

# Hate crime: contexts and consequences

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**T**he problem of defining hate crime is a complex one. Simply put, it is a criminal offence that demonstrates bias towards the victim's group identity. Beyond that, however, there is little global consensus about how narrowly or broadly to cast the net. Indeed, outside of Europe and North America, there are only a few countries, such as Brazil, that recognize hate crime as a legal category. Consequently, states across the world have vastly different pieces of legislation, covering a wide array of different offences, protected categories and sentencing responses. Even within the European Union (EU), for example, some countries have no specific provisions on hate crime. Similarly, states vary on the nature of the legislation, ranging from sentencing enhancement to provisions against hate speech or genocide. Clearly, the legal framework for understanding and responding to hate crime is an uneven one.

Such legalistic definitions, however, say nothing about the power relations endemic to the act, particularly when targeted against minorities and indigenous peoples. It is more illuminating to adopt a sociological understanding of hate crime as 'acts of violence and intimidation, usually directed towards already stigmatized and marginalized groups. As such, it is a mechanism of power, intended to reaffirm the precarious hierarchies that characterize a given social order.'<sup>1</sup> This recognizes that hate crime is a systemic rather than an individual response to difference, embedded in a particular social and cultural context. It does not occur in a vacuum, but is rather an extension of widely circulating ideas about status, place and hierarchies within society. Hate crime in fact affects a wide array of communities, including LGBT (lesbian, gay, bisexual and transgender) groups and disabled people, though the emphasis in this chapter is only on the disadvantaged ethnic, national, religious, linguistic or cultural groups that are the focus of Minority Rights Group International's (MRG) work.

Hate crime against minorities and indigenous peoples, far from being an abnormal or fringe phenomenon, is often a product of their everyday marginalization. Violence perpetrated against these groups is often an attempt to maintain and communicate carefully crafted boundaries.

Consequently, hate crimes are crimes like no other, shaped by hostility towards a group identity, not an individual. As a result, they have much more far-reaching implications for social stability and cohesion.

Emphasizing both violence and intimidation draws attention to the continuum of behaviours that can constitute hate crime. According to the legal definitions, hate crime involves an underlying violation of criminal law or some other statute. From a sociological perspective, however, this is not very satisfying. It neglects lawful acts – what might be called hate incidents – that nonetheless cause harm to the victim and his or her community. The literature on violence against women, for example, has long argued for a broader understanding of what constitutes violence, and indeed crime.

Thus, it is important to keep in mind that the violence to which we refer runs the gamut from verbal harassment to extreme physical acts such as assault, arson and murder. Clearly, not all incidents that fall within this definition will be 'crimes' from a legal perspective. Yet they do constitute serious social harms, regardless of their legal standing. By their very frequency and ubiquity, some of the most minor types of victimization – such as name calling and verbal harassment – can have the most damaging effects on minority and indigenous communities.

As the Organization for Security and Co-operation in Europe (OSCE) noted in 2012, hate crimes 'can escalate rapidly into broader social unrest, are often severely under-reported, and they can be exacerbated by or take place in a context of intolerant discourse'. This is clear not only in Europe, North America, Australia and New Zealand, where hate crime is a relatively well accepted concept, but across the world in regions where the term is rarely used or recognized. But while it is not identified as such in many nations, we can nonetheless understand diverse forms of political violence, sectarian violence, even violence associated with civil war as variants of bias-motivated attacks. Genocide or terrorism, for example, can also be understood as running on a continuum with hate crime. As a result, hate crime has important implications not only for the marginalized groups that are targeted, but also for broader national security.



### Measuring hate crime: limits to our knowledge

One of the main challenges in tackling hate crime against minorities and indigenous peoples is its invisibility. For a range of reasons, incidents often remain unreported or are not classified as hate acts due to the reluctance of authorities to take allegations seriously. In many cases, the authorities can contribute to the problem through indifference or even hostility towards victims. This in turn may create a culture of impunity for perpetrators, enabling further attacks against vulnerable groups.

Even in countries where hate crime legislation is in place, law enforcement officials may be unaware or uninterested. In the United States, for example, where the legal concept of hate crime is fairly well established, it appears that few police departments are effective in identifying or investigating incidents. On the contrary, very few acknowledge hate crime when it occurs. For instance, in 2012 only 13 per cent of local law enforcement agencies submitted hate crime incident reports. This is exacerbated in countries with either no legal requirement or no established infrastructure to gather and report incidents of hate crime. Few countries outside of Europe, North America, Australia and New Zealand have such provisions. Even in Europe, however, there are limitations to data collection. According to the EU's Fundamental Rights Agency (FRA),

only four EU member states (Finland, the Netherlands, Sweden and the United Kingdom) collect and publish comprehensive data on hate crime. A further nine member states record data on a range of hate crimes which they generally publish; and 14 member states collect limited data which they do not usually publish.

In addition to the limitations imposed by law enforcement agencies are those presented by trends in public under-reporting. In fact, some scholars argue that hate crimes are even more dramatically under-reported than other offences. The undocumented labourer, for example, may fear the repercussions of his or her status being revealed. In the context of widespread xenophobia, migrant workers in Greece, for instance, are already subject to what many perceive as excessive identity checks, accompanied by abusive language and behaviour. A man from Togo told Human Rights Watch researchers that:

*'They stopped only the two of us even though there were lots of people passing by ... After ten minutes they allowed us to go. I was ... very, very, angry. But I cannot do anything. There were people passing, plenty of whites, and they stopped only the two of us. Why?'*

The subsequent distrust of law enforcement agencies among immigrants, either on the basis of experiences within the host state or

Left: Afghan migrants in Greece.  
*Alfredo D'Amato/Panos.*

in their country of origin, inhibits reporting. Given the often hostile relationships between state authorities and minority or indigenous communities, it is not surprising that victims of ethno-violence are sceptical about the willingness of police officers to respond to their victimization. Someone from Rio de Janeiro, for example, where police are thought to account for around 20 per cent of all homicides in the city, is unlikely to welcome any interaction with police either at home or in other countries. One 2009 EU-wide survey by the FRA found that around a third of Roma (33 per cent) and a quarter (24 per cent) of Turkish victims of assault cited 'negative attitude towards the police' as their reason for failing to register the crime. This stance appeared to be justified by the experiences of those who did: among those victims who did report to the police, more than half (54 per cent) of Roma described themselves as 'dissatisfied' with how their case was handled. This only serves to reinforce their vulnerability to future hate crime.

### Permission to hate: the contexts for violence

Hate crimes are the product of a particular context that marginalizes and even demonizes minority and indigenous communities. To assume that this form of violence is an anomaly ignores the fact that it is simply one weapon within a broader cultural arsenal that bestows 'permission to hate'. Where state policy and practice, for example, send the signal that particular groups are not welcome, this can inform public sentiment and violence. This is readily apparent with respect to Muslims across the West in the post-9/11 era, where they have been subject to the stigmatizing effects of state action intended to control and contain the terrorist threat. Since the attacks, political and public figures have intensified their hostility towards Muslims. As the United Nations (UN) Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has noted: 'In the prevailing political and ideological context, even if these provisions do not explicitly target a particular community or religion, intellectual and media

discourse focuses more and more on Islam and Muslims.'

Yet in the current context, with the growth of far-right groups and political parties across Europe, Muslims are not the only targets. Xenophobic rhetoric and policies also impact on Roma, immigrants and other minority groups. Extreme nationalism lends itself easily to these ideologies, particularly when members of majorities feel under threat. Greece's Golden Dawn party, Britain's English Defence League and Hungary's Jobbik have all exploited recent economic crises to garner violent supporters.

Popular mythologies concerning targeted minority and indigenous groups are also recreated through the media, where they are represented in ways that render them threatening and thus assailable. This is not restricted to countries in the global North. Growing xenophobia is also evident in South Africa, for example, where *Makwerekwere* – or black African migrants – are vilified and subsequently targeted for violence. Like Roma in Europe, African Americans in the United States or Lebanese in Australia, 'the *Makwerekwere* are regularly connected with crime, poverty, unemployment, disease and significant social costs in the media and by authorities whose declarations the media reproduce uncritically.'<sup>2</sup>

Political groups and media can both encourage and reflect social disdain towards these groups. National and international surveys probing attitudes towards newcomers or specific domestic communities reveal high rates of distrust, fear and hostility towards the same communities vilified by elites. Extremist parties may manage to avoid directly engaging in hate crime themselves while indirectly contributing to violence, as highlighted by Europol:

*'Whereas right-wing extremist political parties are unlikely to orchestrate serious violent offences against Muslims, it is assessed that such events may incite certain participants to commit criminal offences. Arson attacks targeting, for example, halal butchers and mosques have been reported by a number of EU Member States.'*<sup>3</sup>

When past grievances can be combined with contemporary ones, as in Ireland or Bosnia and

Herzegovina (BiH), the climate for hate is even stronger. This is especially evident in the most economically challenged states in Europe, where the emergence of vitriolic right-wing hate groups has clearly been a response to the dual threats of economic decline and rising immigration. Anti-Semitic violence, for example, has increased across Europe, driven by public perceptions that hold Jews responsible for the ongoing economic crisis. This violence has also been significantly affected by events abroad, the FRA notes, particularly the Palestinian–Israeli conflict in the Middle East, with anti-Zionist rhetoric presenting the conflict as ‘embodying the struggle between good and evil, with Israeli Jews allocated the latter role’.<sup>4</sup> Similarly, Islamophobia is also a product of both domestic and international contexts. In the West, especially, it has been events like the 2001 terrorist attacks in the United States and other large-scale violent incidents in London and Madrid that have escalated both anti-Muslim sentiment and violence.

Gendered violence often comes to the fore as a particularly heinous expression of hatred and attempts to control populations. Thus, rape has become a common tool of aggression in the context of inter-ethnic violence and is rife in current conflicts such as in the Central African Republic (CAR), Chad, eastern Ethiopia, southern Nigeria and Somalia. The widespread rapes of women in BiH and Rwanda are readily recognized as strategies by which to terrorize the Muslim and Tutsi communities.

With respect to hate crime, specifically, covered Muslim women are subjected to widespread attacks in the West, as their visibility acts as a reminder of Islam. While male Muslim males are also targeted, some reports suggest that Muslim females are at elevated risk. For example, a 2006 survey of victims by the Australian Community Relations Commission on post-9/11 experiences of hate incidents towards Muslims and other minorities found that 50.4 per cent of the victims were female, whereas only 44.4 per cent were male: the remainder were either unrecorded or against institutions and buildings. Tell MAMA, a United Kingdom Muslim helpline, has recorded similar findings. In March 2013, it noted that Muslim women were targeted in 58 per cent of the 632 incidents reported during its first 12

months of operation.

Minority and indigenous communities often find themselves particularly at risk of hate crime during moments of political upheaval or instability. In many countries, ongoing ethnic conflict is the legacy of past colonialism and the failure to create a harmonious postcolonial consensus among different groups. East Timor, for example, was beset with communal and ethnic violence during Indonesia’s postcolonial occupation, and again after the UN peacekeeping mission withdrew in 2005. The ongoing violence around the globe throughout the opening decade of the twenty-first century has ‘revealed the incomplete reconciliation processes, ongoing processes of nation-building, and conflicting ethnic, social, and political identities’.<sup>5</sup>

### **Impacts: levels of harm**

The impacts of hate crime are manifold and operate at multiple levels, in that the violence not only affects the individual victims, but also whole communities and by extension the nation itself. There is a strong body of evidence now that supports the contention that hate-motivated violence is more dramatic in both its physical and emotional harm than its non-bias-motivated counterparts. It typically results in greater physical injury as the perpetrator seeks to erase the identity of the victim. Similarly, the emotional and psychological effects – fear, anxiety, distrust, isolation – tend to be not only more severe, but also longer lasting. Moreover, there is also the risk that victims may experience secondary victimization as a result of their experience. This is particularly evident in the case of wartime and gang rapes. All too often, women who have been brutally attacked are subsequently shunned by the community.

A key distinguishing factor associated with hate crime is that it is a ‘message’ crime. That is, the intent is not simply to terrorize the immediate victim, but to instil fear among that victim’s community. Hate-motivated violence emits a distinct warning to all members of the victim’s community: step out of line, cross invisible boundaries, and you too could be lying on the ground, beaten and bloodied. Consequently, the individual fear noted above is thought to be accompanied by the collective fear of the victim’s

cultural group, possibly even of other minority or indigenous communities likely to be victims. One recent study of community impacts of hate crime in the Canadian province of Ontario, for instance, has identified the wide-ranging effects on the 'vicarious' victims of hate crime. Many of these secondary effects in fact parallel those typically expressed by primary victims of hate crime – shock, anger, fear, a sense of inferiority and the internalization of violence. The violence therefore had a wider impact on the whole community, including behavioural change, with some Muslim women removing their veils to protect themselves from similar attacks.

Hate crime throws into question not only the victim's and the community's identity, but also national commitments to tolerance and inclusion. Speaking specifically of Native Americans over fifty years ago, legal scholar Felix Cohen noted that mistreatment – legal or extralegal – of minorities and indigenous peoples 'reflects the rise and fall of our democratic faith'. In other words, the persistence of hate crime is a challenge to democratic ideals. It reveals the fissures that characterize its host societies, laying bare the bigotry that is endemic in each. As such, it may very well be the case that bias-motivated violence is not just a precursor to greater intergroup tension, but also an indicator of underlying social and cultural tensions.

At the extreme, widespread targeted violence can have even more devastating effects, creating or exacerbating instability and even leading to a cycle of retaliatory violence. During 2013, for example, the Ouham province of the CAR was first the site of brutal attacks on Christian communities by the Muslim Séléka alliance, then reactive violence by anti-balaka Christian forces. The level of violence on both sides was devastating, and often involved forcing bystanders to watch as their neighbours and family members were slain in front of them.

Left unchecked, what we think of as hate crime also has the capacity to escalate to genocide. The two phenomena run along the same continuum. In recent memory, this has most clearly been the case in Rwanda, where state and media rhetoric set the stage for wholesale slaughter of entire Tutsi communities. In addition to vilifying Tutsis, politicians and media pundits

alike explicitly called for the extermination of that group. What began as isolated attacks on individuals and small communities soon intensified to the level of mass executions.

## Responding to hate crime

Traditionally, democratic governments introduce statutory measures to manage a perceived crisis. This is in line with an array of international standards intended to confront violence against minorities and indigenous peoples, among other groups. Paramount among these is the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Article 4 of which says that states should prohibit the dissemination of ideas 'based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin'. The European Commission on Racism and Intolerance (ECRI – a human rights body of the Council of Europe) has also called for criminalization of targeted violence. In 2008, the EU Framework Decision on Racist and Xenophobic Crime sought a common definition of hate crime/xenophobic violence across the EU. At the level of international courts, the European Court of Human Rights has held that states have positive obligations under the European Convention on Human Rights and Fundamental Freedoms to investigate the potential for racial motivation for crimes. In the landmark decision of *Nachova and Others v. Bulgaria* (2005), the Court held that the state has the responsibility to explore racist motives underlying violence by state actors; *Šečić v. Croatia* (2007) applied the same duty with respect to violence by citizens.

There may be both practical and symbolic value to developing hate crime legislation. Just as hate crime is an expressive act, so too is hate crime legislation an expressive statute. It sends a message to its intended audience about what is not tolerated and signals the willingness, at least in theory, of the state to protect victimized groups, including minorities and indigenous peoples. Thus, the majority of states have responded punitively, opting for harsher sentences where the crime in question is deemed to be motivated by bias. In the right context, with sufficient

political will and accompanied by other measures, legal instruments may be able to play a role in preventing and prosecuting hate crime.

There are a number of limitations to a solely legalistic approach, however. First, it can only be effective in identifying and recording hate crime if police are able and willing to do so. In many jurisdictions, as noted above, this is clearly not the case. What is encouraging, though, is the emergence of dedicated hate crime units within police services in some countries. Boston, Massachusetts, was the first American police department to introduce such a body (the Community Disorders Unit) in 1978. Most major American and Canadian cities now feature dedicated units and/or specially trained officers charged with investigating hate crime. Even where such units do not exist, there are nonetheless increasing opportunities for law enforcement to take up training modules in person or online, such as those offered by the OSCE, the Anti-Defamation League (ADL) and Stop Hate UK. The FRA's *Fundamental Rights Based Police Training: A Manual for Police-trainers*, for instance, offers a comprehensive training approach to policing, that seeks to:

*'assist police academies in integrating human rights into police training, rather than relegating such training to an optional add-on. It focuses in particular on those rights that help engender trust in the police working in diverse societies: non-discrimination, dignity and life.'*

Another limitation to a purely punitive approach is that harsher sentences do not necessarily make safer communities – in fact, they have the potential to be counterproductive. For instance, hate crime offenders who go to prison often find themselves among peers who will reinforce their racist or religious biases. Additionally, given that most hate crime involves relatively minor property offences, increasing the sentence may further embitter perpetrators and make them more hostile. Most offenders are youth, and especially young men who are responding to what they see as a threat – to their community, neighbourhood, way of life or self-esteem. Often, these threats are more imagined than real.

It has proven to be more effective, then, to

challenge those myths, and to thus 'humanize' the victims and their communities. Incidents of hate crime can be taken as a starting point for education and healing rather than simply punishment. In short, community-based responses – both proactive and reactive – represent valuable complements to state-based initiatives. As stated in a 2013 FRA report: 'Tackling racist violence, discrimination and intolerance effectively requires both preventative and punitive action engaging law enforcement and other public authorities at all levels'. Thus, it is vital that non-governmental organizations (NGOs), like the ADL in the US, and rights organizations at the international level continue to intervene, alongside state-based initiatives. In a 2012 report on BiH, the OSCE provides a brief list of actions by which NGOs might challenge hate crimes:

- *'Working with governments to improve legislation;*
- *Monitoring and reporting incidents;*
- *Acting as a voice for victims of hate crimes, especially by serving as intermediaries with the authorities;*
- *Providing practical assistance to victims of hate crimes, such as legal advice, counselling and other services;*
- *Raising awareness about the existence of discrimination, intolerance and hate crimes; and*
- *Campaigning for action to meet the challenge of hate crimes.'*

Indeed, anti-hate initiatives are now appearing across the globe, their scope enhanced by ready access to the internet. Many NGOs engage, for example, in ongoing monitoring of hate incidents and hate groups. Many of these same bodies are actively engaged in providing a diverse array of victim support, including legal representation or advice, counselling services and mediation. Public awareness is enhanced by not-for-profits and government bodies alike, as with the Kick Racism out of Football campaign, or public service announcement campaigns.

School-based anti-hate programmes are especially widespread in North America and Europe. In the UK, the Crown Prosecution Service, National Union of Teachers and the

Anthony Walker Foundation have produced the *Schools Project: Racist and Religious Hate Crime* to counter hate crime and prejudice among youth. The scenarios and classroom activities are intended to initiate discussion, and to 'increase pupils' understanding of hate crime and prejudice and enable them to explore ways of challenging it'.

Recent work by Mark Walters and Carolyn Hoyle has also demonstrated the potential of restorative justice approaches to hate crime. In particular, their observations of a victim-offender mediation programme suggest that these can have some benefits, including reducing the negative emotional impacts of hate crime and stalling the recurrence or escalation of violence. However, such programmes remain relatively rare.

In light of the dramatic spread of right-wing extremism in Europe, an array of counter-extremism initiatives have been developed. The Exit programmes are illustrative cases. The first of these, Exit Deutschland, was founded in 2000. These programmes engage with ultra-right-wing activists, helping them to remove themselves from the organizations and 'develop new perspectives outside the right-wing environment'. They also offer ongoing guidance and advice around safety and social reintegration.

Where we are lacking both policies and research specific to hate crime is in countries outside of Europe, North America, Australia and New Zealand. While there is considerable research on targeted violence against minority and indigenous communities in other regions, the conceptual lens of hate crime is not always applied to these contexts. This is a pity, because there are important continuities between what is understood in the global North as 'hate crime' and what, in other contexts, might be recognized as ethnic conflict or political violence against minorities and indigenous communities. Moreover, the rich research on hate crime has a great deal to offer to our understanding of how even minor incidents of denigration and intimidation against minority and indigenous groups can have wider implications for their rights and protection. Indeed, the concept of hate crime is gaining ground in other regions. In early 2014, there were protests in Delhi, India against the killing of a young man belonging

to an indigenous community. The Delhi High Court issued a statement calling for hate crime legislation.

It goes without saying that when institutions such as the police and judiciary are actively hostile towards minorities and indigenous peoples, with hate crime ignored or even encouraged by the state itself, that counter-measures will be all the more challenging to put in place. Governments, instead of treating hate crime as an aberration, should question their own structures of power, and the situation of minority and indigenous groups within them.

Perhaps the first step towards a stronger global response to hate crime, then, is to recognize that hate crime is not an abnormality but a home-grown product, emerging out of specific social and cultural conditions. In Egypt under Mubarak, for example, where hate crime against religious minorities occurred against a backdrop of impunity and institutional indifference, violent incidents were routinely blamed on extremists. Yet in practice, much of it was driven by internal factors that remain largely in place, despite the significant political changes since 2011. Indeed, following such upheavals, an important step forward would be to institute truth, justice and reconciliation processes in order to confront the reality of hate crime, and give recognition to victims while at the same time making perpetrators answerable for their actions.

How countries choose to act on this knowledge, their willingness to take the necessary measures to change, could be a major test of their ability to become and then remain inclusive and multicultural states in the twenty-first century. ■

## Endnotes

- 1 Perry, B., *In the Name of Hate: Understanding Hate Crimes*, London, Routledge, 2001, p. 10.
- 2 Nyamnjoh, F., 'Racism, ethnicity and the media in Africa: reflections inspired by studies of xenophobia in Cameroon and South Africa', *Africa Spectrum*, vol. 45, no. 1, 2010, p. 70.
- 3 Europol, *Terrorism Situation and Trend Report*, The Hague, Europol, 2013, p. 36.
- 4 EU Agency for Fundamental Rights (FRA), *Antisemitism: Summary Overview of the Situation in the European Union (2001–2011)*, Vienna, FRA, 2012, p. 4.
- 5 Hensengerth, O., 'Violence research in northeast and southeast Asia', *International Journal of Conflict and Violence*, vol. 5, no. 1, 2011, p. 67.

# Minority Rights Group International

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# State of the World's Minorities and Indigenous Peoples 2014

## Events of 2013

Across the world, minorities and indigenous peoples are disproportionately exposed to hatred. From intimidation and verbal abuse to targeted violence and mass killing, this hatred often reflects and reinforces existing patterns of exclusion. The impacts also extend beyond the immediate effects on individual victims to affect entire communities – in the process further marginalizing them from basic services, participation and other rights. This year's edition of *State of the World's Minorities and Indigenous Peoples* highlights how hate speech and hate crime, though frequently unreported or unacknowledged, continue to impact on every aspect of their lives. The volume also documents many of the initiatives being taken to promote positive change and the different ways that governments, civil society and communities can strengthen protections for minorities and indigenous peoples.

