

Hate Crimes and their Categorisation

In the Indian legal and judicial context, **hate crimes** are not explicitly defined under a single statute. However, they are understood as **criminal acts committed against individuals or groups primarily because of their identity** — such as religion, caste, ethnicity, gender, sexual orientation, or language — and are **motivated by prejudice, bias, or hostility**.

Legal Basis of Hate Crimes in India

While India does not have a specific law titled "hate crime law," several provisions in existing statutes address elements of hate-motivated offences:

1. Indian Penal Code (IPC), 1860

Key provisions under which hate crimes are addressed include:

- **Section 153A** – Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony
- **Section 295A** – Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs
- **Section 298** – Uttering words with deliberate intent to wound religious feelings
- **Sections 505(1)(b) & 505(2)** – Statements creating or promoting enmity, hatred, or ill-will between classes
- **Section 307, 302, 326** – Used when hate crime results in grievous hurt, attempt to murder, or murder

2. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

This special law criminalizes specific acts committed against members of SC/ST communities when motivated by their caste identity. It is one of India's closest legal frameworks aligned with the concept of hate crimes.

3. Protection of Civil Rights Act, 1955

This law prohibits discrimination on the basis of caste and addresses acts rooted in caste-based hatred.

4. Information Technology Act, 2000

Sections like **66A (now struck down)** and **67** are sometimes invoked in online hate speech cases, especially when communal hatred is incited digitally.

Judicial Recognition and Interpretation

Though Indian courts have not created a rigid definition of “hate crime,” the judiciary has recognized identity-based violence as a serious issue:

- **Tehseen S. Poonawalla v. Union of India (2018)**

The Supreme Court acknowledged **mob lynching and vigilante violence** as manifestations of hate crimes and directed state governments to curb such acts. The Court emphasized that such crimes undermine the rule of law and pluralism.

- **Pravasi Bhalai Sangathan v. Union of India (2014)**

The Supreme Court observed the growing influence of hate speech and called for stronger regulation, though it declined to frame guidelines citing legislative prerogative.

Need for Specific Hate Crime Legislation

Legal scholars and civil society have repeatedly advocated for a **comprehensive hate crime law** in India, citing:

- Lack of proper classification of hate crime data
- Inadequate police response to bias-motivated violence
- Underreporting and misclassification under general penal laws
- Absence of sentencing enhancements for bias motivation

In Indian judicial law, hate crimes are understood through the lens of various penal and special statutes addressing **bias-motivated violence**. While not explicitly defined as “hate crimes” in a standalone law, the Indian legal framework criminalizes acts that promote enmity, discrimination, or violence based on identity. Judicial pronouncements have gradually built jurisprudence around hate speech, communal violence, and identity-based attacks, but the absence of a unified hate crime legislation remains a critical gap.

CATEGORISATIONS OF HATE CRIMES: INDIAN AND GLOBAL PERSPECTIVES

Hate crimes are acts of violence or hostility directed at individuals or communities because of their real or perceived membership in a particular social group. These crimes are not only an assault on the victims but also pose a serious threat to the fabric of democratic societies. Although India lacks a consolidated definition or statute titled “hate crime law,” the concept has become increasingly relevant in legal, political, and academic discourses. Categorising hate crimes is essential to understanding their motivations, patterns, and the institutional responses required. This essay explores various categorisations of hate crimes with reference to global and Indian legal contexts, criminological theories, judicial interpretations, and emerging socio-political concerns.

A hate crime, in its most basic form, is a criminal offence committed against a person or property that is motivated in whole or in part by the offender's bias against a particular group. These biases are often based on race, religion, ethnicity, national origin, gender identity, sexual orientation, disability, caste, language, or ideological beliefs.

Categorisation helps in two key ways: identifying the nature of the bias and structuring effective legal and social responses. Globally, countries like the United States, the United Kingdom, Canada, and Australia have distinct legal definitions and categorisations of hate crimes. In contrast, India addresses these through a combination of existing penal laws and special legislations for caste-based and communal violence.

Hate crimes can be categorised in several ways, each providing insights into the nature of the crime and its social implications. These include: Based on Motivation, Based on Targeted Identity, Based on Intensity and Violence, Based on Location and Context, Based on Modality (Offline vs Online), and Legal Categorisation (Statutory vs Non-statutory Recognition)

This categorisation looks at the underlying intent of the offender and helps distinguish hate crimes from ordinary crimes.

Expressive Hate Crimes: These crimes are motivated by a desire to express hatred or contempt for a particular group. The act is often symbolic and aimed at asserting the supremacy of one group over another.

Instrumental Hate Crimes: Here, the crime is used as a tool to achieve a broader objective such as political intimidation, forced migration, or suppression of dissent. It may also aim to provoke fear in an entire community.

Reactive Hate Crimes: These are spontaneous crimes triggered by an event or incident, real or perceived, involving the targeted group. For example, attacks on communities following communal riots or terrorist attacks.

Mission Hate Crimes: The offender considers it their personal or ideological mission to eradicate or harm a particular group. These crimes are often premeditated and involve extremist ideology, such as those by white supremacists or religious radicals.

One of the most common ways to classify hate crimes is based on the specific identity characteristic that becomes the ground of bias.

Racial or Ethnic Hate Crimes: Prejudice based on skin colour, ancestry, or ethnic background. Globally, such crimes include attacks on African-Americans in the US or Rohingya in Myanmar. In India, racial crimes against people from the North-Eastern states have been reported.

Religious Hate Crimes: Crimes targeted at individuals based on their religious beliefs or practices. In India, incidents of mob lynching of Muslims over cow slaughter allegations or anti-Christian violence fall under this category.

Caste-Based Hate Crimes: Unique to India, this includes offences against Scheduled Castes and Scheduled Tribes by upper castes. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 specifically criminalises such acts.

Gender and Sexual Orientation-Based Hate Crimes: Crimes against transgender persons, women, or homosexuals due to bias against their identity. In India, Section 377 of IPC (prior to its partial decriminalisation) criminalised same-sex relations, indirectly legitimising such hate.

Disability-Based Hate Crimes: These are crimes against individuals with physical or mental disabilities, often based on ableist prejudice. India's Rights of Persons with Disabilities Act, 2016 mandates protection but does not specifically address hate crimes.

Linguistic and Cultural Hate Crimes: Crimes rooted in hostility toward linguistic minorities, such as attacks on Hindi-speaking migrants in South India or Marathi speakers in Karnataka border regions.

Ideological or Political Hate Crimes: These include attacks on activists, dissenters, or political opponents, particularly when driven by polarised ideologies. Assassinations of rationalists like Gauri Lankesh reflect this trend.

Hate crimes can also be categorised based on the degree of harm or violence inflicted.

Verbal Hate Crimes: These involve hate speech, slurs, threats, or abusive language directed at a group or individual. While often not prosecuted as crimes in India, they are addressed under Sections 153A, 295A, and 505 of IPC.

Physical Assault and Property Damage: This includes beatings, arson, vandalism of religious places, or desecration of symbols. Attacks on mosques, churches, or statues fall under this.

Murder and Lynching: The most extreme form of hate crime. India has witnessed lynchings based on beef consumption allegations, inter-caste relationships, and religious conversions.

Institutional Hate Crimes: This involves systemic discrimination or neglect, such as denial of public services, biased policing, or discriminatory judicial processes against specific groups.

Understanding where and when hate crimes occur helps design context-specific interventions.

Urban vs Rural: Urban areas often see identity-based discrimination in housing or employment. Rural areas witness caste-based violence like honour killings or social boycott of Dalits.

Conflict Zones: Areas with insurgency or communal tension experience higher incidences of ideologically or ethnically motivated hate crimes. Examples include Kashmir, Manipur, or Gujarat (during 2002 riots).

Institutional Settings: Schools, prisons, and workplaces are spaces where bullying, harassment, and violence based on identity markers frequently occur.

During Political Events: Elections and political rallies often trigger hate speech or targeted attacks, especially in communally charged environments.

With the advent of digital media, hate crimes have expanded beyond physical space.

Offline Hate Crimes: These are conventional crimes involving face-to-face interaction, such as assault, lynching, or public humiliation.

Online Hate Crimes: Social media platforms have become arenas for hate speech, doxxing, cyberbullying, and coordinated harassment of religious, gender, or caste minorities. Indian IT laws are increasingly invoked to counter such crimes.

Mixed Modality: Online hate campaigns often translate into offline violence. For example, viral videos or fake news have provoked communal riots or lynchings in recent years.

Although India does not have a consolidated hate crime law, different statutes criminalise specific forms of identity-based violence.

Indian Penal Code (IPC): Sections 153A, 153B, 295A, 298, and 505 criminalise speech and acts promoting enmity and ill-will between groups.

SC/ST (Prevention of Atrocities) Act, 1989: Targets caste-based discrimination and violence. It recognises offences like social boycott, wrongful occupation of land, and sexual abuse when perpetrated against Dalits and Adivasis.

Protection of Civil Rights Act, 1955: Criminalises untouchability and caste discrimination.

Information Technology Act, 2000: Sections 66 and 67 address online hate content and obscene or offensive messages. Though limited in scope, these are invoked in online hate speech cases.

Unlawful Activities (Prevention) Act (UAPA): Used against extremist or ideologically motivated violence. Critics argue it is sometimes misused against minority communities.

Indian courts have increasingly dealt with cases involving hate crimes, although not always under that explicit terminology.

Tehseen S. Poonawalla v. Union of India (2018): The Supreme Court recognised mob lynchings as a form of hate crime and directed the Centre and States to formulate lynching prevention guidelines.

Pravasi Bhalai Sangathan v. Union of India (2014): The Supreme Court acknowledged the danger of hate speech and called for stricter implementation of existing laws, though it left the matter of legal reform to the legislature.

Shakti Vahini v. Union of India (2018): In the context of honour killings, the Court emphasised that caste-based violence disguised as protection of social honour is illegal and unconstitutional.

Despite judicial recognition, hate crimes are often misclassified by police under general IPC provisions, masking the identity-based nature of the offence.

India's fragmented legal response to hate crimes has led to demands for a consolidated hate crime law that clearly defines hate crime and bias motivation, mandates enhanced penalties for bias-driven offences, imposes legal duties on police to record and investigate hate angles, protects vulnerable communities and recognises intersectional discrimination, and enables independent monitoring and public reporting.

Globally, countries like the United States have laws such as the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act which expand federal jurisdiction to prosecute hate crimes motivated by race, religion, sexual orientation, gender identity, and disability.

The UK's Crime and Disorder Act 1998 and Public Order Act 1986 define and punish hate crimes more explicitly, with enhanced sentencing for racial or religious aggravation.

India's approach remains reactive, piecemeal, and politically sensitive, lacking institutional frameworks to track, prevent, or rehabilitate in hate crime cases.

Categorising hate crimes is critical for identifying patterns of bias, protecting vulnerable communities, and designing targeted interventions. In India, hate crimes manifest across caste, religion, gender, and language lines, with increasing overlap in digital spaces. Despite legal provisions that indirectly address such acts, the absence of a unified hate crime statute impedes justice, data collection, and victim support. A rights-based, inclusive legal reform coupled with judicial sensitivity and law enforcement accountability is essential to curb the growing menace of hate-motivated violence in Indian society.