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**Need for Legislations to counter Hate Crime in India**

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### Abstract

Law and religion are an integral part of each other and religion is the very foundation for the formulation of law anywhere in the world from ancient to the modern world. However, the Indian subcontinent is witnessing a sudden increase in the incidents of religious hate crimes in contemporary times. Religious hate crimes are acts motivated by prejudice or bias towards a particular group of people based on religion or lack of one. It can include murder, assault, property damage, threats, or any other criminal offense committed with a bias motivation. This paper focuses on the need for legislative measures for religious hate crimes in India keeping in view the rise of communal violence.

Hold the Hate - Amnesty International has registered a total of 902 hate crimes in India from September 2015 to June 2019. In the first six months of 2019 alone, 181 incidents of alleged heinous crimes were recorded by the website being nearly double than the previous three years' half-yearly counts.<sup>116</sup> At present, communal violence attracts charges under provisions of the Indian Penal Code such as murder u/s 302 and rioting u/s 153A. These are very general and are too lethargically invoked in practice for them to serve as deterrents.

The paper also throws light on international organizations like the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) which require states to refrain from such discrimination and elaborates on a few relevant cases.

Lastly, the paper seeks to discuss reforms considering the urgent need for separate legislation and strict implementation procedures to curb biased hate crimes.

**Keywords:** hate crime, religion, legislation, communal violence, law, India.

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<sup>116</sup>Hate Crimes in India | Lynching In India. (n.d.). Amnesty International India.

<https://amnesty.org.in/news-update/hate-crime-reports-on-an-alarming-rise-reveals-amnesty-international-indias-halt-the-hate>.

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## **CHAPTER 1**

### **Introduction**

Law and religion are considered essential elements of society since they set the stage for social equity and justice. Religion plays a role in shaping society whereas law has to conform to those religious principles to ensure better functioning and compliance with those laws. Religion is not just about following a belief but also a way of life since the followers of a particular religion follow its morality code and adhere to certain rules. When people enter the domain of law, they are expected to follow or not break the rules decided by a state. Thus, religion played a very vital role in maintaining law and order in ancient societies in different parts of the world. Laws were driven by religion and leaders were religious. In India, the authoritative legal guidance treatises have been the Arthashastra, dating from the 400 BC, and the Manusmriti from 100 AD. Historically, obedience in Hinduism is implanted not in mere formal rigid law but dharma<sup>117</sup> – that is, the need of every human being to live in a transposable sense of balance with his or her environment. Law was not controlled by dharma but, rather, was guided through it. Another source of influence has been Islamic law. The methodology of legal precedent and reasoning by analogy (Qiyas) used in early Islamic law has given direction to the later common law system.

The post-medieval period saw the partial divorce of law from religious dicta and its construction as an ‘autonomous’ professional field has framed law as a ruling setting. As a result, the notion of divine sovereignty as the sacred religious ruling authority of the earth was changed by building the sovereignty of the secular state.<sup>118</sup>

Around this time, India became part of the British Empire, supplementing Hindu and Islamic laws with the common law. Thus, the present judicature of the nation derives principally from the British system and has little association with the establishments of the pre-British era.

In recent times, religious nationalism has taken hold of India which rather than being supported by secular principles is created on the premise that Indian culture is coterminous with Hindu

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<sup>117</sup> The Editors of Encyclopædia Britannica. (2015). Dharma | religious concept. In *Encyclopædia Britannica*. <https://www.britannica.com/topic/dharma-religious-concept>

<sup>118</sup> *Law and Religion*. (n.d.). [https://law.haifa.ac.il/images/Publications/Law\\_and\\_Religion\\_intro.pdf](https://law.haifa.ac.il/images/Publications/Law_and_Religion_intro.pdf)

culture. The term ‘Hindutva’<sup>119</sup> equates religion and national identity, it stresses that an Indian is a Hindu, leaving other important religious communities, such as Muslims and Christians, out of the equation. A rise in hate crimes started the spread of fear and anger throughout communities and impacted their perceptions of the justice system. Simply knowing someone who has been victimized is enough to impact individuals and create a tense atmosphere in general.

## **CHAPTER 2**

### **Literature Review**

Harshika A., Niranjana, K., (2019). A Study on Religious Laws and Religious Crimes<sup>120</sup> in India explains that in recent years, commonly, the reasons for religious clashes are political as opposed to ideological. Religious savagery in India incorporates demonstrations of viciousness by devotees of one religious gathering against adherents and organizations of another religious gathering, frequently as rioting. It also points out the abuse of web platforms to spread contempt towards other religions suggesting dire and extensive reaction.

Rajnish Hooda, (2018) Freedom of religion and criminal laws for religion, International Journal of Law<sup>121</sup> describes how religion and criminal law should or should not be involved with each other keeping in view the right to freedom of religion. It seeks to explain the term ‘religious crime’ by describing it as ‘where religion is either the subject or the object of criminal behavior’(Rajnish Hooda, 2018). It delves into the past and highlights that historical religious conflicts like the Crusades, Spanish Inquisition, and the European wars of religion were political conflicts at the core. Hence, religion and politics were interconnected.

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<sup>119</sup> *Hindutva* | Definition of Hindutva by Oxford Dictionary on Lexico.com also meaning of Hindutva. (n.d.). Lexico Dictionaries | English. Retrieved August 22, 2020, from <https://www.lexico.com/definition/hindutva>

<sup>120</sup> Durai, H., & Niranjana, K. (2019, August 26). *A Study on Religious Laws and Religious Crimes in India*. Papers.Ssrn.Com. <https://ssrn.com/abstract=3442697>

<sup>121</sup> Rajnish Hooda, (2018, March). *Freedom of religion and criminal laws for religion*, International Journal of Law ISSN: 2455-2194 [www.lawjournals.org](http://www.lawjournals.org)

Basu, D. (2019). Dominance of Majoritarian Politics and Hate Crimes Against Religious Minorities in India. Political Economy Research Institute, University of Massachusetts.<sup>122</sup> This paper assesses the role of Hindu nationalism in the political arena with the formation of the political party Bharatiya Jana Sangh in 1951 which later regrouped as the Bharatiya Janata Party in 1980. The BJP inherits its core political ideology of ‘Hindutva’ from its progenitor, right-wing organization, Rashtriya Swayamsevak Sangh (RSS). In 2014 the BJP won the Lok Sabha elections with a majority, dispensing with the need of allies to run the central government. The paper then goes on to demonstrate how hate crime records have seen a rise since 2015.

Sumter, M., Wood, F., Whitaker, I., & Berger-Hill, D. (2018). Religion and Crime Studies: Assessing What Has Been Learned, Religions<sup>123</sup> asks a potent question of whether the amount of religious knowledge matters more than the amount of religious participation. It interrogates if the amount of religious attendance suppresses crime more than the degree of knowledge or belief. Thus, suggesting an inverse relationship between religion and crime.

Bhat, M. M. A. (2020). Hate crimes in India. *Jindal Global Law Review*<sup>124</sup> highlights the issue of violence driven by sectarian hostility. It throws light on the trend of targeting individuals rather than mass violence which often serves a political ecosystem. Taking incidences of vigilantism and mob lynching as a reminder of the limitations in the criminal justice system. It takes into consideration the cost of such violence, for the victims and survivors, as well as for the social fabric. Lastly, it discusses that legal reforms must also integrate the systemic questions of prejudice, power, institutional bias, and democracy.

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<sup>122</sup> Basu, D. (2019). *Dominance of Majoritarian Politics and Hate Crimes Against Dominance of Majoritarian Politics and Hate Crimes Against Religious Minorities in India*. Political Economy Research Institute, University of Massachusetts.  
[https://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1274&context=econ\\_workingpaper](https://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1274&context=econ_workingpaper)

<sup>123</sup> Sumter, M., Wood, F., Whitaker, I., & Berger-Hill, D. (2018). Religion and Crime Studies: Assessing What Has Been Learned. *Religions*, 9(6), 193. <https://doi.org/10.3390/rel9060193>

<sup>124</sup> Bhat, M. M. A. (2020). Hate crimes in India. *Jindal Global Law Review*.<https://doi.org/10.1007/s41020-020-00119->

### **CHAPTER 3**

#### **Objective**

- A. This study aims to identify problems leading to the need for legislation in India to counter hate crime.
- B. To assess existing laws, relevant cases, and international initiatives for the same.
- C. To suggest reforms.

### **CHAPTER 4**

#### **Existing Laws**

##### **4.1. Section 153A**

Section 153A of IPC states that whoever promotes enmity between different groups of religion and acts prejudicial to the maintenance of harmony will face punishment. Whoever,

1. Promotes religious disharmony or feelings of enmity, hatred, or ill-will between different religions using words, which are either spoken or written or by using signs, visible representations, or otherwise.
2. Commits any act which is prejudicial to the conservation of unity between different religions and which disturbs or is likely to disturb the public peace, is punishable by up to three years imprisonment or a fine or both.<sup>125</sup>

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<sup>125</sup> Section 153(a) of Indian Penal Code, 1860.

#### 4.2. Section 295A of IPC

Section 295A of IPC metes out punishment for intentional and malicious acts, by disrupting the religious sentiments of any class and insulting its religion or religious beliefs.

Anyone who deliberately insults the religious sentiments of any class citizen of India with words, signs, or visible representations and with spiteful intent to insult religions or imprison the religious beliefs of that class. Punishment for a period that can extend to 3 years or a fine or both depending on the interpretation of the same.<sup>126</sup>

#### 4.3. Section 298 of IPC

Section 298 of IPC punishes anyone who deliberately incites hate towards other religions by speaking ill of them. Any person who deliberately utters words with the intent to offend any person's religious sentiments shall be punished under this section. Any object must be imprisoned with an explanation for a term which may be extended to one year or a fine or both. Whoever, with the pernicious motive of wounding the religious feelings of any person, utters any word or makes any sound in earshot of that person or makes any gesture in the sight of that person, shall be punished must be imprisoned with an explanation for a term which may be extended to one year or a fine or both.<sup>127</sup>

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<sup>126</sup> Section 295(a) of Indian Penal Code, 1860.

<sup>127</sup> Section 298 of Indian Penal Code, 1860.



## **CHAPTER 5**

### **Burning Issues**

#### **5.1. Causes**

Perpetrators of religious violence can be broadly classified into 4 types based on their core motivation to commit these hate crimes. They can be thrill-seekers (those motivated by excitement), defensive (who believe they need to protect their faith), retaliators ( those who react to the perceived danger to their communities), and mission ( perpetrators who make it their life mission the eradicate the ‘difference’)<sup>128</sup>. Reasons could stem from systematic oppression, inequality, and encouragement of snob ideology. Economic exploitation, discrimination, and unemployment stir feelings of dissatisfaction and resentment amongst the population, a fraction of which are trapped by religious fanatics. Psychological factors such as lack of empathy, prejudices, misinformation, and apathy against other communities add to the stew.

Communalism in politics is another ugly ingredient. Political parties play the communal card by providing concessions to minorities to appease them for votes while in retaliation other parties promote the religion in majority to eradicate the ‘difference’. Hindu religious groups like Shiv Sena, Hindu Mahasabha, Viswa Hindu Parisad often compel the government to take steps conducive to the interest of Hindus promoting Hindu chauvinism.

Other countries’ machinations to weaken India include funding to some orthodox organizations which uphold Islamic fundamentalism, demanding reservation facilities for Muslims. This creates a psychological divide between communities and the isolation of the sect.

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<sup>128</sup> *Hate Crime: Cause and Effect*. (2018). <https://www.equallyours.org.uk/wp-content/uploads/2018/10/Hate-crime-cause-and-effect.pdf>

State governments of India have failed quite a few times in curbing communal violence in their respective states, the 2002 Gujarat riots<sup>129</sup> bearing a witness to their inefficiency. This makes the attackers feel emboldened, thinking that they can escape justice and evade punishment.

There are other deeper causes such a violent past (Partition of India), disputes arising from cow slaughter, desecration of religious places (temples, mosques), rumors (false information about rape of Hindu women by Muslim men lead to the damaging Godhra carnage<sup>130</sup>), and conversion activities which create a recurring pattern of the phenomenon of communal violence and hate crimes.

## 5.2. Incidents

On 12th August 2020, a Facebook post which was considered offensive to Islam ignited a deadly clash in the city of Bengaluru as police clashed with hundreds of Muslims who vandalized a police station and set fire to vehicles. At least 3 people were killed and a mob gathered around the house of the person responsible for the ‘derogatory’ post, eventually burning his house down.

On the night of 16th April 2020, two Hindu saints, 70-year-old Mahant Kalpavruksha Giri and 35-year-old Sushilgiri Maharaj, were confronted by a group of vigilantes and killed in Maharashtra's Palghar<sup>131</sup>. A few before this tragic lynching, rumors were rife in the area about bandits on the prowl. Reckless attackers dragged the two men out of their car and brutally beat them to death.

In an organized hate crime, Mohammed Akhlaq and his son Danish were dragged out of their house and beaten with rods and bricks by a mob accusing them of stealing and slaughtering a

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<sup>129</sup> Home | *Gujarat Riots: The True Story*. Retrieved August 22, 2020, from <http://www.gujaratriots.com/index.php/home>

<sup>130</sup> Home | *Gujarat Riots: The True Story*. Retrieved August 22, 2020, from <http://www.gujaratriots.com/index.php/2016/10/the-godhra-carnage>

<sup>131</sup> Palghar lynching: India police arrest more than 100 suspects. (2020, April 20). *BBC News*. <https://www.bbc.com/news/world-asia-india-52350728>

calf for Eid on September 28, 2015, near Dadri<sup>132</sup>. The mob broke into their fridge and leftover meat curry was seen as evidence that they had butchered a cow while Akhlaq’s family insisted it was mutton. Unfortunately, Akhlaq died from the attack while Danish had to undergo brain surgery later to treat his severe injuries.

Arguably, the most infamous of riots in India is the Gujarat 2002<sup>133</sup> communal violence. It all started when the Sabarmati Express train carrying Karsevaks (Hindu pilgrims) returning from Ayodhya, Uttar Pradesh, was set on fire. There was a huge uproar that started a three-day massacre where thousands of people – including women, and children were killed. Many who had taken part in the carnage are yet to be brought to justice.

On 23rd January 1999, Christian missionary, Graham Stuart Staines<sup>134</sup> along with his two minor sons, Philip and Timothy, was set on fire by a gang of Hindu extremists while sleeping in his station wagon in Odisha. Dara Singh, a Bajrang Dal<sup>135</sup> activist, was convicted of leading the gang of attackers and was sentenced to life imprisonment.

### 5.3. Statistics

Since there are no specific laws to deal with hate crimes, the National Crime Records Bureau (NCRB), the federal organization that tracks crimes across the country, does not count such crimes. Halt the Hate - Amnesty International has recorded a total of 902 reported hate crimes in India from September 2015 to June 2019.<sup>136</sup> According to Statista, most hate crimes reported were targeted towards Dalits while Muslims followed as targets during this period with reasons

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<sup>132</sup>INTERNET DESK. (2015, October 3). *The Dadri lynching: how events unfolded*. The Hindu; The Hindu. <https://www.thehindu.com/specials/in-depth/the-dadri-lynching-how-events-unfolded/article7719414.ece>

<sup>133</sup>Home | *Gujarat Riots: The True Story*. Retrieved August 22, 2020, from <http://www.gujaratriots.com/index.php/home>

<sup>134</sup>MISSIONARY - DR. GRAHAM STUART STAINES. (n.d.-b). Wwww.Missionariesbiography.Com. <http://www.missionariesbiography.com/content/year/January/22.stainesfamily.html>

<sup>135</sup>Inside a far-right Hindu “self defence” training camp. (2016, June 1). *BBC News*. <https://www.bbc.com/news/world-asia-india-36415080>

<sup>136</sup> *Hate Crimes in India | Lynching In India*. (n.d.-b). Amnesty International India. <https://amnesty.org.in/news-update/hate-crime-reports-on-an-alarming-rise-reveals-amnesty-international-indias-halt-the-hate>

varying from caste, religion to honor killing, and love jihad<sup>137</sup>. 181 incidents of alleged hate crimes that have been recorded by the website in the first six months of 2019 alone amount to almost double than the previous three years' half-yearly counts. Between January and June 2019, over two-thirds of the victims suffered harm on account of their Dalit identity followed by their Muslim (40), Adivasi (12), Christian (4), and their actual or perceived sexual orientation or gender identity (6)<sup>138</sup>. In 17 cases cow-vigilantism related hate crimes and honor killing were reported.

NHRC registered 2,008 cases where minorities/Dalits were harassed between 2016 and 2019 (till June 15).<sup>139</sup> Out of which, Uttar Pradesh alone accounted for 869 cases.

## CHAPTER 6

### **Relevant Cases**

#### ***Tehseen S. Poonawalla v. Union of India and Others [(2018) 9 SCC 501]***

After a string of lynching incidents by cow protection groups, distressed activists, Tehseen Poonawalla and Tushar Gandhi filed writ petitions in the Apex Court. The petitions were heard together by a three-judge bench ( Dipak Misra, D.Y. Chandrachud, Ajay Manikrao Khanwilkar). The former Chief Justice of the Supreme Court, Deepak Misra, famously warned against India turning into a ‘mobocracy’. The judgment observed that every individual should “remain obeisant to the command of the law.”<sup>140</sup> It laid down a series of preventive, remedial, and punitive measures including the appointment of Nodal officers and Highway patrolling. It

<sup>137</sup> *India - hate crime by identity of victims 2019*. (n.d.-b). Statista. <https://www.statista.com/statistics/980033/identity-of-hate-crime-victims-india>

<sup>138</sup> *Hate Crimes in India | Lynching In India*. (n.d.-b). Amnesty International India. <https://amnesty.org.in/news-update/hate-crime-reports-on-an-alarming-rise-reveals-amnesty-international-indias-halt-the-hate>

<sup>139</sup> Delhi July 19, M. R. N., July 20, 2019UPDATED:, & Ist, 2019 10:22. (n.d.). *With 43% share in hate crimes, UP still most unsafe for minorities, Dalits*. India Today. Retrieved August 22, 2020, from <https://www.indiatoday.in/india/story/dalits-minorities-harassment-attack-cases-uttar-pradesh-india-1570980-2019-07-19>

<sup>140</sup> *Tehseen S. Poonawalla v. Union of India and Others (2018) 9 SCC 501*

stated that lynching is in direct violation of the Constitution under Art 21.<sup>141</sup> The Court even recommended the Parliament to constitute a separate offense for lynching with appropriate punishment.

***Zulfikar Nasir & Others v State of Uttar Pradesh & Others [2018 SCC Online Del 12153]***

On 31 October 2018, Justice Dr. S Muralidhar (then) at the Delhi High Court convicted 16 members of the Provincial Armed Constabulary (PAC) for the murder of 38 Muslim residents of Hashimpura, a neighborhood in Meerut, Uttar Pradesh in 1987<sup>142</sup>. He described the events that had unfolded as the ‘targeted killing’ of ‘members of a particular minority community.’<sup>143</sup>

***Ramji Lal Modi vs The State Of U.P [1957 SCR 860]***

The Apex Court of India upheld a Ramji Lal’s conviction for publishing a magazine article that maliciously insulted Muslims while upholding the constitutionality of Section 295A of the Indian Penal Code<sup>144</sup>. Ramji Lal Modi published an article in Guarakshak, a magazine focusing on cow protection, that was deemed to be intentionally outraging to Muslims and thus, in violation of the said section. The restraint to protect the public order from deliberately provoking speech was constitutionally acceptable by the Court.

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<sup>141</sup> <https://indiankanoon.org/doc/553290>

<sup>142</sup> *Zulfikar Nasir & Others v State of Uttar Pradesh & Others 2018 SCC Online Del 12153.*

<sup>143</sup> Khanna, V. (2020). A tale of targeted violence in Hashimpura: the Delhi High Court on recognition, relations and responses. *Jindal Global Law Review*. <https://doi.org/10.1007/s41020-020-00113-6>

<sup>144</sup> <https://indiankanoon.org/doc/553290>

## CHAPTER 7

### **International Initiatives**

Organization for Security and Cooperation in Europe (OSCE) is an intergovernmental organization with 57 participating nations (India, not being a member) that addresses various security issues including hate crime. Under its organ, Office for Democratic Institutions and Human Rights, States taking interest have carried out themselves to pass enactment that accommodates punishments considering the gravity of hate crimes, to make a move to address under-reporting, and to present or further create limit building exercises for law enforcement, prosecution and legal authorities to avoid, examine and indict disdain violations.<sup>145</sup>

The Commission on Crime Prevention and Criminal Justice (CCPCJ) was established by the Economic and Social Council, United Nations. Its 28th Crime Commission held on 17 May 2019 in Vienna addressed crime motivated by intolerance or discrimination recognizing the need to combat hate crime and hate speech.<sup>146</sup>

The European Commission against Racism and Intolerance (ECRI) is a human rights monitoring body The European Commission against Bigotry and Narrow mindedness (ECRI) is a human rights observing body which underpins the battle against prejudice, segregation (on grounds of ‘race’, ethnic/national origin, color, citizenship, religion, language, sexual orientation, and gender identity), xenophobia, antisemitism, and intolerance in Europe.<sup>147</sup>

The European Convention on Human Rights rulings stated, where an attack is racially motivated, it is important to continue to re-emphasize the community, to condemn racism, and

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<sup>145</sup> *What do we know* | OSCE - ODIHR. (n.d.). Hatecrime.Osce.Org. Retrieved August 22, 2020, from <https://hatecrime.osce.org/what-do-we-know>

<sup>146</sup> *rohrbac*. (2019). *The Commission on Crime Prevention and Criminal Justice*. Unodc.Org. <https://www.unodc.org/unodc/en/commissions/CCPCJ/index.html>

<sup>147</sup> *ECRI European Commission against Racism and Intolerance*. (n.d.).

<https://rm.coe.int/leaflet-ecri-2019/168094b10>

to maintain the confidence of the minority in the authorities' ability to continue the investigation with vigor and impartiality. Protecting them from the threat of racial violence.<sup>148</sup>

## **CHAPTER 8**

### **Reforms Needed**

Hate crime laws should recognize that either people or property can be victims and should be implemented without discrimination. Courts should be required to consider evidence of motivation and that one single act can have multiple motivations. Hate crime laws should recognize the social and historical patterns of discrimination. It should use a combination of terms such as “race”, “ethnicity”, “religion”, “caste” so that a broader coverage is ensured even including cases where the offense was committed over mistaken identity. Further, the law must recognize solitary as well as group offenses.

The National Advisory Committee<sup>149</sup> had come out with the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill - 2011<sup>150</sup> which intended to forestall demonstrations of brutality or instigation to viciousness coordinated at individuals based on their affiliation to any “group”. It provided for the establishment of the National Authority for Communal Harmony, Justice, and Reparation for monitoring the investigation of such cases and also for the establishment of special courts by state governments. However, it was heavily debated upon its definition of the term "group", which stands for only linguistic and religious minorities and did not include people of linguistic and religious majorities (i.e Hindus).

It is expected that Parliament wakes up to this pressing need in an expedited fashion, in the wake of the ongoing incidents of hate crimes. “For an offender to be subject to a hate crime

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<sup>148</sup> *HELPING TO MAKE FUNDAMENTAL RIGHTS A REALITY FOR EVERYONE IN THE EUROPEAN UNION*. (n.d.). Retrieved August 22, 2020, from [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-unmasking-bias-motives-paper\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-unmasking-bias-motives-paper_en.pdf)

<sup>149</sup> *NAC (National Advisory Committee) | Green Rating for Integrated Habitat Assessment*. (n.d.). [Www.Grihaindia.Org](http://www.grihaindia.org). Retrieved August 22, 2020, from <https://www.grihaindia.org/nac>

<sup>150</sup> *PREVENTION OF COMMUNAL AND TARGETED VIOLENCE (ACCESS TO JUSTICE AND REPARATIONS) BILL, 2011*. (n.d.). Retrieved August 22, 2020, from <https://www.prsindia.org/uploads/media/draft/NAC%20Draft%20Communal%20Violence%20Bill%202011.pdf>

law, a victim must be willing to report the crime, the law enforcement must record it earnestly and thoroughly investigate it, the prosecutors and courts shall expedite the rightful conviction as deemed fit under the prevalent legal construct. Any misstep in the sequence means a lost opportunity to combat hate crime.”<sup>151</sup>

## **CHAPTER 9**

### **Conclusion**

“The purpose of religion is to control yourself, not critic others.” – Dalai Lama

Hate motivation for selecting the victim, such as their “race’, religion”, “caste” should be explicitly recognized and punished when criminal cases are prosecuted. If this is omitted, the opportunity and potential for the perpetrator’s punishment to discourage others are lost. The message sent to the victim and the perpetrator that the state does not view the hate motive which caused the crime seriously is dangerous. Certain state governments have made a few breakthroughs on the same, particularly with respect to the offense of lynching, however, the need for a comprehensive hate crime legislation applicable across the country is apparent. Drafting a penal statute recognizing crimes motivated by bias and thus providing for punishment requires scrutiny of a variety of factors.

*Huffington Post* gave an account of the worldwide rankings<sup>152</sup> where India ranked 4th across the globe in 2015–after Syria, Nigeria, and Iraq–for the most elevated social threats involving religion. These concerning statistics must jolt us awake from our deep slumber of blissful ignorance. It challenges the social fabric of India woven with intrinsic values of diversity, unity, and tolerance. Showing hatred towards someone’s religion is unacceptable and violates the right provided by the Indian constitution, dire and extensive legislation is required for the same taking example from various countries like Malta. Section 222A of its Criminal Code provides for enhanced penalties for crimes against racial or religious groups and states that “religious

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<sup>151</sup> OSCE Office for Democratic Institutions and Human Rights (ODIHR)

<sup>152</sup> *On Religious Hostilities, India Ranked Just Slightly Better Than Syria: Pew Study*. (2017, April 14). HuffPost India. [http://www.huffingtonpost.in/2017/04/13/on-religious-hostilities-india-ranked-just-slightly-better-than\\_a\\_22037994](http://www.huffingtonpost.in/2017/04/13/on-religious-hostilities-india-ranked-just-slightly-better-than_a_22037994)



group means a group of persons defined by reference to religious belief or lack of religious belief.”<sup>153</sup>

Hate crimes are violent manifestations of prejudices, if not countered properly with appropriate legislation, the victims will feel that their experience was not fully recognized and the perpetrators might go unpunished. Codifying social condemnation of these crimes can help build a greater sense of equality in our judicial process and fill the social gaps.

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<sup>153</sup> (2020). Justiceservices.Gov.Mt.

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574&l=1>