

Hate Crime; the role the law can play in addressing Hate Crime

Introduction:

This essay will be organized into four sections; introduction, development, conclusion and reflection. It will contain a bibliography at the bottom and will use footnotes to cite sources.

Hate crime is defined as “Any criminal offense which is perceived by the victim or any other person to, in whole or in part, be motivated by hostility or prejudice, based on actual or perceived age, disability, race, colour, nationality, ethnicity, religion, sexual orientation or gender.”ⁱ Hate crime erodes an individual's entitlement to be treated with dignity and undermines the sanctity of human rights, the upheaval of these rights by another individual and the ignominy and injustice it creates for vulnerable individuals and the unrest it incites in communities necessitates that the legal system should establish specialized legislation specifically addressing it.

In the development section of my essay, I will expand on this topic while using reputable sources such as Garda.ie, Irish prison services among other sites and attest to how expanding legislature will allow the law to better govern us and safeguard diversity. I will also apply specific jurisprudential perspectives to aid me in coming to my conclusion.

I believe the law which governs us reflects the society we live in, and that law is vital in the attainment of social cohesion and order. It must balance out the inequities of our society and protect vulnerable identities, while still preserving all people's rights to freely express themselves, though this begs the question of how much intolerance can we tolerate and still be considered an egalitarian society?

Development:

Firstly, the law is crucial in both punitive and preventative measures concerning hate crime, and therefore must set fair legal framework that aims to provide a mechanism to identify, categorize and prosecute offences which have an irrefutable bias motive, but most importantly, they have a responsibility to rehabilitate prisoners as stated by the Irish prison service “Prisoner care and rehabilitation is a core aim of the Irish Prison Service.”ⁱⁱ A hate- based offence is centralized around the prejudice of the perpetrator, this necessitates that to legally prove the accused guilty, there is undeniable proof of discriminatory hostility prior to the act - to establish their culpability for prejudice. This means the mens rea of the accused is essential in distinguishing a typical offence from a hate-based offence. Current Irish legislature ‘criminal justice (hate offences) act 2024’ⁱⁱⁱ calls for an increased sentence to act as a deterrent. “The Bill will provide for

increased prison sentences for certain crimes, where proven to be motivated by hatred, or where hatred is demonstrated.”^{iv} What studies have found however, is that increased sanctions are not necessarily connected to deterrence.^v Though, I am of the belief that an increased sentence is beneficial as long as it is used with restorative justice, not just to deconstruct the societal implications of their offence but also their prejudice.

“Restorative justice practices offer a more re-integrative approach to how we treat offenders, and community involvement can help to deal with the root causes of the criminal behavior and reduce recidivism.”^{vi} If offenders of hate-crimes were given the chance to dismantle their own intolerance and the hostile manner it manifested into, I am of the logical opinion that they would be less likely to re-offend upon the program's success.

The law may support or require mandatory hate crime training for law enforcement to re-enforce anti-discriminative practices and maintain a high standard of consciousness when dealing with both victims and offenders for instance the ‘Online Hate Crime Training Programme’^{vii}. The legislature may also promote educational campaigns that raise awareness, hopefully dismantling any harmful prejudice. Law enforcement agencies should also be required under Law to pay special attention to the reporting themes to rectify issues of under-reporting by affected groups.

One of the greatest challenges the law can face in its goal of creating a fair system, is the need to address the prejudice of itself and its members, when the establishment has been built on the foundation of exclusionary or outdated standards that previously sought to persecute the characteristics we now wish to protect, how can we expect the law to keep up with the progression of society. The jurisprudence of critical legal studies (CLS) “...states that the law is necessarily intertwined with social issues, particularly stating that the law has inherent social biases...the law supports the interests of those who create the law.”^{viii} This can serve as an explanation for the many failings of the establishment to address the unjust hatred toward historically vulnerable groups on a deep-rooted systemic level. This is reflected in societies such as America where police brutality gives way to disproportionate amounts of unjust killings of black individuals by primarily white police force members leading me to the conclusion that many of these instances are in fact hate crimes. “black Americans are shot at a disproportionate rate. They account for just 13 percent of the U.S. population, but more than a quarter of police shooting victims.”^{ix} The law, however, could play a vital role in safeguarding the life of these individuals, by passing law that would require all on-duty officers to have their body cams on, therefore holding them accountable should they inflict unnecessary force or engage in damaging practices like racial profiling.

Specialised hate crime law advocates for the value of tolerance, For instance, In the US, according to the Organization of American States in the “Declaration of principles on tolerance”^x, “...tolerance is not only a cherished principle, but also a necessity for

peace and for the economic and social advancement of all peoples” This very succinctly supports that it is the forbearance between people that leads to societal progression, this aligns with the equal value of all voices and identities. Hate crime law bases itself on the notion that to target an individual characteristic regarded as protected is hostile. While our opinions are our own, we are not entitled to infringe upon the rights of others by the expression of these beliefs. Hate crime laws work to safeguard the liberties of all individuals by ensuring a co-operative society.

Conclusion:

As I mentioned in my introduction the reason why Hate crime is such a threat is due to its ability to corrupt and transform a tranquil society into one which thrives or profits off of division and unjust, undignified treatment of persecuted groups. The legislature surrounding hate crime must provide a comprehensive, coherent and consistent legal framework to allow for a system that aptly judges and punishes offenders but also prioritizes rehabilitation for the long-term good of society. It requires a complex and multifaceted approach that should address institutionalized systemic issues that continue to exacerbate society's tenuous ones. Combining legal ramifications and community engagement which merges pragmatic consequence with social understanding, I believe will net out to be the most prosperous and effectual method the law can take in addressing Hate crime.

Reflection:

Throughout my research on this topic, I thoroughly enjoyed learning more about the various ways the law can manifest into our everyday life and how it can affect the words we speak and the thoughts we have. What I found most challenging was the garnering of sources and information, as topics are so broad and all-encompassing that structuring it in a meaningful way seems impossible, at first - but I persevered eventually. As a woman Laws like this are tantamount to me, I find that misogynistic sentiment especially in online spaces is ever growing and the lack of protection I previously believed to shroud this topic was disheartening but I am now aware of the resources that I can reach out to. I have always been interested in politics as they seek to govern the way in which I maneuver my life, but I, like many other young people who recognize and feel the redundancy in having people who would dictate our freedoms while having little concept of our experience, wish to voice our disputes against the current system.

Bibliography

ⁱ <https://www.garda.ie/en/crime/hate-crime/what-is-hate-crime-.html#:~:text=is%20hate%20crime%3F-,Any%20criminal%20offence%20which%20is%20perceived%20by%20the%20victim%20or,religion%2C%20sexual%20orientation%20or%20gender.>

ⁱⁱ <https://www.irishprisons.ie/about-us/care-and-rehabilitation/#:~:text=Prisoner%20care%20and%20rehabilitation%20is,its%20care%20and%20custody%20functions.>

ⁱⁱⁱ <https://www.oireachtas.ie/en/bills/bill/2022/105/>

^{iv} <https://www.gov.ie/en/press-release/a597e-minister-mcentee-welcomes-passing-of-hate-crime-legislation-by-oireachtas/#:~:text=The%20Bill%20will%20provide%20for,will%20attract%20higher%20prison%20sentences.>

^v <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>

^{vi} <https://www.iprt.ie/restorative-justice/#:~:text=In%20restorative%20justice%2C%20victims%20are,beneficial%20effects%20on%20both%20parties.>

^{vii} <https://hatecrime.osce.org/ireland#:~:text=Also%20in%202022%2C%20a%20comprehensive,under%2Dreporting%20of%20hate%20crimes.>

^{viii}

[https://www.law.cornell.edu/wex/critical_legal_theory#:~:text=Critical%20legal%20studies%20\(CLS\)%20is,those%20who%20create%20the%20law](https://www.law.cornell.edu/wex/critical_legal_theory#:~:text=Critical%20legal%20studies%20(CLS)%20is,those%20who%20create%20the%20law)

^{ix}

<https://pmc.ncbi.nlm.nih.gov/articles/PMC7331505/#:~:text=The%20Washington%20Post%20looked%20into,quarter%20of%20police%20shooting%20victims.>

^x <https://www.oas.org/dil/1995%20Declaration%20of%20Principles%20on%20Tolerance%20UNESCO.pdf>