



# Confronting violence against woman as a hate crime: outlining the debate

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## **Young People Against Hate (YPAH)**

Brings young people in Edinburgh together to raise awareness about the hate crime in their community and encourage others within the community to do more to tackle problems such as racism, homophobia gender and islamophobia. Our aim is provide the tools and develop the skills for young people to be able to challenge discrimination and become peer educators.

All the work we develop is done by our volunteers; they identify topics of interest and decide how they want to present them. Gender based violence is one topics that the group decided to focus on. Everyone at ELREC would like to thank Emma Buchan for her hard work. Emma has develop a fantastic short report that we hope will give the reader a concise outline of the current debate surrounding gender based violence and hate crime.

- Nick Greener, Youth Development Officer -

## **Introduction**

Hate crimes are an attack on identity. Perpetrators are driven by a perverse “hostility or prejudice” towards features of their victim’s identity (Stop Hate UK, 2016). In Scotland and the rest of the UK hate crime is defined as “an offence motivated by malice towards a social group by: race, sexual orientation, religion/faith, disability or transgender/gender identity” (Police Scotland, 2015). At present, under UK legislation, women as a group are not recognised as a hate crime identity category. In the UK, violence against women includes: “domestic violence, rape and sexual violence, sexual harassment, female genital mutilation, forced marriages, crimes in the name of honour, trafficking and sexual exploitation” (Scottish Government, 2016). This report will analyse the debate between those who believe violence against woman is a hate crime and those who do not. Hate crime is a criminological and social issue at the forefront of today’s political unease. In the week prior to and the week following the EU referendum on 23 June 2016, incidents of hate crime reported to police increased by 42% (Dodd, The Guardian, 2016). They are abhorrent crimes that can have severe effects on victims and the collective sentiments of the wider social groups to which they belong. Violence against women is similarly relentless in its impact on victims.

Although woman are not included in hate crime law, on July 13 2016, Nottinghamshire Police announced it would now record the harassment of women as a hate crime in an effort to tackle sexist abuse. Nottinghamshire Police Force define misogyny hate crime as: “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 News, 2016). Many have welcomed this step.

The Guardian (2016) newspaper covered the story by quoting the pleased response of Rachel Kryss, the co-director of the End Violence Against Women Coalition: “We know that ignoring harassment and sexist bullying creates the impression that other types of violence against women will be tolerated so we welcome any action which counters this”. The Daily Mail (2016) also covered the news: “Police force starts recording ‘uninvited verbal engagement’ from men to women in the same category as racist abuse”. This newspaper exudes a more irreverent stance on the issue and one need only look at the comments section of their website to see that not everyone agrees with the move: “Misogyny is a hatred of women, wolf whistles imply the admiration of the lady, it doesn’t make sense” (Mail Online, 2016). Nottinghamshire Police have hopefully sparked a consequential debate, but what are the arguments for and against including women as a hate crime category?

## **For Violence Against Women as a Hate Crime**

Despite decades of feminist efforts, violence against women is still seen as a personal issue because more often than not such crimes are committed by men that women know or are in a close relationship with (End violence against women, 2016). In contrast, hate crime law is designed to deal with outsider

violence: crimes committed by a person the victim does not know personally or socially. Feminist theorists argue that gendered violence occurs within patriarchal social structures reinforcing unequal power relations. "Male perpetrators receive 'patriarchal peer support' from friends which helps them justify their crime" (Chakraborti & Garland, 2015: 95). However, hate crime tends to be viewed as an irrational prejudice rather than domination over a victim. Writing on the Open Democracy website Julia Long (2010) believes that although the term hate crime has its problems, by incorporating women we could acknowledge how discrimination experienced by certain groups "exists on a spectrum". Including women within hate crime legislation could help to "generalise the nature of violence against women and emphasise the role of power relations between women and men" (Long, 2010).

Although many may think of violence against women as a private matter, it is rather embedded in a culture of patriarchal attitudes; namely, women are subordinate to men in social and personal relations. For instance, rap music tends to use a misogynistic narrative to "validate the manhood" of the rapper and evoke a notion of power (Rodrigues, 2016). Similarly, hate crime perpetrators are not pathological; they are rational, acting out their own cultural values as an act of power.

Moreover, by including gender in hate crime legislation, sexual violence would be understood as prejudice against women in order to subordinate and control them, rather than solely being seen as sexual abuse. Mark Walters (2014) argues that where there is clear evidence of gender hostility a defendant should *also* be accused of hate crime. The criminal justice system can then move away from the sexual motivations of offenders to now focus on hate motivations, challenging gendered prejudices of sexual crime against women. For example, there will be no focus on what a woman is wearing when attacked. Failure to include 'gender aggravated' rape under UK hate crime legislation "ignores evidence that rape affects women collectively as a group," just like other hate crime categories (Walters, 2014). It also contributes to myths of why men rape women- that it is not a gendered crime and women are partly to blame.

Victims can be subjected to domestic violence over a number of years having "serious physical and emotional impacts" (Chakraborti & Garland, 2015). Female victims are more likely to be "hospitalised, suffer serious injuries, and have heightened anxiety, sleeplessness, eating disorders and depression" (Chakraborti & Garland, 2015). Women are at higher risk of discriminatory hate crime as well as sexual and domestic violence, "just like older people and people of colour" (Pain, 2001). Manifestations of violence against women are the same as those suffered by victims of recognised hate crimes, which should merit women joining the legislation.

### **Against Violence Against Women as a Hate Crime**

However, there are also many persuasive arguments against including women in hate crime legislation. Some argue that feminist theories of gendered violence are too deterministic. Surveys have found that men are just as likely as women to

be targets of violence (Chakraborti & Garland, 2015). However, this argument does not take into account that a woman's suffering tends to be more severe, as previously discussed, women are more likely than men to suffer serious injuries and have long-term mental illnesses (Chakraborti & Garland, 2015). Nonetheless, despite protest from feminists many do contend that violence against women is a private crime. Women are frequently acquainted with their attackers (Jenness & Broad, 2009). Roughly two women per week are killed by an intimate partner in England and Wales (Refuge, 2016). Violence against sex workers is one example of an intensely hidden crime, unlike most hate crimes that are often public displays of abuse. It is too difficult to incorporate such crimes into hate crime law when we have little knowledge of them happening.

Including gender in the hate crime paradigm could have a detrimental effect on the collection of data on rape and domestic violence and overwhelm law enforcement and human right organisations targeting hate crime. Statistics of crime against women would "overshadow those of other hate crime groups" (Jenness & Broad, 2009). This would also undermine the "historical struggle" of the other groups drawing attention away from decades of political strife and campaign efforts (Chakraborti & Garland, 2015). In contrast, some are worried that figures on violence against women would get lost in the vast number of hate crime statistics and will be forgotten (Gerstenfeld, 2013). It could impact funding and donations to women's charities and reduce public awareness of violence against women.

Furthermore, it is difficult to say whether all cases of violence against women are motivated by the victim's gender. A heterosexual man would not be in a relationship with a person had she not been female, but does that mean he hits her because she is female? "Gendered violence is not a hate crime because perpetrators do not really "hate" women in the same sense that white supremacists hate blacks and Jews" (Chakraborti & Garland, 2015). Women tend not to be victims of coincidence, victims are rather individualised and unlike most hate crimes they do not suffer brazen arbitrary attacks in public. On the other hand, this argument fails to acknowledge what constitutes an attack. Nottinghamshire Police have classed any harassment of women, such as wolf whistling, as a hate crime. Such forms of harassment usually *are* out in the open; women are subjected to them whilst walking down the street.

Lastly, if we consider violence against women as a hate crime we are emphasizing a construct that women are different to men. They are less capable of responding to vulnerabilities and require "special treatment" (Jenness, 2003). This further subordinates them and weakens a long fought battle proving women are equal to men. Nonetheless, despite these issues there may be way to incorporate women into hate crime legislation by considering alternative approaches.

## **Redefining Hate Crime**

The “dilemma of difference” is a question of whether those interested in improving the welfare of minority groups should follow policies that provide “special” treatment or should they pursue policies that ignore the socially structured obstacles facing minorities, including women, and work on improving equality for all members of society (Jenness, 2013). Valerie Jenness (2003) argues that considering gendered violence as a hate crime, would overcome these problems. Equal treatment has historically meant “sameness” and each hate crime category should be treated the same as other members of society. However, we do not want this to mean women are seen as different. We should think of the concept another way, “increasing public awareness of the criminal victimisation of women as gendered beings”, without defining them as different from other minorities and men.

Some believe there should be a compromise and gender based crimes should be considered a hate crime when the offender was looking to harm any woman, not just a particular woman, and the victim was “chosen at random” (Levin & McDevitt, 1993). However, this fails to account for a perpetrator who shows clear disdain for women in general, but commits a crime against a woman he knows. Perhaps gendered violence should be considered a hate crime when a criminal has contempt for women. For example, social media is now an outlet for “misogynistic narrative used to control the discourse of women online” (Hardaker & McGlashan, 2016). Threats of rape are frequent on Twitter but due to online anonymity it is difficult to catch the perpetrators. If misogyny and sexism online was deemed a hate crime, these online platforms may do more to target those responsible and allow police to prosecute.

Some crimes are undoubtedly gendered. Female genital mutilation (FGM) is framed as being tradition correlating with ethnicity. It is a damaging operation during which the “female genitalia are partly or entirely removed and/or injured for non-medical reasons” (Laurent, 2013). FGM is a hate crime against women that “sees no nationality, race, age or economic status; it sees only gender” (Scheepers, 2016). The perpetrators may not necessarily hate women, but it is a tradition practiced to subordinate them. Perhaps we need to reframe hate crime to no longer mean hate. Chakraborti & Garland (2015) argue that redefining hate crime legislation to focus on “targeted victimisation” will help challenge the idea that a hate crime group must be a historically disadvantaged minority. All groups, including women, are at risk of victimisation every day and being targeted for one’s identity is damaging, whatever the identity may be. Although men may not hate women in the way a racist hates another ‘race’, we should rethink hate crime as being motivated by “social patriarchy and hostility as well as emotional and psychological processes”, rather than simply hate (Chakraborti & Garland, 2015).

## **Conclusion**

At present hate crime legislation concentrates on the notion of hate, the historical struggle of its groups and the impersonal nature of hate crime. The arguments for incorporating violence against women in hate crime law focus on the concept that gendered violence is embedded in the patriarchal structures of society and strengthens the subordination of women. They are not merely hush-hush crimes that take place in the home. Female victims suffer the same ramifications of gendered crime as recognised hate crime groups. Those who do not believe violence against women should not be considered a hate crime argue that such crimes are too personal to be included in the legislation; that women would take the limelight away from other groups or conversely violence against women would be forgotten; and that it could exacerbate attitudes that women are weaker than men. Many contend that in order for women to become a recognised group, hate crime law must be redefined to mean the targeting of an individual because of their identity rather than the hatred of a particular group. Both sides of this debate have compelling arguments and it is a dispute we should continue having in order to increase public awareness and enhance efforts to stop gendered violence.

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