

Briefing on LGBT Hate Crimes: International and U.S. Perspectives
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Thank you. My name is Tad Stahnke, and I am the Director of the Fighting Discrimination Program at Human Rights First. This week, we are releasing the *2008 Hate Crime Survey*, which documents the rising tide of violent hate crimes and exposes a bewildering array of biases motivating such violence—homophobia, racism and xenophobia, antisemitism, anti-Muslim bias, anti-Roma bias and bias against other religious minorities—across the 56 North American, European, and Central Asian states that make up the Organization for Security and Cooperation in Europe (OSCE).

We find that incidents of violent hate crime targeting a number of minority groups are increasing or occurring at historically high levels in many of the OSCE participating states, as governments fail to combat such crimes.

We are here to discuss the findings of the section of the Survey on “Violence based on sexual orientation and gender identity bias,” which was released as a stand-alone publication and is available on our website: <http://www.humanrightsfirst.org/discrimination/pages.aspx?id=157>.

Violence

Continuing bias-motivated violence against LGBT persons, though still largely unseen, is an intimidating day-to-day reality for people across Europe and North America.

The limited available data suggests that these crimes represent a significant portion of violent hate crimes overall (10-20 percent). Importantly, anti-LGBT hate crimes are characterized by levels of serious physical violence that in some cases exceed those present in other types of bias-motivated incidents.

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Violence targeting LGBT persons appears to be rising. None of the official reports suggest that incidents are decreasing; government statistics in some countries as well as credible nongovernmental reports suggest an increase.

The victims include people who are identified as or describe themselves as lesbian, gay, bisexual, or transgender (together, “LGBT”), as well as others who are targeted because they do not conform to stereotypes of gender identity. The victims of violence also include LGBT rights activists and organizations, openly gay commercial establishments, gay pride parades particularly in Eastern Europe.

Data suggests that the number of incidents is generally highly underreported. For example, the UK-based NGO Stonewall’s 2008 survey revealed that 14 percent of victims of homophobic hate crimes or incidents did not report them to anyone. A 2008 nationwide survey of victims in Germany found that only 10 percent of victims filed reports with the police.

Government Response

Most OSCE governments are failing to address the problem. Only a handful collect data and report specifically on anti-LGBT hate crimes—Canada, Sweden, the United Kingdom, the United States. The Netherlands and Norway have made some steps forward in this regard in the past year.

The lack of data on sexual orientation bias crimes for the vast majority of OSCE participating states makes it very difficult to assess the government response to violent incidents. It is virtually impossible to assess police response to and legal prosecution of such cases.

In only 12 countries does national legislation expressly identify sexual orientation bias as an aggravating factor in the commission of a crime. Those countries include: Andorra, Belgium, Canada, Croatia, Denmark, France, Portugal, Romania, Spain, Sweden, the United Kingdom, and the United States.

In many countries, gay pride events—which lead to greater public visibility for the LGBT community—have been plagued by violence and continue to be a challenge to many governments. In some countries, particularly Russia and Moldova, government officials have contributed to the danger faced by the participants in gay pride parades; in other Eastern European countries—notably Bulgaria, the Czech Republic, Hungary, and Slovenia—incidents of violence occurred in 2008 despite significant police preparations to protect the marchers.

International Response

The international response to hate crimes against people because of their sexual orientation or gender identity is hindered by the fact that these forms of discrimination are not well integrated into

the international human rights and antidiscrimination bodies and mechanisms. There is no convention or treaty specifically focusing on the rights of LGBT persons.

LGBT hate crime is not well integrated into work on discrimination and intolerance in the United Nations, at the OSCE, and other European Institutions. Indeed, the problem of bias-motivated violence against LGBT persons is only just beginning to gain recognition and has remained largely outside of the framework of the general human rights treaty bodies.

The United States government has yet to fully embrace LGBT hate crime as an important foreign policy issue.

Recommendations

It is essential to implement policies that are targeted at combating hate crimes against LGBT persons. In addition to our Ten-Point Plan for all governments to combat hate crime (below), we recommend the following steps:

1. **Continue** to support for the Local Law Enforcement Hate Crime Prevention Act, a revised hate crimes bill. This legislation will contribute to a more robust response to hate crimes in the United States and will demonstrate globally U.S. leadership in combating hate crimes against LGBT persons.
2. **Engage** with the U.S. Helsinki Commission to encourage the administration to raise LGBT hate crime at the OSCE—a prime forum for dealing with hate crime issues. We also recommend that the U.S. government provide extrabudgetary support for the civil society training program, which has provided important training to groups in several countries concerned with hate crime against LGBT persons.
3. **Expand** U.S. government funding and other support to build the capacity of civil society groups that are working to address this region-wide problem, including by ensuring their access to financial support under existing U.S. funding programs, such as the Human Rights and Democracy Fund and programs for human rights defenders.
4. **Raise** violent hate crime issues with representatives of foreign governments and offer technical assistance and other forms of cooperation, including training of police and prosecutors.
5. **Ensure** that U.S. government officials dealing with human rights receive adequate training in the U.S. law on LGBT rights, the state of international human rights law and standards on LGBT concerns, and the reporting on hate crimes and other human rights abuses against LGBT persons.

Ten-Point Plan for Combating Hate Crimes

1. **Acknowledge and condemn violent hate crimes whenever they occur.** Senior government leaders should send immediate, strong, public, and consistent messages that violent crimes which appear to be motivated by prejudice and intolerance will be investigated thoroughly and prosecuted to the full extent of the law.
2. **Enact laws that expressly address hate crimes.** Recognizing the particular harm caused by violent hate crimes, governments should enact laws that establish specific offenses or provide enhanced penalties for violent crimes committed because of the victim's race, religion, ethnicity, sexual orientation, gender, gender identity, mental and physical disabilities, or other similar status.
3. **Strengthen enforcement and prosecute offenders.** Governments should ensure that those responsible for hate crimes are held accountable under the law, that the enforcement of hate crime laws is a priority for the criminal justice system, and that the record of their enforcement is well documented and publicized.
4. **Provide adequate instructions and resources to law enforcement bodies.** Governments should ensure that police and investigators—as the first responders in cases of violent crime—are specifically instructed and have the necessary procedures, resources and training to identify, investigate and register bias motives before the courts, and that prosecutors have been trained to bring evidence of bias motivations and apply the legal measures required to prosecute hate crimes.
5. **Undertake parliamentary, interagency or other special inquiries into the problem of hate crimes.** Such public, official inquiries should encourage public debate, investigate ways to better respond to hate crimes, and seek creative ways to address the roots of intolerance and discrimination through education and other means.
6. **Monitor and report on hate crimes.** Governments should maintain official systems of monitoring and public reporting to provide accurate data for informed policy decisions to combat violent hate crimes. Such systems should include anonymous and disaggregated information on bias motivations and/or victim groups, and should monitor incidents and offenses, as well as prosecutions. Governments should consider establishing third party complaint procedures to encourage greater reporting of hate crimes and conducting periodic hate crime victimization surveys to monitor underreporting by victims and underrecording by police.

7. **Create and strengthen antidiscrimination bodies.** Official antidiscrimination and human rights bodies should have the authority to address hate crimes through monitoring, reporting, and assistance to victims.
8. **Reach out to community groups.** Governments should conduct outreach and education efforts to communities and civil society groups to reduce fear and assist victims, advance police-community relations, encourage improved reporting of hate crimes to the police and improve the quality of data collection by law enforcement bodies.
9. **Speak out against official intolerance and bigotry.** Freedom of speech allows considerable latitude for offensive and hateful speech, but public figures should be held to a higher standard. Members of parliament and local government leaders should be held politically accountable for bigoted words that encourage discrimination and violence and create a climate of fear for minorities.
10. **Encourage international cooperation on hate crimes.** Governments should support and strengthen the mandates of intergovernmental organizations that are addressing discrimination—like the Organization for Security and Cooperation in Europe, the European Commission against Racism and Intolerance, and the Fundamental Rights Agency—including by encouraging such organizations to raise the capacity of and train police, prosecutors, and judges, as well as other official bodies and civil society groups to combat violent hate crimes. Governments should also provide a detailed accounting on the incidence and nature of hate crimes to these bodies in accordance with relevant commitments.