



Hate Crimes

Hate Crimes within the context of the Lebanese and international legal systems.

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Abstract

With an increasing number of victims, hate crimes are challenging judicial foundations worldwide. Hate crimes are currently drawing global attention, demanding subjects of international law to adopt regulating conducts for such crimes. The consequences of biased-motive crimes go far beyond individual harm to imperil the general social organization.

Hate crimes are recognized as human rights' violations by international legal personnel. However, many jurisdictions are yet to criminalize hate crimes, necessitating that policy makers take the necessary steps to redress that, as in Lebanon. It is the duty of states to provide adequate legal definitions for biased-motive crimes, specify the means of prosecution, and decide the adequate punishment.

Despite the demand, the Lebanese legal system has so far failed at providing hate crimes with an adequate legal description. If not held accountable, offenders' violence might escalate promising a loss in the feelings of safety and security among the targeted groups. Legal recognition starts by providing a clear and coherent definition of what acts constitute hate crimes, distinguishing them from regular criminal conduct.

This study first explores the concept of hate crimes, then investigates the legal framework of hate crimes in international and local legislation, sheds light on the loopholes in the Lebanese approach for hate crimes, and ends with a few remedial suggestions.



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Introduction

Generally, the term “hate crime” is meant to distinguish criminal conduct motivated by prejudices from criminal conduct motivated by lust, jealousy, greed, politics, and so forth.¹ In the 2009 Ministerial Council Decision, the Organization for security and Cooperation in Europe OSCE set a clear definition of hate crimes as “criminal offences committed with a bias motive”.² On this ground, an offence must meet two criteria to be considered as a hate crime:

1. The act must constitute an offence under criminal law.
2. The act must have been motivated by bias against a protected characteristic.

To be recognized as so, an act must establish an offence already penalized by law. In other terms, a biased motive alone is not punishable by law if not accompanied by a material manifestation.

Similar to any other criminal act, hate crimes target both persons and property, and range in brutality from minor damage or insult to more severe forms like homicide. Hate crimes are motivated by bias against a protected characteristic. These characteristics include race, religion, sexual orientation and gender identity, disability, and gender inter alia. Most modern hate crimes are linked to forms of bias related to ethnicity, national origin, nationality, xenophobic tendencies, islamophobia, gender identity and sexual orientation.

Despite its devastating effects, hate crimes are unrecognized in the Lebanese legal structure. In what follows we elaborate on the legal framework of hate crimes delving into the demand for hate crimes legal recognition in the Lebanese legal system.

¹ (Jacobs and Potter, 1997, pp.2)

² [2009/9] Combating Hate Crimes. *Organization for Security and Co-operation in Europe*.

I. The Legal Framework of Hate Crimes

Hate crimes, constituting criminal acts prohibited by law, require a legal framework capable of enforcing the necessary provisions for incriminating such unlawful acts. Crimes with biased motives have destructive social effects that go beyond ordinary crimes, which indeed became a subject of international law along with a presence in the internal legislation of various countries. However, some others (including Lebanon) lack any definition or recognition of hate crimes. Indeed, we will discover the framework of hate crimes in international and local legislations.

Hate Crimes in International Law

Hate crimes present a major violation of the basic rights guaranteed for individuals by international law. The International Covenant on Civil and Political Rights and The International Convention on the Elimination of All Forms of Racial Discrimination are recognized as the main texts discussing the case of hate crimes. Additionally, we can find similar indications in other provisions, and here we mention: The Convention on the Prevention and Punishment of the Crime of Genocide, The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, The International Convention on the Suppression and Punishment of the Crime of Apartheid, and The UNESCO Declaration on Race and Racial Prejudice.

International Covenant on Civil and Political Rights

On the 3rd of November 1972, Lebanon ratified the International Covenant on Civil and Political Rights (ICCPR). This nearly universally ratified covenant provides in Article 2 the States' obligation to provide remedy for any person whenever his rights or freedoms are violated.³

³ [1966] International Covenant on Civil and Political Rights. *United Nations*

Article 7 provides, and here we quote, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Additionally, Article 26 prohibits any discrimination, guaranteeing to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. These former articles provide a manifestation of the prohibition of hate crimes in all its aspects.

In an aim to monitor the enforcement of its provisions the ICCPR established the Human Rights Committee. The Human Rights Committee (HRC) is the body of independent experts that monitors the implementation of the International Covenant on Civil and Political Rights by its State parties.⁴

The HRC can be triggered by individual complaints. The Human Rights Committee may consider individual communications alleging violations of the rights set forth in the International Covenant on Civil and Political Rights by States parties to the First Optional Protocol to the International Covenant on Civil and Political Rights.⁵

International Convention on the Elimination of All Forms of Racial Discrimination

Adopted in 1965, the International Convention on the Elimination of All Forms of Racial Discrimination imposes on state parties an obligation to criminalize certain forms of hate speech along with acts of violence against any race, group of persons of another color or ethnic group inflicted by the government or any individual or group. Article 4 declares the States’ obligation to

⁴ *Human Rights Committee, Monitoring Civil and Poitical Rights*. United Nations Human Rights Office of the High Commissioner.

⁵ *Human rights Bodies-Complaints Procedures*. United Nations Human Rights Office of the High Commissioner.

criminalize violence acts committed against any race or group of persons of different color or ethnic origin. Article 6 elaborated the required institutional and legal basis to ensure the adequate remedy of the victims of biased-motivated criminal acts.⁶

Similar to the ICCPR the International Convention on the Elimination of All Forms of Racial Discrimination provided for the initiation of a monitoring body, the Committee of the Elimination of Racial Discrimination (CERD). Just like the Human Rights Committee, the CERD considers individual complaints.

It is worthwhile to mention that these monitoring bodies are not capable of imposing sanctions on states but to issue comments and recommendations.

Hate Crimes in Lebanese Law

Despite the significance of international provisions, internal legislation is indispensable to ensure the adequate legal remediation of hate crimes. National legislation is necessary for the identification, investigation and prosecution of biased-motive crimes. Internal legal texts governing hate crimes are available in the form of the following trichotomy: recognition as substantive offences, penalty enhancements, and general sentencing provisions.

Incompetent or insufficient legal texts related to hate crimes could result a failure in delivering justice and providing victims' compensation. Indeed, the Lebanese legal system seems to suffer from such privation.

⁶ Art. 6; [1965] International Convention on the Elimination of All Forms of Racial Discrimination.

Absence of Substantive Offences or Penalty Enhancement Provisions

Perhaps the word absence is used here to highlight the lack of specific recognition of hate crimes in the Lebanese law. This doesn't necessary mean that the commitment of such criminal offences is not punishable by law, however the delivery of justice might be partially paralyzed.

Substantive Offences

Article 317 of the Lebanese Penal Code declares any act, publication or speech that aims at spreading secular discrimination or generating conflict between religious communities or members of the Lebanese nation shall be subjected to imprisonment ranging between one to three years along with monetary fine.⁷ The mentioned infringements present one of the faces of hate crimes that include crimes against persons and property biased on discriminatory motives related to the victims' race, sexuality, nationality, and social or ethnic origin. By this we can find that the Lebanese law only recognizes crimes with religious discriminatory motives as a substantive offence unaccompanied by the other forms of hate crimes.

Penalty Enhancement Provisions

Penalty enhancements are common in the Lebanese legal system, unless when it comes to biased-motive crimes. We can only find enhancement in the case of the intentional killing. The penal code subjects the committer of intentional killing, in principle, to 15-20 years of hard labor.⁸ Article 549 though, mentions penalty enhancements for the previously mentioned felony as death penalty. This includes killing a human based on his\her religious faith or as a form of revenge to a major offence committed by a member of the victim's secular or religious group.

⁷ Art. 317; [1943/340] Penal Code

⁸ Art. 547; [1943/340] Penal Code

Again, the Penal Code discusses only one aspect of hate crimes – crimes of religious discriminatory motive.

General sentencing provisions

The Penal Code clearly states that motives cannot be considered as a source of criminalization unless declared by law.⁹ Here arises the legal loophole: biased- motive was never declared a source of criminalization in the Lebanese Law. All hate crimes committed in Lebanon are treated as regular crimes neglecting their biased-motive (excluding the previously mentioned case of crimes with discriminatory religious motives).

With what is previously mentioned in mind, we can view a law enforcement approach for hate crimes indistinct from any other similar criminal act.

⁹ Art. 192; [1943/340] Penal Code

II. The Demand for Hate Crime Provisions

Establishment of hate crime provisions in Lebanon is vital to preserve Lebanon’s social security. Biased-motive crimes have proven to escalate social division. Repeated acts of violence targeting certain groups or minorities is linked to a decrease in the feeling of safety and security. Victimized citizens would experience a reduction in the quality of life where some members of the targeted community might develop aggressive behavior.

According to The Sussex Hate Crime Project SHCP report: “hate crimes whether experienced directly, indirectly, through the media, in person or online were consistently linked to increased feelings of vulnerability, anxiety, anger, and sometimes shame; and being more security conscious, avoidant, and more inactive within the community”.¹⁰

For it constitutes of double components: the criminal act and the biased motive (prejudice); if partially treated one cannot assume that it might seize to have effect. Sending an offender to jail is not a desired solution. Law enforcement agencies must consider the presence of toxic ideologies. On this basis, offenders must be provided with adequate behavioral therapy and psychological support.

Prerequisites for Appropriate Legal Treatment

To address biased-motive crimes effectively, the justice system must be equipped with the necessary tools and resources. These prerequisites are both legal and technical.

¹⁰ (EDF, 2018, pp. 6)

New Laws and Legal Amendments

Adopting new legislation or amending the Penal Code is highly recommended. The Lebanese law must include provisions describing this kind of crimes.

The amendment could take the form of establishing penal enhancement for major and minor offences with biased motives. Perhaps a new law could consider hate crimes as distinct criminal acts targeted with specific penalization. Hate crimes cases should be adhered case by case based on the type of motive. Crimes with a xenophobic, religious, racist, and gender-based prejudice must be managed separately.

Training law enforcement personnel

Legal texts must be supported with skilled and highly equipped law enforcement personnel. Jurists, police officers and prosecutors should be engaged in adequate training highlighting the key concepts of hate crimes. Law enforcement personnel should be familiar with the criteria of recognizing hate crimes, effectively reporting cases, the psychological and sociological aspects of such crimes, proper investigation of motive mechanisms, and victims' further support.

Why do we need this special treatment for hate crimes?

During the past years, Lebanon experienced a rapid rise of racist and xenophobic attitude. Sociologist Rima Majed from the American University of Beirut noted: "In times of crises, 'political correctness' fades away and the real dynamics of power and social hierarchies appear more clearly, often taking the ugly shape of racism."¹¹ Our society is facing more and more hate crimes fed by an increase in the scale of political speech of hate. It is not a problem with refugees, as some like to address, the Lebanese person today is rejecting any other non-self. From domestic

¹¹ (Shebaya, 2017).

workers (modern slavery crisis), to Syrian and Palestinian refugees, migrant workers, Lebanese minorities, people of color, and to any unfamiliar figure.

A specific recognition for hate crimes is demanded for two basic reasons: hate crimes are under-reported and victims are deprived of their right in psychological and social support. Which would eventually lead to more violence. Not to neglect the tragedy of victims being reluctant to report hate crimes due to police negligence, illegal residency status, fear, or potential threats.

Conclusion

Hate crimes, like other criminal acts, require a legal treatment that considers both the personal and collective interests of society. One must keep in mind that safety and security are mutual principles, by this no one is safe where another is endangered. Maintaining public safety requires attentive legislative work as well as adaptable law enforcement personnel. Indeed, the public authority should create partnerships with the civil society to campaign, support vulnerable communities, raise awareness and expose ill ideologies that might result in hate crimes. Violence is the product of fear, diminishing those fears shall expose more acceptance in our society and thus bring us more solidarity.

The Lebanese constitution grants the equality of all Lebanese citizens against the law.¹² Arising from this constitutional principle and Lebanon's obligations and duties under international law with respect to human rights, the Lebanese public authority must ensure the protection of all its citizens (and residents) from biased-motive crimes.

¹² [1926] Lebanese Constitution.

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*This bibliography is organized in accordance with the Lebanon Law Review's **Berytus**TM referencing style.*

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