts of a crime. The absence of a "hate crime" definition in a criminal justice system would lead to the invisibility of hate crimes since the motivation would not be acknowledged as a crucial component of the offense. The truth is that every country has its fair share of hate crimes. There is a correlation between the prevalence of hate crimes and the efficiency of a country's data collecting systems. But in many nations, information gathered from social surveys, NGOs, and other watchdogs might reveal an issue that current mechanisms are failing to identify and resolve. The victim and their community are profoundly affected by hate crimes, regardless of whether governments have enacted specific legislation to combat them. The harm caused by hate crimes may be reduced if law enforcement, prosecutors, and courts are educated on how to recognize and handle such crimes. The application of regulations that might result in harsher punishments for hate crimes is patchy throughout the numerous

OSCE states. The chances of law enforcement officers using legislation are higher if the language is simple, straightforward, and easy to comprehend. Where laws are successful, they also provide a structure for identifying instances and collecting data. While laws alone won't solve the issue of hate crimes, they may be a strong force for positive social change when paired with other strategies.

States may combat hate crimes in several ways; hate crime laws are only one of them. Education, outreach, and training are just a few of the many components of an all-encompassing national effort to fight bias-motivated violence. Particular measures might include:

- Providing instruction to law enforcement officers on how to conduct hate crime investigations, assist victims, and bring charges to justice;
- Gathering precise information about bias-motivated crimes, irrespective of whether such offenses are characterized as hate crimes or not;
- Making civil anti-discrimination laws available for remedy;
- Creating anti-discrimination organizations whose mission is to aid discrimination and hate crime victims;

- Building trust between community organizations and law enforcement to encourage victims to come forward and report crimes; and
- Spreading messages of acceptance and non-discrimination via public education, particularly among youth.

State governments may rely on the resources provided by the ODIHR to aid them in all of these endeavours, and the organization can provide several forms of assistance in the fight against hate crimes. In Part III, under "ODIHR's Hate Crime Toolbox for participating States" and "ODIHR's Hate Crime Toolbox for Civil Society," you may find details of current support programs.

LITERATURE REVIEW

King, Ryan. (2009). Research of crimes perpetrated out of bigotry or prejudice, sometimes referred to as hate crimes, is a relatively young and developing field within the social sciences. A distinct body of study in this field has just developed in the last fifteen years, and it has gone through the normal maturation process. Academics can't agree on a single definition of "hate crime" from a conceptual standpoint. Which theory, that of prejudice or that of crime and punishment, provides more useful theoretical guidance for researchers is an open question. No universal agreement has been reached about the significance of official hate crime statistics, and researchers face methodological challenges due to an absence of trustworthy data. For example, whereas some researchers consider hate crime data to be valid indicators of criminal behavior (Medoff, 1999), others argue that they better reflect the level of focus on the problem by law enforcement (McVeigh, Welch, & Bjarnason, 2003). This chapter aims to provide light on these and related disputes within the field of hate crime research and propose potential directions for future studies.

Brax, David & Munthe, Christian. (2013). The purpose of this introductory section of David Brax's *The Philosophy of Hate Crime Anthology* is to set the stage for the second section, which is an annotated bibliography of works dealing with the philosophy of hate crime.² Taken as a whole, these texts illuminate the theoretical and philosophical concerns behind hate crime laws and policies. Despite their importance in evaluating a number of more tangible and easily contested topics, these concerns are seldom front and center in the headlines. We will try to show why they are essential for getting hate crime legislation that are really well-grounded. In essence, the purpose of this bibliography is to shed light on these relationships by providing a synopsis of current philosophical disputes across disciplines, together with references to related readings and an analysis of their impact on the debate.

Mason, Gail. (2014). The paper delves into the symbolic role of hate crime legislation. Hate crime

legislation aspires to aid victim groups in their pursuit of social justice by questioning the standards that uphold and encourage bigotry. The rule of law is insufficient to accomplish this symbolic role. The article uses theories of emotional thinking to suggest that hate crime legislation should only be implemented if victim groups are able to foster compassionate thinking among themselves, which will help change people's judgments of them as vulnerable, unworthy, or inferior. The purpose of this research is to shed light on the ways in which some minority groups fail to meet the standards set by hate crime legislation for victims.

Cheng, W. (2014). The term "hate crime," which is defined as a crime involving "the manifest evidence of prejudice" (Hate Crimes Statistics Act, 1990), was first used in the US in the late 1960s by the 1964 Federal Civil Rights Law and is still used today globally, not only in the US. Judaism and Islam were targeted more heavily in cases of anti-religious hate crimes, while male homosexuals were the primary targets of hate crimes targeting sexual orientation, according to this review of the phenomenon of hate crimes in the US. The incidence of anti-racial hate crimes varied among racial groups. Additionally, it was found that hate crimes targeting religious groups were more likely to target property than hate crimes targeting racial or sexual orientation groups, indicating that the nature of these hate crimes differs. Additionally, Whites showed more ingroup preference and outgroup animosity (particularly toward Blacks), but AIANs and Asians showed less ingroup favoritism, which might be explained by the increased ingroup heterogeneity among these groups. Normative pressures against displaying aggressive behaviour based on hatred might be impacted by a national society that values outgroups, according to the postulation. Some important individual differences among offenders have been identified at the micro level. These include: aggressiveness, personality traits (SDO and RWA), awareness of mortality salience, outgroup-directed emotions (angry, fear, anxiety, and disgust), and specific sociodemographic factors (gender, age, hate group membership, etc.). Victims of hate crimes were often complete strangers to the perpetrators, but this was not always the case. "Law enforcement" to prevent the manifestation of outgroup hatred and "education" about tolerance and diversity based on the principles of the contact hypothesis are two potential responses to hate crimes.

Bleich, Erik. (2011). Legal restrictions on racist speech and hate crimes have been in place in several liberal countries since the 1960s. This article takes a look at how Western European and American laws prohibit and punish those who encourage racial hate, deny the Holocaust, or commit crimes driven by racial bigotry. Over time, the rate of change has been more like a gradual

creep than a slippery slope, and various nations' levels of regulation and enforcement have varied across different areas. Although the paper details the trend and points out reasons to be worried, it comes to the conclusion that legislation restricting certain types of racism may be passed and enforced without severely limiting the freedom of speech and thought.

LEGAL PROTECTION AGAINST HATE CRIMES

Untouchability is outlawed as of this writing, under Article 17 of the US Constitution. According to the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, offenses committed against members of these groups are punishable by death.

Citizens of India are guaranteed the freedom to freely express, distribute, and participate in religious activities within acceptable limitations under the secular Indian Constitution, which states the nation as such in Articles 25–28.

Here are a few sections of the Indian Penal Code that deal with hate crimes:

Any religious organization or its founders may be subject to malicious defamation under Section 153A if they are attacked because of their religion, race, nationality, residence, language, etc. Section 295A seeks to criminalize wilful and deliberate attempts to offend the religious emotions of any class by disparaging its religion or beliefs. In order to disrespect the religion of a group of people, it is illegal to destroy or desecrate a house of worship or other holy item (Section 295).

One last, minor challenge is how to combine the three pillars of effective hate crime policy: criminal legislation, monitoring, and prevention. This is by no means the only one, but it is certainly one of the remaining ones. Although it is easy to argue that potential criminal law statutes should be crafted to ensure that their actions can be reliably monitored, and that monitoring systems should be established to do just that¹⁴⁵, it is less apparent what should be included in hate crime prevention and how the monitoring system could be expanded to address this. There are two possible points of departure for further consideration in this area. Firstly, it appears that the fundamental concerns or values that initially supported hate crime policies—namely, the need to safeguard individuals, communities, society, and the marginalized—can be channeled into a more comprehensive call to action than just addressing apparent crimes. It would seem that hate crime policy include efforts to combat bigotry, discrimination, bias, and intergroup antagonism more generally, thereby bringing it into line with other policy domains that address comparable issues. The premise that there is a connection between societal attitudes like these and the occurrence (and seriousness) of hate crimes is not well-established, but it is the basis for many efforts in this field and seems to be the consensus among many

policymakers. On the other hand, that perspective brings up the well-known issue of how far policies should go in shaping people's values and beliefs in the context of hate crime policy. This is because, according to this view, people should be able to form and hold their own opinions on society and each other, within the boundaries of criminal law, even if these opinions contain a lot of prejudice and bias, as long as they protect individuals, communities, and society from harmful structural developments that could undermine public goods and attend to the special needs of the disadvantaged.

Hate crimes always comprise two elements:

- A criminal offence
- Committed with a biased motive.

The performance of an act that is considered an offense under regular criminal law is the primary criterion for a hate crime. While slight variances in legal systems cause certain nations' definitions of wrongdoing to vary, all countries have the same basic conditions that denounce the same kind of bad behaviour. A first offense is always present in hate crimes. There could be no such thing as a hate crime if the first offense did not occur.

Second, in order to conduct a hate crime, the offender must have a certain frame of mind. This prejudiced thinking distinguishes hate crimes from others. This proves that the criminal targeted a certain protected characteristic when choosing their victim.

Factors that Lead to Hate Crime Distinguishing Factors:

Distinguishing Factors:

These components are linked to the commission of a violent or criminal act. Another way to put it is that they are the ideas or factors that prompted the offender to do the crime. The following categories were derived from the data: The following crimes have occurred as a result of individuals or groups acting out of bias against those involved due to assumptions about their occupation, ideology, or beliefs. Their beliefs and place of work determine those they target for damage. Any given person or group may play the role of victim as well as offender.

INCITE RIOTS/CLASHES IN MULTIPLE COMMUNITIES:

An environment of fear either causes or exacerbates this. The perpetrator intended to set the stage for an environment favourable to their illicit business. like for example, by making them very confused and afraid. issues between parties are widespread in this profession and most cases are addressed from a single perspective. Sometimes, experts may use Sec. 144 of the Code of Criminal Procedure to settle these issues.

Crimes such as robberies and assaults that take place during or just before a community's festival are grouped together under the heading "Celebration of Festivals.". The majority of the victims in this area are part of a larger party that was out enjoying a vacation.

Bigotry is a common outcome of disputes over religious structures. A plot of land or the people who reside there is often the centre of such stories. Although the majority of victims belong to oppressed groups, there will always be exceptional cases. Communities sometimes find themselves at odds when members of various religions or socioeconomic levels tie the knot, since this practice has a long history of societal disapproval. Hunting down and killing elopements heightens the community aspect.

For a long time, selling and eating meat wasn't an issue, but now that an ideology has emerged that condemns these practises, it plays a significant part in explaining why criminals do what they do. Those who commit crimes against members of minority groups almost never face consequences.

NATURE OF VIOLENCE

When violence is used as a method, it results in bodily harm and distress. You can tell a lot about a criminal's mental health by looking at the methods of violence they use. With the increase in hate crimes, researchers have started to categorize violent actions as one of the following:

Communal Tension/Violence/Riot: Every conflict has its roots in the community. This often leads to the implementation of Section 144 of the Code of Criminal Procedure, which in turn causes harm to several individuals. Incidents like this can leave a mark on the historical evolution of an area.

Social Boycott: The most severe kind of prejudice that can be envisioned is the isolation that comes from belonging to a certain group, having certain ideas, or following a particular ideology. Indians often speak about racism as if it were a foreign concept, yet the sad reality is that bigotry is deeply ingrained in our society. Stopping a tendency from being ingrained in a culture is no small feat. It's worth noting that denying someone admission to a public venue or institution does not constitute institutional discrimination. Public parks, like any other kind of institution, are ultimately owned by the people. However, unforeseen barriers to entrance may affect certain groups of people.

Specifically, "hate speech," which refers to statements made in an insulting, offensive, or inciting way that might lead to harm. Law enforcement may choose to do nothing in such a situation, but the definition of a crime that the majority of people agree upon cannot be changed to suit them. For the sake of this analysis, the categories of destruction and assault on property exclusively include private

residences. The perpetrator(s) could be one individual or a group. An "attack on religious infrastructure" occurs whenever there is physical damage to a house of worship or other location that a religious community regards as holy. The threat could come from a single assailant or multiples.

CONCLUSION

For offenders in India, there is a "Reformative Policy" in place. Its core principle is that wrongs may be rectified if the offender is guided (through legal means) to righteous conduct. The criminal element seems unconcerned by the gravity of their acts, and the crime rate has risen alarmingly; so, a fresh strategy is required. The Middle Eastern nations have achieved an extremely low crime rate by implementing harsh punishments for such acts. One approach to achieve this goal would be to follow this example. The idea behind this approach is to make sure that anybody who may be considering committing a crime knows the worst possible repercussions so that society as a whole might learn from a powerful example. People are thus less likely to participate in such behaviour since they are aware of the potential consequences. We need a more rigorous legal system, a consistently competent judicial system, and legal safeguards for the oppressed because of the present era's conditions.

The reality that hates crimes may target both persons and their possessions need legislation that takes this into consideration. Both sides should face harsh punishments for hate crimes. Courts must take this into account as evidence of purpose according to the law. Courts should explain their rationale for including or excluding a penalty enhancement in the record so that the real reasons for its application may be understood. A variety of crimes, as well as increases in penalty, should be considered by the states. Legislation addressing hate crimes have to take into consideration permanent or essential features of an individual's personality. Legislation addressing hate crimes should be studied in the same way as social and historical patterns of prejudice. Legislation prohibiting hate crimes can only be successful if it targets traits that the perpetrator may easily see.

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