

English summary

Hate crimes. A follow-up of justice system measures

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The concept of hate crimes is today used increasingly often as a generic term referring to crimes of a racist, xenophobic and homophobic nature. Characteristic of such crimes is that they involve a violation of human rights and run contrary to fundamental social values that regard all human beings as equals.

Since the mid 1990s, the state has taken an increasingly serious view of hate crimes. In 1994, a highly significant step was taken with the introduction into the penal code of a clause that opened the way for stiffer sentences in connection with acts involving the motives associated with hate crimes. The clause states if a crime is committed against a person as a result of the person's race, colour, national or ethnic origins, religious beliefs or some other similar circumstance, then this is to be regarded as an aggravating factor in relation to the setting of the sentence. The clause also includes crimes carried out against persons as a result of their sexual orientation. Besides viewing hate crimes more seriously, the clause was intended to focus attention on the motives associated with hate crimes early on in the criminal investigation process. The seriousness with which hate crimes are viewed has been emphasised by the state in non-legislative ways too. Since the mid 1990s, crimes of this type have been ascribed a high priority by justice system agencies.

This study describes the measures taken to prioritise hate crimes, focusing primarily on the work of the justice system. The police and the prosecu-

tion service may be regarded as those agencies with the greatest opportunities to take measures that may effect trends in hate crimes. Within the context of the court system and the prison and probation service, the principle means of working against hate crimes may be through focused educational and training measures.

The study also followed all hate-crimes reported in the year 2000 on their path through the justice system from offence report to court adjudication. One of the central issues examined is the extent to which the courts have invoked the sentencing severity clause and taken the racist, xenophobic or homophobic circumstances surrounding an offence into consideration.

The path of hate crimes through the justice system

Over the course of the year 2000, almost 4,300 hate crimes were reported, according to statistics collated by the state security police, a figure which represents double the number reported in 1997. Eight per cent of reported hate crimes led to an indictment, which is one per cent more than the proportion of the total of reported offences against the penal code that do so. The proportion of reported homophobic offences indicted was the same as that of other forms of hate crime.

Assault offences constituted the form of hate crime most often resulting in an indictment. These were followed by threatening behaviour, insulting behaviour and racial agitation. None of the cases of unlawful discrimination reported in 2000 led to an indictment. Otherwise, the lowest proportions of reported crimes leading to indictment were found among harassment and criminal damage offences.

Almost nine out of ten of the hate crimes reported in 2000 were not taken any further. The most common reasons for discontinuing proceedings were that no suspect could be connected to the offence, or that there was insufficient evidence that a crime had been committed.

Of the 360 offences that led to an indictment, the prosecutor invoked the sentencing severity clause in 42 cases. The clause was invoked in just over half of the homophobic offences that led to an indictment. Otherwise, the sentencing severity clause was invoked more often the more serious the offence in question.

In total, the courts increased the sentence severity in connection with 46 hate crimes. There is no uniform praxis, however, for how a court increases the severity of a sentence when a crime has been committed as a result of racist, xenophobic or homophobic motives. In the majority of cases, such motives led to the passing of a stiffer sentence. It is only in a few isolated instances, however, that the court adjudications provide an indication of how much the sanction imposed has been affected by hate crime motives. Besides increasing the severity of a sentence, courts also classify offences as 'aggravated' or award higher damages settlements as a result of such racist, xenophobic or homophobic motives.

The presentation of the way in which courts have taken such motives into account also differs, which hampers efforts to follow-up the practical application of the sentencing severity clause. The courts are not required to make explicit the legal grounds for increasing the severity of a sentence in their ruling. Of the 46 cases where the court invoked the sentencing severity clause, the use of this clause was only referred to in the court ruling in seven instances. In the remaining cases, the fact that the severity of the sentence had been increased was mentioned only in the subsequent text describing the reasons for the ruling.

The prioritisation of hate crimes within the justice system

The majority of the more concrete measures taken by justice system agencies as a means of prioritising hate crimes have been initiated since the beginning of the year 2000. It will thus only be possible to evaluate the effects of these measures in the fullness of time.

General strategies for working to combat hate crimes have been produced by the office of the Prosecutor General and the National Police Board. The National Courts Administration has developed an educational program for judges with a particular focus on hate crimes. During the course of the year 2000, the agencies working within the justice system also produced a joint educational strategy to ensure that justice system employees commanded a certain level of knowledge about hate crimes. This educational program was never put into practice, however. On the other hand, the educational programs employed by the National Police Board and the Prosecutor General have been co-ordinated since 2001. The National Prison and Probation Administration and the National Courts Administration, who had been waiting for the introduction of the planned, joint educational program, now intend to organise their own education program on hate crimes for their own personnel.

Rather more concrete measures that have been introduced in order to prioritise hate crimes include the Prosecutor General's appointment in the year 2000 of a special prosecutor at each prosecutor's office, with responsibility for hate crimes. The following year, the National Police Board appointed special contact officials for hate crimes in all of the country's police authorities. These individuals have been given a more extensive hate crimes education and training than other police officers. A little under half of police officers working on the streets within the local police organisation have been given some form of instruction or training regarding the steps that should be taken to secure evidence of particular importance for hate crimes. Among the police officers working with criminal investigations in the local police organisation, only one in four has received any special training relating to hate crimes. One of the intentions associated with the introduction of contact officers is that these will then provide additional training for personnel at their respective police authorities. At interview, both police and prosecutors have referred to the importance of problematising employees' own attitudes and values in educational and training programs focused on

hate crimes. To date, however, hate crime focused educational measures have only rarely integrated attitude-related issues.

Further means of prioritising hate crimes have included the statement made by the Prosecutor General that criminal investigations relating to hate crimes are always to be conducted under the direction of the prosecutor, and that collaboration between police and prosecutors is to be improved. In connection with the direction of such criminal investigations, it is important for the prosecutor to issue concrete directives as to the measures that should be taken by the police to secure evidence. In order for the prosecutor to take over the supervision of an investigation, however, there is a requirement that the police identify a case as involving a hate crime. Approximately one third of all police authorities have introduced a special question on hate crimes into their computerised crime reporting routines so that those registering a reported offence will become better at identifying hate crimes. Police have levelled certain criticisms at the incorporation of such questions, primarily referring to the fact that reporting routines are already extensive.

If the police authorities are to introduce appropriate measures to combat hate crimes, there is a need to chart offences of this kind. Today, most police authorities conduct work to chart the extent and structure of crime, but interviews with those police officers responsible for this work suggest that information on hate crimes is not always passed on to them in a satisfactory way. Nine out of ten of the local police chiefs interviewed stated nonetheless that information on reported hate crimes is passed on. Just over half of the local police chiefs reported that they also passed on information relating to recorded hate crimes to the local state security police.

The prioritisation of hate crimes also takes place by means of crime prevention work at the local community level. Two thirds of local police chiefs reported that some form of preventive work directed at hate crimes is conducted under the auspices of the local crime prevention council. This work often takes the form of being satisfied that there is a readiness to deal with any hate crime related problems that might arise, however. Half of the local police chiefs reported that part of their preventive work in relation to hate crimes had involved educational visits to schools.

Minority organisations, such as local immigrant associations or organisations for homosexuals, constitute another important actor at the level of the local community. Representatives for several minority organisations have also emphasised the importance of building up relations between such groups and the justice system. As a step on the way to strengthening the position of minority groups as crime victims, the Crime Victim Compensation and Support Authority has focused specific informational measures on these groups. One in five local police chiefs also reported that there was some form of collaboration with minority organisations in the local police area.