

# 6

## Protection from Hate Crimes

### KEY FINDINGS

Canada and Uruguay are the countries that protect sexual and gender minorities the most from hate crimes, followed by Mexico.

One-quarter of the sample countries criminalize hate crimes based on sexual orientation and gender identity (SOGI) and consider crimes based on a person's SOGI to be aggravating circumstances under the law.

Only Costa Rica and Mexico have laws or regulations that require government agencies to collect data on hate crimes against sexual and gender minorities or those perceived as such.

Mechanisms to report and monitor hate-motivated acts against sexual and gender minorities exist in seven of the countries studied.

Only four countries offer training to professionals in law enforcement on how to recognize hate crimes and provide programs and assistance to victims of hate crimes.

It is advised that countries enact or amend laws to specifically prohibit hate crimes against sexual and gender minorities.

## Importance of the Protection against Hate Crimes Indicator Set

*Hate crimes* are criminal acts motivated by bias or prejudice toward particular groups of people. To be considered a hate crime, the offense must meet two criteria. First, the act must constitute an offense under criminal law, and second, the act must have been motivated by bias. *Bias motivations* can be broadly defined as preconceived, negative opinions, stereotypical assumptions, intolerance, or hatred directed to a particular group that shares a common characteristic, such as race, ethnicity, language, religion, nationality, sexual orientation, gender, or any other similar common factor (OSCE 2009). Hate crimes leave lasting scars not only victims but also on whole communities. They weaken the sense that all people share common values and a common future (Boram 2016). At the 59th Session of the UN General Assembly, the Secretary-General noted that “while freedom from want and fear is essential, they are not enough. All human beings have the right to be treated with dignity and respect” (UNGA 2005, 34). Furthermore, “. . . such dignity and respect [must be] afforded to people [. . .] and must be protected through the rule of law” (UNGA 2005).<sup>1</sup>

“LGBTI people experience discrimination and poor treatment because of their SOGI in many areas of public life, and often change their behavior because they fear that they will experience discrimination.”

—*Bachmann and Gooch (2017, 20)*

Insufficient legal protection against hate crimes leaves vulnerable groups susceptible to violence, discrimination, harassment, exclusion, and stigmatization. Moreover, the victims’ integrity and dignity, and the dignity of others who share the victims’ characteristics, are undermined. Victims of hate crimes often lose their sense of self-worth and belonging to a community and feel excluded.<sup>2</sup> This exclusion leads to marginalized citizenry and poverty, particularly because the exclusion of a group from the development agenda diminishes the group’s potential within the society. Societies and countries thus pay a considerable price for exclusion. Recent World Bank reports advance the notion that social inclusion matters because the cost of exclusion is very high (Badgett 2014; World Bank 2013).

Actively criminalizing hate crimes, either as aggravating circumstances or as separate crimes, sends a strong message that society as a whole is willing to protect its most vulnerable members. It also sends the message that sexual and gender minorities deserve recognition, respect, and equality.<sup>3</sup> Together, such measures ensure “community cohesion” and “social stability” (OSCE 2009). Conversely, a lack of hate crime legislation signals to the victims that hatred and bias based on their identity are condoned (Alongi 2017). The resulting fear and insecurity preclude this group from capitalizing on opportunities that would lead to a better life (World Bank 2013). When sexual and gender minorities are denied full participation in society, microlevel economic harm ensues. Similarly, such violations are likely to affect the country’s level of economic development (Badgett and others 2014).

Discrimination in the form of personal attacks affects the individual foremost. But such discrimination is also expressed in the broader macroeconomic environment, translating into overall poor health and poverty and leading to a smaller labor force and higher health care costs. McFee and Galbraith (2016) establish that when sexual and gender minorities are targets of violence, their contribution to the whole country is diminished. The study concludes that individual-level connections between rights and economic development amount to negative impacts on a country's overall economic development. In addition, exclusionary practices—such as bullying, harassment, violence, and discrimination—translate into underinvestment in human capital; without human capital, countries cannot harness sustainable economic growth (Badgett and others 2014).

Hate crimes also have unique psychological consequences. Perpetrators of hate crimes want their victims to believe that they are social outcasts. Victims suffer psychological harm because they cannot change the characteristics that make them a target of the crimes (Badgett 2014). But victims of hate crimes do not suffer alone; the repercussions of the crimes are felt within the community as a whole because the community carries the burden of potential security and public order problems (OSCE 2009). The disruption that hate crimes create leads to social tensions, putting pressure on law enforcement resources and the government. Hate crimes also tend to exacerbate underlying tensions among groups that experience constant discrimination (OSCE 2009). If a targeted group begins to feel that crimes against it are socially acceptable, integration becomes more difficult. Perpetrators will also be emboldened to commit more hate crimes because vulnerable communities lack adequate legal protection.

Despite the known legal, societal, economic, and psychological consequences, sexual and gender minorities continue to suffer from discrimination, abuse, violence, and hatred.<sup>4</sup> It is well-documented that victims of hate crimes can suffer deep and long-lasting mental health issues. A study conducted by the Latvian Centre for Human Rights found that victims of hate crimes suffer multiple psychological traumas, ranging from reduced self-confidence to constant anxiety (Latvian Centre for Human Rights 2008). As Transgender Europe reports, there were 331 cases of reported killings of transgender and gender-diverse people between October 1, 2018, and September 30, 2019. The majority of the murders occurred in Brazil (130), Mexico (63), and the United States (30), adding up to a total of 3,314 reported cases in 74 countries worldwide between January 1, 2008, and September 30, 2019 (TGEU 2019).

The indicator set on protection against hate crimes is critical to determine the existence and effectiveness of laws and mechanisms that criminalize hate crimes and provide protection for sexual and gender minorities. The indicator set evaluates whether crimes based on a person's SOGI are considered aggravating circumstances under the law. It also assesses whether laws or regulations require government agencies to monitor and collect data or whether mechanisms for monitoring and reporting hate-motivated acts of violence against sexual and gender minorities (or those perceived to be sexual or gender minorities) exist. This is crucial during the COVID-19 pandemic, when sexual and gender minorities face restrictions that may confine them to hostile environments; tracking the laws that protect them is especially important at such times (box 6.1). Moreover, the indicator set examines whether existing regulations mandate the provision of legal assistance, shelter or housing, forensic or medical examinations, and medical certificates. Finally, it analyzes whether laws or regulations require the training of professionals, such as law enforcement officers and health care providers, to identify hate crimes.

A 2017 survey conducted by the World Bank revealed that one in three LGBTI persons across the five Western Balkan countries and two European Union member states had been a victim of physical and/or sexual violence or was threatened with violence within the past five years.

—World Bank (2018)

### **BOX 6.1** Links between Data on Protection from Hate Crimes and COVID-19

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During the COVID-19 pandemic, sexual and gender minorities have been subjected to attacks, and civil society organizations (CSOs) advocating for the rights of sexual and gender minorities have been targeted in some countries (Ghoshal 2020). Recent reports suggest an increase in homophobic and transphobic rhetoric.

Some countries have put in place movement restrictions based on sex, with women and men allowed to leave their homes on alternate days. Such policies put nonbinary and transgender people at risk of heightened discrimination, as they may be subjected to harassment (Ott 2020). Furthermore, because of stay-at-home restrictions, many sexual and gender minorities are confined in hostile environments, often with unsupportive family members or cohabitants, causing excessive mental and physical strain and preventing them from reporting hate crimes and hate speech.

Tracking laws that protect sexual and gender minorities from hate crimes and hate speech is important, as are mechanisms for monitoring and reporting hate-motivated acts of violence against sexual and gender minorities. Only 7 of the 16 countries measured by the *Equality of Opportunity for Sexual and Gender Minorities* (EQOSOGI) report have mechanisms for monitoring and reporting hate-motivated acts of violence against sexual and gender minorities; 12 of the countries have laws or regulations criminalizing hate crimes based on sexual orientation and gender identity (SOGI). Accurate data ensure effective monitoring and reporting of hate-motivated acts of violence and allow the study of patterns of change in hate crime incidents. Insufficient legal protection against hate crimes leaves sexual and gender minorities susceptible to violence, discrimination, harassment, exclusion, and stigmatization.

At all times, but even more urgently during the pandemic, countries should ensure that perpetrators of hate crimes are held legally accountable. They should provide adequate mechanisms to facilitate effective investigations and find ways to protect victims from hate crimes and hate speech during times of isolation.

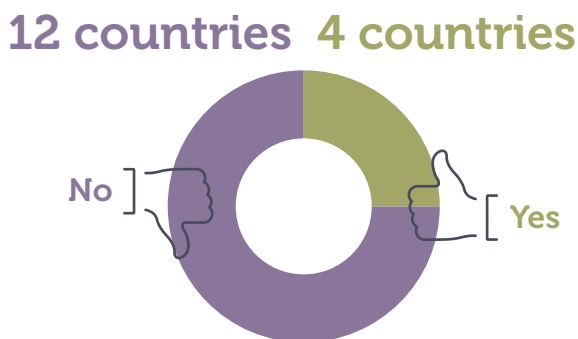
## Hate Crime Legislation

To be considered a hate crime, an offense must meet two criteria: the act must constitute an offense under criminal law, and the act must have been motivated by bias (OSCE 2014).<sup>5</sup> Countries should ensure that perpetrators of hate crimes are held legally accountable (EU FRA 2018).<sup>6</sup>

Hate crime laws are usually in the form of new substantive offenses or aggravating circumstances clauses for existing crimes (OSCE 2009). Aggravating circumstances clauses increase the penalty for a base offense when the base offense is committed with a bias motive (Alongi 2017). Countries that have enacted hate crime legislation realized the need to raise awareness, which translates into more effective implementation and better police–community relations (OSCE 2009). Of the 16 countries analyzed, only Canada, Kosovo, South Africa, and Uruguay (representing 25 percent) have laws or regulations that criminalize hate crimes based on SOGI. The remaining 75 percent (Bangladesh, Costa Rica, India, Indonesia, Jamaica, Japan, Lebanon, Mexico, Mozambique, Nigeria, Tunisia, and Ukraine) lack specific laws, constitutional provisions, or regulations criminalizing hate crimes based on sexual orientation, gender identity, gender expression, or sex characteristics. Additionally, only Canada, Kosovo, Mexico, and Uruguay consider crimes based on a person’s SOGI as aggravating circumstances under the law (figure 6.1).

**FIGURE 6.1**

**Number of Analyzed Countries with Laws or Regulations Criminalizing SOGI-Based Hate Crimes, 2021**



*Source:* World Bank Group, Equality of Opportunity database.

*Note:* SOGI = sexual orientation and gender identity.

Uruguay's Criminal Code provides enhanced penalties for crimes motivated by "sexual orientation" or "sexual identity." It criminalizes the incitement to hatred or any form of violence against a person or a group based on their sexual orientation or "sexual identity."<sup>7</sup> Furthermore, the law regulating audiovisual communication services prohibits the dissemination of content that promotes violence based on sexual orientation (among other grounds).<sup>8</sup> Kosovo's Criminal Code criminalizes hate crimes and hate speech against sexual and gender minorities and considers crimes committed on the basis of a person's gender identity and sexual orientation to be aggravating circumstances.<sup>9</sup> The South African Constitution prohibits discrimination based on sexual orientation.<sup>10</sup> Moreover, the Promotion of Equality and the Prevention of Unfair Discrimination Act (PEPUDA) prohibits hate speech on sexual orientation grounds.<sup>11</sup> However, crimes based on SOGI are not considered aggravating circumstances under the hate crime laws of South Africa.<sup>12</sup> Some contributors argue that although SOGI is not mentioned in PEPUDA, the legislation should be interpreted in tandem with the constitution, meaning that crimes committed against someone based on the person's SOGI will be considered to be aggravating circumstances under the law. In Canada, the Penal Code prohibits the promotion of genocide, defining it as killings or violence against a specific group. The term "group" is defined in the law as inclusive of sexual orientation, gender identity, or expression.<sup>13</sup> The Penal Code also provides that a sentence may be increased if a crime was motivated by hatred based on sex, sexual orientation, gender identity, or gender expression.<sup>14</sup> Finally, even though Mexico lacks national hate crime laws, in Mexico City and in the country's other 12 provinces, crimes committed based on a person's SOGI are considered to be aggravating circumstances.<sup>15</sup>

In early 2020, the government of Ukraine introduced three bills in the Ukrainian Parliament proposing amendments to the Criminal Code on the criminalization of hate crimes, including those based on SOGI.<sup>16</sup>

### **It is advised that countries adopt the following good practice policy actions:**

- Enact or amend laws to specifically prohibit hate crimes against sexual and gender minorities.
- Recognize crimes committed against someone based on their SOGI as aggravating circumstances under the law.
- Provide training to police and judges on hate crimes against sexual and gender minorities and amend sentencing guidelines to include aggravating circumstances for SOGI-motivated hate crimes (OSCE 2009).

## Collecting Data, Monitoring, and Reporting Hate Crimes against Sexual and Gender Minorities

Accurate data ensure effective monitoring and reporting of hate-motivated acts of violence and allow the study of patterns or changes in hate crime incidents.<sup>17</sup> Maintaining reliable data is essential for effective policy formation and appropriate resource allocation in countering hate-motivated incidents (OSCE 2009). By providing a comprehensive picture of the problem and revealing the effectiveness of existing laws, data can help ensure the effective prosecution of hate-motivated acts of violence and egregious crimes committed against sexual and gender minorities. Collecting reliable data can also help authorities understand hate crimes and monitor the usefulness of programs designed to combat them. Finally, the existence of data assures victims that safe, reliable, accessible, and transparent reporting mechanisms have been put in place (OSCE 2014).<sup>18</sup>

Despite the importance of obtaining and analyzing relevant hate crimes data, only 2 of the 16 study countries (Costa Rica and Mexico) require government agencies to collect data on hate crimes against sexual and gender minorities or those perceived as such (figure 6.2). In Costa Rica, the Commissioner Office for LGBTI Affairs can collect data on gender identity and sexual orientation to adopt specific public policies that address the needs of sexual and gender minorities.<sup>19</sup> Similarly, Mexico's National Commission of Human Rights (Comisión Nacional de los Derechos Humanos) collects statistical data on the human rights situation in the country to improve relevant monitoring and reporting mechanisms.<sup>20</sup>

**FIGURE 6.2**

**Number of Analyzed Countries That Require Agencies to Collect Data on Hate Crimes against Sexual and Gender Minorities, 2021**

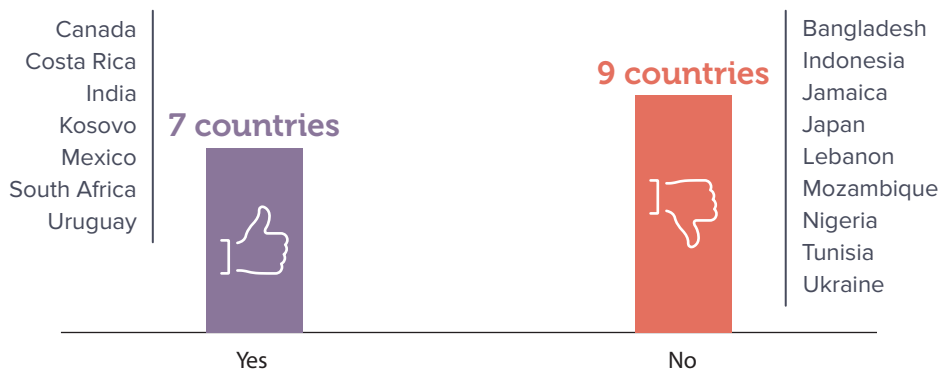


Source: World Bank Group, Equality of Opportunity database.

Seven countries (Canada, Costa Rica, India, Kosovo, Mexico, South Africa, and Uruguay) have mechanisms in place to report and monitor hate-motivated acts against sexual and gender minorities (figure 6.3). The Human Rights Commission in Ontario, Canada, for example, has a mandate to monitor the application of local laws and report human rights violations.<sup>21</sup> Relatedly, Costa Rica’s Commissioner Office for LGBTI Affairs monitors discrimination and human rights violations faced by sexual and gender minorities in the country.<sup>22</sup> India’s Human Rights Commission monitors ongoing threats against human rights.<sup>23</sup> Kosovo’s Ombudsperson is explicitly authorized to monitor, defend, and protect individuals’ rights and freedoms.<sup>24</sup> In Mexico, both the National Commission of Human Rights and the National Council to Prevent Discrimination (Consejo Nacional para Prevenir la Discriminación) are charged with monitoring and reporting all acts of violence against sexual and gender minorities.<sup>25,26</sup> Similarly, the South African Human Rights Commission monitors and assesses the observance of human rights in the country.<sup>27</sup> The commission is empowered by the South African Constitution to investigate and report the observance of human rights, take steps to secure appropriate redress when human rights have been violated, and carry out research and education.<sup>28</sup> Additionally, South Africa has established Equality Courts designated to hear matters relating to discrimination, hate speech, and harassment.<sup>29</sup> In Uruguay, the Honorary Commission against Racism, Xenophobia and Discrimination and All Other Forms of Discrimination (Comisión Honoraria contra el Racismo, la Xenofobia y toda otra forma de Discriminación) is responsible for recording acts that violate human rights and using these records to formulate judicial complaints if necessary.<sup>30</sup>

**FIGURE 6.3**

**Analyzed Countries with Mechanisms for Monitoring Acts of Violence against Sexual and Gender Minorities, 2021**



Source: World Bank Group, Equality of Opportunity dataset.



**It is advised that countries adopt the following good practice policy actions:**

- Adopt laws that authorize government agencies to collect data on hate crimes to counter hate-motivated crimes.
- Ensure effective monitoring and reporting of hate-motivated acts, such as harassment, bullying, and other forms of violence, to facilitate effective investigations and swift prosecutions.
- Monitor incidents of violence against people of diverse SOGI in places of detention and introduce policies to respect the self-identified gender identity and expression of transgender people.

## Training Professionals in Law Enforcement and Victim Assistance to Recognize and Identify Hate Crimes and Provide Support Services to Hate Crime Victims

Training is an important step in hate crime prevention. Professionals in law enforcement and victim assistance agencies should be adequately trained to assist hate crime victims (McLaughlin and others 2000). Equipping professionals with the tools, strategies, and necessary information allows them to identify hate crimes and take appropriate actions to investigate, prosecute, and protect victims.<sup>31</sup> As first responders at a crime scene, police officers and health care professionals can properly assist the victim while reassuring the public of the government's genuine commitment to address and investigate hate crimes (OSCE 2009). Adequately trained professionals show empathy toward victims and initiate an immediate and thorough investigation, which sends a message to the community about the significance of the problem.

Similarly, legal professionals need sufficient training to recognize, investigate, and prosecute hate crimes. Most prosecutors must prove the bias element, which adds complexity to hate crime offenses compared with other criminal offenses. This complexity often leaves prosecutors unwilling or reluctant to charge perpetrators with hate crimes (Lopez 2017), violating the victim's right to equal justice. Assistance in legal matters, housing, medical examinations, and other forms of support are equally important for victims of hate crimes, especially for socially marginalized minorities.

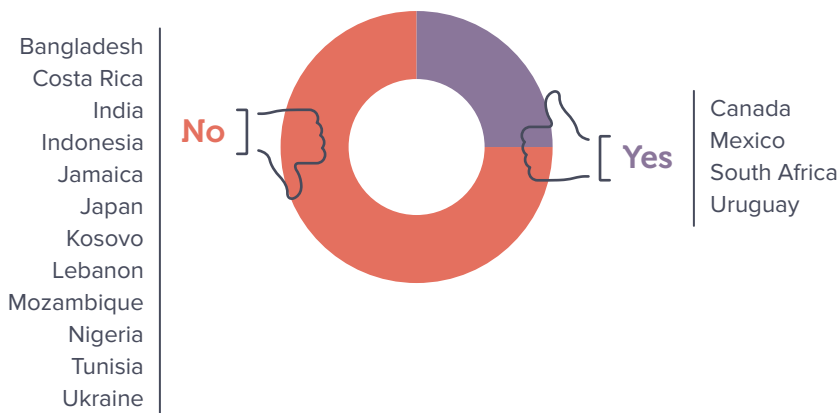
Only Canada, Mexico, South Africa, and Uruguay legally mandate the training of professionals on hate crimes and other abuses (figure 6.4). Authorities in Ontario, Canada, designed a brochure for all police officers to supplement hate crimes training and have introduced hate crimes training for victim service workers.<sup>32</sup> Community legal services, such as Legal Aid Ontario, have also introduced guidelines for local police officers addressing SOGI issues, including a good practices manual on how to serve sexual and gender minorities (Ontario Association of Chiefs of Police 2013). In Mexico, both the National Commission of Human Rights (Ley de la Comisión Nacional de los Derechos Humanos) and the National Council to Prevent Discrimination (Ley Federal para Prevenir y Eliminar la Discriminación) provide education and training to prosecutors on abuses, including the rights of sexual and gender minorities.<sup>33,34</sup> In South Africa, the state is legally obliged to promote equality through assistance and training and to address complaints of discrimination, hate speech, or harassment against sexual and gender minorities.<sup>35</sup> Uruguay’s national human rights institutions are mandated to offer training on identifying hate crimes to competent authorities, relevant ministries, and the courts.<sup>36</sup>

Canada, Mexico, South Africa, and Uruguay also provide support services—shelter and housing, legal assistance, medical or forensic examinations, and medical certificates—to victims of hate crimes. In Canada, access to legal aid in Ontario is regulated by the Legal Aid Services Act,<sup>37</sup> which offers legal aid to low-income individuals and disadvantaged communities in Ontario. Community legal clinics such as Legal Aid Ontario provide services to address the needs of low-income people and disadvantaged communities, including sexual and gender minorities who meet the criteria. In Uruguay, the law offers free legal assistance and shelter to female victims of crimes related to their sexual orientation and gender identity.<sup>38</sup> Similarly, the Honorary Commission against Racism, Xenophobia and Discrimination and All Other Forms

**FIGURE 6.4**

**Analyzed Countries with Legally Mandated Training on Hate Crimes and Support Services to Victims, 2021**

**12 countries** 4 countries



Source: World Bank Group, Equality of Opportunity dataset.

of Discrimination offers legal assistance and support to sexual and gender minority victims of abuses.<sup>39</sup> In South Africa, the state covers the cost of legal aid and advice, depending on the victim's personal circumstances, the nature and gravity of the charge, and whether other legal representation is available.<sup>40</sup> Similarly, Mexican law mandates the provision of services, such as legal assistance and housing, to any victim of a hate crime, including sexual and gender minorities.<sup>41</sup>

### It is advised that countries adopt the following good practice policy actions:

- Enact laws and regulations that mandate training for professionals on recognizing hate crimes.
- Ensure that law enforcement professionals are equipped to effectively investigate hate crimes, identify bias or prejudice, show empathy, and protect victims when required. Provide community outreach programs and assistance to victims of hate crimes, such as free legal aid, shelter, forensics, medical examinations, and medical certificates.

## Notes

1. See <https://www.un.org/ruleoflaw/rule-of-law-and-human-rights>.
2. See the Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (Yogyakarta Principles), 2006, available at <http://yogyakartaprinciples.org/principles-en/about-the-yogyakarta-principles>.
3. See the United Nations' Fact Sheet: International Human Rights Law and Sexual Orientation and Gender Identity at <https://www.unfe.org/wp-content/uploads/2017/05/International-Human-Rights-Law.pdf>.
4. See Human Rights Watch "LGBT Rights" available at <https://www.hrw.org/topic/lgbt-rights>.
5. The questions addressing hate crime legislation in the indicator set on protection from hate crimes include: Are there any laws, constitutional provisions, and/or regulations that criminalize hate crimes based on sexual orientation, gender identity, gender expression, and sex characteristics? Are crimes committed against someone based on that person's SOGI considered as aggravating circumstances by the law?
6. The EU 2018 report on hate crime says "[t]he proper identification and recording of hate crime is a vital step in ensuring that offenses are investigated and, where necessary, prosecuted and sanctioned, and that victims and their families are appropriately supported" (EU FRA 2018, 19).
7. Uruguay, Penal Code (as amended by Law 17.677). 2003. Article 149bis: "El que públicamente o mediante cualquier medio apto para su difusión pública incitare al odio, al desprecio, o a cualquier forma de violencia moral o física contra una o más personas en razón del color de su piel, su raza, religión, origen nacional o étnico, orientación sexual o identidad sexual, será castigado con tres a dieciocho meses de prisión." Article 149ter: "El que cometiere actos de violencia moral o física de odio o de desprecio contra una o más personas en razón del color de su piel, su raza, religión, origen nacional o étnico, orientación sexual o identidad sexual, será castigado con seis a veinticuatro meses de prisión."

8. Uruguay, Law No. 19.307. 2014. Article 28: “Los servicios de comunicación audiovisual no podrán difundir contenidos que inciten o hagan apología de la discriminación y el odio nacional, racial o religioso, que constituyan incitaciones a la violencia o cualquier otra acción ilegal similar contra cualquier persona o grupo de personas, sea motivada por su raza, etnia, sexo, género, orientación sexual, identidad de género, edad, discapacidad, identidad cultural, lugar de nacimiento, credo o condición socioeconómica.”
9. Kosovo, Criminal Code, Law No. 06/L-074. 2019. Article 70, para. 2: “When determining the punishment the court shall consider, but not be limited by, the following aggravating circumstances . . . (12) if the criminal offense is a hate act, which is any crime committed against a person, group of persons, or property, motivated upon the race, color, gender, gender identity, language, religion, national or social origin, relation to any community, property, economic condition, sexual orientation, birth, disability or other personal status, or because of their affinity with persons who have the aforementioned characteristics, except if one of the enumerated characteristics constitutes an element of a criminal offense.” Article 141: “Whoever publicly incites or publicly spreads hatred, discord and intolerance between national, racial, religious, ethnic and other groups or based on sexual orientation, gender identity and other personal characteristics, in a manner which is likely to disturb the public order shall be punished by a fine or imprisonment of up to five (5) years.”
10. Constitution of South Africa. 1996. Article 9(3): “The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.”
11. South Africa, Promotion of Equality and the Prevention of Unfair Discrimination Act 4. 2000. Article 10(1): “(1) Subject to the provision in section 12, no person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to (a) be hurtful; (b) be harmful or to incite harm; (c) promote or propagate hatred. According to article 1, prohibited grounds are: race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.”
12. South Africa, Promotion of Equality and the Prevention of Unfair Discrimination Act 4. 2000. Article 28(1): “(1) If it is proved in the prosecution of any offence that unfair discrimination on the grounds of race, gender or disability played a part in the commission of the offence, this must be regarded as an aggravating circumstance for purposes of sentence.”
13. Canada, Criminal Code. 1985. Article 318(1): “Everyone who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.” Article 318(2): “In this section, genocide means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely, (a) killing members of the group; or (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.” Finally, Article 318(4): “In this section, identifiable group means any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability.”
14. Canada, Criminal Code. 1985. Article 718.2: “A court that imposes a sentence shall also take into consideration the following principles: (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offense or the offender, and, without limiting the generality of the foregoing, (i) evidence that the offense was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, color, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or any other similar factor.”
15. Mexico, Código Penal para el Distrito Federal. 2002 (amended in 2016). Article 138: “El homicidio y las lesiones son calificadas cuando se cometan con: ventaja, traición, alevosía, retribución, por el medio empleado, saña, en estado de alteración voluntaria u odio..VIII. Existe odio cuando el agente lo comete

- por la condición social o económica; vinculación, pertenencia o relación con un grupo social definido; origen étnico o social; la nacionalidad o lugar de origen; el color o cualquier otra característica genética; sexo; lengua; género; religión; edad; opiniones; discapacidad; condiciones de salud; apariencia física; orientación sexual; identidad de género; estado civil; ocupación o actividad de la víctima.”
16. Ukraine, Bills 3316, 3316-2, and 3316-3. See [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68552](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68552).
  17. Questions addressing collecting data, monitoring, and reporting hate crimes against sexual and gender minorities in this indicator set are: Are there any laws and/or regulations that require government agencies to collect data on hate crimes committed against sexual and gender minorities or those perceived to be sexual or gender minorities? Are there mechanisms in your country for monitoring and reporting hate-motivated acts of violence against sexual and gender minorities?
  18. See also IACP (2016).
  19. Costa Rica, Decreto Ejecutivo 41158-MP. 2018. Article 2: “Las principales funciones del Comisionado serán: i) Coordinar con distintas instancias públicas, tales como el Sistema Nacional de Información y Registro Único de Beneficiarios del Estado (SINIRUBE) y el Instituto Nacional de Estadística y Censo (INEC), a fin de recolectar datos sobre identidad de género y orientación sexual para poder alimentar políticas públicas específicas de acuerdo con las distintas necesidades particulares.”
  20. Mexico, Ley de la Comisión Nacional de los Derechos Humanos. 1992 (amended 2018). Article 6: “La Comisión Nacional tendrá las siguientes atribuciones: XII. Supervisar el respeto a los derechos humanos en el sistema de reinserción social del país mediante la elaboración de un diagnóstico anual sobre la situación que éstos guarden. En dicho diagnóstico deberán incluirse, además de las evaluaciones que la Comisión pondere, datos estadísticos sobre el número, las causas y efectos de los homicidios, así como de las riñas, motines, desórdenes, abusos y quejas documentadas que sucedan en las prisiones, centros de detención y retención federales y locales. El diagnóstico se hará del conocimiento de las dependencias federales y locales competentes en la materia para que éstas elaboren, considerando las opiniones de la Comisión, las políticas públicas tendientes a garantizar el respeto de los derechos humanos de los internos.”
  21. Ontario’s Human Rights Code. 1962. Article 1: “Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, color, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.” Article 29: “The functions of the Commission are to promote and advance respect for human rights in Ontario, to protect human rights in Ontario and, recognizing that it is in the public interest to do so and that it is the Commission’s duty to protect the public interest, to identify and promote the elimination of discriminatory practices and, more specifically, (a) to forward the policy that the dignity and worth of every person be recognized and that equal rights and opportunities be provided without discrimination that is contrary to law; (b) to develop and conduct programs of public information and education to, (i) promote awareness and understanding of, respect for and compliance with this Act, and (ii) prevent and eliminate discriminatory practices that infringe rights under Part I; (c) to undertake, direct and encourage research into discriminatory practices and to make recommendations designed to prevent and eliminate such discriminatory practices; ... (e) to initiate reviews and inquiries into incidents of tension or conflict, or conditions that lead or may lead to incidents of tension or conflict, in a community, institution, industry or sector of the economy, and to make recommendations, and encourage and co-ordinate plans, programs and activities, to reduce or prevent such incidents or sources of tension or conflict; ... (j) to report to the people of Ontario on the state of human rights in Ontario and on its affairs.”
  22. Costa Rica, Decreto Ejecutivo 41158-MP. 2018. Article 2: “Las principales funciones del Comisionado serán: a) Dar seguimiento y evaluar los planes contra todo tipo de discriminación por orientación sexual e identidad y expresión de género en las instituciones públicas. f) Dar seguimiento a las políticas contra discriminación hacia la población LGBTI establecidas en los Decretos Ejecutivos N° 38999 del 12 de mayo de 2015 y N° 40422 del 25 de mayo de 2017. g) Coordinar con los diferentes Ministerios e

- instituciones de gobierno, y otros organismos nacionales e internacionales, todas las actividades relacionadas con garantizar la igualdad plena a las personas LGBTI en el país y el disfrute de sus derechos.”
23. India, Protection of Human Rights Act. 1993. Article 12: “The Commission shall perform all or any of the following functions, namely: ... (d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation; (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures; ... (g) undertake and promote research in the field of human rights.”
  24. Constitution of Kosovo. 2008. Article 132: “Role and Competencies of the Ombudsperson (1) The Ombudsperson monitors, defends and protects the rights and freedoms of individuals from unlawful or improper acts or failures to act of public authorities.”
  25. Mexico, Ley de la Comisión Nacional de los Derechos Humanos. 1992 (amended 2018). Article 6: “La Comisión Nacional tendrá las siguientes atribuciones: I.- Recibir quejas de presuntas violaciones a derechos humanos; II.- Conocer e investigar a petición de parte, o de oficio, presuntas violaciones de derechos humanos en los siguientes casos: a) Por actos u omisiones de autoridades administrativas de carácter federal; b) Cuando los particulares o algún otro agente social cometan ilícitos con la tolerancia o anuencia de algún servidor público o autoridad, o bien cuando estos últimos se nieguen infundadamente a ejercer las atribuciones que legalmente les correspondan en relación con dichos ilícitos, particularmente en tratándose de conductas que afecten la integridad física de las personas; XII. Supervisar el respeto a los derechos humanos en el sistema de reinserción social del país mediante la elaboración de un diagnóstico anual sobre la situación que éstos guarden. En dicho diagnóstico deberán incluirse, además de las evaluaciones que la Comisión pondere, datos estadísticos sobre el número, las causas y efectos de los homicidios, así como de las riñas, motines, desórdenes, abusos y quejas documentadas que sucedan en las prisiones, centros de detención y retención federales y locales. El diagnóstico se hará del conocimiento de las dependencias federales y locales competentes en la materia para que éstas elaboren, considerando las opiniones de la Comisión, las políticas públicas tendientes a garantizar el respeto de los derechos humanos de los internos; XV. Investigar hechos que constituyan violaciones graves de derechos humanos, cuando así lo juzgue conveniente o lo pidiere el Ejecutivo Federal, alguna de las Cámaras del Congreso de la Unión, el Gobernador de un Estado, el Jefe de Gobierno del Distrito Federal o las legislaturas de las entidades federativas.”
  26. Mexico, Ley Federal para Prevenir y Eliminar la Discriminación. 2003. Article 20: “Son atribuciones del Consejo: XXX. Promover una cultura de denuncia de prácticas discriminatorias.”
  27. South Africa, Human Rights Commission Act No. 40. 2013. Article 2: “The objects of the Commission are ... (c) to monitor and assess the observance of human rights in the Republic.”
  28. South African Human Rights Commission. Programmes. <https://www.sahrc.org.za/index.php/what-we-do/programmes>.
  29. For more details, see South Africa, Department of Justice and Constitutional Development, Equality Courts. [https://www.justice.gov.za/eqcact/eqc\\_main.html](https://www.justice.gov.za/eqcact/eqc_main.html).
  30. Uruguay, Law 17.817 Lucha contra el racismo, la xenofobia y toda otra forma de discriminación. 2004. Article 5: “A esos efectos, será asimismo competencia de la Comisión Honoraria: G) Recibir y centralizar información sobre conductas racistas, xenofóbicas y discriminatorias; llevar un registro de las mismas y formular la correspondiente denuncia judicial si eventualmente correspondiere.”
  31. The questions addressing training professionals in law enforcement in this indicator set include: Are there any laws and/or regulations that mandate training of the following professionals on recognizing and identifying hate crimes (for example, police officers, prosecutors, judges, social workers, and paramedics/doctors)? Are there any laws and/or regulations that mandate the provision of any of the following services to victims of hate crimes (for example, legal assistance [including asylum applications and completing court forms] shelter/housing, forensic or medical examinations, and medical certificates)?

32. For more information about this brochure, see Ontario Human Rights Commission, the Hate Crimes Community Working Group Report and Initiatives in Schools, available at <http://www.ohrc.on.ca/en/fishing-without-fear-report-inquiry-assaults-asian-canadian-anglers/appendix>.
33. Mexico, Ley de la Comisión Nacional de los Derechos Humanos. 1992 (amended 2018). Article 6: “La Comisión Nacional tendrá las siguientes atribuciones: IX.- Promover el estudio, la enseñanza y divulgación de los derechos humanos en el ámbito nacional e internacional; XI.- Elaborar y ejecutar programas preventivos en materia de derechos humanos.”
34. Mexico, Ley Federal para Prevenir y Eliminar la Discriminación. 2003. Article 20: “Son atribuciones del Consejo: XXXIX. Proporcionar orientación, formación y capacitación bajo diversas modalidades; XL. Sensibilizar, capacitar y formar a personas servidoras públicas en materia de no discriminación; XLI. Instrumentar la profesionalización y formación permanente del personal del Consejo.”
35. South Africa, Promotion of Equality and Prevention of Unfair Discrimination Act 4. 2000. Article 25: “(1) The State must, where necessary with the assistance of the relevant constitutional institutions: (a) develop awareness of fundamental rights in order to promote a climate of understanding, mutual respect and equality; (b) take measures to develop and implement programs in order to promote equality; and (c) where necessary or appropriate (i) develop action plans to address any unfair discrimination, hate speech or harassment; (ii) enact further legislation that seeks to promote equality and to establish a legislative framework in line with the objectives of this Act; (iii) develop codes of practice as contemplated in this Act in order to promote equality, and develop guidelines, including codes in respect of reasonable accommodation; (iv) provide assistance, advice and training on issues of equality; (v) develop appropriate internal mechanisms to deal with complaints of unfair discrimination, hate speech or harassment; (vi) conduct information campaigns to popularize this Act. Contributors argued that section 25 of PEPUDA extends to all professionals tasked with the mandate of preventing hate crime.”
36. Uruguay, Ley 17.817 Lucha contra el racismo, la xenofobia y toda otra forma de discriminación. 2004. Article 5: “A esos efectos, será asimismo competencia de la Comisión Honoraria: (J) Proporcionar al Ministerio Público y a los Tribunales Judiciales el asesoramiento técnico especializado que fuere requerido por estos en los asuntos referidos a la temática de su competencia;” Uruguay Ley 18.446. 2008. Institución Nacional de Derechos Humanos.” Article 4: “La INDDHH será competente para N) Colaborar con las autoridades competentes en la educación en derechos humanos en todos los niveles de enseñanza y, especialmente, colaborar con la Dirección de Derechos Humanos del Ministerio de Educación y Cultura en los programas generales y especiales de formación y capacitación en derechos humanos destinados a los funcionarios públicos, particularmente en los previstos en el artículo 30 de la Ley No 18.026, de 25 de setiembre de 2006.”
37. Ontario Legal Aid Services Act. 1998. Article 1: “The purpose of this Act is to promote access to justice throughout Ontario for low-income individuals by means of, (a) providing consistently high quality legal aid services in a cost-effective and efficient manner to low-income individuals throughout Ontario; (b) encouraging and facilitating flexibility and innovation in the provision of legal aid services, while recognizing the private bar as the foundation for the provision of legal aid services in the areas of criminal law and family law and clinics as the foundation for the provision of legal aid services in the area of clinic law; (c) identifying, assessing and recognizing the diverse legal needs of low-income individuals and of disadvantaged communities in Ontario; and (d) providing legal aid services to low-income individuals through a corporation that will operate independently from the Government of Ontario but within a framework of accountability to the Government of Ontario for the expenditure of public funds.”
38. Uruguay, Law No. 19.580 Violence Against Women. 2017. Article 1: “Esta ley tiene como objeto garantizar el efectivo goce del derecho de las mujeres a una vida libre de violencia basada en género. Comprende a mujeres de todas las edades, mujeres trans, de las diversas orientaciones sexuales, condición socioeconómica, pertenencia territorial, creencia, origen cultural y étnico-racial o situación de discapacidad,

- sin distinción ni discriminación alguna. Se establecen mecanismos, medidas y políticas integrales de prevención, atención, protección, sanción y reparación.” Article 7: “Además de los derechos reconocidos a todas las personas en la legislación vigente, nacional e internacional aplicable, toda mujer víctima de alguna de las formas de violencia basada en género, tiene derecho: (G) A recibir orientación, asesoramiento y patrocinio jurídico gratuito, dependiendo de la posición socioeconómica de la mujer. Dicha asistencia deberá ser inmediata, especializada e integral, debiendo comprender las diversas materias y procesos que requiera su situación.”
39. Uruguay, Law 17.817 Lucha contra el racismo, la xenofobia y toda otra forma de discriminación. 2004. Article 5: “A esos efectos, será asimismo competencia de la Comisión Honoraria: (I) Brindar un servicio de asesoramiento integral y gratuito para personas o grupos que se consideren discriminados o víctimas de actitudes racistas, xenofóbicas y discriminatorias.”
  40. Legal Aid South Africa Act. 2014. Article 22: “(1) A court in criminal proceedings may only direct that a person be provided with legal representation at state expense, if the court has (a) taken into account (i) the personal circumstances of the person concerned; (ii) the nature and gravity of the charge on which the person is to be tried or of which he or she has been convicted, as the case may be; (iii) whether any other legal representation at state expense is available or has been provided; and (iv) any other factor which in the opinion of the court should be taken into account.”
  41. Mexico, Ley General de Víctimas. 2013. Article 12: “Las víctimas gozarán de los siguientes derechos : (iv) A ser asesoradas y representadas dentro de la investigación y el proceso por un Asesor Jurídico. En los casos en que no quieran o no puedan contratar un abogado, les será proporcionado por el Estado a solicitud de la víctima de acuerdo al procedimiento que determine esta Ley y su Reglamento; esto incluirá su derecho a elegir libremente a su representante legal; La Comisión Ejecutiva, así como las Comisiones de víctimas de las entidades federativas, podrán cubrir los gastos que se originen con motivo de la contratación de expertos independientes o peritos a que se refiere el párrafo anterior, con cargo al Fondo o al Fondo Estatal, según corresponda.” Article 117: “En materia de acceso a la justicia, corresponde al Gobierno Federal y a las entidades federativas, en el ámbito de sus respectivas competencias: (i) Promover la formación y especialización de agentes de la Policía Federal Investigadora, agentes del Ministerio Público, Peritos y de todo el personal encargado de la procuración de justicia en materia de derechos humanos; (ii) Proporcionar a las víctimas orientación y asesoría para su eficaz atención y protección, de conformidad con la Ley Orgánica de la Procuraduría General de la República, su Reglamento y demás ordenamientos aplicables; (iii) Dictar las medidas necesarias para que la Víctima reciba atención médica de emergencia; (iv) Proporcionar a las instancias encargadas de realizar estadísticas las referencias necesarias sobre el número de víctimas atendidas; (v) Brindar a las víctimas la información integral sobre las instituciones públicas o privadas encargadas de su atención; (vi) Proporcionar a las víctimas información objetiva que les permita reconocer su situación; (vii) Promover la cultura de respeto a los derechos humanos de las víctimas y garantizar la seguridad de quienes denuncian; (viii) Celebrar convenios de cooperación, coordinación y concertación en la materia, y (ix) Las demás previstas para el cumplimiento de la presente Ley, y las normas reglamentarias aplicables.”

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