

Women's Aid Article.

Back in July 2016, when the weather was warm and the life of an academic is a little more relaxed as the students have returned home for the year, I attended the British Society of Criminology conference in Nottingham and delivered a paper around hate crime and gender. Unbeknownst to me so did a colleague of mine at the University of Sussex; just over the road from me. We both discussed the issues arising from the debate and interestingly came to slightly different conclusions. Subsequently, as we realised we both were interested in the same subject area, we met for a coffee and to talk further about what we had discussed at the conference. It was from these discussions and from the paper I had delivered and the comments that arose from that, that I began to think about the issues in more detail. So it is from this position that I begin this article, looking at the key debates surrounding whether categorising sexism and misogyny as a hate crime under current legislation means that some people are under law, regarded as more equal than others, with privileged legal protection for some but not all victims; or that the current balance is adequate and that categorising sexism and misogyny as a hate-crime would be counter-productive and rather, as Liz Kelly in 2011 states that we need to move away from using the term 'hate crime' to one of discriminatory violence, especially in relation to violence against women and girls as firstly it's more in keeping with EU equality and human rights law, which provides an additional legislative framework to protect women and girls.

Hate crime is any offence in which some aspect of the victim's identity – their 'race', religion, sexual orientation, disability or transgender identity – plays a role in their victimization. There are different categories of offence, which range from a hate incident, which may include verbal abuse, threats of violence, bullying and intimidation all the way through to a hate crime, which could include actual assault, criminal damage, hate mail and even murder. The range of offences are covered already under existing laws, however, if an incident is regarded as a hate crime, then an enhanced penalty can be applied to the police charge, which involves a more severe sentence if found guilty. Hate crime is regarded as a symbolic crime in that it's viewed as not only perpetrated against the individual victim but also as an act which intimidates and subjugates members of the wider community. The main argument put forward to support the instigation of hate crime laws is that from a point of utility that the harm caused by hate crime is greater than that caused by other crimes, due to it being about a person's identity.

In 2014/15 in the United Kingdom the data showed that there had been an 18% increase from the last year with 52,528 hate crimes recorded by the police. These can be broken down into 42,930 racially motivated crimes, 3,254 religious, 5,597 around sexual orientation, 2,508 for disability and 608 for transgender (Corcoran, H et al 2015). What this shows is the vast majority of hate crime is based around racially motivated crimes, with the next biggest group being sexual orientation. It is also important to note that hate crime has a very high dark figure of crime with around 222,000 per year being estimated by the Crime Survey for England and Wales (2014/15), compared to the police recorded figure at 52,528. A report written by Chakraborti et al at the university of Leicester (2014), which spoke to victims within the LGBT&Q communities found that many people did not go to the police due to fears of being outed, negative experiences with police and 'normalisation' of victimisation. Additional national evidence in the report shows that while victims of transphobia can be targeted up to 50 times in one year, only three in ten reports the incident. This therefore

highlights that hate crime remains a rather hidden offence, with many victims deciding not to report to the police.

Hate crime and the developing legislation have led to some interesting debates on whether such legislation is needed at all. Peter Tatchell (2002) stated we currently have a two tiered system of citizenship, where only discrimination based on race, sexual identity and disability is illegal, therefore should we be looking to include other 'identities' which face similar victimisation. In 2007, in England, a young woman called Sophie Lancaster was attacked, alongside her boyfriend by a group of people because of her 'goth-like' appearance. Sophie later died from her injuries and the case ignited a debate about whether further 'identities' such as those people that are part of particular sub-cultures, such as goth music culture should be included. In April 2013, the Greater Manchester police began collating data on offences committed against goths and other alternative groups, as hate crime. This particular case highlights the issue of 'domain expansion' and whether the hate crime legislation goes far enough in protecting different 'identities' at risk of victimisation. As Tatchell explains, current legislation means that some people are more equal than others, with privileged legal protection for some but not all victims. Therefore do we see a hierarchy of victims as stated by Chakraborti and Garland (2009) whereby some groups may be seen as more important or deserving than others? Or do we in fact see that minorities are treated the same as their counterparts under the eyes of the law. This issue is known as the 'norm of sameness'. This is an important concept within hate crime research as what it does is reinforce the hegemonic power of majority groups and means that under the eyes of the law, we should all be taken as equal. What it ignores therefore is the systematic oppression of minority groups within society.

This question opens up therefore the key issue for this article, which focuses on whether gender and violence against women and girls (VAWG) should be included as a further identity included within the legislation. Violence against women and girls is a global problem with the World Health Organisation 2013 concluding that such violence 'is a global health problem of epidemic proportions', which requires urgent action. By framing VAWG as a hate crime then it could be understood, not just as acts of gendered abuse, but as acts of prejudice used against women to oppress, subordinate and control them. Such a reorientation of causation could help to diminish the perceived 'responsibility' of victims by shifting emphasis onto the offender's wrongful, immoral and discriminatory conduct. However as women make up almost 50% of the world's population, we cannot talk of a minority group. Nor can we consider that under the definition of hate crime that the victim and perpetrator should not know each other. In most cases of VAWG, especially around rape and domestic violence, the victim and perpetrator are known to one another and in over half of cases in an intimate partner relationship with the perpetrator. Therefore, if we were to consider gender as a viable domain identity, then the definition of hate crime would have to shift. That said violence against women is not simply a private matter between two people, but a wide-reaching problem, which reinforces patriarchal attitudes and places women as second class citizens, compared to men. Liz Kelly in 2011 spoke about the need to move away from using the term 'hate crime' to one of discriminatory violence, especially in relation to violence against women and girls as firstly it's more in keeping with EU equality and human rights law, which provides an additional legislative framework to protect women and girls. This term also opens up the wider issue of the motivations for crime, so not just about hate but also superiority, entitlement and impunity, which often underpins the problem. Kelly also believed that the benefit of the term discriminatory violence is that it is less emotive and more practically accurate. Furthermore not all crimes against women are motivated by hate; hate is more isolated, especially when in an intimate partner relationship.

