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Misogyny: a hate crime or a private affair?

A socio-cultural study of the intersection between hate crime legislation and men's violence against women

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Abstract

Hate crime and men's violence against women are two well-recognised and highly prioritised human rights phenomena in both international and local contexts. Yet, the idea of linking the two phenomena together has received very limited support. As a series of lethal acts of Incel-violence – violence characterised by misogynistic motives and an alt-right ideology of male supremacy – have taken place globally in recent years, a discussion on the region of the human rights spectrum where gendered violence and hate crime legislation *overlap* is more relevant than ever. Thus, this study's overarching purpose is to – through a comparative analysis of studies on hate crime and men's violence against women from the United States, the United Kingdom, and Sweden – investigate the definition of hate crime and its scope in relation to gendered violence with a primary objective of identifying factors that explain why violent crimes against women motivated by misogynistic principles are rarely, if ever, recognised as hate crimes. By drawing on explanatory models of normalisation and theories on power relations, the practice of *othering*, the male norm and the norm of masculinity, and gendered spheres, the study sets out to evaluate a thesis that suggests that the infrequent inclusion of violent crimes with female victims in the legal and general perception of hate crime can be at least partially explained with reference to the normalisation of male violence against women, and the traditional expectation and assumption that violence against women is rooted in personal, emotional conflicts rather than impersonal hate motives. The analysis initially explores how the gender category is positioned within the legal phenomenon of hate crime by looking at a generalised criteria for hate crime, the normative view on hate crime victims, the reporting and statistics of hate crime, and arguments for and against the inclusion of a gender category in legal statues on bias crimes. The analysis then moves on to analyse three different categories of violence against women – domestic abuse, sexual assault and rape, and Incel-violence – in relation to gendered power dynamics and norms. The study's results show that even though motives of hate *can be linked* to different forms of gendered violence, the traditional understanding of what constitutes a hate crime and a hate crime victim along with stereotypical assumptions on what male-on-female violence looks like, makes men's violence against women appear incompatible with the hate crime phenomenon even in situations when cases of gendered violence *actually fit into* the generalised hate crime criteria that legal authorities and the public accept as the definition of a hate crime.

Key words: hate crime, men's violence against women, misogyny, Incel, sexual violence, power, *othering*, normalisation, masculinity, gendered spheres

Table of Contents

1. Introduction

A hate crime is what we call a prejudice-motivated crime where the perpetrator targets the victim due to their bias against the victim's social or racial background. Hate crimes are typically violent and race, religion and sexual orientation constitute some of the most common hate crime motives (see Hodge, 2001; Gill and Mason-Bish, 2013; Granström et al. 2019). As far as victims of hate crimes are concerned, one could argue that individuals who belong to certain marginalised groups fit into the profile of who a victim of a hate crime can be more easily than others. Upon learning that the victim of a violent crime is a Jewish man who visibly wears a necklace with the Star of David, a Muslim woman wearing a headscarf, or a gay man dressed in drag, many (whether it be members of law enforcement, political representatives, the media, or the public) would consider the possibility that the violence may have been motivated by hatred and prejudice. However, this does not seem to be as clear when the differential factor between the victim and the perpetrator is their gender.

The Incel-community is a male supremacist collective whose members define themselves as "involuntary celibates" (Incels); as men who desire, and rightfully deserve, sexual relations with women but who are constantly rejected it. With access to a limitless number of social media platforms large groups of Incels (potentially hundreds of thousands) have formed an alliance whose alt-right ideology is attributed to both misogyny and racism. These groups of Incels also harbour resentment towards men who successfully engage with women socially and sexually, and express self-pity and self-loathing in regard to their own failure to do so. The dialogue in these forums does not just involve hateful remarks on women but also conversations in which violence towards women, such as rape and (mass) murder, is not just a fantasy; but something they encourage each other to enforce. Although most Incels confine their resentment towards women (and their preferred male companions) to the practice of misogynistic hate speech in online Incel-forums, some have executed lethal acts of terror to show their discontent with their self-perceived weak societal positions as celibate men – acts they have later been praised for by fellow Incels (see Ging, 2017; Jaki, 2019; Swedish Defence Research Agency, 2020).

Since 2014, there have been at least four separate instances in North America where terrorists have drawn inspiration from the Incel-movement and intentionally slaughtered people with a misogynistic motive stemming from the sexist and patriarchal idea that women should be punished (in these cases by death) for not obeying men and their sexual desires. Yet, although

members of local law enforcement have confirmed that these lone-actor terrorists acted due to misogynistic motives and were somehow connected to the Incel-community (a misogynistic community) none of the four cases have officially been declared hate crimes by either law enforcement or politicians, and attempts to challenge that reasoning has been scarce by the media. This raises the question of why violence motivated by misogyny, "hatred of women", does not qualify as hate crimes?

1.1 Aim, thesis and research questions

Considering the persistent nature of gendered hate-motivated criminality, such as Incel-activity, one could argue that society's hesitation towards acknowledging gender-based hate crimes is alarming. Violence that is motivated by misogyny constitutes a human rights issue in regard to both women's rights and democracy at large. Men's violence against women is a violation of women's human rights and a critical obstacle in the establishment of gender equality, and in human rights debates hate crimes are often depict as crimes that not only threaten the safety of marginalised groups, but as crimes that attack entire democratic systems. Today, these two human rights phenomena are recognised and highly prioritised in both international and local contexts. However, the idea of linking the two phenomena together has not received the same widespread support. Hence, the aim for this thesis is to explore why the concept of relating acts of men's violence against women to motives of gender-bias has received such limited support.

The study's primary objective is to identify factors that explain why violent crimes against women motivated by misogynistic principles are rarely, if ever, recognised as hate crimes. To accommodate this objective, I have phrased my research question as following: *what are the main explanations for the exclusion of acts of violence against women from the legal and general perception of hate crime?* I will argue for the thesis that the infrequent inclusion of violent crimes with female victims in the legal and general perception of hate crime can be at least partially explained by the following two factors: (1) the normalisation of male violence against women, and (2) the traditional expectation and assumption that women are more oriented towards the private sphere, and that violence against them is subsequently assumed to be based on personal issues rather than impersonal hate motives. In order to answer the research question and to examine the thesis, three analytical questions will be used to study the research material:

- How can we explain the restricted general perception of what defines a hate crime motive and a hate crime victim in relation to gendered power structures and norms?
- What pragmatic and normative reasons can be identified in arguments that oppose the inclusion of men's violence against women in hate crime legislation and statistics?
- What types of violence against women can we categorise as motivated by personal issues and which ones can be attributed to gendered hate motives and systematic mistreatment of women as a social group?

1.2 Previous research

1.2.1 Hate crime legislation and men's violence against women

Hate crime legislation and men's violence against women are arguably two quite well researched subjects as separate fields of study. Due to how locally specific legal systems are, hate crime legislation has mostly been studied in local contexts. Although there are differences between local patterns of violence, generalised categories of men's violence against women (such as rape and domestic abuse) have been studied in both local and international terms. However, interdisciplinary research of the two phenomena together has been scarce.

The American researcher Beverly A. McPhail's studies on gender-biased hate crimes have been credited as the very first research of its kind. In the wake of the enactment of the James Byrd, Jr Hate Crime Act in Texas in 2001, McPhail conducted an empirical study on prosecutors' views on the addition of gender as a status category in the Texan state's (at the time) new hate crime law. Among other findings, McPhail's research showed that most of the prosecutors were: (1) unaware that gender had been added as a status category in the state's bias law, (2) did not feel that gender fit into their conceptualisation of hate crime, and (3) did not relate violence against women to motivations of hate, but rather to individual motivations of power, control, or even love (McPhail and DiNitto, 2005:1176). American researcher Jessica P. Hodge and British researchers Aisha K. Gill and Hannah Mason-Bish have since conducted their own empirical studies on the possibilities of considering men's violence against women as hate crimes and attitudes towards this junction. Hodge's book and Gill's and Mason-Bish's article, along with references to McPhail's study, make up parts of this study's research material. Thus, I will describe them in greater detail in the chapter dedicated to the study's methodological approach.

1.2.2 Incel

Regarding Incel, there have been few substantial academic studies on the subject matter. Most books on Incel-activity are based on investigating journalism and are not studies conducted by researchers. In 2019 Georgia State University in the United States was awarded a grant to research the evolution and spread of the Incel-movement – making it the very first large-scale study of the Incel-community. The new research will identify the group's activity, what role the Internet plays in generating violence and hate, and show how Incel-members are radicalised (Georgia State University News Hub, 2019). The Swedish author and psychiatrist Stefan Krakowski, who is in the process of writing a more extensive piece on his online observations of Incel-group forums himself, is one of the participants in the study at Georgia State University (Farran-Lee, 2020).

The research on Incel, as shown in the paragraph above, usually revolves around the explanatory factors behind the rise in Incel-activity (relating to, for example, toxic masculinity) and how the Internet enables the recruiting of members and spread of their misogynistic ideology. Several scholars have also performed discourse analyses of content from online Incel-forums (see e.g. Ging, 2017; Jaki, 2019; Swedish Defence Research Agency, 2020). In other words, it is mainly the male psychology behind the Incel-movement, their vision and ideology, and the tools they use to push their movement and agenda forward that are being examined, both in investigating journalism and in academia. In this study, I will exclusively examine Incel-activity and Incel-motives in relation to the disconnection between men's violence against women and hate crime.

1.2.3 Femicide

Feminist writer Diana E. H. Russell originally founded the concept of "femicide" in 1976. The term refers to "the intentional killing of women and girls because of their gender" or a "misogynist killing of women by men" and has been used by the feminist movement as a tool to politicise and challenge male violence against women (Weil, 2018:1) (Gryzb et al. 2018:20-21). Since then, the concept has been explored and contextualised to describe different locally situated forms of men's violence against women. Thus, many different forms of gender-related killings of women have been defined as femicide, such as: intimate partner/domestic violence, so-called "honour" killings, killings of aboriginal and indigenous women, killings as a result of sexual orientation or gender identity, and killing of women in armed conflicts, among others (Gryzb et al. 2018:22-23).

The book *Femicide Across Europe* summarises the four-year long project of establishing a European Observatory on Femicide performed by a group of interdisciplinary scholars from 30 different European countries (Weil, 2018:1-16). While studying data from the European Statistical Office they found that while homicides in Europe are decreasing, rates on femicide are at a constant (Weil, 2018:11). In order to combat and prevent femicide, the researchers behind the book argue that European countries must: (1) raise awareness on femicide among the general public and in the media (although, as they themselves point out, it is yet to be proven that an increase of awareness leads to a decrease in femicide), (2) collect and analyse data of murder on females, (3) allocate funding for prevention programmes, and (4) pass legislation that specifically prohibits femicides and gives perpetrators equally if not more severe sentences than those for homicides (Weil, 2018:11-12).

This essay will not study the concept of femicide specifically. However, since the term is used to describe, politicise, and research the "misogynist killing of women by men" femicide does represent a part of the power structures and types of violence that this study seeks to examine in relation to hate crime legislation. Arguments that emphasise the need to legally define, classify, and sanction certain types of gendered violence as actions of femicide are also very similar to the ones favouring an inclusion of a gender category in hate crime legislation. Due to this, I will briefly revisit the concept of femicide in the analysis.

1.3 Disposition

Following this introductory chapter, the study has been divided into five chapters. The second chapter presents the methodological approach of this study, along with the research material and a discussion on the study's delimitations and limitations. The methodological framework consists of a qualitative text analysis that will be applied onto the research material, which features studies on hate crime and men's violence against women. Each study relates to one of the following three Western contexts: the United States, the United Kingdom, and Sweden. The third chapter features and explores the theoretical framework. As the study is heavily theory-based this part is quite substantial, presenting the three main theoretical approaches (power structures, normalisation and gendered spheres) alongside two additional theories (*othering* and the norm of masculinity).

The analysis is divided into two parts. The first part of the analysis is presented in chapter four, in which the relationship between gender and hate crime legislation and statistics is explored using previous research on hate crime. Chapter five accounts for the second part of

the analysis and explores how gendered violence can be related to motives of hate and to the public and private spheres of society. In this part of the analysis, the findings from chapter four are used along side material from studies on men's violence against women; these studies act as the main research material for this part of the analysis. The analytical segments that are dedicated to the theme of male-on-female violence are preceded by a short segment that gives an overview of the international protection on women's human rights (segment 5.1), which will illustrate how the two main themes of the study fit into the context of human rights. The analysis on gendered violence will explore different categories of men's violence against women, including domestic abuse, sexual assault and rape, and ultimately Incel-violence. The analysis of Incel-violence will partially be in the format of a small case study, in which information on four cases of Incel-violence (gathered from news articles) are compared and related to the general perception of hate crime. Following the final part of the analysis, chapter six presents a summary of the findings from the previous chapters and relates these findings to the questions of analysis and the thesis statement. Lastly, the conclusion is presented, in which the answer to the research question is unveiled.

2. Methodological approach

2.1 Qualitative text analysis

The thesis sets out to investigate society's hesitation towards recognising men's violence against women as hate crimes. The aim is to answer the research question, which seeks to identify the main explanations for *not* including violent criminal behaviour against women in the legal and general perception of hate crimes. In order to answer my research question, I will test my thesis statement by exploring the two themes of this study – hate crime and men's violence against women – using a qualitative text analysis. These two themes will be consistently contrasted and compared to one another *through* the theoretical lens provided by my selection of theories. The theoretical models that will be used in this study are theories on power structures, the process of *othering* (the process of differentiating some people as the normative, dominating party, and some as the subordinate *other*), normalisation (the process in which norms are established and re-established), the norm of masculinity, and gendered spheres (the dichotomous organisation of men and women into different spheres of society – the public sphere and the domestic sphere) – which will be presented in more depth in the following chapter. The two thematic elements will be represented through the material, which includes four studies on hate crime and two on the subject of violence against women. The

studies dedicated to the subject of hate crime are: Beverly A. McPhail's study (2002), Jessica P. Hodge's book (2011), Aisha K. Gill's and Hannah Mason-Bish's article (2013), and Görel Granström's, Caroline Mellgren's, and Eva Tiby's book (2019). Carissa Byrne Hessick's article (2007), which examines the modern view of violence, and Diana Scully's and Joseph Marolla's study (1984) on rape motives and their relationship to a cultural, dehumanised, and sexualised view of women, represent the two material resources on the theme of violence. The reasoning behind the selection of the material will be presented along side more detailed information on the material itself in the following segment. The analysis will be divided into two parts and presented in chapter four and five. However, before I present the individual outlines for the three different parts of the analysis I will briefly explain the methodological basis of the qualitative text analysis itself.

A qualitative text analysis seeks to examine the more detailed meaning of different phenomena and to define the connection between them (Grenholm, 2011:151). As this study aims to explore the general definition of what a hate crime is and the issue of connecting the two phenomena of hate crime and gendered violence with one another, a qualitative text analysis is an ideal choice of method for this essay. Throughout the entirety of the analysis I will compare information and statements from the studies that make up my research material. While some of the studies will be analysed in more depth, others will only be represented through one or a smaller number of selected quotes or claims. Selectivity is an indispensable part of a qualitative text analysis as stated by Carl-Henric Grenholm, professor emeritus of ethics at Uppsala University, in his book on analytical methods used in theological research (2011:224). Following Grenholm's guidelines, I will limit the scope of references from the two of the studies – Beverly A. McPhail's study and Scully's and Marolla's study – to only those that are essential for reaching the study's aim and answering its research question (ibid.). I will not conduct a traditional structural analysis – a text analysis method in which the larger context of a text is analysed (Grenholm, 2011:239). However, the full body of work (or structure) of the four studies that represent the main research material will be analysed and continuously assessed in the analysis.

In the final part of the analysis I will, as mentioned in the description of the study's disposition, conduct a minor case study on Incel-violence. Using information from multiple online news articles related to four separate cases of acts of Incel-violence that have taken place in North America, I briefly account for what acts of Incel-violence look like and, using

the findings from previous parts of the analysis, try to identify explanatory reasons for why these acts are *not* widely recognised as hate crimes.

2.1.1 Layout of the analysis

Before presenting the resource material, I would first like to explain the methodological reasoning behind the format of the analysis. In the first part of the analysis (chapter four) I will, using the studies that explore the subject of hate crime, discuss what hate crime as a concept entails in a legal context and how gender as a social category fits into it. Firstly, I will conduct a cross-cultural analysis of the legal definition of a hate crime, the perception of a hate crime victim, and the reporting and recording of hate crimes (presented in segments 4.1 and 4.2) – looking at an American, a British and a Swedish context. By cross-cultural analysis, I am referring to a comparative analysis of how hate crime legislation is conceptualised in the United States, the United Kingdom, and Sweden. I will also examine arguments for and against the inclusion of the gender category in hate crime legislation (shown in 4.3 and 4.4.1). The theoretical perspectives on normalisation and the process of *othering* will be heavily featured in this part of the analysis, as I will use these models to explain the patterns and limitations of the western conceptualisation of hate crime identified in the analysis of the research material. Lastly, I will also (in part 4.4.2) relate my findings to the theoretical understanding of the male norm.

The secondary part of the analysis (chapter five) explores different forms of violence against women and how they can be related to hate crime. Here, the findings from the chapter four analyses will be used alongside material from selected research on violence. The studies on violence will be used as analytical tools, alongside the theoretical framework, to explore how we categorise and rank different types of gendered violence, relate them to personal and impersonal motives, and how this can be related to our perception of hate crimes. The theoretical models that will be applied to the three forms of violence against women that are explored in chapter five – domestic abuse, sexual assault and rape, and Incel-violence – are the norm of masculinity, power structures and gendered spheres. Incel-violence, the main source of inspiration for this essay, will not be assessed until the final segment of the analysis of gendered violence. The layout of this part of the analysis has been constructed to test the part of the thesis statement that concerns women and their normative position in the private sphere. The analysis of violence begins with an analysis of domestic abuse (part 5.2.1) – incidents of violence that per definition involves a restricted number of victims who have a personal relationship with their perpetrator – and moves on sexual assault and rape (part

5.2.2) – violence that typically involves one or a smaller number of victims who may or may not know their perpetrators before the assault – and ultimately lands in an analysis of Incel-violence (segment 5.3) – violent attacks in which the perpetrator aims to harm as many women as possible regardless of any previous relationship to them. Is it possible that the associations that are made to the private sphere in relation to domestic abuse and sexual assault "spill over" into the general perception of the motives behind the Incels' violent attacks on women? In other words, the discussions on domestic abuse and sexual assault and their relation to hate crime constitute the build-up to the analysis of Incel-violence.

In the concluding chapter of the study, I will discuss the findings from the two-part analysis in relation to the study's three analytical questions, thesis statement, and research question.

2.2 Material

The research material used for this study consists of both empirical and theoretical research whose themes relate to the concept of hate crime, men's violence against women, or both. The studies that explore the two themes together – Hodge's, McPhail's, and Gill's and Mason-Bish's studies – constitute a particularly important source of material as my study is *also* positioned in the intersection of hate crimes and gendered violence. The four studies that act as the main research material are: Hodge's book; Gill's and Mason-Bish's article; Granström's, Mellgren's and Tiby's book; and Hessick's article. In addition to the main research material, statements from McPhail's, and Scully's and Marolla's studies will also be used as a complementary material source. Results from the most recent national reports on hate crime statistics from the United States, the United Kingdom, and Sweden will be used as means to substantiate the claims made by the researchers. In addition to this, a number of news articles covering four individual cases of Incel-violence and a report from the Swedish Defence Research Agency on the subject of Incel, will be used to conduct a small case study on Incel-violence.

I have limited the research material to exclusively include a total of four studies on hate crime (of which three represent parts of the main research material, and one being used as a supplementary material resource) and two studies on violence (one acting as a part of the main research material while the other is featured as supplementary resource on the theme of gendered sexual violence). Three hate crime studies specifically examine gendered hate crime, whereas one (Granström's, Mellgren's and Tiby's book) explores hate crime as a phenomenon with a very limited perspective on gender.

The reason why McPhail's hate crime study will only be used as a supplementary source is due to reaching a point of saturation. Although all four of the hate crime studies have applied different methods in terms of both obtaining and analysing material, the results between McPhail's and Hodge's studies – both of which are American – are similar enough for only one of them to suffice as the main resource of material on gendered hate crimes in the United States. Hence, the three main resources on hate crime research have each been conducted in different countries: the United States, the United Kingdom, and Sweden. The reason for not including more studies on gendered hate crime (that could potentially offer another perspective on the matter) is simple; there are virtually none – the ones presented in this study are more or less the only published academic resources available (in the Swedish or English language). Since the subject of violence is covered in all four of the hate crime studies, only one text – Hessick's article – that exclusively explores violence has been included in the main research material. The reason for including this text is due its rich and unique exposition on how legal systems traditionally have morally evaluated and differentiated between different types of violence and motives – which, with the addition of a gender perspective, makes it an excellent analytical tool to explore why violent crimes targeted at members of certain social groups qualify as hate crimes, while others do not.

2.2.1 Research on hate crime

American studies: Jessica P. Hodge and Beverly A. McPhail

Jessica P. Hodge's book *Gendered Hate: Exploring Gender in Hate Crime Law* is an American study, published in 2011, that investigates the creation and implementation of the gender category in New Jersey's bias crime statue. The book relies on two qualitative methods: a content analysis of legislative history and media accounts, and interviews with key criminal justice personnel, political figures, and special interests group members in New Jersey. Hodge explores how the bias crime legislation as a social movement and how media, advocacy groups, and politicians frame hate crime laws. Hodge explores the complexity in addressing violence against women through hate crime legislation, and her research supplies this study with great insight in how prosecutors actually work with gender-bias crimes – an insight neither Gill's and Mason-Bish's nor Granström's, Mellgren's and Tiby's studies can offer as their research has been conducted in countries where the gender category is *not* included in hate crime legislation.

Beverly A. McPhail, whose research I recounted in the segment on previous research, will also be featured in my analysis – but in a limited scope. Hodge's and McPhail's studies have

similar designs and are both featured in an American context, thus, I have – as previously stated – decided to focus on one of them. My decision to focus on Hodge's research rather than McPhail's is due to the fact that Hodge's book is more extensive and published more recently than McPhail's study; which was originally published in 2002.

British study: Aisha K. Gill and Hannah Mason-Bish

Gill's and Mason-Bish's article "Addressing violence against women as a form of hate crime: limitations and possibilities" is a British qualitative study, published in 2013, that explores both the potential benefits and possible disadvantages of adding a gender-based category concerned with violence against women to British hate crime legislation. The study applies an inductive thematic analysis to empirical data from a survey of 88 stakeholders, including: activists involved with violence against women/hate crime victims or policy; individuals involved with community safety partnerships; self-identified feminist and women's issues groups; and policy/equality officers working with local councils. Based on the respondents answers and previous research on the matter, the study identifies difficulties with the potential inclusion of violence against women and raises broad questions about the usefulness of the concept of hate crime. Gill's and Mason-Bish's research presents this study with information on a diverse group of hate crime stakeholders' attitudes towards including gender-bias in the British hate crime legislation; as the study uniquely includes both members of the justice system and equal-rights activists. The study also represents a British perspective on hate crime and violence against women.

Swedish study: Görel Granström, Caroline Mellgren and Eva Tiby

Görel Granström, Caroline Mellgren and Eva Tiby's book *Hatbrott? – en introduktion* (Translated: Hate crime? – An introduction) is a Swedish study, published in 2019 (second edition), that offers a comprehensive and critical view on both legal and criminological aspects of hate crime in a Swedish context. The study's material mainly consists of Swedish police reports on hate crimes and crime victim studies, and is used to investigate which kinds of hate crimes that are committed, reported, and noted by the justice system and given attention by the media and the public (Granström et al 2019:14). Since the book exclusively examines hate crimes that are recognised as such (at least by the law, not necessarily in the practice of it) by the Swedish legal system, the study does not implement a gender perspective due to gender not being included as a protected group in Swedish statues used to sanction bias crimes. However, the critical perspective on the implementation of hate crime legislation used

by Granström, Mellgren and Tiby offers an insight in limitations and challenges in the prosecution of hate crimes that, along with findings from Hodge's and Gill's and Mason-Bish's studies, explains how hate crime as a phenomenon functions – and especially its limitations. Thus, I will apply a gender perspective on findings from Granström's, Mellgren's and Tiby's study that can be linked to other parts of the research material and the study's theoretical framework.

2.2.2 Research on violence

Carissa Byrne Hessick's study on stranger and non-stranger violence

Carissa Byrne Hessick is a criminal law professor at the University of North Carolina. Hessick's study "Violence between Lovers, Strangers, and Friends" is an article published by Washington University Law in 2007. The article examines whether the modern evaluation of acts of stranger violence as "more serious" crimes than violence that occurs in a relationship where victim and offender already know each other – acts of "non-stranger" violence – can be justified. The collective term "non-stranger violence", as used by Hessick, includes violent acts committed by inmates, family members, friends, and acquaintances (2007:346). Hessick uses both commentary and empirical studies that have examined the effect of victim-offender relationships on criminal justice decision-making for her analysis (2007:347).

In the article, Hessick challenges what she refers to as "the unique treatment of stranger crime" and the assumptions that are made about offenders – arguing that the stranger violence should *not* be treated as more serious than non-stranger violence (2007:400). By "unique treatment", Hessick refers to how violent crimes committed by strangers, compared to equivalent crimes committed by non-strangers, are more likely to lead to an arrest, result in a conviction, and accumulate a longer sentence (2007:346). This study will serve as the principal material for my analysis on the different categories of men's violence against women, presented in chapter five. I will use a list, identified by Hessick, of possible justifications utilised by legal systems and society at large to prioritise stranger violence, along with her explanations for why these ways of prioritising stranger-offenders cannot be justified (along with my selection of theoretical models) to explain why violent misogynistic acts are not considered hate crimes. Worth noting is that Hessick's article was published in 2007, making it thirteen years old at time of the publication of this study. Thus, Hessick's claims about the "modern view of violence" may therefore not, paradoxically, represent the actual view modern society has of violence as of today. As her study is conducted in the United States, the societal view on stranger and non-stranger violence Hessick speaks of is

not necessarily general, but only really representative of the American society's view on the matter. I will reflect upon these factors in my analysis of her work at a later stage of this study.

Diana Scully's and Joseph Marolla's study on rape motives

In addition to Hessick's study, I will use a limited number of statements made by researchers Diana Scully and Joseph Marolla in their study "Convicted rapists' vocabulary of motive: excuses and justifications" from 1984. I have decided to include Scully's and Marolla's article due to the fact that they specifically discuss rape *motives* in relation to the cultural, dehumanised and sexualised view of women. Statements from this study will be featured and analysed – in relation to Hessick's study – in the segment dedicated to the subject of sexual assault and rape (segment 5.2.2) in chapter five on men's violence against women. Scully's and Marolla's study constitutes, like Hessick's, an older study in an American context. Thus, as both of the violence-themed studies included in this thesis' research material are American-based, the focus of this study should be recognised as predominantly American.

2.3 Delimitations and limitations

Although this study will use Incel-activity as the main point of departure, I want to clarify that the Incel-movement does not constitute the focus point of this study. The Incel-movement is a global phenomenon that generates many different types of violence and other harmful activity and, therefore, it accounts for a large field of study on its own. In this study, it represents only an example (although an important one) of what gender bias-motivated violence can look like. The parts of the analysis that involve the Incel-movement will therefore offer a delimited outlook on the Incel-movement in its entirety. Men's violence against women is a global phenomenon, but it does not have a universal character. It is therefore also worth noting that the discussion concerning men's violence against women will be based on more generalised depictions of male-on-female violence.

This study will also be limited to a western perspective on the subject matter it sets out to explore. There are multiple reasons behind this. As a westerner myself, my perspective will naturally be limited to a western outlook on both global and local phenomena; such as hate crime legislation and men's violence against women. The majority of the theories that make up the essay's theoretical (and methodological) framework are also largely based on western thoughts. The western perspective is also reinforced by the delimited selection of research on gendered hate crime, and the studies on hate crime that will be examined in this essay have,

consequently, all been conducted in either the United States, the United Kingdom or Sweden; all of which are located in the West. As mentioned in the previous segment, the studies on the theme of violence were also both performed in the United States. In order to obtain a better understanding of the format and function of hate crime legislation and conduct a credible analysis of it, I will also study national reports on hate crime statistics from the national contexts my research material is from. Since national reports and legislative sources are rarely translated, I was naturally limited to English (and Swedish) speaking countries, due to a lack of access to translated research on hate crime.

3. Theoretical framework

The analysis of this study will be based on three theoretical outsets: power structures, normalisation and gendered spheres. Each one of these three theories make up the theoretical foundation on which the study's analysis will be based on, although the theory of normalisation will serve more as an explanatory theory rather than an analytical tool. In addition to the three foundational theories, the study will also explore theories regarding the practice of *othering* and the norm of masculinity. Although *othering* and the norm of masculinity are full-fledged theories themselves they will, in the following theoretical segments, be presented as sub-theories to power structures and normalisation, respectively.

3.1 Power structures

Power is a cultural phenomenon that refers to a relationship where one party has the ability to control or influence another party, as it desires. Hence, a relationship of power is always rooted in some form of inequality. In order to maintain a position of power, structures that enable and reinforce the exercise of said power need to be installed. According to the social theorist and philosopher Michel Foucault, the most significant power relation is the one between the individual and the state, due to how extensive governmental power is in today's societies (1982:793). State power, Foucault explains, exemplifies a power relation that has successfully evolved and expanded over time. By progressively elaborating, rationalising and centralising power relations into state institutions, different exercises of power (such as military power) have been accepted as a part of the state and therefore been placed under its protection (Foucault, 1982:792-793). What Foucault describes in his evaluation of state power is essentially a normalisation process of power relations, a process that will be discussed in greater detail in an upcoming theory segment.

Foucault's conceptualisation of power highlights (among many ideas) the importance of historical awareness, force relations and differentiation. Foucault argues that power structures are ever changing and that they therefore need to be continuously analysed as they evolve with time and adapt to the present (Taylor, 2011:6). However, in order to make a credible analysis of contemporary power, it is crucial that relevant history is taken into consideration – there needs to be a "constant checking", as Foucault himself calls it, of the latest notion of power (1982:778). In other words, in order to properly analyse a current relationship of power, we cannot separate the present context from past situations, as it is the old circumstances that have paved the way for the power relations that exist in today's societies. Hence, as this study sets out to examine the normative perimeters of men's violence against women, I will need to analyse gendered power structures with some reference to their historic background.

Foucault uses the term "force relations" to describe social interactions that motivate everyday behavioural actions, like for instance clothing decisions (Lynch, 2011:19, 21). Force relations functions as the basic unit for power as it is from the relationships and social interactions between individuals and communities (at micro-level) that power emerges and evolves into hegemonies and states (at macro-level) (Lynch, 2011:19). Imagining power this way allows one to understand the importance of micro-events (such as micro-interactions between individuals) and their capability to turn into a macro-phenomena of power with grave consequences (Lynch, 2011:23-24). By adding this theoretical perspective on micro- and macro-levels of power, I will be able to identify different levels of men's violence against women, as well as the connection between them. Along with force relations, Foucault also identifies differentiation as a necessary element in the establishment of power. He claims that every relationship of power operates according to a system of differentiations; differentiations that can either be determined by law or by traditions of privilege and status (Foucault, 1982:792). Further, Foucault refers to the individual over whom power is exercised as the *other*, a concept that will be accounted for in the next segment (1982:789).

3.1.1 Othering

Power structures are completely dependent on the differentiation and the categorisation of individuals and groups of individuals. By defining differences between groups of people, a relationship of power can be motivated, established and re-established, or as Michel Foucault describes it: "every relationship of power puts into operation differentiations which are at the same time its conditions and its results" (1982:792). In line with Foucault's statement Irene

Molina, professor in human geography and research director at the Centre for Multidisciplinary Studies on Racism in Uppsala, Sweden, states that all types of discrimination emerge from categorisation (2011:24). According to Molina, the logic of categorisation is largely based on the concept of similarity. Similarities that people share (for example race, religion or sexuality) enable and motivate the formation of categories or groups, while they simultaneously throw those who are "different" into other categories (2011:33). With the addition of a power dynamic, these categories are arranged into a hierarchy, forming power relations between them. As power structures uphold and normalise the power dynamic by continuously emphasising differences and their importance, the dominating party is allowed to define themselves as the norm and the people over whom they exercise their power as the *others* (Molina, 2011:25). Since the norm also constitutes the ideal, the *other* is always defined negatively in relation to the norm (Molina, 2011:34). The practice of differentiating between the ones in power and the ones that are controlled has therefore also been referred to as a practice of *othering* – the process of making somebody the *other*.

Presumably, the most infamous example of *othering* is the historical use of biological racist categorisation, and the theoretical concept of *otherness* has therefore most commonly been used to describe racist power structures (Molina, 2011:26). However, the concept has also been used to describe women's position in patriarchal societies. The French philosopher, feminist political activist and social theorist Simone de Beauvoir has famously claimed that men define and differentiate women in relation to themselves (1949:26). However, due to the traditional duality of the two genders, men also need the *other* in order to define themselves (1949:104). In their sexual relationship with women, men who have a traditional and patriarchal view of women see them as means (as erotic objects, as *others*) through which they can act out and express their own sexuality (Beauvoir, 1949:93). What Beauvoir describes here is an interesting power dynamic that highlights how dependent the male identity's survival is on the *other's* existence and participation. Without women, neither men nor their sexuality exist. This does not represent a power shift in which women are given the power to control men's sexuality, but illustrates how the *other* can either enable or threaten the male identity and male sexuality. The importance of this heterosexual dynamic in relation to the traditional male identity will be revisited in an upcoming theoretical segment.

The theory of *othering* will play two fundamental roles in the study's analysis. Firstly, as hate crimes are rooted in the assailant's dislike, fear or hatred for people who are different from them, *othering* constitutes the fundamental principle of hate crimes (Granström et al. 2019:13). By transforming somebody into the *other*, the assailant creates a narrative in which it is justifiable to not only hate, but to attack the *other* (Granström et al. 2019:14). Thus, without the *other* there cannot be a motive for a hate crime. It is therefore crucial to include this theoretical perspective in the conceptual analysis of hate crimes. Secondly, the concept of the *other* and its attributed role in the enabling of male sexuality provides this study with an analytical tool to examine the motives of male perpetrators of sexual gendered violence.

3.2 Normalisation

The term "normality" refers to the state of being usual, typical or expected. Normality is a quality and obtaining the label of "normal" means that an agent or a circumstance fits into the standards of societal norms and is considered a natural part of everyday practice. When new elements such as technologies, ways of acting, appearances, or principles are introduced to society, these elements have to go through a process of normalisation before they can be seen as normal – as a part of the norm. In other words, it is through the process of normalisation that norms are established and re-established, based on pre-existing normative conditions.

Similar to how Irene Molina highlights the importance of similarity in the logic of categorisation, gender theorist Judith Butler emphasises the significance of recognition in normalisation. Butler uses the term *frames of recognition* to describe how our capacity to recognise, for example, other groups of people as our equals is restricted by norms of recognisability. We can only recognise (and care for) what is within the *frame*, and the perimeter of the *frame* is furnished by pre-existing norms – it is the process of the *framing* of the *frame*. These norms, Butler states, "operate to produce certain subjects as "recognisable" persons and to make others decidedly more difficult to recognise" (2009:6). Here, Butler describes how the process of normalisation maintains the status quo of norms not only by (re)producing certain subjects as "normal", but also by normalising the preconceived differences between the normative subjects and the unrecognisable, different ones. Thus, the process of normalisation can potentially disguise problematic norms and power relations. The normative goal of tolerance towards the *other* is an example of this, as it often reaffirms the *framing* of the *other* as different (as that is the *other's* normal state: different), preserving the norm's position of power rather than contributing to the dismantling of it (Butler, 2009:140).

Eva-Maria Svensson, professor of law at the University of Gothenburg and researcher in legal philosophy and gender legal studies, claims that in law, the process of establishing normality can be understood in relation to dichotomous thinking and the logic of separation (Svensson, 1997:53) (Gunnarsson et al. 2019:52). By dichotomous thinking, Svensson is referring to the process of creating opposing pairs – framing two things into mutually exclusive categories (1997:57). All categorisation revolves around differences, but the acknowledgement of differences does not necessarily mean that two things are seen as complete opposites. Thus, although the logic of separation takes its departure from the logic of categorisation, it creates more definite limits between parties. Hence, it is through the logic of separation that one subject becomes the negation of the other and, as a power dynamic enters the picture and creates a hierarchy, the subject with the lower status (aka. the *other*) becomes the antagonist of the norm (Gunnarsson et al. 2019:51-53). In regard to the dichotomous nature of legislation and how the man represents the norm in society (as will be discussed in the following segment), Svensson is critical of the perception of law as objective and gender neutral and argues that the combination of the two creates the illusion that gender equality – in law and in society as a whole – has been achieved, making the conflict invisible (1997:308, 344).

Butler's and Svensson's problematisations of recognition and dichotomous thinking in relation to the creation of normality, illustrate how we through the process of normalisation do not only establish and re-establish norms that correspond with traditional normativity, we also justify these norms and the differentiation of the *other* by making the bias invisible. This shows what an effective tool the process of normalisation can be in the upholding of a power structure. Whereas differentiation and categorisation paves the way for the creation of a power structure, it is the process of normalisation that solidifies the inequality and bias as it makes the differentiation "normal", justifiable and even invisible. As earlier mentioned, the theory of normalisation will function as an explanatory theory and not an analytical one. However, I will relate back to this theory as I identify examples of normalisation in the analysis of the research material.

3.2.1 The norm of masculinity

In her book, *Transforming Knowledge*, Elizabeth Kamarck Minnich, professor of philosophy and the humanities, states that the male norm constitutes the basis of society's systematic exclusion and misconception of women (2005:87). Kamarck Minnich explains that what the male norm entails is that men get to represent the ideal and "the root definition of what it means to be human" (2005:88, 90). Using Simone de Beauvoir's theory of how the woman

constitutes the *other* as a springboard, Kamarck Minnich argues that the relationship between men and women cannot just be explained by referring to opposites. The male norm makes the man and the masculine both the positive *and* the neutral, whereas the woman and the feminine only get to represent the negative (Kamarck Minnich, 2005:89). Neutrality is equivalent to objectivity, which in turn is considered a fundamental condition in legislation, academia and government. However, as male interests have been framed as neutral and universal interests through the existence of the male norm, laws, academic research and state actions have been created and performed with a male oriented bias.

In relation the previous segment on normalisation, it is worth mentioning that when Kamarck Minnich explains how a norm and an ideal, such as the male norm, is constructed and what it is that causes distinctions between groups to turn into hierarchical divisions by "kind", she describes a process of normalisation. Kamarck Minnich lists four kinds of errors that root definitions (norms) derive from, one of which is called "circular reasoning" (2005:104). The term "circular reasoning" refers to how (often faulty) generalisations circulate, and how this influences us to make conclusive judgements of things that are more or less synonymous with our pre-existing assumptions about them (Kamarck Minnich, 2005:107). Kamarck Minnich exemplifies this process by referring to how we can recognise "good music" based on our pre-existing knowledge of what is already considered "good music" – an example reminiscent of Judith Butler's *frames of recognition.*

The male norm can also be referred to as the norm of masculinity. The term "norm of masculinity" can be interpreted as describing two different (yet interdependent) layers of the same norm. The first layer is the one described in the paragraph above: as society's way of favouring all things male above what which is considered female. The second layer of the term is designated to explain how masculinity is organised, recognising that – although all men benefit from the male norm to some extent – not all of them are considered the ideal representation of men. Sociologist, professor and researcher in men's studies R.W. Connell states that according to the normative definitions of gender that are present in today's society, masculinity makes up the blueprint for what men "ought to be" (2005:70). Connell has famously identified four different kinds of masculinities (hegemonic, subordinate, complicit, and marginalised) and studied the power relations between them. Hegemonic masculinity is the type of masculinity that, placed at the top of the social hierarchy of power, holds a position of power over both women *and* other men who practice different kinds of

masculinity (Connell, 2005:77). Hegemonic masculinity is a very exclusive category and most men do not qualify as hegemonic masculine – as the male ideal. In Western culture, heterosexuality constructs a fundamental part of hegemonic masculinity, which consequently expels homosexual masculinities (aka subordinated masculinity) from the masculine ideal and places them at the bottom of the gender hierarchy among men (Connell, 2005:78). Sexual arousal plays a key role in the process of masculinisation, a process "that define[s] females as other, and shapes desire as desire for the other" – making heterosexuality "compulsory" or "obligatory", as Connell calls it (2005:123). Due to this, homosexuality has come to be associated with femininity from the perspective of hegemonic masculinity (Connell, 2005:78-79). Thus, hegemonically masculine men (aka. Alpha males) take it upon themselves to police male sexuality, which often involves either verbal or physical abuse of homosexual men (Connell, 2005:105).

Connell points out that it is part due to the idea that men are genetically programmed to be dominant and aggressive (an idea rooted in sexist ideologies based on false biology) that masculine behaviour, and hegemonic masculine behaviour in particular, has evolved into what it is today (2005:48). Masculinity is a social practice that, according to Connell, always refers to bodies and bodily activity (2005:71). Bodily experience plays a central part in our lives and sexuality constitutes a major theme in our understanding of whom we are (Connell, 2005:53). In other words, we often assert ourselves and our position in society through our bodily performances. The bodily sense of masculinity is central to the social process, as hegemonic masculine men use masculinising and sexualising practices (such as excelling in sports or proving sexual potency) to position themselves over other men and to exclude and dominate over women (Connell, 2005:54-57, 123). As men realise their masculinity through their bodily performances, the constitution of masculinity consequently becomes vulnerable (perhaps even threaten) when a masculine practice cannot be performed due to, for example, disability (Connell, 2005:54).

The theory of the norm of masculinity ties the theories of power structures, *othering*, and normalisation together. It also constitutes the most fundamental theoretical approach in this study, as it allows me to assess and analyse both power relations between men and women, *and* amongst men as a group, which is crucial from two stances in particular. Firstly, by consistently relating back to how male perspectives have shaped judicial, governmental and public standards, I will try to identify signs and patterns in society's handling of gendered

violence that allude to a favouring of male interests. Based on this identification process, I will analyse if and how the normalisation of hegemonic masculinity can help explain society's reluctance to consider men's violence against women as potential hate crimes. Secondly, as the Incel-ideology matches the concept of hegemonic masculinity (by, for example, stressing the importance of (hetero)sexual performances through the concept of compulsory heterosexuality), I will interpret Incel-activity through this theoretical perspective on the vulnerability of (hegemonic) masculinity and compulsory heterosexuality, together with the concept of the *other* and its attributed role in the enabling of male sexuality.

3.3 Gendered spheres

According to Yvonne Hirdman, professor in gender history at Gothenburg University, the way society socialises and organises gender is founded upon two logics: the male norm and the separation of men and women (1988:49). More specifically, it is through the separation of genders that the male norm is legitimised (Hirdman, 1988:51-52). The separation itself is expressed in the division of labour between the two sexes, along with the perception of what is male and what is female (Hirdman, 1988:51). Hirdman argues that every society has formulated some type of "contract" between the genders, but not a contract in the sense that it is a negotiable agreement between two equal subjects – more like an arrangement that has been drawn up by the dominating party that has the power to define the other party (aka, the *other*) (1988:54). The gender-contract consists of tangible and detailed conceptions of how men and women should interact with one another and as individuals – this relates to their work, appearances, clothing, language, and so on (Hirdman, 1988:54). Hirdman argues that although the organisation of gender can be challenged, at least theoretically, there is a immutability in the relations between the genders that acts as the "trump card" in the dichotomous rationalisation of gender: the male and female biology and the different parts they play in reproduction (1988:57-58). According to this way of organising gender based on biological differences, men and women naturally separate into different spheres due to their different natural desires. As women have – due to their biologically prominent role in reproduction – come to be primarily associated with childcare and other home related chores, their sphere has consequently been oriented to private life, whereas men (with their attributed role as both the positive and neutral representation of society, in regard to the male norm) have been placed in the public sphere.

All societies have some type of separation between the domestic and the public sphere, and this dichotomy plays a central role in the social definition of men and women (Gunnarsson et

al. 2019:65). Eva-Maria Svensson (whose theories on gender law I previously discussed in relation to the process of normalisation) relates this separation to the male norm and specifies what it has entailed historically. While men's privileged position has given them an active, public position by allowing them to organise all of society – modelling knowledge, epistemology, and law in their vision – women have been banished to a passive role in the private sphere while being characterised as irrational, emotional and erratic (Svensson, 1997:15). These restrictions have obviously been progressively relieved over time, giving women on a global scale access to public life, a greater political influence, and a say in the formation of legislation. In terms of previously having been restricted to just one sphere, the same cannot be said about men as their role has not gone through the same radical change (Svensson, 1997:330). Although men have been primarily associated with the public sphere they have always had access to a private family life – an aspect of their lives that they have historically argued for to be exempted from public involvement (Svensson, 1997:314, 320). In order to protect people's privacy (read: men's privacy), the law and the state have therefore been traditionally prevented from intruding the private sphere (Svensson, 1997:165). Consequently, laws that for a long time legally sanctioned types of abuse in the public sphere were not extended to include the same abuse committed in the private sphere until much later (Svensson, 1997:102-103).

As men and women have traditionally mostly interacted with one another within the private sphere, differentiating between violence in the public and the private sphere had an immense impact on women's safety – as it signified leaving most cases of men's violence against women unprosecuted. Svensson states that when a certain type of violence is accepted, legitimised and built into the legal norms this way, that violence is not just framed as legal – it also becomes invisible (1997:326). Today, women's lives do not work in symbiosis with the division between a public and a private sphere as their everyday obligations involve both vocational work and childcare, which requires them to live in the intersection of two spheres (Svensson, 1997:329). In regard to this (among other reasons) Svensson concludes that the division between the two spheres needs to be completely abandoned from the law (1997:340). Even though legislation has evolved to include sanctions on matters – such as abuse – in the private sphere, Svensson argues that we shouldn't be using the spheres as a starting point in the handling of legal cases or any kind of problem solving.

Hirdman's "gender-contract" and Eva-Maria Svensson's arguments on the gendered private and public spheres both coincide with the process of *othering* described by Irene Molina. The use of biological difference in the separation of men and women and the attributed "natural" male and female characteristics, as mentioned by Hirdman and Svensson respectively, also relate to R.W. Connell's claims about false biology in their theory of hegemonic masculinity. I will be using the theory on gendered spheres and the dichotomy between the public and the private to analyse how and when actions of men's violence against women are considered to be more oriented towards a public or private setting. I will also be using the classic women's rights argument on the importance of seeing "the private as political" (as most violent crimes against women are committed in the private sphere) to elaborate on the problematisation of associating women with the private sphere, as I want to explore what possible impact this traditional expectation and assumption – that women are more oriented towards the private sphere – might have on the identification of hate crimes against women. Can it be that the now well-established fact that women are primarily exposed to violence in the private sphere has led to the assumption that more or less *all* violence against them happen in the private sphere, leading us to assume that the motive behind the violence is based on "personal issues" and disregarding the possibility that the violence could have been motivated by misogynistic motives?

4. Hate crime

This chapter consists of four segments that set out to explore the concept of hate crime and its connection to the gender category in relation to the thesis' theoretical framework. In the first segment, I will discuss what hate crime as a concept entails in a legal context and how gender as a social category fits into it. This segment is followed by a discussion on what commonly defines a hate crime victim and the status of hate crime statistics. The purpose of these two segments is to pinpoint what the general perception of a legal hate crime is. Using the generalised profile on hate crime illustrated by the first two segments, the two following segments explore different perspectives on whether or not gendered violence functions as hate crimes. The third segment presents and discusses arguments against the inclusion of a gender category in hate crime legislation. The fourth and final segment will examine reasons that support the contextualisation of gendered violence as violence potentially motivated by structural hatred for women as a group. By applying theoretical perspectives on gendered power structures, norms and spheres, I will explore if and how other researchers' conclusions on the subject of gendered hate crime can be further developed using *my* explanatory models

(the theories presented in the previous chapter) – focusing, in this chapter, on the process of *othering*, normalisation, and the norm of masculinity.

4.1 Hate crime as a legal phenomenon and the gender category

The concept of "hate crime" refers to criminal offenses that arise from prejudice. It is what we call a crime where the perpetrator purposely targets a victim due to an actual or perceived group characteristic that deviates from the norm (Granström et al. 2019:24) (Hodge, 2011:11). Hate crime was first introduced as a legal term and a criminal classification in the 1970s in the United States, where it today exists in the shape of both federal and state bias crime laws (Hodge, 2011:10-11). As a legal concept, hate crime has figured in both British and Swedish legal contexts since the 1990s but neither Great Britain nor Sweden have specified laws or statutes on hate crime (Gill and Mason-Bish, 2013:3) (Granström et al. 2019:24). However, both countries do have legislation geared towards addressing and regulating hate crimes, such as anti-discrimination policies and hate speech laws (ibid.). Thus, although hate crimes are acknowledged in different ways by law- and policymakers from country to country, the three states mentioned above (along with many other nations) evidently do recognise that in order to promote equality and protect human rights, some criminal actions need to distinguished as more severe than others based on their motives. For legible reasons, I will be referring to all legislation that addresses hate crimes as "hate crime legislation" and only emphasis the difference between the legislative approach that the United States takes towards hate crime, and the approach taken by Great Britain and Sweden when it is relevant to differentiate between the two for the sake of the analysis.

Legislation that sanctions acts of hate crime commonly functions as penalty-enhancement statutes – meaning that if a prosecutor can prove that a crime was motivated by hate or hostility towards one of the identity categories (or protected groups) that have been legally recognised as potential victims of hate crimes – the hate motive should be seen as an aggravating circumstance which may result in a penalty-enhancement (Granström et al. 2019:33). In terms of which protected groups that the hate crime legislation covers varies a lot between different local contexts – but race, colour, ethnicity, and religion are traditionally included. Whether gender should, or should not, be included as a protected group in bias laws is universally one of the most controversial issues within the discussion on hate crime policy (Hodge, 2011:24). The signing of the 2009 Hate Crimes Prevention Act (HCPA) in the United States resulted in an expansion of the American federal hate crime law; which now includes gender, along with sexual orientation, gender identity, disability, and the "traditional" status

categories that were protected by the bias laws preceding the HCPA (Hodge, 2011:12). Gender is also listed as a protected group in the state law of a number of American states (over 20 states; sources differ on exact number). Neither Great Britain nor Sweden includes gender as a protected group in their legislation. In Great Britain, race, ethnicity, religion (or beliefs), sexual orientation, transgender identity, and disability are included, whereas Swedish legislation refers to race, ethnicity, religion, sexual orientation, non-normative gender identity and "other similar circumstances" (Home Office, 2019) (Granström et al. 2019:26). The selections on protected groups done by the United States, Great Britain and Sweden, as described in the segment above, are close two unanimous with the exception of two categories: disability (excluded by Swedish legislation) and gender. The kinship in the decision made by both Great Britain and Sweden to exclude gender from their definitions of hate crime supports Hodge's statement on the gender category as a source of controversy in the conceptualisation of hate crime as legal phenomenon. Arguments that support this exclusion will be explored in an upcoming segment.

The process of *othering* arguably plays a predominant role in the hate crime phenomenon, as it is the differentiation between the norm and the *other* that triggers the creation of bias, and makes it legitimate to hate the *other*. I would also argue that the process of *othering* is crucial to the conceptualisation of hate crime legislation, and that this is illustrated through the selection of protected groups. In order to determine which status categories that should be protected by hate crime legislation, politicians and legislators are required to participate in a process of *othering* themselves – to pinpoint which groups that are at risk of becoming victims of hate crime (in other words, defining who the *others* are). I would argue that this judicial process of re-*othering* the *other* (that is done in order for the justice system to be able to highlight the existence of a hate motive and prosecute an incident as a hate crime) actually solidifies, or normalises, the *other's* status as the *other.* Thus, the legal differentiation of the *other* from the norm works as a double-edged sword. However, without acknowledging the fact that the *other* has a marginalised position in society and is unfavourably treated by the norm because of that, it would not be possible for the justice system to prosecute hate crimes and for victims of bias to seek justice and legal compensation for the discrimination they face.

Hate crime legislation has a strong, symbolic nature that refers to principles of equality, democracy, and human rights (Granström et al. 2019:78). Through these associations, policies and legislation aimed at combating hate crime can serve as powerful, educational and

symbolic messages to marginalised groups and society at large – they show that bias-motivated violence is prioritised and taken seriously by the political leadership and the justice system (Granström et al. 2019:23-25) (Hodge, 2011:31-32). Hence, the selection and de-selection of certain protected groups also sends a symbolic message about which kinds of hate-motivated violence that are recognised and prioritised by society and which ones that are not. However, regarding the practical use of hate crime legislation, few crimes are actually prosecuted as bias crimes and even fewer result in convictions. Hate crime cases are in several ways more complex and more challenging to both investigate and prosecute than most regular criminal cases. The added burden of proof, the structure of Western justice systems, and the lack of a clear definition of what a hate crime *is,* illustrate three examples of factors that complicate the legal process of hate crimes.

Even though the motive behind a criminal act is always relevant from a moral stance, in a legal context the prosecution of "regular" violent criminal cases, such as assault, solely focus on the criminal intent. Yet, in the prosecution of a hate crime, prosecutors also need to prove *why* the crime was committed – in addition to identifying a suspect and securing evidence of guilt (Hodge, 2011:40). Meaning, that if an assault is also being trailed as a hate crime, the prosecutor has to prove that the offender not only had the *intention* to violate the victim, but also that the offender's bias against a protected group was the *motivation* behind the violation and the reason why the victim – as a member of this specific group – was targeted (Granström et al. 2019:84-85). One could also argue that prosecuting a hate crime in a western justice system is inevitably going to be difficult due to the individualistic approach towards justice (and human rights) that is built into the system itself, as the laws have been customised to process individual cases (conflicts between individuals) (Granström et al. 2019:84-85). Therefore, challenges arise when a crime that relates to a structural conflict (a conflict between groups), such as hate crimes, enters the western justice system. This structural conflict refers to the relationship between the norm and the *other*.

The absence of a specific crime classification for hate crimes in a country, like in Great Britain and Sweden, also means that there is no definite legal definition of what a hate crime is (Granström et al. 2019:24). This leaves it up to different actors, within and outside of the national judiciary systems, to design their own hate crime definitions – which complicates both the data collection of hate crime incidents and research on the entire phenomenon (Granström et al. 2019:100). However, research on the prosecution of bias crimes in the

United States seems to suggest that the presence of a specific hate crime classification does not necessarily mean that that all prosecutors, or other actors within the judiciary for that matter, have the same idea of what defines a legal hate crime. Prosecutors often struggle to obtain the evidence required, as the justice departments often lack the necessary resources to sufficiently investigate bias crimes (Hodge, 2011: 40). Hodge refers to a set of guidelines that prosecutors supposedly follow when they evaluate if a crime has been motivated by bias and therefore, should be prosecuted as a hate crime.

> (1) [C]ommon sense (for instance, a cross burning on the lawn of a minority family obviously suggests racial bias); (2) the language used by the suspect; (3) the severity of the attack; (4) a lack of provocation; (5) a previous history of similar incidents in the area; and (6) the absence of any other motive.
>
> Finn, P. 1988, as cited in Hodge, 2011 p. 40

Although one could argue that the guidelines are reasonable and comprehensive, the use of "common sense" obviously leaves room for interpretation. When "traditional" and universal examples of hate symbols are featured in a crime in which the victim belongs to a minority – such as a burning cross, a swastika, or a noose – a prosecutor's decision to *not* investigate that crime as a hate crime would most definitely be questioned by both the prosecutor's peers, the media, and the public at large. Hate symbols that have a prominent historical character and are associated with systematic violence, perhaps even genocide, targeted towards a race or social group are virtually impossible to ignore. Thus, an actor of justice would have to be actively ignoring their common sense in order to not connect, for example, a cross burning to that of a hate crime motive – as it, like Finn states, "*obviously* suggests racial bias". Calling the suspect's use of language into question, as referred to in the second guideline, arguably also relies on the use of common sense and the interpretation made by the prosecutor. Presumably it would be the use of offensive words, such as racial slurs, and hate speech directed towards a social group that would meet the criteria for a hate crime motive.

Yet, hatred towards some marginalised groups does not come in the shape of easily recognisable hate symbols and slurs. Misogyny is an example of this less "obvious" type of hatred. Women have historically been victims of marginalisation and targets of systematic violence at the hands of men, but they have not been persecuted like other marginalised groups. They have not been threatened trough the use of hate symbols, and language used to degrade women, such as "bitch", does not have the same hateful connotation to it as racial slurs do, like the "n-word" for example. Offensive remarks that one could refer to as "sexist

slurs" have, through a process of normalisation, lost their shock-value and been more or less assimilated into everyday language. However, this does not mean that the misogynistic sentiment behind these words has been lost; if anything on could argue that the normalisation, or trivialisation, of these words rather indicates that it is the misogyny itself that has been normalised. Thus, misogyny does not necessarily possess the type of "obvious" characteristics that are easily identifiable by the use of common sense. Due to this, I would argue that it is unlikely that all agents within the American judiciary, working in 50 different states, would share the same definition of what constitutes a gendered hate crime motive. In fact, one could argue that the lack of a common legal definition applies to all cases of hate crimes that do not fit into the category of what "obviously" is a hate crime. Hence, the absence of a clear legal definition of what a hate crime is seems to apply to both countries that have a specific crime classification of hate crime, like the United States, and those that do not have one, like Great Britain and Sweden.

4.2 The "typical" hate crime criteria and hate crime statistics

4.2.1 The *other* as the "typical" hate crime victim

The subject of "obvious" hate crimes can be further developed with reference to the general perception of what a hate crime victim *is*. Granström, Mellgren and Tiby state that an ideal, or "typical", crime victim is usually thought of as a victim that is suddenly attacked in a public place – without any preceding provocation – by an unknown assailant (2019:83). However, this simplistic view of who a victim is, what they look like, and how they should be acting does not sufficiently encompass incidents where the *other* is targeted by the norm, cause in these incidents, the mere *being* of the *other* is all the provocation the offender needs (ibid.). The stereotype of the ideal victim goes hand in hand with the stereotype of the ideal offender; and if an offense aligns with these stereotypes there is a significantly greater chance that the victim will be believed and given the status of a crime victim and, consequently, the opportunity to seek justice (Granström et al. 2019:65). According to this logic there are, supposedly, in the eyes of the norm (as it is the norm, and not the *other*, that sets the standards of all societal functions) more or less legitimate victims. I interpret the specificity of the conditions given to the *other* by the norm – in order for said *other* to be able to seek justice – as a way for the norm to control the legal narrative. If the *other* wants to seek justice, it has to be on the norm's terms. These normative conditions – that victims are expected to live up – to are just as present in investigations on hate crimes and are, as I would argue, even more problematic in contexts where a motive needs to be assessed.

Media reports on hate crimes are commonly limited to "typical" hate crimes[*], which consequently reinforces the stereotypical image that society – including members of law enforcement and politicians – has of bias-motivated offenses. In reality, incidents of hate crime rarely fit the general and legal perception of what a hate crime is supposed to be. Most hate crime cases do *not* involve an extremely violent one-time offense with a neo-Nazi perpetrator that is otherwise unknown to the victim. Studies on hate crime show that it is just as, if not more, common that crimes motivated by hate are executed by people without hate-extremist affiliations and that the perpetrator usually has some sort of pre-existing relationship to the victim as, for example, a neighbour, classmate, or distant acquaintance (Granström et al. 2019:59) (Hodge, 2011:17). Research on hate crime incidents has also shown that bias-motivated offenses often have a repetitive character (Tiby, 2012 as cited in Granström et al. 2019:81). In other words, incidents of hate crime are more likely to be cases of recurring harassment between non-strangers than a one-time violent attack inflicted on one stranger by another.

It is in reference to the evidence provided by the studies mentioned in the above paragraph that I argue that stereotypes of victims and perpetrators are even more problematic in the context of a hate crime. As previously discussed, prosecutors seem to be either left unsure about what the legal definition of bias crimes is, or they are left with no legal definitions at all. Either way, they have to rely on their own interpretation of what suffices as a hate crime, which makes it easy for them to fall into the trap of using the "typical" mould of what a hate crime is. The justice system, along with the rest of society, has normalised, or *framed*, a hate crime victim as a certain type of victim; making it difficult for the ones who do not fit into the *frame* of the "normal hate crime victim" to seek justice. The phenomenon of hate crime is created through a legal process; it does not exist and cannot be recorded as a hate crime until the incident has been filtered through different actors of the judiciary (Granström et al. 2019:77). Considering that research on hate crime shows that there is a clear deviation between real hate crimes and "typical" hate crimes, and that there is also no self-evident legal definition of a hate crime – there is reason to believe that a lot of bias-motivated crimes are neither registered nor convicted as hate crimes, due to them not being recognised as hate

[*] The term "typical" hate crime refers to the general perception of what a legal hate crime is. I will repeatedly use this term throughout the analysis, often in conjunction with the term "ideal/typical/normal hate crime victim", which in turn refers to the general notion of *whom* can be considered legitimate victims of bias-motivated crimes.

crimes by one or several legal actors. This would help explain why the numbers on reported and convicted hate crimes are so low. Consequently, this also means that a lot of hate crimes are not recorded in hate crime statistics.

4.2.1 Statistics on gender-bias crimes

Hate crime statistics naturally follow the principles set up by the legislation. Since 2009, the Justice Department in the United States is required to collect data on all hate crime motives listed in the HCPA; including crimes motivated because of the victim's actual or perceived gender (Hodge, 2011:29). However, since local law enforcement collect and submit crime data to the Federal Bureau of Investigation's (FBI) annual crime reports on a *voluntarily* basis, the true count of hate crimes in the United States is unknown (Hodge, 2011:24) (FBI Hate Crime Statistics 2018). In Sweden, the Swedish National Council for Crime Prevention (Brå) presents a biennial report on hate crime statistics. Since hate crime does not constitute a crime classification in itself, the Swedish National Council for Crime Prevention registers criminal cases as hate crimes through their *own* definition of a hate crime and with the use of 383 search words that relate to bias-motivated crimes (Brå Report 2019:13). As the gender category is not included in the Swedish laws used to regulate hate crime, there is no statistics on gender-motivated crimes – as the crime technically does not exist in Swedish law, and therefore cannot be reported, investigated, prosecuted, or recorded. Seeing that gender is not listed in British hate crime laws either, gender is also not centrally monitored in British hate crime statistics (Home Office, 2019).

The absence of gendered bias crimes in British and Swedish statistics on hate crimes evidently traces back to the exclusion of a gender category in the two countries' hate crime legislations and their rejection of gendered violence as a hate crime. Yet, in a brief examination of American statistics on hate crime, which *does* include gender as a protected group, a distinguishing between the gender category and other protected groups under hate crime legislation seems to be apparent in the American context as well. Hodge calls attention to the variance between the numbers of reported bias crimes relating to race and religion versus ones related to gender. Hate crime statistics from 2007 show that while 27 religious-bias crimes were reported in Minnesota and 392 racially motivated crimes were reported in New Jersey, the two states had only had one report on gender-bias crimes each during the same year (Minnesota Department of Public Safety, 2009, and New Jersey State Police, 2008, as cited in Hodge, 2011:20). FBI's Hate Crime Statistics report from 2018 shows that this variance is still apparent today. Out of all of the hate crime incidents that were reported to the

police in 2018, victims that had been targeted due to a racial or religious bias made up 59.6% versus 18.7% of the total. Incidents that involved a gender-bias motivation made up the smallest number out of all the categories, landing at a 0.7% (Home Office Statistical Bulletin 24/19). However, it is doubtful that these statistics display an accurate distribution between the categories, as it has been determined that most hate crimes are left unreported.

One might attribute this large statistical difference between race/religious hate crimes and gender hate crimes to the categories' historic background within the legal system; race and religion are so-called traditional protected groups that have been included in hate crime legislation since its establishment. Thus, police and prosecutors have access to a lot more legal practice on these traditional categories, which assists them in the prosecution of new cases involving the same categories. However, Hodge's research disclaims this theory through a comparison of records on gender-bias crimes and records on disability-bias crimes (another un-traditional category) between 1999 and 2008. Gender and disability were both added to New Jersey's bias crime statue back in 1995, yet during the same nine year long period, 25 disability-bias incidents were reported and only four incidents of gender-bias (Hodge, 2011:59). Although both numbers are (questionably) small, there is still a substantial difference between the two categories. Thus, I would argue that the statistics shown in this segment illustrate that while the British and the Swedish justice systems distinguish gender from other categories by *excluding* the category from their hate crime legislation, American justice systems distinguish the gender category from others by implementing it very *rarely.* For some reason, the gender category is evidently singled-out and more or less ignored by these western systems of justice.

4.2.3 Under-reporting of gender-bias crimes

Circling back to the subject of hate crime victims, it is important to remember that in order for the legal processing of a hate crime to commence, a hate crime first needs to be identified. Although police and prosecutors should be able to identify motives of bias in their investigations (which, once again, has proven to be difficult due to the lack of legal definitions of hate crime), they cannot investigate or prosecute crimes that they are not made aware of. Most hate crimes are not reported to the police (Granström et al. 2019:73). This trend can of course, in part, be credited to how victims of both regular and hate motivated crimes fear retaliation from their perpetrators if they were to report them. Hate crimes can also be left unreported due to people not wanting to be categorised as victims of hate (Granström et al. 2019:100). The reluctance to identify oneself as a hate crime victim can, I

believe, partly be explained with reference to the process of *othering* – no one wants to be the *other*, and admitting to being treated by the norm as the *other* means that they themselves have to differentiate themselves from the norm; ultimately "admitting" that they are different to the norm. Hate crimes that *are* reported to the police might also be reported as regular crimes due to victims themselves not perceiving them as hate crimes – and there is overall little knowledge on how victims of bias-motivated crimes construct themselves as victims of hate (Granström et al. 2019:73, 88). However, I would argue that a part of the reason why victims do *not* construct themselves as hate crime victims is due to the narrow *frame* that society has constructed for hate crime victims to fit into.

Findings from Hodge's case study shows that it is due to gender-bias offenses not being considered "typical" hate crimes that investigators and prosecutors are uncertain about the gender category and how gendered violence fits into the hate crime framework (Hodge, 2011:60). The study also shows that prosecutors doubt (most likely due to their own uncertainty in the matter) that a jury would be able to understand how gendered violence fits into the phenomenon of hate crime (Hodge, 2011:74). Due to this, I argue that – along with actors in the justice system, politicians, the media, and the rest of the public – many victims of hate crime will most likely naturally struggle to identify their experiences as hate crimes if those experiences do not exemplify "obvious" or "typical" acts of hate; which most of the time, they will not. If hate crime victims do not recognise themselves as victims of hate, they will naturally not report their experiences as hate crimes (if they report them at all) and their cases will be left unrecorded by hate crime statistics.

The small number of reported gender-bias crimes could, as mentioned, be attributed to there being a lack of public awareness of the existence of a gender category in hate crime statutes (Hodge, 2011:30). Considering how research has shown (both Hodge's and McPhail's studies) that even a sizeable number of prosecutors are unsure, or even unaware, of the gender category's existence it is very likely that this lack of awareness extends beyond the legal system and involves other members of society as well (Hodge, 2011:72). However, I would argue that it is likely that the "typical" hate crime criteria functions as a contributing factor to women not reporting gender-bias offenses. With reference to the image of the "typical" hate crime victim, women would find it difficult to identify themselves as victims of bias crimes, since the violence they typically experience is repetitive, at the hands of somebody they

know, and in a private/home setting – in other words, nothing like what the experience of an ideal hate crime victim "should be".

4.3 Arguments against including a gender category in hate crime legislation

The addition of gender as a protected group in hate crime legislation has been and remains a matter of controversy. Opponents have given numerous reasons as to why they believe incidents of gendered violence should not be considered acts of bias. Many of these reasons constitute concerns about pragmatics; arguing that the addition of gender could possibly harm either the legitimacy of the hate crime phenomenon, and/or women's chances to seek justice for the violent crimes committed against them. Some can also be attributed to a normative conceptualisation of hate crime and hate crime victims. As stated in the previous segment, gender-motivated violence does not fit the "typical" hate crime criteria. The stereotypical factors that are used to assess whether an offense was motivated by bias or not are largely irrelevant to cases of rape and domestic abuse, critics state (Hodge, 2011:14). There is also no need, critics claim, to include gender-based crimes in hate crime legislation since violence against women (VAW), such as sexual assault, rape and domestic abuse, is already adequately addressed in existing legislation (Gill and Mason-Bish, 2013:4-5) (Hodge, 2011:17). Thus, additional legislation on gendered violence would be redundant. Another legislative assumption is that hate crime victims are "supposed to be" members of powerless minorities, which illustrates another aspect of the stereotypical bias crime rationale that the gender category fails to live up to (Gill and Mason-Bish, 2013:4).

Opponents to the inclusion of a gender category in hate crime legislation are also concerned with the extensive character of violence against women, as they argue that the voluminous number of VAW-cases might overwhelm the criminal justice system and make hate crime collection efforts unmanageable (Gill and Mason-Bish, 2013:5, 14) (Hodge, 2011:14). This argument does not match the statistics shown in the previous segment. I presume that this argument refers to a theoretical reality where the gender category is actually implicated and gender-bias crimes are reported to legal authorities. Other arguments that refer to pragmatics include the assumption that acts of violence against women would be hard to prove as hate crimes, and that it would also be difficult to decipher between which rapes that have been motivated by gendered hate and which ones that should not be prosecuted as bias crimes (Gill and Mason-Bish, 2013:5) (Hodge, 2011:15). Some critics also struggle to identify women as a stigmatised group and to see how crimes of rape and domestic abuse committed by men against women can be linked to a hatred of *all* women (ibid.). They mean that the victim is

not interchangeable in the majority of VAW-cases; these women are not attacked at random, and do, therefore, not fit the stereotypical bias crime rationale (Hodge, 2011:15-16). Nevertheless, some critics state, it cannot be claimed that men who commit crimes against women "hate" women in the same way that white supremacists hate racial minorities (ibid.).

The Swedish bill titled *Kvinnofrid* (loosely translated to Women's Peace) from 1997 made use of a multiple of the pragmatic arguments accounted for above. In 1995, the Swedish Commission on Violence against Women presented a report on their review of issues related to violence against women and proposals on measures to counteract gendered violence. The Commission's report to the Swedish parliament included a proposal of adding gender to the list of protected groups under Swedish hate crime legislation (SOU, 1995:60 as cited in Granström et al. 2019:26). The Swedish government rejected that proposal, citing three reasons for the dismissal. The government argued that the addition of a gender category to hate crime legislation would jeopardise the meaning of the concept of hate crime (Prop. 1997/98:55 pp. 86-87). The government also stated that violence against women can already be sanctioned with penalty-enhancements under existing laws, and that additional legislative measures geared towards this matter would therefore be unnecessary (ibid.). Finally, it was also stated in the bill that although gender is not explicitly mentioned in the legislation used by the court to convict hate crimes, the protected groups listed in the criminal code are only of an "exemplary nature", and that the court *can* consider other motives of offense then the ones specifically mentioned in the law when determining the penalty of a crime (ibid.).

The third statement in the Swedish government's response to the Commission's report presumably refers to the part of the Swedish "hate crime" legislation that states that "similar circumstances" – that is, offenses that are similar in nature to ones that would be deemed hate crimes, had they involved victims of the protected groups that are specifically mentioned in the legislation – can also be seen as hate-motivated and lead to a penalty-enhancement. This statement, I would argue, represents another example of the ambiguity that both legal actors and hate crime victims have to interpret. The examples specifically mentioned in the penal code are the ones that have been normalised by the law and the state as legitimate hate victim categories (aka. protected groups). Considering that the "other similar circumstances"-category has never been used to prosecute a gender-bias crime, I would argue that this category has been proven to be inept as a legislative tool to prosecute incidents of men's violence against women. Clearly, gendered violence is not recognised within the legal practice of hate crime sanctions in Sweden – in despite of the Swedish government's claims.

Whether or not laws geared specifically at sanctioning (men's) violence against women can actually provide enough legal protection against all gendered violence (regardless of the presence of a hate motive) will be discussed in the next segment.

In addition to the objections already mentioned, some other arguments that oppose the inclusion of a gender category in hate crime legislation do actually agree with the conceptualisation of gendered hate crimes. These critics are more concerned with the practical limitations of bias statues and the way hate crime policies have struggled to combat prejudice-based violence (Gill and Mason-Bish, 2013:12-13). The legal definitions used to prosecute hate crimes are, they argue, too simple to handle the complex nature of violence against women; the victims would not receive the support they need, as cases of domestic abuse and rape require expertise (Gill and Mason-Bish, 2013:17). The added burden of proof that comes along with hate crime claims could also potentially jeopardise convictions of acts of gendered violence and make the experience unnecessarily hard on the victims by slowing down and complicating a court process that is already hard on them (Gill and Mason-Bish, 2013:13). In regard to trauma, some critics also argue that pursing cases of domestic abuse as hate crimes is especially problematic due to the emotional challenge it puts the victim through – forcing them to not only acknowledge a loved one of theirs as their assailant, but also as somebody who has committed a hate crime against them (Gill and Mason-Bish, 2013:16).

The examples of contra-arguments shown in this segment can, in a simplified measure, be summarised as followed. The opponents who reject the conceptualisation of gendered violence as hate crimes do so by referring to one or several of these three factors: (1) the criteria for a "typical" hate crime and its deviation from cases of violence against women, (2) the disruption and overburden the inclusion of gendered violence could have on the hate crime phenomenon, and (3) the fact that legislation that addresses violence against women already exists, which would make the inclusion of gendered violence in hate crime legislation redundant. Other opponents – who did not reject the concept of gender-bias serving as motivation for men's violence against women in itself – were mainly concerned with hate crime legislation being incompetent to deal with cases of violence against women. Either way, the opposing arguments illustrate a separatist view of statues on hate crime versus statues on men's violence against women. However, all stakeholders do not share this separatist view and argue that that the opportunities introduced by the addition of a gender category outweigh the obstacles.

4.4 Gendered hate crime

Before embarking on the final segment of this part of the analysis, I would first like to summarise the discoveries of the study thus far. My objective for the two first segments of this part of the analysis has been to assess the perimeters of hate crime legislation, hate crime statistics, and the perception of the hate crime victim to illustrate *how* gender is distinguished from other protected groups in the three different western contexts of the United States, the United Kingdom and Sweden. I have used the explanatory models of the process of *othering* and normalisation to analyse why hate crime, as a whole legal phenomenon, constitutes such a challenge for prosecutors *and* hate crime victims. I have argued that the studies utilised to explore this part of the analysis show that the three western states examined in this study – in despite of their different legal positions on hate crime – altogether lack a clear legal definition of a hate crime. This has necessitated a need for legal actors to create their own definitions of hate crimes, and in this process a very restrictive, (stereo)typical criteria has been constructed as the normalised *frame* of *what* a hate crime is and *who* a victim of a hate crime is. Most victims of hate crimes do not fit into this criteria. However, I have argued that women as a group most likely find this criteria especially difficult to fit into, causing not only the legal system but the women themselves to disregard them as hate crime victims. By presenting some of the most common contra-arguments to the inclusion of gender in hate crime legislation, the purpose of the third segment was to show the reasoning behind this universal reluctance to treat men's violence against women as hate crimes. Now, using the three preceding segments as a generalised profile of hate crime, the forth and final segment of this part of the analysis will explore arguments that support treating gendered violence within the perimeters of hate crime legislation, and also further investigate normative reasons as to why that is not the case today.

4.4.1 Arguments supporting the inclusion of a gender category

As previously discussed, men's violence against women does not fit into the general perception of what a hate crime is. Although marginalised, women as a social group do not make up a minority, the violence inflicted on them by men most commonly takes place in a private setting, is repetitive, and their perpetrators are usually men who they have a prior relationship to. The *frame* of the "typical" hate crime does not suit most victims of hate crimes, regardless of which type of prejudice they have experienced. In regard to gender-bias crimes, Hodge's study shows that legal actors struggle to see past the surface definition of "hate", and thus, do not recognise that hate crimes involve a discriminatory selection – due to this, they perceive gender-bias motives as different from "typical" bias crimes (2011:63). Yet,

although I, among others, would argue that this shows a need to change the criteria altogether, there are still ways in which gendered violence can fit into the current, narrow definition of hate crime – if only with a change of perspective.

> Gender-bias crimes affect women collectively, similar to the way that burning a cross or vandalizing a synagogue affects an entire racial or religious community. The act does not just affect one individual; rather, it affects an entire group, making the targeted community feel fear and, sometimes, a sense of inferiority. Women are constantly aware of their vulnerability and status as potential victims. For instance, even women who have not been victims of rape are affected by the fear of being raped in the future.
>
> Gordon and Riger, 1989 & Senn and Dzinas, 1996
> as cited in Hodge, 2011 p. 12

There is an interesting parable to be made between the researchers' reasoning regarding gender-bias crimes, cited in the passage above, and examples of "obvious" indicators of bias used as guidelines by prosecutors (which were previously discussed in the first segment of this chapter). In this reasoning, there is a shift of focus *from* identifying "obvious" and literal hate symbols *to* a consideration of what kind of *impact* actions of gendered violence has on women as a group – and how these feelings can be similar to those felt by other victims of hate crime. A hate crime is a crime that sends message to not just a specific victim but to all members of a social group or race – causing members within the targeted group to feel fear of being victimised as well (Hodge, 2011:13). Women experience this feeling just like other marginalised groups in society. When women hear about acts of gendered violence they collectively recognise that gender was a motivating factor for these offenses; which is followed by a realisation that they could easily be victimised by similar violence (ibid.) Due to this, women adapt their lifestyles (clothing, habits, housing) to avoid victimisation (Hodge, 2011:17). Once one recognises that instances of violence against women are harmful acts that affect women as a group, the similarities between gender-motivated violence and classic hate crimes become visible (Hodge, 2011:13-16). I would argue that recognising these similarities would not have to mean that *all* incidents of violence against women would be prosecuted as hate crimes (as some critics claim), only that this would enable not just legislators but all of society to conceptualise gendered violence as acts of violence potentially motivated by misogyny.

Yet, what does the conceptualisation of gendered violence as hate crimes entail for individual incidents of gender-bias violence? Are gendered hate crimes better left to policies on violence against women, and out of hate crime legislation? I can only speculate as to what exactly would happen if the gender category were to be both legally established as a protected group *and* thoroughly implemented in a justice system – because we are yet to see that happen. However, I would argue that the existent legislative measures on violence against women are not sufficient or effective enough to assess gendered hate crimes. Sexual assaults are underreported and penalties on domestic abuse are rare (Granström et al. 2019:89) (Hodge, 2011:16). Also, neither laws against domestic abuse or sexual assault cover the kind of violence exhibited from Incel- and other misogynistic terrorists. The fact that sexual assault, rape, and domestic abuse all are extremely gender-tilted and gender-associated offenses – and simultaneously extremely underreported crimes that seldom generate convictions, even when they are reported to the legal authorities – suggests, I would argue, that the hesitation towards acknowledging gendered violence as hate crimes is actually an extension of a systematic devaluing of all violence against women.

The symbolic meaning of including gender in hate crime legislation is, based on the material of this study, by far the most popular argument raised by advocates for the addition of a gender category. In Gill's and Mason-Bish's survey study, the majority of the participants argued that one of the most significant benefits of enabling the prosecution of VAW-cases within hate crime statues would be the powerful, symbolic message – a message of a zero-tolerance against violence against women – that it would send society (2013:1-20). In other words, it could be used as a rhetorical and educational tool to direct renewed attention to violence against women and encourage society to take the subject seriously (ibid.). This message could also, some respondents of the survey argued, help victims themselves to "conceptualise male violence against them as a part of the wider oppression of women, and therefore not individualise the crime" (Gill and Mason-Bish, 2013:17). This concept, I argue, is reminiscent of how stakeholders advocating against femicide encourage the use of new legislation as a tool to raise awareness about gendered violence. However, the symbolic influence can be questioned based on Hodge's research, as she states that:

> Perhaps it was understood by the legislative actors that the gender category would maintain this symbolic function and remain off the radar of investigators and prosecutors. The lack of attention given to the category by both legal actors and the media certainly facilitates this outcome. The gender category remains

> absent from the hate crime discourse, despite having been included in the state's bias crime statute for over a decade.
>
> Hodge, 2011 p. 83

4.4.2 The male norm and its perspective on gendered violence

Evidently, the legal system struggles in its prosecution of any form of gendered violence; whether it is cases of domestic abuse, sexual assault, rape, or an offense motivated by gender-bias. Following Foucault's statement on the importance on examining power structures with some reference to their historic background, I suggest that this inadequacy to investigate men's violence against women represents evidence of there being a prevalent built-in male bias in the western legal systems. McPhail's study from 2005 showed, as mentioned in the segment on previous research, that a majority of prosecutors do not feel that gender fits into their conceptualisation of hate crime. However, while only 25 % of men were in support of the addition of a gender category, the division between women was 50% even (McPhail and DiNitto, 2005:1176). Once again, I would like to return to the use of "common sense" in legal considerations, and assess it in relation to the male norm. As the judiciary, as previously mentioned, has been traditionally dominated by the male norm and adapted to fit male interests – the legal system will consequently struggle to act neutral when faced with a case involving the norm and the *other* as opponents. The variance between male and female prosecutors in their attitudes towards the inclusion of gender could potentially be related to their own gender. As the *other* herself, a female prosecutor could potentially be more open to the inclusion of a gender category – as she is able relate to the collective fear of men's violence against women. However, the male norm might just as well be the reason why 50 % of female prosecutors and 75 % of male prosecutors do *not* agree with the addition of gender. Is it really a coincidence that the most controversial hate crime category is the only category that is not concerned with men's needs at all? Is it another coincidence that gendered violence, a type of violence that almost always concerns violent incidents with a female victim and male perpetrator (given that the opposite situation is possible, but much more rare), is so mismanaged by the legal system in general?

The male norm in the judiciary is an example of, as Foucault describes it, a power relation that has been rationalised and centralised. Since the legal system and the rest of society have been accustomed to fit male interests, everything considered general or neutral traces back to the male norm – and the definition of "common sense", the "obvious", and the "typical" are all examples of that. Acts of men's violence against women always include one or several

male perpetrators, and one or several female victims – regardless of motive. Thus, the evidently systematic failure in the reporting and prosecution of cases on men's violence against women, and the reluctance to prosecute or even acknowledge gendered violence as hate crimes, favours male interests. Obviously, not all men have an interest in inflicting violence onto women, but male-on-female violence has traditionally been used by hegemonic masculine men to reaffirm their societal position at the top of the hierarchy, and although many men do not use violence against women (or other men for that matter) as a power tool, men's general societal status has benefitted from that use of men's violence against women – it has therefore, traditionally, been necessary for men to normalise their violence towards women. In the following chapter, I will explore different kinds of violence against women in relation to the normative functions and factors of hate crime that have been established in this chapter.

5. Men's violence against women

To follow up the previous section of the study's analysis, this chapter explores the categorisation of men's violence against women. The secondary part of the analysis is divided into three segments. The first segment briefly accounts for international politics and treaties on men's violence against women. The purpose of this segment is to show how men's violence against women fits into the international discourse on human rights. The two following segments each explore different categories of men's violence against women. The first part of the first segment on gendered violence will be dedicated to domestic abuse, while the second part will discuss sexual assault and rape. Following the analysis of these two common types of men's violence against women, the third and final segment of the chapter explores Incel-violence. Hate crime is a structural form of violence and violence against women has been recognised as cultural and global phenomenon, which is somewhat similar to having a structural character. Yet, there is no clear universal recognition of a connection between the two structures of violence. One of the main reasons for this, I suggest, is that the type of violence women are exposed to usually takes place in the private sphere, and that women as a group are traditionally associated with the private and personal aspects of society.

To test my thesis, the three parts dedicated to the subject of violence will follow a gradient from the most "private/personal" to the most "public/impersonal" type of violence – domestic abuse being the type of violence closest related to the private sphere, and Incel-violence being of the most public character (targeting women as a group rather than individuals) – to

investigate what kind of influence the private and public aspects of violence have on our assessment of whether the phenomena of hate crime and men's violence against women can be interlinked. In other words, the order of the three segments exploring different categories of men's violence against women is meant to illustrate how gendered violence exists on a spectrum that crosses over the border between the private and public sphere – ranging from personal to impersonal criminal motives. The explanatory models I will mainly be using in this analysis are: micro- and macro levels of power, the norm of masculinity, and gendered spheres. Through the application of these theories, the objective for this part of the analysis is to answer the following questions: What types of violence against women are considered "too personal" to claim as structurally motivated violence, and what violence is ranked "impersonal enough" to be considered hate crimes? How do we differentiate between these categories?

5.1 Violence against women in the international forum on human rights

Getting men's violence against women globally recognised as a human rights issue has not been an easy task for VAW-stakeholders – as the male normative standards of all patriarchal societies traditionally ignore and/or reject issues focused on women's needs as well as problematic male practices. Yet, through the perseverance of advocates of women's right to peace and safety, the issue of gender-based violence against women has overtime become internationally recognised (and highly prioritised) as a global and pressing human rights concern by international organs of human rights, such as the United Nations.

The international treaty of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the United Nations General Assembly in 1979 and is considered an international bill of women's human rights. In 1992, the CEDAW Committee declared, in its General Recommendation No. 19, that: "violence against women is a form of discrimination, directed towards a woman because she is a woman" (UN Human Rights, 2020). A quarter of a decade later, in 2017, the Committee further elaborated the international standards for gendered violence by recognising that combating violence against women should be considered a principle of customary international law in today's world society (ibid.). In regard to gendered bias, the 35th report states that state parties should, as a preventative measure against VAW, implement education and training in "how gender stereotypes and bias lead to gender-based violence against women and inadequate responses to it" (CEDAW, 2017). Aside from statements made by CEDAW, the United Nations General assembly also state, in the Declaration of the Elimination of Violence Against Women from

1993, that violence against women encompasses (as defined by Article 2 in the declaration) physical, sexual, and psychological violence perpetrated against women and that this violence can be related to either family and household, the general community, or the state (UN Human Rights, 2020). Under the title of "Violence against women" the United Nations High Commissioner on Human Rights (OHCHR) state on their official website, in regard to the positive development of the VAW-debate, that:

> Framing gender-based violence against women as a human rights violation implies an important conceptual shift. It means recognising that women are not exposed to violence by accident, or because of an in-born vulnerability. Instead, violence [against women] is the result of structural, deep-rooted discrimination which the state has an obligation to address. Preventing and addressing gender-based violence against women is therefore not a charitable act. It is a legal and moral obligation requiring legislative, administrative and institutional measures and reforms and the eradication of gender stereotypes which condone or perpetuate gender-based violence against women and underpin the structural inequality of women with men.
>
> OHCHR, 2020

The statement made by the OHCHR that is presented above, along with widespread national political debates on gender-based violence, shows that men's violence against women has been recognised as a universal phenomenon and critical issue with structural characteristics for quite some time. The different UN-organs' combined assessment of violence against women shows that the UN does recognise: (1) that bias against women – as a social group – leads to gender-based violence against them, (2) that this bias also gets in the way of societies making satisfactory efforts to prevent and punish cases of violence against women, and (3) that bias-motivated violence against women transcends the border between the private and public sphere – as it takes place in private households as well as in general, communal spaces.

5.2 Common forms of men's violence against women

This segment will investigate the public and legal perception of two common forms of violence against women in relation to the theoretical framework of this essay and the general perception of hate crimes as defined in the pervious chapter. It is through this segment, along with the following, that I will be testing my thesis. As my thesis relates to the normalisation of male violence against women and the traditional view on "all things women" being related to the private sphere (including the violence against them), the explanatory models of the norm of masculinity and gendered spheres will play a predominate role in the analysis. The

study material used in the first part of the analysis (aka. the studies on hate crime) will also figure in this secondary part of the analysis. However, it is Hessick's study on the modern view of violence that acts as the main material resource for this part of the analysis. To connect the two themes of this study together – hate crime and men's violence against women – I will consistently draw parallels between the individual discourses on hate crime, and on men's violence against women. Yet, before I commence my analysis, I will shortly account for the fundamental terms of Hessick's study.

As earlier described in my method statement, Hessick's article "Violence between lovers, strangers and friends" examines the modern view of stranger and non-stranger violence.[**] The premise of Hessick's study is to illustrate how stranger violence is prioritised over non-stranger violence, uncover the factors behind that rationale, and argue against it being justifiable. Studies on law enforcement and capital sentencing illustrate that violent crimes committed by strangers are a lot more likely to: (1) lead to an arrest, (2) result in a conviction, and (3) accumulate a longer sentence (Hessick, 2007:346-348). In other words, offenders who target victims that they know, are treated more lenient that offenders who target strangers with the same type of violence. Hessick lists the following justifications utilised by legal systems, and society at large, to prioritise stranger violence:

> (a) A perception that stranger offenders are more culpable than non-stranger offenders; (b) a perception that stranger offenders are more dangerous than non-stranger offenders; (c) a belief that the non-stranger victims are at least partially at fault for the offenders' actions; (d) a belief that non-stranger violence is best resolved as a private or non-criminal matter; and (e) fear and general public concern caused by stranger crime.
>
> Hessick, 2007 p. 346

Hessick's list on justifications will, in a similar fashion to how I employed Finn's list of guidelines to determine a hate motive in the previous chapter, function as an analytical yardstick. Both Hessick's and Finn's lists account for how legal authorities (and the general

[**]As previously noted in the second chapter, Hessick's study was conducted in an American context in 2007. Thus, her findings might deviate from what the actual, general, modern western view on violence is in 2020, given that the study was published over a decade ago. However, considering Foucault's claims about the importance of historical awareness and Svensson's statements on the traditional built-in male bias in the judiciary – the modern view of violence that legal authorities and the general public have today has, regardless of the publication date of Hessick's study, been built upon the view of violence that Hessick studied in 2007. This, I argue, makes Hessick's findings – in despite of being a bit dated – comparable to the circumstances of today.

public) conceptualise violence and determine the seriousness of an offense. Thus, I will repeatedly throughout my analysis make references to these lists to illustrate how the legal and general perception of gendered violence can be explained.

5.2.1 Domestic abuse and non-stranger violence as a hate crime

Non-stranger violence – violence between two individuals who have a pre-existing relationship – is not the type of violence that we commonly associate with hate crime. It does not fit the general or legal perception of what a hate crime is "supposed to be" and considering any form of non-stranger violence as a hate-motivated crime consequently challenges the status quo of the hate crime phenomenon. In other words, non-stranger violence does by default not live up to the generalised hate crime criteria. Women's rights stakeholders have long argued for society to take a firmer stance against domestic abuse and to treat it as a more serious crime than how it has so far been handled by systems of justice. Research on domestic violence shows that it is predominantly men who use violence against women in intimate relationships, and that they use this violence as a power tool in order to control and dominate their female partners (Belknap and Potter 2006, in Hodge, 2011:16). On account of these findings, it has been argued by scholars that acts of domestic abuse should also be recognised as gender-motivated hate crimes (Hodge, 2011:16). Thus, contemplating domestic violence as hate crimes would be one way for politicians and legislatures to recognise domestic abuse as an attack on women's safety and human rights and as an issue rooted in patriarchal norms and male supremacy. Needless to say, enlisting gender as a protected group in hate crime legislation also enables the prosecution of male-bias crimes but, given how overbalanced male-on-female violence is in cases of domestic violence, the addition of the gender category would represent a much more significant opportunity for women and their claims for justice. However, considering that domestic abuse represents the most personal form of non-stranger violence – as it refers to violence between family members or intimate partners – it is, with reference to the "typical" hate crime criteria, evident why domestic abuse has not traditionally been linked to motives of hate.

Although it is a lot more likely that an individual will experience violence at the hands of somebody they know, research on the public's perception of their own safety shows that people generally believe that they are more likely to get hurt by a stranger than a spouse or partner (Hessick, 2007:345). Crimes committed by strangers cause more fear in society and, as evidence suggests, are more likely to receive media attention (Hessick, 2007:388). Hessick states that society's outlook on the seriousness of a crime is related to the closeness of the

personal relationship between victim and offender – the closer the relationship, the less serious the crime (2007:346-348). This way of ranking violence has also, according to Hessick, become somewhat of a conventional wisdom in criminal law (2007:346). Thus, the relationship between the victim and offender works as a control variable in both the public's and the justice system's evaluation of a crime (Hessick, 2007:350). Studies show that there is a tendency among prosecutors to consider non-stranger violence as matters of private disputes attributed to sudden outbursts of anger, while stranger violence is interpreted as calculated, predatory, and ultimately as threats to society at large (Hessick, 2007:353, 363). Hence, while stranger violence is portrayed as random acts of violence committed by predators, violence between individuals who have an existing relationship is often considered an "unavoidable by-product of personal relationships" (2007:344). Many assumptions are made about both offenders and victims in this conceptualisation of violence.

The stereotypical non-stranger offender is often assumed to be an otherwise law abiding, productive member of society whose anger got the best out of him in a *personal* argument (Hessick, 2007:364-372). The offender is assumed to have had a momentarily lapse of self-control and a spontaneous outburst of anger which, based on the justice system's lenient treatment of non-stranger offenders, makes him less "blameworthy" of his actions then if those actions had been a planned attack executed in a rational state of mind (ibid.). The reduction of the offender's blameworthiness in non-stranger violence also signifies an addition of accountability on the victim's behalf. Due to the pre-existing relationship between victim and offender, and the fact that non-stranger violence often is driven by interpersonal conflict, the victim is considered partially at fault for the violent incident (Hessick, 2007:381, 393). Thus, it is assumed that the anger directed towards the victim is, to at least some extent, appropriate – an act of private justice (Hessick, 2007:371-372). This perception of non-stranger crime traces back to how violence historically has been thought of as a private matter that should preferably be solved within the offender-victim relationship and not by the justice system (Hessick, 2007:385).

This way of ranking offences ultimately lands victims of domestic abuse at the bottom of the justice system's priority scheme of violent crimes. The prioritisation of stranger violence does not only mean that victims of domestic abuse are less likely to have their perpetrators arrested, prosecuted, or convicted, but that this is also partly due to how the justice system and the public perceive these victim as partially at fault for the assault. Another consequence

of this perception of violence is that victims of domestic abuse are made into impossible hate crime victims. Victims who are considered to be partially to blame for the violence they experience (aka. all victims of non-stranger violence) are also, according to Hessick, generally considered entitled to less protection than other victims (2007:381). I believe that hate crime exemplifies that. Hate crime legislation functions as an extra protection ordeal for marginalised groups' human rights. The hate crime offender's violent actions are perceived as threat to a larger group of people, not just the individual who they have harmed, and they are subsequently given a penalty-enhancement because of it. A differentiation is made between victims of "hate crime-esque" offenses who have a pre-existing relationship with the offender, and those who do not. The relationship acts as a control variable, and the victims who do have a relationship with their offenders are considered non-interchangeable and are subsequently *not* given the status of hate crime victims and their offenders are *not* given a penalty-enhancement. The pre-existing relationship between victim and offender is not only an indicator of the victim's "guilt", but of how dangerous the offender is to the community at large.

As initially mentioned in the second paragraph of this segment, stranger crime is perceived as more dangerous than non-stranger violence. The reason for this is that the danger of the violence in non-stranger crimes is assumed to be restricted to the relationship between victim and offender – the violence is not seen as a threat outside of that relationship (Hessick, 2007:371). Once again, the violence is seen as actions triggered by personal emotions, not structural motives of hate. However, according to Hessick, this assumption most likely refers to *one* specific form of non-stranger violence, rather than all types of non-stranger violence:

> There is little reason to believe that this victim selection assumption applies outside the context of domestic violence, such as in the context of violence between friends. That is because the assumption relies on the uniqueness of the offender-victim relationship. An offender's domestic relationships are, by their very nature, limited in scope.
>
> Hessick, 2007 p. 378

Hessick's reasoning is that relationships between friends and acquaintances are not close enough for the legal system and the public to make sweeping judgements about; friendships do not necessarily have to be close and the violence does necessarily have to be emotionally motivated – it might as well be motivated by personal gain (like a robbery). Thus, it is only in cases of domestic abuse that the offender is, more or less, automatically dismissed as a

potential threat to society. This means that in other cases of non-stranger violence, there is a higher chance that the legal system will treat that violence as serious crimes. Although the possibility of getting cases of non-stranger violence acknowledged as hate crimes is nearly impossible regardless of how close the relationship between offender and victim is, I would still argue that Hessick's reasoning applies to the conviction of hate crimes as well. Prosecuting violent incidents between neighbours or distant friends as hate crimes does challenge the status quo of hate crime, but prosecuting the same type of violence between spouses pushes the envelope even further. However, there is no empirical evidence that supports the assumption that domestic abuse offenders are less likely to commit stranger violence; in fact, some studies suggest the opposite (Hessick, 2007:378). Research of mass shootings have, for example, shown that a noticeable number of mass shooters have a history of domestic violence and that it is more common than not for a spouse, former spouse, or family member of the perpetrator to be among the victims of the attack – although scholars are yet to determine an explanation for this correlation (Taub, 2016). What can be said about stranger violence though is that it is the type of violence that is the most likely to involve a white male victim (Hessick, 2007:359).

Considering how the legal and general perception of violence does not coincide with reality – non-stranger offenders are evidently *not* less dangerous to the larger community than stranger offenders and their motives are, as stated by VAW-stakeholders, not simply motivated by personal resentment but by a structural desire to control women – I argue that the de-prioritisation of non-stranger violence can be attributed to the male norm and the male norm's interest in maintaining the traditional, judicial barrier between the private and public sphere. It is in the hegemonic masculine man's best interest to keep the private sphere out of the legal system's control, as a mean to maintain his power over women. Seeing that men and women traditionally have had the most interactions with one another in the private sphere, the private (gendered) sphere exhibits the most appropriate playing field for men to re-establish the male norm. One of the tools used to maintain this gendered power relation is domestic abuse, which, I argue, validates the conceptualisation of domestic violence as a part of the structural oppression of women – a structural oppression similar to other types of oppression that are more commonly linked to hate motives.

I would also argue that the modern view of stranger offenders being more dangerous than non-stranger offenders is the result of a well-established, widespread male societal norm. The

most logical explanation as to why stranger violence is considered a bigger threat to society than non-stranger violence is because it is *the* type of violence that men are mostly likely to be subjected to. Furthermore, while the prioritisation of stranger violence benefits male victims, the de-prioritisation of non-stranger violence benefits male perpetrators of domestic violence (men make up the vast majority of domestic abusers) – which showcases an arrangement that serves the male norm and norm of masculinity generously. Since the status of hate crime has almost exclusively been reserved for incidents of stranger violence in despite of the fact that most victims of prejudice-motivated violence have a pre-existing relationship with their offender – demonstrates another example of the myth of the dangerousness of stranger violence – I argue that there is reason to believe that the male norm has influenced both the formation of hate crime legislation and the implementation of it in a way that disadvantages all female hate crime victims (including those who suffer other types of bias-motivated violence within the private sphere).

Before summarising and finalising this segment I would first like to briefly discuss the concept of "triggering events", a notion that is touched upon in both Hodge's and Gill's and Mason-Bish's studies. In the context of the hate crime phenomenon, triggering events are horrific bias-motivated crimes that "trigger the public to demand attention to the issue [the violent crime and the motivation behind it], garners significant media attention, and often results in some form of action taken by the government" (Hodge, 2011:30). Gill and Mason-Bish give the example of the unprovoked lethal attack of a black man by a group of white youths that took place in Britain in 1993 and led to the creation of a specific offense concerned with racial violence (2013:4). A triggering event stirs up debates about the morals of society and inspires a change in society's attitude towards the issue of bias, perhaps even a change of policy. However, it is clear that domestic abuse is not such an event. Cases of domestic abuse do not garner media attention or large public outcries as these events are not considered serious enough by either the public or the legal system to receive that kind of attention. Domestic abuse has been normalised and conceptualised as a natural, but unfortunate, part of society – while the concept of hate crime alludes to something very unnatural, thus, making the two types of violence incompatible.

To illustrate and summarise the perception of domestic abuse and hate crime as mutually exclusive that has been shown in this segment, I want to refer back to Finn's list of guidelines. In the previous chapter I argued that the first guideline (the use of common sense in relation

to hate symbols) and the second (the offender's use of language) are incompatible with all gender-bias crimes, including domestic abuse; as there are no universally acknowledged symbols of misogyny, and due to the universal normalisation of sexist language. The third guideline refers to "the severity of the attack" which, based on Hessick's accounts, is not applicable to domestic violence either. Although victims of non-stranger violence generally receive more severe injuries than victims of stranger violence (along with worse psychological trauma due to being harmed by someone they know), the severity of these victims' injuries are ignored by members of the legal system in their assessment of criminal liability, due to a prioritisation of stranger violence (Hessick, 2007:348). Thus, domestic abuse will doubtfully be recognised as hate crimes by prosecutors, as the severity of the violence is likely to be ignored. The fourth guideline states that "a lack of provocation" indicates a hate crime motive. As victims of domestic abuse (and all other forms of non-stranger violence) are generally considered partially blameworthy for the violence that they experience – violence that is assumed to be an act of private *justice* – implies that the victims, whether it be in an active or passive manner, have somehow *provoked* the domestic violence. Hence, this guideline is not applicable to any type of gendered violence that includes a pre-existing relationship – which excludes most cases of violence against women. The fifth guideline asks prosecutors to look into "previous history of similar incidents in the area" when they investigate potential hate crimes; as the repetition of certain types of crime insinuates a threat, a statement, directed towards a group. Given that incidents of domestic abuse and other similar non-stranger violence take place all the time, this guideline would not enable the prosecutor to find anything "extraordinary" with a case of domestic abuse. By "extraordinary" violence I mean a type of violence that is yet to be normalised by society and that, therefore, "deserves" to be prosecuted as hate crimes. Lastly, I would also argue that even the sixth and final guideline, which refers to "the absence of any other motive", could be disqualified as a mean to determine domestic abuse as a hate crime. Based on Hessick's accounts, it seems as if though anger is always assumed to be the one and only motive behind non-stranger violence. Since anger implies personal and not structural sentiments, violence within close relationships is not just ruled out as hate crimes; but as any form of structural violence. This trivialisation of anger also corresponds with the norm of masculinity and the hegemonic masculine man's aggressive manner.

5.2.2 Sexual assault and rape

Scholars argue that sexual violence has an apparent gendered nature. This, they claim, has been demonstrated by research and statistics on rape and sexual assault, which reveal that an

overwhelming number of victims of sexual violence are women (Hodge, 2011:11). Research has also shown that sexual assault, in particular rape, can be interpreted as a hate crime, as it – like other "traditional" bias-motivated crimes – often is used to gain revenge on an entire group (Hodge, 2011:15-16). Men use sexual, gender-motivated violence as a method of displaying their dominance – as a way for them to punish and discipline *all* women (ibid.). In despite of this, sexual assault and rape, alongside domestic abuse, are almost by default rejected as potential hate crimes. Acquaintance rape is the most common type of rape, but as it constitutes a non-stranger offense it is rejected as a credible hate crime on the same principles as domestic abuse. Consequently, this means that the majority of committed rapes are automatically disqualified from taking part in the hate crime discourse – showcasing another example of how the relationship between victim and offender works as a control variable. Stranger sexual violence does, on the other hand, live up to the part of the hate crime criteria which *frames* the ideal hate crime victim as an interchangeable victim that is attacked with a random act of violence by a stranger. In despite of being a better fit for the *frame* of the "typical" hate crime, there is still a lot of reluctance against recognising any sort of violent, sexual offenses against women as bias-related crimes – which I previously discussed in chapter four. Considering that sexual violence is *not*, unlike domestic abuse, completely submerged into the private sphere – where evidently all violence is considered too personal to be a structural expression of violence like, for example, a hate crime – but also involves stranger offenses, I will in this segment investigate why there is an hesitation towards acknowledging any kind of sexual violence as a hate crime.

Hodge states that statistical recordings on women's feelings towards rape shows that women as a group are negatively affected by instances where individual women are raped (2011:13). These "individual instances" strike a core of fear in women, and women feel that they need to limit themselves and their patterns of behaviour to avoid being assaulted as well. The same, I argue, can be said about domestic abuse. This use of power exemplifies Foucault's theory on micro- and macro- levels in power structures – showing that a micro-event (a case of rape or domestic abuse) can turn into a macro-phenomenon (where women as a group fear for their own safety). Hodge argues that the fact that women as a group are *collectively* influenced to adapt their choices and lifestyles so that they do not get attacked, should help critics conceptualise women as victims of hate crimes (2011:17). In other words, when a social group has to take preventative measures to reduce the risk of being attacked – they are being targeted by hate. Hodge's conceptualisation of hate crime victims as individuals who have to

alter their lifestyles to avoid assault should, according to me, be extended to victims of domestic abuse. Similar to how women avoid going outside alone after dark as a preventative action against rape, women who live under circumstances of domestic abuse adapt to their partners wants to avoid the retaliation of disobeying them.

Medical and psychiatric explanatory models have historically dominated studies on men's sexual violence, while cultural perspectives and social factors such as gendered norms have been ignored in these studies. Consequently, an underlying assumption that rapists are "sick" has pervaded research on the causes of rape and equipped rapists with medical and psychiatric "explanations" that they can use to excuse and justify their behaviour (Scully and Marolla, 1984:273, 284). Convicted rapists who admit to their criminal actions commonly excuse their behaviour by referring to either drug and alcohol use, or emotional problems (Scully and Marolla, 1984:279-283). Rapists who, on the other hand, deny any wrongdoing on their part justify their actions by signing over the guilt to the victim and rationalising their behaviour with reference to cultural rape stereotypes, such as "good girls do not get raped" while certain women do "deserve to get raped" (Scully and Marolla, 1984:276-279). The excuses used by so-called "admitters and deniers" of rape might represent two contrasting views on sexual violence, but researchers Scully and Marolla argue that these men's perceptions of rape share some common characteristics:

> Justifications particularly, but also excuses, are buttressed by the cultural view of women as sexual commodities, dehumanised and devoid of autonomy and dignity. In this sense, the sexual objectifications of women must be understood as an important factor contributing to an environment that trivialises, neutralises, and, perhaps, facilitates rape.
>
> Scully and Marolla, 1984 p. 284

The factor of sexual objectifications of women directly aligns with the norm of masculinity and how the *othering* of women, as understood by Beauvoir, dehumanises women into means for men to use for their *personal* sexual needs. The examples of justifications and excuses of rape presented by Scully and Marolla also, I would argue, resemble the list on justifications of the prioritisation of stranger crime given by Hessick. The claims referring to intoxication and emotional problems can be linked to how the culpability or blameworthiness of a non-stranger offender is reduced, due to the assumption that his actions only represent "a momentarily lapse of self-control" and not him as a character. Justifying rape by claiming that the victim is partially, or even single-handedly, at fault for the circumstances also exemplifies an

exaggerated version of how victims of non-stranger violence are usually considered partially blameworthy for the offender's violent actions. These justifications and excuses do not solely represent examples of rapists' reasoning of their own criminal behaviour – but a part of the rape myths that are prevalent in today's western societies and used to normalise male sexual violence. Regarding rape myths, Hodge makes the following statement in her study:

> Rape victims face considerable challenges within the legal system, especially the legitimacy of their victimisation. Due to prevailing rape myths—such as the incorrect assumption that women commonly "cry rape" or make false accusations—victims of sexual assaults must continuously prove to legal actors that they were indeed victims of a crime. This does not occur with other types of crimes.
>
> Hodge, 2011 p. 80

When law enforcement suspects a victim of lying, the focus of the investigation shifts, if only momentarily, from the perpetrator's intention and motive to that of the victim. If this suspicion is reasonable and well founded, challenging the victim's statement merely signifies an ethical and necessary step towards achieving criminal justice. Thus, questioning the victim's own motives (and not just assessing the accused suspect's) is not necessarily always problematic. However, based on Hodge's statement featured above, an assessment of a rape victim's credibility is not a rare occurrence. In fact, questioning the victim's motive could potentially make up one of the cornerstones of the legal process of investigating and prosecuting crimes of sexual violence. According to the logic of rape myths – which legal systems evidently follow to some extent, as stated by Hodge – the very action of reporting a rape is deemed suspicious. This, I would argue, illustrates the existence of a built-in bias against victims of sexual violence; a victim category largely dominated by women. In a similar custom to how the gender category is "singled out" in the hate crime discourse, gendered violence such as rape is "singled out" in not just the discourse on hate crime, but legal actors in general. Similar to how victims of non-stranger violence (a victim category also dominated by women) are assumed to be partially at fault for the violence they are exposed to, victims of sexual violence are assumed to have an ulterior motive for reporting the offense. The fact that the two victim categories most heavily dominated by women are also the victim categories that face the most suspicion and least sympathy from both the legal system and the general public suggests, to me, that there is a built-in bias against *all* gendered violence; a bias constructed by the male norm. This consequently spills over into the legal

discourse on hate crime – in which the same de-prioritising attitude towards gendered violence (such as non-stranger and sexual violence) is visible.

Although an act of male-on-female sexual violence can involve targeting a specific woman who has a pre-existing relationship with the offender (in the form of acquaintance rape), or acts of stranger violence (commonly associated with random attacks in public places) I would argue that *all* sexual violence is associated with the private sphere – in despite of where the incidents take place and who the offender is. Although acts of rape and sexual assault have come to be recognised as actions motivated by dominance rather than lust – the sexual component of these crimes are still associated with private, personal aspects of life. The fact that male perpetrators excuse their sexual misconduct by referring to their personal emotional problems, or how female victims are suspected of having ulterior motives (a call for attention, a personal vendetta with the accused etc.) when they report incidents of sexual violence, exemplifies how even stranger violence can be perceived as personal to a certain extent. By making incidents of (sexual) stranger violence personal, the victims lose their non-interchangeable quality and the offense loses its structural value and, consequently, enters the murky waters of the criminal code where personal conflicts are, to some extent, considered private matters. This also makes sexual violence somewhat incompatible with the "typical" hate crime criteria – in despite of being a closer fit to it than domestic violence due to how it, unlike domestic violence, does not exclusively involve non-stranger violence.

Similar to how anger generally suffices as an explanation to the occurrence of incidents of non-stranger violence, I would argue that a sexual gratification motive could function similarly in incidents of men's sexual violence against women. Men's sexual activities and sexual violence have been normalised by society, but it is important to remember that the key ingredient in the construction of men's sexuality and the upholding of the male identity is, as explained by Beauvoir, women. Women as a group have also traditionally been linked to the private sphere, a dimension of life that the male norm has tried to keep out of legal matters. The combination of society's gendered spheres and the male norm has shaped women and gendered violence into components of men's personal lives and, thus, into private matters that the legal system (as controlled by the male norm) has considered better dealt with outside of the judiciary.

5.3 Incel-violence

Before embarking on the final segment of this chapter, and the final part of the study's analysis, I will first summarise some of the main points from the analysis on domestic abuse and sexual assault and rape. My objective for the previous two segments has been to examine two common forms of gendered violence – domestic abuse and, sexual assault and rape – and their relation to the hate crime phenomenon *and* to gendered spheres. Using Hessick's explanatory claims on violence as a point of departure I have, through the lens of my explanatory models, argued that the male norm is at large to blame for the de-prioritisation of non-stranger violence and its disconnection to the general definition of a hate crime. I have also claimed that the norm of masculinity has been traditionally allowed to control the narrative in cases of male-on-female violence, as toxic male practices have been normalised and trivialised as momentary lapses of judgement and excused with reference to the male biology – in which aggressive and hypersexual behaviour is to be expected. These two arguments directly correspond to – and, I would argue, confirm – the part of my thesis statement that identifies the normalisation of male violence against women as an explanatory factor to the infrequent inclusion of violent gender-based crimes in the legal and general perception of hate crime.

Further, I have also suggested that the appeal that is made, in both cases of stranger *and* non-stranger crimes, to male perpetrators' (personal) emotions and female victims' (personal) "blameworthiness" (for the violent attacks they suffer at the hands of these male perpetrators) illustrates a gender normative perception in which associations to the private sphere and personal conflicts – conditions that do *not* fit into the "typical" hate crime criteria – are automatically made in cases of male-on-female violence. In other words, is it possible that the now well-established fact that women are primarily exposed to violence in the private sphere has led to the assumption that more or less *all* violence against them happen in – or are somehow connected to – the private sphere, leading us to assume that the motive behind the violence is based on "personal issues" and disregarding the possibility that the violence could have been motivated by misogynistic motives? This question, in turn, coincides with the second explanatory factor mentioned in the thesis statement. In order to further investigate this part of the thesis statement, this final segment of the analysis sets out to examine Incel-violence.

As shown in chapter four and the previous segment of this chapter, neither domestic abuse nor sexual assault and rape – the two most common types of violence faced by women – fit into the "typical" hate crime criteria. The violence women typically experience is nothing like what the experience of an ideal hate crime victim is "supposed to be", as it is usually: repetitive, at the hands of somebody they know, takes place in a private/home setting, and is often interpreted – by both legal authorities and the public – as related to personal conflicts or interests. Incel-violence does, on the other hand, represent a very atypical form of gender-based violence. Confirmed cases of Incel-violence – some of which have been labelled as acts of terrorism – illustrate instances of violence where the female victims were simply targeted due to their gender, and the male victims on account of their relationship to women. It has also been made clear, through either the legal investigation of these mass killings or through statements made by the assailants themselves, that the motives of hate and vengeance behind the violence were also accompanied by the intention to send a public message of discontentment to society at large – particularly aimed at women as a group. These fundamental elements distinguish Incel-violence from more common types of male-on-female violence in a way that, I would argue, moves Incel-violence closer to the general definition of hate crimes than any other form of gendered violence. Yet, in despite of its close resemblance to the general definition of a hate crime, an act of Incel-violence is yet to be officially or generally recognised as a hate crime. This puzzling disconnection makes Incel-violence a well-suited violence category to put my arguments to the test and explore the final part of the thesis statement. The upcoming analysis centres around four instances of lethal attacks that have all been linked to the Incel-community by official authorities. In the first part of the analysis I will compare elements of the four examples of Incel-violence to the generalised hate crime criteria (as established by previous analytical segments) – identifying attributes that suggest that Incel-violence *does qualify* as a hate crimes as well as ones that suggest that it *does not.*

5.3.1 Comparing Incel-violence to the general qualification standards of hate crimes

> The second phase [of my attack] will represent my War on Women. I will punish all females for the crime of depriving me of sex. They have starved me of sex for my entire youth, and gave that pleasure to other men. In doing so, they took many years of my life away. I cannot kill every single female on earth, but I can deliver a devastating blow that will shake all of them to the core of their wicked hearts. I will attack the very girls who represent everything I hate in the female gender: the hottest sorority at [the University of Santa Barbara] […] The kind of girls that I've always desired but never been able to have because they look

> down at me. They are spoiled, heartless, wicked bitches. They think they are superior to me, and if I ever ask one on a date, they would reject me cruelly. I will sneak into their house […] on the Day of Retribution […] and slaughter every single one of them with my guns and knives. If I have time, I will set their whole house on fire. Then we shall see who the superior one really is!
>
> From "My Twisted World: The Story of Elliot Rodger", 2014

In May of 2014, 22-year old Elliot Rodger murdered six people and injured 14 others near the UCLA campus in Santa Barbara, California, before ending his own life. Before embarking on his killing spree, now known as the Isla Vista Killings, Rodger posted a 140-page sexist manifesto and several videos online where he detailed his hatred of women – blaming them for ruining his life by rejecting him sex, and declaring that he wanted all women to be punished for this "crime". Prior to what Rodger called his "Day of Retribution", he identified himself as an "Incel" (an involuntarily celibate) and had up until the time of his death frequently visited online Incel-forums – forums that can be described as parts of an online male-supremacist ecosystem. Among his Incel-peers, Rodger was hailed as a saint for his act of terror and has since served as an inspiration for other Incel-terrorists who have followed his example (a practice that within the Incel-community is referred to as "going ER" – referring to Rodger's initials) and executed their own mass killings in North America (Swedish Defence Research Agency, 2020:5). In addition to the Isla Vista Killings, the perpetrators of at least three cases of mass killings have been officially linked to the Incel-community. These are: the Umpqua Community College shooting in Oregon in 2015, where the 26-year-old Chris Harper-Mercer killed nine people (making it the deadliest mass shooting in Oregon's modern history), injured eight and then turned the gun on himself; the Toronto van attack in 2017 where the 25-year-old Alek Minassian pledged allegiance to the "Incel Rebellion" online before executing the deadliest vehicle-ramming attack in Canadian history by driving a van along the sidewalk of multiple blocks killing 10 and injuring 16 people; and the 2018 Tallahassee shooting where a 40-year-old Scott Paul Beierle shot six women, fatally injuring two of them, at a yoga studio in Tallahassee, Florida before he too committed suicide (see Beauchamp, 2018; Jackson, 2015; Janik, 2018; Silverstein, 2018; Valenti, 2018).

Although the term hate crime has been mentioned scarcely in relation to the instances of Incel-violence listed in the paragraph above, these actions have repeatedly been referred to as terrorist attacks by politicians, legal officials and investigators, scholars, and the media – on account of this, there seems to be a general consensus on recognising Incel-violence as a type of domestic terrorism – supposedly based on the fact that the intention behind these acts of

violence is to intimidate the (female) population. However, evidently no consensus has been established in terms of identifying these instances of Incel-violence as hate crimes. One contributing factor to the general hesitation towards *also* recognising Incel-terrorism as hate crimes (in addition to terrorism) could be that the victims targeted by the Incels are not exclusively women. With the exception of the 2018 Tallahassee shooting, both men and women were killed or injured by the Incel-assailants. Another factor that shifts some examples of Incel-violence away from the general definition of hate crimes is that not all of the Incel-terrorists' victims have been random strangers to their offenders. Among the victims of the individual perpetrators of both the Isla Vista Killings and the Umpqua Community College shooting were students enrolled at the same school as them, and in the case of Rodger, his own roommates. As determined by previous parts of the analysis, and with reference to the guidelines commonly used by prosecutors described in Hodges' book, a key factor in the labelling of a violent crime as a bias crime is the lack of another motive. Other parts of the analysis have shown that the presence of any kind of personal relation between the victim and offender opposes the sole existence of a focused hate motive – alluding to a motive related to emotional, personal conflicts.

Another important factor to consider in a comparative analysis of the hate crime phenomenon and Incel-violence is, as discussed in the introductory analysis segment in chapter four, the fact that legislation that sanctions acts of hate crime commonly functions as penalty-enhancement statutes in which the presence of a hate motive is interpreted as an aggravating circumstance that *could* generate a penalty-enhancement. As most acts of Incel-violence are cases of murder-suicides no one is, naturally, given a sentencing – thus, there is, legally speaking, no technical need for a hate crime-status. In cases, such as the Toronto van attack in 2017, were the perpetrator outlives their attack and is put through legal proceedings, the offender might already be facing such heavily penalised charges (for example, multiple counts of first degree murder and attempted murder) that an additional count of hate crime would be redundant for the final sentencing. Yet, relating back to the issue of hate crime statistics and the educational role they play in the establishment of politicians', legal authorities', and the general public's understanding of the actual scope of persecution victims of bias face, one could still argue that officially acknowledging violent crimes with misogynistic motives as hate crimes is still essential for statistical, educational, factual, and symbolic purposes – as a way to encourage society to take the subject of gendered violence seriously. I would also argue that the logic of not acknowledging an act of Incel-violence as a

hate crime due to the perpetrator either being dead or "sufficiently penalised" without an added count of hate crime does not hold up when the label of hate crime is compared to that of terrorism. The Toronto van attack has, as previously stated, been widely recognised as a terrorist attack in despite of the fact that Minassian has not (as of the publication date of this study) been charged with a count of terrorism. If we can *frame* Incel-violence as misogynistic terrorism independent of whether the perpetrators are trailed as terrorists or not, why is the same principle not applied to the concept of misogynistic hate crime?

The quote presented in the beginning of this segment is an extract from Rodger's manifesto that I have selected to exemplify the misogynistic hate speech Incels engage in. Throughout his manifesto Rodger uses sexist slurs (such as "wicked *bitches*"), dehumanises women into means of his own *personal sexual needs*, declares himself *superior to all women,* calls his attack an act of vengeance that women as a group have *brought upon themselves* by not tending to his sexual desires, and states that he intends for his "retaliation" against them to strike fear in *all women.* In other parts of his manifesto, Rodger claims that "women are like a plague [and] do not deserve any rights" and states that the first strike against them should be to "quarantine them all into concentration camps". Statements linked to the other Incel-assailants mentioned in this segment have a similar sentiment to the ones made by Rodger. These examples of misogynistic hate speech – and the violent attacks that have followed them – clearly illustrate how the traditional masculine ideal serves as the foundation of the Incel-ideology's resentment for women and so-called "Alpha men" (as determined in the theoretical chapter on the norm of masculinity) with its connection to obligatory and compulsory heterosexuality, constant referral to bodily activity and sexual potency, and the importance of situating oneself, as a man, in a dominate position to women. Thus, a perspective on the norm of masculinity helps us understand how such hateful feelings towards women can generate among men who are "deprived" of validation from women (and therefore also other men) – as their whole (gender) identity and status as a man is dependent on having a certain type of communication (and control over) the *other* sex. However, I would also argue that these examples of Incel-activity also coincide with the prosecutor guidelines for identifying a hate crime, as described in Hodge's study.

Firstly, the use of common sense makes it apparent that the Incel-perpetrators were motivated by gender bias as the four assailants had all literally stated so themselves in either written or video-recorded social media posts or, in the case of Rodger, through a manifesto. Secondly,

all four of the Incel-terrorists had a well-documented use of sexist language and engaged in misogynistic hate speech online. Thirdly, all attacks had severe outcomes, deadly ones in fact, and were, for the forth, completely unprovoked – the intended female victims did not know the assailants personally, hence, they had not had opportunity to personally provoke or start conflicts with them prior to the attack. Fifthly, in his manifesto it is made clear by Rodger himself that his main motive was to harm as many women as possible – a motive which Harper-Mercer, Minassian, and Beierle followed suit. These identified attributes' conformity to the general standards of how hate crime has been conceptualised legally overwhelming suggest, I would argue, that acts of Incel-violence do qualify as hate crimes on several stances.

5.3.2 Normalised sexual and personal violence against women

Earlier analytical findings in this thesis may arguably shed some light on why acknowledgements of Rodger's, Harper-Mercer's, Minassian's, and Beierle's attacks as gender-based hate crimes have been absent from the official authorities' treatment of these cases – and why this has not generated much criticism from the media and the general public. Gender bias is systematically differentiated from other forms of bias and the very need for it to be included in hate crime legislation is questioned. Hence, the "common sense" (as referred to in Finn's hate crime guidelines) general shared among legal authorities usually does not feature a perspective on gender. In regard to the use of language – sexist slurs have long been normalised, as previously stated, and turned into a part of everyday language in western societies; making it difficult to claim that a person's use of it indicates prejudice against women as a group. However, even with these facts considered, the severity of Incel-attacks, such as the ones exemplified here, and their deadly outcomes, the interchangeability of the victims – showcased by the Incels' common focus on harming as many women as possible, and the presence of a clear motive to murder women on the basis of their gender, are all factors that correspond to Finn's guidelines (as cited by Hodge) and point in the direction of qualifying Incel-violence as hate crimes.

During a news conference on the Tallahassee shooting, the local police chief announced that the Incel-assailant, Beierle, "was a disturbed individual who harboured hatred towards women" and had "pre-planned [the] attack after demonstrating a lifetime of misogynistic attitudes" (CNN, 2019). This official statement exemplifies how there is no shortage in acknowledgments of misogynistic motives from legal officials and newsagents in relation to cases of Incel-violence – and considering that the Incel-community is a self-declared

misogynistic community, identifying members of said community's motives as misogynistic seems rather unavoidable, point of fact. The combination of a wide acknowledgment of Incels' motives as misogynistic – which literally refers to them as motives of *hatred* for women – and a prominent general hesitation to acknowledge the violent acts committed with these *hateful* motives as hate crimes therefore appears oddly contradictory. If a violent crime is literally motivated by hate, how is it not a hate crime? Although I would argue, along with feminist scholars and stakeholders, that compelling arguments can be made for exploring a possibility of discussing and prosecuting more cases of common types of male-on-female violence, such as domestic abuse and sexual assault and rape, as hate crimes – due to their structural character and the similar impact these types of violence have on women as a group to that of "traditional" victims of hate crimes – this, at minimum, requires a change of perspective on bias crimes, and most likely a change in the hate crime criteria altogether. However, looking at how considerably closer Incel-violence is to the already established hate crime criteria than other types of gendered violence, there must be other explanatory factors as to why Incel-violence is not recognised as hate crimes.

Based on the analytical findings of this study, I suggest that one way of explaining this evident disconnection between hate-motivated gender-based violence and the hate crime phenomenon is that we, as society, assume that more or less *all* violence against women takes place in the private sphere and is, thus, rooted in personal issues between male perpetrators and their female victims rather than impersonal hate motives, and therefore, we will find reasons to interpret gendered violence as none-biased related, to *frame* it as we are used to seeing it. Looking at the foundation of the Incel-ideology, we can – should we wish – emphasise the personal-oriented motives of the Incel-community. Although the Incel-community has formed an online-established alliance, Incels are focused on their own *personal* suffering and the personal impact women's rejection have on them as individuals – blurring the line between a traditional, structural motive of hate and a motive of personal vengeance. Given that the Incel-ideology is fundamentally anchored to the sexual objective of being involuntarily celibate it does therefore constitute, I would argue, a type of sexual violence. Even though sexual assault and/or rape are not traditional components of Incel-terrorist attacks, Incel-violence is at its core motivated by sexual desire, sexual inactivity, sexual rejection, and subsequently sexual vengeance. As the sexual component of sexual assault and rape is, as illustrated in the analytical segment dedicated to the topic, associated with private, personal aspects of life – the sexual motives of Incels may also be interpreted in

a personalised matter – similar to how instances of stranger sexual assault and rape often are. The expressive rage that characterises Incels also adds another emotional component that further alludes to personal conflict.

However, personal issues, emotional components, and even sexual objectives can be identified in the motives of perpetrators of hate crimes related to more "traditional" protected groups under statutes on bias crimes (for example, race, religion or sexuality). For example, a homophobic hate crime may be motivated by the assailant's personal issues with their own sexuality and the anger they feel as a result of this personal struggle, and may therefore use violence against sexual minorities with the objective of reaffirming their own heterosexual status. In a hate crime case like this one, these factors are – if anything – more likely to reinforce the hate crime status rather than discredit it, unlike in cases of misogynistic violence. This shows that it is really only in combination with male-on-female violence that these private sphere factors facilitate a hesitation towards defining the violent offense as a hate crime. It is also important to remember that these factors are – in relation to gendered violence – gender-stereotyped reconstructions of misogynistic killers' actual motives. Meaning, these motives are not even necessarily behind the attack – we, the general public, just assume that they are.

The number one motive of Incel-violence is to intimidate, harm, and kill as many women as possible – which makes their victims per definition interchangeable and their violence an expression of bias-motivated, structural, stranger violence, which qualifies Incel-violence as an almost perfect depiction of a "textbook" hate crime. One could also argue that Incel-violence illustrates Foucault's theory on micro- and macro-levels of power. Through micro-interactions between Incels in online forums, a macro-phenomenon of Incel-terrorism has emerged. Yet, society treats these acts of violence more like micro-events rather than a macro-phenomenon of power with grave consequences. This suggests that the hesitation towards acknowledging gendered violence as hate crimes is not necessarily due to the actual format of the violence – what the relationship between the offender and victim is *actually* like or where it *actually* takes place – does not seem to matter, considering it obviously is irrelevant how closely related the violence is to the general perception of hate crime in cases of Incel-terrorism. A more likely explanation is therefore, I argue, that it is the due to the normalisation of men's violence against women (and perhaps even misogyny in itself) and how female-gendered victims are inherently viewed as connected to the private sphere, that

enables a shifting of perception on misogynistic acts of violence from that of a hate crime context to an obscure position in which the *true* implication of misogynistic violence is only acknowledged to a limited extent. Thus, confirming my thesis statement.

6. Summary and conclusion

This study has examined the region where hate crime legislation and gendered violence overlap through a theoretical framework of explanatory models of normalisation and theories on power relations, the practice of *othering*, the male norm and the norm of masculinity, and gendered spheres. By analysing the scope of hate crime legislation in relation to gender and by looking into different categories of men's violence against women, my aim for this study has been to identify factors that can explain why violent crimes against women – motivated by misogynistic principles – are rarely, if ever, recognised as hate crimes. Through an analysis of the concept of hate crime and its connection to the gender category, I have shown that hate crime as a legal concept – in despite of its highly prioritised status – generally lacks a definite legal definition, regardless of whether a specific crime classification of hate crime is put in place (like the United States) or is not (like Britain and Sweden), leaving it up to prosecutors to use their "common sense" to identify hate crime. Incidents of hate crime rarely fit the general and legal perception of what a hate crime is supposed to be, but for an untraditional protected group like the gender category, factors used to identify hate motives in violent offenses – such as the use of hate speech and hate symbols – are not applicable since misogyny, arguably, represents a less obvious and more normalised type of hatred. Continuing the analysis to that of the hate crime victim, I have also shown that women as a group do not fit into the stereotype of ideal hate crime victims. The ideal hate crime victim is expected to belong to a minority and for the violence they experience, as a result of bias, to be one time offenses done by the hands of a stranger in a public setting. Although this is a difficult criteria to live up to for any hate crime victim, my analysis shows that it is especially difficult for women to be recognised as victims of bias crimes; since gendered violence typically is repetitive, at the hands of somebody the female victims knows, and in a private/home setting.

Through my analysis of the hate crime phenomenon I have also identified arguments for and against the inclusion of gendered violence in the conceptualisation of hate crime. The analysis shows that contra-arguments to the assessment of gendered violence as conceivable hate crimes typically revolve around a struggle to identify women as a stigmatised group, or

around pragmatic claims, such as the large number of male-on-female violence might make hate crime collection efforts unmanageable and that other legislation already covers men's violence against women sufficiently. Arguments that on the other hand supports the inclusion of a gender category appeal to the powerful, symbolic message that the enabling of prosecuting cases of violence against women as hate crimes would send to society and how it would also help victims of gendered violence to conceptualise the male violence directed against them as a part of the wider oppression of women, and not just an individualised crime. My analysis then continues to show that the inadequacy to investigate men's violence against women – as both regular criminal offenses and as hate crimes – represents evidence of there being a prevalent built-in male bias in the western legal systems. A male bias that in turn has enabled a normalisation of male-on-female violence, removing its shock-value, and trivialising it to the point where it becomes accepted as an unfortunate side effect to having a social and domestic life and, thus, making it unrecognisable as a hate crime.

The results from my analysis on the categorisation of men's violence against women do not only show to which extent each of the three categories of gendered violence are accepted as possible hate crimes, but also how this conceptualisation can be challenged. The analysis of domestic abuse and non-stranger violence shows that due to the fact that domestic abuse constitutes the most personal form of non-stranger violence (referring to violence between family members or intimate partners) it is, with reference to the "typical" hate crime criteria, evident why domestic abuse has not traditionally been linked to motives of hate – considering that a hate crime victim should ideally be a stranger – meaning, interchangeable – to their offender. Thus, the analysis shows that domestic abuse and hate crime are, in regard to the generalised criteria for hate crime, seen as mutually exclusive. This is mostly due to the level of closeness in the relationship between victim and perpetrator, which is shown to act as a control variable in the determination of how dangerous the perpetrator is to the larger community and whether a victim is given the status as a victim of a hate crime or not. On the category of sexual assault and rape, the analysis suggests that although the principles applied to cases of domestic abuse are also applied to cases of acquaintance rape (which consequently excludes most cases of rape), sexual assault and rape that are acts of stranger violence can coincide with the "typical" hate crime criteria. Yet, my analysis suggests that due to how sex, sexuality and socialisation between the sexes, are factors traditionally associated with the private sphere, *all* sexual violence, stranger and non-stranger, can be can be associated to the private sphere and personal, rather than bias-motivated, motives. Subsequently, this makes

also this category of male-on-female violence incompatible with the general perception of hate crime, in despite of its structural, misogynistic character.

The final part of my analysis set out to explain why there is a general hesitation towards acknowledging even instances of Incel-violence as gendered hate crimes, in despite of them practically representing "textbook" examples of hate crimes with their established motives of hate and perpetrators who target their victims on the basis of their gender and, thus, view them as interchangeable. With reference to the results from the preceding parts of the analysis, I argue that the fact that *even* cases of Incel-violence are being disconnected from the general perception of hate crime suggests that it is not necessarily due to the *actual* relationship between offender and victim, or where the violence *actually* takes place that different categories of men's violence against women are not considered hate crimes. Rather, it is due to the normalisation of male violence and an assumption that all violence directed towards women must somehow be connected to personal (aka. emotional or sexual) motives – and can therefore *not* be instances of hate crime.

6.1 Results and discussions of the questions of analysis

Before moving on to the final conclusion of this study, this segment will answer each question of analysis individually. A very limited assessment of the study's credibility is also presented at the end of the segment.

> *How can we explain the restricted general perception of what defines a hate crime motive and a hate crime victim in relation to gendered power structures and norms?*

Due to the lack of a definite legal definition of hate crime, prosecutors are more or less forced to rely on their common sense and the identification of obvious and stereotypical examples of bias (like hate symbols) to identify hate crime motives and hate crime victims. In other words, prosecutors, along with the general public, naturally restrict their general perception on the definition of a hate crime to factors that have traditionally and historically been recognised as bias-motivated. However, in relation to gendered power structures and norms, this traditional definition of a hate crime becomes incompatible with more or less all forms of gendered violence. Women as a group do not constitute a minority, there is no historical utilisation of hate symbols against them, and sexist slurs have been normalised into a part of everyday language. Thus, misogyny does not necessarily possess the type of "obvious" characteristics

that fit into the restricted general perception of hate crime motives, and women as a group do not fit into the typical image of hate crime victims.

> *What pragmatic and normative reasons can be identified in arguments that oppose the inclusion of men's violence against women in hate crime legislation and statistics?*

Through the analysis of arguments that oppose the inclusion of men's violence against women in hate crime legislation and statistics, this study has identified two examples of pragmatic reasons for not prosecuting gendered violence as hate crimes. The first pragmatic reason refers to the extensive, voluminous character that cases of violence against women have and how this could overwhelm the criminal justice system and make the data collecting on hate crimes unmanageable. The second pragmatic reason revolves around the idea that common forms of violence against women are difficult to prove as hate crimes, and that it would also be difficult to decipher between, for example, which rapes that have been motivated by gendered hate and which ones that should not be prosecuted as bias crimes. Opposing arguments that can be credited to a normative reasoning mainly revolve around a struggle to identify women as a stigmatised group and to see how crimes of, for example, domestic abuse and sexual assault committed by men against women can be linked to feelings of hate and bias against *all* women. The normalisation of male aggressive behaviour and the assumption that more or less all violence that women are experience at the hands of men are rooted in personal conflicts are also related to this normative reasoning.

> *What types of violence against women can we categorise as motivated by personal issues and which ones can be attributed to gendered hate motives and systematic mistreatment of women as a social group?*

The results of the analysis on different categories of male-on-female violence show that according to the legal and general perception of hate crime, all types of violence against women can be considered, to some extent, motivated by personal issues – such as emotions of rage or sexual desire – even violent offenses that are synonymous with the actual definition of a hate crime, as exemplified by how the reluctance to acknowledge men's violence against women even persists in cases of Incel-violence. However, the analysis also shows that hate motives can be identified in all categories of men's violence against women if we accept

alternative explanations of bias that coincide with misogynistic expression. If we shift focus from identifying "obvious" and literal hate symbols to a consideration of what kind of *impact* actions of gendered violence has on women as a group – and how these feelings can be similar to those felt by other victims of hate crime – even cases of common forms of men's violence against women, such as domestic abuse and sexual assault and rape, could be linked to gender-bias motives and the systematic mistreatment of women as a social group.

Before moving on to the conclusion, I would like to state that the results from this heavily theory-based study could be very different had other theoretical perspectives been applied and analyses of other aspects of hate crime (such as other protected groups) included. A comparative study on the legal and general perception on several protected groups might uncover shared traits that my limited resources and theoretical framework cannot sufficiently explain. For example, what I have interpreted as a normalisation of men's violence against women could potentially be an extension of a normalisation of men's violence against all groups. Another example is how I have interpreted society's hesitation towards acknowledging Incel-activity as a hate crime. Self-hatred and suicidal fantasises are (as illustrated in the cases featured in my study) a very prevalent part of Incel-culture, and although a person's mental state should never dictate whether their actions can be categorised as hate crimes or not, it is possible that a part of the reluctance shown towards the conceptualisation of Incel-violence as hate crimes is due to the mental health factor – a factor that might be considered in interpretations of violence involving other protected groups as well.

6.2 Conclusion: Gendered hate crimes

Power relations are, as stated by Foucault, ever changing. Therefore, we need to continue to analyse how they evolve. The power relation between women and men has progressively become more equal, especially in the western contexts, but it is important to remember the historic background of the gendered power dynamic. Similar to how groups with racist or anti-Semitic ideologies have adapted their strategies to the modern conditions of society, so have groups of men dedicated to male supremacy. Obsessed with the male ideal and the norm of masculinity, men who self-identify as Incels gather in online forums and express their rage and hatred for the female *other*, creating a narrative in which it is justifiable to inflict violence onto women. Yet, when this violence is acted out – society at large fails to recognise it as hate crimes.

The results of this study suggest that *the main explanations for not including violent criminal behaviour against women in the legal and general conception of hate crimes* is due to a normalisation of men's violence against women and the traditional expectation and assumption that violence against women is more or less always a result of personal conflicts, rather than impersonal hate motives, due to women, as a gender, being more oriented towards the private sphere. I would argue that this process of normalisation is an excellent example of what Kamarck Minnich refers to as *circular reasoning*: it illustrates how a faulty generalisation of male-on-female violence – as always being centred around interpersonal, emotional conflicts – influences us to make conclusive judgements about instances of men's violence against women that fit our pre-existing assumptions about it. This would explain why we fail to even recognise acts of violence with an obvious, outspoken misogynistic motive as hate crimes – in despite of it, arguably, being the most accurate conclusion to make of it.

I can only speculate as to what the results would be if we were to acknowledge acts of violence based on misogynistic motives as hate crimes. Yet, I would argue that chances of us being able to work as effectively as possible to combat misogynistic activity, such as Incel-violence, will be significantly better if we are capable and prepared to recognise it for what it is: a hate crime. With that, I would like to conclude this thesis with a reflection made by Beverely A. McPhail:

> If the problem is identified as personal and individual, as violence against women has been considered for so long, then solutions will follow that individualised model. Portraying violence against women as gender-bias hate crime redefines the problem as public and political, causing the victims to be viewed as worthy of legal redress instead of blame.
>
> Beverly A. McPhail (2005) pp. 1178

Bibliography

Literature used as material for analysis:

Byrne Hessick, Carissa (2007). Violence between lovers, strangers, and friends. *Washington University Law Review* Vol. 85
Link: https://openscholarship.wustl.edu/law_lawreview/vol85/iss2/3

Gill, Aisha K. and Mason-Bish, Hannah (2013). Addressing violence against women as a form of hate crime: limitations and possibilities. *Feminist Review*, No. 15: pp. 1-20
Link: https://www.jstor.org/stable/24571896

Granström, Görel; Mellgren, Caroline and Tiby, Eva (2019). *Hatbrott? – En introduktion*. 2nd ed. Lund: Studentlitteratur

Hodge, Jessica P. (2011). *Gendered Hate: Exploring Gender in Hate Crime Law.* Lebanon: Northeastern University Press

McPhail, Beverly A. and DiNitto, Diana M. (2005). Prosecutorial perspectives on gender-Bias hate crimes. Violence against women, Vol 11. No. 9 pp. 1162-1185

Scully, Diana and Marolla, Joseph (1984). "Convicted rapists' vocabulary of motive: excuses and justifications". In Pontell, Henry N. (ed) (2005). *Social deviance: readings in theory and research* 5th ed. Upper Saddle River, New Jersey: Prentice Hall pp. 273-286

Literature:

Beauvoir, Simone de (1949). *The Second Sex*. New York: Vintage Books

Butler, Judith (2009). *Frames of War*. London: Verso

Connell, R.W (2005). *Masculinities.* 2nd ed. Cambridge: Polity Press

Foucault, Michel (1982). The Subject and Power. *Critical Inquiry* Vol. 8 No. 4: pp. 777-795.
Link: http://www.jstor.org/stable/1343197

Hirdman, Yvonne (1988). Genussystemet – reflexioner kring kvinnors sociala underordning. In *Tidskrift för genusvetenskap* Vol. 9 No. 3. pp. 49-63

Jaki, Sylvia; De Smedt, Tom; Gwózdz, Maja; Panchal, Rudresh; Rossa, Alexander; De Pauw, Guy (2019). Online hatred of women in the Incel.me forum: linguistic analysis and automatic detection. In *Journal of Language Aggression and Conflict* July 8th 2019

Ging, Debbie (2017). Alpha, Betas, and Incels: theroizing the masculinities of the manosphere. In *Men and Masculinities* May 10th 2017

Grenholm, Carl-Henric (2011). Att förstå religion – metoder för teologisk forskning. Lund: Studentlitteratur AB

Gothlin, Eva (1999). *Kön eller genus?* Göteborg: Nationella sekretariatet för genusforskning

Gryzb, Magdalena; Naudi, Marceline and Marcuello-Servós, Chaime (2018). Femicide definitions. In Weil, Shalva; Corradi, Consuelo & Naudi, Marceline (ed.). *Femicide across Europe.* Great Britain: Polity Press

Gunnarsson, Åsa; Svensson, Eva-Maria; Käll, Jannice & Svedberg, Wanna (2019). *Genusrättsvetenskap*. 2nd ed. Lund: Studentlitteratur

Kamarck Minnich, Elizabeth (2005). *Transforming Knowledge*. Philadelphia: Temple University Press

Lynch, Richard A. (2011). Foucault's theory of power. In Taylor, Dianna (ed.) (2011). *Michel Foucault – Key Concepts.* Durham: Acumen pp. 13-26

Molina, Irene (2011). Intersektionernas förflutna – sexismens och rasismens gemensamma spår. In de los Reyes, Paulina (ed.). *Vad händer med jämställdheten?: Nedslag i jämställdhetens synfält.* Uppsala: Uppsala University pp. 23-38

Svensson, Eva-Maria (1997). *Genus och rätt. En problematisering av föreställningen om rätten.* Uppsala: Iustus Förlag AB

Taylor, Dianna (2011). Introduction: power, freedom and subjectivity. In Taylor, Dianna (ed.) (2011). *Michel Foucault – Key Concepts.* Durham: Acumen pp. 1-9

Weil, Shalva (2018). Research and prevention of femicide across Europe. In Weil, Shalva; Corradi, Consuelo & Naudi, Marceline (ed.). *Femicide across Europe.* Great Britain: Polity Press

National reports on hate crime and Incels, and national and international bills on violence against women:

Brottsförebyggande rådet (2019). *Hatbrott 2018 – Statistik över polisanmälda brott med identifierade hatbrottsmotiv*. Rapport 2019:13. Stockholm: AJ E-print AB

Proposition 1997/98:55. *Kvinnofrid*

Totalförsvarets forskningsinstitut (2020). *Hope, cope & rope – Incels i digitala miljöer*. FOI: Memo 7040. https://www.foi.se/rapportsammanfattning?reportNo=FOI%20Memo%207040 (Accessed: 2020-03-25)

United Kingdom Home Office (2019). *Hate Crime, England and Wales, 2018/19*. Home Office Statistical Bullentin 24/19. London: OGL

United Nations – Committee on the Elimination of Discrimination against women (2017). General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19. Signed: 26th July 2017

United States Department of Justice, Federal Bureau of Investigation (2019). *Hate Crime Statistics, 2018*. https://ucr.fbi.gov/hate-crime/2018/resource-pages/hate-crime-summary (Accessed: 2020-05-13)

Internet resources:

Beaucamp, Zack (2018). Incel, the misogynist ideology that inspired the deadly Toronto attack, explained. *Vox*. April 25th. https://web.archive.org/web/20180505073901if_/

https://www.vox.com/world/2018/4/25/17277496/incel-toronto-attack-alek-minassian (Accessed: 2020-04-01)

Farran-Lee, Lydia (2020). Han deltar i första stora universitetsstudien om incels. *SVT Nyheter*. 4th April. https://www.svt.se/kultur/han-deltar-i-forsta-stora-universitetsstudien-om-incels (Accessed: 2020-05-01)

Georgia State University News Hub (2019). Grant Will Fund Research Into Growing Male Supremacist Subculture Online. 26th June. https://news.gsu.edu/2019/06/26/federal-grant-will-fund-research-into-growing-male-supremacist-subculture-online/ (Accessed: 2020-05-01)

Holcombe, Madeleine; Chavez, Nicole & Baldacci, Marlena (2019). Florida yoga studio shooter planned attack for months and had "lifetime of misogynistic attitudes," police say. CNN News. February 3rd. https://edition.cnn.com/2019/02/13/us/tallahassee-yoga-studio-shooting/index.html (Accessed: 2020-09-22)

Jackson, Derrick Z. (2015). The shameful irony of Ore. mass shooting. *The Boston Globe*. October 2nd. https://www.bostonglobe.com/opinion/2015/10/02/the-shameful-irony-ore-mass-shooting/jmxRQInuhElMyJ9XOTsAmO/story.html (Accessed: 2020-09-22)

Janik, Rachel (2018). "I laugh at the death of normies": How incels are celebrating the Toronto mass killing. *SPLC – Southern Poverty Law Center*. April 24th. https://www.splcenter.org/hatewatch/2018/04/24/i-laugh-death-normies-how-incels-are-celebrating-toronto-mass-killing (Accessed: 2020-04-01)

Silverstein, Jason (2018). Yoga studio gunman had history of arrests, posted misogynistic rants online. *CBS News*. November 3rd. https://www.cbsnews.com/news/hot-yoga-shooting-tallahassee-florida-gunman-scott-paul-beierle-had-prior-arrests-for-touching-women/ (Accessed: 2020-09-26)

Taub, Amanda (2016). Control and Fear: What Mass Killings and Domestic Violence Have in Common. *The New York Times*. 15th June. https://www.nytimes.com/2016/06/16/world/americas/control-and-fear-what-mass-killings-and-domestic-violence-have-in-common.html. (Accessed: 2020-09-26)

United Nations Human Rights – Office of the High Commissioner of Human Rights (2020). Violence against women. https://www.ohchr.org/EN/Issues/Women/WRGS/Pages/VAW.aspx (Accessed: 2020-09-20)

Valenti, Jessica (2018). The recent mass shootings in the US all have one thing in common: misogyny. *The Guardian.* May 21st. https://www.theguardian.com/commentisfree/2018/may/21/santa-fe-mass-shooting-misogyny (Accessed: 2020-04-01)