

Legal Framework To Combat Hate Crime In India

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Abstract:

The Hate crime victims are often unable to seek redress against perpetrators for a variety of reasons, meaning many crimes remain unreported, unprosecuted and, ultimately, invisible. In such cases, the rights of victims of crime may not be fully respected and EU member states may not be upholding their obligations towards victims of crime and society in general. FRA's work on hate crime and on the rights of victims of such crime has consistently found that the criminal justice system's response to hate crime is significantly affected when victims encounter difficulties in reporting and in many cases, by the police's, public prosecutors' and criminal judges' reluctance to record and acknowledge hate crime. FRA's victimization surveys- which collected victim views on racist and xenophobic,⁶ LGBTI- related ⁷ and anti-Semitic crimes, ⁸ as well as on the experiences of women as victims of violence ⁹- examined the reasons for these difficulties from the perspectives of victims.

Keywords- Hate crime, legislation, framework, victims

Introduction:

The behavior of people is based on both the law and the traditions of the general public. Laws are promulgated and approved by the state, and the public respects their qualities and traditions. Harmony is ensured by the application of laws. Crimes are manifestations of humans who defy the law. Violation of these laws is guilty. These guilty acts and behaviors are considered crimes or violations.

Existing Legal Provisions on Hate Crimes:

1. Laws that already exist and can help in hate crime cases Cr PC 129: Any senior judge or agency in charge of a law enforcement agency or, if there is no responsible officer, any police officer who is not in the rank of deputy inspector, can order the dissolution of an illegal gathering or of five or more people that could disturb public order; and then it will be the duty of the members of this congregation to disperse accordingly.

If, by order, such a meeting is not dispersed, or if, without order, he behaves in such a way as to demonstrate his determination not to disband, a law enforcement officer or police officer referred to in Article may proceed. L (1) forcibly dissolve said meeting to dissolve it and, if necessary, arrest and imprison its constituent persons to dissolve that congregation, or do so in accordance with

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2. IPC 302: Punishment for murder -Anyone who commits murder is punishable by death or life and is fined. A subsection should be added to include hate crimes leading to murder and punishment.

3. IPC 304: Punishment for manslaughter, non-homicide: imprisonment for life or up to 10 years and fine. "If death is inflicted on a girl or woman, the defendant who commits that murder will be punished with life imprisonment and a fine of up to two lakh rupees. There should be a modified subsection to include hate crimes leading to wrongful death and punishment which should be defined here.⁴

There will be a fund, namely the Compensation Fund for Victims of Women, which will be used to pay the amount of compensation determined by the State Legal Services Authority or the District Legal Services Authority for Victims of female sex or loved ones who have suffered loss or injury as a result of a crime and are in need of rehabilitation. (2) The " Compensation Fund for Victims of Women " includes the following: (a) Contribution from the CVCF program, 2015. (b) Budget allocation in the form of grants to the SLSA, for which the necessary provisions are foreseen for the annual budget government; (c) All costs ordered by the civil / criminal court must be paid into this fund. (d) Amount of compensation recovered from the perpetrator / defendant under Clause 14 of the Plan ; (e) Donations / contributions from international / national / philanthropic / charitable institutions / organizations and persons authorized by a state or central government. (f) Corporate Social Responsibility Contributions (CSR) (3) This fund is administered by the State Legal Services Authority (SLSA).

On 6 July 2016, the central government introduced the revised Central Victim Compensation Fund (CVCF) system for women with a one- time grant of Rs 200 crore as part of the Nirbhaya Fund to support and complement existing compensation systems for victims notified by states / UT- Administrations to reduce the disparity in the amount of compensation reported by different states / UT to crime victims and to encourage states / UT to provide funding to victims of various crimes such as sex crimes in accordance with the Article 357A of the Cr. PC as rape, assault with acid, crimes against children, etc. Trafficking in human beings and Cr. PC's 357 A should be divided into compensation for hate crimes.

General provisions:

Ten Point Plan to Fight Hate Crimes

1. Recognize and condemn violent hate crimes whenever they occur. Senior leaders must promptly, emphatically, publicly and consistently send messages that violent crimes that appear to be motivated by prejudice and fanaticism will be thoroughly investigated and prosecuted with due severity.
2. Adopt laws that specifically address hate crimes. Recognizing the particular harm caused by violent hate crimes, governments should enact laws codifying specific crimes or establish stricter sanctions for violent crimes based on race, religion, ethnicity, sexual orientation, gender, gender identity, physical and mental identity of the victim, disability or other similar state.
3. Strengthen law enforcement and the persecution of offenders. Governments should ensure that hate crime perpetrators are accountable to the law, that the enforcement of hate crime laws is a priority

³ R.V.Kelkar's Criminal Procedure: Dr. K.N Chandrasekharan Pillai ,ed: Fifth, Eastern Book Company

⁴ Indian Penal Code (2021)22nd ed,S.N Mishra, Central Law Publications.

for the criminal justice system, and that records of their enforcement are well documented and published.

4. Provide adequate guidance and resources to law enforcement. Governments should ensure that police and investigators, as first responders in violent crime cases, receive specific instructions and have the procedures, resources and training necessary to identify, investigate and record the causes of crime, distorted motives and those that lead to legal proceedings action required for hate crimes.
5. Conducting parliamentary, inter-institutional or other special inquiries on the problem of offenses motivated by prejudice. These public and official investigations should stimulate public debate, seek ways to better respond to hate crimes, and seek creative ways to address the roots of intolerance and discrimination through education and other means.
6. Monitor and report hate crimes. Governments must maintain formal public surveillance and reporting systems to provide accurate data to make informed policy decisions to combat violent hate crimes. These systems must contain anonymous and disaggregated information on motives of parties and / or groups of victims and monitor incidents and crimes and prosecutions. Governments should consider establishing third-party reporting mechanisms to encourage increased reporting of bias-motivated crimes and conduct regular bias-motivated crime victimization investigations to monitor whether victims report too little or too little.⁵
7. Creation and strengthening of anti-discrimination organizations. Official anti-discrimination and human rights organizations should have the power to fight hate crimes by monitoring, reporting and supporting victims.
8. Communicate with community groups. Governments should undertake public awareness and education efforts among communities and civil society groups to reduce fear and help victims improve police-community relations, promote better police reporting of crimes motivated by bias and improve the quality of data collection by law enforcement.
9. Speak against official fanaticism and fanaticism. Free speech leaves ample room for hateful and insulting speeches, but public figures must occupy a higher level. Deputies and local government leaders must be politically accountable for sectarian statements that promote discrimination and violence and create a climate of fear for minorities.
10. Promote international cooperation on bias-motivated crime. Governments should support and strengthen the mandates of intergovernmental organizations fighting discrimination, such as the Organization for Security and Cooperation in Europe, the European Commission against Racism and Intolerance and the Fundamental Rights Agency, in particular encouraging these organizations to create and train police, prosecutors and judges, as well as other government agencies and civil society groups, to fight violent hate crimes. Governments should also provide these agencies with a detailed report on the frequency and nature of hate crimes, in accordance with relevant obligations.

Special provisions:

Articles 19 and 21 of the Indian Constitution contain provisions governing the freedom of expression that causes violence. The government must uphold the rule of law by punishing those involved in such heinous incidents in different parts of the country. It is necessary for the government to call the anti-hate crime squad to prevent this type of hate across India. The "Hate Crimes Act" must also be approved. Surely there is a need to pass a law prohibiting hate crimes as the current law in the

⁵ Tehseen S.Poonawala v. India Union July 17, 2018.

Indian Penal Code is found in sections 302 (homicide), (attempted murder), 323 (intentional injury), 147 (riot), 148 (riot, Armed Con Fatal Weapon) and 149 (Illegal Gathering) are insufficient in terms of punitive measures to deal with hate crimes for various reasons, severe punishments should be inflicted in any case and, for this, should be considered a separate offense called "Mob Lynch". that infidels fear, that they will face severe sanctions if held accountable.

GUIDELINES FOR LIMITING HATE CRIMES:

In the Poonawalla case, the Court confirmed that "in relation to various cases of lynching and collective violence that do not need to be specifically addressed, as we will give some indication regarding preventive, curative and punitive measures".⁶

Precautions:

The court states that there must be a nodal officer, a high-ranking police officer, and not under the position of police commissioner, in each area to take measures to prevent hate crimes. An exceptional team must be selected to obtain the knowledge reports on the events, victims and perpetrators spreading hate speech and fake news. Locations where gang violence has recently occurred should be considered in a reasonable way. Regular meetings should be held between Nodal officials, knowledge units and police personnel to find out the likelihood and propensity for self-defense and hate crimes in the region and to find ways to block opportunities. The nodal officer will also attempt to end a hostile climate against any region or local caste mentioned in such incidents. The Director General of Police / Secretary of the Ministry of the Interior of the States concerned should receive information on the methods of monitoring crimes motivated by prejudice through periodic meetings with the Nodal officials. The Court ruled: "It is the duty of every policeman to disperse the crowd through the use of violence pursuant to article 129 of the CRPC which, in their opinion, tends to provoke violence or to activate the mask.. Self-defense or other "The Indian Government's Ministry of Interior must strengthen and implement the protected goal of social justice and the rule of law. It should be a reality to see that the elements against the friends involved in such a crime are weakened and remain within the bounds of the law and therefore fear becoming bullies. The actual outcome of such an incident must be broadcast on radio and television, including on the government websites of the Ministry of the Interior. The police will use FIR under IPC Section 153A and other important laws against anyone disseminating dangerous and unreliable messages and recordings that may lead to hate crime.

Judicial Efforts:

A three-judge panel consisting of the Honorable President of the Supreme Court of India Dipak Mishra and the Honorable Judges AM Khanwilkar and the Honorable Judge DY Chandrachud also asked the parliament to develop specific laws to address team surveillance issues, explaining that at that point the guidelines would have the force of law.

The guidelines established by the Supreme Court of the Honorable

- States appoint a senior police officer in each district with at least the rank of police commissioner as a node officer. These officers will set up a task force, assisted by a DSP officer, to take steps to prevent mob violence and lynching. The task force will collect intelligence reports on people who may be committing such crimes or participating in the dissemination of hate speech, provocative statements and false news.

⁶ Indian Union C. J Ahmad.

- State governments should immediately identify districts, sub-districts and villages that have recently reported lynchings and mass violence. The identification process must be completed within three weeks of the date of the sentence
- The nodal officer must hold regular (at least monthly) meetings with local intelligence units in the districts and station agents to identify trends in self-defense and collective violence.
- The director general of police or the secretary of the interior ministry conducts regular (at least quarterly) review meetings with all node officers and intelligence chiefs of the national police.
- The police must ensure the dispersion of crowds who, in self-defense or other uniforms, provoke violence or lynchings.
- The DGP issues a circular to the PS on police patrols in sensitive areas.
- Central and state governments should broadcast on radio, television and other media, including the official websites of the Interior Ministry and the state police, that lynchings and mob violence will have dire consequences.
- **Police will register FIRs under Section 153A of the IPC (Fostering Enmity Between Persons) and / or other relevant regulations against perpetrators.⁷**

FUTURE SCOPE:

Despite the preventive measures taken by the state police, the responsible police station must immediately file a FIR if the local police become aware of a hate crime incident.

- It will be the duty of the police station officer to immediately inform the district node officer, who in turn will ensure that there is no further harassment of the station's relatives (the victims).
- The investigation of these crimes is handled personally by the Nodal Officer, who has the task of supervising the effective conduct of the investigations and the presentation of the accusation within the terms of the law.
- Cases of lynching and gang violence are dealt with specifically by specific courts in each district. These courts decide cases on a daily basis. Preferably, the study should be completed within six months.

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