

THE UTILITY OF KEY HATE CRIME CONCEPTS

Katie Pratt¹

Abstract

This paper seeks to ascertain what exactly are the most important or relevant aspects of hate crime that we need to understand in order to address this most pernicious of acts. Whilst the UK conceptualization of hate crime was borne out of mass media attention on some key violent events, the official responses that followed were heavily shaped by a populist punitive view of how to address the issue. This paper discusses the limitations of the understanding of this issue and instead suggests a broader view of the underlying issue and causal factors as representative of patterns of prejudice and inequalities in modern society.

Keywords: Hate crime, discrimination, bias, prejudice, minorities.

Introduction

'Hate Crime' is a phrase that has gained credibility and a growing interest from academics and policy makers alike over the past decade. Whilst the acts that the phrase is attempting to define are far from a new social phenomenon across the world, in the UK at least, interest and concern was crystalized by two separate violent attacks that were motivated by the offenders' prejudice towards another person (McLaughlin, 2002b). These incidents, that of the murder of black teenager Stephen Lawrence in 1993, and later the 1999 bombing campaign of neo-Nazi David Copeland, brought the realities of modern day targeted violence against minorities that is all too familiar for the communities affected into sharp focus for policy and law makers alike.

Whilst our everyday interpretation of the phrase speaks of something that we intuitively understand – in that hate crime refers to an act that is directed at someone as a result of the instigator's prejudice towards that other person or persons. However, upon more detailed analysis of the utility of the various concepts of hate crime suggested by academics, policy makers, campaigning organisations and front line agencies, this paper

¹ Katie Pratt is undertaking a PhD which looks at the management of hate crime and the victimisation of the Transgender population. Katie gave her paper, 'The Utility of Key Hate Crime Concepts' at the British Society of Criminology Conference, 2015, which was hosted by Plymouth University. This paper is an initial exploration of literature, which explores the concept of hate crime.

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1 The Basic Concept

The basic concept, which grew out of a practical need by front-line agencies, not least the police (under pressure from campaigning groups) to respond to incidents, or more specifically to develop and enforce a law against the behaviours expressed as part of a hate crime, is one that defines a crime that is motivated by hate or bias towards the victim(s). However, Jacobs and Potter (1998) are skeptical about the efficacy of such a blunt definition of a societal issue that requires a more nuanced and thoughtful definition and conceptualization that would enable an appropriate response. The more useful concepts of hate crime are necessarily more complex and recognize influences that are both structural and at an individual level, and thus draw upon sociology, psychology and criminology among other disciplines to define the issue most comprehensively.

Whilst the establishment of a specific law to address hate crimes in the UK still does not exist, UK law does, however, permit enhanced sentences for offenders committing a crime where a hate or bias motivation are evidenced. In addition, this recognition in legal terms serves a set of key functions which allow for such crimes to be monitored and recorded with the intention of being able to develop and compare reliable statistics about the nature and scale of the issue. From this policy measures can be developed, and in turn these can be monitored and evaluated. The legal definition of a hate crime as defined by the Association of Chief Police Officers (ACPO) is further complicated by their definitions of hate crimes and incidents separately – in recognition that not all incidents of hate can otherwise be categorized as a crime.

A hate incident is: 'Any hate incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person as being motivated by prejudice or hate'.

A hate crime is: 'Any hate incident, which constitutes a criminal offence, perceived by the victim or any other person as being motivated by prejudice or hate'.

2 Asking Too Much of the Law Alone?

In theory, the inclusion of 'hate crime', within the law serves as a symbolic tool which expresses 'societal values' and the behaviours that will and will not be tolerated. In addition, Brax and Munthe (2013) suggest that a law should provide, amongst other things, 'retribution' and 'reparation' for a crimes which cause greater harm to the selected victim than 'parallel' crimes that have not been motivated by such prejudice (Iganski, 2001). They also suggest that society expects a law to fulfill a preventative role through the detention of offenders and the deterrence of others through its existence. Recognition in law should also garner support for victim groups through official recognition of their victimization and perhaps via the targeting of resources to address the issue and support people affected by the crimes.

However, such a vision of what a simple sentence enhancement can achieve may be overvalued and over simplified. Firstly, in practical terms, it has proved challenging for both police and the courts to effectively and appropriately recognize, record and respond to hate crimes. This is as a result of several issues that are complicated in and of themselves. The first being the populist view of hate crimes as the media portrayed (Walters and Hoyle, 2011), isolated violent attacks against visibly different minorities, rather than the more insidious nature of hate incidents experienced by a greater number of people as part of their everyday lives. This misinterpretation forms part of an 'incident-process contradiction' (Chakraborti and Garland, 2009) and prohibits the police's ability to recognize hate crimes and understand the underlying cause of persistent 'low-level' incidents when presented with circumstances that may otherwise be described as anti-social behavior or such like (Bowling, 1993).

Secondly the sticky issue of the persisting institutionalized racism of the police force leads to certain groups and the types of incidents they are likely to report to the police being ignored or de-prioritized. In addition the interpretation of hate crime as a 'quasi-crime', as a result of its appearance in UK law as a sentence enhancement only rather than having full recognition as a specific law in itself, may well feed into this decision making process to not take such incidents as seriously as others.

Finally, there are the issues inherent in evidencing the motivating factor of any crime, and these issues are complicated in the case of accurately identifying and evidencing

hate or bias as a motivating factor in order to pursue an enhanced sentence. These challenges are borne out within the paucity of numbers of hate crime cases that conclude in a positive charge for hate crime. So instead of viewing the incorporation of hate crime into legislature as a total solution to a complex problem, we should view it as a welcome step in the right direction.

...hate crime legislation must be seen as an important part of the on-going process of identifying and articulating the values, sensibilities and ground rules of vibrant, multicultural societies, including the public recognition and affirmation of the right to be different. (McLaughlin, 2002a:497)

3 What Everyday Hate Crime Looks Like and Why It Matters

More recent incidents involving people with learning disabilities, 'goths', targeting of sex workers and the homeless are broadening the discussion of hate crime beyond traditionally recognized minority groups and towards and issue of 'vulnerability' (Chakraborti, 2014). These everyday manifestations of hate crime have implications that reach much further than the individual targeted victim (for which there are significant implications including psychological trauma (Herek et al., 2002). A broader conceptualization that conceives of hate crimes as 'message crimes' (Iganski, 2001, Dixon and Gadd, 2006) intended to speak to a group or community beyond that of the direct victim and Iganski (2001) suggests that those affected include, the initial victim; local group members; group members outside of the local area; other targeted communities; and; societal norms and values.

Furthermore, Perry (2009) explains that by attacking members of the 'outgroup' that are perceived as a threat or less valued than the offenders group, hate crime offenders are using this as a tool to reinforce established social hierarchies. Perry (2001) offers up a broader definition that focuses on the causal factors rather than the individual level prejudices or behaviours. Perry instead recognizes the most significant elements of hate crimes are the fact that they are 'directed towards already stigmatized and marginalized groups' and perhaps most significantly for Perry, that these incidents reproduce 'broader ideologies and patterns of social and political inequality' (Perry, 2001, p. 10).

Conclusion

This paper presents an argument for hate crimes to be conceptualised as a societal issue that has implications beyond that of the immediate offender and victim(s) and

instead must be challenged as an act representative of the 'broader ideologies and patterns of social and political inequality' suggested by Perry (2010, p. 10).

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