

2. Treat 'Racial Slur' As A Hate Crime- Polity

The Chief Justice of India was hearing a petition seeking comprehensive guidelines to recognise 'racial slur' as a separate category of hate crime. The court asked Attorney General R. Venkataramani to consider the petition and refer it to an appropriate authority.

Concept And Meaning

Hate crimes refer to criminal acts motivated wholly or partly by prejudice or hostility against a person or group based on protected characteristics such as religion, race, caste, ethnicity, language, disability, sexual orientation, gender identity, or nationality. The defining feature is bias motivation, which differentiates hate crimes from ordinary crimes.

They may include physical violence, verbal abuse, threats, vandalism of religious places, social boycott, mob lynching, online harassment, and incitement to violence. In the Indian legal framework, the term "hate crime" is not separately codified; instead, such acts are prosecuted under relevant provisions of the Indian Penal Code (IPC) (now largely replaced by the Bharatiya Nyaya Sanhita, 2023).

Nature And Forms of Hate Crimes

Direct Physical Violence

1. Assaults, lynching, targeted killings based on identity markers.
2. Destruction of religious places or cultural symbols.

Hate Speech and Incitement

1. Public speeches promoting enmity between groups.
2. Social media posts that demean communities or incite violence.

Institutional and Structural Discrimination

1. Denial of services or opportunities based on identity.
2. Organized campaigns aimed at exclusion or segregation.

Digital Hate

1. Online trolling, coordinated harassment campaigns.
2. Deepfakes and misinformation targeting specific communities.

Impact of Hate Crimes

Social Fragmentation

1. Deepens communal divides and weakens social cohesion.
2. Reinforces stereotypes and prejudices.
3. Escalates into cycles of retaliatory violence.

Threat to Constitutional Morality

1. Undermines equality (Article 14) and non-discrimination (Article 15).
2. Weakens the idea of fraternity mentioned in the Preamble.
3. Challenges the secular character of the State.

Psychological and Economic Impact

1. Creates climate of fear and insecurity among minority communities.
2. Leads to migration, ghettoisation, and social isolation.
3. Reduces economic participation and access to education/employment.

Democratic Backsliding

1. Polarisation for electoral gains erodes democratic deliberation.
2. Shrinks space for free expression through intimidation.

Constitutional Framework

Article 14 – Equality Before Law

1. Ensures equal protection of laws.
2. Mandates State neutrality and fairness in enforcement.

Article 15 – Prohibition of Discrimination

1. Bars discrimination on grounds of religion, race, caste, sex, or place of birth.
2. Enables affirmative action for socially disadvantaged groups.

Article 19(1)(a) and Article 19(2)

1. Guarantees freedom of speech and expression.
2. Permits reasonable restrictions on grounds such as –
 - a. Public order
 - b. Security of the State
 - c. Decency or morality
 - d. Defamation
 - e. Incitement to an offence

Article 21 – Right to Life and Personal Liberty– Judicial interpretation expands this to include dignity, safety, and reputation.

Article 25 – Freedom of Religion–Protects freedom of conscience and religious practice, subject to public order and morality.

Legal Provisions Addressing Hate Crimes

Penal Code Provisions (IPC / BNS, 2023)

1. Section 153A IPC / Corresponding BNS Provision – Promoting enmity between groups.
2. Section 295A IPC – Deliberate acts intended to outrage religious feelings.
3. Section 505 IPC – Statements conducing to public mischief.
4. Provisions under BNS, 2023 retain similar objectives with revised numbering.

Representation of the People Act, 1951

1. Section 123(3) – Appeals to religion, caste, community during elections considered corrupt practice.
2. Section 123(3A) – Promotion of hatred during elections prohibited.

Information Technology Act, 2000

1. Intermediary liability provisions (Section 79) require due diligence by digital platforms.
2. Rules under IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 impose obligations for content removal.

Key Supreme Court Judgments

Pravasi Bhalai Sangathan v. Union of India (2014)

1. Recognised the absence of a specific hate speech law.
2. Urged Parliament to consider comprehensive legislation.

Amish Devgan v. Union of India (2020)

1. Clarified that hate speech is speech that attacks individuals/groups based on identity.
2. Emphasised balancing Article 19 freedom with public order and dignity.

Shreya Singhal v. Union of India (2015)

1. Struck down Section 66A of IT Act for vagueness.
2. Introduced distinction between advocacy and incitement.

Challenges in Addressing Hate Crimes

Absence of Clear Legal Definition

1. No uniform statutory definition leads to varied interpretation.
2. Inconsistent enforcement across states.

Proving Mens Rea (Intent)

1. Hate crimes require proof of bias motivation.
2. Establishing link between speech and violence is legally complex.

Digital Ecosystem

1. Rapid virality on social media.
2. Use of encrypted platforms hinders monitoring.
3. Cross-border hosting complicates jurisdiction.

Political Polarisation

1. Selective enforcement may erode public trust.
2. Hate narratives often intersect with electoral politics.

Underreporting and Data Gaps

1. Victims may fear retaliation.
2. Lack of disaggregated data on hate crimes.

International Perspective

1. Many democracies define hate crimes as separate offences with enhanced penalties.
2. UN Rabat Plan of Action provides a threshold test for incitement.
3. Comparative models show importance of victim support mechanisms and specialized prosecution units.

Way Forward

Clear Legislative Framework

1. Enact a comprehensive law defining hate speech and hate crimes.
2. Provide objective criteria to assess bias motivation.

Strengthened Digital Governance

1. Mandate swift content takedown mechanisms.
2. Algorithmic transparency and platform accountability.
3. Collaboration between law enforcement and tech companies.

Judicial and Police Training

1. Sensitisation programs for law enforcement.
2. Standardised protocols for investigation and evidence collection.

Data and Research

1. National database on hate crimes.
2. Periodic public reporting for transparency.

Community-Based Interventions

1. Promote interfaith dialogue and civic education.
2. Encourage counter-speech initiatives.
3. Strengthen local peace committees.

Balancing Free Speech and Public Order

1. Ensure restrictions are narrowly tailored and proportionate.
2. Avoid misuse of hate speech laws to suppress dissent.

Conclusion

Hate crimes strike at the core of constitutional democracy by targeting individuals for their identity rather than their actions. While India possesses scattered legal provisions addressing such acts, the absence of a precise statutory framework creates enforcement

gaps. A calibrated approach—combining legislative clarity, digital accountability, institutional reform, and societal awareness—is essential to safeguard equality, dignity, and fraternity in a pluralistic society.

Source - <https://www.thehindu.com/news/national/look-into-plea-for-special-law-on-hate-crimes-sc-to-attorney-general/article70648511.ece>