
**ARE HATE CRIMES POSING A THREAT TO FUNDAMENTAL VALUES
ENSHRINED IN THE INDIAN CONSTITUTION?**

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ABSTRACT

Hate crimes also known as bias crimes have become a hot topic of discussion in India as a result of the recent surge in incidents of hate crimes. These hate crimes are committed because of the prevailing bias against the victim or his community and effect not only the victim but also his community. It is a well-known fact that hate crimes tear away the sensitive bonds that are shared by members of different religious, ethnic, or linguistic communities. A question that has arisen at present is that, whether or not the epidemic of hate crimes that India is currently experiencing is posing a threat to fundamental values like; secularism, equality, freedom, and justice that have been enshrined in the preamble to the Constitution of India and in the Constitution itself.

In this research paper, the author has tried to prove that a surge in the incidents of hate crimes is posing a threat to the aforementioned values by discussing the recent incidents, reports, and news stories related to various aspects of hate crimes in India.

INTRODUCTION

A recent surge in the incidents of hate crimes in India is comparable to an epidemic. Just like an epidemic spreads quickly and affects a large section of society within no time, similarly hate crimes are also spreading quickly and are affecting bonds of tolerance between various communities and the values which act as the bedrock of modern-day India. The fact that the sensitive bonds between communities are getting weakened owing to hate crimes has been mentioned in various news stories and other reports.

Albeit, a lot is said both in favor and in support of hate crime perpetrators, a little is said regarding the impact of these hate crimes on the fundamental values enshrined in the Indian Constitution. This research paper tries to analyze the detrimental impact of hate crimes on these fundamental values and on the dream of making a country as envisioned by the founding fathers of our nation. This paper first discusses the meaning and causes of hate crimes and the need to pay attention to them. Then the paper goes on to discuss the

impact of hate crimes on the fundamental values and the idea of a dream India of founding fathers by analyzing certain recent incidents, news stories, and reports.

1) THE MEANING OF THE TERM HATE CRIMES

The term hate crime is made up of two words; hate and crime. According to the *Merriam Webster Dictionary*, hate means disliking or disgust or aversion. This disliking or aversion usually arises out of fear or anger. This dictionary further adds that hate may also mean an extreme feeling of enmity or hostility towards someone or something. The word crime has been described in the *Merriam Webster Dictionary* as an act that can be punished by the government as that act is illegal.

Therefore, hate crimes can be defined as those illegal acts which are committed because of enmity, hostility or disgust towards someone or something.

Authors, lawyers, criminologists and various international organizations have defined the term “hate crimes” in several ways. But one of the most widely accepted definitions of hate crimes has been given by the *Federal Bureau of Investigation (F.B.I.)*.

The FBI describes the term hate crime as a criminal offense that is committed against a person, property, or society. This definition further makes it clear that the bias that an offender has against a particular race, religion, disability, sexual orientation, ethnicity or national origin acts as the motivating factor behind the commission of hate crimes. However, it must be noted that the bias of the offender may be wholly or partly responsible for enraging him to commit a hate crime.

Hate Crimes are comprised of two elements; the first element is a criminal offense and the second element is the presence of a bias motive. Offence or crime as mentioned earlier is an illegal act for which punishment may be awarded by the authorities and prejudice is a preconceived idea or attitude. To categorize a crime as a hate crime, both these elements must be present. Thus, it is only when a criminal offense is committed with a biased motive, that it is categorized as a hate crime.

For example: If A commits murder of B, as he marries C who is his girlfriend, then it is not a hate crime. But if A commits murder of B for marrying C as he is prejudiced against B as B is a lower caste person, then this is a hate crime.

It must be noted that hate crimes are not a category of crimes that have come up recently. They have a rich history. The existence of hate crimes can be traced back to the Roman Empire where Christians faced the brunt of hate crimes. They were stoned, lashed and were even termed as harbingers of diseases.

In India too, owing to the prevalence of the caste system many people belonging to the community of Dalit faced and continue to face several atrocities on a routine basis. The people who belonged to the category of Dalit were considered untouchables and polluting and were compelled to do menial jobs like cleaning latrines or working as sweepers.

2) NEED FOR PAYING ATTENTION TO HATE CRIMES

In recent years, there has been a surge in the incidents of hate crimes has been recorded in India. As a result of this surge, it is today argued by many lawyers, think tanks, international organizations and non-government organizations that, there is a need to pay attention to hate crimes at the level of urgency because of the dire consequences that these crimes can have on the victim, his community and the society at large. It is also stated that hate crimes are graver than ordinary crimes.

The need for paying attention to hate crimes may be analyzed from the fact that the trauma which is experienced by the victims of hate crimes is more damaging than that the one experienced by victims of non-hate crimes. The victim of these crimes experienced psychological injury increased feelings of vulnerability and in some cases may also experience depression and heightened anxiety.

It is not only because of the trauma experienced by the hate crime victims, that they require more attention. These crimes require more attention because their repercussions are not only confined to the victim, but are even felt by the members of the victim's community. The members of the community of the victim become doubtful regarding their safety as they share certain characteristics such as their; skin color, ethnicity, religion, etc. with the victim.

If in the past the community of the victim has been subjected to discrimination on any of the grounds then the repercussions of hate crimes become more deleterious. The vulnerability of being the victim of hate crimes is more if a person belongs to a marginalized community.

Hate crimes also impact security and public order and emphasize existing social tensions. These crimes can have an explosive impact especially when the relations between ethnic, national or religious groups are already quite sensitive.

India is a diverse country as it is multi-ethnic, multi-cultural and multi-religious. Because of the prevalence of the caste system in ancient times and also owing to the bloodshed of partition and existing tensions amongst members of different religions and ethnicities, hate crimes can have a detrimental impact on the very existence of India.

Hate crimes may lead to retaliatory crimes and these retaliatory crimes, in turn, may lead to widespread communal violence. The resultant bloodshed and violence will not only pose a threat to the ideas of tolerance and peaceful coexistence, but will also erode the values which act as the foundation of modern-day India. These values are; secularism, equality, freedom and justice.

Thus, it is imperative to pay attention to these hate crimes in the backdrop of a recent surge in the incidents of these crimes.

3) THE CAUSES OF HATE CRIMES

As discussed earlier, there are two elements in a hate crime; crime and the bias motive or prejudice. It won't be wrong to remark that it is the bias or prejudice which infuriates an individual to commit hate crimes. Before understanding the causes of hate crimes in the Indian context, it is of utmost importance that the meaning of the term prejudice is analyzed.

According to the *American Psychological Association's Dictionary of Psychology*, prejudice is a favorable or unfavorable attitude or view. This view or attitude is mostly pre-conceived and is resistant to change.

Prejudice is a complicated concept. The prejudices can be good or bad. In case prejudices are good, then they are harmless. An example of such prejudice can be the preference for slim people over fat ones. In case prejudices are bad, then they may be harmful and may even lead to socio-political tensions. An example of such prejudice can be the belief that people belonging to lower caste communities are dirty and polluting.

As mentioned earlier, bias is the reason for the commission of hate crimes. But it must also be understood that biases can take various forms and are also quite complex. Thus to decide whether owing to a particular bias individual can be punished for a crime or not, it is necessary to check whether or not that bias is an officially designated bias.

The *United States Department of Justice* has given various categories of bias that can lead to hate crimes. These biases can be related to; color, disability, ethnicity, gender, gender identity, race, religion, and sexual orientation. Any kind of bias related to these categories is regarded as officially designated bias in the United States of America

In India too, owing to these prejudices many hate crimes are committed regularly. Some of the main reasons which infuriate individuals to commit hate crimes are; Inter-caste marriages, religious fanaticism, racism, sexual orientations, propaganda, rumors, etc. These reasons add fuel to the already existing aversion that an offender has towards certain religious communities, castes, and sexual orientations. When these incidents happen, the offender gets infuriated to such an extent that he commits hate crimes in the form of cold-blooded murders, rapes, lynching, mischief, etc.

4) CURRENT TRENDS RELATED TO HATE CRIMES IN INDIA

There has been an exponential increase in the incidents of hate crimes in India in recent years. In a report published by *Amnesty International*, some staggering figures have been revealed about the growing menace of hate-induced crimes in India. According to this report, in the first half of 2019 around 181 incidents of hate crimes were recorded in India, and in the first half of 2018, 100 such cases were reported. It has also been mentioned in this report that in 2019, the steepest rise in incidents of hate crime was recorded since 2015.

Many incidents, which have taken place recently, can be analyzed to understand the current trends related to hate crimes in India:

- **Continuous Targeting of Minority Religious Communities**

India is a multi-religious country. Hinduism is a religion that is followed by the majority of people in India. But at the same time, there are also some minority religious communities. In *Section 2(c)* of the National Commission for Minorities Act 1992, the minority religious communities of India

have been enumerated. As per this section, minority religious communities of India are the; Muslims, Sikhs, Christians, Buddhists, Jains and Zoroastrians.

According to the Census 2011, minority religious communities account for around 19.3% of the total population of India. Out of this 19.3 %, Muslims account for 14.2%, Christians account for 2.3%, Sikhs account for 1.7%, Buddhists account for 0.7% and Parsis account for 0.006% of the total population of the minority religious communities in India. Out of the aforementioned religious communities, two communities that are currently experiencing the brunt of hate crimes are; Muslims and Christians.

One can get an idea of the extent of hate crimes against Muslims in India by analyzing the report titled “*Halt the Hate*” published by *Amnesty International*. This report was published based on a study that was conducted between September 2015 and June 2019. In this report it is mentioned that; 619 hate crimes were committed against Muslims in this period and out of 91 people who were killed due to hate crimes based on religion, 79 were Muslims. In six months, between January 2019 and June 2019 hate crimes increased against Muslims by 45% mainly due to cow vigilantism and hatred which existed in the backdrop of the Pulwama Attack.

In the judgment of, *Tehseen Poonawala v. Union of India*, it was observed by the Honorable Supreme Court of India that, cow vigilantism violates the rule of law and tolerance. It was further observed by the court, that cow vigilantism may even lead to the breakdown of law and transgression of civility and humanity.

Calls for the economic boycott of Muslims have also been given in the recent past. An economic boycott implies a refusal to purchase goods from members of other religions or not allowing them to carry out their economic activities. Such calls against the Muslim community have been given by Kranti Sena, Vishwa Hindu Parishad and other such outfits. These calls have been given against what is termed by these outfits as; *mehendi jihad*, *bangle jihad*, *fruit jihad*, *juice jihad etc.* In a way, these calls ask people to refrain from purchasing mehendi, fruits, juice and bangles from Muslims. During the festival season, Hindutva propaganda demanded that the Hindus should purchase their festival requirements only from Hindus.

A recent example of the economic boycott of Muslims is the banning of Muslim shopkeepers from participating in the annual local temple fairs in the state of Karnataka which take place in April and May. Earlier in the state of Karnataka, the issue related to the wearing of the Hijab in educational institutions gave a blow to the weakening ties between the Hindus and Muslims. This action may further deepen the fault lines between these two communities.

In 2021, calls for genocide of Muslims were given during the Dharma Sansad (Religious Parliament) in Haridwar by the participants. The terms like “Love Jihad” are used to display anger and resentment at marriages in which one party is a Hindu and the other is Muslim. Many cases have been reported, in which protests were organized outside the marriage venues or on social media against such marriages. In some cases, the vigilantes even go to the extent of committing honor crimes against couples who perform interfaith marriages.

At the time of the Anti-CAA protests, secretarian color was given to protests by the leaders of BJP, many Muslim students from Jamia Millia Islamia were targeted by police officials, and it was remarked by the PM of India that, those who were protesting against CAA can be identified from their clothes. This was an indirect reference to the Muslims, given the skull caps and scarfs worn by them.

In the report titled “Christians under attack in India” it has been mentioned that in the first nine months of 2021, 300 instances of atrocities against Christians in the northern states of India were reported out of which 288 were related to mob violence. As a mark of protest towards Christians on the grounds of alleged forced or induced religious conversions a number of acts have been committed by Bajrang Dal, Vishwa Hindu Parishad and other organizations.

On Christmas Eve, members of rightist groups chanted, “Santa Claus Murdabad” and burnt an effigy of Santa Claus in the middle of a road in the city of Agra. Just before Christmas, a campaign by the name of “Conversion by Santa” was launched by right-wing groups in the state of Haryana. The underlying concept of this campaign was to register cases against those schools which made students dress like Santa Claus without permission of the families of students.

- **Rampant Racism**

Racism is also quite prevalent in India. Because of the cross-border or inter-state migrations in search of better education and job opportunities people from Uttar Pradesh, Bihar and the North-Eastern states of India fall prey to racism and hate crimes.

In its judgment on the issue of racial discrimination faced by the people from North- East India, in *Karma Dorjee and Others v. Union of India and Others*, the Honorable Supreme Court of India observed that, for dealing with the issue of racial discrimination, laws are themselves not sufficient; people need to be sensitized and their mindset has to be changed. This implies that even

the Apex Court of India has recognized that, it is the mindset of perpetrators which leads to the commission of race-based crimes and other atrocities.

People from the north-eastern states of India are soft targets for committing hate crimes. Certain reports suggest that around 81% of women from the North-Eastern states of India have witnessed some kind of harassment in the capital city of Delhi. The gravity of the situation can be understood from the fact that the Ministry of Home Affairs of India had come up with measures to deal with growing incidents of racism against North-East Indians in Delhi.

After the outbreak of the Covid-19 pandemic, many people from the north-eastern states of India faced the heat of hate crimes. In one such incident, a Manipuri woman was spat upon by a middle-aged woman. In addition to this, that middle-aged woman also called that Manipuri woman corona. Such crimes were committed against the North- East Indians because of the similarities which exist between the physical appearances of North-East Indians and the Chinese people.

A large number of migrant workers from Uttar Pradesh and Bihar have been lynched and forced to flee away in states like Gujarat and Maharashtra in the past. Racist slurs are used on regular basis against such migrant workers and they are also looked down on by the natives of states where these workers go to work as laborers.

- **Prevalence of Caste Based Hatred**

Even after the constitutional guarantee of equality and abolition of untouchability, many hate crimes are committed against Dalits due to the prejudices prevailing against them. This highlights that the constitutional provisions and other legislative provisions have proved to be a dead letter.

Hate crimes against Dalits are quite prevalent in India. Many hate crimes are still committed against Dalits because of the prevailing mindset of upper caste people that, the lower caste people are impure and polluting.

The atrocities which are faced by Dalit women owing to caste-based prejudice are enough to send chills down the spine and in no way meet the standards of dignity and human rights as upheld by the modern day society. According to a report published by *Equality Now*- a network of activists, lawyers and social workers working in the field of women's rights, Dalit women are subjected to sexual assaults and rapes. In this report, it has been mentioned that to reinforce caste hierarchy and to oppress Dalit women men of upper caste communities systematically use violence, rape, gang rapes etc.

According to *Amnesty International*, 65% of hate crimes which were committed in India in 2019 were committed against the Dalits. In an abhorring incident, a Dalit man was compelled by his upper-caste employer to eat human excreta as that Dalit man challenged his upper-caste employer.

- **Targeting of Sexual Minorities:**

Sexual minorities are also quite a vulnerable group in India, as far as the commission of hate crimes is concerned. Sexual minorities are usually subjected to mockery and harassments.

After the judgment in *NALSA v. Union of India*, the transgender community was recognized as the third gender in India and their fundamental rights were also upheld. By the virtue of judgment in *Navtej Singh Johar v. Union of India*, same-sex carnal intercourse was legalized and Section 377 of IPC, which criminalized same sex-carnal intercourse, was declared partially unconstitutional.

But even after both these judgments, not much change has been observed in the general attitude of people towards the sexual minorities in India. In the *CPIN titled "India: Sexual Orientation and Gender Identity and Expression"*, published by the Visa and Immigration Department of the UK it has been mentioned that homosexuals and transgender in India are subjected to degrading treatment and are stigmatized.

What is more worrisome is that many homosexuals have reported that they have been subjected to harassment by the law enforcement authorities. Even today, homosexuality is considered to be a mental disorder and conversion therapy is used for treating homosexuals.

In addition to this, many homosexuals have reported that they still fear expressing their sexual identity and sexual orientation as they fear that doing so would invite mockery, ridicule, social boycott, harassment etc. to mention a few.

- **Nexus Between Hate Crime Perpetrators and Political Outfits**

There also exists a nexus between hate crime perpetrators and many political outfits in India.

Many times, political leaders, following the policy of divide and rule, sow seeds of hatred amongst members of different communities. The political leaders and their agents do not shy away from making hate speeches or religiously colored remarks every then and now. The

irresponsible statements having the color of hatred may even lead to widespread riots and tear apart the sensitive relations which exist between members of various communities.

Reporting in the incidents of hate crimes is also connected to the political motives. According to a news story published in *The New York Times*, in India data related to the commission of hate crimes depends on who the perpetrator is. In this news story, it is further mentioned that the officials under the PM Modis' administration have selectively released results of hate crimes by sharing figures regarding those attacks which were committed by left-wing extremists. It has been alleged in this report that, the administration did not release figures related to religion-based crimes or regarding violence against the journalists. Revealing the data regarding hate crimes is itself a quite sensitive topic in India, nowadays.

Therefore, owing to political agendas and motives first of all real figures are not revealed and secondly, it becomes extremely difficult to take action against the perpetrators.

5) THREAT TO THE FUNDAMENTAL VALUES

In the preamble to the Constitution of India 1950, it has been mentioned that India is a secular country and seeks to secure; justice, liberty and equality for all its citizens. But the hate crime epidemic that India is currently experiencing is posing a threat to these values which are the bedrock of our nation. Currently, this hate crime epidemic is also acting as an impediment to the creation of India, which was envisioned by the founding fathers of our nation.

Incidents of hate crimes against religious minorities in India, the rise of Hindutva ideologies, a surge in Islamophobia, the spread of religion-based propaganda etc. are all posing an ugly shadow on the value of secularism. Hate speeches by leaders of ruling parties against Muslims, targeting of Muslims by law enforcement agencies and heckling the Christians and Muslims from observing their religious practices by members of the organizations which have direct or indirect link with the BJP and its affiliated bodies, is an attack on the values of ; secularism, freedom and equality.

According to the Constitution, all citizens are equal before law. Discrimination based on religion, race, caste, sex or place of birth is prohibited in India. By the virtue of Article 17 of the constitution, untouchability has been abolished from India. Certain fundamental rights are given to all the people such as; the right to freedom of speech and expression, right to practice any profession, trade or occupation, right to freedom of religion, right to life and personal liberty, etc. But the ground reality is far from the perfect picture which has been painted by the Constitution. Hate crimes reveal the dark reality of India.

Atrocities committed against Dalits are a violation of the right to equality and right to life. In addition to this, these atrocities also violate basic human rights such as; equality and dignity, non-discrimination, protection from cruel and degrading treatment etc.

Hate crimes against sexual minorities not only violate the fundamental and human rights as mentioned earlier, but also violate the freedom of speech and expression, which is both; a fundamental as well as a human right.

Calls for economic boycotts of minority religious communities and heckling them from performing their religious activities or celebrating festivals is a violation of the right to practice any profession, trade or occupation, right to life, right to equality as well as the right to freedom of religion.

Racist attacks against people from North-Eastern states of India and migrant labor from states of Uttar Pradesh and Bihar, not only violate fundamental rights but also the human rights of these people.

Thus, as a result of all these hate crimes, basic values of equality and freedom are being threatened.

Due to the close nexus between political outfits and perpetrators of hate crimes, it is becoming increasingly difficult for the authorities to take required actions against the perpetrators of hate crimes so that justice can be served to the victim as well as to his family members and his community.

Owing to the political nexus, it is already a cumbersome task to take action against perpetrators of hate crimes, lackadaisical attitude of the law enforcement agencies further makes it difficult to take action against these perpetrators.

Inability to take requisite actions not only acts as an impediment in delivering justice to the victims but also threatens the core value of justice.

6) CONCLUSION

Thus, it won't be wrong to conclude that, as a result of hate crimes core values of secularism, equality, freedom and justice which act as the bedrock of modern day Indian society are being threatened.

Members of different religious, racial and ethnic communities and caste are spewing venom against each other on a regular basis. Social media platforms have provided a platform to the anti- secular, anti-democratic, anti-equality and intolerant outfits to spread hatred amongst communities.

The unity in diversity is the binding agent that keeps together the citizens of the second most populous country and the largest democracy of the world. But today, the hate crimes on the grounds of religion, race, caste, sex, sexual orientation, etc. are directly attacking this idea of unity in diversity.

It seems that in India; the rule of law has been replaced by the rule of the mob, democracy has been replaced by mobocracy and tolerance has been replaced by hatred. So to protect these core values and most importantly the values of secularism, equality, freedom and justice, and also to build India as envisioned by the founding fathers of our nation, steps must be taken to contain the epidemic of hate crimes at the level of urgency.

People need to understand that diversity is the strength of India. By committing hate crimes and by making hate speeches, people are not doing anything good in the name of protecting their culture,

religion or nation. What people are doing is irreparable damage to the bedrock and core values of Indian society which will ultimately unleash a catastrophe sooner or later.

7) SUGGESTIONS

To prevent further damage to the core values as enshrined in the Constitution, the researcher suggests the following measures:

- The perpetrators of hate crimes should be condemned by the entire society for the offenses that they commit after being blinded by their hatred and prejudices.
- Strict laws shall be enacted and existing legal provisions shall be implemented properly so that the grievances of victims and their families can be redressed more effectively.
- The media shall make people aware of the deleterious effects of hate crimes on society.
- People need to be sensitized on topics such as; racism, homosexuality, communalism, etc. so that they can free themselves from their preconceived notions.
- All stakeholders must join their hands to defeat the epidemic of hate crimes from infecting the core values mentioned in the Constitution.
- Above all, people need to understand that all human beings are equal by virtue of nature and it is high time that the ideas of equality and tolerance are accepted so that a nation as envisioned by the founding fathers of our nation can be built.