

Anti-Gay Hate Crimes: Need for Police Involvement to Curb Violence Committed Against Gays

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Introduction

The committing of hate crimes is not a new phenomenon as it has occurred throughout history. In addition to the fact that hate crimes have been committed unabated for so long, a further matter of concern is that the frequency with which these crimes are committed is escalating and that the victims are increasingly members of minority groups (Levin & McDevitt, 1993:ix). Groups that are especially vulnerable are those belonging to specific racial groups (e.g. African-Americans), groups with specific religious affiliations (e.g. Jews), and groups whose sexual orientation (gays and bisexuals) differs from that of the majority of society. When the extent to which gays are subjected to hate crimes is compared with that of other groups, it appears that gays have the highest risk of being victimised (Herek & Berrill, 1992:7).

Societal concern for minority groups, objection to discriminatory practices, as well as the fact that hate crimes do not affect individuals alone but society as a whole, had resulted in the media reporting extensively on these crimes. However, when gays are the victims of hate crimes relatively little media coverage is given to it. In this regard Herek (1990:318) states that these crimes are either ignored or reported in such a way that the victims are portrayed as if they were the perpetrators, or the impression is created that the offenses committed against gays are not as serious as the other offenses occurring in society. The following two headings that appeared in Afrikaans newspapers illustrates the above: "Man wou seks hê, toe steek hy hom nege keer" (*Rapport*) (Van Heerden, 1992:9) and "Dinge in die bad" (*Transvaler*) (Botes, 1992:6).

Whilst a hate crime such as rape carries severe penalties in the Republic of South Africa, no legislation exists that specifically address anti-gay hate crimes. This problem is further complicated by the fact that male homosexual behaviour is criminalised (Sexual Offences Act, No. 23 of 1957; Snyman, 1992:388; Viljoen, 1993:101). This makes it extremely difficult for victims to report their victimisation as reporting often necessitate disclosure of their sexual orientation and the circumstances under which the anti-gay hate crime occurred (e.g. while cruising). In addition to fear of disclosing behaviour that is criminalised, Herek (1989:948) points out that the tendency of the police to be prejudiced towards gays and to discriminate against them, discourages gays from reporting anti-gay crimes committed against them. Referring specifically to the South Africa situation Retief (1994:99-100) contends that for more than 40 years gays have been subjected to unjust treatment by representatives of the state such as the police and the legal system.

Before attention can be given to the nature of the hate crimes gays are subjected to, the role the police can play in supporting gays, and recommendations to curb these crimes, it is necessary to give attention to the definition of the concept anti-gay hate crime.

Definition

The concept "hate crime" is used when individuals become victims of crime on account of their race, ethnicity, religion, political convictions, gender or sexual orientation (Conklin, 1992:141). These crimes can vary from verbal abuse to murder (Levin & McDevitt, 1993:ix-xi).

The concept "anti-gay hate crime" is used when gays or persons who are erroneously identified as gay, become victims purely because of their sexual orientation. In this regard both Bohn (1983-84:93-96) and Harry (1982:556) point out that the reason for an anti-gay hate crime can be found in homophobia. Because of this, the perpetrator's objective is to either humiliate, violate, injure or murder the person perceived as having a homosexual orientation. Herek (1990:316), who supports this viewpoint, contends that anti-gay hate crimes can be blamed on heterosexism which is an "ideological system, that denies, denigrates, and stigmatizes any non-heterosexual form of behaviour, identity, relationship, or community".

On the basis of the above, Bezuidenhout (1994:13) defines an anti-gay hate crime as "any behavioural expression (verbal and/or physical) that derives from homophobia, prejudice, discrimination, stigmatisation or heterosexism and is expressed towards homosexual or heterosexual individuals who are erroneously perceived to be gay. This behavioural expression can result in affective and/or physical trauma to the victim that can vary from insignificant in some cases to so severe in others, that it may cause the victim's death."

Extent of Anti-gay Hate Crimes

Although anti-gay hate crimes are committed frequently, very little official information exists with regard to the incidence of these crimes. With the exception of gay task-groups in the USA, virtually no attention has been paid to this problem in the USA or other countries before 1990. In this regard, Wertheimer (1990:387) states that "there has been no official documentation of the problem and accordingly no official response". However, increasing awareness of the seriousness of the problem in the USA and pressure from gay organisations led to the realisation that it is essential to document incidents of hate crimes (Berrill & Herek, 1990a: 270; Berrill & Herek, 1990b: 402). As a result of this realisation the Hate Crime Statistics Act (Public Law 101-275, 104 Stat. 140) was signed by President Bush on 23 April 1990 (Herek & Berrill, 1992:6-7; Kiersh, 1993:96; Levin & McDevitt, 1993:199). This Act requires each police station to report all hate crime complaints to the FBI which is responsible for the uniform documentation of hate crimes and the keeping of statistics.

On the basis of what is known about the committing of hate crimes in the USA it appears that no other minority group is more exposed to hate crimes than gays. In this regard, D'Augelli (1989:318) states that, "lesbians and gay men were the most often victimized groups in the nation". Furthermore, research has shown that lesbians are more victimised twice as often as heterosexual women, while the chance of a gay man being victimised is four times that of a heterosexual man.

The most common anti-gay hate crimes gays are exposed to involve verbal insults, threats of assault, gay-bashing and murder (D'Augelli, 1989:318; Harry, 1990:353; Levin & McDevitt, 1993:73; Miller & Humphreys, 1992:421). In addition, Sagarin and MacNamara (1975:13) report that no other group is as prone as gays to become the victims of murder, assault, robbery and blackmail.

According to Kiersh (1993:57) perpetrators are aware of the fact that gays are soft targets. A perpetrator who picks up a gay at a cruising spot is well aware of the fact that his assaulting and robbing the gay will, in all probability, not be reported to the police. The reason for this is the general fear gays have of disclosing their sexual orientation, and that they have to explain their activities at the time the crime occurred (Miller & Humphreys, 1992:432). The result of this is that the dark figure for anti-gay hate crimes exceeds that of most other crimes.

In South Africa no official statistics are available on the extent to which anti-gay hate crimes occur. This is due to the fact that the police do not make a distinction between anti-gay violence and violence in general. This disregard for anti-gay hate crimes may create the impression that these crimes do not occur in South Africa. Theron's (1994:10) study that was conducted country-wide, however, indicates that anti-gay hate crimes represent a serious problem in South African society. On the basis of his findings, he emphasises that it

is essential that South Africa should, similarly to the USA, introduce legislation to document the extent to which gays are subjected to anti-gay hate crimes and to reflect the nature of the crimes.

Nature of Anti-gay Hate Crimes

When considering the nature of anti-gay hate crimes it is necessary to distinguish between primary and secondary victimisation.

Primary Victimisation

Any behaviour shown towards gays that may have a negative effect on them is regarded as primary victimisation. Primary victimisation therefore occurs when a perpetrator perceives an individual as having a homosexual orientation and victimises the person on account of the perceived sexual orientation. Berk (1990:338) points out that the "symbolic status" (e.g. child abuse) ascribed to a gay is of cardinal importance for primary victimisation to take place.

Reasons for primary victimisation:

According to Sagarin and MacNamara (1975:13-14) the following factors contribute towards individuals being perceived as suitable targets for anti-gay hate crimes:

- they have relatively little or no access to the police and legal system for prosecution
- they belong to a group that will not readily approach the police for help
- they are involved in activities that make them vulnerable to perpetrators
- they involved in high risk activities (eg. cruising)
- they are marginalised by a society that regards their behaviour as abnormal and criminal

Characteristics of primary victimisers:

Although primary victimisation can be committed by both individuals and groups, the attacking of a single gay by a group is seen more frequently (Conyers, 1992: xiii; Harry, 1982:550; Kiersh, 1993: 94). Research (Levin & McDevitt, 1993:71) has shown that in 64% incidents of anti-gay victimisation reported to the police more than two perpetrators were involved. The average number of perpetrators involved in committing a hate crime against an individual is four. On the basis of this, the deduction can be made that when gays are targets, the number of victimisers will outweigh the number of victims.

Berrill (1992:29) has found that of those who commit anti-gay hate crimes, more than 50% are men under the age of 21 years. In addition, it was found that in more than 90% of all anti-gay hate crime incidents the perpetrators were males. When women become involved in anti-gay hate crimes they often take the role of appreciative spectator.

Berk (1990:341), as well as Berk, Boyd and Hamner (1992:131), confirms that the perpetrators in most cases of primary victimisation are young men who are strangers to the victims. A possible explanation for this is that being able to victimise someone who is obviously unable to defend himself or herself, enables the perpetrator to experience power without the threat of losing it (Levin & McDevitt, 1993:71).

The tendency of perpetrators to select effeminate gays as targets is attributed to the fact that they cannot offer resistance. In addition, responding with aggression towards those who behave contrary to societal prescriptions may help the perpetrators to cope with their own intrapsychic conflicts regarding sexual identity and sexual inadequacies (Herek, 1989:953). The violence and cruelty shown during anti-gay hate assaults may in fact be an attempt to deny latent or conscious homosexual tendencies.

Some young men regard primary victimisation of gays as a "sport". "Gay-bashing" is sometimes referred to by these groups as the "sport", the "hunt", the "game" or "diesel-dyke-thumping". In conjunction with this, Mitchell (1992:16) states that "gay-bashing is becoming a South African blood-sport".

Seriousness of primary victimisation:

The robbing of gays is characterised by a much higher degree of violence than when a non-gay is robbed. In comparison with assault in general, the assault of gays is characterised by multiple stab wounds, mutilation, strangulation or numerous gunshot wounds (Miller & Humphreys, 1992:431-4323). Furthermore, anti-gay hate murders are usually characterised by extreme brutality (Berrill, 1990:279-280). In conjunction with this Melissa Mertz, Director of Victim Services, Bellevue Hospital, New York City (quoted in Berrill, 1990:280) states that "attacks against gay men were the most heinous and brutal I encountered. They frequently involve torture, cutting, mutilation, and beating, and showed the absolute intent to rub out the human being because of his [sexual] preference".

Despite the seriousness of anti-gay victimisation, the majority of gays prefer to endure their victimisation in silence and isolation. The reason for this is their fear of secondary victimisation should their sexual orientation become known (Wertheimer, 1990:386).

Secondary Victimisation

Culturally and socially, gays have been victimised since the beginning of time. In spite of changing attitudes towards, for example, people of colour, women and religious groups, gays are often confronted with negative attitudes and discriminatory practices that are kept

in place by institutions such as the family, the school, the church, the mass media and the law enforcement agencies (Ehrlich, 1990:360-361).

Gays are aware of the fact that reporting their victimisation does not elicit empathy and understanding, but an increase in the negative response of society towards them. This negativity is known as secondary victimisation (Berrill & Herek, 1990b: 401-402; Levin & McDevitt, 1993:70). Due to societal negativity gays who disclose primary victimisation may find that in addition to the primary trauma they experienced, they may on a secondary level lose, for example, social standing, respect, their jobs, or the opportunity for promotion. Wertheimer (1990:386) is of the opinion that gays who experienced primary victimisation have two choices. They could either conceal the victimisation to keep their sexual orientation secret, or report it and run the risk of humiliation and further victimisation when their sexual orientation becomes known.

Especially gays who are employed in government departments, such as the army and the police, are extremely vulnerable to secondary victimisation when they report primary victimisation. In this regard, Whitam (1991:32) points out that the possibility of being discharged poses a real threat. In South Africa, the plight of the gay police officer is not better than in other countries. A letter, received by the first author from the Commissioner of Police, states unequivocally that homosexuality within the South Africa Police Service is rejected in the strongest terms. This could force gay police officers to live a double life. In this regard, Burke (1994:199) states that "current research suggests that inception of the 'double life syndrome' is an unusually common corollary in the gay police career". Having to lead a double life to avoid losing a promising career can be regarded as a form of secondary victimisation.

In addition to gay police officers being victimised by the system, it is also true that police officers are involved in the primary and secondary victimisation of gays in general.

Police as Role Players in Anti-gay Victimisation

The reason why victimised gays refrain from reporting their victimisation to the police is because they believe the police cannot be trusted and will subject them to further victimisation. Comstock's (1989:104) research showed that 73% of anti-gay hate crime victims did not report the incident because they: had the perception of the police as being anti-gay; were not prepared to disclose their sexual orientation to the police; feared secondary victimisation from the police.

Bohn (1983-84:101) states that in addition to feeling vulnerable within a hostile society, many gays have the perception of the police as being hostile and unwilling to help when gays need assistance. Due to this, most gays believe that their complaints will be treated with hostility and disdain by the police (Wertheimer, 1990:394). Various authors (Davis,

1992:44; Mitchell, 1992:18-19) confirm that within South African society gays who approach the police for help will receive a rather negative reception.

According to Herek (1989:952) the dilemma of gays is not only police disinterest in the charges they lay, but also the fact that police officers are frequently the primary, as well as, secondary victimisers. Research findings in the USA indicate that 20% of all anti-gay hate crimes are committed by police officers (Berrill, 1992:32). The most common forms of police victimisation are: verbal harassment, physical abuse, soliciting, blackmail, application of the law in a discriminatory way, and handling complaints concerning anti-gay hate crimes in an inefficient and an unfair manner.

In order to sidestep the restriction that gays may not be arrested except when soliciting or having sexual relations in public places, the police make use of entrapment (Farrel, 1971:56; Harry, 1982:584). This means that police officers hang around camping areas in civilian clothes pretending to be cruising. Unsuspecting gays are in this way easily apprehended. In addition to this, the police also raid gay clubs, bars and steam-baths with the intention of catching them red-handed (Bouza, 1990:222; Whitam, 1991:40). In South Africa, as in other countries, the same methods are used to apprehend gays (Gevisser, 1994:46-47); Isaacs & McKendrick, 1992:106, 151-153). On the basis of this it can be deduced that South African gays will be as hesitant and apprehensive as gays in other countries to approach the police for help or to lay a charge.

Gays in South Africa have expressed the view that despite the positive negotiations gay activist groups have had with the police, very little progress can be seen at grassroots level (Mitchell, 1992:20). It has therefore become a matter of urgency to make recommendations to the National Minister of Safety and Security, the Provincial MECs for Public Safety and Security, and the Commissioner of the South African Police Services as to how this problem can be remedied.

Recommendations for Improving the Relationship between the South African Police Service and the Gay Community

Lesbians and gay men are often the most reluctant victims to report the hate crimes committed against them to the police. This is due to their perception of the police as anti-gay, and on account of police harassment, the use of entrapment and being subjected to police violence (Mason, 1993:5). To remedy this problem various changes to the policing system should be considered and implemented. If a firm stand is not taken by the police to change its image in the gay community it is unlikely that the relationship between the police and gays will improve. In effect, it can be postulated that the relationship will worsen, as police avoidance of the issue, and continued police brutality of gays will convey the idea to

perpetrators that committing crimes against gays is met with approval by the criminal justice system.

To change the current perception of gays and police officers of each other and to create a police service that will serve the needs of the gay community, it is essential for both the Government and the South African Police Service (SAPS) to consider the following:

- The Government should fund and undertake research to establish the extent to which gays are the victims of anti-gay hate crimes, the factors that contribute towards the victimisation of gays, and the appropriate measures that should be taken to curb the problem.
- To ensure that methodologically sound research is undertaken, researchers at university departments (eg. Departments of Criminology, Law, Psychology, Social Work and Sociology), research institutions (eg. the Human Sciences Research Council), as well as researchers within the SAPS, should be approached to undertake the studies.
- Before an attempt can be made by the police to change its image and treatment of anti-gay hate crime victims, it is essential that gay organisations and the police should liaise. By having continuous high level discussions, the police will become aware of gay issues that need to be addressed, while simultaneously gays will become aware of gay related problems that could interfere with adequate policing. Consideration should be given to appoint specific officers at police stations that will liaise with gay groups on a regular basis. Discussions with gay groups should be conveyed to officers on all levels.
- The SAPS should scrap all regulations that discriminate against gay police officers and place restrictions on the entertainment they wish to pursue while off-duty (eg to visit a gay club).
- To ensure that affirmative action is also applicable to gays, the SAPS should, when advertising posts, indicate that discrimination will not take place on the basis of sexual orientation.

- Attempts should be made to use gay police officers (in a similar way that females are used to assist rape victims) to investigate and to handle victims of anti-gay hate crimes.
- During training all police officers need to be informed of the problems surrounding anti-gay violence and training programmes at police colleges should be of such a nature that negative attitudes towards gays can be changed. Training should focus on developing empathy for gays who are the victims of anti-gay hate crimes and to undertake their questioning with the same sensitivity that is shown to other crime victims.
- Areas where anti-gay violence is known to occur frequently should be patrolled on a regular basis by the police and if necessary more police officers should be deployed to that area (eg foot or horse patrols). Mobile police units could be stationed close to areas frequented by gays. Since most attacks on gays occur between 21:00 and 03:00 the mobile units should be fully operational during this period.
- Police orders should state explicitly that no police officer has the right to humiliate, harass or brutalise gays on account of their sexual orientation and that severe penalties will be imposed should such behaviour occur. In their oath of office, police officers should undertake to treat all victims of crime with the same reverence.
- Complaints of anti-gay violence should be investigated immediately. If the officer in charge fails to do so, a departmental enquiry should be conducted. Should the enquiry indicate negligence on account of negativity towards gays, retraining could be considered or a transfer to a section or unit where dealing with gays will not be required of him or her (Berrill & Herek, 1990b: 404; Bohn, 1983-84:98; Grant, 1994:6).

Conclusion

Gays have been persecuted and subjected to anti-gay hate crimes for more than 2 000 years. The victimisation of gays has occurred unabated with the blessing of governments (eg. the Nazi's in Germany) and religious institutions (eg. the Roman Catholic Church during the Middle Ages) in the past (Oaks, 1992:236-239), and even today (Clinton opens US military to all homosexuals, 1993:14; Gays afgang, 1994:4). The police, who should be the protectors of freedom and act on behalf of victims, seem to have failed in their duty towards gays (Mason, 1993:5).

In the Republic of South Africa a unique situation exists in that the Interim Constitution (Republic of South Africa, 1993:10) states explicitly that discrimination on the basis of sexual orientation is a contravention of an individual's fundamental rights. This means that all individuals, whether heterosexual or homosexual, should be treated equally by the police and have the right to protection. The implication of this is that the police should acknowledge the rights of gays, become more aware of the needs that exist for police protection within gay society, train both gay and heterosexual police officers to offer an outstanding service to victims of anti-gay hate crimes, and to repeal regulations that discriminate against gay police officers.

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