

HATE CRIMES: A CHALLENGE TO INDIAN LEGAL SYSTEM

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Abstract

Crimes conducted out of hatred or prejudice are referred to as hate crimes. Due to their “identity” or “perceived identity,” members of one group of people commit crimes against members of another “targeted group” in this sort of crime. Such crimes may occur within a single religion, for example, and are not always committed between the majority and the minority. The fact that such acts of individual or collective violence are motivated by hate and based on identity is what unites them. In recent years, the most contentious topic in Indian political and judicial debates has been hate crimes. Indian policymakers, including those in the administrative, legislative, and judicial branches, have been plagued by issues relating to hate crimes and the violence they engender. Violence motivated by hatred has not only contributed to issues with conventional law and order, but it has also undermined social cohesion to the point of causing social discontent and cultivating an environment of tension and dread. Economic institutions have been destroyed, and a serious danger to a country’s or state’s development has also been noted.

Keywords: Hate Crime, Lynching, Unlawful, Preventive Measures, Religion, Caste.

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INTRODUCTION

It cannot be denied that the most contentious topic in recent political and judicial debates in India has been hate crimes. Administrators, legislators, and even judges in India have been plagued by issues relating to hate crimes and associated violence. Hatred-related violence has not only caused traditional law and order problems¹ but equally destroyed social fabric to the extent of creating social unrest and an environment of fear and insecurity.² It has destroyed economic institutions, equally proving a potent threat to the growth and prosperity of the nation.³

Typically, the notion of violence associated with hate violence is founded on how the perpetrator perceives the victims' particular characteristics. His or her ethnicity, colour, or other 'identification' may be the only distinguishing feature. Acts of violence and intimidation, mainly aimed towards existing marginalised and stigmatised communities, are considered hate crimes. A hate crime attempts to assure victim subjugation and dominance by the perpetrator's group via the use of force and oppression to enforce the "hierarchies in a given society." In essence, hate crimes are a way to "mark both the Self and the other in such a way as to re-establish their 'proper' relative positions, as given and reproduced by broader ideologies and patterns of social and political inequality"⁴. Therefore, it would be considered a crime committed under this category if a person deliberately chooses the victim of a crime or deliberately chooses the property that is damaged or otherwise affected by the crime based on that person's race, religion, colour, disability, sexual orientation, national origin, or ancestry.⁵ As this explanation makes clear, hate crimes go well beyond actions that are only motivated by hatred. In hate crimes, victim associations with a specific group become more important than the perpetrator's intentions. Political and social beliefs are also at play in this situation, many of which may have deep roots in our nation's long past. A hate crime victim is someone who has been harmed due to their affiliation with a certain group. Anyone who claims to be a member of a minority group or a member of a so-called lower caste and is attacked as a result might be deemed the victim of a hate crime. Similar to how someone would be deemed the victim of a hate crime if someone vandalised their property with other anti-ethnic symbols. Religious minorities, particularly weak castes, and those who claim to have been victims of a hate-motivated perpetrator are the most probable targets of hate crimes.

¹ Indian Penal Code 1860, s 146, s 147, s 148

² Justice Nanavati, 'The Godhra conspiracy', (The Times of India, New Delhi, 2008), 28 September

³ Anjali Thom and Ernest John Sergenti, 'Economic growth and ethnic violence: An empirical investigation of Hindu-Muslim riots in India' (Journal of Peace Research) 589,600

⁴ Barbra Perry, 'In the name of Hate: Understanding hate crimes', (Routledge, New York, 2011) 10

⁵ Wisconsin v. Mitchell, (1993) 508 U.S. 476

THE OBJECTIVE OF THE STUDY

- To study the concept of Hate Crimes.
- To analyse the effectiveness of the Indian Legal System against Hate Crimes.
- To observe reasons responsible for hate crime & their effects on Socio-economic conditions.

RESEARCH METHODOLOGY

The researcher's research technique is exclusively doctrinal and does not include an empirical approach. The sources for completion of this paper will be both primary and secondary. Primary Sources include the study and analyses of periodicals, reports, newspapers, laws, bylaws, notifications, papers presented in conferences, rules and regulations, administrative orders, recommendations and guidelines of the Ministry of Home Affairs and the Supreme Court in their landmark judgments. Secondary Sources are research papers, textbooks, websites, treaties, and commentaries on statutes, abstracts, bibliographies, dictionaries, encyclopaedias, indexes, thesaurus and reviews.

THE CONCEPT 'HATE CRIME'

As per the accepted definition amongst criminologists throughout the world, hate crime or hate violence is said to be "*crime/ violence committed because of the victim's actual or perceived race, colour, religion, disability, sexual orientation or origin*".⁶ It is an offence that "*manifests evidence of prejudice based on race, religion, disability, sexual orientation or ethnicity*"⁷ This definition section focuses on distinct characteristics absent from traditional crime. Hate Crimes, as a legal term, were previously uncommon in Indian courts and administration. However, as a result of the rise of religious fundamentalism and caste-based atrocities, legal fraternities have investigated the meaning of this particular pattern of violence. In common parlance, it is commonly believed that a hate crime is a crime in which the relationship between the offender and the victim is solely motivated by hatred. It is often explained as "*a criminal act motivated by the victim's personal characteristics, such as race, national origin or religion*".⁸ Thus, more or less, '*bias*' is one of the instrumental factors recognised for this violent act.

⁶ Violent crime Control and Law Enforcement Act 1994 [USA]

⁷ Hate Crime Statistics Act 1990 [USA]

⁸ Phyllis B. Gerstenfeld, 'HATE CRIMES: CAUSES, CONTROL AND CONTROVERSIES' (Sage Publication, 2004) 28

It is also described as the criminal manifestation of prejudice.⁹ Both the mental state of the perpetrator and the kind of damage that is produced may be used to differentiate a hate crime from a parallel crime, which is defined as a crime that is identical in every way except that it is not motivated by prejudice towards a particular group. As opposed to bias crimes, which are motivated by a specific, personal, and group-based motive, such as the victim's actual or perceived membership in a certain group, parallel crimes might be motivated by any one of a number of other variables. The term "bias crime" may be used to refer to a variety of different types of hate crimes, and it often includes some aspect of race and ethnicity. It is possible for it to contain factors such as sexual orientation, gender, region, caste, community, and religion, in addition to other factors.

The victim of a hate crime is thus subjected to an assault that is not just physical in nature but also strikes at the very essence of his or her identity. This results in a heightened feeling of vulnerability that goes beyond that which is generally experienced by victims of other types of crime. The unambiguous message that the target and his group are of minimal worth is sent by the bias-motivated violence that is committed against them. The practice of stigmatising victims of hate crimes is not exclusive to victims of crimes motivated by religious intolerance or members of minority groups; rather, it extends to other vulnerable segments of society. Crimes motivated by hatred have repercussions that extend much beyond the victim or victims to whom the violence was first directed.

Another approach to defining hate violence is from the perspective of the victim. From this perspective, hate crime is defined as those acts where "*the defendant intentionally selects a victim or, in case of property crime, the property that is an object of the crime, because of the actual or perceived race, colour, religion, national origin, ethnicity, gender, disability or sexual orientation of any person*"¹⁰. This definition goes beyond the limitation of only grounds like race, religion and national origin. This is a broader definition of hate crime in the United States, but it is an exclusive one. It is notable that 'sexual orientation' is included in this definition of hate crime as one of the reasons for making such a determination. As a result, the provision attempts to curb the outbreaks of violence against 'gay' people. However, this should not be confused with the typical kind of 'domestic violence' against women in India, which is suggested to be because of socio-economic and sometimes historical and religious factors.¹¹ It is also to be noted that such violence is

⁹ Heidi Hurd and Michael S. Moore, 'Punishing Hatred and Prejudice' 56 STAN. L. REV, 1081

¹⁰ US Violent Crime Control and Law Enforcement Act 1994

¹¹ Domestic Violence Act 2005

uncommon in India, and even recently when the ‘eunuch’ became a member of the legislative assembly¹² or even mayor of big city¹³, such violence have not been notice. Hate crime is “*the victimisation of minorities due to their racial or ethnic identity by members of the majority*”.¹⁴ It provides a more thorough explanation of hate crimes: “*conceiving of racial violence... as processes implies an analysis which is dynamic; includes the social relationship between all the actors involved in the process; can capture the continuity across physical violence, threat, intimidation; can capture the dynamic of repeated or systematic victimisation; incorporates historical context; and takes account of the social relationships which inform definitions of appropriate and inappropriate behaviour*”.¹⁵

The distinction between Hate Crime and Traditional Crime

Crimes motivated by hatred may be identified from other types of crime by looking at the impact they have not just on the person but also on the community they are intended to hurt and on society as a whole. A victim of a crime that is not motivated by hatred is often assaulted for a purpose that is arbitrary and impersonal. In contrast, the victim of a hate crime is chosen for a particularly personal reason, such as the victim’s colour, gender, or sexual orientation, and the act itself is motivated by that cause. As a direct consequence of this, the victim of a hate crime sustains far more emotional and psychological harm. As a consequence of this, victims may dramatically modify their mindsets and ways of living in order to protect themselves against future assaults. Crimes motivated by hatred also have a greater detrimental impact on the community that is the target of the violence when compared to other types of violent crime. In this sense, hate crimes are seen as “message crimes,” which have the effect of conveying “a message that members of a certain group are not wanted in a particular neighbourhood, community, workplace, or college campus.” This gives the target community’s members the sense that they may all become the victims of similar acts of violence. On a societal level, hate crimes increase intergroup tension and distrust among group members, which may result in a “violent cycle of retaliatory violence.” It is not difficult to see why hate crimes should be subject to harsher penalties than other types of crimes since they inflict a larger level of suffering not just on the individual who is targeted but also on the community at large and on society as a whole.

¹² Shabnam Mausi, ‘first eunuch MLA of the country, Assembly Suhagpur legislative constituency of Madhya Pradesh’ [2000]

¹³ Asha Devi alias Ashok Yadav was elected as Mayor of Gorakhpur, Uttar Pradesh

¹⁴ C. Petrosino, ‘CONNECTING THE PAST TO THE FUTURE: HATE CRIME IN AMERICA’ (Routledge London, 2003) 10

¹⁵ C. Sheffield, ‘HATE VIOLENCE, RACE, CLASS AND GENDERIN STATES, (St. Martin’s Press, New York,2013) 432-41

NATURE AND INTENSITY OF HATE CRIMES

Crimes motivated by bias or hatred are the violent expression of prejudice. In terms of the mental state of the actor as well as the nature of the damage that was produced, it is possible to differentiate them from crimes that are comparable in every way except for the lack of bias-motivation. Parallel crimes are crimes that are similar in every way except for the absence of bias-motivation. As opposed to bias crimes, which are motivated by a specific, personal, and group-based motive, such as the victim's actual or perceived membership in a certain group, parallel crimes might be motivated by any one of a number of other variables. certain laws criminalising prejudice towards certain categories of people exist.

According to each of these definitions, hate crimes have far-reaching repercussions, not just for the person but also for organisations, communities, and the state as a whole. It all starts with the concept of "hate," but it quickly expands beyond that. There are a number of elements inside this violence that are comparable to those of organised crime and indicate military precision. The following is a list of some of the characteristics of acts of hate violence that may be noticed in religious acts of violence:

- a. The selection of victims according to predetermined criteria, such as their religion, caste, or ethnicity;
- b. Well-organised, such as the use of military resources;
- c. Well-defined approach, such as organised assault over victims;
- d. The majority of hate campaigns are often built on rumours and animosity;
- e. The items that are targeted for destruction in acts motivated by hatred do so because of their clear identification as having religious or caste significance.
- f. Attacks against young children, women, and large groups of people;
- g. Attacks in carefully designated regions of violence, such as places with a higher likelihood of attacks on religious sites;
- h. A sudden eruption of violence but with thorough planning;
- i. Use of weapons, mainly connected with religious differences;
- j. No direct dispute with the government or property owned by the government.

REASONS RESPONSIBLE

The idea that violence between different groups of caste, religion, and ethnicity is fundamentally caused by their perceived identities and that it is also often caused by the communities' internal conflicts that are entrenched in their caste/religious and ethnic ideology is a common one that is

held by historians as well as by other people. Hate crimes can be motivated by a wide variety of factors, including but not limited to robbery, extortion, inter-caste marriage, rape, casteism, anti-nationalist sentiment, class struggle, and political motives. This is a fact problems such as discrimination based on caste, religious fanaticism, ethnic superiority, and language dominance have all contributed to the rise of large-scale violence and unrest.

- **Religious Violence:** The history of religion is littered with violent and bloody events. It demonstrates not just the immense power, weight, and depth that religion possesses within the human heart but also how potentially harmful religion can be if it is interpreted in the incorrect manner. To commit violence in the name of one's religion is one definition of what is known as religious violence. It can be considered both intra-religious and inter-religious violence, which means that it can refer to both violence within a group as well as violence committed against other groups. The use of violence in the name of religion is not a new phenomenon in Indian history.
- **The Command to Defend:** Violence in Islam in the name of religion needs careful scrutiny. The Quran declares Allah as the Sovereign and Merciful one.¹⁶ In fact, violence in Islam started as a way of 'self-defence' and as a way to stop the people of Mecca from persecuting people for their religion. Since this kind of abuse can only hurt Islam, the Koran says: "fight them until persecution is no more, and religion is all for Allah".¹⁷ But the fight against those who don't believe is cruel to those who don't change.
- **Rise of cow vigilante:** The cow is considered a sacred animal, and the State shall protect it to secure the religious feelings of the Hindu community over the others. "The murder of Akhlaq, attacks on Muslims related to cow slaughter or smuggling rumours have increased. In March 2016, two Muslims were killed and hanged in the tribal state of Jharkhand after being accused of smuggling cows". It is also a matter of dispute whether the Government is protecting or restricting some activities related to animals by adopting the Prevention of Cruelty to Animals Act; it started another rush of dairy animal vigilantes in the nation.
- **Caste Violence:** It has been argued that caste is a reflection of Brahminical superstructure, and the caste system has its deep roots in the religion. Caste-related hatred and violence are not new to Indian society. This violence is not limited to any particular geographical area but is widespread and affects a lot of rural as well as urban

¹⁶ Koran, Sura V 39, 40

¹⁷ Koran, Sura VIII 39

masses. It has been not only gruesome but also brutal in its highest degree. More so, in modern days, caste goes much deeper in the system. State, politics, and state-power relationships are articulated and valued in terms of caste. Either in one form or another, caste has proved its relevance.

- **Inter-Religious Marriage:** According to personal laws, an inter-religious marriage is considered void, but such a marriage can be validly performed under the Special Marriage Act of 1954. Whenever inter-religious marriage takes place in society, various conflicts also arise in the life of wedded couples. The social institutions and their leaders, like members of Khap Panchayats, Padri of Church or Maulvi of a Masjid, become alert and active and pronounce ‘Orders’ or ‘Fatwa’ even against the law of the land, resulting in violence. Another issue trending nowadays is ‘Love Jihad’, in which it is alleged that Muslim men used to trap Hindu girls in the name of marriage for molestation, increasing their population or lowering the honour of Hindus in society; sometimes, it is also allegedly blamed that after marriage girls become subject to human trafficking and available for sale in foreign countries where they can be used for prostitution or even killed and their body parts are used to sell illegally in the hospitals or easily available with the dealers of human organs.
- **Inter-cast Marriage and Honour Killing:** The concept of inter-cast marriage is not new in Indian society. Even after various conflicts and challenges, it is not a barrier for couples who don’t care about such ridiculous religious beliefs. However, the so-called leaders of society never accept such changes. This is done for the sake of respect. These killings have been expanding for the most part in town zones like Haryana, Punjab and western Uttar Pradesh.
- **Fake and Hate News on Social Platform:** “Messages warning of renewed mob violence hit social media recently as New Delhi reeled from the worst violence it has seen in over a decade, with riots that left at least 50 people dead and 300 injured. Police went to the sites of reported conflict to conduct their own investigations and temporarily shut down multiple Delhi metro stations following the reports of street clashes and people shouting in trains”. It is not a new phenomenon in India for such falsehoods to be spread via social media, and over the course of the previous decade, India has witnessed several violent episodes that were sparked by online remarks. “In 2017, India also saw a wave of mob attacks and lynching of innocent people spurred by online accusations of child abductions. At that time, people deemed to be “outsiders” were

targeted by large mobs accusing them of kidnapping children, after warnings circulated on WhatsApp”.

- **The silence of the political class:** In spite of the rising hate in society, the political class and administration remained quiet observers. Many believe that there are few politicians behind the veil or nodding their mute ascent to violence. In addition, they have fabricated their political profession, spreading hate against particular communities. The political class, aside from their standard judgment, abstain from visiting the victims or their enduring families.
- **Ineffectiveness of administrative agencies:** Though the role of the police and state has always been a subject matter of criticism since they also work under the larger social and political order, such allegations are inherent in the system. It is because of this that one has to look into the larger perspective of hate violence. These crimes cannot be limited to traditional crime. In fact, they are a reflection of overall socio-economic conditions and political upheavals, as it is suggested by Nanavati Commission,¹⁸ Banarjee Commission,¹⁹ Librahan Commission²⁰; hate violence does have a close connection with political development.
- **Complicated and delayed justice system-** “The rule of law cannot exist without an effective judicial system, which is capable of enforcing rights in a timely and proportionate manner in a way that inspires public confidence in the administration of justice”. Unfortunately, ineffective governance has created barriers to accessing justice, which has resulted in granting certain sections of society only limited access to the full range of socioeconomic and civil-political rights available. There are some ‘external factors’ such as monetary, cultural or geographical barriers, and some internal factors, such as procedure technicalities, which affect everyone in the system.

MAJOR INCIDENTS

The social structure of India is extraordinarily intricate and varied. India’s composite culture and civilisational impetus are the source of India’s socio-cultural diversity’s strength and sustainability. Although the presence of diversity and heterogeneity does not generate conflict in and of itself, there is always the possibility that it will do so.

¹⁸ Commission appointed by government of India to examine Anti Sikh Riots of 1984

¹⁹ Commission appointed by Ministry of Railway for Godhra Incidents, 2002

²⁰ Commission for examining demolition of disputed Mosque at Ayodhya in 1992

- **Gujarat Riots (1969)**- The 1969 Gujarat riots were an after-effect of common animosity among Hindus and Muslims. The viciousness was Gujarat's first significant mob that included butcher, fire-related crime and plundering on an enormous scale. As indicated by the official figures, 66 individuals were executed, 1074 individuals were harmed, and more than 4800 lost their property.
- **Sikh Massacre (1984)**- Due to the assassination of then Prime Minister Indira Gandhi by her Sikh bodyguards at her residence. Anti-Sikh riots broke out in several locations on October 31, 1984, after the murder of Indira Gandhi. These disturbances lasted for several days and resulted in the deaths of more than 3,000 Sikhs in New Delhi and an estimated 8,000 throughout India.
- **Conflict in Kashmir (1990s)**- This is a reflection of the fact that the situation in Punjab has similarities to the struggle in Kashmir. As a result, the traditional idea of Kashmiri identity, known as Kashmiriyat, has been supplanted with the concept of communal struggle, in which Muslim militants have driven Hindu Kashmiris out of the valley.
- **Ayodhya Riots (1991)**- It is quite probable that these various patterns of conflict development and containment, including resolution, will continue to exist in the future. For instance, a communal and fundamentalist dispute like the fight between a Hindu temple and a Muslim Mosque in Ayodhya seems to have lost its militancy and violent drive after reaching its apex in 1990-1991.
- **Godhra Riots, Gujarat (2002)**- On the morning of February 27, 2002, Coach S6 of the Sabarmati Express was set on fire, killing 59 of the passengers who were riding in it. At that moment, the train had just arrived at Gujarat's Godhra station. There were 10 children and 27 women among the victims. 48 other passengers on the train sustained injuries.
- **Lynching of Khairlanji (2006)**- In India, the principal detailed episode of mob violence is the lynching of Khairlanji committed in 2006. This mob violence was the prevailing Kunbi rank, and the solitary survivor needed to battle for 10 years to get equity.
- **The lynching of Mohammed Akhlaq (2015)**- The exceptionally secure feature of Mohammed Akhlaq's lynching on 28th Sep.2015 in Dadri²¹, where an old Muslim person was killed merely on supposed utilisation, possession and consumption of meat. The

²¹ A Vatsa, Dadri: Mob kills man, (Indian Express, 25 Dec 2015) <<http://indianexpress.com/article/india/indiaothers/next-door-to-delhi-mob-kills-50-year-old-injuree-on-over-rumours-they-ate-beef>> accessed on: 1 November

declaration was produced using a nearby sanctuary by allegedly expanding meat. U. P. Govt. requested an authoritative inquiry into the issue.

- **Palghar Lynching, Maharashtra (2020)-** Three persons, including two saints and one driver of the van, were killed by the mob on midnight of 16 April 2020 by alleging child lifters. 115 persons, including 9 minors, were arrested for the heinous crime; the matter is pending, and justice is still awaited.²²

Data gathered by the National Crime Record Bureau (NCRB) and published as 'Crime in India' make it abundantly evident that crimes perpetrated against individuals and against certain groups of people, such as scheduled castes and scheduled tribes, are of a graver and more serious kind than previously thought. According to the official statistics that were compiled from 1990 to 2000, Dalits were responsible for a combined total of two and a half lakhs (exactly 25,2370 instances) of different crimes committed across the whole nation. "If we look at the type of crime and atrocities, we get to know that on an average (average for ten years): 553 Murders, 2990 Hurt cases, 919 Rapes, 184 Kidnapping/abduction, 47 Dacoity, 127 Robbery, 456 Arson, 1485 civil right violation under OCR ACT, 6174 atrocities under atrocities Act and 12, 995 other offences were registered every year by the Dalits. During the latest year 2000, the break-up of the atrocities and violence include 473cases of murder, 3139 of grievous hurt, 251 cases of arson and 992 cases of rape, 631 cases under PCR ACT, 6350 cases under the PA Act and 12149 cases of other offences."²³ "Data from 2000 to 2009, collected by NCRB regarding crimes against SC/ST, makes no relief either to lawmakers or executing authorities. In fact, such crimes are unabated and have become more intense. From 2001 to 2009, precisely 2,70,578 crimes were committed against this particular community. Crimes under the head of the Protection of Civil Rights Act, 1956 and SC/ST (Prevention) of Atrocities Act, 1989, have no sign of decrease. In the year 2001, it was accounted as 13746 whereas in the year 2009, it was 11,311. Thus, there is no substantial change in the crime committed against this class of society."²⁴

AFTERMATH OF HATE CRIMES ON SOCIETY

No nation, and particularly not one that is still in the process of growing like India, can afford to ignore the problem of hate crimes. In the case of *National Human Rights Commission v. State of Gujarat*²⁵ Hon'ble Apex Court observed, "Communal harmony is the hallmark of a

²² The Times of India, Delhi, 18 April 2020

²³ National Crime Record Bureau (2009)

²⁴ National Crime Record Bureau (2011)

²⁵ *National Human Rights Commission v. State of Gujarat*, [2009] 6 SCC 342

democracy. No religion teaches hatred. If, in the name of religion, people are killed, that is essentially a slur and blot on the society governed by the rule of law.”²⁶ The rule of law is essential to the functioning of a democratic government in any nation.

- **Social Impact:** The damage caused by such crimes extends well beyond the victim or victims of the criminal behaviour who are directly affected by the behaviour of the offender. There is not only a more extensive effect on the “target community” that shares the Group feature of the victim but also an even larger foundation of damage to the entire society as a whole. The members of the target community do more than just sympathise or even empathise with the victim of the current prejudiced crime. People who are a part of the community that has been the target of hate crimes interpret such crimes as if they were a direct assault on them personally. Any act of religious outburst, such as the burning of the Quran, Gita, or Cross, or the scrawling of a swastika, will not simply bring forth identical sentiments on the side of the opposite group. Rather, those who are a part of these target groups could have responses of genuine danger and assault as a result of this particular occurrence. The old adage “United we stand, divided we fall”²⁷ has a point. In India, hate violence or lynching generally reflects internal disputes between various racial communities. There are various impacts and effects of mob lynching on society-
 - ⇒ In this way, harmony in society and the possibility of unanimity in assorted varieties,
 - ⇒ It clearly indicates the environment of majority v/s minority
 - ⇒ It disturbs standing, class/category and collective contempt.
 - ⇒ It builds the degree of household strife and consequent military rules.
 - ⇒ Such acts show a loss of resilience in the public arena, and individuals are influenced by feelings, partialities, etc.
- **Economic Impact:** It is a well-known fact that hate crimes have repercussions not just for the victims but also for the economy. In addition to making matters worse in terms of law and order, it also gives a poor impression of the nation to the rest of the world. The 2019 Ease of Doing Business Index that was issued by the World Bank places India at the 63rd spot worldwide. In other words, companies still do not invest with the

²⁶ *Ibid*

²⁷ Winston Churchill, University of Rochester, (London, June 16, 1941)

<<https://www.nationalchurchillmuseum.org/the-old-lion-1941.html>> accessed 15 April 2023

utmost interest in India (for the objectives of their enterprises), and this is the case regardless of the reasons why. “The Rule of Law reflects a man’s sense of order and justice. There can be no Government without order; there can be no order without law.”²⁸

- Destruction of the local market.
- Disturbance in Production and Supply aspects.
- Migration of Capital and Labour Market.
- A gap in the Relationship of Supplier and Consumer.
- Effect over Investment in the Market.

LAWS RELATING TO HATE CRIMES

The Preamble of the Constitution primarily outlines the very core of constitutional democracy and the goals need to be attained for the future. The quest for ‘fraternity’ through ‘*social, economic and political*’ justice is the fundamental objective. “It also strives to provide ‘*equality of opportunity*’, thus making the future society egalitarian.”²⁹

- **Indian Penal Code, 1860:** The vast majority of hate crimes in India are investigated and prosecuted in accordance with the Indian Penal Code. Chapter VIII, which is titled “Of Offences against the Public Tranquillity,” safeguards the people of society as well as society itself from any potential disturbances to peace. According to Section 153A of the Indian Penal Code, anybody who promotes animosity between various groups on the basis of religion, race, place of birth, domicile, language, etc., and does activities that are harmful to the preservation of harmony may be punished. According to Section 153B, anybody who makes or publishes any imputation or allegation that is detrimental to the nation’s ability to function as a cohesive whole shall be subject to the appropriate penalties. In the Indian Penal Code, Section 295 forbids damaging or defiling any place of worship in order to avoid insulting the religion of any particular caste or community. Promoting feelings of hostility, animosity, or ill will between various religious, racial, linguistic, regional, caste, or community groups is the element that is shared by both of these charges.
- **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:** The purpose of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,

²⁸ *Cardamom Marketing Corporation v. State of Kerala*, [2017] 5 SCC 255

²⁹ The Constitution of India 1950, Preamble

which was passed in 1989, was to create a law that would prohibit atrocities from being committed against members of scheduled castes and scheduled tribes. In *Dinesh alias Buddha v. State of Rajasthan*³⁰ the Supreme Court has made the observation that a violation must have been committed against a person on the basis that such a person is a member of the Scheduled Castes or the Scheduled Tribes in order for Section 3 to be applicable.

- **Code of Criminal Procedure, 1973:** Certain restrictions governing hate speech may be found in Section 144 of the Criminal Code. It is included in Chapter XI under the heading “Temporary Orders in Urgent Cases of Nuisance or Anticipated Damage.” In situations involving an immediate annoyance or “apprehended danger,” the clause grants the authority to immediately issue an order. In Chapter VIII of the Code of Criminal Procedure, there is a section called “Prevention of Offences” that explains how to stop crimes, disturbances of public peace, and other things that break the peace.
- **The Unlawful Activities (Prevention) Act, 1967:** It defines “unlawful activity” as any action through an act or by words intended to bring about the cession or secession of a part of India or which incites others to bring about such cession or secession.³¹ “It also includes such action which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India or to cause disaffection against India.”³² It says that a “unlawful association” is a group that wants to do something illegal, or that supports or helps people do something illegal, or that wants to do something that is punished under section 153A or section 153B of the IPC. The Central Government has the power to say that an organisation is illegal.

SUPREME COURT’S VIEWS ON HATE CRIMES

The apex court in India has ordered both the Central and State governments to pass stringent legislation to curb acts of violence motivated by hatred, as well as to take pre-emptive measures to halt the dissemination of material through web-based networking media platforms that may potentially encourage a mob to violence. The Supreme Court in India issued an order to the police, instructing them to file a First Information Report (FIR) under Section 153A of the Indian Penal Code as well as other statutes that are analogous against anybody who engages in such acts. The Supreme Court, in an effort to speed up the preliminary process, has suggested

³⁰ (2006) 3 SCC 771

³¹ The Unlawful Activities (Prevention) Act 1967, s 2(f)

³² The Unlawful Activities (Prevention) Act 1967, s 2(f), (i) & (ii)

that daily preliminary hearings be held in rapid track courts and that the accused be subject to the strictest possible punishment in instances involving mob violence.

In *State of Andhra Pradesh v. Destruction of Public and Private Properties*³³, “No one has the privilege to become self-designate watchman of the law and coercively oversee their elucidation of the law and others, particularly not with vicious methods”. “The Supreme Court ruled that states had a responsibility to guarantee that individuals or organisations did not take the law into their own hands in order to prevent unfortunate situations and criminality, which might involve property damage.”

*Tehseen S. Poonawala v. Union of India*³⁴, the Supreme Court’s landmark decision, is a significant step forward in the reform and protection of human rights. The Court condemned lynchings in crowds across the country, saying that it is the responsibility of both the federal and state governments to prevent, remedy, and treat lynchings. It declared, “Directing the Center and states to take serious steps to prevent lynchings, “It was also stated that “Wrongdoing knows no religion and neither the culprit nor the injured individual can be seen through the viewpoint of race, position, class or religion.” “The Supreme Court has said there is no room for hate crime in a secular country like India, and it is the primary duty of the state to protect its citizens from such crimes”³⁵.

In *Pravasi Bhalai Sangathan v. Union of India*³⁶, the Supreme Court of India outlined its definition of hate speech as “an effort to marginalise individuals based on their membership in a group which seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society.”

In the case of *R. Sukumar v. State of Tamil Nadu*³⁷, the court held that hate speech on social media platforms is not protected by the right to freedom of speech and expression. The court directed that First Information Reports (FIRs) should be registered and criminal proceedings initiated against the makers of hate speech “irrespective of their religion so that the secular character of the country is preserved”.

CONCLUSION

³³ [2009] 5 SCC 212

³⁴ AIR [2018] SC 3354

³⁵ The Wire, SC on Hate Crimes: ‘Primary Duty of State Is to Protect Citizens, No Compromise At All’ <<https://thewire.in/law/sc-on-hate-crimes-primary-duty-of-state-is-to-protect-citizens-no-compromise-at-all>> accessed on 23 February 2023

³⁶ AIR 2014 SC 1591

³⁷ MANU/TN/4683/2010

The conflict that occurs between different groups and acts of violence each have their own connections and links. There are several aspects of violence that are often seen in traditional violence, such as the level of severity and the consequential influence that it has on issues pertaining to law and order. But in addition to that typical kind of violence, there are numerous more considerations. These include a wider effect on people in general, an increasing sense of distinction, and a more fundamental inquiry into one's identity. Hate violence does generate profound breaches in the social, cultural, political, and economic fabric. Hate crimes often result in the movement of labour and capital from one region to another, as has been seen on several occasions. In these kinds of circumstances, it is of the utmost importance to think about the consistent and equitable growth of each and every area of society and the linked market. It is possible to make the argument that if persons who have been victimised by hate violence are more likely to be victimised as a result of their unique state, then it is imperative to establish special provisions for their safety in the sense of commerce, business, and other professions. Concerns about social security and insurance culture, as well as issues regarding the social security of riot victims and the protection of their property, need to be the focus of legislation and state policy.

SUGGESTIONS

The state is required to exert the necessary effort across all fronts in order to achieve the goal of the equal development of society. Both the Sacchar Committee Report and the SC/ST Commission Report have made several references to the economic and social standing of India's Scheduled castes and Scheduled tribes throughout their respective reports. If there is a shift in the current of hatred and violence, these policies need to provide productive results for their country's economic growth. The following is one possible way to express them:

- The desire for social recognition and identification will increase the likelihood of hate crimes occurring in the future if such demands are not addressed with proper legal punishments.
- Hate crimes will continue to be fueled by inequalities in economic growth and a deepening of divides between groups.
- The role of politics and political parties, especially during elections for Panchayats, is providing an additional boost to hate propaganda, and this may further contribute to acts of violence motivated by hatred.
- The police system should be modernised, and the foundation of such changes

should be the “rule of law,” so that this agency may approach each crime as an individual offence, and so that it might potentially play a more constructive role in preventing crime and prosecuting those who commit crimes.

- As a result of the fact that acts of hate violence are motivated by concerns over religion and caste-related identities, it is necessary to combine these concerns with efforts to improve economic and political conditions in order to eliminate these identities and, as a result, curb the causes of acts of hate violence.
- The role of the National Human Rights Commission (NHRC) may be reevaluated, particularly in terms of rehabilitation and the provision of compensation to victims of hate violence.
- Specialised agencies should be established for the purpose of preventing hate violence since the police force has become highly politicised and people no longer have faith in this system.