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DO YOU QUALIFY TO BE A HATE CRIME VICTIM?

Consideration to hate crime can be traced to the beginning of the 1980s. Hate crime, as a criminal category, originated as a result of the collective suffering of minority groups who were subjected to discrimination, harassment and violence from majority communities (Gerstenfeld, 2013). A hate crime is defined as any criminal offence which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on that person's actual or perceived race, religion, sexual orientation, disability or gender identity (College of Policing, 2014).

Regardless of this important legal development, it is a fact that some victims of hate crime manage to have recourse to courts of law while others are not recognised as victims of hate crime despite meeting all the legal requirements. This article addresses this question, showing that in order to 'qualify' as a victim, the group or victim needs to benefit from some sort of 'social recognition'. In the first instance, this article highlights the significant impact that hate crime has on both individuals and communities. It then shows that neither meeting the legal definition of a hate crime nor being deeply effected by a hate crime, automatically 'qualifies' one to be a victim. It concludes from the above that the word 'victim' only takes its full meaning when it is examined against the social context in which an offence takes place and the social recognition any group might have gained to qualify as victims.

The impact of hate crime on victims

There is important field of research which suggests that in cases of hate crime, the impact on victims is greater than in the case of other crimes; victims of hate crime experience deeper psychological and emotional effects than victims of crimes that do not have the 'hate element' to them. The detrimental, psychological effects of hate crime may impair self-esteem, place a strain on personal relationships,

restrict social activities and cause social withdrawal and mental health problems. Victims of hate crime appear more likely to 'regard the world as unsafe, to view people as malevolent and in addition, to experience a relatively low sense of personal mastery' (Herek, Gillis and Cogan, 1999: 949).

On a wider scale, hate crimes have major implications for communities, rather than simply on targeted individuals. Hate crime aims not only to subordinate the victim, but to convey a message to the community that the perpetrator finds the group's identity offensive and that it will be met with violence or intimidation:

Any single incident has threatening implications for all members of that group and reminds them that they could be next
(Craig, 2002:89)

Hate crime creates complicated webs of impacts affecting both the individual and the community. The next question is the extent to which these impacts are considered by governmental agencies when deliberating whether to prosecute an offender. This question raises the issue of the social process involved in being identified as a victim of hate crime, and shows that the notion of victimhood is not a term which all can agree on without examining each context in turn. I suggest that in order to be labelled a victimised group, the group needs to engender sufficient compassion among the public to achieve 'victim status'. Being attacked does not automatically lead to recognition of the victim.

Victims: theory and context

In order to examine the concept of victim, I will refer to a defining moment in British race relations with the publication of the Macpherson report in 1999. The report suggests that the subjective views of a victim would be sufficient to be considered as a case of racism. Recommendation 12 of the Macpherson report states that a racist incident

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is 'any incident which is perceived to be racist by the victim or any other person' (Macpherson, 1999). Nonetheless research on this topic has shown that the reality for victims is very different. Below are a few examples which illustrate the need for a victim to be socially recognised.

During the summer of 2000, a UK campaign against naming and shaming paedophiles, resulted in many sex offenders being subjected to violence (Perry, 2000). Perpetrators of these assaults were of the view that society would support and legitimise these attacks (and not criticise them for taking the law into their own hands) as they were averting any future attacks by these paedophiles. Whilst there is no element of hate crime in these incidents, this example illustrates that a group needs to engender a certain level of sympathy in order to qualify as victim. In this instance, a paedophile who is attacked, would in effect attract very little compassion, sympathy and support. It is based on the idea that as he has wronged others, others can wrong him – free of any recourse to the courts. In a sense, the paedophile has lost his right to legal protection and his unacceptable behaviour is used to justify the actions of subsequent avengers.

Similarly, following the September 11 attack on the Twin Towers in New York and the Woolwich attack in May 2013 of Lee Rigby, Muslim Londoners have been increasingly and frequently stigmatised as posing a threat to security (Githens-Mazer et al., 2010). On the whole, the notion that Muslims have become prime targets of hate crime within London, has however been rejected (Githens-Mazer et al., 2010). For instance, it has been difficult for Muslim rights organisations (Muslim Safety Forum) to persuade the police to treat Islamophobia or anti-Muslim hate crime as a phenomenon in its own right. Githens-Mazer's report illustrates that the police often use purposive terminology of anti-racist crime, rather than using the term 'anti-Muslim offence'. Consequently, there is widespread frustration among Muslims, particularly in cases where Muslims have been targeted, yet received little media attention, and therefore go largely unnoticed (Githens-Mazer et al., 2010). The support received from the police following incidents of hate crime against British Muslims (who have been intentionally targeted), has been much more ambivalent than that of other minority groups (Githens-Mazer et al., 2010:41). It therefore follows that a crime may meet the limited definitional legal requirements of hate crime, but in order to claim victim status, the group needs to be considered a victimised group.

What is it specifically about the Muslim community that engenders this lack of protection from society at large? Gidley (2015) discusses the concept of 'collective responsibility' with direct reference to Jews and Muslims, criticising the perceived notion that all Muslims are responsible for Islamic terrorism, or that all British Jews are

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responsible for actions in Israel. Victims who belong to a group which threatens others, do not have a solid forum to secure public sympathy – which is critical to achieving the status of being considered a victim. Whilst the notion of 'collective responsibility' remains central in people's perceptions, Muslims continue to struggle to be recognised as victims of hate crime.

It can be seen that the subjective views of the victim on whether he/she qualifies to be a victim (as outlined in the Macpherson report) seems not to be definitive. The Snowtown murders case marks some progression in knowledge about the concept of hate crime victim. Mason (2007) examined the reason the renowned Snowtown murders in Australia were not construed as hate crime murders. John Bunting and Roger Wagner were sentenced to life imprisonment in 2003 on 11 and 7 counts of murder respectively. These murders have become known as the Snowtown case, and involved gruesome facts including dismembered bodies as well as sexual and physical torture prior to the victim's death. During the course of the trial, the victims were categorised as both paedophiles and/or homosexuals, and coming from less privileged backgrounds. Some had intellectual disabilities or suffered from mental illness and some were addicts.

Mason (2007) explains that despite the fact that most of the victims were homosexual and despite the fact that the common theme of 'hate' saturated the trial, the murders themselves were never identified as the product of hate crime (namely homophobic hate crime). Mason accounts for this by arguing that hate crime is not just a legal, but is also a moral category. Categorising a group as having a bona fide victim status is not objective (Jacobs and Potter, 1998). Rather, it weighs upon the ability of the group to convince the public that they have been unfairly treated. The group, according to Mason, needs to engender sufficient compassion in order for the public to define an event as hate crime. This group of victims' characteristics hindered compassion from the public, despite the torture which they suffered.

Victim hierarchies

The debate over the conceptual basis of hate crime has resulted in the construction of the UK Government Action Plan (HM Government, 2012). Currently, the Government's Action Plan on hate crime has limited the application of hate crime to five specified monitored strands of victim identity; 'disability, gender-identity, race, religion/faith and sexual orientation' (HM Government, 2012: 6). Victim status for victims of race, religion and ethnicity hate crimes has been least contested and it has been institutionalised into the law. Whereas, hate crime committed for sexual orientation and transgender status has only relatively recently been recognised as victim status and has generated an unprecedented level of compassion and activity. This has created a 'prejudice hierarchy' (Harris, 2004) whereby certain groups are internationally recognised and deserving of protection whereas others remain more contentious. Enacted legislation is the stamp of approval which determines what qualifies as a hate crime, and by extension, who is officially accorded hate crime victim status by the criminal justice system.

Conclusion

It is fair to state that despite the psychological impact of hate crime both to the individual and the community, the symbolic status of 'victim assignments' is not definitive; not all minority groups earn social recognition as 'victims'. Recognised victims of hate crime not only need to fall into the legal category but also into some kind of moral category – namely, is this person/group deserving of protection? Cultural differences and social norms define victim status. Subsequently, when a group does not fall within this protection zone, social prejudices, intolerance and lack of respect for disadvantaged groups, come to prevail. Until the group attacked is considered to be a victimised group, this group will not have the capacity to claim victim status.

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