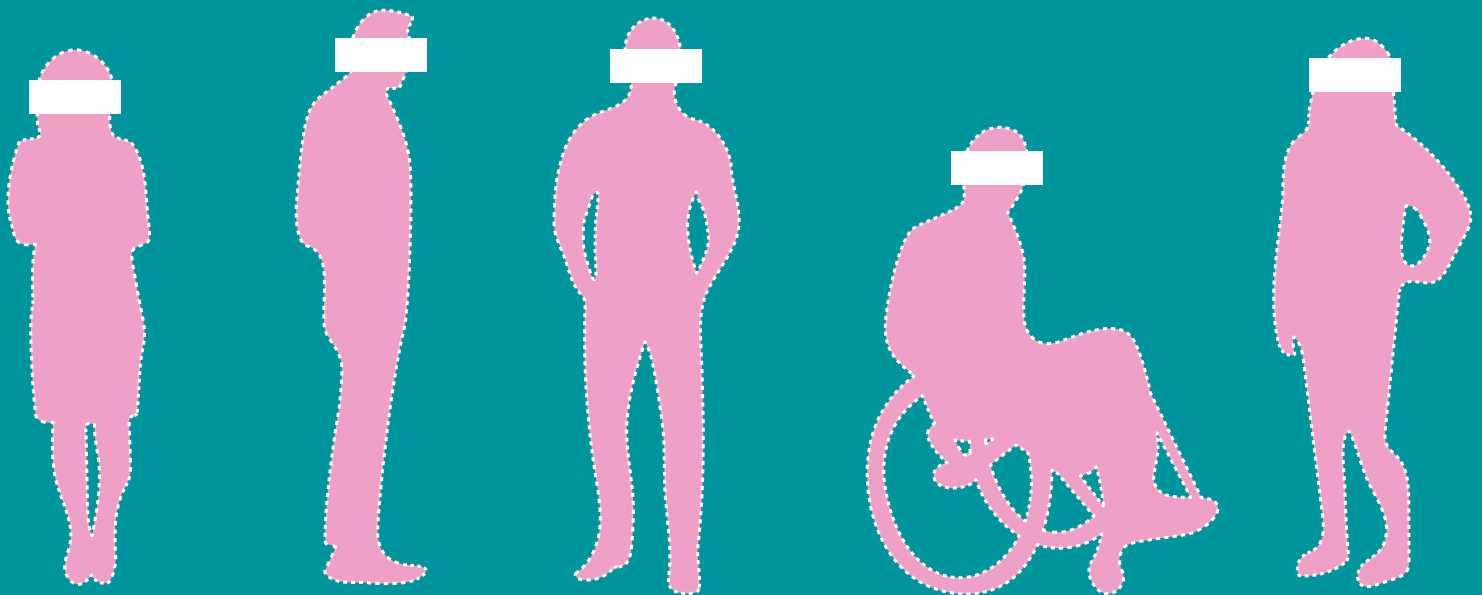


Disability Hate Crime



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People with disabilities are regularly the targets of hate crimes. Disability hate crime – crimes committed with a bias against people with disabilities – remains widely hidden and misunderstood. These crimes often have unique characteristics that differentiate them from other types of hate crime. For example, many are committed repeatedly over years and involve people who are close to the victims. Disability hate crimes affect not only the victims, but society as a whole. The occurrence of disability hate crimes also underscores wider trends of intolerance towards other groups, and everyone has a role to play in countering this and all forms of intolerance. Recognizing the magnitude of the problem is the first step in effectively countering these crimes.

What Is Hate Crime?

**Criminal Offence
+ Bias Motivation
= Hate Crime**

- Hate crimes comprise two elements: a criminal offence and a bias motivation.
- First, hate crimes require a base offence to have occurred. In other words, the act committed must constitute an offence under criminal law. If there is no underlying crime, there is no hate crime.
- The second element of a hate crime is that the perpetrator must commit the criminal act with a particular bias motive or motives (such as a bias against a victim's disability, religion, ethnicity, colour and/or their gender). The presence of a bias motive is what differentiates

hate crimes from other crimes.

- A hate crime has taken place when a perpetrator has intentionally targeted an individual or property because of one or more protected characteristics, or expressed hostility towards the victim's protected characteristic(s) during the crime.

What Is Disability?

Disability and impairment are two separate things. A person with disability is someone *with an impairment who experiences disability*.

A number of negative views persist about people with disabilities. Some of these stereotypes hold that people with disabilities are dependent, uneducable, unemployable

Article 1 of the UN Convention on the *Rights of Persons with Disabilities* states that: "Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."



Participants at a workshop on combating hate-motivated crimes against people with disabilities, organized by ODIHR and the European Network of Independent Living (ENIL)



Disability hate crimes are often committed by someone known to the victim, such as a relative or carer. This can pose an additional obstacle for victims when reporting such crimes. (Shutterstock)

and unproductive, and that they are, therefore, in need of institutionalized care, sheltered employment and welfare. This prejudice about the health of a person is the primary reason for discrimination and disadvantage, and can be the motive for hate crimes.

What Are Disability Hate Crimes?

Disability hate crimes are motivated by bias against people with disabilities. Perpetrators may target people with disabilities, or people who are perceived to have a disability, because they believe them to be vulnerable due to the symptoms of their impairment or health condition. Such crimes can also target property or people associated with people with disabilities. The perception of all people with disabilities as vulnerable ultimately minimizes or disregards the social factors associated with their participation and inclusion within society, and is prejudicial.

This bias manifests itself either in the selection of the target or in expressions of hostility towards people with disabilities during the crime. For example, selectively targeting people with disabilities because they are considered “easy targets” is an expression of bias and is, therefore, considered a hate crime.

How to Recognize Disability Hate Crimes

There are a number of indicators that can help to identify a bias against people with disabilities in a potential hate crime. Such indicators, known as “bias indicators,” can prompt the authorities to investigate a crime as a disability hate crime, enabling a tailored response.

The following questions can help identify disability hate crimes:

- Do the victims or witnesses perceive the incident as motivated by bias against people with disabilities?

- Was the attack accompanied by insults and accusations targeting people with disabilities?
- Did the incidents escalate in severity and frequency?
- Did the perpetrator target a victim’s disability aids, such as canes or hearing aids?
- Did the perpetrator use excessive violence?
- What was the nature of the attack? Was the victim subjected to cruelty, humiliation or degrading treatment related to their disability?
- Was the perpetrator known to the victim? Disability hate crimes are often perpetrated by “friends,” caregivers, acquaintances or neighbours of the victim.
- Where did the attack occur? Disability hate crimes may take place in care institutions and be carried out by staff.
- Did the attack also involve theft by people close to the victim, such as caregivers or family members? This can include the theft of welfare benefits and other forms of exploitation, such as unpaid work.
- Were multiple perpetrators involved in the incident?
- Is there any other clear motive? The lack of other motives is also a reason to consider bias motivation.

Disability hate crimes should be monitored and recorded as a separate category of crimes. Where a crime is committed with multiple bias motives, each of these biases must be recorded and addressed during investigation and prosecution. Data on disability hate crimes should be disaggregated by gender, to better understand the extent to which women and men are affected by such crimes, and to identify appropriate measures to counter such crimes. When investigating and addressing disability hate crimes, it is important to consider the

possible multiple identities of the victim (such as disability and ethnicity or gender), as this can have significant ramifications for individual victims.

Reporting Disability Hate Crimes

Disability hate crimes, like all hate crimes, are under-reported. There are a host of challenges to reporting this type of hate incident, notably the victims’ potential isolation or proximity to the perpetrator, the fear that their claim will not be taken seriously and the risk that law enforcement officers will not recognize the severity of this type of hate crime.

Effective access to justice remains a critical challenge for victims, and one that participating States need to address. Governments have a central role to play in ensuring access to justice, from the initial identification of the problem, including by social and health workers, to the assessment of victims’ needs by police officers removing barriers that people with disabilities may face when reporting or providing testimony about the case, and developing support mechanisms for victims. Adopting measures to prevent further abuse is particularly important in the case of disability hate crimes, which are often repeated over an extended time period and behind closed doors.

In this context, it is especially important that independent monitoring mechanisms are established to identify possible disability hate crimes. Many civil society groups for people with disabilities have recognized the importance of hate crime monitoring, including as an advocacy tool, and are developing their monitoring capacities through outreach and online reporting.

Examples of Disability Hate Crimes

- A woman using a wheelchair was subjected to ongoing violence from her neighbours over a period of three years. What began with verbal assaults based on her impairment culminated in a physical assault, during which the victim was pulled out of her wheelchair.
- The patients of a care home for people with disabilities were subjected to years of cruel mistreatment and abuse by six care workers at the home. The care workers were filmed assaulting patients by slapping them, pinning them under chairs, taunting and verbally abusing them.
- A man with an intellectual disability was targeted by a group and beaten to death. The perpetrators took advantage of the victim, befriending him under false pretences to get him to spend his money on alcohol and cigarettes for them over a period of three months. During the court proceedings it emerged that the perpetrators had made a bet to see who could knock out the victim first, and repeatedly beat him over the course of an evening. One of the perpetrators used a derogatory expression insulting the victim’s intelligence.

To be effective, police responses and government policies to counter disability hate crimes must be evidence-based and draw on official hate crime data, as well as on reports from civil society and international organizations. Increased public awareness

of hate crime, hate crime recording by states, measures to encourage reporting by victims, and civil society monitoring and reporting will all help reveal the scope of the problem in more detail, enabling policymakers to identify appropriate responses.

Landmark Ruling

Over a period of four years, Dalibor Đorđević, a Croatian man with a physical impairment and a learning disability, was subjected to repeated abuse and violent physical assaults. Police intervened when called upon, but they did not take concrete action. In 2012, the European Court of Human Rights stated in a landmark ruling that the state had failed in its responsibility to protect him from continued abuse. This was a victory for Đorđević and for people with disabilities who face intolerance in their daily lives, and emphasized the role that the authorities must play to effectively counter disability hate crimes.

What Can You Do?

There are a number of organizations that assist victims of hate crimes. Ombuds institutions addressing discrimination and local associations working with people with disabilities play a central role in countering hate crimes and provide invaluable assistance to victims. They serve as vital links between victims, communities and local authorities. You can contact your local support association or ombuds institution to find out more about disability hate crimes:

- European Network on Independent Living (ENIL): <https://enil.eu/about-enil/our-members>
- Equinet – the European Network of Equality Bodies: <http://www.equineteurope.org/>
- The International Ombudsman Institute (IOI): www.theioi.org/ioi-members
- The European Network of National Human Rights Institutions (ENNHRI): <http://ennhri.org/>

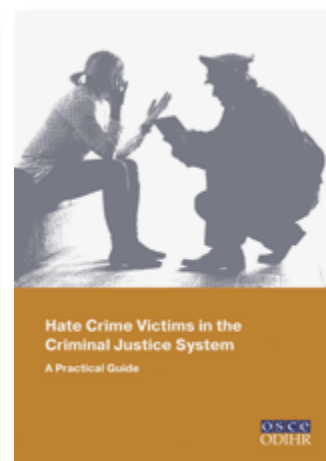
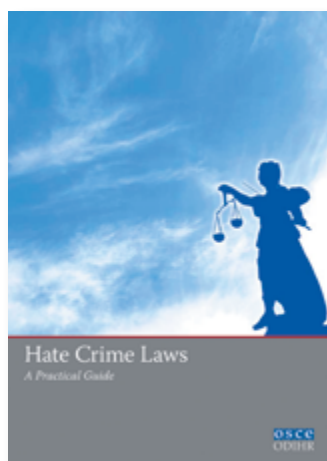
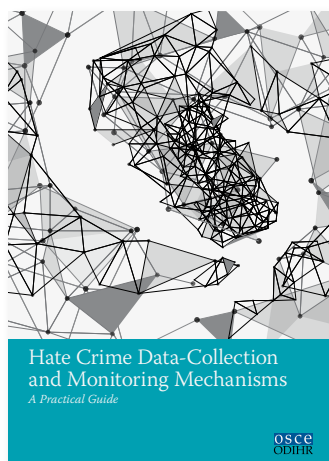
ODIHR Guides on Hate Crime

ODIHR has compiled good practices from OSCE participating States on addressing hate crime, and has shared these in a number of publications available on our website at:

<https://www.osce.org/odihr/guides-related-to-hate-crime>

Find out more about disability hate crimes and how civil society organizations can report incidents to ODIHR by visiting our dedicated Hate Crime Reporting Website at:

www.hatecrime.osce.org



More information:

For detailed information about ODIHR's hate crime initiatives and to view its full range of resources and publications, please

www.osce.org/odihr/tolerance

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