

PROFILEING IN HATE CRIME

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***Abstract.** Hate crimes differ from other types of crimes by the motive of the perpetrator, the presumed vulnerable situation of the injured person, as well as by their relationship to the group of people. Hate crime is the most serious form of discrimination and abuse of fundamental rights. Profiling in hate crimes can include factors such as membership in extremist groups, personal history of discrimination or violence, and the way in which hatred is manifested towards marginalized groups.*

***Keywords:** hate crimes, profiling, discrimination, poverty*

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1. Introduction

Hate crimes are considered a serious form of discrimination and an abuse of basic human rights. They have the potential to divide societies and create cycles of violence and revenge.

Crimes motivated by intolerance towards certain individuals in society can divide society and, as a result, there will be violence that impacts not only the victim, but also the group with which the victim identifies. Crimes of this type are generically called symbolic crimes.

Hate crimes are differentiated by the motive of the perpetrator who chooses the victim because of a protected characteristic. Consequently, this type of crime must be investigated with great care and because the victim may suffer serious psychological harm and feel more vulnerable because they cannot change this characteristic. Hate crimes should not incite one group against another, protecting one of them.

For criminal investigation bodies, a lot of work is needed to gather evidence regarding the perpetrator's motivation.

From conversations with friends, neighbors, colleagues, acquaintances, search warrants to requests from internet service providers, surveillance to determine whether the perpetrator is a member of or has associations with groups that commit hate crimes, and the application of a higher penalty for a hate crime is the latest step in a long series of events.

Hate crimes are acts of violence or discrimination committed because of prejudice related to the identity of the victims. These acts do not only affect the direct victims but can have a devastating impact on the entire society, amplifying divisions and social instability.

Profiling, in this context, refers to the techniques used by law enforcement authorities to identify and analyze the characteristics of criminals in terms of behavior, motivations and personal characteristics. In this article, we will analyze how profiling can be used to understand and combat hate crimes, as well as the challenges and risks associated with this process.

In the context of hate crimes, profiling can help identify offenders, understand their motivations, and develop effective strategies to combat them. However, the use of profiling raises numerous ethical and legal challenges, especially when it is based on stereotypes or prejudice, even leading to systemic discrimination.

Exploring how profiling can be used to understand offenders and their impact on the community are the goals underlying the current approach.

On 9 December 2021, the European Commission adopted a communication aimed at adopting a decision to extend EU crimes, including hate speech and hate crimes in this category. The European Court of Human Rights has emphasized that, when investigating violent incidents, state authorities must do everything reasonably to gather evidence related to possible discriminatory motives, analysing all facts that could be an indication that the violence was generated by intolerance or discrimination, in other words hate crimes.

The Organization for Security and Cooperation in Europe considers hate crimes as criminal acts committed with a motive based on prejudice.

At the European level, it has been shown that the phrase "hate crime" describes a type of crime rather than a specific crime provided for by a criminal code.

Hatred towards the more fortunate has always existed in society. Poverty is what accentuates this hatred because it is based on fear, mistrust and horror.

The world is collapsing for those who only survive...Poverty is a concept that deepens inequalities between people, limiting access to services, affecting vulnerable groups, those with an unfavourable socio-economic status. People fear poverty and this leads them to hate the rich.

Eurostat says that "poverty is the situation of a person whose income is so low that it is impossible for them to achieve an acceptable standard of living in society, who faces disadvantages."

Poverty is unevenly distributed, affecting vulnerable people who can be pushed by the feelings they develop towards committing crimes.

European Union statistics place Romania in penultimate place. Article 3 of the Treaty on the European Union promotes the well-being of the member states and their action for the sustainable development of Europe.

Basically, Eurostat says that in certain circumstances any person can become poor for a fluctuating period, but there is an increased risk for people whose characteristics make it difficult for them to access levels of well-being offered by society. These are people whose physical, mental, educational, occupational, etc. characteristics make them vulnerable to the phenomenon of poverty.

The extent of the state of poverty and the inability of some people to ensure normal living conditions due to insufficient financial resources, material and social deprivation are factors that aggravate and push towards hatred towards those who have sufficient material conditions for a decent life.

If hatred gives birth to hatred, insecurity gives birth to aggression. An individual hates another, but he hates him because he fears him. Hatred and fear are emotions that are sometimes born involuntarily, and which accumulate frustrations that lead to crimes.

The entire human community has smaller or larger shortcomings, but the problems of poverty have diversified, involving state institutions, national and internal state mechanisms. The wave of immigrants brought with them cheap labour, accentuating the gaps between the native population and them. Regardless of the reason behind the commission of hate crimes, poverty can certainly be a determining cause.

Hate crimes represent an extreme form of violence, where victims are attacked not only for personal reasons, but because of prejudices related to race, religion, sexual orientation, ethnicity or other characteristics perceived as being "different". These acts are not just an individual problem, but a widespread social problem, which can destabilize communities and amplify existing divisions in society.

2. Basic content

Definition of Hate Crimes

Hate crimes are defined as acts of violence or discrimination committed against a person or group of people based on specific characteristics such as race, ethnicity, gender identity, or any other characteristic perceived as different.

These crimes are accompanied by hatred and contempt or intolerance towards people who do not fit into the norms of society or who have something distinct considered otherwise by the offender. They can be physical violence, destruction of property, hate speech or incitement to hatred, crime.

In Romania, the phenomenon of poverty and hate crimes are addressed in several documents, starting with the New Penal Code.

1. Art. 369 C. pen. "Inciting the public, by any means, to hatred or discrimination against a category of persons or against a person on the grounds that he or she is part of a certain category of persons defined on the basis of race, nationality, ethnicity, language, religion, gender, sexual orientation, political opinion or affiliation, wealth, social origin, age, disability, chronic non-contagious disease or HIV/AIDS infection, considered by the perpetrator as causes of the inferiority of a person in relation to others, is punishable by imprisonment from 6 months to 3 years or a fine."

The special legal object of the hate crime is the social relations regarding coexistence based on mutual respect between members of society, which may be affected by discrimination and hatred. Crime has no material object.

The passive subject is a person, the community of which he is a part and even the state.

The material element of the objective side of the crime is the action of incitement. According to art. 317 N. CP the action of incitement and provocation must be addressed to the public, targeting an indefinite number of people. The material element of the crime is the provocation, determination, and incitement of the public to feelings of hostility, violence, discrimination, hatred.

The immediate consequence amplifies the state of danger for protected values. Creating an intimidating, degrading and humiliating atmosphere through strong and dangerous messages can lead to incitement to hatred.

Criminal participation may be possible in the form of co-authorship, instigation or complicity.

Hate crime is typical of vulnerabilities, giving rise to controversies of legal interpretation of the phenomenon of incitement that is addressed to the public or not. As a conclusion, if it is committed in public, it is almost impossible to demonstrate that it is not intended for the public. In this sense, acts that are not the result of prejudice cannot be criteria generating criminal liability.

2. Art. 15 of Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination provides the following:

"It constitutes a contravention, according to this ordinance, if the act does not fall under the incidence of criminal law, any behaviour manifested in public, having the character of nationalist chauvinist propaganda, incitement to racial or national hatred, or that behaviour that aims or aims to violate dignity or create an atmosphere of intimidation, hostility, degradation, humiliation or offense, directed against a person, a group of people or a community and related to their membership of a certain race, nationality, ethnicity, religion, social category or a disadvantaged category or to their beliefs, sex or sexual orientation."

Discrimination is a phenomenon of marginalization that must cumulatively meet several conditions.

3. Art. 77 letter h) Criminal Code. The crime of incitement to hatred has as aggravating circumstances the commission of the crime for reasons related to race, nationality, ethnicity, language, religion, gender, sexual orientation, political opinion or affiliation, wealth, social origin, age, etc. or for other circumstances, considered by the perpetrator as causes of the inferiority of a person in relation to others. It is not enough to be the subject of art. 77 letter h), but it must be proven that there is a motivational link between the commission of the act and this affiliation.

The authorities must collect evidence and provide evidence to discover the truth and to pronounce thoroughly motivated, impartial and objective decisions, without omitting suspicious facts, which may indicate acts of violence induced, for example, by racial or religious intolerance or violence motivated by gender discrimination.

4. To discover the motive based on prejudice, we can refer to the Order of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice no. 184/30 October 2020 for the approval of the methodology for investigating hate crimes

The Order recommends that, from the moment of first contact with the victim, after informing him of his rights, measures be taken to guide him to victim protection associations that have expertise in the field. Also, during the criminal investigation, the victim's participation in the proceedings will be encouraged and measures deemed necessary will be taken, within the limits and under the conditions of the criminal procedural law.

The injured person being informed in this regard. The Order includes certain indicators of hate crimes:

- references about the victim
- references about the perpetrator
- circumstances related to the perpetrator's behaviour
- circumstances related to the object of the crime
- circumstances related to the place or time of the act
- the act was perceived to be motivated by prejudice.
- absence of a motive

Hate crimes can be committed for different reasons:

1. the perpetrator may act for reasons such as resentment, the desire to obtain approval for what he is doing.
2. the perpetrator may have hostile thoughts or feelings towards the group to which the victim belongs.
3. the perpetrator may have hostile feelings towards all people outside the group
4. the target may be an idea, towards which the perpetrator has hostile feelings.

Despite the absence of hatred towards the target of the crime, any of these motivations would be sufficient to consider the case as a "hate crime".

Whenever a solution of not prosecuting is ordered, it is substantiated that it is another form of liability and, if appropriate, it is sent for investigation to the National Council for Combating Discrimination.

Causes of Hate Crimes - Prejudice and Stereotypes

Hatred towards minority or marginalized groups is often fuelled by deeply rooted prejudices in the collective mind. These prejudices are perpetuated through stereotypes, propaganda and poor education. For example, stereotypes about different ethnicities, religions or sexual orientations can lead to the perception that a certain category of people represents a threat.

Social and political division

In many societies, political or social conflicts can reinforce the idea that certain groups should be excluded or persecuted. Political leaders or influencers who promote hate speech can contribute to amplifying negative feelings towards certain groups, increasing the risk of violence.

Fear of the "other" and lack of intercultural education

Fear of the unknown can fuel aggressive behaviours. Lack of education and interaction with diversity can lead to an erroneous and distorted understanding of different groups. This ignorance can evolve into hatred, and when added to a context of economic or political instability, it can lead to violence.

Personal problems of the offenders

In some cases, criminals who commit hate crimes have their own traumas or frustrations, which they can project onto others. Often, they may blame marginalized groups for their economic or social difficulties, thus developing a dangerous motivation to retaliate.

The Social Impact of Hate Crimes - Fragmentation of Social Cohesion

Hate crimes do not only affect the direct victims, but also the entire community. They contribute to the division of social groups, amplifying resentments and tensions between different categories. Instead of promoting mutual understanding and acceptance of diversity, these crimes create barriers between groups that could coexist peacefully.

Trauma generated among victims and the community

The impact of a hate crime on a victim is not only physical, but also psychological. Victims can suffer from long-term trauma, such as anxiety, depression, phobias and a loss of sense of safety. This can also affect the communities in which they live, impacting on the mental health of the community and worsening relations between groups.

1. Polarization and extremism

Hate crimes can deepen polarization, leading to the emergence of extremist groups that oppose those considered to be "others". These groups can create a vicious cycle of violence and revenge, contributing to social instability.

2. Impact on law and order

These crimes put additional pressure on the justice system, which must respond quickly and firmly to prevent the spread of hatred. Authorities must also adopt appropriate measures to educate the population and prevent the escalation of violent acts.

Preventing and combating hate crimes

1. Educating and promoting diversity

Education and training in diversity, tolerance and respect for cultural differences are essential. Campaigns that promote integration and understanding of diversity can help combat stereotypes and prejudices.

2. Stronger legislation and regulations

The law plays an important role in preventing hate crimes. In many countries, the law explicitly condemns hate crimes and punishes them severely. However, it is essential that the laws are properly enforced and that the authorities have the necessary resources to combat this phenomenon.

3. Awareness campaigns and support for victims

Non-governmental organizations, together with local authorities, can organize awareness campaigns to educate the public about the dangers and impact of hate crimes. There must also be adequate psychological support for victims, to help them overcome trauma and reintegrate into society.

Profiling: concept and techniques used in crime

Profiling is a tool used by law enforcement authorities to identify and analyse the behaviours of criminals based on behavioural and psychological traits. In hate crimes, profiling can help predict the behaviour of the criminal and prevent acts of violence.

Profiling is a process by which law enforcement authorities analyse the behaviours, psychological traits, and motives of criminals to create a profile of them. In the case of hate crimes, the profile of the criminal may include factors such as membership in extremist groups, personal history of discrimination or violence, and the way hatred towards marginalized groups is manifested. Among the techniques used in profiling is behavioural analysis to understand the motivations behind an attack.

Psychological profile reflects the identification of the psychological traits of the criminal such as phobia towards others or violent tendencies.

Pattern Analysis and the Search for New Common Patterns in Hate Crimes

A hate offender is a person who commits acts of violence, discrimination or intimidation against other people or groups of people because of their prejudices related to characteristics such as race, ethnicity, religion, sexual orientation or other traits perceived as being different from their own norms. The profile of such an offender is not a simple and universal one, but there are common features that can be identified in their behaviours and attitudes.

Psychological Factors and Motives Behind Hate

In this section, we will discuss how profiling can help in identifying offenders who commit hate crimes. Profiling is based on the analysis of behaviour, but also on understanding the psychological and social context of the offenders. We will explore the different types of profiles of offenders who commit such crimes, such as extremists, radicalizations, but also criminals who commit crimes on impulse.

The impact of profiling on victims and the community

While profiling can help identify offenders, it is important to also discuss the impact of this process on victims and the community. Profiling can stigmatize groups or individuals and reinforce prejudice, especially when it is based on racial or ethnic stereotypes. In this section, we will examine how profiling can influence perceptions and relationships between different social groups.

Challenges and Controversies in Using Profiling in Hate Crime

This section will examine the main challenges related to the use of profiling to combat hate crime. Profiling faces many criticisms regarding the risks of abuse, discrimination and miscarriages of justice. We will explore these challenges in detail and discuss possible solutions to make this process fairer and more effective.

3. Conclusions and Recommendations

Finally, we will draw conclusions about the role of profiling in combating hate crimes and provide recommendations for improving this process. While profiling can be a valuable tool, it is essential that authorities apply it in a fair and sensitive manner towards social and cultural diversity.

Hate crimes represent a serious social problem, with a profound impact on communities and individuals. An important conclusion is the need to promote education and awareness among the population, to combat prejudice and encourage empathy and respect for diversity. It is essential that the legal systems of states effectively address these crimes through appropriate legislation and clear sanctions to discourage this type of behaviour.

When sanctioning hate crimes, increased penalties should be provided for, the law should provide for hate crime as a special crime, and the victim should know that there are institutions to which they can turn.

In conclusion, what distinguishes hate crimes from other crimes is the prejudice under which the perpetrator acts, making it necessary to identify and prove through evidence the motivational factor. Hate never spreads through harmony and equality, but on the contrary through the accentuation of inequalities and ignorance most of the time. Knowledge makes you tolerant. Most of those who hate you know nothing about you.

Preventing and combating incitement to hatred, as well as reducing poverty are objectives of the European Union. The standardization of the regulatory framework at the community level leads to an increase in the degree of involvement of state authorities, to the consolidation of the jurisprudence of the European Court of Human Rights.

Poor education, corruption and lack of labour, sporadic and insufficient investments, all lead to poverty. State authorities develop programs related to recovery and social inclusion which will lead, over time, to the reduction of significant inequalities between citizens.

Stopping poverty means assuming risks for any society, and for vulnerable people it is reflected in a reduction in the criminal phenomenon.

Globally, the crime phenomenon that is determined by poverty encompasses a wide scope. Strengthening and addressing the basic needs of all members of society can lead to a real challenge for the return to authentic values and solidarity between social classes, artificially divided by financial power.

In conclusion, hate crimes motivated by poverty require a concentrated effort from communities, authorities and civil society through a holistic approach, so that each person feels safe and respected.

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