



HALTING THE HATE

Social Responses to Restore Harmony



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Introduction

The recent spate of mob vigilantism has pushed the debate of hate crimes in the frontline. At a time when the Supreme Court of India asks the Parliament to formulate a new law on mob violence, it is imperative to make efforts to understand the nitty-gritty of the matter in a more systematic way. ‘Hate crime’ has not been defined in Indian jurisprudence and therefore it is handled the same way as that of a conventional crime ignoring the acute differences between the two. A hate crime is a conventional offense but with an added element of bias. A hate crime is performed out of some kind of hatred or ill feeling towards the other person or group of persons. For hate crime offences, it is essential to meet two criteria. First, the act must constitute an offence under criminal law and second, the act must have been motivated by bias.¹ Bias motivations can be broadly defined as preconceived negative opinions, stereotypical assumptions, intolerance or hatred directed to a particular group that shares a common characteristic, such as race, ethnicity, language, religion, nationality, sexual orientation, gender or any other fundamental characteristic. This violence is not limited to the individuals of specific groups but symbols associated or even perceived to be associated with a particular group can also be the targets of hate crimes and the assault can be physical, mental or even verbal. Hate crimes affect the security of individuals, their communities and societies as a whole. The effects of hate crimes are deeper and more wide ranging than those of other serious crimes such as murders and assaults. They impact not only the immediate victim but also the community

¹ <http://hatecrime.osce.org/what-hate-crime>

with which the victim identifies, affecting social cohesion and stability. Recently the Supreme Court of India termed incidents of mob lynching as 'horrendous acts of mobocracy' and observed that individual citizens cannot take law into their hands. The Apex Court said that the state cannot become deaf against growing rumblings and is duty bound to maintain the rule of law and social and pluralistic fabric of the society². However, the rising graph of mob vigilantism has haunted the nation.

Hate crimes in India

In India the highest number of hate crimes is reported against Dalits and Muslims. India has witnessed the legitimized inequality and horrific violence against savagely oppressed caste, women and minorities. India has a shambolic record of religious violence. According to the Global Restriction on Religion Report 2015 published by Pew Research Centre, India is world's fourth religious intolerant country after Syria, Nigeria and Iraq. As per the report India had the highest levels of social hostilities involving religion³. This report reflects on the Government Restrictions Index (government restrictions on the free practice of religion) and the Social Hostilities Index (hostilities between groups around the issue of religion). The Pew study criticizes the India on high levels of interference in

² <https://www.firstpost.com/india/supreme-court-tells-centre-to-create-new-law-to-halt-lynching-says-horrendous-acts-of-mobocracy-cant-be-tolerated-4757361.html>

³ <http://www.pewresearch.org/fact-tank/2018/06/21/key-findings-on-the-global-rise-in-religious-restrictions/>

religious practices, hostility to minority religions and inaction on complaints of discrimination.⁴

The National Crime Record Bureau doesn't record the official data of hate crimes. However, some institutions have come forward to record the hate crime. As per IndiaSpend data base since September 2015 more than 600 incidents of hate crimes have been reported. Communal violence has also rose by 28 percent from 2014 to 2017. According to data released to the Lok Sabha as many as 7,484 communal incidents have been reported over the last decade between 2008 and 2017 i.e. two incidents every day, killing over 1,100 people, whereas 2276 incidents of communal violence have been reported during last three years leading to death of 294 people. Highest number of communal violence has been reported in the year 2008.

Total communal incidents since 2008

Year	Incidents	Persons killed	Persons injured
2007	761	99	2227
2008	943	167	2354
2009	849	125	2461
2010	701	116	2138
2011	580	91	1899
2012	668	94	2117

⁴ <http://www.prsindia.org/media/articles-citing-prs/how-indians-view-religion-in-the-country-4972/>

2013	823	113	2269
2014	644	95	1921
2015	751	97	2264
2016	703	86	2321
2017	822	111	2284

(Source- Lok Sabha)

Mob vigilantism based on hatred and falsehood has emerged as threat to not only the rule of law but also to the social fabric of the nation. People don't hesitate to take law in their hand and try to punish at site. This trend has taken a clear shape in last couple of years and the impunity encourages to commit the crime. Cow related violence and child lifters rumors have emerged as major challenges in recent past. Around 85 incidents of cow related violence have been reported since 2014 leading to death of 34 people, 56 percent of them were Muslims. As per the IndiaSpend, since 2010 the highest cows and religion related violent incidents were recorded (37 incidents) in 2017 which led to the 11 deaths (highest since 2010).

Child-lifting rumors have caused 75 mob attacks in the last one and a half years. From January 1, 2017, to July 13, 2018, 36 persons have been killed and hundreds have sustained injuries in violence cause by child lifting rumors. In the first 13 days of July 2018 alone, there have been 11 cases of mob violence over

child lifting rumors and six deaths have been reported so far, which amount to almost one attack recorded every day⁵.

Types of hate crime	Year	No of incidents	Causalities
Violence due to child lifting rumors	2017	8	9
	2018	66	27
Cow related violence	2012	1	0
	2013	1	0
	2014	3	0
	2015	12	10
	2016	24	8
	2017	37	11
	2018(till July 20)	9	5

(Source- IndiaSpend)

Legal framework for hate crimes

Even though India has the history of mob violence, the Indian jurisprudence doesn't define the hate crime. The Indian Penal Code doesn't mention the hate crime. As of now it is dealt with certain sections of IPC especially section 153 and 295. Hate crimes against specific groups like women, dalits are dealt with

⁵ https://www.business-standard.com/article/current-affairs/69-mob-attacks-on-child-lifting-rumours-since-jan-17-only-one-before-that-118070900081_1.html

special legislation. But there is clear lack of national legal framework on hate crimes. A Supreme Court bench headed by Chief Justice Dipak Misra on 17th July 2018 described the cow vigilantism or any other vigilantism as ‘extra-judicial act’ and issued several directions of preventive, remedial and punitive measures and asked the Parliament to create a separate offence for lynching and provide adequate punishment for the same. The court said that a special law in this field would instill a sense of fear for the law. The court passed guidelines for the Centre and the States for as fast-tracked trials, victim compensation, deterrent punishment and disciplinary action against lax law-enforcing officials.

Experts welcome this intervention of Supreme Court but centre always walks free describing the law and order and police as state subject under seventh schedule of the Constitution of India. While state police has poor record of using section 153A. For example, police didn’t mention the Section 153A in FIR or charge sheet in Junaid murder case. Police seems reluctant in invoking this section in identity-related hate crimes to downplay the real motive and hide the real cause. In mob violence police usually file FIR under charges of unlawful assembly, causing hurt and house trespass against unidentified suspects which was bailable offence unlike Section 153A, which should be invoked in all such cases of mob violence. Whereas as per the media reports police misuses the section 153A to target the people arbitrary⁶. States were also criticized to use this section as political weapon to suppress the dissent voice. As per the NCRB report cases registered under section 153 A had risen 41 percent in last three years.

⁶ <https://scroll.in/article/863176/2017-india-is-undercounting-religious-hate-crimes-by-not-invoking-a-crucial-section-of-the-law>

Year	Cases registered under Section 153 A
2014	336
2015	378
2016	478

(Source- NCRB)

Here central concern remains the implementation of the law in letter and spirit. Lack of political will, ineffective policing and unfair investigation aggravate the situation which needs to be taken care of. Supreme Court in its directives asked the states to fix the responsibility of policemen who subvert the cause of the justice and fail to discharge the duty.

Important IPC sections dealing with the hate crimes.

Section Under IPC	Description
<u>153</u>	This section deals with the the act of provocation with intent to cause riot. Whoever malignantly, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either de-scription for a term which may extend

	to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.
<u>153 A</u>	The purpose of the Section 153 A is to punish persons who indulge in wanton vilification or attacks upon the religion, race, and place of birth, residence, language etc of any particular group or class or upon the founders and prophets of a religion. The jurisdiction of this Section is widened so as to make promotion of disharmony, enmity or feelings of hatred or ill-will between different religious, racial, language or regional groups or castes or communities punishable. Offence on moral turpitude is also covered in this section. The offence is a cognizable offence and the punishment for the same may extend to three years, or with fine, or with both. However, the punishment of the offence committed in a place of worship is enhanced up to five years and fine.
<u>153 B</u>	Section 153B of the IPC safeguards the interests of “class of persons” and above all the “national integration” by providing punishment against imputations and assertions prejudicial to national integration.
<u>295</u>	This section makes destruction, damage, or defilement of a place of worship or an object held sacred, with intent to insult the religion of a class of persons, punishable with imprisonment which may

	extend to two years, or with fine, or with both. This section has been enacted to compel people to respect the religious susceptibilities of persons of different religious persuasion or creeds.
<u>295 A</u>	The objective of this section is to punish deliberate and malicious acts intended to outrage the religious feelings of any class by insulting its religion or the religious beliefs. This section only punishes an aggravated form of insult to religion when it is perpetrated with deliberate and malicious intention of outraging the religious feelings of a class.
<u>505</u>	Section 505 of the IPC is aimed to check and punish the spreading of false and mischievous news intended to upset the public tranquillity. The offence shall be punishable with imprisonment which may extend to three years or with fine, or with both.

World in Grab of Hate

Across the world incidents of hate crimes are increasing. It has taken over the developed countries like USA, France, UK, Australia etc. In, America, Federal Bureau of Investigation records and releases the data related to hate crimes. In the year 2016 a total of 6,121 cases of hate crimes were reported in USA. In 2017, hate crimes rose 12 percent over 2016 levels in 38 largest cities of USA. Black Americans, Muslims, Jews, transgender, and physically challenged were the victims of hate crimes. Around 58 percent of these were racial attack while 21 percent cases were related to religious violence. Home Office of

United Kingdom has been recording the data of hate crime since 2011. According to the report of Home Office, the year 2016-17 saw 29 percent increase in the hate crime related incidents. There were 80,393 offences in 2016-17, compared with 62,518 in 2015-16. Around 79 percent of such cases were racial attack. The biggest rise was in disability and transgender hate crimes⁷. France also records the hate crime incidents. As per the report 1835 cases of hate crimes were recorded in year 2016 while 1790 cases were rerecorded in 2015. Attack on religious minorities has increased in Asia. State emergency was declared in Shi Lanka after the attack on Muslims by the Buddhist in March this year. Myanmar has witnessed the genocidal attack on Rohingya. Similar attacks on religious minorities were reported from other parts of the world.

All around the world, there are various laws to tackle the hate crimes. In spite hate crimes are increasing day by day reflecting the fact that people are fast becoming unaccommodative to live in harmony with other sects.

Shooting the messenger; Social Media and hate crimes

Another aspect related to the issue of hate crime is related with the medium by which opinions and fake information pertaining to the propaganda of the perpetrators are being spread. Earlier this propaganda used to be spread through word of mouth but with the arrival of digital communications, the abusers are now using the digital mediums of communication for spreading contents that are full of hate and violence. While these new digital mediums are fast, they also offers a variety of content

⁷ <https://www.bbc.com/news/uk-41648865>

(including text and audio visuals) without revealing the identity of the original creator.

In countries like India, where the internet penetration is quite high, the problem of hate speech being spread on social media and other digital communication medium is alarming. As per the World Bank Report, 2016 there internet penetration in India is ~ 30 Percent and almost 241 million people use Facebook.

While the whole world is now trying to limit the damages caused by the widespread lie and propaganda on social media by bringing a mix form of government imposed regulations and self-regulations, India has a bit controversial history of regulating social media. The Indian Information Technology Act, 2000 originally contained a controversial Section 66 A which tried to stop the evil of online hate speech, but due to excessive misuse by government to curb the dissenting voices, this section was finally struck down by the Indian Supreme Court in March 2015. The vague and arbitrary terms used in the section led to much misuse of both personal and political nature, with several criminal cases being instituted against innocuous instances of online speech, including political commentary and humor.⁸

In the light of above mentioned judgment, it becomes quite difficult from the regulatory point of view to find a balance between protecting the citizens' right to freedom of speech and stopping the distribution of hate speech and other such dangerous material on social media. Though the current BJP led government took some steps to stop the evil of fake news in April 2018 when the Information and Broadcasting Ministry

⁸ <https://indianexpress.com/article/india/india-others/section-66-a-instances-of-alleged-abuse-on-social-media-2324927/>

issued a notice stating that journalists or agencies accused of creating or spreading fake news would be referred to the statutory body for media, but just after a day of issuing this notice, the ministry took a u turn and scrapped the notice.⁹ Recently, the Ministry of Electronics and Information Technology, India took another approach to this problem and sent a letter to Whatsapp, a leading messaging app with deep penetration in India, urging actions against misinformation circulating on its platform in India.

Though the problem of hate speech and misinformation being circulated on social media is complex and has multiple issues underlying it, but steps like this coming from the Indian government shows some light that the government is trying to create a framework consisting of both imposed and self-regulations to deal with this evil. Also the websites and apps are trying to bring tools and features to curb this issue as Whatsapp recently added a feature in its app giving the administrators of ‘Whatsapp Groups’ to control the ability of its members to send and forward messages.

With time the nature of hate crimes are changing. In order to limit them the need is to bring suitable laws and implement them in the most sincere way. There is an important part society has to play in limiting hate crimes and this requires rigorous awareness and education. The most important part is that the political backing and support feeds impunity to the violators and encourages such incidents. The way out is nothing but political will power to punish the offenders in a time bound way.

⁹ <https://www.theguardian.com/world/2018/apr/03/india-backs-down-over-plan-to-ban-journalists-for-fake-news>

Notes



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