

Hate Crime: American Dream or American Nightmare

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ABSTRACT

United States of America is the torch bearer of Democracy and its concept of American Dream creates an immense soft power. The Hate Crime on the various levels making the American Dream into a nightmare for some people. People face much oppression as employees in historically biased work place. The discrimination and biasness against certain race and community is a permanent phenomenon on the U.S. soil that is why it affects the group member whether he/she is in a white-collar job or blue-collar job.

1. Introduction

Defining a hate crime is always a confusing task for the student who is studying about hate crime because there is always a significant overlap between the definitions of hate crime or other mode of violence, international terrorism or war against other country or political violence. Is Russian war against Chechnya or Shia-Sunni war an example of hate crime? What can we say about the South Korean- North Korean tension or the 9/11 attack on United States of America? It is also a difficult task to recognize and differentiate between the criminal and non-criminal act of hate crime. If congregation of protestant church mobilizes his brothers for catholic free neighborhood, then will it be an incident of hate crime or will it be considered under the freedom of expression, because the first amendment of American constitution guarantees the freedom of expression. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances"(Amendment I: The constitution of the United States).

2. Hate crime law that deals with hate crimes

American Civil War was fought on the issue of slavery but after the war, the situation for the blacks in the southern state was dangerous. The White reactionary supremacists were creating danger for the Blacks. White supremacy emerged as the name of fear in the post Civil War period. They were organized under an organization that is known as Ku Klux Klan. In this situation Congress passed the Civil Right Act of 1971. According to this provision-

"Every person who under color of any statute, ordinance, religion, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, Suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act

or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable" (Civil Right Act 1971, 42 U.S.C 1983).

The Act empowered the federal government to act on those people who deprived the other of their civil rights. Another law 18 U.S.C. 242 is covering various ranges of discrimination and mentions different level of punishment according to levels of hate crime. "Under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any state, Territory, Commonwealth, Possession, or District to the deprivation of any rights, Privileges or immunities secured or protected by the Constitution or laws of the United States or to different Punishments, pains, or Penalties, on account of such person being an alien, or by reason of his color, or race, than are Prescribed for the punishment of citizens, shall be find under this title or imprisoned not more than one year, or both; and if bodily injured result from the act...shall be fined under this title or imprisoned not more than ten years, or both..."(18 U.S.C, 242). Almost after one century later from the passing of 1971 Act, Congress passed one law after another which criminalized intervening due to the person's affiliation to a certain group, color, religion or national origin. But these all laws have limited effect on society because of the political structure. Actually, the United States of America is a federal state, where governmental power is divided into center and states and these laws were the Federal laws, so the jurisdiction of these laws will be limited. According to the constitution of America which is the central instrument of the American government and the supreme law of the land, the federal government may criminalize primarily those acts that effect interest commerce. The term 'interest commerce' has been interpreted so many times by the Supreme Court. One another problem to deal with the Hate Crime is the language of Civil Right Act. The language reflected the specific environment dealing with the specific problem. In the changed time, the effectiveness of laws is not sufficient. Section 241 of Civil Right Act almost focuses on the group activity and doesn't cover the individual hate criminals. Section 242 and 1983 argues only about the hate crime committed by government and agents.

Without specific law to deal with the Hate Crime, there may be only this way by which we can counter this awful Hate Crime and offenders can be prosecuted. There are several laws in the state which can deal or reduce the rate of the bias motivated crime and we can do another thing that charges the offenders under the current similar criminal law. But the Hate Crime is completely different from the common crime. "Argument assert that hate crime laws should enacted because this type of offenders deserve to be punished more than "ordinary" offenders (Phyllis B. Garstenfeld, hate crimes: causes, control, and controversies)

3. Reasons for the Hate Crime against African-American

Hate Crimes against African-Americans, Indians and others are still prevalent in the American Society because the prejudices against these groups remain the same as in history. Today, as in the history, the bias crime has no lesser effect in the U.S. society's structure; rather it has affected the whole institution of the nation. Meanwhile, slavery and segregation is no more legal in the U.S. political and social structures but there are so many stereotypes of African-Americans as low IQ people, criminals' and dangerous for other people, etc.

4. Mindset driven by history

Beginning in the history, the Europeans who captured the American territory also captured the development of the nation. In the beginning, this nation was desperate for the labor. There was a huge scarcity of food to survive. The geographical location of North America was vulnerable for the winter, scarcity of food and cold, known as "starving time". The impact of the scarcity of food was so high that in Virginia, five hundred colonists were reduced to only sixty.

"In the journals of House of Burgesses of Virginia is a document of 1619 which tells of the first twelve year of Jamestown colony. The first settlement had a hundred persons, who had one small ladle of barley per meal. When more people arrived, there was even less food. Many of the people lived in cave like holes dug into the ground, and in the winter of 1609-1610, they were...driven thru insufferable hunger to eat those things which nature most abhorred, the flesh and excrements of man as well of our own nation as of an Indian, dug by some out of his grave after he had lain buried three days and wholly devoured him" (Howard Zinn:1980).

Columbus wrote

"As soon as I arrived in the Indies, on the first Island which I found, I took some of the native by force in order that they might learn and might give me information of whatever there is in these parts" (Howard Zinn: 1980).

The early people on this North American territory came from Europe were British colonialist. These new colonialists in the new place were different from their common country colonialist in terms of religion and their belief in politics. But they have one thing in common, as other colonialists that were predatory ethics. This ethics gives an idea that all the things of non-European people either land or people are for the economic purposes of the Europeans. Inspired from this ethics,

the new colonialist committed countless violence and extensive oppression to create and protect their "civilization" which was made up with Indian land and African-American labors. The Europeans think that their culture and ethics are greater than the other Indians and African-Americans. They formulate this idea of superiority that provides a valid reason to act on "your land and labor are mine" and the indigenous people are not really human beings. They also viewed indigenous people as dangerous and less human, so they can be killed.

5. Forms of Hate Crime against African-American in the contemporary time

It is really difficult to discuss the complex reality of racial discrimination and bias in a society which is the torch holder of democracy, freedom of expression and equal opportunity and is also a reputed "free society". One shocking aspect of the African-American discrimination and biasness for these people lies in the past and collective experiences of history. In the present time the discrimination of African-American people has more negative impact than in the past. Because of lack of education and knowledge they were not able to associate the current oppression with the past or history. But now empowered with education and technology, along with the 13th and 14th Amendment of the United States constitution they are able to translate a common word for White "nigger" into an epithet, which can affect an African-American significantly negative. 13th Amendment passed by Congress January 31, 1865 and ratified on December 6, 1865 stated that "Neither slavery nor involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted shall exist within the United States, or any place subject to their jurisdiction" (U.S. Constitution: Amendment XIII, Section 1). And 14th Amendment passed by congress too, as we that the only authority to form law in America is U.S. Congress. This is passed on June 13, 1866 and ratified on July 9, 1868; According to this law –

"All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of Life, Liberty, or Property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.(U.S. Constitution: Amendment XIV, Section1)

For any African-American such kind of term bring him/her in a situation where his/her family and his/her friends and the ancestor of these people have had faced in the history. Single epithet hurled at anyone can enlarge the incident and act as a lens which provides a panoramic view of that incident with a sharp focus on the past and present act of racism against African-Americans. African-American knows this fact very well that the root of racism is very deep into the United States of America's history. One study of JoiFeagon and Malvin Sikes found that—

"Black Americans in all walks of life are usually aware of, and sensitive to, the multifaceted reality of everyday racism for themselves, their families, and other African-Americans. They are one the average much more conscious of the reality and importance of

the country's highly racialized past, both the recent past and the distant past, than are White Americans. Black Americans tend to have more of a sense of the historical type and often understand well the connections between present-day racial discrimination and the past of slavery and official segregation. Most can see beyond present-day expression of racism to the historical process underlying that racism" (Feagin and Sikes:1994).

6. Conclusion

In a society where your skin color or your association with a certain race determine the discrimination then there is no discrimination free place in that society. Because where ever you go you are permanently carrying the cause of

discrimination. The physical construction of the body, face or Kinky hair, Bindi on your forehead, bearing a turban resemblance with Taliban leader is not easy to hide and these physical appearances make you vulnerable for the racial biasness in everyday life. In the case of African-American, Indian, and Sikh people it is completely true. Discrimination has shaped the everyday life of an African-American and other people outside their work place. Because of this routine oppression and discrimination the American Dream is often beyond their reach in the most action of everyday life. According to the promise of American dream, whoever works hard, he/she will get a decent home in a desired neighborhood. In the American society a home is not merely a place for living rather it is pride of ownership and indicator of well established life.

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