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What is a hate crime?

Jennifer Schweppe^{1*}

Abstract: The term hate crime is instinctively understood across policy and practice domains, but is defined differently across contexts. Whilst it is accepted that a standard universal and internationally accepted definition of a hate crime is not possible or desirable, I will seek to create common definitional boundaries for the term hate crime, which allows for jurisdictional flexibility whilst retaining a common core of understanding. In doing so, I will set out the parameters of the concept, and then articulate the reasons for excluding particular manifestations of targeted hostility from its remit. I will finally describe the core constituent elements of a hate crime, and move towards a proposal for definitional boundaries for the term hate crime that applicable across scholarly and policy domains.

Subjects: Criminology - Law; Class - Crime and Society; Inequality; Race - Crime and Society; Policing; Comparative Criminal Justice; Violent Crime - Forms of Crime

Keywords: Hate crime; hate speech; hate studies; microaggressions; European law

1. Introduction

Though the term “hate crime” is used across jurisdictions, disciplines, and contexts, it is perhaps surprising that there is no uniform understanding of the term. For this reason, scholars, policy makers, and legislators can often speak at odds when discussing the issue, even within practice silos. For some, a “hate crime” is a phenomenon that reaches across the spectrum of hostilities that are manifested towards minority communities generally, ranging from what (from a legal perspective) would be considered criminal acts, to discrimination, to hate speech, to microaggressions. For others, the term “hate crime” is a narrow construct applicable only in the context of criminal acts. Thus, the term has been described by Chakraborti and Garland as a “slippery and somewhat elusive notion whose conceptual and operational ambiguity raises thorny questions” for those charged with responding to it (2010).

This poses perhaps a unique problem for scholars, policy makers and analysts. Across other manifestations of criminality, there is typically general agreement in the academy and across policy domains as to what the constructs mean. Whilst between jurisdictions, there will be differing legal definitions as to what, for example, constitutes a rape, there are agreed definitional

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PUBLIC INTEREST STATEMENT

Though the term “hate crime” is commonly used in policy, practice, and discourse, there is no clear definition of what the term means either within or across jurisdictions. This article seeks to establish definitional boundaries around the term “hate crime”, differentiating it from hate incidents, and expression offences. In doing so, it proposes a framework around which we can collectively understand and problematise hate crime, as well as seeking means by which it can be combated.

boundaries as to what that term means across contexts. This allows, for example, for scholars across disciplines and jurisdictions to explore and problematize the concept, as well as for policy makers and analysts to understand the phenomenon cross-jurisdictionally. This allows for comparability of data, and for learning between jurisdictions as to how best to address this social ill.

The same is not true for hate crime. There is no accepted definition at an international level as to what constitutes a hate crime, from organisations such as the United Nations, the Council of Europe or the European Union. Not only that, but there is no agreed conceptualisation of the term across jurisdictions. Perry notes:

“For example, while several countries criminalize discrimination, or membership of ‘extremist’ groups, and include these acts within their national concepts of hate crime, most do not. Similarly, although all European countries criminalize hate speech, to some extent, there is a diverse approach to the threshold of ‘hate’ above which freedom of expression is no longer protected.” (2016)

From a policy perspective, this is problematic as we cannot begin to compare data across jurisdictions when such fundamentally different definitions of a term are utilised. From a scholarly perspective, it is problematic as we are seeking to compare explore, understand, and problematise fundamentally different phenomena using the one umbrella term. Finally, as Schweppe, Haynes and Walters observe, from a victims’ rights perspective, it means that “victims of hate crime across Europe are treated differently across (and sometimes within) jurisdictions when they are a victim of a hate crime” (2018).

For these reasons, I believe that it is now appropriate that we reflect on what we understand and mean by the term “hate crime”. Whilst I do not suggest that it is appropriate for a standard *definition* of hate crime to be utilised across jurisdictions and domains, I believe that the definitional boundaries of a hate crime can and should be agreed. These boundaries of a hate crime will allow for different disciplinary and jurisdictional understandings of the *construction* of a hate crime (for example, which victim groups are protected in the legislation), whilst retaining a core and fundamental shared understanding of the concept.

This article will thus first seek to understand and problematise different disciplinary and contextual understandings and definitions of hate, and then explore the various understandings of the term “hate crime” across different contexts. Based on these understandings, the article will finally seek to develop definitional boundaries which can be used across disciplines and contexts, allowing for meaningful comparison and engagement.

2. European understandings of hate crime

There is no common definition of hate crime across Europe, either formal or informal, within the European Union or the Council of Europe. Across Member States of the EU generally, a range of interpretations of the concept of hate crime are in evidence. At a conceptual level, we see key differences in the way that hate crime is understood, which speak fundamentally to the different ways in which hate and hostility have manifested historically across the EU Member States. Perry observes that, across Europe:

‘Recent bitter ethnic conflict, and the legacy of Nazism, colonialism, slavery and communism each influence affected countries’ understanding and conceptualisation of and approach to hate crime policy. (Perry, 2015, p. 78)’

Glet notes that in Germany, for example, the historical context has dictated a conceptualisation of hate crime in that country which is markedly different to that in the United States (and thus, the definition adopted by the OSCE):

‘In Germany, hate crimes are considered *politically motivated offences* because they present a threat to the human and constitutional rights of the victim and undermine the democratic, pluralistic directive of the country. In this regard, the German approach towards recording

hate incidences is based on an offender-oriented system of classification, which focuses primarily on the political motive of the alleged perpetrator. (Glet, 2009, p. 1)

Member States' divergent conceptualisations of hate crime are reflected in wide-ranging inter-jurisdictional variation in the construction of hate crime laws. Perry notes that the same position applied across the United States in the early 1990s following the passage of the federal Hate Crime Statistics Act:

'The limits of the federal government's commitment to hate crime data collection are immediately apparent in [the Act] itself. Efforts are constrained by the narrow definition of both the protected groups and the enumerated offences ... Moreover, this brings to mind the problem of inconsistency between reporting agencies. Not all states recognise the same categories of bias in their legislation. Some states do not include gender in their hate crime legislation; some do not include sexual orientation; yet others include such anomalous categories as "whistle blowers". (Perry, 2010, p. 349)

Ten years following the passing of the Framework Decision, in Europe we are faced with very similar issues as the definitions of hate crime vary across jurisdictions. For the purposes of monitoring and policy analysis, OSCE/ODIHR (2009, p. 6) proposes a generalised definition applicable across boundaries. Hate crimes, it suggests, are "criminal acts committed with a bias motive." Perry (2016, pp. 610–619) notes that the approach of the OSCE in coming to its definition was to use one which excluded those offences "on which there is no international consensus on their criminalization:"

'For example, while several countries criminalize discrimination, or membership of 'extremist' groups, and include these acts within their national concepts of hate crime, most do not. Similarly, although all European countries criminalize hate speech, to some extent, there is a diverse approach to the threshold of 'hate' above which freedom of expression is no longer protected. (Perry, 2016: 610, p. 619)

The consequences of the absence of a common conceptualisation and construction of hate crime, emanating either from the EU or the Council of Europe, are numerous. First, as Perry notes, disparate legislation produces methodological differences with respect to data collection (Perry, 2010, p. 349). Second, case law from the European Court of Human Rights evidences—at best—a lack of awareness amongst police officers as to European-level obligations to evidence the hate element of a crime, and to investigate hate crime appropriately (see Schweppe et al., 2018). At worst, it indicates that the type of bias—both conscious and unconscious—that was found to permeate policing culture in the United Kingdom in the early 1990s following the racist murder of Stephen Lawrence may still represent a challenge for European jurisdictions. Third, and perhaps most fundamentally, victims of hate crime across Europe are treated differently across (and sometimes within) jurisdictions when they are a victim of a hate crime (see Schweppe et al., 2018).

3. Understanding hate (crime)

Before we consider the question of hate crime, the term "hate" itself is used in a multiplicity of contexts, and as such has no clear lay definition, nor any clear definition in law, psychology or other academic discipline. Hall (2013, p. 9) observes that, for the purposes of furthering our understanding of the hate crime, the term "hate" is "distinctly unhelpful" with Berk et al. (2003, p. 51) observing that seeking to define the term hate is like entering a "conceptual swamp". For this reason, "hate crime" legislation often uses terms such as "bias", "prejudice" or "hostility" alongside, or sometimes, in place of, the term "hate". Brudholm (2020) asks scholars to consider a broader understanding of hate, questioning whether hate is *always* a matter of prejudice or bigotry, though his study is not about hate crime in particular but rather hate is its broader and broadest contexts. Indeed, while "hate crime" and "hate studies" remain terms commonly used to describe both the statutory regime regardless of its construction, and the field of research on related scholarship more generally, debate still goes on as to the precise contours of each of these terms.

That said, it is commonly accepted amongst scholars that a global definition of hate crime is not available—nor, as Perry (2001) would argue, is it perhaps possible given the historically and culturally contingent nature of hate crime.¹ Chakraborti and Garland (2012: 499, p. 500) observe that hate crime means different things to different people:

Some, particularly lay-people, will understandably adopt a more literal interpretation in line with the more violent and extreme cases that make the news. Scholars, meanwhile, tend to see hate crimes as a social construct with no straightforward meaning and offer a defining set of characteristics which they regard as central to their commission. Practitioners are likely to pursue a much less complex view which requires few of the machinations evident within academic interpretations.

Brudholm observes that consensus on the definition of a hate crime is both improbable and “to some degree undesirable” (Brudholm, 2016, p. 33). However, over recent decades substantive attempts have been made to describe the phenomenon of hate crime, as well as to define a hate crime in law in the literature. Royzman et al believe that, in defining hate crime, we are seeking not so much to name a phenomenon normatively, but rather more to distance ourselves from prejudices we purport not to share:

... lurking behind the concept of ‘hate crime’ there seems to be yet another cultural meaning of hate as that which motivates acts of senseless (normatively unjustifiable) violence ... [I]nsistence on the use of *hate* in a particular situation may be less a matter of descriptive characterization than a reflection of normative commitment to identify with the plights of the victims while distancing from the viewpoints of the perpetrators. (Royzman et al., 2005: 9, p. 10)

Thus, when we seek to describe and define hate crime, according to Royzman et al, we look both to express solidarity with marginalised groups and to send a message to perpetrators that as a society, we do not share the views which they have violently expressed. Quill agrees that in criminalising “hate”, we are highlighting society’s disapproval of the offender’s motivation:

... [we seek] to distinguish criminal conduct motivated by prejudices from criminal conduct motivated by lust, jealousy, greed, politics, and so forth. Unlike theft, burglary, or assault, hate crime emphasizes the offender’s attitudes, values, and character (Quill, 2010, pp. 181–188).

Gadd and Dixon criticise this application of hate crime laws: they argue that it differentiates perhaps too bluntly between those who “hate” and those who do not, and thus potentially masks the connection between the “actions of violent racists and the ‘prejudice, ignorance and subtle bigotry’ that undermines ‘democratic procedures’”—ie, institutional racism (Gadd & Dixon, 2011: xix).

That said, it is commonly accepted that hate crimes have a “symbolic” purpose, emphasising the wrongfulness of the hate motivated crimes where the punishment of offenders is seen as a “denunciation of their evil acts (Gerstenfeld, 1992: 259, p. 267).” Thus, in the criminalisation of hate, society is also sending a message: that it will not tolerate individuals perpetuating crimes of violent discrimination. In *R v Saunders* (2000) Rose LJ discussed the purpose of hate crime legislation, commenting explicitly on the “message” element of such offences:

One of the most important lessons of this century, as it nears its end, is that racism must not be allowed to flourish. The message must be received and understood, in every corner of our society, in our streets and prisons, in the services, in the workplace, on public transport, in our hospitals, public houses and clubs, that racism is evil ... Those who indulge in racially aggravated violence must expect to be punished severely. (2000: 74–75)

As well as having a symbolic purpose at the point of criminalisation, hate crimes are often described as message crimes at the point of perpetration. This works in two ways: first, in committing the crime, the perpetrator is sending a message to the victim and his or her

community. As Perry observes, because victims are interchangeable, the crimes are designed to send a message, not only to the direct victim, but also to the community to which they belong, that they are “different”, and “Other” (Perry, 2001, p. 10). The intent of hate crime is, Perry argues:

... not only to subordinate the victim, but also to subdue his or her community, to intimidate a group of people who ‘hold in common a single difference from the defined norm – religion, race, gender, sexual identity’(Perry, 2001, citing Pharr as cited in Wolfe & Copeland, 1994, p. 203).’

The target, then, is not the victim, but rather his or her community—“others like him or her (Perry, 2001, p. 10).”

Perry observes that the impacts of hate crime go far beyond the physical or financial or indeed personal: hate crime, she says, “reaches into the community to create fear, hostility, and suspicion (Perry, 2001, p. 10).” It is accepted internationally that hate crime is likely to have a more significant impact on its victims than non-hate motivated offences (Iganski, 2008; Paterson et al., 2018). Indeed, this is recognised at EU level through the Framework Decision on combating certain forms and expressions of racism and xenophobia by means of the criminal law: in its Report on the implementation of the Framework Decision, the Commission states that one of the reasons for requiring racist and xenophobic motivations to be taken into account at sentencing is the impact of this type of crime on “individuals, groups, and society at large (European Commission, 2014).”

Direct impacts can range from physical injury to emotional and psychological harm. We now know that there is a qualitative difference to the impact of hate crime as compared to non-hate motivated incidents. For instance, data from the Crime Survey for England and Wales showed that victims of hate crime were more likely than victims of crime overall to say they were emotionally affected by the incident (92% and 81% respectively) (Corcoran et al., 2015, p. 22), while 36% of hate crime victims stated they were “very much” affected compared with just 13% for non-hate crime victims. The data also showed that twice as many hate crime victims suffer a loss of confidence or feelings of vulnerability after the incident compared with victims of non-hate crime (39% vs. 17%). Hate crime victims were also more than “twice as likely to experience fear, difficulty sleeping, anxiety or panic attacks or depression compared with victims of overall CSEW crime (Corcoran et al., 2015, p. 22).”

Hate crime not only impacts on its direct victims: the targeting of victims on the basis of their membership of a particular community “communicates to all members of that group that they are equally at risk and do not belong (Haynes & Schweppe, 2017a, p. 130).” Paterson et al conducted a study involving over 3,000 LGBT and Muslim people which found that knowing other people who have been the victim of hate crime increases the perception of threat in those indirect victims. This in turn is linked to heightened feelings of vulnerability, anxiety and anger (Paterson et al., 2018; Walters et al., 2020). These heightened emotions are evidence of the terrorising effects of hate crime, on the broader community of which the victim is part: what the European Union Agency for Fundamental Rights (FRA) refers to as the “resonating nature of hate crime” (European Union Agency for Fundamental Rights, 2012, p. 18), or what Perry and Alvi have referred to as the “*in terrorem*” effect of hate crime (Perry & Alvi, 2012, p. 57). Hate crime, then, can be perceived as “symbolic crimes” that communicate Otherness and operate as an exclusionary practice (Perry, 2003, p. 9). They have the effect of regulating marginalised social groups. Indeed, the targeted community must be counted as secondary victims of the offender.

Finally, the relationship between the act of the individual and broader societal stratifications are common in other descriptions of hate crime. Unlike most other criminal offences, the personal characteristics of victims are a central—or, as Gerstenfeld would argue—a “pivotal” feature of hate crimes (Gerstenfeld, 2012: 11). Although direct victims may be selected at random, the choice of the targeted group inevitably reflects contemporary social hierarchies. Wolfe and Copeland refer to

societal prejudices which create an environment in which hate crime occurs. Hate crime, under their description is:

‘... violence directed toward groups of people who generally are not valued by the majority society, who suffer discrimination in other arenas, and who do not have full access to remedy social, political and economic justice. (Wolfe & Copeland, 1994, p. 204)’

Perry adapts this perspective but in constructing her own definition looks also from the perspective of Sheffield, who observes that hate crime draws upon but also contributes to this marginalisation:

‘Hate violence is motivated by social and political factors and is bolstered by belief systems which (attempt to) legitimate such violence ... It reveals that the personal is political; that such violence is *not* a series of isolated incidents but rather the consequence of a political culture which allocates rights, privileges and prestige according to biological or social characteristics. (Sheffield, 1995, p. 438)’

This further illuminates a point of differentiation between crimes generally and hate crime in particular: it is not the individual that is being targeted in the commission of a hate crime, but rather what they represent to the offender. In developing her own definition, Perry observes that hate crime is like no other crime, as its dynamics both “constitute and are constitutive of actors beyond the immediate victim and offenders”. Hate crime, according to Perry:

‘... involves acts of violence and intimidation, usually directed toward already stigmatised and marginalised groups. As such, it is a mechanism of power and oppression, intended to reaffirm the precarious hierarchies that characterise a given social order. It attempts to re-create simultaneously the threatened (real or imagined) hegemony of the perpetrator’s group and the ‘appropriate’ subordinate identity of the victim’s group. (Perry, 2001, p. 10)’

The determination as to which victim groups are to be named in hate crime legislation is a crucial decision to be made, and one which has the capacity to further marginalise those already on the fringes of society. Chakraborti and Garland (2015) argue that even Perry’s more expansive definition of hate crime is limited, and propose what they refer to as a simpler “and in some ways broader” definition in their research, that is by defining hate crimes as “acts of violence, hostility and intimidation directed towards people because of their identity or perceived ‘difference’ (Chakraborti & Garland, 2015, p. 5).” This definition includes hate incidents as well as hate crime,² which have, as Garland and Funnell argue, “just as significant an impact on the victim, their family and wider communities” and is perhaps more practical than the “complex, ethereal” academic definitions set out above. Given the difficulties with finding a common definition, Iganski suggests that, rather than thinking of hate crime as:

‘referring to this or that type of crime it is perhaps more pertinent to think of “hate crime” as a policy domain, an arena in which elements of the political system and criminal justice process have converged and focused on the substantive issue of offences and incidents where some bigotry against the victim plays a part. (Iganski, 2008, p. 5)’

This perspective is particularly useful when considering the field of hate studies and the broader criminological phenomenon of hate crime. However, if we are tasked with determining how the legal system should criminalise prejudice, it is crucially important to differentiate between hate crime, on the one hand, and non-criminal manifestations of bigotry, on the other. That said, these descriptions inform why we should consider criminalising hate. First, hate crimes are message crimes; second, hate crimes are perpetrated against groups which are historically and culturally marginalised; and thirdly, hate crimes are different to so-called “ordinary” crimes because of the impacts they have on both the immediate victim and the wider community.

Moving from the theoretical to the practical, the search for a definition of hate crime is no easy task: Hall recounts a conversation with a British government policy-maker who observed:

‘... if you could lock academics in a room for six months with the task of producing a single definition of hate crime, they would most likely emerge with more definitions than they had when they went in, which makes for interesting scholarly debate, but is utterly useless for those tasked with actually responding to the problem of hate crime “in the real world”. (Hall, 2013, p. 4)’

At a policy, or practice level, important distinctions are made between hate crime, on the one hand, and hate incidents (that is, all other types of engagement between individuals involving a hate element which fall below the threshold of criminality), on the other. Further, definitions vary depending on which stage in the criminal process we are operating within: the definition of a hate crime at the point of police recording, for example, can and may need to be different to the definition used for prosecution purposes. Prior to discussing what a hate crime is, I will now discuss what a hate crime is not.

3.1. Hate incidents, microaggressions, and hate crime

Where the act of the perpetrator falls below the criminal threshold, the words, gestures or symbols used by that perpetrator are referred to as microaggressions in scholarly literature, and “hate incidents” in practice. Microaggressions are defined by Nadal as “commonplace verbal, behavioural or environmental indignities, whether unintentional or intentional that communicate hostile, derogatory or negative slights and insults toward members of oppressed groups (Nadal & Mendoza, 2014, p. 23).” They constitute the everyday, often normalised, manifestations of hostility experienced by members of minoritised communities. Sue et al identify three classes of microaggressions: microassaults (that is, intentionally pejorative and/or discriminatory language or behaviour); microinsults (that is, similar acts committed unintentionally), and microindividualisations (the trivialisation or questioning of the lived experiences of members of minoritised communities) (Wing Sie et al., 2008, p. 329). From a legal perspective, the context in which these microaggressions occur can be relevant: while they do not amount to harm for the purposes of the criminal law, if they occur in the context of the workplace, or in the context of the provision of goods and services, for example, the microaggressions could potentially fall within the ambit of the Equality Acts.

In a criminal justice context, microaggressions are often referred to as “hate incidents”, that is is a non-criminal occurrence with a hate element attached to it.³ Often used for reporting and recording purposes on the part of police services, the definition of a hate incident is often more broad and subjective than that of a hate crime. Perry observes that non-crime hate incidents have a very malign impact on both victims and society, with victims relating that “... by their very frequency and ubiquity, some of the most minor types of victimisation—name calling, verbal harassment, and so on—had the most damaging effects (Perry, 2009: 401, p. 402)”. For those who are targeted, according to the Association of Chief Police Officers in England and Wales (ACPO), non-crime “[h]ate Incidents can feel like crimes” and need official recognition if they are to be challenged (Association of Chief Police Officers, 2013). Further, given the relationship between the commission of hate incidents and hate crimes, ACPO observes, hate incidents should be recorded, not only to acknowledge their impact, but also to prevent an escalation of hate incidents into hate crimes.

In England and Wales, and Northern Ireland, definitions of hate incidents are informed by the definition of racist offences emanating from the MacPherson (1999, Chapter 3) report on the murder of Stephen Lawrence. A victim-oriented definition, it removes police discretion from the determination as to whether the incident was informed or motivated by prejudice. In England and Wales, for example, the Association for Chief Police Officers (ACPO) defines a hate incident as a non-crime incident “which is perceived by the victim or any other person” to be motivated by a hostility or prejudice based on a person’s real or perceived membership of a particular group (Association of Chief Police Officers College of Policing, 2014).

The Police Service of Northern Ireland define a hate incident as:

‘[A]ny incident perceived to have been committed against any person or property on the grounds of a particular person’s ethnicity, sexual orientation, gender identity, religion, political opinion or disability (as cited by McVeigh, 2017, p. 405)’

Again, the PSNI definition is broader than the legislative position in Northern Ireland. There are a number of key differences between the ACPO and PSNI definitions. While the perception test is utilised in both, the PSNI definition specifies the groups for which data will be collected. These groups are broader than those outlined in legislation in the Criminal Justice (No 2) (Northern Ireland) Order 2004, extending to, with the incident definition including political opinion and gender identity, allowing for the recording of sectarian and transphobic hate crime. This occurs relatively frequently across police services, with individual police forces recording hate incidents across a wider range of categories than legislation would require: in Nottingham, for example, the police service records misogyny as a hate crime, with its definition of “misogyny hate crime” being “incidents against women that are motivated by an attitude of a man towards a woman and includes behaviour targeted towards a woman by men simply because they are a woman (BBC berk; Mason-Bish, 2016; Mullany & Trickett, 2018).”

3.2. Hate speech and the law

In a simple sense, hate speech is quite simply the verbal or (through gestures, words, or symbols) non-verbal manifestation of hatred, prejudice, or hostility. As Waldron notes, the term hate speech can cover:

‘... things as diverse as Islamophobic blogs, cross-burnings, racial epithets, bestial depictions of members of racial minorities, genocidal radio broadcasts in Rwanda in 1994, and swastika-blazoned Nazis marching in Skokie, Illinois, with placards saying “Hilter should have finished the job”. (Waldron, 2012, p. 34)’

Indeed, the expression of hatred can be understood within and across the continuum of hatred, extending from a “throwaway comment” such as a microaggression, to the “direct and public incitement to commit genocide” and requiring punishment by States Parties under Article 3 the Convention on the Prevention and Punishment of the Crime of Genocide from 1948.⁴ Blurring the clarity of definitional boundaries between hate speech and hate crime, “speech”—that is, spoken language, written words, gestures and symbols—is also often is key to distinguishing between a hate crime for the purposes of the criminal law (at least in practice) and an ordinary crime: the hate element to a crime is most often evidenced through the presence of what we might call hate speech in the commission of the criminal act.

It is vitally important however, to understand in this context that, at least from a legal perspective, hate speech and hate crime are two separate concepts and are constructed differently. Indeed, hate speech offences have a much longer statutory pedigree, dating back to “reconstruction-era civil rights statutes and early 20th-century state statutes aimed at the activities of white supremacist (Phillips & Grattet, 2000: 567, p. 572).” Similarly, the British Race Relations Act 1966 criminalised incitement to racial hatred, as did the Irish Prohibition of Incitement to Hatred Act 1989. Goodall observes that one of the key differences between hate speech offences and hate crime is what she refers to as the “audience” of the crime “which does not necessarily include the victim, but is rather a separate audience who can be stirred up”, and it is this distinction, and the extent to which hate speech can and should be criminalised, which is perhaps one of the more contentious issues in the field of hate studies (Goodall, 2010).

From a legal perspective, the criminalisation of hate speech is not unproblematic, being seen as in direct conflict with rights to freedom of expression (Kiska, 2012, pp. 107–151). Pejchal and Brayson (2016, p. 257) note that attempts to limit free speech are sometimes seen as an “attack

on the foundations of Western society, where freedom of expression has been considered a developmental cornerstone.” This argument was successful in the US Supreme Court case of *RAV v City of St Paul* (1992). That said, while in the United States there are few limitations on the freedom of speech (Waldron, 2012), this is not the case in other jurisdictions. Through the operation of both Article 10 of the European Convention on Human Rights (which sets out both the protection for and limitations on the freedom of expression) as well as Article 17 of the Convention (which was stated in *Glimmerveen and Hagenbeek v The Netherlands* (1978) as having a general purpose of preventing “totalitarian groups from exploiting in their own interests the principles enunciated by the Convention”) the Court has upheld laws which criminalise hate speech in, for example, *Norwood v United Kingdom* (2004). In understanding and articulating what “hate crime” is, we must clearly distinguish it from hate speech, and the related incitement offences.

3.3. Liminal offences—criminalised manifestations of specific hatred

Between hate speech offences and hate crime exist what might be described as “liminal offences”. They are neither hate speech offences, but nor do they follow the pattern of standard legislative means of addressing hate crime. These offences rather criminalise particular behaviours or acts committed in specific and specified contexts (see generally, Phillips & Grattet, 2000; Bell, 2002). Examples of the former of such offences include holocaust denial, or the wearing of masks and hoods, and so might be considered to come under the broad umbrella of hate speech offences. Examples of the latter look on their face more like a criminal offence with a bias motivation (the desecration of churches or cemeteries, for example, typically involving criminal damage such as graffiti). What is important to note about these offences is that they typically relate to specific manifestations of hatred—mask wearing in the context of the Ku Klux Klan for example, or church desecration with respect to stated religions. Thus, what is criminal damage on one building amounts to a much more serious criminal offence when carried out on a building in which people practice their faith.

A more modern example of this type of offence is found in section 430(4.1) of the Canadian Criminal Code, which makes it a particular offences to commit “mischief” (similar to the offence of criminal damage) in respect of buildings primarily used for religious worship, or used by an identifiable group for stated purposes, where it is done so with a bias motivation. The offence of mischief is a standard criminal offence which can be committed in the absence of a hate motivation. It can, indeed, be committed in the presence of a hate motivation, and in Canadian law, that could be addressed through the enhanced sentencing measures in section 718.2(a)(i). However, section 430(4.1) is a complex provision, requiring that first, mischief was committed; second, that it was committed with a bias motivation; and third that it was committed in relation to property, defined as a building or structure primarily used by an identifiable group.

In determining the scope of the definition of hate crime, these “liminal” offences, which sometimes look like expression offences, and other times look like hate crime, deserve particular attention.

3.4. Hate crime and the law

Lawrence describes two main models of hate crime legislation that can be used to proscribe prejudice-motivated offences: (a) the “discriminatory selection model” or “group selection model” and (b) the “animus model” or “hatred motivation model (Lawrence, 1999, pp. 29–39).” The group selection model requires that the offender intentionally selected his or her victim from the protected group. The racial animus, or hate motivation model, requires that the offender act out of hostility or hatred for the protected group. The key difference is that in the latter model proof of prejudice, bias, hostility, or hatred is necessary; whereas in the first, the offender’s intention to choose a victim because of his or her perceived association with a particular group is what is required. That said, as he observes, whereas all cases of racial animus are cases of discriminatory selection, “the converse is not true (Lawrence, 1999, p. 35; Goodall and Walters, 2019).” In a policy

context, it is often not easy to determine exactly which model is utilized, with some using a hybrid or both models in different contexts.

In his articulation of how hate can be conceptualised globally, Brudholm observes that there are four “constitutive features” of hate crime globally (Brudholm, 2016, pp. 34–35):

- (1) If there is no crime, there can be no hate crime;
- (2) There is general agreement that the proof of the hate crime lies in the answer to the question *why* the crime was committed;
- (3) Implied in the definition is a requisite relation between the hate and the crime;
- (4) There is also an implication that there is a specification of a list of protected characteristics: the hate must be directed towards categories of group identity.

As I have noted, the OSCE/ODIHR (2009, p. 16) definition of hate crime is “criminal acts committed with a bias motive.” Thus, a hate crime is not a specific offence, but rather a “type of crime”, and can be committed, the OSCE/ODIHR argues, even “where there is no specific criminal sanction on account of bias or prejudice” in the country in which the crime was committed (OSCE/ODIHR, 2009, p. 16). This is important: hate crime statutes do not typically introduce new forms of offences, but rather attach a bias motivation to existing offences. It is the determination of what “bias” constitutes, as well as the groups to which that bias is directed, that forms the points of differentiation across jurisdictions.

Useful as a starting point, the OSCE/ODIHR definition lacks what I regard as the crucial ingredient to a hate crime: that the bias is directed towards a personal characteristic of the victim targeted. Gerstenfeld’s definition resolves this: “a criminal act that is motivated, at least in part, by the group affiliation of the victim” (Gerstenfeld, 2013, p. 11). The term motivation, of course, has particular resonance in a legal context, and at least in England and Wales there is no requirement to evidence a hate *motivation*: demonstration of hatred is sufficient to move a crime across the threshold to become a hate crime. Her definition also lacks a requirement for that motivation to be based on hate, prejudice, bias or hostility. Criticising the approach taken by OSCE/ODIHR, Goodall suggests a “constitutive animus” model, which requires either that the offender intended his or her act to have a racist effect, or that the offender utterly disregarded the possibility that his or her actions would have a racist effect (Goodall, 2013, p. 215).

Levin and McDevitt (2020) define a hate crime as “a criminal incident motivated either entirely or in part by a real or perceived indifference between the perpetrator and the victim.”

4. Developing definitional boundaries

With the various descriptions, definitions and considerations taken into account, a useful definition, then, might be one which encapsulates some commonly accepted characteristics of a hate crime and allows for clarity in what is being addressed. Schweppe, Haynes and Walters argue that at an EU level, there should be coherency in the conceptualisation of a hate crime:

[W]e assert that the European Union could usefully adapt the ODIHR definition of a hate crime: that is, that a hate crime is a criminal offence already recognised by the criminal law, which is combined with a hate element. It is most appropriate to define hate crime, at least for the purposes of the legal process, according to what we might refer to as the ‘lowest common denominator’ definition. On this basis, extremism should be conceptualised differently to hate crime; incitement to hatred offences should not be included in the definition; and anti-discrimination measures should equally be excluded.

At this point it is useful to return to Chakraborti and Garland’s statement with respect to disciplinary understandings of hate crime. They note that scholars tend to see hate crimes “as a social construct with no straightforward meaning and offer a defining set of characteristics which they regard as central to

their commission” (2012: 499, 500). In one sense, this is true: sociologists understand crime as a social construct, and so it follows that hate crime would similarly be a social construct. This is, of course, a valid position. However, I believe that by using the term “hate crime” as a term of art (including all manifestations of hate, ranging from microaggressions to non-criminal discrimination to criminal acts) leads to conceptual and comparative slippage which engenders confusion both in the literature and in practice. In order to collectively address ourselves to a phenomenon, we must have an agreed set of definitional boundaries for the concept. Further, whilst many would argue that the term “hate crime” includes microaggressions, hate incidents, and hate speech, there seems no clear logic to excluding, for example, non-criminal manifestations of discrimination, terrorism, or genocide from the term. Fundamentally, if we include non-crime hate incidents, breaches of employment law, or other manifestations of criminal offences, within the definition of criminal offences, we have loose boundaries to the term, which leads to non-comparability of data, research, and reporting. Having a very broad definition does not in and of itself prevent comparable research if the same definition is shared across disciplines and contexts, but as we have seen, in the field of hate studies, there is no such shared understanding.

Hate crime as a term cannot be fully internationalised, or have a single universal definition. This is, of course, true of all crimes. There is not absolute commonality across jurisdictions as to the acts that are criminalised and those which are not, or the precise definition of what universally accepted crimes are (though the UN International Classification of Crime for Statistical Purposes (ICCS) is useful in this regard). It is also true that there is no commonality across jurisdictions or scholars as to the protected groups which should be included in hate crime legislation. However, if we agree that “hate crime” must fundamentally include a “crime”, then we can allow for jurisdictional flexibility in terms of the precise manifestations of those criminal acts, whilst agreeing to universal definitional boundaries for the concept. This will thus allow for the flexibility Perry (2001, p. 8) would require, given that hate crime is ‘historically and culturally contingent, while placing clear limits on the term.

Once we agree that a hate crime fundamentally includes a crime, there are three further core questions whose relevance transcends the differences and commonalities in the construction of hate crime laws:

- The understanding of the term “hate”;
- The extent to which the hate element should be present in the offence—either as a motivation to the crime, bias selection of the victim, or as bias demonstrated through the course of the offence; which includes the question as to whether the crime needs to be wholly or partly motivated by hate;
- The range of victim groups which hate crime legislation should protect (see generally Garland & Chakraborti, 2012; Garland & Funnell, 2016; Godzisz, 2015; Goodall, 2013; Perry, 2015).

Drawing on the definitions used by Walters (2014) and Schweppe et al., (2018). I propose that the definitional boundaries of a “hate crime” can be summed up by understanding a hate crime as “*a crime recognised by the law which is committed with an additional ‘hate’ element, which element is directed at one or more (presumed) characteristics of the victim*”. This definition, I believe allows for jurisdictional and cultural contingencies, whilst retaining what I consider to be the core constitutive elements of a hate crime. It is important to note that this definition allows for hate crime to be understood as occurring in the absence of bespoke hate crime legislation (see for example, Haynes and Schweppe, 2017). In this sense, I of course recognise that crime as a social construct, recognising its existence in jurisdictions where it is not legally defined.

If we break down the definition, first, and most fundamentally, a hate crime must first be a criminal offence recognised by law in the jurisdiction under consideration. The OSCE/ODIHR requires that the criminal offence must be capable of being committed in the absence of a hate element: where it is not possible to disaggregate the two, then it is not a hate crime. This approach is useful in that it draws a line between the “expression offences”—that is, criminal offences such

as incitement to hatred—on the one hand, and hate crime on the other, as discussed above. What I refer to here as liminal offences could be seen to cause a potential problem. However, if we ask whether there is an underlying crime which can be committed in the absence of a hate element, then we can separate those which are hate crimes (eg as set out in section 430(4.1) of the Canadian Criminal Code), and those which criminalise certain types of speech. The definition thus does not fully align with that of Levin and McDevitt (2020) in that not all criminal offences are included, excluding as it does incitement and other speech-related offences.

By utilising the phrase “hate’ element” we do not prefer one or other legislative formula in determining the evidential basis upon which the “hate” is founded or based, allowing for different models. Thus, it matters not whether a crime is motivated by hate, whether hate was demonstrated during the course of the offence, or whether the discriminatory selection model is utilised. It also allows for jurisdictional flexibility with respect to whether hate was the only factor underlying the commission of the offence, or just one of the factors which led to its commission. I use “hate” to recognise, as Chakraborti and Garland observe, that definitions of hate crime include broader notions, such as prejudice, hostility, or bias (2015: 13).

My understanding of the term “hate crime” further and vitally includes the connection between the commission of the offence and the presumed characteristics of the victim, also recognising that victims may be targeted on multiple or intersectional grounds. The use of the term “(presumed)” here is deliberate: at law, it is immaterial whether the victim possessed the characteristic in question, while for the purposes of a study on the impacts of crime, it would be important for the victim to possess the presumed characteristic—or at least for this to be clarified and contextualised for the impact of a crime on its intended victim to be measured. More broadly, this will also include those cases in which an individual is attacked because of their association with a protected group.

These definitional boundaries to the term “hate crime”, I believe, allow for jurisdictional differences in terms of how a crime is constructed, while at the same time, crucially, allowing scholars and policy makers to speak in one voice when discussing and analysing hate crime. This approach will, I hope, allow us to have a shared conception of hate crime which will facilitate conversations and discussions across disciplines, jurisdictions and contexts. It will allow us to talk with, rather than at, or across, one another in addressing hate crime globally.

5. Conclusion

Scholars, policy makers, and practitioners differ within and between jurisdictions as to what the precise contours and boundaries are when we speak of “hate crime”. By creating definitional boundaries to the term as I have done here, I hope to add clarity and precision to the issue. I accept that I define the term in a legalistic and narrow way, and I understand that some individuals may have concerns with respect to its restrictive formulation. It might be that a new umbrella term needs to be developed which wraps around hate incidents, hate speech, expression offences and hate crime, to cover the broad spectrum of these acts and their impacts, though I will leave it to someone else to coin this term. In the meantime, by defining a hate crime as, first and foremost, a crime, I hope that as a community of scholars, practitioners, and policy makers, we can draw the definitional boundaries required to support our collective work.

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Notes

1. See also, Boeckmann, RJ and Turpin-Petrosino, C. (2002) “Understanding the harm of hate crime”, *Journal of Social Issues*, 58(2): 207, 208, where they note, “cultural differences, social norms and political interests play a large role in defining crime in general and hate crime in particular.”
2. The distinction between these two is discussed below.
3. Where such incidents take place repeatedly between the same offender and the same victim, they may constitute harassment for the purposes of section 10 of the Non-Fatal Offences Against the Person Act 1997.

4. See also, the International Convention on the Elimination of Racial Discrimination; the International Covenant on Civil and Political Rights.

References

- Association of Chief Police Officers (2013) Truevision: 'What is hate crime?' Available at: http://report-it.org.uk/what_is_hate_crime (Accessed 12 December 2018).
- Association of Chief Police Officers College of Policing (2014) Hate crime operational guidance. Available at: http://www.report-it.org.uk/files/hate_crime_operational_guidance.pdf (Accessed 12 December 2018).
- BBC News (2016) Nottinghamshire police records misogyny as a hate crime. BBC. Available at: <http://www.bbc.com/news/uk-england-nottinghamshire-36775398> (Accessed 12 December 2018).
- Bell, J. (2002). Policing Hatred. New York, NY: NYU Press
- Berk, R. A., Boyd, E. A., & Hammer, K. M. (2003). Thinking more clearly about hate-motivated crimes. In B. Perry (Ed.), *Hate and bias crime: A reader* (pp. 123–143). Routledge.
- Brudholm, T. (2016). Conceptualizing hatred globally: Is hate crime a human rights violation? In J. Schweppe & M. A. Walters (Eds.), *The globalization of hate: Internationalizing hate crime?* (pp. 33). Oxford University Press.
- Brudholm, T. (2020). What is hate? In R. Sternberg (Ed.), *Perspectives on hate: How it Originates, develops, manifests and spreads* (pp. 65–87). American Psychological Association.
- Chakraborti, N., & Garland, J. (2012). Reconceptualizing hate crime victimization through the lens of vulnerability and 'difference'. *Theoretical Criminology*, 16(4), 499–500. <https://doi.org/10.1177/1362480612439432>
- Chakraborti, N., & Garland, J. (2015). *Hate crime: Impact, causes and responses* (2nd ed.). Sage.
- Corcoran, C., Lader, D., & Smith, K. (2015). *Hate crime, England and Wales, 2014/2015*. Home Office.
- Dozier, R. W. (2002). *Why we hate: Understanding, curbing, and eliminating hate in ourselves and our world*. Contemporary Books.
- European Commission (2014) Report from the commission to the European parliament and the council on the implementation of council framework decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law [COM(2014) 27 final of 27. 1.2014]
- European Union Agency for Fundamental Rights (2012) Making hate crime visible in the European union: Acknowledging victims' rights. Available at: http://fra.europa.eu/sites/default/files/fra-2012_hate-crime.pdf (Accessed 1 July 2014).
- Gadd, D., & Dixon, B. (2011). *Losing the Race*. Karnac.
- Garland, J., & Funnell, C. (2016). Defining hate crime internationally: Issues and conundrums. In J. Schweppe & M. A. Walters (Eds.), *The globalisation of hate: Internationalising hate crime* (pp. 15). Oxford University Press.
- Garland, J., & Chakraborti, N. (2012). Divided by a common concept? Assessing the implications of different conceptualizations of hate crime in the European union. *European Journal of Criminology*, 9(1), 38. <https://doi.org/10.1177/1477370811421645>
- Gerstenfeld, P. B. (1992). Smile when you call me that!: The problems with punishing hate motivated behavior. *Behavioral Sciences & the Law*, 10(2), 267. <https://doi.org/10.1002/bsl.2370100209>
- Gerstenfeld, P. B. (2012). *Hate Crimes: Causes, Controls and Controversies* (3rd edn). Sage
- Gerstenfeld, P. B. (2013). *Hate crimes: Causes, controls and controversies* (3rd ed.). Sage.
- Glet, A. (2009). The German hate crime concept: An account of the classification and registration of bias-motivated offences and the implementation of the hate crime model into Germany's law enforcement system. *Internet Journal of Criminology*, 1. https://958be75a-da42-4a45-aafa-549955018b18.filesusr.com/ugd/b93dd4_87744cd433c84bf3981395a2f13f6444.pdf
- Glimmerveen and Hagenbeek v The Netherlands (1978) Application numbers 8348/78 and 8406/78.
- Godzisz, P. (2015) Eastern crimes, western theories: Conceptualising the hate crime model in central and Eastern Europe. International Network for Hate Studies. Available at: <http://www.internationalhatestudies.com/eastern-crimes-western-theories-conceptualising-hate-crime-model-central-eastern-europe/>(Accessed 24 February 2018).
- Goodall, K. (2010). Challenging hate speech: Incitement to hatred on grounds of sexual orientation in England, Wales and Northern Ireland. In P. Chan (Ed.), *Protection of sexual minorities since stonewall: Progress and stalemate developed and developing countries* (pp. 211–232). Routledge.
- Goodall, K. (2013). Conceptualising 'racism' in criminal law. *Legal Studies*, 33(2), 215. <https://doi.org/10.1111/j.1748-121X.2012.00244.x>
- Goodall, K., and Walters, M. (2019). Legislating to address hate crimes against the LGBT community in the Commonwealth. London: Human Dignity Trust.
- Hall, N. (2013). *Hate crime* (2nd ed.). Routledge.
- Haynes, A., & Schweppe, J. (2019a). LG and T? The specificity of anti-transgender hate crime. In A. Haynes, J. Schweppe, & S. Taylor (Eds.), *Critical perspectives on hate crime: Contributions from the Island of Ireland* (pp. 130). Palgrave Macmillan.
- Haynes, A., & Schweppe, J. (2019b) *Lifecycle of a Hate Crime: Country Report for Ireland* ICCL
- Iganski, P. (2008). *Hate Crime and the City*. Policy Press.
- Kiska, R. (2012). Hate Speech: A Comparison between the European court of human rights and the United States supreme court jurisprudence. *Regent University Law Review*, 25, 107–151.
- Lawrence, F. M. (1999). *Punishing hate: Bias crimes under American law*. Harvard University Press.
- Levin, J., and McDevitt, J. (2020). In 'Hate Crimes in Transition' R. Sternberg (Ed.), *Perspectives on Hate: How it Originates, Develops, Manifests, and Spreads*. Washington, DC: American Psychological Association
- MacPherson, W. (1999). *The Stephen Lawrence inquiry*. The Stationery Office.
- Mason-Bish, H. (2016) "Get yer tits out": Why misogynistic street harassment is a hate crime. International Network for Hate Studies. Available at: <http://www.internationalhatestudies.com/get-ye-tits-out-why-misogynistic-street-harassment-is-a-hate-crime/>(Accessed 12 December 2018).
- McVeigh, R. (2017). Hate and the state: Northern Ireland, sectarian violence and "perpetrator-less crime.". In A. Haynes, J. Schweppe, & S. Taylor (Eds.), *Critical perspectives on hate crime: Contributions from the Island of Ireland* (pp. 405). Palgrave Macmillan.
- Mullany, L., & Trickett, L. (2018). *Misogyny hate crime evaluation report*. University of Nottingham and Nottingham Trent University.
- Nadal, K. L., & Mendoza, R. J. (2014). Internalised oppression and the lesbian, gay, bisexual, and transgender community. In E. J. R. David (Ed.), *Internalized oppression: The psychology of marginalised groups* (pp. 23). Springer.

- Norwood v United Kingdom (2004). Application number 23131/03.
- OSCE/ODIHR (2009) Hate crime laws: A practical guide. OSCE/ODIHR. Available at: <https://www.osce.org/odihr/36426> (Accessed 12 December 2018).
- Paterson, J., Walters, M. A., Brown, R., & Fearn, H. (2018) The Sussex hate crime project: Final report, University of Sussex.
- Pejchal, V., & Brayson, K. (2016). How should we legislate against hate speech? Finding an international model in a globalized world. In J. Schweppe & M. A. Walters (Eds.), *The globalization of hate: Internationalizing hate crime?* (pp. 257). OUP.
- Perry, B. (2001). *In the Name of Hate*. Routledge.
- Perry, B. (2003). Where do we go from here? Researching hate crime. *Internet Journal of Criminology*, 9.
- Perry, B. (2009). 'There's just places ya' don't wanna go': The segregating impact of hate crime against Native Americans. *Contemporary Justice Review*, 12(4), 401–402. <https://doi.org/10.1080/10282580903342888>
- Perry, B. (2010). Counting – And countering – hate crime in Europe. *European Journal of Crime, Criminal Law and Criminal Justice*, 18(4), 349. <https://doi.org/10.1163/157181710X12816005399195>
- Perry, B., & Alvi, S. (2012). 'We are all vulnerable'. *International Review of Victimology*, 18(1), 57. <https://doi.org/10.1177/0269758011422475>
- Perry, J. (2015). Evidencing the case for "hate crime.". In N. Chakraborti & J. Garland (Eds.), *Responding to hate crime: The case for connecting policy and research* (pp. 78). Policy Press.
- Perry, J. (2016). A shared global perspective on hate crime? *Criminal Justice Policy Review*, 27(6), 610–619. <https://doi.org/10.1177/0887403415601473>
- Phillips, S., & Grattet, R. (2000). Judicial rhetoric, meaning-making, and the institutionalization of hate crime law. *Law & Society Review*, 34(3), 567–572. <https://doi.org/10.2307/3115138>
- Quill, G. F. (2010). Motivation, causation and hate crimes sentence enhancement: A cautious approach to mind reading and incarceration. *Drake L Rev*, 58, 181–188. Drake Law Review.
- RAV v City of St Paul (1992) 505 US 377.
- Royzman, E. B., McCauley, C., & Rozin, P. (2005). From Plato to Putnam: Four ways to think about hate. In R. Sternberg (Ed.), *The psychology of hate* (pp. 3–35) American Psychological Association.
- Saunders, R. V. [2000] 1 Cr App R 458.
- Schweppe, J., Haynes, A., & Walters, M. A. (2018). *Lifecycle of a hate crime: Comparative report*. ICCL.
- Sheffield, C. (1995). Hate violence. In P. Rothenberg (Ed.), *Race, class and gender in the United States* (pp. 438). St Martin's Press.
- Waldron, J. (2012). *The harm in hate speech*. Harvard University Press.
- Walters, M. A. (2014). *Hate crime and restorative justice: exploring causes, repairing harms*. Oxford: Oxford University Press.
- Walters, M. A., Paterson, J. L., McDonnell, L., Brown, R. (2020). Group identity, empathy and shared suffering: Understanding the 'community' impacts of anti-LGBT and Islamophobic hate crimes. *International Review of Victimology*, 26(2), 143–162.
- Wing Sie, D., Capodilupo, C. M., & Holder, A. M. B. (2008). Racial microaggressions in the life experience of Black Americans. *Professional Psychology, Research and Practice*, 39(3), 329. <https://doi.org/10.1037/0735-7028.39.3.329>
- Wolfe, L., & Copeland, L. (1994). Violence against women as bias-motivated hate crime: Defining the issues in the USA. In M. Davies (Ed.), *Women and violence* (pp. 204). Zed Books.



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