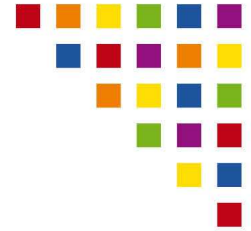


Module Hate Crimes defined I: Hate Crime Definitions



As the purpose of this training material is to enhance the knowledge of the police of hate crimes against LGBTs persons and improve their tackling of these crimes, it is natural to start out with a definition of LGBT. **LGBT** is an acronym referring collectively to lesbian, gay, bisexual, and transgender people. The term LGBT is intended to emphasize a diversity of sexual orientation and gender identity. LGBT people constitute a vulnerable group and continue to fall victims of persecution, discrimination and gross ill-treatment, even involving extreme forms of violenceⁱ.

What is a hate crime?

Hate crime towards LGBTs refers to any criminal offence, including offences against persons or property, where the victim, premises or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support or membership of a LGBT group.ⁱⁱ

The motivation of the offender is what makes it a hate crime. The difference between a hate crime and other crimes is that the crime is motivated by hatred/prejudice/bias towards the victim and not just the perpetrator's intent to steal, commit violence or any other kind of criminal act.

A hate crime thus consists of two parts: firstly a hate crime is a penal offence, e.g. verbal or physical assault, criminal damage, theft, robbery etc. If there is no penal offence then there is no hate crime; secondly a hate crime is characterized by the fact that the criminal act is committed with a particular motive, this means that the perpetrator intentionally chooses the target because of some in legislation protected characteristics.ⁱⁱⁱ

What is a hate incident?

A hate incident is any incident, assault or act—whether defined as criminal by national legislation or not—against people or property that involves a victim, premises or target selected because of their real or perceived connection, attachment, affiliation, support or membership of an LGBT group. The term covers a range of manifestations of intolerance, from low-level incidents motivated by bias to criminal acts^{iv}.

Types of hate crime^v

Hate crimes with a **sexual hate motive** may be motivated by a hatred of lesbians, gays, bisexuals, transgender or transsexual persons.

However, a hate crime may also be directed at heterosexuals, just as the crime can be aimed at people who – no matter whether they are heterosexuals, homosexuals, bisexuals or transgendered - have specific (legitimate) sexual preferences.

Hatred against persons of a different sexuality than heterosexuality is also called homophobia or transphobia..

A hate crime with a **religious hate motive** due to the (perceived) religion or belief of the victim may be aimed at persons who pertain to a religion, as for example Islam, Christianity or Buddhism. It can however also be aimed at persons who pertain to a religious movement or association, as for example Scientology or Hizbut Tahrir.

Hate crimes with a **racist hate motive** is a crime against people because of their skin colour, nationality or ethnicity.

Hate speech refers to public expressions which spread, incite, promote or justify hatred, discrimination or hostility towards minorities — for example statements by political or religious leaders appearing in the press or the Internet.



ⁱ Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People. Council of the European Union 2010.

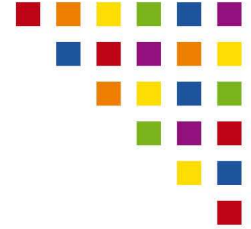
ⁱⁱ ODIHR/OSCE definition

ⁱⁱⁱ ODIHR definition

^{iv} Ibid.

^v From the web-site of the Danish Police.

Module Hate Crime Defined II: Hate crimes – what do we know?



Denmark

Legislation: The relevant articles in the Penal Law regarding hate crime are 266 b (1) (hateful speech) and 81 no. 6. (hate motive as an aggravating circumstance): According to Section 266 b (1) of the Penal Law, any person who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, scorned or degraded on account of their race, colour, national or ethnic origin, religion, or sexual orientation shall be liable to a fine or to imprisonment for any term not exceeding two years. According to Section 81 no. 6 of the Penal Law it must, when sentencing, be considered an aggravating circumstance if an offence is based on the victim's ethnic origin, religion or sexual orientation, etc.

Statistics: In 2007 The Ministry of Justice established a new reporting system with reference to decisions in criminal cases where the crime has been committed on account of the victim's race, national or ethnic background, religious belief or sexual orientation. The reporting system obliged the prosecution service to report all court cases involving article 81, no 6 and 266 b (1). In 2007, **10** court cases involved article 81, no 6. **Four** of the cases were related to homophobia.

Since 2008 a research unit within the Ministry of Justice has carried out a survey on victims of violence in Denmark. In the survey victims of violence are asked whether they think that the violence had a homophobic motive. 4% answered that they thought that the violence was or maybe was motivated by homophobia. According to the research entity within the Ministry, this means, converted into numbers for the whole country, that **3429** persons could have experienced a hate crime based on homophobia in 2008.

According to the Eurobarometer survey from 2008ⁱ discrimination on the basis of sexual orientation is seen as the second most widespread form of discrimination in the EU. 34 % of the respondents from Denmark think that it is a widespread phenomena in Danish society.

France

Legislation: Articles 225-1 & 225-2 of the Criminal Code criminalises discrimination on the grounds of sexual orientation. Article 132-77 makes discrimination on the grounds of sexual orientation an aggravating factor. Article 222-18-1 allows specific incrimination for a threat based upon real or supposed sexual orientation.

Statistics: SOS Homophobie, France, reported in its annual report 2007, **1.263** incidents of homophobiaⁱⁱ.

According to the Eurobarometer survey from 2008 discrimination on the basis of sexual orientation is seen as the second most widespread form of discrimination in the EU. 62 % of the respondents from France think that it is being a particularly widespread phenomena in French society.



Germany

Legislation: Homophobic hate as a motive for a crime is not an aggravating factor according to the German Penal Code. Incitement to hatred is punishable according to article 130 of the Penal Code. Under paragraph 1 of article 130, incitement to hatred or motivate/incite to violent or wanton measures against parts of the population, as well as attacks on the human dignity of others through abusive language is punishable.

Statistics: The NGO Maneo conducted in 2006/07 a nationwide victim survey among gay and bisexual youths and adults on their experience on violence. Nearly 24.000 people participated in the survey. Among the results of the survey was that **35 percent** of all the participants answered they had experienced bias-motivated violence in the past year. Among the gay and bisexual men under the age of 18 **63 percent** said they had been victim of such violence. **10 percent** answered that they had filed reports with the police. A survey conducted one year later suggested that almost **40 percent** of the participants had experienced bias-motivated violenceⁱⁱⁱ. In an annual report for 2008 concerning hate crimes in the OSCE region, Germany reported **54 crimes** against LGBT persons^{iv}.

According to the Eurobarometer survey from 2008 discrimination on the basis of sexual orientation is seen as the second most widespread form of discrimination in the EU. 40 % of the German respondents perceive it as a widespread phenomena in German society.

Ireland

Legislation: The criminal law in Ireland contains provisions making it a criminal offence to incite to hatred, violence or discrimination on the ground of, among others, sexual orientation (Prohibition of Incitement to Hatred Act 1989). There are no aggravating circumstances in relation to sexual orientation or gender identity in the law.

Statistics: No data available

According to the Eurobarometer survey from 2008 discrimination on the basis of sexual orientation is seen as the second most widespread form of discrimination in the EU. 38 % of the Irish respondents perceive it as a fairly widespread phenomena in Ireland.

Latvia

Legislation: The Latvian Criminal Law does not define homophobic motivation as an aggravating circumstance and hate speech related to homophobia against LGBT people is not explicitly defined as constituting a criminal offence.

The Criminal Law includes two provisions related to hate crime, Article 78 and 150. Article 78 is a criminalisation of the intent to stir up racial hatred and Article 150 concerns among others a criminalisation of incitement to religious hatred.

Since amendments as of 21.06.2007, the Criminal Law includes Article 1491 the prohibition of discrimination. Only racial or ethnic origin are fixed as specified grounds, while a general reference to 'other prohibition of discrimination set by law' is included.

Statistics: At present, there are no local studies of the extent of hate crime in Latvia.

According to the Eurobarometer survey from 2008 discrimination on the basis of sexual orientation is seen as the second most widespread form of discrimination in the EU. 38 % of the Latvian respondents think discrimination on the basis of sexual orientation is fairly widespread in Latvia.

Portugal

Legislation: The Constitution of 1976 in Art. 13 outlines the principle of equality before the law and section 2 covers the principle of non-discrimination. In 2004, it was amended to include sexual orientation as a ground of discrimination.

As concerns hate crimes, Art. 240 of the Penal Code was amended in 2007 to include innovations in regard to sexual orientation. Art. 132 on qualified homicide concerns homicide committed on grounds of sexual orientation, Art. 145. is on assault on the grounds of sexual orientation, whereas Art. 143 and 144 concern simple and severe assault.

Statistics: No data available

According to the Eurobarometer survey from 2008 discrimination on the basis of sexual orientation is seen as the second most widespread form of discrimination in the EU. 65 % of the Portuguese respondents consider discrimination on the basis of sexual orientation to be very widespread in Portugal.

Romania

Legislation: Articles 751 & 751 of the Criminal Code recognize a homophobic motive as aggravating factor in the commission of a criminal offence.

Statistics: There is hardly any reporting of hate crimes or 'discrimination' to the authorities, who subsequently do not register hate incidents or crimes. In the past 10 years, two cases were sent to court (in 2003 and in 2005). In 2009 there were 20 cases, but none were sent to court. Statistics do not register the motive, the statistical system neither registers nor distinguishes between the motives. The relevant article is referred to, whereas the specific motive is not. According to the Statistical Bureau of the Prosecutor Office none of the cases have been about discrimination on the grounds of sexual orientation.

According to the Eurobarometer survey from 2008 discrimination on the basis of sexual orientation is seen as the second most widespread form of discrimination in the EU. 45 % of the Romanian respondents perceive it as a widespread phenomena in Romanian society.

Sweden

Legislation: In Sweden the criminal law contains provisions making it a criminal offence to incite hatred, violence or discrimination on grounds of sexual orientation (hate speech, Ch 16 § 8 in the Criminal Code). The law also contains provisions regarding aggravated penalties in cases of hate-based crimes (Ch 29 § 2 in the Criminal Code). In addition to this, Sweden has an anti-discrimination legislation (Ch 16 § 9 in the Criminal Code).

Statistics: Numbers from BRÅ (The Swedish National Council for Crime Prevention) show that there has been an increase in the number of hate crimes from 3.028 in 2004 to 5.895 in 2008. The number of LGBT related hate crimes has increased from **614** to **1.069** over the same period. The share of LGBT related hate crimes remains to some degree constant over the years.

In an annual report for 2008 concerning hate crimes in the OSCE region, Sweden reported **1.055** hate crimes based on a person's sexual orientation. 1.046 of these had a homophobic motive, and 14 crimes were against transgender persons.

A study on homophobic hate crimes in Sweden, published in 2006, shows that the number of homophobic hate crimes which makes it to court varies between null and **29 percent** in the different police districts. **35** of **367** reports have gone from the police to the prosecutor, and in **28** of these cases the prosecutor has linked the case to hate crime. **24** of these cases have reached a sentence and in 10 of these sentences nothing that suggests that a hate crime may have occurred is applied. The aggravating provision with regard to hate based crime has been applied in **two** of the **28** cases^{vi}.

According to the Eurobarometer survey from 2008 discrimination on the basis of sexual orientation is seen as the second most widespread form of discrimination in the EU. 58 % of the Swedish respondents perceive it as a widespread phenomena in Sweden.

United Kingdom

Legislation: There are several Acts that cover incitement to or hate crime offences, including:

- Public Order Act 1986, Part III Incitement to Racial Hatred
- Football Offences Act 1991 (as amended)
- Crime and Disorder Act 1998 (as amended by Anti-terrorism, Crime & Security Act 2001)
- Criminal Justice Act 2003
- Racial and Religious Hatred Act 2006
- Criminal Justice and Immigration Act 2008.

Section 146 of the Criminal Justice Act 2003 empowers courts to impose enhanced sentences for offences motivated or aggravated by the victim's sexual orientation in England and Wales. Most recently, a new criminal offence outlaws threatening behaviour or materials intended to stir up hatred against people on grounds of their sexual orientation. The measures are included in the Criminal Justice and Immigration Act 2008, Section 74 and Schedule 16. The offence covers England and Wales^{vii}.

Statistics: According to the FRA analysis a total of **988** hate crime criminal court cases were initiated in 2007. Of these **759** were convicted.

In an annual report for 2008 concerning hate crimes in the OSCE region, UK reported **4.300** records on crime against LGBT persons in 2008 and **995** completed prosecutions for homophobic hate crime in 2007/2008.

In 2008-09, the number of prosecutions of homophobic and transphobic crimes in Metropolitan London and City amounted to **139**, of which **104** (74.8%) were convictions and **35** (25.2%) were unsuccessful^{viii}.

In 2008, the NGO Stonewall conducted a survey, showing that nearly 13 percent of LGB persons had experienced a homophobic hate crime or incident in the last year, while 20 percent had experienced it in the last three years.

According to the Eurobarometer survey from 2008 discrimination on the basis of sexual orientation is seen as the second most widespread form of discrimination in the EU. 50 % of the respondents from the UK think that it is being a widespread phenomena in the UK society.

ⁱ Eurobarometer: http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_en.pdf

ⁱⁱ Human Rights First (2008): Violence Based on Sexual Orientation and Gender Identity Bias, p.3.

ⁱⁱⁱ Ibid., p.4.

^{iv} ODIHR (2009): Hate Crimes in the OSCE Region – Incidents and Responses, p. 56.

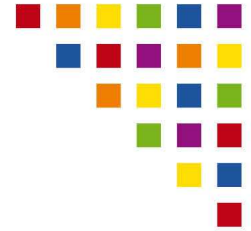
^v Amended in September 2007.

^{vi} Tiby, Eva (2006): En Studie av Homofoba Hatbrott i Sverige.

^{vii} <http://www.stonewall.org.uk/> Stonewall News accessed March 2010.

^{viii} Crown Prosecution Service, Management Information Branch: Second Annual Hate Crime Report 2008-2009, p.52

Module Hate crime defined III: resources



Hate Crimes

Definition based on: OSCE/ODIHR (2008), 'Hate Crimes in the OSCE Region - Incidents and Responses, Annual Report for 2007'; the OSCE/ODIHR definition is also used by the Council of Europe

Recommendation No. R(97)20 of the Committee of Ministers of the Council of Europe to Member States on 'Hate Speech'

En Studie av Homofoba Hatbrott i Sverige, Tiby, Eva (2006)

Resources on hate crime and violence by ILGA Europe:

http://www.ilga-europe.org/home/issues/hate_crime/resources_on_hate_crime_and_violence

This link provides access to

- Destination Equality: Hate and Violence
- A report on women's experience of homophobia and transphobia
- A map of homophobic and transphobic hate crime/hate speech legislation in Europe
- Handbook on monitoring and reporting homophobic and transphobic incidents

Moreover there are articles and links to web-sites that address hate crimes.

Discrimination

Eurobarometer: http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_en.pdf

Definition of discrimination —direct and indirect— applied as set out in the Framework Directive on Discrimination; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupatio

'Tackling Multiple Discrimination. Practices, policies and laws', European Commission (2007) available at http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/stud/multidis_en.pdf (12.09.2008)

'Towards Common Measures for Discrimination: Exploring possibilities for combining existing data for measuring ethnic discrimination', E. Olli, B. K. Olsen (eds.) (2005) Danish Institute for Human Rights.



Gender Expression

Gender Expression Toolkit Ending Discrimination on the Basis of Gender Expression,
http://www.gillfoundation.org/usr_doc/2008Gender_Expression_Toolkit.pdf (17.12.08)

Transgender Europe available at http://www.transgendereurope.org/viewpage.php?page_id=8 (20.09.2008). The word 'transgenderism' also appears in this report and refers to having a transgender identity or expression.

Cabral, M. 'International Gay and Lesbian Human Rights Commission: Gender Expression and Human Rights',
http://www.iglhrc.org/files/iglhrc/program_docs/GEHR%20E.doc (17.12.08)

Mustola, K. 'Outline results of a questionnaire targeted at gender minorities' in J. Lehtonen and K. Mustola
 "'Straight people don't tell, do they ...?': Negotiating the boundaries of sexuality and gender at work', Ministry of Labour, Finland, 2004

Homophobia

European Parliament resolution on homophobia in Europe (P6_TA(2006)0018 (PE 368.248))

<http://www.avert.org/homophobia.htm>

'Open up Your Workplace: Challenging Homophobia and Hetero-normativity, Queerfeministisk Agenda, Stockholm: Arena. RFSL (2007)

'Sex in Public', in Critical Inquiry, 24, 2. Based on: L. Berlant, M. Warner (1998) T.Rosenberg (2002)

Human Rights of LGBT Persons

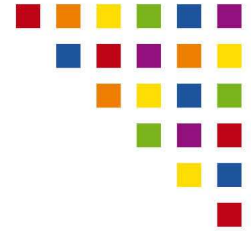
Module on Human Rights

Module about LGBT Persons and Human Rights

Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People. Council of the European Union 2010.

The Yogyakarta principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity http://www.yogyakartaprinciples.org/principles_en.htm (22.11.2008)

Module: About LGBT persons and their human rights I: outline of the module



Presentation

Human rights and human dignity are inherent to all human beings. When talking about human rights of LGBT persons, it is important to remember that these are the rights and freedoms of any other human being. However, LGBT persons may have learned that they 'have less rights' or that 'human rights are not for them', and society – the state and family – may have emphasized the same idea – no matter how wrong or misconceived this idea is.

The present module looks more in depth at the LGBT issues from a human rights perspective and it builds mainly on material produced by non-governmental organisations.

In order to acquire an understanding of LGBT persons and related issues, the present module first addresses Sexual Orientation and Gender Identity, followed by an introduction to the rights of LGBT persons based on the Yogyakarta Principles.

Sexual Orientation and Gender Identity

In order to acquire an understanding of LGBT persons and related issues, the present module addresses Sexual Orientation and Gender Identity.

One tool for training is the Little Green Book on LGBT that has been produced by LGBT Denmark. The Little Green Book contains information and some exercises that will help each participant gain insight into and perhaps even question the way in which we learn to perceive human beings, life and society at large. It also helps create an understanding of the many layers of sexual orientation and gender identity.

Human Rights of LGBT Persons

The human rights movement has in recent years worked on the issues that are specific to LGBT persons. There has also been certain recognition that awareness of the human rights of LGBT persons could be improved.

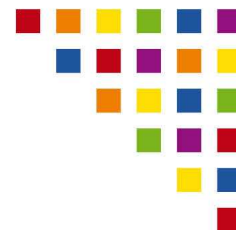
In this regard, the International Commission of Jurists (ICJ) and the International Service for Human Rights (ISHR) has spearheaded the work behind the Yogyakarta Principles (2006). The Yogyakarta Principles build upon and are strongly inspired by existing human rights instruments. These Principles are non-treaty instruments; however, it is possible to find the principles enumerated in the international human rights instruments.

The outline of the Yogyakarta Principles (LGBT Persons III) provides a general idea of the principles that are relevant to hate crimes against LGBT Persons. The Principles can be accessed directly at <http://www.yogyakartaprinciples.org/>

In addition to the Yogyakarta Principles, the publication by the ICJ entitled 'Sexual Orientation, Gender identity and International Human Rights Law, Practitioners Guide No.4' provides a comprehensive overview of the central issues, international human rights law, regional human rights systems and case law.

For more information on human rights of LGBT persons please see the Module on Human Rights.





Module: About LGBT persons and their human rights II:

On Sexual Orientation and gender Identity

Presentation

As stated in other modules of the present training material all human beings are equal in rights and in dignity.

On the one the hand, words and statements can be quite strong, on the other, it is often difficult to understand well the words and even put them into action.

Questions of sexual orientation and gender identity are often perceived as taboo by society at large. Nevertheless, they are questions that concern us all.

Sexual Orientation and Gender Identity

In order to gain insight into the complexity of sexual orientation and gender identity, it is necessary to look onto the terms and notions. The below text is based on the Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian,

Gay, Bisexual and Transgender (LGBT) People by the Council of the EUⁱ, Practitioners Guide No 4 on "Sexual Orientation, Gender Identity and international Human Rights Law by the ICJⁱⁱ" and the Little Green Book by LGBT Denmark. The list is not necessarily exhaustive.

Bisexual Bisexuals are people whose sexual orientation is towards both sexes.

Gay Lesbian women and gay men are homosexuals: people whose sexual orientation is towards someone of the same sex.

Gender Expression For the purpose of human rights protection, gender expression is also important to acknowledge and identify. The notion of what properly constitutes male or female norms has been a source of human rights abuses against individuals who do not fit or conform to the stereotypical models of masculine or feminine. Personal deportment, mode of dress, mannerisms, speech patterns, social behaviour and interactions, economic independence of women and the absence of an opposite-sex partner are all features that may subvert gender expectations.

Gender Identity according to the preamble of the Yogyakarta Principles

"each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chose, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms".

Intersex As an intersex person, ones biological sex is mixed or indistinct. There may be variations in chromosomes and/or in the anatomical or physiological characteristics. Intersex persons do not feel that their correct sex has been assigned to them at birth, as their bodies incorporate both or certain aspects of both male and female physiology, and at times their genital anatomy.



Lesbian	Lesbian women and gay men are homosexuals: people whose sexual orientation is towards someone of the same sex.
LGBT	is an acronym for 'lesbian, gay, bisexual and transgender people. It combines the sexual orientation-based identities of lesbian, gay and bisexual with a non-sexual orientation created category, transgender.
Queer	A queer person wishes to dissolve the bipolar gender.

Sexual Orientation According to the preamble of the Yogyakarta Principles

it "refers to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender".

The status of one's sexual orientation establishes the gender of the object of one's sexual attraction or experiences. The sexual orientation of a person is often divided in terms of a) homosexual, describing same-gender attraction, b) heterosexual, describing opposite-gender attraction and c) bisexual, describing both opposite and same-sex attraction. These descriptions have their roots in medical interest in issues of sexuality and sometimes sit uneasily with some advocates because they have their origins in a period in medical history when homosexuality was identified and treated as a pathological illness.

Sexual orientation is the attraction towards others that may or may not involve sexual activity and it is distinct from sexual activity. The sex of a person is usually assigned at birth and becomes a social and legal fact from there on.

Transgender	A transgender person is someone whose deeply held sense of gender is different from their physical characteristics at the time of birth. A person may be a female-to-male transgender (FTM) in that he has a gender identity that is predominantly male, even though he was born with a female body. Similarly, a person may be male-to-female transgender (MTF) in that she has a gender identity that is predominantly female, even though she was born with a male body or physical characteristics. Please see below under <i>Transsexual</i> on the sexual orientation of a transgender person.
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Transgender is the state of one's "gender identity" (self-identification as male, female, both or neither) not matching one's "assigned gender" (identification by others as male or female based on physical gender). "Transgender" does not imply any specific form of sexual orientation

They can also include cross-dressers, transvestites and other people who do not fit the narrow categories of 'male' or 'female'. Transgender persons are a particularly vulnerable group within LGBT people.

Transvestite	A transvestite person wishes to express a gender opposite to the person's biological sex.
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Transsexual	A transsexual feels that the body is wrong and the opposite of the felt gender. A transsexual may be interested in gender affirming procedures or even a full gender reassignment
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A transsexual person is one who has undergone physical or hormonal alterations by surgery or therapy, in order to assume new physical gender characteristics. Transgender and transsexual

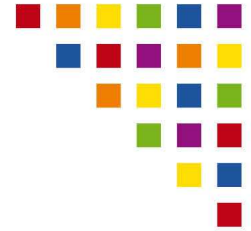
people can have any sexual orientation: it is important to distinguish the gender from the sexual activity.

Exercise:

In order to understand better these concepts, please use the Little Green Book and try the thought experiment on Sexual Orientation and Gender Identity.

ⁱ P.4

ⁱⁱ Chapter I on General Considerations, part 6. Some Definitions, p.20-23



Module: About LGBT persons and their human rights

III: An introduction to the Yogyakarta Principles

This introduction is based on the information available at: http://www.yogyakartaprinciples.org/principles_en.htm

All human beings are born free and equal in dignity and rights.ⁱ All human rights are universal, interdependent, indivisible and interrelated.ⁱⁱ Sexual orientation and gender identity are integral to every person's dignity and humanity and must not be the basis for discrimination or abuse.

Advances have been made to ensure that people of all sexual orientations and gender identities can live with the equal dignity and respect to which all persons are entitled. Many States have laws and constitutions that guarantee the rights of equality and non-discrimination without distinction on the basis of sex, sexual orientation or gender identity.

Nevertheless, human rights violations targeted at persons due to their actual or perceived sexual orientation or gender identity constitute a global and entrenched pattern of serious concern. They include extra-judicial killings, torture and ill-treatment, sexual assault and rape, invasions of privacy, arbitrary detention, denial of employment and education opportunities, and serious discrimination in relation to the enjoyment of other human rights. These violations are often compounded by experiences of other forms of violence, hatred, discrimination and exclusion, such as those based on race, age, religion, disability, or economic, social or other status.

Many States and societies impose gender and sexual orientation norms on individuals through custom, law and violence and seek to control how they experience personal relationships and how they identify themselves.

The international system has seen advances for gender equality and protection against violence. International human rights mechanisms have affirmed States' obligation to ensure effective protection of all persons from discrimination based on sexual orientation or gender identity. However, the international response to human rights violations based on sexual orientation and gender identity has been fragmented and inconsistent.

This is why it is necessary to create an understanding of the comprehensive regime of international human rights law and its application to issues of sexual orientation and gender identity. It is critical to collate and clarify State obligations under international human rights law, in order to promote and protect all human rights for all persons on the basis of equality and without discrimination.

It is with this in mind, that the *Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity* were developed in 2006 by an international group of experts. It was the International Commission of Jurists (ICJ) and the International Service for Human Rights (ISHR), on behalf of a coalition of human rights organisations that created the framework for this endeavour to be carried out.

The Yogyakarta Principles address a broad range of human rights standards and their application to issues of sexual orientation and gender identity. They affirm the primary obligation of States to implement human rights. Each Principle is accompanied by detailed recommendations to States. Moreover, all actors have responsibilities to promote and protect human rights. Additional recommendations are addressed to other actors, including the UN human rights system, national human rights institutions, the media, non-governmental organisations, and funders.

The Yogyakarta Principles reflect the existing state of international human rights law in relation to issues of sexual orientation and gender identity. In addition, States may incur additional obligations as human rights law continues to evolve. Being a non-treaty instrument,ⁱⁱⁱ the Yogyakarta Principles do affirm binding international legal stan-



dards with which all States must comply. They promise a different future where all people born free and equal in dignity and rights can fulfil that precious birthright.

The Yogyakarta principles encompass many rights and the following are particularly relevant in relation to Hate Crimes against LGBT Persons :

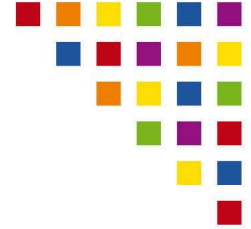
- The Right to the Universal Enjoyment of Human Rights
- The Rights to Equality and Non-discrimination
- The Right to recognition before the law
- The Right to Life
- The Right to Security of the Person
- The Right to Privacy
- The Right to Freedom from Arbitrary deprivation of liberty
- The Right to a Fair Trial
- The Right to Treatment with Humanity while in Detention
- The Right to Freedom from Torture and Cruel, Inhuman or Degrading Treatment or Punishment
- The Right to Protection from all forms of exploitation, sale and trafficking of human beings
- The Right to Freedom of Opinion and Expression
- The Right to Freedom of Peaceful Assembly and Association
- The Right to Freedom of Thought, Conscience and Religion
- The Right to Freedom of Movement
- The Right to Participate in Public life
- The Right to Participate in Cultural Life
- The Right to Effective Remedies and Redress
- Accountability

ⁱ Universal Declaration of Human Rights

ⁱⁱ Vienna Declaration and Programme of Action

ⁱⁱⁱ See the Module on Human Rights

Module: About LGBT persons and their human rights IV: Resources



Other modules

Module on Human Rights

The Yogyakarta Principles

The Yogyakarta Principles
on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity

<http://www.yogyakartaprinciples.org/>

An overview of the Yogyakarta Principles http://www.yogyakartaprinciples.org/principles_en.htm

Human Rights of LGBT Persons

Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People. Council of the European Union 2010.

Please look under the item 'Latest news' at <http://consilium.europa.eu/showPage.aspx?id=1634&lang=en>

Human Rights and Gender Identity,
Issue Paper by Thomas Hammarberg, Council of Europe Commissioner for Human Rights
<https://wcd.coe.int/ViewDoc.jsp?id=1476365>

Literature and documentation on Sexual Orientation and Gender Identity

International Service for Human Rights on Sexual Orientation and Gender Identity:
<http://www.ishr.ch/sexual-orientation>

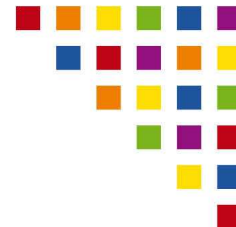
International Commission of Jurists Resources on Sexual Orientation and Gender Identity:
<http://icj.org/recherche.php3?lang=en&country=&topic=447§ion=&keywords=&qo=Search>

International Commission of Jurists
Practitioners Guide No. 4 Sexual Orientation, Gender Identity and International Human Rights Law,
<http://icj.org/IMG/PractitionersGuideonSOGI.pdf>

LGBT Denmark The Little Green Book (may be found in the middle of the page)

http://www.lgbt.dk/om_foreningen/





HUMAN RIGHTS I: Human Rights Introduction

- Human rights are for all human beings
- Human rights are inherent to all human beings
- Human beings are born equal in dignity and rights regardless of their social status, citizenship etc.

As concerns human rights in relation to hate crimes against LGBT persons in Europe, there are three levels of instruments that may be applied: international human rights instruments, regional European human rights instruments and non-treaty instruments. Below you may find a brief description of those instruments that are particularly relevant to the project and that set the framework within which hate crimes against LGBT persons can be addressed from a human rights perspective.

International Human Rights Instruments

As mentioned in *Police I: Human Rights and Police Ethics* the absolute requirements on police is to respect the rule of law, human dignity; and human rights.ⁱ In this way policing and law enforcement are linked with human rights protection.

International human rights instruments are part of international law. The international instruments are usually developed and agreed on within the framework of the United Nations, they can be devised through the special agencies or entities, such as the Office of the High Commissioner for Human Rights.

The instruments are agreed on by resolution of the United Nations General Assembly. The United Nations General Assembly, which some name 'the Parliament of Man', comprises representatives from states all over the World.

In order to take effect, each instrument contains a procedure to be met by the United Nations Member States. Member States may decide to sign and/or ratify an international human rights instrument. By signing Member States take a first step towards accepting the instrument, which is done by ratification. Human Rights Instruments take effect at the time when a number of Member States of ratified the instrument. In some cases this can take many years, whereas in others it may take a very short time.

Defined as soft law, the main source of all human rights is:

- the International Bill of Rights that comprises:
 - the Universal Declaration on Human Rights (UDHR)
 - the International Covenant on Civil and Political Rights (ICCPR) and optional protocols
 - the International Covenant on Economic, Social and Cultural Rights (ICESCR).

In addition there are human rights instruments on specific issues. They include:



- the Convention of the Elimination of All Forms of Racial Discrimination (CERD)
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and optional protocol
- the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and optional protocol.
- the Convention on the Rights of the Child (CRC)
- the International Convention for the Protection of All Persons from Enforced Disappearance.

Central to all of these instruments are the principles of equality and non-discrimination, outlined in the preamble of each instrument. Equality and non-discrimination are principles that apply to all human beings, no matter how difficult it may be to respect and protect these principles in everyday life.

Regional Human Rights Instruments

There are regional human rights instruments and mechanisms in Africa, the Americas and Europe. The **central** instruments include:

- The African Charter on Human Rights and Peoples Rights and protocols
- The American Convention on Human Rights and protocols
- The Inter-American Convention to Prevent and Punish Torture (*Pact of San José, Costa Rica*)
- Convention for the Protection of Human Rights and Fundamental Freedoms and protocols (*The European Convention on Human Rights*)
- The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

As the present project is carried out in Europe, both the international instruments and the European instruments apply.

Human Rights II: The Universal Declaration on Human Rights and *Human Rights III: The ICCPR and ICESCR* look into the international human rights instruments that are relevant when addressing hate crimes against LGBT persons. Moreover, *Human Rights IV: The European Convention on Human Rights* outlines the relevant European instruments.

Both Rights and Obligations

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others.

Non-Treaty Instruments

In addition to the international instruments, there are also non-treaty instruments, which can be international and regional. These instruments encompass codes of conduct, guidelines and principles developed on the basis of human rights. They relate to specific thematic issues (such as *Recommendations on Policing in Multi-Ethnic Societies*), professionals (*Code of Conduct for Law Enforcement Professionals*) or groups, including vulnerable groups (*United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, *Declaration on the Elimination of Violence against Women*).

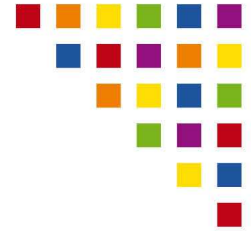
For the purposes of the project 'Tracing and Tackling Hate Crimes against LGBT Persons', the following non-treaty instruments are relevant and useful:

- Code of Conduct for Law Enforcement Officials
- European Code of Police Ethics
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

The two first instruments are touched upon in *Police I : Human Rights and Police Ethics*, whereas the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power can be accessed through the link included in *Police V: Resources*.

ⁱ Police and Human Rights. A Manual for Teachers, Resource Persons and Participants in Human Rights Programmes. Second Revised Edition by Ralph Cranshaw. Martinus Nijhoff Publishers. 2009

HUMAN RIGHTS II: The Universal Declaration of Human Rights



Presentation

As mentioned in “Human Rights and Police Ethics”ⁱ the absolute requirements on police is to respect the rule of law, human dignity; and human rightsⁱⁱ. In this way policing and law enforcement are linked with human rights protection.

International human rights instruments are part of international law. Defined as soft law, the main source of all human rights is the International Bill of Rights that comprises the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). In addition there are human rights instruments on specific issues, among the Convention of the Elimination of all Forms of Racial Discrimination (CERD), the Convention on All Forms of Discrimination against Women (CEDAW) and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Central to these instruments are the equal and inalienable rights of each human being and the principles of equality and non-discrimination, outlined in the preamble of each instrument. It is also important to remember that rights also entail that the individual has duties – also in relation to the community.

The present document concerns the Universal Declaration of Human Rights.

The Universal Declaration of Human Rights (UDHR)

The UDHRⁱⁱⁱ is at the very core of international human rights instruments. According to the United Nations Office of the High Commissioner for Human Rights, the Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. The Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948^{iv} (General Assembly resolution 217 A (III)) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. The UDHR addresses civil and political as well as social, economic and cultural rights.

In relation to LGBT persons and in particular to the situation where a LGBT person has fallen victim to a hate crime, the below rights and duties are relevant.

Non-discrimination

Non-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitute a basic and general principle relating to the protection of human rights.^v



Equality: Rights and Duties

Central to the UDHR is that human beings are equal in dignity, rights and freedoms:

- Human beings are born free and equal in dignity and rights, UDHR, Art.1
- Everyone is entitled to all of the rights and freedoms without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. UDHR, Art.2
- Everyone has duties to the community in which alone the free and full development of his personality is possible. UDHR, Art. 29.

Equality is for all human beings, regardless of e.g. their sex, sexual orientation or gender identity. In other words: Equality is for LGBT persons and human beings in general.

Civil and Political Rights

In the case of hate crimes, civil and political rights are central to the way in which hate crime victims are treated and how an incident is handled by the authorities. This is particularly true in regard to the justice sector – from hate crime prevention and detection and the reception of victims by the police to the judgement of the possible case by the courts.

Each person is considered equal before the law and has rights that concern personal safety/physical integrity. Moreover, the individual has a right to be protected against discrimination, also in relation to protection by the law.

Should a person fall victim to a violation of his or her rights that are described in the law, then that person has the right to obtain an effective remedy through the justice system. Rights have corresponding duties, in this case the duty is for the justice system – or the state – to ensure that the correct proceedings are launched as a means of assessing and possibly providing an effective remedy.

- Everyone has the right to life, liberty and security of person, UDHR, Art.3
- No one shall be subjected to torture or to cruel, inhuman or degrading treatment, UDHR, Art. 5
- Everyone has the right to recognition as a person before the law, UDHR, Art. 6
- All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against incitement to such discrimination. UDHR, Art.7
- Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the constitution or the law. UDHR, Art. 8
- No-one shall be subjected to arbitrary arrest, detention or exile. UDHR Art. 9
- No-one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks. UDHR, Art. 12

- Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference his... belief, ... to manifest his...belief in teaching, practice.

Economic, Social and Cultural Rights

In terms of hate crimes against LGBT persons and the handling by the police of hate crimes, the economic, social and cultural rights are not at the core of the issue. Both Art 13 on the right to education and Art. 15 on the right to participate in cultural life are worth mentioning.

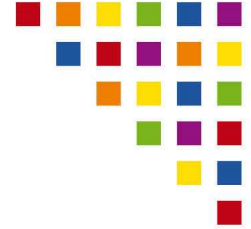
ⁱ 'Human Rights and Police Ethics' is part of the Module: About the Police.

ⁱⁱ Police and Human Rights. A Manual for Teachers, Resource Persons and Participants in Human Rights Programmes. Second Revised Edition by Ralph Cranshaw. Martinus Nijhoff Publishers. 2009

ⁱⁱⁱ The Universal Declaration of Human Rights may be found in many languages at <http://www.ohchr.org/EN/UDHR/Pages/WorldRecord.aspx>

^{iv} [http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/RES/217\(III\)&Lang=E](http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/RES/217(III)&Lang=E)

^v Human Rights Committee, General Comment No.18, Non discrimination, para. 1.



Presentation

A common idea is that human rights are not relevant to the police or policing as such. However, consider the fact that policing is a means whereby a state either meets or fails to meet its human rightsⁱ obligations.

In brief, policing requires that the police

- acts within the framework of the constitution and legislative framework of a given state
- protects the rights of persons in order to meet the human rights obligations of the state.

How is policing linked with human rights?

The absolute requirements on police are to respect:

- the rule of law
- human dignity; and
- human rightsⁱⁱ.

Police often address human rights through a code of ethics, there are international codes of ethics for police as well as ethical rules and regulations of local police forces. The present paper addresses the international codes.

The UN Code of Conduct for Law Enforcement Officials (1979), Art. 2 requires law enforcement officials – or all that exercise police powers – to respect and protect human dignity and maintain and uphold human rights.ⁱⁱⁱ

The European Code of Police Ethics^{iv} is more detailed. It provides that the main purposes of the police in a democratic society governed by the rule of law are to maintain public tranquillity and law and order in society, protect and respect the fundamental rights and freedoms of the individual.^v Art. 1 also includes the purposes of preventing and combating crime, detecting crime and providing assistance and service functions to the public.

The police should respect and obey the law in its work. As human rights are protected by law, it follows that the police should respect human rights.^{vi} The duty to respect and obey the law is essential as it is through law enforcement that the police should help prevent and reduce crime. Moreover, the law provides for transparency and foreseeability in policing and law enforcement. If the police do not follow the law, then policing becomes uncertain and arbitrary, and it can become law-breaking rather than law abiding.

Policing, Police Ethics and the Victim

Policing that respects human rights implies respecting the rights of the victim and of the suspect. The present paper focuses only on the victim. Taking point of vantage in the European Code of Police Ethics^{vii} the following table includes comments on how they relate to the victim.



The European Code of Police Ethics provides guidelines for police action or intervention^{viii} of relevance to LGBT victims of hate crimes. The following are excerpts of the code with comments on why the particular article is relevant in relation to policing and hate crimes against LGBT persons.

The European Code of Police Ethics

Guideline	Comment
The police is prohibited from inflicting, instigating or tolerating any act of torture, or inhuman or degrading treatment or punishment under any circumstances (Art.36)	This implies that the police should not tolerate e.g. any degrading treatment of an LGBT person, when this person contacts the police.
It is required that the police always verifies the lawfulness of their intended actions. (Art. 37)	The police must be sure that their actions or intended actions are within the limits of the law.
The police shall carry out their tasks in a fair manner, guided, in particular by the principles of impartiality and non-discrimination (Art. 40).	The police shall thus receive an LGBT person without prejudice and the person shall not be discriminated or feel discriminated by the police.
The police shall interfere with individuals' right to privacy only when strictly necessary and only to obtain a legitimate objective (Art. 41).	It is important that private information, such as sexual orientation or gender identity should be volunteered by the victim in an interview. The police shall respect the person's right to privacy and be attentive to the needs of the victim, while addressing the facts of the incident.
It shall always bear in mind everyone's fundamental rights such as freedom of thought, conscience, religion, expression, peaceful assembly, movement and the peaceful enjoyment of possessions. (Art. 43)	It is essential to bear in mind that all are equal (the principle of non-discrimination) and that each person has human rights that should be respected.
There shall be guidelines for the proper conduct and integrity of police interviews (Art.50)	This is mainly aimed at interviews with suspects; however, interviews with victims should be carried out correctly. Most police forces have internal rules and guidelines to be followed by the police staff.
The police are required to provide the necessary support, assistance and information to victims of crime without discrimination (Art. 54).	Support, assistance and information are essential in the treatment of victims. As concerns interviews, emphasis should be placed on the setting and duration of the interview as a means of assisting the victim in producing the information required for the possible investigation.

ⁱ See "International Human Rights Standards".

ⁱⁱ Police and Human Rights. A Manual for Teachers, Resource Persons and Participants in Human Rights Programmes. Second Revised Edition by Ralph Cranshaw. Martinus Nijhoff Publishers. 2009

ⁱⁱⁱ UN Code of Conduct for Law Enforcement Officials may be found here: <http://www2.ohchr.org/english/law/codeofconduct.htm>

^{iv} The European Code of Police Ethics:

<https://wcd.coe.int/ViewDoc.jsp?id=223251&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

^v In particular the European Convention on Human Rights, see "Human Rights in Europe".

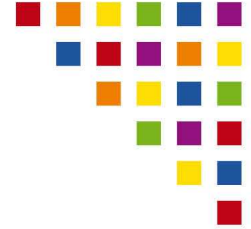
^{vi} See "International Human Rights Standards".

^{vii} The European Code of Police Ethics:

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^{viii} The European Code of Police Ethics:

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When interviewing a victim there are certain ethical considerations which should be considered. When interviewing there is a need to balance two important requirements which may conflict: namely the need to obtain useful information while also respecting the needs of the person being interviewed. The following are inputs to how the police (and NGOs) can make the interviewees feel more at ease and to the degree possible avoid that the victim becomes traumatised (again) during the interview.

During an interview the guiding principle should be to examine what happened and obtain as clear a picture of this as possible. At the same time one should not forget that the interview can be difficult for a person because he or she has to reconstruct possible traumatic events and/or talk about sensitive issues. This must be respected and thus it is important to watch out for e.g. tiredness during the interview/interrogation.

What can you do to make interviewees feel more at ease?

- Before the interview, place a notice at the entrance that you don't want to be disturbed
- Establish a comfortable setting
- Ensure that there are no interruptions, such as telephone calls or other people talking
- Allow for breaks
- Think about body language/facial expressions
- Encourage the victim to talk freely, avoid judgements and keep an open attitude
- Make sure to the victim that you understand that some of the issues may be very difficult to talk about
- Never use a threatening or harsh tone, but be reassuring

Body language:

- The physical position you adopt can communicate your interest in what the victim is saying
- Be natural, attentive and relaxed
- Keep your movements and facial expression as neutral as possible. This will encourage the victim to communicate.
- Do not slouch or move about in your chair or look out of the window or make any gestures that suggest that you do not agree with or believe the story being told, that you are disgusted or the like.

Addressing the sensitivity of the subject matter:

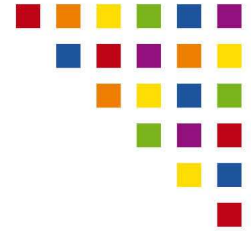
You can take steps to minimize the re-traumatisation by:

- Show regard for the victim
- Listen and allow expression of personal and family concerns
- Acknowledge pain and distress
- Do not press interviewees if they become distressed
- Bring the conversation around to a less sensitive subject, before ending the interview. Do not suddenly end the interview.

ⁱ The tool is partly inspired by guidelines in the Torture Reporting Handbook, Camille Giffard, University of Essex and UNHCR principles in relation to interviewing applicants for refugee status.



Police III: Criteria: Hate Crimes Against LGBT Persons



Criteria of hate crime can help police define whether the crime is a possible hate crime or whether it is just a “regular crime.”

The below criteria can be used as a screening tool for the police and a help to classify a crime as a possible hate crimeⁱ, it particular if it is a hate crime against LGBT persons.

CRITERIA

1. Witness feature: Persons directly affected by the violent act see it as an act of violence motivated by bias against LGBTs. It is taken into account whether the directly affected persons, i.e., the victims themselves but also witnesses, relatives or, others assess the violent act as directed against LGBTs

2. Offender feature A: Before, during or after the crime, the offender speaks in a language, wears or displays symbols that indicate bias against LGBTs. It is taken into account whether the offender made homophobic remarks on the victim before, during or after the crime, no matter if the victim is actually LGBT.

3. Offender feature B: Surrounding the act of violence that has become known, there are a number of indications that the crime was committed by offenders already involved earlier in discrimination and violent acts against ethnic, religious or sexual minorities. It is taken into account whether the offender(s) is/are members or supporters of a radical sect, an extremist ideology or religious-fundamentalist ideas, whether he/ they is/are already known for statements or publications revealing a homophobic/ transphobic attitude motivated by bias and/or calling for hate and violence against LGBTs.

4. Perpetration feature: There are indications that the act of violence was committed with extraordinary brutality by the offender(s). It is taken into account that, due to their bias against LGBTs, the offenders often attack their victims with great and unusual brutality that appears inappropriate regarding the initial situation.

5. Scene of the crime feature A: The act of violence occurs at places where violent acts against LGBTs have repeatedly been committed in the past. It is taken into account whether violent acts against LGBTs occur at places that are known among LGBTs but not to the general public, as meeting places (e.g., so-called cruising areas: parks, hotels, swimming pools, public toilets car parks). In a historical review of these places, it is taken into account whether violent acts against LGBTs have taken place earlier, no matter if these places are or were meeting places of LGBTs (e.g. public toilets that are not or no longer known as pick-up spots).

6. Scene of the crime feature B: The act of violence occurs directly in an area in which gay bars, event venues, meeting places, or male prostitution is located. It is taken into account whether the act of violence takes place, for example, in a “gay neighbourhood,” in the area of a red-light district, in cruising areas, or in the vicinity of bars for homosexuals, event venues or meeting places. [Give examples of country specific relevant neighbourhoods]

7. Victim feature A: The act of violence is directed against persons that show themselves as homosexuals or are recognisable or deemed as such by the offenders due to the way they dress and their behaviour. It is taken into account whether persons for example walking visibly holding hands or kissing each other, or have visible indications such as stickers (rainbow flag) on their cars etc.

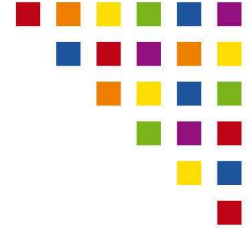


8. Victim feature B: The act of violence is directed against persons publicly committed to or advocating the concerns of homosexuals, bisexuals, transgender, or people with HIV/AIDS. It is taken into account that the person is known both in his social surroundings and through public or media presence for his commitment. This includes prominent gay personalities such as gay politicians, actors etc.

9. Time feature: The act of violence occurs at a time during which an event for LGBTs is taking place, for example World Outgames or Gay Pride Parades [Give examples of country specific events].

ⁱ The indicators are built on indicators developed by Maneo, Berlin.

Police IV: What to Remember at Interviews



Below is a check-list for the police on what to remember to ask and document in relation to a possible hate crime against LGBT personsⁱ. This is followed by an exercise that is a role play on an interview situation.

What Should the Police Remember to Document When Interviewingⁱⁱ

1: Questions to Witnesses

- Ask the witnesses open questions about their perception of the motive/reason for the crime / anything in particular that may have “provoked” a crime (for example two men holding hands).
- Ask the witness to describe, what happened / other observations regarding victim and offender (clothes, behaviour etc.)
- Make sure that the witness describes what was said at the crime scene; was abusive language used or (racist) homophobic remarks?

2: Questions to Alleged Offender/ Offenders

- Describe in writing the suspect/take photographs
- Ask the alleged offender about the motive of the crime
- Ask the alleged offender about his/her opinion of the crime committed
- Does the suspect express (racist) or homophobic views?
- Is the offender member of a radical organization / has the offender committed similar crimes before?

3: Questions Regarding Perpetration Feature

- What kind of violence was committed, are there any signs of extraordinary brutality?

4: Questions Regarding the Scen of the Crime Feature

- Has the crime been committed in an area particularly known and used by LGBTs?



5: Questions to Victims

- Description of the victim (dress, appearance, mental state of mind, photo included if consent)
- Ask open questions about the victims perception of the motive / reason for the crime
- Ask the victim whether homophobic, (racist) or similar views were uttered?
- Ask the victim about any special commitment
- Ask the victim to describe the offender

6: Description of the Crime Scene

- Take photographs of the scene of the crime /document the special features of the crime scene.
- Seizure of clothing or relevant objects with a (racist)/homophobic character.

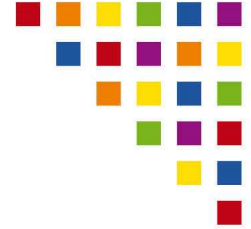
7. Why Was the Victim Attacked

- Assess the following (based on indicators from above): Would the victim have been attacked if he/she was not considered to be LGBT?

ⁱ Although the project focuses on LGBT persons, the below criteria may relevant to hate crimes against victims of other types of hate crime, such as racist hate crimes.

ⁱⁱ The questions are inspired by practice of the Danish Police

Police V: A Case for Discussion



Depending on the number of participants, this case can be presented in plenary or in groups. One participant reads the case description and it is debated.

Steffen Andersen and Jeanette Jakobsen have shared the same flat for a number of years.

In April 2002 they share for the very first time their experiences as homosexuals with the outside world in an interview by the Danish newspaper 'Jyske Vestkysten'. The following weekend Steffen Andersen goes outside to his garden to smoke a cigarette. All of sudden he is hit in face by a fist and kicked in the side. Once he gets to his feet, the attacker has disappeared.

Steffen Andersen has a feeling that Tony Thomasen, a person with whom he lives, is behind the attack. He thinks that he is also the one who has placed threatening letters on the door to his room and knows for sure that Tony Thomasen is the one who has yelled at him in the communal kitchen. Among others the threatening letters say "you must be aware that you will die within 24 hours." He presses charges for the attacks and the threats of violence, but the police refuse to investigate the matter. On the question regarding the reason why the police will not pursue the case, acting detective Jens Rasmus Jensen gives the following answer to the same newspaper ('Jyske Vestkysten'):

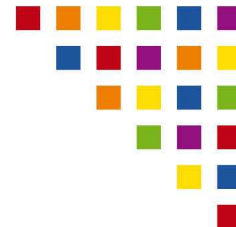
"When people lead very different lives, as for instance queers and pedophiles do, you must expect that going public with it has consequences. It is quite all right that they go public because we have freedom of speech – but they have turned on the music, so to speak" and "It is like the matter with The Satanic Verses where the author had to go underground. Going public with something controversial has consequences – and you must consider this beforehand, because the police do not have sufficient resources to protect each and everyone who feels threatened".

Steffen Andersen accepts the consequence and moves to Copenhagen.

Questions for discussion:

- Do you think that this is a usual way of solving such a situation? Why? Why not?
- Which are the issues regarding hate crime?
- What do you think of the police in relation to the investigation?
- What do you think of the comments by the acting detective to the newspaper?
- In your view, could this have been handled differently by
 - By Steffen Andersen ?
 - By the police?
 - By the newspaper?
- If you were Steffen Andersen, what would you have done?
- If you were a police officer, what would you have done?





Police VI: Resources

Training modules:

Module: About Human Rights

Human Rights:

Universal Declaration of Human Rights (UDHR)

International Covenant on Civil and Political Rights (ICCPR)

European Convention on Human Rights (ECHR).

Non Treaty Instruments:

UN Code of Conduct for Law Enforcement Officials : <http://www2.ohchr.org/english/law/codeofconduct.htm>

The European Code of Police Ethics:

<https://wcd.coe.int/ViewDoc.jsp?id=223251&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

UNHCR principles in relation to interviewing applicants for refugee status. (link to be added here).

Literature:

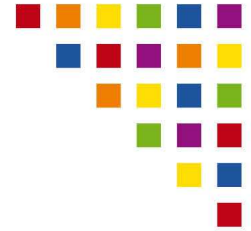
Police and Human Rights. A Manual for Teachers, Resource Persons and Participants in Human Rights Programmes. Second Revised Edition by Ralph Cranshaw. Martinus Nijhoff Publishers. 2009

Guidelines in the Torture Reporting Handbook, Camille Giffard, University of Essex

Indicators developed by Maneo, Berlin (link to be added here)



MODULE PREJUDICE I: PERCEIVED PREJUDICE WITHIN THE POLICE



Several studies confirm that the official data does not at all describe the real extent of hate crimes against LGBT persons, among other reasons because of lack of reporting. Stonewall (2008) notes that only a quarter of homophobic hate crimes and incidents are reported to the police, and 70 percent of the victims did not report the incident to anyoneⁱ. In its 2006 annual report, ODIHR notes that *homophobic and transphobic incidents and crimes targeting LGBT persons are believed to be among the most underreported and under-documented*ⁱⁱ.

According to the Human Rights First report 2008, victims of homophobic or transphobic crimes often have cultural or social obstacles to report incidents. One fear is that reporting means shedding extra light on one's sexual orientation, which could lead to further abuse. Also little confidence in the criminal justice system is mentioned as a possible reason. Legislation (or lack of the same) and antigay rhetoric of political and community leaders leads to a feeling of homosexuality as being socially unacceptableⁱⁱⁱ.

Several studies point to the fact that victims of hate crimes do not report the incident because of lack of trust in the police. According to a report conducted by Stonewall, lesbian and gay persons expect that they will be treated worse than heterosexuals if they report or commit a crime. In addition, lesbian and gay persons think they will be treated even worse by the police if they report a homophobic hate crime^{iv}.

The survey made by Stonewall (2008) also shows that gay and lesbians fear homophobic attitudes and treatment from the police: 20 percent say that they expect discrimination from the police, should they report a crime. Furthermore, victims often doubt that the police will act on the report or treat the incident seriously. The media is described as having influence on the confidence in the police^v.

The findings of the above mentioned studies can lead to the conclusion that there seems to be a great deal of mistrust of the police within the LGBT community. The change of culture within police forces as well as a well the establishment of dialogue between the police and the LGBT community is key to set off a change. It is a long-term objective and necessitates on-going and regular dialogue^{vi}.

Another report on hate crimes in general (not only against LGBT persons) by OSCE/ODIHR (2009) states that there can be a failure to report hate crimes on the part of some police personnel because they share the prejudices of the perpetrators. A *de facto* norm may exist that deters police personnel from responding adequately to members of minority groups who report crimes, denying them respect and equal protection. In this kind of environment, officers might not question victims and perpetrators appropriately about possible hate motivation in reported bias incidents, or they might be reluctant to report that the crime involved hate motivation.

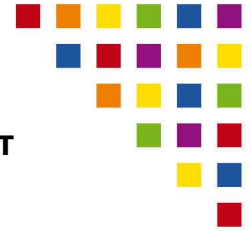
The report concludes that what police officers do and say in the first several minutes at a crime scene can affect the recovery by victims, perception by the general public of governmental commitment to addressing hate crimes, and the outcome of the investigation. Officers who recognize a probable hate crime, interact with the victims with empathy, and take action to initiate a hate crime investigation send a strong message that hate crimes are a serious issue^{vii}.

The aim with this training material is to initiate reflections on possible prejudices towards LGBT persons within the police and to create awareness of how the police can secure a constructive environment free of prejudices when interacting with a LGBT person who has been a victim of a hate crime.



PREJUDICE II:

PREJUDICES AND STEREOTYPES – HOW THEY AFFECT THE WAY WE THINK AND ACT



Stereotypes are ideas that are based on a generalization about an entire group or category of people. Stereotypes can be both negative and positive. Common for all stereotypes is that they affect our understanding and expectations of other people, which in turn affects our actions and interpretations of others' acts.

Prejudices can be defined as a judgement in advance and preconceived ideas about and attitudes towards other persons or groups. Prejudices are often negative and are typically based on rumors, assumptions, feelings and beliefs rather than on knowledge and evidence. Prejudices influence both our actions as well as our interpretations of others' acts.

Stereotypes and prejudices are an integral part of our cultural self-understanding, and are thus rarely something we are aware of. It is often difficult to change stereotypes and prejudices because they are a result of lifelong socialization.

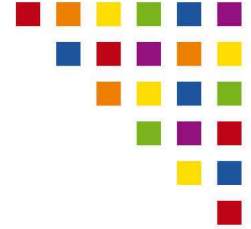
Individuals and institutions are also based on stereotypes and prejudices that make us blind to structural inequalities. This means that discrimination frequently occurs because of such entrenched and unreflective beliefs and attitudes. Discrimination is often invisible to us and can be manifested in many different ways. No one is free from discrimination and we can all get to discriminate unintentionally or experience to be discriminated against.

Stereotypes and prejudices can be a problem when we have no personal contact with those we have prejudices and stereotypes about. The absence of personal contact and dialogue reinforces mutual prejudices and can lead to prejudices and stereotypes being perceived as facts as they are not challenged. The problem of prejudice and stereotypes is that they make us blind to the nuances and individual differences and capabilities. It is important to be aware of one's own prejudices and stereotypes, so they are not exalted to be the truth / facts.



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- ⁱ *Homophobic hate crime. The Gay British Crime Survey 2008.* Stonewall 2008
http://www.stonewall.org.uk/documents/homophobic_hate_crime_final_report.pdf
- ⁱⁱ *Violence based on Sexual Orientation and Gender Identity Bias.* Human Rights First 2008/ ODIHR 2006
- ⁱⁱⁱ *Violence based on Sexual Orientation and Gender Identity Bias.* Human Rights First 2008
- ^{iv} *Lesbian and gay people's expectations of discrimination.* Stonewall 2008
<http://www.stonewall.org.uk/documents/servesyouright.pdf>
- ^v *Homophobic hate crime. The Gay British Crime Survey 2008.* Stonewall 2008
http://www.stonewall.org.uk/documents/homophobic_hate_crime_final_report.pdf
- ^{vi} <http://ilga-europe.org/content/download/16147/101403/version/1/file/ILGA-Europe+report+-+part+2.pdf>
- ^{vii} Preventing and responding to hate crimes. A resource guide for NGOs in the OSCE region. OSCE/ODIHR 2009

PREJUDICE III: EXERCISES ABOUT PREJUDICE FOR INSPIRATION



We need to challenge our own understanding and prejudices in order to change attitude towards other people.

The following exercises can be used to explore and confront own prejudices and stereotypes. The objective of the exercises is to strengthen the knowledge of and to create awareness about prejudices and stereotypes and the consequences hereof by providing the participants with the necessary tools for identifying, discussing and challenging own prejudices. The exercises place focus on ourselves and on the fact that we all have prejudices, which need to be challenged to enable us to change our behaviour.

The exercises can be adjusted according to the needs and knowledge of the target group.

Exercise 1: Exploring – in pairs (5 min per person, then 5 min. 15-20 min.)

The following exercises give the participants the opportunity to learn about own and others' differences, preferences and similarities. The exercise is performed in groups of two persons. Following questions are to be answered; at first by one person and then by the other person afterwards. The answers are subsequently shared in the larger group.

- What do I think, that you think about me?
- What do I think is important, that you know about me?

Exercise 2: Words and their meaning (introduction 5 min., group work 30 min., plenary 25 min.)

The purpose of this exercise is to create awareness about prejudices and conceptions of LGBT persons, and to discuss the usage (the language used) within the police.

The exercise is performed in groups. Each group is handed over four pieces of paper with one of the following headlines on each of them:

- Lesbians
- Gays
- Bisexuals
- Transsexuals

The participants write all the synonyms and slang expressions they can think of under each headline.



Afterwards, all the written words are collected and written on a board or a flip chart. Then words are discussed in plenary:

- What do the words mean?
- What do they signalize?
- Which words are positive – and which are negative?
- Are there any differences between the words in relation to which group they are listed under?
- Are there discriminating words?
- Which words are okay to use?
- Which effect do the words we use have on the way we regard LGBT persons?
- Why do we have so many words describing the same term?
- What are the advantages and disadvantages of having different words describing the same term? Etc...

Exercise 3: Putting myths and prejudices in play (plenary 20-40 min.)

The purpose of this exercise is to make prejudices visible and to connect them with the participants' own knowledge of and experiences with myths and hereby help differentiate the perceptions and notions of LGBT persons.

A black or whiteboard is divided into two. The participants are asked how LGBT persons look, how they act etc. The answers are written on one side of the board. The participants are then asked if they know of any lesbian, gay, bisexual or transsexual person. The answers are listed on the other side of the board (e.g. famous persons, family members, friends, neighbors, etc...).

Then the characteristics of LGBT persons written on the one side of the board should be compared with the examples of LGBT persons listed on the other side of the board. Questions could include:

- Which perceptions or prejudices can be confirmed and which cannot?
- What are prejudices and what is knowledge?
- Which prejudices (or perceptions) are positive and which are negative?
- How do we get our prejudices?
- Why do we think that... (listed perception)
- Which effect do our prejudices have on the way we act? Etc...

Exercise 4: LGBT associations (group work 15 min., plenary 30 min.)

The purpose of this exercise is for the participants to present their ideas of respectively homosexuals, bisexuals, transsexuals and heterosexuals, and thus become aware of their own opinion and understanding of others'.

The participants are divided into four groups. Each group is handed a piece of paper (large) and asked to draw a circle in the middle of the paper. One group writes 'homosexual' in the circle, another group writes 'bisexual', the third group writes 'trans(sexual)' and the fourth group writes 'heterosexual'. The participants in each group then take turns and write an association to the word in the circle. E.g. a line can be drawn from the word in the circle and the word associated with it, is written at the end of the line. Each participant writes one word and passes the pen on to the next participant who continues.

After a while (e.g. 10 minutes) the groups compare their papers and discuss similarities and differences, what are positive and what are negative associations, etc...

Exercise 5: Examples of prejudices (20 min.)

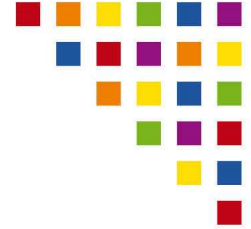
The Danish Red Cross Youth Organization asked 452 persons in Denmark about their prejudices. Of prejudices regarding LGBT persons, the following were mentioned:

- Gay men hit on all men and they love sex in large groups
- Boys with tight jeans are definitely gay
- Gay men are feminine
- Lesbian women drive four-wheelers.

Questions for the participants:

- Do you have or know of other prejudices?
- Do you agree/disagree with any of the mentioned prejudices?
- Which of the prejudices is positive/negative? Etc.

PREJUDICE IV: RESOURCES



Training Modules

About Human Rights

Reports and literature

Homophobic hate crime, The Gay British Crime Survey 2008, Stonewall 2008

http://www.stonewall.org.uk/documents/homophobic_hate_crime_final_report.pdf

Violence based on Sexual Orientation and Gender Identity Bias, Human Rights First 2008/ ODIHR 2006

Lesbian and gay people's expectations of discrimination, Stonewall 2008

<http://www.stonewall.org.uk/documents/servesyouright.pdf>

Homophobic hate crime. The Gay British Crime Survey 2008, Stonewall 2008

http://www.stonewall.org.uk/documents/homophobic_hate_crime_final_report.pdf

ILGA Europe report: Equality for lesbian, gay, bisexual, trans and intersex people in Europe

<http://ilga-europe.org/content/download/16147/101403/version/1/file/ILGA-Europe+report+-+part+2.pdf>

Preventing and responding to hate crimes. A resource guide for NGOs in the OSCE region, OSCE/ODIHR 2009

Web-sites

www.ilga-europe.org

www.stonewall.org

<http://www.avert.org>

<http://www.galop.org.uk/>

www.fra.europa.eu

<http://www.gay.police.uk/contact.html>

http://cms.met.police.uk/met/boroughs/croydon/03working_with_the_community/lgbt_and_working_with_the_community

