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Victims of Hate Crimes
(A Legal and Human Rights Perspective)

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Abstract : *Hate crimes are serious violations of human rights committed against individuals or communities based on their religion, caste, race, ethnicity, gender, language or other identity characteristics. Unlike ordinary crimes, hate crimes are motivated by prejudice, discrimination and intolerance. They not only cause physical, psychological and economic harm to individual victims but also create fear, insecurity and social division. This study examines the legal and human rights perspectives concerning victims of hate crimes, including their types, causes, essential features and effects on society.*

The study analyses the constitutional and statutory framework in India, particularly Articles 14, 15, 17, 19 and 21 of the Constitution of India, the Bharatiya Nyaya Sanhita, 2023, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and other relevant legislations. It also examines victim compensation under Section 396 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and the protection available under international instruments such as the Universal Declaration of Human Rights, 1948 and the International Covenant on Civil and Political Rights, 1966.

Further, the study examines important judicial decisions, including Tehseen S. Poonawalla v. Union of India (2018), Pravasi Bhalai Sangathan v. Union of India (2014), Amish Devgan v. Union of India (2021), Bilal Ahmed Kaloo v. State of Andhra Pradesh (1997) and Shaheen Abdullah v. Union of India. These decisions highlight the importance of preventing hate speech, mob violence and discrimination while protecting constitutional values.

The study identifies challenges such as inadequate legal protection, delayed justice, insufficient compensation and secondary victimisation. It suggests comprehensive hate crime legislation, effective law enforcement, victim rehabilitation, witness protection and public awareness. Ultimately, the study emphasises that protecting victims of hate crimes is essential for ensuring equality, human dignity, fraternity, social harmony and the rule of law.

Keywords: victims of hate crimes

I. INTRODUCTION

Hate crimes are among the serious challenges faced by modern democratic societies. They involve criminal acts committed against individuals or communities because of their identity, religion, caste, race, ethnicity, gender, language, sexual orientation or other personal characteristics.[1]

Unlike ordinary crimes, hate crimes are motivated by prejudice, discrimination, intolerance and hatred towards a particular individual or group.

Hate crimes not only cause physical and psychological harm to individual victims but also create fear, insecurity and division within society. They affect the fundamental principles of equality, dignity, fraternity and justice.

[1] Organization for Security and Co-operation in Europe (OSCE), Office for Democratic Institutions and Human Rights, *Understanding and Addressing Hate Crime* (OSCE/ODIHR).

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In India, incidents involving caste-based violence, religious intolerance, communal attacks, mob lynching and discrimination demonstrate the importance of protecting vulnerable communities.

Although India does not have a separate comprehensive legislation defining all forms of hate crimes, several constitutional provisions and criminal laws provide protection against such offences.

Therefore, the protection of victims of hate crimes is essential for maintaining constitutional values, social harmony and the rule of law.

2. DEFINITION OF HATE CRIMES

A hate crime can be defined as:

"Any criminal act committed against a person or group of persons, motivated wholly or partly by prejudice, hatred or bias based on their actual or perceived identity or characteristics."

The Organisation for Security and Co-operation in Europe (OSCE) describes hate crimes as criminal offences committed with a bias motive.[2]

A hate crime generally contains two important elements:

1. A criminal offence must have been committed.
2. The offence must be motivated by prejudice or bias against the victim's identity.

For example:

- Attacking a person because of their religion.
- Assaulting someone because of their caste.
- Physically attacking a person because of their sexual orientation.
- Destroying property belonging to a particular religious community because of hatred.

3. MEANING AND CONCEPT OF HATE CRIMES

The term hate crime consists of two words:

Hate: It refers to prejudice, intolerance, hostility or discrimination against a particular person or community.

Crime: It refers to an act or omission prohibited and punishable under criminal law.

Therefore, hate crime refers to a criminal offence committed because of hatred or prejudice towards a person's identity.

The important distinction between an ordinary crime and a hate crime is the motive behind the commission of the offence.

For example:

If a person attacks another person during a personal dispute, it may constitute an ordinary criminal offence.

However, if a person attacks another individual specifically because of their caste, religion or ethnicity, the offence may constitute a hate crime[3].

Thus, hate crimes affect not only the individual victim but also the entire community to which the victim belongs.

4. TYPES OF HATE CRIMES

Hate crimes can be classified into the following categories:

1. Religious Hate Crimes: Crimes committed against individuals because of their religious beliefs or religious identity.

Example: Attacking a person because they belong to a particular religion.

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[2] Organization for Security and Co-operation in Europe (OSCE), Office for Democratic Institutions and Human Rights, *Understanding and Addressing Hate Crime* (OSCE/ODIHR).

[33] OSCE, *Hate Crime Data Collection and Monitoring Mechanisms*, explaining that hate crimes consist of a criminal offence accompanied by a bias motivation.

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2. Caste-Based Hate Crimes: Violence, humiliation, discrimination and physical attacks committed because of a person's caste.
Example: Attacking members of Scheduled Castes or Scheduled Tribes because of their caste identity.
3. Racial and Ethnic Hate Crimes: Criminal acts committed because of a person's race, colour, ethnic origin or nationality.
Example: Attacking individuals because of their racial or ethnic background.
4. Gender-Based Hate Crimes: Crimes motivated by hatred or prejudice towards individuals because of their gender or gender identity.
5. Sexual Orientation-Based Hate Crimes: Attacks, threats and harassment against individuals because of their sexual orientation.
6. Linguistic Hate Crimes: Violence or threats against individuals because they speak a particular language.
7. Disability-Based Hate Crimes: Criminal acts committed against persons with disabilities because of their physical or intellectual conditions.
8. Cyber Hate Crimes: Online threats, harassment, abusive messages, targeted intimidation and digital attacks motivated by prejudice against an individual's identity.

5. CATEGORIES OF VICTIMS OF HATE CRIMES

i. **Direct Victims:** Individuals who directly experience physical attacks, threats, assault, harassment or damage to their property because of prejudice or hatred.
ii. **Indirect Victims:** Family members, relatives and close associates of the direct victims who suffer emotional distress, fear and psychological trauma.
iii. **Community Victims:** Members of the same religious, caste, racial or ethnic community who experience fear, insecurity and discrimination following an incident of hate crime.
iv. **Vulnerable Group Victims:** People belonging to socially and economically disadvantaged groups who are particularly exposed to identity-based discrimination and violence.

6. EFFECTS OF HATE CRIMES ON VICTIMS

1. **Physical Injury:** Victims may suffer bodily injuries, disability or even death.
2. **Psychological Trauma:** Victims may experience depression, anxiety, fear and emotional suffering.
3. **Social Isolation:** Victims may face exclusion, humiliation and discrimination within society.
4. **Economic Loss:** They may lose employment, property, income and financial security.
5. **Loss of Confidence:** Victims may lose trust in society, police authorities and the justice system.
6. **Fear of Repeated Attacks:** Victims may continuously fear that similar incidents will happen again.
7. **Violation of Human Dignity:** Hate crimes affect the victim's dignity, equality and freedom.

7. ESSENTIAL FEATURES OF HATE CRIMES

The following are the essential features of hate crimes:

i. **Criminal Act:** There must be an act recognised as an offence under the applicable criminal law.
ii. **Bias or Prejudice:** The offender must act because of hatred, intolerance or prejudice towards the victim.
iii. **Identity-Based Targeting:** The victim is selected because of actual or perceived characteristics such as religion, caste, race or gender.
iv. **Physical or Psychological Harm:** Hate crimes may cause physical injuries, mental trauma, emotional suffering or economic loss.
v. **Community Impact:** Such offences create fear and insecurity among the wider community.
vi. **Discrimination:** Hate crimes are generally connected with social inequality and discriminatory attitudes.
vii. **Violation of Human Rights:** They violate fundamental rights, human dignity and the principle of equality.

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viii. **Threat to Social Harmony:** They disturb peace, fraternity and peaceful coexistence in society.

8. HOW TO COMBAT HATE CRIMES

Hate crimes can be prevented and controlled through the following measures:

i. **Strict Enforcement of Criminal Laws:** Police authorities must promptly register complaints, investigate incidents and take appropriate legal action against offenders.
ii. **Public Awareness:** Government and educational institutions should conduct awareness programmes about equality, tolerance and human rights.
iii. **Protection of Victims and Witnesses:** Victims and witnesses must receive proper protection against threats, intimidation and further attacks.
iv. **Social Media Regulation:** Authorities should take appropriate action against online threats, targeted harassment and unlawful content that incites violence.
v. **Educational Reforms:** Schools and universities should promote constitutional values, secularism, equality and respect for diversity.
vi. **Community Participation:** Religious leaders, social organisations and civil society groups should work together to prevent communal hatred.
vii. **Speedy Trial:** Special attention should be given to the timely investigation and trial of hate crime cases.
viii. **Victim Rehabilitation:** Victims must receive medical assistance, psychological counselling, financial compensation and social rehabilitation.

9. LEGAL PROVISIONS IN INDIA

India does not presently have one comprehensive central legislation that defines and punishes every category of hate crime as a separate offence.

However, several constitutional provisions and statutory laws provide protection to victims.

A. Constitutional Provisions[4]

Article 14 – Right to Equality: Guarantees equality before the law and equal protection of the laws to every person.

Article 15 – Prohibition of Discrimination: Prohibits discrimination on grounds of religion, race, caste, sex or place of birth.

Article 17 – Abolition of Untouchability: Abolishes untouchability and prohibits its practice in any form.

Article 19(1)(a) – Freedom of Speech and Expression: Provides freedom of speech and expression, subject to reasonable restrictions under Article 19(2).

Article 21 – Right to Life and Personal Liberty: Protects life, personal liberty and human dignity.

Article 25 – Freedom of Religion: Guarantees freedom of conscience and the right to freely profess, practise and propagate religion, subject to constitutional limitations.

Article 29 – Protection of Cultural and Educational Rights: Protects the interests of citizens having distinct language, script or culture.

Article 46 – Protection of Weaker Sections: Directs the State to promote the educational and economic interests of weaker sections, particularly Scheduled Castes and Scheduled Tribes.

[4] Constitution of India, Articles 14, 15, 17, 19 and 21.

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B. Bharatiya Nyaya Sanhita, 2023[5]

The Bharatiya Nyaya Sanhita, 2023 provides several important provisions dealing with offences connected with hate and discrimination.

Section 103(2) – Murder by a Group of Five or More Persons: Where a group of five or more persons acting in concert commits murder on specified grounds, including race, caste or community, sex, place of birth, language, personal belief or any other similar ground, every member of the group is punishable with death or imprisonment for life and fine.

Section 124 - offense of Voluntarily causing grievous hurt by use of acid, etc.

Causing Harm or Grievous Hurt (Sec. 124(1)): Penalizes using acid or corrosive substances with the intent or knowledge to cause permanent/partial damage, disfigurement, or a vegetative state. Punishable by **10 years to life imprisonment** and a fine to cover medical expenses.

Attempt (Sec. 124(2)): Penalizes attempting to use or administer acid. Punishable by **5 to 7 years imprisonment** and a fine

Section 117(4) – Grievous Hurt by a Group: Provides punishment where a group of five or more persons acting in concert voluntarily causes grievous hurt on specified identity-based grounds.

Section 118 – Voluntarily causing hurt or grievous hurt by dangerous weapons or means: Covers voluntarily causing hurt or grievous hurt by dangerous weapons or means (such as shooting, stabbing, or cutting instruments, fire, poison, corrosive/explosive substances, or animals).

Hurt*:* Up to 3 years imprisonment, fine up to ₹20,000, or both

Grievous hurt*:* Life imprisonment, or 1 to 10 years imprisonment plus a fine.

Section 196 – Promoting Enmity Between Different Groups: Punishes promoting enmity between different groups on grounds including religion, race, place of birth, residence, language, caste or community.[6]

Section 197 – Imputations and Assertions Prejudicial to National Integration: Punishes certain imputations and assertions that are prejudicial to national integration.[7]

Section 299 – Deliberate and Malicious Acts Intended to Outrage Religious Feelings

Punishes deliberate and malicious acts intended to outrage the religious feelings of a class of citizens.

Section 302 – Uttering Words, etc., with Deliberate Intent to Wound Religious Feelings

Punishes certain words, sounds, gestures or objects used with the deliberate intention of wounding the religious feelings of a person.

C. Other Important Legislations

1. **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989:** Provides special protection against caste-based atrocities and violence[8].
2. **The Protection of Civil Rights Act, 1955:** Punishes the practice of untouchability.[9]
3. **The Information Technology Act, 2000:** Contains provisions addressing certain forms of unlawful online conduct and electronic offences[10].

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[55] Bharatiya Nyaya Sanhita, 2023, Section 103(2).

[6] Section 196 of BNS – Promoting Enmity Between Different Groups

[7] Section 197 of BNS– Imputations and Assertions Prejudicial to National Integration

[8] The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Sections 3, 4, 14 and 15A

[9] The Protection of Civil Rights Act, 1955, Sections 3 to 7

[10] The Information Technology Act, 2000, Sections 66C, 66D, 66E, 67 and 67A, as applicable to the particular conduct.

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4. **The Protection of Women from Domestic Violence Act, 2005:** Provides civil remedies and protection against domestic violence, including relevant forms of gender-based abuse.
5. **The Rights of Persons with Disabilities Act, 2016:** Protects the rights of persons with disabilities and prohibits specified forms of discrimination.

10. VICTIM COMPENSATION SCHEME FOR HATE CRIMES

Victim compensation is an important part of criminal justice because victims of hate crimes may suffer physical injuries, psychological trauma, financial loss and social exclusion.

India does not have a separate nationwide compensation scheme exclusively for hate crime victims.

However, victims can seek compensation under the general victim compensation framework and applicable special legislation.

A. Section 396 of the Bharatiya Nagarik Suraksha Sanhita, 2023[11]

Section 396 provides for the Victim Compensation Scheme.

Important features:

1. Every State Government, in coordination with the Central Government, shall prepare a victim compensation scheme.
2. Compensation may be provided to victims or their dependants who have suffered loss or injury and require rehabilitation.
3. The District Legal Services Authority (DLSA) or State Legal Services Authority (SLSA) determines the amount of compensation.
4. Victims can apply for compensation even when the offender is not traced or identified, subject to the statutory requirements.
5. The authority must complete the enquiry within two months.
6. Immediate medical assistance and interim relief may also be provided.

B. Compensation under the SC/ST Act

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides additional protection to victims of caste-based atrocities.

Under Section 15A, victims and dependants have important rights relating to protection, information, participation and assistance[12].

Rule 12(4) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 provides for relief amounts according to the nature of the offence.

C. Forms of Victim Compensation

Victims may require:

- Medical expenses.
- Financial compensation.
- Psychological counselling.
- Rehabilitation assistance.
- Protection against further threats.
- Legal aid.
- Support for dependants in cases of death.

[11] The Bharatiya Nagarik Suraksha Sanhita, 2023, Section 396(1)–(7).

[12] The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, Rule 12(4) and Schedule.

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The main objective of victim compensation is not merely financial assistance but also restoration of dignity and rehabilitation.

11. INTERNATIONAL PROVISIONS AND CONVENTIONS

International human rights law recognises equality, dignity and protection against discrimination.

Although there is no single universal international treaty exclusively dealing with all forms of hate crimes, several international instruments provide important protections.

1. Universal Declaration of Human Rights, 1948[13]

Article 1: All human beings are born free and equal in dignity and rights.

Article 2: Everyone is entitled to human rights without discrimination.

Article 7: Everyone is equal before the law and entitled to equal protection.

Article 8: Everyone has the right to an effective remedy for violations of fundamental rights.

2. International Covenant on Civil and Political Rights, 1966[14]

Article 2: Requires States to respect and ensure rights without discrimination.

Article 20(2): Prohibits advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Article 26: Guarantees equality before the law and equal protection without discrimination.

3. International Convention on the Elimination of All Forms of Racial Discrimination, 1965[15]

Article 2: Requires States to eliminate racial discrimination.

Article 4: Requires States to address racial superiority propaganda and incitement to racial discrimination.

Article 5: Guarantees equality in the enjoyment of fundamental rights.

4. Convention on the Elimination of All Forms of Discrimination Against Women, 1979

Protects women against discrimination and promotes equality in social, political, economic and other fields.

5. Convention on the Rights of Persons with Disabilities, 2006[16]

Protects the dignity, equality and fundamental rights of persons with disabilities.

6. Convention on the Prevention and Punishment of the Crime of Genocide, 1948[17]

Provides protection against genocide committed with the intention of destroying, wholly or partly, a national, ethnic, racial or religious group.

7. Rome Statute of the International Criminal Court, 1998[18]

Recognises persecution on specified grounds as a crime against humanity when the legal requirements under Article 7 are satisfied.

It also recognises direct and public incitement to commit genocide under Article 25(3)(e).

[13] Universal Declaration of Human Rights, 1948, Articles 1, 2, 7 and 8.

[14] International Covenant on Civil and Political Rights, 1966, Articles 2, 20(2) and 26.

[15] International Convention on the Elimination of All Forms of Racial Discrimination, 1965, Articles 2, 4 and 5.

[16] Convention on the Rights of Persons with Disabilities, 2006, Articles 5, 10, 16 and 17.

[1717] Convention on the Prevention and Punishment of the Crime of Genocide, 1948, Articles II and III.

[18] Rome Statute of the International Criminal Court, 1998, Articles 7 and 25(3)(e)

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12. IMPORTANT INDIAN CASE LAWS

1. Tehseen S. Poonawalla v. Union of India (2018) 9 SCC 501[19]

Court: Supreme Court of India

Date: 17 July 2018

Bench: Chief Justice Dipak Misra and Justices A.M. Khanwilkar and D.Y. Chandrachud.

A. Facts of the Case: This case arose from increasing incidents of mob lynching and violence committed by self-proclaimed cow protection groups.

Several incidents were reported in different parts of India in which individuals were attacked and killed by groups of people on suspicion of transporting or consuming beef.

Tehseen S. Poonawalla, a social activist, approached the Supreme Court under Article 32 of the Constitution of India.

The petitioner sought directions against mob violence, cow vigilantism and unlawful activities committed by groups claiming to protect cows.

The petitioner also requested the removal of violent content circulated through social media.

The Supreme Court directly examined the constitutional issues raised by the petitioners.

B. Supreme Court Judgment

The Supreme Court strongly condemned mob lynching and held that no individual or group has the authority to take the law into its own hands.

The Court observed that mob violence is an attack on the rule of law and constitutional values.

It emphasised that the responsibility of maintaining law and order rests with the State and its law enforcement authorities.

The Court issued comprehensive directions divided into three categories:

E. Guidelines Issued by the Supreme Court

1. Preventive Measures

- Every State Government must appoint a senior police officer, not below the rank of Superintendent of Police, as a Nodal Officer in every district.
- A special task force must be constituted to collect intelligence about individuals and groups likely to commit mob violence.
- Authorities must identify areas where incidents of mob violence and lynching have occurred.
- Police officers must take preventive measures against provocative speeches, hate messages and fake news that may encourage mob violence.
- Authorities must take steps to prevent the circulation of inflammatory material.

2. Remedial Measures

- Police must immediately register an FIR whenever an incident of mob lynching or violence is reported.
- The investigation must be personally monitored by the district Nodal Officer.
- Victims and their family members must not be subjected to harassment.
- The investigation should be completed within the prescribed period.
- The trial should be conducted by the appropriate court on a priority basis.
- Victims or their legal representatives must receive information and assistance.
- Victims and their families should receive compensation under the applicable victim compensation framework.
- Free legal aid must be provided to victims or the next of kin of deceased victims.

[19] Ibid.

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3. Punitive Measures

- Departmental action must be taken against police officers who deliberately fail to prevent or investigate mob violence.
- Authorities must ensure accountability for negligence.
- Appropriate legal action must be initiated against persons involved in mob violence.

The Court also recommended that Parliament consider creating a separate offence of lynching.

F. Importance of the Judgment

This is one of the most important judgments concerning victims of hate crimes in India.

It recognises that mob violence is not merely an individual criminal act but also a threat to constitutional democracy, human dignity and social harmony.

Legal principle: The State has a constitutional obligation to protect individuals against mob violence and ensure that offenders are punished according to law.

Source: Tehseen S. Poonawalla Judgment

2. Pravasi Bhalai Sangathan v. Union of India (2014) 11 SCC 477[20]

Court: Supreme Court of India

Date: 12 March 2014

Bench: Justice B.S. Chauhan, Justice M.Y. Eqbal and Justice A.K. Sikri.

A. Facts of the Case: The case concerned the increasing problem of hate speeches delivered by political leaders, public representatives and other influential persons.

The petitioner, Pravasi Bhalai Sangathan, approached the Supreme Court seeking action against speeches promoting hatred based on religion, caste, race, ethnicity and regional identity.

The petitioner argued that such speeches violated fundamental rights and threatened national unity, fraternity and social harmony.

The petitioner requested the Supreme Court to issue directions for mandatory registration of FIRs against persons delivering hate speeches.

D. Supreme Court Judgment: The Supreme Court examined the relationship between freedom of speech and expression and the need to prevent hate speech.

The Court recognised that freedom of expression under Article 19(1)(a) is subject to reasonable restrictions under Article 19(2).

It observed that hate speech can disturb public order, create hostility between communities and threaten the constitutional principle of fraternity.

The Court also considered whether additional legislation was necessary to control hate speech.

E. Directions and Observations

The Supreme Court:

1. Examined the existing statutory provisions dealing with hate speech.
2. Considered the role of the Election Commission in controlling communal and caste-based speeches during elections.
3. Recognised that the National Human Rights Commission could initiate suo motu proceedings in appropriate cases.
4. Requested the Law Commission of India to examine the issue of hate speech.
5. Suggested that the Law Commission consider whether the expression 'hate speech' should be legally defined.
6. Requested consideration of stronger powers for the Election Commission to control hate speeches.

[20] *Pravasi Bhalai Sangathan v. Union of India*, (2014) 11 SCC 477.

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The Court ultimately disposed of the petition with these observations and directions.

F. Importance of the Judgment

This judgment is important because it highlighted the need for a proper legal framework to address hate speech.

It also explained that freedom of speech cannot be treated as an unrestricted right when it conflicts with public order and other constitutional values.

Legal principle: Freedom of expression must be balanced with equality, dignity, fraternity and the protection of vulnerable communities.

Source: Pravasi Bhalai Sangathan Judgment

3. Amish Devgan v. Union of India, 2021 1 SCC 1[21]

Court: Supreme Court of India

Judgment Date: 7 December 2020

Bench: Justice Sanjiv Khanna and Justice A.M. Khanwilkar.

A. Facts of the Case: Amish Devgan was a television journalist and news anchor.

On 15 June 2020, he conducted a television debate concerning a religious and legal controversy.

During the programme, he allegedly made derogatory remarks concerning a revered Sufi saint.

Following the broadcast, seven FIRs were registered against him in different States, including Rajasthan, Telangana, Maharashtra and Madhya Pradesh.

The FIRs alleged offences under various provisions of the Indian Penal Code, 1860, including Sections 153A, 153B, 295A and 298.

The journalist approached the Supreme Court seeking protection and quashing of the multiple FIRs.

B. Lower Court Decision: The complaints and FIRs were registered before different police authorities.

The matter primarily concerned the legality of continuing multiple criminal proceedings arising from the same television broadcast.

There was no final trial court conviction or acquittal determining his guilt at this stage.

C. High Court Decision: The Supreme Court considered the available statutory remedies before the High Courts.

It explained that High Courts have inherent powers under Section 482 of the Code of Criminal Procedure, 1973, to quash criminal proceedings in appropriate cases.

However, the Supreme Court did not consider it appropriate to bypass those remedies and quash all FIRs directly under Article 32.

D. Supreme Court Judgment: The Supreme Court discussed the meaning, nature and consequences of hate speech.

It explained that hate speech must be examined by considering:

- The context in which the statement was made.
- The intention of the speaker.
- The nature of the words used.
- The target of the statement.
- The possible impact on society.
- The possibility of promoting discrimination or hostility.

The Court also explained that the constitutional protection of free speech must be balanced against the dignity and rights of other individuals and communities.

The Court refused to quash the FIRs at that stage and allowed the investigation to continue.

However, it directed that no coercive steps for arrest should be taken during the investigation, subject to the petitioner's cooperation.

[21] *Amish Devgan v. Union of India*, (2021) 1 SCC 1.

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E. Important Legal Principles

1. Hate speech must be examined in its social and contextual background.
2. Freedom of speech is not an unrestricted right.
3. The intention and impact of the statement are relevant.
4. Criminal proceedings should not be mechanically quashed.
5. Courts must balance individual liberty with the protection of society.

F. Importance of the Judgment

This judgment is important because it provides guidance on distinguishing legitimate criticism and protected expression from speech that promotes hatred and discrimination.

Legal principle: Freedom of expression must be balanced with the dignity, equality and constitutional rights of other individuals and communities.

Source: Amish Devgan Judgment

4. Bilal Ahmed Kaloo v. State of Andhra Pradesh (1997) 7 SCC 431[22]

Court: Supreme Court of India

Date: 6 August 1997

Bench: Justice A.S. Anand and Justice K.T. Thomas**.**

A. Facts of the Case: Bilal Ahmed Kaloo was a young man from Kashmir who was prosecuted in Hyderabad.

According to the prosecution, he was associated with a militant organisation known as Al-Jehad.

The prosecution alleged that he spread communal hatred among Muslim youths and encouraged them to undergo armed militant training.

He was also alleged to have possessed illegal weapons and ammunition.

He was prosecuted under several provisions, including**:**

- Section 124A of the Indian Penal Code, 1860.
- Section 153A of the Indian Penal Code, 1860.
- Section 505(2) of the Indian Penal Code, 1860[23].
- Relevant provisions of the Terrorist and Disruptive Activities (Prevention) Act, 1987.
- Section 25 of the Arms Act, 1959.

B. Trial Court Decision: The Designated Court under the Terrorist and Disruptive Activities (Prevention) Act, 1987, convicted the accused.

The trial court imposed:

- Life imprisonment for the offence under Section 124A of the Indian Penal Code, 1860.
- Three years of rigorous imprisonment for certain other offences.
- Three years of rigorous imprisonment under the relevant Arms Act provision.

The accused challenged the conviction before the Supreme Court**.**

C. High Court Decision: There was no separate High Court appellate decision.

The appeal was filed directly before the Supreme Court under Section 19 of the Terrorist and Disruptive Activities (Prevention) Act, 1987.

D. Supreme Court Judgment: The Supreme Court examined the essential ingredients of Sections 153A and 505(2) of the Indian Penal Code, 1860.

The Court explained that both provisions deal with promoting enmity, hatred or ill-will between different religious, racial, linguistic or regional groups or communities**.**

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[22] *Bilal Ahmed Kaloo v. State of Andhra Pradesh*, (1997) 7 SCC 431.

[2323] Section 153A of the Indian Penal Code, 1860

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The Court made two important observations:

1. Requirement of Two Groups

For attracting Sections 153A and 505(2), there must be at least two different groups or communities involved.

Merely creating hatred within one community without reference to another community would not satisfy these provisions.

2. Requirement of Mens Rea

The prosecution must establish the necessary criminal intention or mens rea.

For Section 505(2), making, publishing or circulating the relevant statement must be established in accordance with the statutory ingredients.

E. Final Decision

The Supreme Court:

- Set aside the conviction under Section 124A of the Indian Penal Code, 1860.
- Set aside the conviction under Section 153A of the Indian Penal Code, 1860.
- Set aside the conviction under Section 505(2) of the Indian Penal Code, 1860.
- Confirmed the conviction under Section 25(1B)(a) of the Arms Act, 1959.

The Court criticised the trial court for mechanically recording convictions without properly establishing the essential ingredients of the offences.

F. Importance of the Judgment: This judgment is important for understanding the legal ingredients required to establish offences involving communal hatred.

It also protects individuals against wrongful prosecution by insisting that every ingredient of a criminal offence must be proved.

Legal principle: Mere allegations of communal hatred are insufficient; the prosecution must establish the essential ingredients of the offence, including the necessary mens rea.

Source: Bilal Ahmed Kaloo Judgment

5. Shaheen Abdullah v. Union of India, W.P. (C) No. 940 of 2022[24]

Court: Supreme Court of India

Important Orders: 21 October 2022 and 2 August 2023.

A. Facts of the Case: The petition concerned increasing incidents of hate speeches and public statements targeting particular religious communities.

The petitioner approached the Supreme Court seeking directions to prevent hate speeches and ensure appropriate criminal action against those responsible.

The petition raised concerns regarding the failure of police authorities to take prompt action against persons delivering speeches promoting communal hatred.

B. Lower Court Decision: There was no trial court judgment determining criminal liability because the matter was filed as a writ petition before the Supreme Court.

C. High Court Decision: There was no separate High Court appellate decision in the principal writ proceedings.

The Supreme Court directly considered the constitutional obligations of the State Governments and police authorities.

D. Supreme Court Order – 21 October 2022

The Supreme Court directed the Governments of Uttar Pradesh, Uttarakhand and Delhi to take suo motu action against hate speech incidents.

[24] *Shaheen Abdullah v. Union of India*, W.P. (C) No. 940 of 2022, Order dated 21 October 2022, Supreme Court of India

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The Court directed that police authorities must register criminal cases even if no formal complaint is received, wherever the relevant offences are disclosed.

The direction covered hate speech offences under the then-applicable provisions of the Indian Penal Code, 1860, including Sections 153A, 153B, 295A and 505.

The Court emphasised that the directions must be implemented irrespective of the religion of the offender.

E. Supreme Court Order – 2 August 2023

The Supreme Court reiterated that the earlier directions had to be followed.

It also emphasised that:

1. No hate speech should be made against any community.
2. No physical violence or property damage should take place.
3. Adequate police or paramilitary forces should be deployed wherever necessary.
4. CCTV cameras should be used in sensitive areas.
5. Video recordings and CCTV footage should be preserved.

F. Importance of the Judgment

This case is important because it strengthens the responsibility of police authorities to act against hate speech without waiting for a formal complaint.

It also reinforces the constitutional values of secularism and fraternity.

Legal principle: Police authorities have a responsibility to take prompt action against hate speech, irrespective of the religion or identity of the offender.

Sources:

- **Supreme Court Order – 21 October 2022**
- **Supreme Court Order – 2 August 2023**

13. CONCLUSION

Hate crimes are not merely offences against individuals; they are attacks against human dignity, equality, fraternity and the fundamental principles of a democratic society. Victims of hate crimes suffer not only physical injuries but also psychological trauma, social exclusion, economic difficulties and discrimination. Such crimes create fear and insecurity among entire communities and disturb social harmony.

The Indian Constitution guarantees equality, freedom, dignity and religious protection through various fundamental rights. Further, the Bharatiya Nyaya Sanhita, 2023[25], the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and other special legislations provide legal protection against different forms of hate-related offences. The Supreme Court, through important judgments such as *Tehseen S. Poonawalla v. Union of India (2018)*,[26] *Pravasi Bhalai Sangathan v. Union of India (2014)* and *Shaheen Abdullah v. Union of India*, has emphasised the responsibility of the State and police authorities in preventing hate speech, mob violence and discrimination.[27]

However, the existence of legal provisions alone is not sufficient. Their effective implementation, speedy investigation, victim compensation, witness protection and proper rehabilitation are equally important. From a victimological perspective, victims must not be treated merely as witnesses in criminal proceedings but as individuals whose dignity, rights and interests deserve recognition and protection.

Therefore, India needs a stronger victim-centred approach, effective enforcement of existing laws, public awareness and appropriate legal reforms to address hate crimes. Ultimately, the success of a democratic society should not be measured only by the punishment given to offenders but also by the protection, justice and dignity provided to victims.

[25] Bharatiya Nyaya Sanhita, 2023

[26] *Tehseen S. Poonawalla v. Union of India (2018)*,

[27] *Pravasi Bhalai Sangathan v. Union of India (2014)*

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Hate crimes can be prevented only when equality replaces discrimination, tolerance replaces hatred and justice protects every individual irrespective of their identity.

14. SUGGESTIONS

The following suggestions may help strengthen the protection of victims of hate crimes:

1. **Separate Legislation:** Parliament should consider introducing comprehensive legislation specifically addressing hate crimes and providing a clear definition and appropriate punishment.
2. **Victim-Centred Justice:** Greater importance should be given to the rights, dignity and rehabilitation of victims.
3. **Effective Compensation:** A comprehensive compensation mechanism should be developed to provide financial and psychological assistance to hate crime victims.
4. **Police Training:** Police officers should receive special training to identify and investigate bias-motivated offences.
5. **Fast-Track Trials:** Serious hate crime cases should receive timely investigation and speedy trial.
6. **Witness Protection:** Victims and witnesses should be protected from threats, intimidation and retaliation.
7. **Cyber Monitoring:** Appropriate measures should be adopted to prevent online hate campaigns and digital harassment.
8. **Legal Awareness:** Public awareness programmes should educate people about constitutional rights and the consequences of hate crimes.
9. **Community Harmony:** Educational institutions and civil society organisations should promote tolerance, equality and peaceful coexistence.
10. **Accountability:** Public authorities must be held accountable for negligence or failure to act in accordance with law when hate crimes are reported

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