Roundtable Summary

Against a Silo Approach:

Intersectionality and Hate Crimes

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Copenhagen, Denmark

17 October 2019

I.   Introduction and background information

On 17 October 2019, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) organized a roundtable titled "Against a Silo Approach: Intersectionality and Hate Crimes" in Copenhagen, Denmark.[1]

ODIHR has a mandate to collect information and statistics on hate crimes and relevant legislation provided by OSCE participating States as well as to assist participating States to ensure a "comprehensive approach to the tackling of hate crimes."[2] While hate incidents based on multiple motives are documented in ODIHR's hate crime reporting,[3] efforts to address such hate incidents through an intersectional approach are limited.

In order to further an understanding of intersectionality in the context of hate crime – with a focus on sex/gender – ODIHR invited 17 practitioners, civil society representatives and scholars working in the areas of hate crimes, gender and intersectionality. The objectives of the event were to reflect on how an intersectional analysis of multiple-bias hate crimes could help deepen understanding of how sex/gender intersects with other protected characteristics, and how this might affect a person's vulnerability to hate crime and the subsequent remedial actions taken.

Clearly, an intersectional approach to hate crimes can be adopted and operationalized in countries where policies to address hate crime are in place. ODIHR's reporting and capacity-building work shows that not all commitments on hate crime have been fully implemented across the OSCE region. Hence, more work continues to be necessary in this field.

The envisaged **outcomes of the roundtable** were four-fold. First, the event gave experts in the field of hate crimes and intersectionality the opportunity to present their work and approaches, as well as to take stock of good practices and challenges in data collection, investigation and prosecution of hate

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[1] The views in this report do not necessarily represent ODIHR's official position and policies on different issues.

[2] For more details, see OSCE MC Decision 09/09 on "Combating Hate Crimes", available at: https://www.osce.org/cio/40695?download=true

[3] For more details, see OSCE MC Decision 13/06 on "Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding", available at: https://www.osce.org/mc/23114?download=true

crimes based on multiple motives, including a sex/gender bias. Second, the roundtable examined how using the theory of intersectionality could benefit hate crime prevention and response, as well as evaluate its potential impact on gender equality. Third, the roundtable participants endeavoured to identify good practices and challenges in operationalizing intersectionality to address hate crimes through group work. Finally, the roundtable presented advocacy, coalition-building and networking opportunities for participants.

The roundtable was divided into **three sessions**:

1) Good practices and challenges in data collection, investigation and prosecution of hate crimes based on multiple motives, including a sex/gender bias.

2) What would an intersectional approach to addressing hate crimes entail and what would its main benefits be, including in terms of gender equality?

3) Good practices and challenges in integrating an intersectional approach to hate crimes, which also involved group work.

This final report presents a summary of the participants' presentations and follow-up discussions with suggestions; a list of recommendations stemming from the group work; and conclusions and action points for ODIHR specifically.

II. Summary of presentations and main discussions

The following section summarizes participants' presentations and follow-up discussions that took place during the roundtable.

Session I: Good practices and challenges in data collection, investigation and prosecution of hate crimes based on multiple motives, including a sex/gender bias

1. A number of initial presentations noted that there is dearth of data and information on gender-based hate crimes, and that a victim's identity is multifaceted. Despite progress in reporting on and prosecuting hate crimes in Georgia, for example, **challenges remain as to the qualification and definition of hate crimes** in national legislation, as well as national policies to address such crimes. The various motives covered by Georgia's hate crime laws were assessed differently by various national institutions in terms of the ease of reporting and prosecuting. Another participant explained that in Georgia, the "fight against hate-motivated

crimes started with domestic and sex/gender-based violence", but was then expanded to include other bias grounds under hate crimes legislation, such as religion, ethnicity, sexual orientation and gender identity, etc. Notwithstanding international and national recommendations, participants noted that there is still no specialized unit in charge of prosecuting crimes committed on discriminatory grounds in Georgia. Participants suggested that ODIHR strengthen its engagement with national authorities to improve hate crimes policies.

2. Several participants also raised the **particularly vulnerable and complex situation** of individuals who engage in sexual activities for money, especially when they are victims of hate crimes. In such cases, the "moral character of victims" often plays a role in the authorities' decision not to investigate, report and prosecute crimes against this group. Participants stressed that feminist organizations tend to exclude from their agendas and programmes the protection and advocacy of individuals who engage in sexual activities for money. Media can play a positive role in how victims are portrayed or, conversely, further stigmatize the victims. Participants reported that police are often responsible for perpetrating hate crimes against individuals who engage in sexual activity for money. Other participants discussed the intersectional implications for migrants who engage in sexual activity for money, and who are marginalized and discriminated against due to multiple factors.

3. Despite national stakeholders' awareness-raising efforts about the risks and dangers faced by minority groups, one participant reported an **increase in** the number of **hate incidents and violent attacks against Roma people** in Ukraine. Some participants claimed that the absence of a unified database on hate crimes in certain jurisdictions poses obstacles for the relevant authorities to co-ordinate efforts and undertake follow-up actions. Training programmes provided by the Council of Europe (CoE) and ODIHR were mentioned in reference to developing curricula for police on working with Roma and national minorities, as well as on training the media to prevent the propagation of intolerant discourse against Roma.[4] Ukraine has requested training for prosecutors on hate crimes in the past, and one participant suggested that ODIHR and the CoE hold training programmes for the country's Ministry of Internal Affairs and police on investigating hate crimes. Furthermore, participants

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[4] Incitement to hatred is a criminal offence in Ukraine. See Criminal Code of Ukraine, Art. 161: Violation of citizens' equality based on their race, nationality, religious preferences or disability. See relevant excerpts available here: https://www.legislationline.org/documents/id/18763

recommended that ODIHR and the CoE discuss and strengthen their co-operation on hate crime training in Ukraine.

4. In terms of the multiple forms of marginalization facing women, one participant noted that there are structural inequalities in place and that certain aspects of an individual's identity are sometimes emphasized or silenced to conform to pre-defined narratives (e.g., with regard to the role by and agency of Muslim women vis-à-vis freedom of expression). Identity is both an analytical category and a lived experience, with the former being a tool to understand the latter. This participant stressed that **intersectionality as an analytical tool should not dilute the individual experience,** but should be used as an instrument to account for group commonalities and understand how they shape group experiences. This point speaks to the lived experience of hate crime victims, and the importance of having all the bias motivations of a hate crime acknowledged by the state. Although individuals have multifaceted and collective identities, hate crime victims often report being attacked based on one bias motive; only a few mention multiple motives. This reduces victims to a single identity, reinforcing the attack on identity by the perpetrator. One participant made another key point with regard to the role of overlapping discourses in bias-motivated offences. As one participant noted, if one defines hate crime as a "cross-community issue", intersectionality might generate crosscutting, grassroots responses to address hate crimes. In turn, this highlights that there are "shared experiences across commonly targeted groups, while sensitizing us to the pitfalls of conflating the biases involved". Another participant stressed that: "The experience of being targeted on intersectional grounds is different to the cumulative effect of being targeted on multiple grounds". The merits of segmented – as opposed to centralized – reporting mechanisms were discussed in terms of visibility, financing and responses. Namely, participants discussed whether it would be best to concentrate efforts and resources in a centralized reporting mechanism, or to mainstream them and spread them across separate bodies or units.

Session II: What would an intersectional approach to addressing hate crimes entail and what would its main benefits be, including in terms of gender equality?

5. One participant presented a study on hate crime in the United Kingdom to illustrate the importance of **understanding how gender affects the frequency and impacts of hate experiences**. The research further aimed to inform the type and use of measures to address hate crime. Specific findings of the study noted that: "Trans and non-binary participants are more likely to experience both direct and indirect hate crime". Second, "trans and non-binary

participants generally have stronger responses to hate crimes." Third, "for males and females, the impacts of online and offline hate have similar far-reaching consequences, though men tended to feel slightly more vulnerable/anxious and want to retaliate more, and women experienced more empathy while feeling more threatened symbolically." Fourth, people who identify both as black, Asian or minority ethnic (BAME) and LGBTI (especially trans people) are "more likely to experience all types of hate crime". Finally, "BAME LGBTI people report greater levels of victim blaming, shame, avoidance, security concerns and retaliatory wishes, and less empathy". Another participant commented that "trans" should not be considered a gender "identity" but rather a gender "descriptor" – an approach that could also improve data collection and reporting.

6. Participants **found the media's emphasis of a single aspect of an individual's or group's identity** as problematic, as it could lead to further stigmatization and oppression, especially in certain countries. A participant highlighted that: "A toolkit for intersectionality in the language of the media, self-regulation within media corporations and administrative controls are essential." Furthermore, participants noted the **(low) quality of the judicial response to hate crimes and the need to collect data** through an intersectional lens, as well as the need for awareness among criminal justice actors on hate crimes. Using an intersectional approach to hate crimes would: provide a clearer view on real power relations and structure; generate access to the most vulnerable individuals – the most likely victims of hate crimes; establish a correlation between gender equality and social inequality/injustice; foster a transition from formal equality to *de facto* equality; and pave the way for "a push-back to the push-back against gender equality", i.e. counteracting attempts by a number of actors (including states) to undermine gender equality achievements.

7. **Indigenous women** (specifically in Canada, but also elsewhere where there are traditionally oppressed indigenous populations) face **an increased risk of victimization**. A participant reported that anti-indigenous hate crime is under-reported, under-policed and under-studied, similar to "misogynistic violence", which is also not recognized. Indigenous women face added layers of risk including class, homelessness, residential school attendance, mental illness and intergenerational trauma. In terms of gender equality, this participant suggested that using an intersectional approach to address hate crime against indigenous women would help to raise awareness of: violence against women as a hate crime; the disparity in risk factors; the roots of under-reporting (of certain crimes); the historical contexts for gendered hate crime; the need for multidimensional, multisector interventions; and the need for and value of

coalitions and alliances. Another participant questioned how to separate intersections without feeding into oppressive discourses. One answer was to carve out a space where forms of oppressions are analysed in individual forms at the national level. There should be a space for collaboration while acknowledging the individual forms of racism. It was also recommended that ODIHR serve as a platform to address these issues.

8. Another presentation noted the challenges of **addressing hate crime against transgender people in a post-conflict context,** while exploring other forms of hate crime in tandem. The lack of trust in the police among many marginalized groups and the (in)ability of police to effectively address reported hate crime in Northern Ireland were also raised. It was noted that community talks highlighted the need for vulnerable groups to have a safe and non-judgmental access to police and the justice system. Hate crime under-reporting was identified as a symptom of the lack of trust in authorities and the low level of awareness of what constitutes a hate crime at the community level. Even when reporting increases, as it has in some jurisdictions, this does not necessarily address issues of bigotry and violence against trans people of colour in some OSCE participating States. In terms of data collection, it was stressed that transgender is not a gender identity; moreover, the victim's identity often differs from the perpetrator's idea of what that identity might be. Several suggestions were made: first, hate crime legislation should be applied in an intersectional manner, be rehabilitative and take into account multiple biases. Second, groups that are marginalized on multiple grounds should have recourse to justice through a restorative process, whereby relevant authorities work closely with civil society organizations (CSOs) to ensure that crimes are properly addressed and to reduce the risk of re-victimization. Third, the authorities should work with relevant CSOs to accurately reflect the needs and identities of transgender people in their hate crime response. Fourth, community-based reporting models and advocacy models should be encouraged. The presence of LGBTI and hate crime advocates at the community level were discussed in this regard. The role of such hate crime advocates would be to lobby within each community and with advocacy networks in order to bring different communities together.

9. One participant raised the **issue of LGBTI activists of African descent working pro bono and at their own peril** to advocate for the rights of this community. As this participant underscored, power dynamics and vulnerabilities within and among marginalized groups are at play; victim-centred interventions and responses are required to address intra-community violence and discrimination. The participant noted that intersectionality should inform a

society's response to individuals' multiple identities (e.g., a black, LGBTI woman), which often give rise to different forms of discrimination. Participants stated the need for the following: advocacy training opportunities for CSOs to address discrimination against groups or individuals with multiple identities; better co-operation between law enforcement and CSOs to address long-standing issues of mistrust; strengthened awareness of hate crime data collection (especially among people of African descent); and avoidance of tokenism in data collection.

Session III: Good practices and challenges in integrating an intersectional approach to hate crimes

10. The participants discussed a project on the **interlinked topics of "misogyny, Islamophobia and hate crimes"**[5] to illustrate how most Muslim victims of hate crimes are women (specific examples from the United Kingdom and Belgium were given). A presenter noted that the possibility of categorizing misogyny as a hate crime was well received in the United Kingdom, where the police reports extensively on hate crimes. Data from various OSCE participating States show an increase in the number of reports of anti-Muslim hate crimes, which predominantly target Muslim women. The presenter explained that "Islamophobia" can be described as a type of racism targeting Muslims or those perceived as such (as is often the case in attacks against Sikhs). In the United Kingdom, a spike in attacks against Muslims was registered in the aftermath of terrorist attacks, including following attacks targeting a Muslim community. The participant also stated that the media is a key source of gendered intolerance against Muslims, where Muslim women are inevitably depicted as oppressed. Exclusionary examples of "othering" were presented as in hate speech and physical violence, media and public discourse, education, employment, politics and justice. The University of Leeds "Counter-Islamophobia Kit Project" was mentioned as a good practice for offering a multifaceted strategy.[6] According to this strategy, the state and other relevant stakeholders need to have a multi-stage approach to "Islamophobia", hate crimes and misogyny by: clearly defining "Islamophobia"; systematically documenting it; deconstructing dominant narratives of gendered "Islamophobia"; and reconstructing the public discourse on Muslim women.

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[5] For more information on this project, please see: https://cik.leeds.ac.uk/ . Of note, the OSCE consensus language in relation to the phenomenon described as "Islamophobia" by the presenter is "Intolerance against Muslims."

[6] For more information, please see: https://cik.leeds.ac.uk/

The participant also mentioned a good practice from Belgium where Muslim women are shown in their daily life and work, humanized as constituents and actively participate in their societies. Issues of bias disaggregation vis-à-vis hate crime monitoring and recording were also debated. Participants raised the **issue of categorization of bias by hate crime victims,** who often report a **single bias** even when the attack was motivated by multiple biases. In the United Kingdom between 2018 and 2019, at least 12 per cent of hate crimes involved more than one bias motivation. Missing the gendered nuances of hate crimes entails not recognizing the full experience of victims of abuse, who then lose confidence in the relevant authorities owing to a lack of understanding of their specific experiences.

11. One participant noted that sex/gender is the key element defining the majority of intersectional experiences, such as women with a disability and veiled women. While factors like disability or religion are sometimes not given due consideration, gender is at times overplayed. This participant presented the **specific challenges affecting both Muslim women who wear a veil and women with a disability**. In terms of Muslim women who wear a veil, the issues at stake are the complexity of their identity(-ies); their visibility, as reduced to their physical appearance; and the precautions that they must take to fully exercise their rights. The participant suggested that relevant stakeholders, including intergovernmental organizations (IGOs), look beyond identity and specifically at social exclusion, poverty and the inequality of victims' lived experiences; the intersection of perpetrators, whereby a significant proportion of those were white and non-disabled women targeting veiled women and women with a disability; and situations/settings that demand specific attention in both public and private spheres. In terms of good practices, participants suggested that relevant stakeholders, authorities and IGOs offer training on intersectionality to address hate crime, and that CSOs learn from other experienced CSOs (e.g., Tell Mama, Galop, Imkaan), such as through peer mentoring, information sharing and capacity-building activities.

12. Another participant stated that there has been an **increase in reported anti-Semitic hate crime**. **Misogyny against Jewish women** is an understudied topic, although there is a significant overlap and intersection between misogyny and anti-Semitism.[7] This participant reported that misogyny among perpetrators of violent crime is pervasive and dominant in

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[7] ODIHR's research "Understanding Anti-Semitic Hate Crime: Do the Experiences, Perceptions and Behaviours of Jews vary by Gender, Age and Religiosity?" highlighted that Jewish men are more likely than women to have been subjected to some kind of anti-Semitic incident including physical attacks; and Jewish women have a higher fear of becoming victims of hate crimes. Available at: http://tandis.odihr.pl/handle/20.500.12389/22404

shaping other various forms of racism and intolerance, including anti-Semitism. The participant underlined that more women experience anti-Semitism than men. In referring to a phrase used in a previous presentation, a participant asked if expressions of anti-Semitism against women could also be considered as a "symbolic threat". While hate crimes are significantly under-reported, one participant noted that data collected in the United Kingdom in 2018 show that a majority of both perpetrators and victims of anti-Semitic incidents were men. This participant mentioned that as people in power usually attract more hatred, Jewish politicians (in the case of the United Kingdom, female Jewish politicians in particular) are often targets of online and offline hatred. Interestingly, internet threads on anti-Semitism increasingly contain a misogynistic streak, with conspiracy theories about Judaism prominent in the feminist movement. The participant also reported that public appearances by Jewish women attract more negative attention than appearances by Jewish men. Participants also suggested that legislative processes across the OSCE region pay closer attention to cyberspace and the duty of care of social media providers.

III. Recommendations

Participants were divided into three groups for group discussions, which took place during Session III. The first group responded to the question of **how IGOs, CSOs and national authorities could better apply intersectional approaches to hate crimes**. Their **recommendations** included the following:

For IGOs:
1) Conceptualize/define intersectionality.
2) Operationalize intersectionality – how do we "practice" it?
3) Assess organizations, agencies and policies to determine whether/how they account for intersectionality.
4) Ensure that intersectionality is a constant element of discourse around hate crimes.
5) Recognize situational specificity/importance of identities.
6) Engage affected communities in defining intersectionality and subsequent practices.
7) Encourage affected communities to speak up and demand recognition, inclusion and support.
8) Develop workshops and trainings for agencies and communities on hate crime data collection, prosecution and intersectionality.
9) IGOs can provide guidance around intersectionality and education/awareness.
10) Inclusive "membership" in venues addressing intersectionality.

For national authorities and data collection bodies:

11) Make intersectionality explicit in policies, especially in data collection.

12) Ensure expansive/inclusive protection categories in legislation.

13) Law enforcement and other government agencies should be encouraged to work with national and international organizations to enhance capacity and provide support.

14) IGOs and states should put pressure on non-compliant states and document breaches of compliance.

For CSOs:

15) CSOs, in avoiding silos, recognize individual strands but also value conditions where these identities intersect.

The second group worked to identify **the theoretical/practical benefits and challenges in using an intersectional approach to hate crime**. In terms of **benefits**, it was noted that:

1) By using this approach, victims' lived experiences are properly encapsulated in legislation and reporting can more accurately represent lived experiences.

2) Training community representatives to take reports of hate crime would increase reporting by marginalized groups.

3) An intersectional approach would encourage representatives of CSOs to work together to cover intersecting identities. It would also enable the development of a victim-led, grassroots process of dealing with hate crime.

4) The continuous process of developing grassroots communities and links would allow minorities to properly feed into these processes on a continuous basis.

5) An intersectional approach can increase the quantity and quality of hate crime reporting. It means reaching out to many communities, involving them in the system.

6) Finally, a greater insight into intersecting hate crimes allows for national/regional campaigns to address hate crimes motivated by multiple biases.

In terms of **challenges**, the participants identified only a few. They noted difficulty in defining intersectionality in relation to hate crimes. Sustainable funding for marginalized groups is required in order to continuously implement an intersectional approach. Having "intersectional" hate crime laws means listing all relevant protected characteristics and providing for their simultaneous use. Problems arise when some relevant characteristics are omitted in the law.

The *third* group discussed **good practices and challenges in using an intersectional approach to address hate crimes**, **intolerance against Muslims, anti-Semitism and hate crimes committed with multiple bias motivations**. In terms of **good practices**, the group identified the following:

1) The recording by Dutch police of discrimination on multiple basis.
2) Using narratives and conceptualization (inclusive) of hate crime bases.
3) The collaboration of the Turkish Ombudsperson's office with various social groups.
4) The creation of specialized units to deal with hate crimes in an intersectional manner.

In terms of **challenges**, participants highlighted the following:

1) The difficulty of addressing hate crimes when the state is the perpetrator.
2) Limitations in outreach by international organizations.
3) Funding constraints, especially during recessions.
4) A lack of recognition, reporting and capacity to address hate crimes in an intersectional manner.
5) The risk of this approach not being inclusive (if certain grounds or protected characteristics are left out or the list is not exhaustive).
6) The absence of a comprehensive normative framework.
7) Classifying individuals is neither easy nor ideal, as not all characteristics are visible.
8) Many police officers have not received hate crime training.
9) There is often no access to statistical data.

IV. Action points and conclusions

The roundtable presentations and discussions highlighted that intersectionality as applied to hate crime, with a focus on gender and related considerations, is an understudied topic, fraught with analytical and practical questions that need to be further examined. Defining this issue in a practical and inclusive way and operationalizing it in the day-to-day work of relevant actors remain priorities to be addressed. It is clear that existing hate crime policies and legislation do not generally account for or cater to the multi-layered, intersecting nature of people's identities, in particular the sex/gender elements of identity. To effectively address the root causes of discrimination, exclusion and violence, participating States and CSOs must take a grassroots, bottom-up approach that speaks to and includes individuals and groups representing multiple categories of marginalization. This victim-centred, OSCE-

wide approach would enable relevant actors to address hate crime and discrimination against vulnerable groups in an inclusive and holistic manner.

Sections II and III of this report presented specific suggestions and recommendations for various actors, including IGOs, data collection bodies, prosecutors, CSOs, activists and researchers. In terms of action points for ODIHR, the Office could organize and lead **a series of consultations with hate crime victims and victim groups** and representatives to further inform its understanding and implementation of intersectional approaches to hate crimes. ODIHR could also **evaluate its own capacity-building programmes** from an intersectional perspective. Finally, ODIHR could draft and **publish practical guidelines** on applying intersectionality to hate crime-related work and share these guidelines with relevant counterparts.