

Disabled justice

A qualitative case study on barriers to registration of disability hate crime within the Norwegian criminal justice system

Candidate number: 8026

Submission deadline: 15 May 2016

Supervisor: Kjersti Skarstad

Number of words: 18,670



Acknowledgements

First and foremost, I would like to give my sincere gratitude to my supervisor Kjersti Skarstad for her invaluable guidance throughout the process. Thank you for believing in me even in times when I did not believe in myself. I also wish to thank Halvor Hanisch for his support during the initial stages of the thesis.

Thanks also to Berit Vegheim from Stopp Diskimineringen and Eli Knøsen from the Equality and Anti-Discrimination Ombudsman (LDO) for providing me with invaluable input on the overall topic of the thesis.

I also would like to thank the informants of the thesis for taking time out of their busy schedules and giving me invaluable insight into a world I had little prior knowledge of.

To my family: Mum, dad, Hans, Agnes, and little Johan. You have kept me sane when I have needed it the most. Thank you.

I also owe a great deal of thanks to Synne for her patience with living with a roommate who have been constantly stressing out over the next deadline.

Last, but not least, I would like to thank my fellow partners in crime at the Master's program at the Norwegian Centre for Human Rights for our shared laughter, tears, and various headaches. Stine, Zöe, Marianne and Inga: you have made the two last years a joy.

*Eivind Digranes,
Oslo, May 2016*

Abbreviations

CRPD	Convention on the Rights of Persons with Disabilities
DPO	Disabled people's organization
EHRC	Equality and Human Rights Commission
JBD	Justis- og beredskapsdepartementet (Ministry of Justice and Public Security)
LDO	Likestillings- og diskrimineringsombudet (The Equality and Anti-Discrimination Ombudsman)
LGBT	Lesbian, Gay, Bisexual and Transgender
FRI	FRI – Foreningen for kjønns- og seksualitetsmangfold (The National Association for Lesbian, Gay, Bisexual and Transgender People)
NGO	Non-governmental organization
ODPP	Riksadvokaten (Office of the Director of Public Prosecutions)
OPD	Oslo Police District
POD	Politidirektoratet (National Police Directorate)
SD	Stopp Diskrimineringen

List of figures

Figure 5.1: Thematic map of main theme and sub-themes identified in interview data

Table of contents

ACKNOWLEDGEMENTS	I
ABBREVIATIONS.....	II
LIST OF FIGURES.....	III
TABLE OF CONTENTS	IV
1 INTRODUCTION.....	1
1.1 Previous research.....	3
1.2 Research question	7
1.3 Aims of the thesis	7
1.4 Reader's guide.....	8
2 THEORY.....	9
2.1 Definitions	9
2.1.1 Disability.....	9
2.1.2 Hate crime	10
2.2 Understanding hate crime.....	11
2.2.1 Misunderstanding disability hate crime	12
2.3 Reconceptualizing hate crime through a disability lens	13
2.4 Understanding registration in a theoretical context.....	17
3 DISABILITY HATE CRIME: THE CASE OF NORWAY.....	19

3.1	The Norwegian criminal code	19
3.2	Hate crime: increasingly on the agenda.....	20
3.3	Disability hate crime: under-reported and under-registered.....	21
4	METHODS.....	24
4.1	Research design	24
4.2	Data collection: semi-structured interviews	26
4.2.1	Sampling	27
4.2.2	Conducting the interviews.....	28
4.3	Data analysis: thematic analysis	29
4.4	Validity, reliability and generalizability	30
4.5	Ethical considerations.....	32
5	EMPIRICAL ANALYSIS: DISABILITY HATE CRIME AS UNIMAGINABLE.....	34
5.1	Unthinkable hatred	34
5.1.1	In the shadow of vulnerability.....	36
5.1.2	Societal silence on disability hate crime	40
5.1.3	Lack of understanding of disability-specific victimization.....	46
5.2	Concluding remarks.....	50
5.2.1	Limitations	53
5.2.2	Suggested improvements	54
6	CONCLUSION	56
	LIST OF REFERENCES	59

APPENDICES	67
Appendix 1: Interview guide	67
Appendix 2: List of informants.....	73

1 Introduction

On 30 June 2014, «Peter», a 23 year-old man with autism, meets four acquaintances at a local spot in Brumunddal, Norway.¹ On their way towards the go-cart hall, one of the men pushes the 23 year-old off his bike and start beating him. «Peter» receives consecutive kicks and punches to the face, head, legs and back. The violence goes on for 15 to 20 minutes. After managing to get away, «Peter» is persuaded to meet with the perpetrators again. This time the violence is even more extreme, with attempts to break the victim's arm and kicks to the groin. His phone is broken in two. The perpetrators threaten the 23 year-old to keep silent about the violence. All four aggressors are apprehended by the police, prosecuted and eventually found guilty in court. The prosecution as well as the court emphasize that the 23 year-old was attacked because he was vulnerable and defenceless.² Almost exactly half a year later, «Espen» leaves a classroom at his local upper secondary school in Fredrikstad in his wheelchair.³ Two visiting boys take control of «Espen's» wheelchair against his will, and start pushing him down the hallway. He puts on the breaks and protests for a few minutes, before the two boys laugh and push him down the stairs. As a result of his injuries, Espen ends up in the hospital. Similar assessments as the case above are made by the prosecution and court in the following criminal proceedings.⁴

These stories are not fiction, but very real experiences of victimization of persons with disabilities in Norway. Although both the abovementioned cases were registered by the police and ended up with conviction in court, one possibility was left unexplored throughout the criminal justice process: that the acts might in fact have been motivated by hate or prejudice against persons with disabilities. From a criminal justice perspective, hate crimes are generally understood as criminal acts committed against an individual because of prejudice or hatred towards the victim, commonly in the form of harassment, threats,

¹ Paulsen 2015

² 15-124815MED-HEDM

³ Nordli 2015

⁴ 15-074463MED-FRED

verbal abuse, or aggravated assault.⁵ As acts often intentionally aimed towards already marginalized groups, hate crimes can be seen as a mechanism of reaffirmation of existing power relationships between the supremacy of the perpetrator's group and the subordination of the victim's group.⁶ Despite the fact that persons with disabilities gained initial legal protection against hate crime in the Norwegian criminal code in 2013, no cases of hate crime against persons with disabilities have to date been identified by the police.⁷ This stands in stark opposition to studies showing that persons with disabilities are significantly more likely to be victim of violence or threats of violence than the general population.⁸ As such, a significant number of cases are likely to go unreported and unregistered.⁹ This thesis aims to gain further insight into this discrepancy by exploring why hate crime against persons with disabilities fails to get registered within the Norwegian criminal justice system.

Ultimately, registration of disability hate crime is a question of human rights and effective access to justice, as enumerated in the Convention on the Rights of Persons with Disabilities (CRPD). Shadow reports from non-governmental organizations (NGOs) and The Equality and Anti-Discrimination Ombudsman (LDO) to the CRPD Committee has criticized Norway for its absence of measures to ensure prevention and registration of cases of violence, harassment and hate crime against persons with disabilities.¹⁰ As State Party to the CRPD, Norway is under a legal obligation to prevent all forms of violence, exploitation, and abuse of persons with disabilities and ensure that such instances are identified, investigated, and prosecuted.¹¹ Article 16 of the Convention read in conjunction with the principle of non-discrimination¹² and the obligation to combat stereotypes,

⁵ Hall 2005

⁶ Perry 2001

⁷ See 3.3

⁸ Ramm 2010

⁹ Politidirektoratet and Oslo politidistrikt 2009, p. 26

¹⁰ Funksjonshemmedes Fellesorganisasjon 2015, p. 30-31; Likestillings- og diskrimineringsombudet 2015a, p. 40-44

¹¹ CRPD, art. 16(2) & art. 16(5)

¹² Ibid., art. 5

prejudices, and harmful practices¹³ requires States to take far-reaching measures in order to combat hate crime against persons with disabilities. Moreover, the Convention requires State Parties to ensure effective access to justice for persons with disabilities, and provide appropriate training for police and others working within the justice system.¹⁴ Thus, it is not sufficient to have a strong *de jure* protection against hate crime for persons with disabilities if the *de facto* access to law enforcement in cases of hate crime is unachievable in practice. For this reason, it is important to go beyond a strictly legalistic approach and gain a further understanding of the social and institutional mechanisms behind why human rights are hindered, in order to be able to improve them. This thesis aims to explore some of these mechanisms by studying the topic of barriers to registration of disability hate crime in the Norwegian criminal justice system.

1.1 Previous research

Only a limited amount of academic research has explored barriers to registration of disability hate crime within the justice system. Research on disability hate crime from the UK and the US have revealed that persons with disabilities are significantly more likely to be exposed to harassment, violent crime, and hate crime than their non-disabled peers.¹⁵ In spite of this frequent exposure to hate crime, several studies have demonstrated that hate crime against persons with disabilities largely go unreported and unregistered within the justice system due to a range of institutional, social, and individual barriers, both conventional as well as disability-specific.¹⁶ Firstly, emerging research from the UK indicate that the manner in which hate crime is understood within the justice system tends to particularly negatively impact registration of disability hate crime. Hate crimes are frequently misconstrued as crimes motivated solely by hatred towards the victim, rather than by hostility or prejudice.¹⁷ As a result, disability hate crime tends to be trivialized as

¹³ Ibid., art. 8(1)(b)

¹⁴ Ibid., art. 13(1) & art. 13(2)

¹⁵ Emerson and Roulstone 2014; Sin et al. 2009; McMahon et al. 2004; Equality and Human Rights Commission 2011

¹⁶ Thorneycroft and Asquith 2015, p. 492

¹⁷ Sin et al. 2009

‘abuse’ or ‘bullying’, rather than acknowledged as hate crime.¹⁸ Additionally, as demonstrated by Sherry, hatred towards people with disabilities is often overlooked and mislabeled as a result of being seen as inconceivable in public discourse, the media and the criminal justice system.¹⁹ Instead, the crime is perceived by the criminal justice system and general public as ‘senseless’ and ‘motiveless’.²⁰ This has led one report made by the Equality and Human Rights Commission (EHRC) in the UK to conclude that disability hate crime is an issue ‘hidden in plain sight’, as a result of a culture of disbelief surrounding the issue. Consequently, public authorities in the UK have shown systemic institutional failure to respond to the problem.²¹

Perhaps the main source of this disbelief documented in the literature is the perceived difference between vulnerability and hate. In her study of the British criminal justice system, Mason-Bish found that both campaigners and practitioners often perceive hate and vulnerability as incompatible motives in responding to disability hate crime.²² As a result, persons with disabilities are seen as defenseless ‘easy targets’, who have been victims of opportunistic crime rather than objects of hatred. As demonstrated by Roulstone et al. and Roulstone and Sadique, such a dichotomy between hate and vulnerability tends to not only be experienced among practitioners themselves, but is more fundamentally constructed in policy and law.²³

Furthermore, initial findings from Mason-Bish indicate that disability hate crime has introduced new forms of victimization not traditionally defined as hate crime.²⁴ Particularly, law enforcement has a tendency to doubt whether victimization in institutional settings could be motivated by hate or prejudice.²⁵ In his study of anti-disability hate sites, Sherry found that hatred of persons with disabilities in many cases differ from contempt

¹⁸ Sherry 2010

¹⁹ Ibid.

²⁰ Quarmby 2008

²¹ Equality and Human Rights Commission 2011

²² Mason-Bish 2013

²³ Roulstone et al. 2011; Roulstone and Sadique 2013

²⁴ See also chapter 2

²⁵ Mason-Bish 2013

towards other groups, most significantly by revolving around medical terminology, and being spread by lone individuals rather than larger hate crime groups.²⁶

Moreover, a number of studies have found that disability is poorly understood and responded to within the justice system. In their study on hate crime against persons with learning disabilities and autism in Kent police district in the UK, Beadle-Brown et al. among other things found that many police officers had failed to identify the victim's disability, and lacked the necessary skills to properly communicate with the victim.²⁷ Even if the disability is properly identified, law enforcement has a tendency to overemphasize the victim's disability instead of responding to the criminal conduct – a process called 'diagnostic overshadowing'.²⁸ This is connected to the fact that police officers to a large extent lack appropriate training and knowledge on disability issues and how to properly respond to complaints by persons with disabilities.²⁹ Moreover, accounts reported by persons with disabilities are often not taken seriously by the police, either because it is not seen as severe enough to require action, the police responds with re-victimization or harassment, or because the credibility and reliability of the victim are questioned.³⁰ Mason-Bish found that a perceived victim hierarchy exists within the criminal justice system, where persons with disabilities are seen as less worthy recipients of justice compared to other protected groups.³¹

Research on disability hate crime remains even more scarce in a Norwegian context. Existing research on hate crime in Norway has largely revolved around the legal boundaries of hate speech, or explored other topics such as the construction of hate crime as a social problem in public policy in Norway.³² In relation to disability hate crime, an ongoing research project by Nordlandsforskning and NTNU Samfunnsforskning is currently exploring the prevalence, nature, and harmful effects of hate speech against

²⁶ Sherry 2010, p. 53; See also chapter 2

²⁷ Beadle-Brown et al. 2014

²⁸ Sin 2013, p. 150

²⁹ Sin et al. 2009

³⁰ Sin 2013, p. 152-153

³¹ Mason-Bish 2013

³² Bruknapp 2009

persons with disabilities.³³ The research project is set to publish its results in august 2016, following submission of this thesis.

A few initial studies have documented persons with disabilities' increased risk of being victims of harassment, violence, and bullying in Norway. One study from 2010 found that people with disabilities are three times more likely to be exposed to violence or threats of violence than the general population.³⁴ One in six persons with disabilities reported having experienced harassment or uncomfortable situations during the previous year, and 16 percent reported fear of leaving their home.³⁵ Children with disabilities seem particularly likely to be victims of violence and abuse. One study found that 36 percent of boys and 21 percent of girls with hearing disabilities had experienced violence, compared to 21 percent and 11 percent, respectively, for youth without disabilities.³⁶

A number of gaps in the previous research exist. Firstly, while disability hate crime has received increased attention among scholars in the US and UK, no study to date has explored either disability hate crime, or its treatment within the justice system in a Norwegian context. Secondly, while providing invaluable primary data on the treatment of disability hate crime within the justice system, most of the abovementioned studies are contract research and reports conducted for or by NGOs and public authorities, and as a result are largely scarce on theoretical analyses of the findings. While a number of theoretical contributions have been made in relation to understanding disability hate crime in general³⁷, theoretical perspectives on reception of disability hate crime within the criminal justice system are largely lacking. The present thesis aims to address these research gaps by studying barriers to registration of disability hate crime in a Norwegian context.

³³ Nordlandsforskning 2015

³⁴ Ramm 2010

³⁵ Ibid.

³⁶ Schou et al. 2007

³⁷ See chapter 2

1.2 Research question

The overall topic of this thesis is barriers to registration of disability hate crime in the Norwegian criminal justice system. Considering the research gaps above, the research question of the thesis is as follows:

Why do hate crimes against persons with disabilities fail to get registered within the Norwegian criminal justice system?

The overall research question deals with which factors stand in the way of registration of disability hate crime. As a result, the focus is on *barriers* to registration rather than enabling factors. This includes overall structural barriers relating to how the justice system works with registration of disability hate crime, in addition to attitudinal barriers relating to the manner in which the police understand persons with disability as victims of hate crime. While referring to the “justice system” in general, the thesis is limited to those actors working directly with registration of crime, namely the police and prosecution authorities. Consequently, the courts are beyond the scope of the present study.

1.3 Aims of the thesis

This thesis aims to understand why disability hate crime does not get registered within the Norwegian justice system. As such, the thesis intends to make two main contributions. Firstly, it seeks to obtain primary data from a Norwegian context. While the nature and prevalence of under-recording of disability hate crime has received increased academic attention in recent times, there is a lack of research beyond the UK and the US. As a majority of the abovementioned studies apply qualitative methods, they are not automatically generalizable. It is therefore necessary to repeat and compare the findings to different settings, particularly in order to observe the impact of the legal, social and cultural context on the results. Secondly, in order to go beyond the purely data-driven approach found in previous research, the thesis aims to gain a deeper theoretical understanding of why disability hate crime fails to get registered within the justice system by relating the

findings to the broader societal processes which drive disability hate crime in the first place.

1.4 Reader's guide

The thesis is divided into six chapters. Following the present introduction, the second chapter goes through the main theoretical perspectives applied for the remainder of the thesis. The chapter argues that rather than emphasizing inherent vulnerability, disability hate crime is rooted in an underlying contempt of perceived weakness. Thus, in order to fully understand disability hate crime, there is a need for a shift from an individualistic approach to one that focuses on broader societal processes of prejudice and exclusion. The third chapter presents some of the defining elements of Norway as a case for studying treatment of disability hate crime in the justice system, by going through relevant legal provisions and measures taken on hate crime in general. This is contrasted with the absence of registered cases of disability hate crime in practice. The fourth chapter presents single case study design as the overall research design of the thesis, and discusses methodological issues relating to data collection, data analysis, research quality and ethical considerations. In order to gather primary data for addressing the research question, semi-structured interviews have been conducted with five informants working with hate crime within the Norwegian justice system, both nationally and in Oslo police district. Following this, the fifth chapter presents and analyzes the main findings of the thesis in relation to the theoretical framework and previous research. The overarching finding of the chapter is that hatred of persons with disabilities is perceived as unthinkable within the justice system, due to an insufficient understanding of the societal processes which drive disability hate crime in the first place. As a result, disability hate crime is not seen as a crime which requires registration and prioritization within the justice system. Lastly, the final chapter ends with some concluding remarks by indicating that while persons with disabilities have equal legal protection against hate crime in principle, due to a number of barriers within the Norwegian justice system this protection is largely inaccessible in practice.

2 Theory

In order to gain further insight into barriers to registration of disability hate crime, there is a need to more fundamentally understand *why* persons with disabilities are victims of hate crime in the first place. As such, the current chapter starts with outlining the defining elements of hate crime and disability, respectively. Following this, the traditional understanding of hate crime as a mechanism for subordination of historically marginalized groups is presented, together with a brief discussion of perceived vulnerability as the main reason for the exclusion of persons with disabilities from most accounts of hate crime. The subsequent section argues that hate crime against persons with disabilities is rooted in contempt of perceived weakness. The chapter ends with certain theoretical expectations of the empirical data.

2.1 Definitions

2.1.1 Disability

In order to understand disability hate crime, a brief account of the meaning of disability is appropriate. The definition of disability is not necessarily universally agreed upon. The CRPD views disability as occurring in the interaction between physical, mental, intellectual or sensory impairments and disabling societal barriers hindering full participation in society on an equal basis with others.³⁸ Due to the fact that the aim of this thesis is to understand societal barriers to hate crime registration, a social model of disability is applied. In essence, the social model makes a distinction between impairment and disability. Whereas impairment refers to an individual's long term mental, bodily or sensory characteristics which are often the result of genetics, disease or injury, disability refers to the disadvantage *“caused by the political, economic and cultural norms of a society which takes no or little account of people who have impairments and thus excludes them from mainstream activity”*.³⁹ The main aim of the social model is to move away from the idea that there is

³⁸ CRPD, art. 1

³⁹ Oliver et al. 2012, p. 16

something inherently wrong with persons with disabilities, and rather emphasize disabling barriers within society as such.⁴⁰ Thus, disability is viewed as socially constructed and a product of societal barriers in addition to the manner in which society is organized.

2.1.2 Hate crime

The term ‘hate crime’, while being widely applied in academic scholarship, has largely remained unclear and ill-defined.⁴¹ Scholarly definitions vary from broad to narrow, and from emphasizing the social identity of the victim, to the perpetrator’s motivations.⁴² Hate crime, rather than being a static phenomenon, is to a large extent contingent upon the surrounding cultural and historical context.⁴³

While the exact approach to the term hate crime varies across jurisdictions, from a criminal justice perspective hate crimes can generally be understood as criminal acts committed against an individual because of prejudice or hatred towards the victim.⁴⁴ As such, hate crimes consist of two main components that must both be met in order to comply with the definition. Firstly, a criminal offense must have been committed, such as harassment, verbal abuse, aggravated assault, theft, or murder. Secondly, the offense must be motivated by prejudice or hostility against a particular social group represented by the victim; most frequently ethnicity, race, religion, sexual orientation, nationality, gender, or disability.⁴⁵ While hate speech is often an essential part of a hate crime, the two terms must not be confused as synonymous. Whereas hate crime deals specifically with hateful acts or speech *of a criminal nature*, hate speech refers more generally to speech with hateful content ranging on a continuum from legal to criminal.⁴⁶ Technically, as long as a hateful or prejudicial motive is involved, any crime can constitute a hate crime. Thus, the motive of the perpetrator is often considered the defining element of a hate crime. Similarly, Sherry defines disability hate crime as “*a criminal act motivated by the victim’s real or*

⁴⁰ Oliver 1983, p. 27

⁴¹ Chakraborti and Garland 2009, p. 3

⁴² Petrosino 1999; Berk et al. 1992

⁴³ Perry 2001, p. 8

⁴⁴ Hall 2005

⁴⁵ Turpin-Petrosino 2015, p. 2

⁴⁶ Nilsen 2014, p. 104; Likestillings- og diskrimineringsombudet 2015b, p. 12

perceived disability status".⁴⁷ Both crimes motivated *in whole or in part* by the individual's disability status can be considered disability hate crimes.⁴⁸

While the term 'hate crime' is applied throughout this thesis, some scholars have contested the usefulness of the term, claiming that it is too strong and that 'bias crime' is a more suitable term.⁴⁹ The argument is that the perpetrator is not necessarily motivated by intense hatred *per se*, but rather prejudice towards the victim *because of* his real or perceived membership to a social group.⁵⁰ While this thesis applies the term 'hate crime', the concept should not be limited to only the most overt and extreme cases of hatred, but also accommodate less apparent forms of prejudice and hostility.⁵¹ Nevertheless, demarcating exactly when a crime becomes a hate crime is a difficult task.

2.2 Understanding hate crime

One of the most influential understandings of hate crime to date is given by Barbara Perry. According to Perry, hate crimes are acts intentionally aimed towards marginalized groups, and can be seen as a mechanism of reaffirmation of existing power relationships between the supremacy of the perpetrator's group and the subordination of the victim's group.⁵² Consequently, hate crime is seen to be rooted in power structures and societal oppression aimed at reminding the victim and the group he belongs to of their 'proper' subordinate position in society. Rather than being isolated to impacts on the victim himself, the aim of hate crime is to place feelings of fear, hostility, and suspicion in the community to which he belongs.⁵³ Thus, from Perry's perspective, it is identity and group membership that form the defining elements of hate crime.

Similarly to other types of crime, hate crimes do not occur in an isolated social or cultural vacuum, but rather should be understood as a socially situated process, which is

⁴⁷ Sherry 2010, p. 18

⁴⁸ Ibid.

⁴⁹ Jacobs and Potter 1998

⁵⁰ Ehrlich 1992

⁵¹ See 2.3

⁵² Perry 2001, p. 10

⁵³ Ibid.

part of existing societal structures and contexts.⁵⁴ The perpetrator's intent is to intimidate, threaten and control the victim and the social group of which he or she belongs.⁵⁵ As such, hate crimes against minority groups are part of a historical continuity of hateful victimization and a larger complicity of social institutions and cultural practices which accepts and perpetuates victimization.⁵⁶ Therefore, rather than being the result of extraordinary or abnormal criminal behavior, hate crime is rooted in prejudice, contempt and ignorance which is deeply embedded into the fabric of society.⁵⁷

2.2.1 Misunderstanding disability hate crime

While the traditional understanding of hate crime in principle can be applied to any historically marginalized group, in practice persons with disabilities have fallen outside of most discussions on hate crime. Instead of being perceived as instances of hate crime, crimes systematically aimed towards persons with disabilities tend to be wrongfully constructed as opportunistic crimes against defenseless 'easy targets'.⁵⁸ This is problematic for several reasons. Firstly, the notion that persons with disability are targeted solely for being vulnerable is superficial as vulnerability often merely provides an opportunity to express underlying hatred.⁵⁹ Thus, potential motives of contempt are left unexplored. Secondly, emphasizing vulnerability creates a problematic dichotomy between hate and vulnerability as opposites. In fact, as mentioned previously, this remains one of the largest barriers to recognition of disability hate crime within the criminal justice system.⁶⁰ While perceptions of vulnerability can be part of hateful crimes against persons with disabilities, hostility and constructions of vulnerability are not mutually exclusive entities. Lastly, labelling persons with disabilities as inherently vulnerable can be criticized for being 'disablist'⁶¹ and paternalistic as it essentially equates disability with vulnerability.⁶² By

⁵⁴ Bowling 1993

⁵⁵ Hamm 1994; McCorkle and Miethe 1998

⁵⁶ Petrosino 1999; Perry 2001

⁵⁷ Levin and Nolan 2010

⁵⁸ Roulstone et al. 2011

⁵⁹ Waxman 1991, p. 191

⁶⁰ Roulstone and Sadique 2013; See also 1.1

⁶¹ See definition in 2.3

emphasizing vulnerability, one is indirectly ‘blaming’ victimization of persons with disabilities on characteristics of the victim, rather than exploring broader hostile attitudes in society. In conclusion, an exclusive emphasis on vulnerability ignores the often hateful dimensions of crime and violence against persons with disability, and in effect leaves disability hate crime as unthinkable.

2.3 Reconceptualizing hate crime through a disability lens

As a result of the gap between the traditional understanding of hate crime and the exclusion of persons with disabilities as victims of hate crime both in theoretical discussions and in practice, it is crucial to understand hate crime in a disability-specific context. The main aim here is not to refute and find an alternative to the identity model, but to develop it further by exploring the particularities of disability hate crime. As has been argued by others, direct transferability of a race-oriented lens to disability hate crime is misplaced, as many aspects of hostility against persons with disabilities are not identical to hostility towards other groups.⁶³

How then should we understand disability hate crime? This chapter argues that hate crime against persons with disabilities is rooted in *contempt of perceived weakness*. This contempt can take on several forms: hatred of ‘*biological inferiority*’, hatred arising out of *anxiety or discomfort* in response to the disabled body, and hatred arising out of *expectations of vulnerability, dependency, and gratefulness*.

Perhaps the most obvious manner of framing disability hate crime as contempt of weakness is by emphasizing the traditional perception of disability in society. Historically, public attitudes surrounding disability have been dominated by the medical model of disability. From this paradigm, disability is viewed as an individual problem rooted in physical dysfunctionalities, which should be medically ameliorated.⁶⁴ As a result, persons with disabilities are seen as biologically and medically inferior, and individually to ‘blame’ for their own disability. In its most extreme form, this has led to the belief that persons with

⁶² Sherry 2010; Quarmby 2008; Roulstone et al. 2011, p. 358

⁶³ Roulstone et al. 2011, p. 354

⁶⁴ Harpur and Douglas 2014, p. 413

disabilities constitute a burden and a threat to society, either through depleting societal resources or by placing ‘genetic deficiencies’ into the gene pool.⁶⁵ This view has justified institutionalization, sterilization, eradication, and murder of “useless eaters” and “lives not worthy of living”, as seen in Nazi Germany and a range of other countries throughout history.⁶⁶ To claim that disability hate crime thrives under such contexts should be relatively uncontroversial.

While these ideas are likely to retain a certain degree of relevance in relation to disability hate crime today, it most likely will only account for its most extreme and overt forms. Arguably, limiting disability hate crime to ideas of biological inferiority creates an image of hate crime against persons with disabilities as abnormal acts committed by deranged individuals, ignoring hostility occurring under more ‘ordinary’ and everyday circumstances. In such situations, hatred could be seen as an outgrowth of *feelings of anxiety* in relation to persons with disability.⁶⁷ From this perspective, hatred toward persons with disabilities is rooted in feelings of discomfort and anxiety in response to an individual perceived as a significant departure from ‘normal’ human forms. Hahn divides this anxiety into two forms: *existential anxiety* and *aesthetic anxiety*.⁶⁸ Whereas the former refers to a fear of loss of control or parts of one’s humanity combined with an anxiety of becoming disabled, the latter consists of feelings of fear and discomfort when confronted with persons with visible traits that are considered unpleasant or distressing.⁶⁹ From this perspective, persons with disabilities are denigrated (and eventually targeted) as a coping mechanism for the perpetrator in order to reduce the offender’s fear and guilt.⁷⁰

Even though the anxiety theory provides invaluable insight into how hostility towards persons with disability is rooted in common psychological responses to disability, it fails to adequately address how these processes are reproduced by underlying societal prejudice. Fundamentally, disability hate crime should be seen as an articulation of the

⁶⁵ Waxman 1991, p. 192

⁶⁶ Ibid.

⁶⁷ Hahn 1988

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Waxman 1991, p. 194

everyday *disablism* experienced by persons with disabilities.⁷¹ ‘Disablism’ can be defined as “*discriminatory, oppressive or abusive behaviour arising from the belief that disabled people are inferior to others*”.⁷² Thus, disability hate crime and disablist attitudes should be understood in the context of a long-standing legacy of oppression towards persons with disabilities.⁷³ Arguably, hate crime against persons with disabilities occurs within a general culture that excludes persons with impairments, and permits societal structures and practices which disable them.⁷⁴

These processes must be seen in relation to the societal roles persons with disabilities are expected to fulfill. For Thomas, what distinguishes disability hate crime the most from other forms of hate crime is what she terms ‘mate crime’. Whereas hate crimes are commonly limited to hostile crimes perpetrated by ‘outsiders’ with little or no relationship with the victim, mate crimes are hostile acts committed by ‘insiders’, such as family members or friends, with which the person with a disability have a shared relationship.⁷⁵ As a consequence, hostility towards persons with disabilities arise from widespread exclusion from mainstream society combined with an *expectation that persons with disabilities should be vulnerable, dependent, grateful, and cared for*.⁷⁶ These expectations allow and normalize caring situations involving significant degrees of intrusive and controlling treatment against persons with disabilities. As part of seemingly ordinary domestic situations, these actions might not be perceived as unreasonable or unlawful by the victim, the perpetrator, or others.⁷⁷ According to Thomas, hatred is particularly likely to arise in situations where persons with disabilities step outside of their assigned role of weakness. As a result of these normalization processes, hate crime against persons with disabilities can be described as existing on a *continuum of violence*, where the boundaries between mundane intrusions, harassment, and violence are blurred and

⁷¹ Quarmby 2008, p. 8

⁷² Ibid.

⁷³ Barnes 1997

⁷⁴ Thomas 2014, p. 314

⁷⁵ Thomas 2013; Thomas 2011

⁷⁶ Thomas 2013, p. 140-141

⁷⁷ Ibid., p. 141-142

therefore often difficult to discern.⁷⁸ Consequently, disability hate crime is likely to take on more subtle and hidden forms and, as a result, go unnoticed.⁷⁹ Contempt against persons with disabilities is commonly camouflaged by taking on masked or clandestine forms, such as starvation of infants with disabilities, being disguised as medical treatment, or violence in institutional settings.⁸⁰ These particularities of disability hate crime challenge the general understanding of hate crime as crime committed by strangers.⁸¹

While these insights are most certainly valuable, it is important not to exaggerate the degree to which violence against persons with disabilities are accepted by society and by persons with disabilities themselves. Moreover, many persons with disability wield considerable autonomy over their own lives, and are neither excluded from society or dependent upon others.

A common thread in all these accounts is that disability hate crime is rooted in hatred of perceived weakness. Thus, rather than persons with disabilities being targeted because of their individual vulnerability, disability hate crime is rooted in underlying *contempt of perceived vulnerability and weakness*. Persons with disabilities are often seen as worthy recipients of hostility and contempt⁸², arguably to a large extent as a result of a general devaluation of what is viewed as weakness. This is clearly illustrated from the Brent Martin case in the UK where one of the perpetrators stated that “*I’m not going down for a muppet*”.⁸³ While hatred of weakness would seem to be unthinkable for most individuals, it is precisely this inconceivability which helps propagate disability hate crime in the first place. The fact that disability hate crime is rooted in commonplace public perceptions of persons with disability – as biologically weak, as existentially and aesthetically displeasing, as vulnerable, dependent and cared for – creates an environment where hatred against persons with disabilities becomes more tolerated than contempt towards other victimized groups.

⁷⁸ Hollomotz 2013

⁷⁹ Waxman 1991, p. 188

⁸⁰ Ibid., p. 188-189

⁸¹ Mason 2005

⁸² Thomas 2014, p. 314

⁸³ BBC 2008

Ultimately, hatred of persons with disabilities is likely to occur as a result of a combination of ideas of persons with disabilities as “scroungers” and “sub-humans”, anxiety in response to the disabled human form, as well as expectations of vulnerability and dependency. Accommodating these forms of hatred of weakness into our understanding of hate crime also impacts the understanding of hate crime as a concept more broadly. While the identity model rightfully emphasizes that disability hate crime is connected to long-standing oppressive societal structures, framing hate crimes exclusively as conscious attempts at subordination of marginalized groups arguably ignores many forms of victimization.⁸⁴ As hatred against persons with disabilities often takes on less apparent forms, there is a need to expand beyond the traditional understanding of hate crime as solely overt and extreme in nature to one which sees disability hate crime as rooted in seemingly ‘ordinary’ societal structures that propagate and accept ideas of persons with disabilities as weak.

2.4 Understanding registration in a theoretical context

The above theoretical understanding of why disability hate crime occurs is useful for shedding light on why disability hate crime is not registered within the justice system. As disability hate crime is deeply situated in commonplace attitudes and social structures which perpetuate and tolerate perceptions of persons with disabilities as weak, the phenomenon is likely to be overlooked and misunderstood. This is the case not only for the general public, but also by the justice system which is part of the very same societal processes.

As evident from previous studies from the UK, disability hate crime is arguably poorly understood within the criminal justice system, by being met with disbelief⁸⁵ as well as a misguided boundary between individual vulnerability and hatred.⁸⁶ Similarly, if the underlying societal processes leading to disability hate crime are not well understood in the Norwegian justice system, hate crime against persons with disabilities is unlikely to be

⁸⁴ Chakraborti and Garland 2012

⁸⁵ Equality and Human Rights Commission 2011

⁸⁶ Roulstone et al. 2011; Mason-Bish 2013

recognized and registered as such. Logically, police officers and prosecutors are only able to identify and properly respond to what they have a frame of reference for understanding. Consequently, if this frame of reference is lacking, identifying and registering disability hate crime becomes difficult. The subsequent analysis of the empirical data has been guided by these theoretical perspectives, by placing particular weight on how well the societal processes leading to disability hate crime is understood in the Norwegian criminal justice system.⁸⁷ Before applying this theoretical frame I will introduce Norway as a case for studying registration of disability hate crime and present the method used in the thesis.

⁸⁷ See chapter 5

3 Disability hate crime: the case of Norway

As mentioned above, this thesis gathers primary data from a Norwegian context. This chapter briefly presents some of the defining elements of the situation of disability hate crime in Norway and argues that Norway is a suitable case for studying registration of disability hate crime.

The chapter is divided into three sections. Firstly, the main sections of Norway's hate crime legislation are presented. Secondly, efforts within the justice system to implement the criminal code in practice are briefly reviewed. Lastly, these efforts are contrasted by the absence of any cases of hate crime against persons with disabilities compared to other protected groups.

3.1 The Norwegian criminal code⁸⁸

In order to understand how the Norwegian criminal justice system deals with disability hate crime, a brief account of domestic legislation on hate crime is necessary. Hate crime, while not being a legal term explicitly mentioned in the Norwegian criminal code, is prohibited in several different parts of the Penal Code of 2005. Three sections are of particular importance: 185, 186 and 77(i). Section 185 of the criminal code prohibits discriminatory or hateful expressions motivated by a) skin color or national or ethnic origin, b) religion or beliefs, c) sexual orientation or d) disability. Several conditions must be met in order for an expression to qualify as hate speech. Firstly, the discriminatory or hateful expression must be made willfully or with gross negligence in public. Secondly, the expression must threaten or insult an individual, or promote hatred, persecution, or contempt for someone because of one of the protected grounds.⁸⁹ Furthermore, section 186 prohibits discrimination by refusing goods or services to an individual on the basis of the same enumerated reasons.⁹⁰ Lastly, under section 77(i) of the criminal code an established hate

⁸⁸ This section is largely inspired by LDO's report «Hatyttringer og hatkriminalitet» (Likestillings- og diskrimineringsombudet 2015b, p. 32-34).

⁸⁹ Penal Code of 2005, para. 185

⁹⁰ Ibid., para. 186

motive may be used as an aggravating circumstance in the sentencing of any crime.⁹¹ Prior to the entering into force of the new criminal code on October 1 2015, section 185 existed under section 135a, section 186 under 349a and section 77(i) under 232 and 292 as part of the previous General Civil Penal Code of 1902.⁹² Only a limited amount of hate crime judgments have been made in Norwegian courts, and existing judgments have largely been limited to section 185 on hate speech.⁹³ At the time of writing, there have been no known court cases concerning hate crimes against persons with disabilities.

As the latest protected ground to be added to the criminal code, disability was for a long period of time excluded from the abovementioned sections. Persons with disabilities were given initial legal protection in 2013 in the abovementioned sections on violence (section 232), hate speech (section 135a) and discrimination (section 349a), as part of amendments made to the previous General Civil Penal Code of 1902.⁹⁴ Following this, persons with disabilities were given full legal protection under the new criminal code in 2015, by being added among the list of grounds protected under aggravating circumstances under section 77(i) and was added explicitly as a protected ground in sections 264, 272 and 274 on severe bodily infringement and damage, section 352 on severe vandalism, and section 174 on torture.⁹⁵ Thus, at the time of writing, persons with disabilities have *de jure* legal protection against hate crime on an equal footing with other protected groups.

3.2 Hate crime: increasingly on the agenda

In addition to the principal protection against hate crime, there are several signs that measures to follow-up the law in practice are being made within the justice system. Hate crime has since 2002 received high priority in the Office of the Director of Public Prosecutions' (ODPP) yearly prioritization document.⁹⁶ Additionally, the Ministry of Justice and Public Security (JBD) works with hate crime within three upcoming areas: a

⁹¹ Ibid., para. 77(i)

⁹² General Civil Penal Code of 1902

⁹³ See for example Rt. 2002 p. 1618 (Sjølie case) and Rt. 2012 p. 536 (Doorman case)

⁹⁴ Prop 131L (2012-2013), p. 78-79

⁹⁵ Ot.prp.nr. 8 (2007-2008), p. 250; Penal Code of 2005, para. 77, 264, 272, 274, 352 & 174

⁹⁶ Riksadvokaten 2016, p. 7

strategy against hate speech, an action plan against anti-Semitism, as well as an action plan on lesbian, gay, bisexual and transgender (LGBT) people.⁹⁷ Additionally, in 2014 the government delivered an action plan against radicalization and violent extremism, which included measures on hate crime motivated by Islamophobic and anti-Western extremism.⁹⁸ Similarly, Norway's previous government delivered action plans on equality and ethnic discrimination⁹⁹ and improvement of life quality for LGBT persons¹⁰⁰ which both delivered some measures on hate crime. Moreover, according to the informant from the National Police Directorate (POD), hate crime is likely to receive increased attention within the justice system as a result of the increased relevance of issues relating to extremism and integration.¹⁰¹ Lastly, the creation of Oslo hate crime unit in 2013 demonstrates that hate crime is also increasingly prioritized beyond the national level. While the Norwegian government has been criticized on several accounts for lack of a coordinated effort on hate crime¹⁰², these developments indicate that hate crime in general is to a certain extent increasingly the agenda within the criminal justice system.

3.3 Disability hate crime: under-reported and under-registered

Despite persons with disabilities' equal legal protection against hate crime together with measures taken to follow-up the law in practice, no cases of disability hate crime have thus far been registered by within the Norwegian justice system. A number of reports published by POD have found that the national number of hate crime cases registered in the police's criminal registration system BL/STRASAK has remained relatively stable over time, fluctuating between 216 and 307 between 2007 and 2014.¹⁰³ 'Race/ethnic origin' was by far the largest category all years in question, with 156 registered cases in 2014. The number of registered cases for 'sexual orientation' and 'religion' the same year were 38 and 28,

⁹⁷ Arnt Even Hustad, JBD [4] (See appendix 2)

⁹⁸ Justis- og beredskapsdepartementet 2014

⁹⁹ Barne- og likestillingsdepartementet 2009, p. 17

¹⁰⁰ Barne- og likestillingsdepartementet 2008, p. 41-42

¹⁰¹ Ingvild Hoel, POD [3]

¹⁰² See for example Likestillings- og diskrimineringsombudet 2015b, p. 29-39

¹⁰³ Politidirektoratet 2015; Politidirektoratet 2010

respectively.¹⁰⁴ The category ‘other’ was introduced in 2013, leading to 65 registered cases in the category the same year. However, in 2014 the number of registered cases under ‘other’ had been reduced to 6.¹⁰⁵ Comparatively, at the time of writing there are no known registered cases of hate crime against persons with disabilities nationally.¹⁰⁶ In addition to POD, Oslo police district (OPD) has for several years systematically collected statistical data on reported hate crimes. In 2015, the number of registered cases over doubled from 69 in 2014¹⁰⁷ to 143, with ethnicity and sexual orientation as the largest categories.¹⁰⁸ However, none of these were registered in the disability category.¹⁰⁹

This stands in stark opposition to the above-mentioned studies demonstrating that persons with disabilities are significantly more likely than the general population to experience violence or threats of violence, harassment, and abuse.¹¹⁰ Thus, a great deal of cases of disability hate crime are likely to not be adequately registered as such within the Norwegian justice system. While no exact figure on the size of the dark figures of disability hate crime currently exist, POD acknowledges that hate crimes are particularly underreported and that registration of hate crime by the police “*has clear limitations and will hardly be able to give a complete picture of [the] phenomenon*”.¹¹¹ In fact, as much as 30 percent of registered hate crime cases in 2014 were found to have been miscoded.¹¹² The Directorate’s population survey from 2012, while excluding disability as a motive, highlights the some of the limitations of the current registration practices more generally. In the survey, one percent of the population state that they have experienced hate crime.¹¹³ Only 38 percent of victims reported their experience to the police, making hate crime the

¹⁰⁴ Politidirektoratet 2015

¹⁰⁵ Ibid.

¹⁰⁶ POD 2015; Confirmed by the informant from POD

¹⁰⁷ Oslo politidistrikt 2015, p. 6

¹⁰⁸ Oslo politidistrikt 2016, p. 6

¹⁰⁹ While one case was registered in OPD in 2012, this was prior to initial incorporation of disability into the criminal code in 2013 (Oslo politidistrikt 2013, p. 37).

¹¹⁰ Schou et al. 2007; Ramm 2010

¹¹¹ Politidirektoratet 2015, p. 2 (translated from Norwegian)

¹¹² Ibid., p. 3

¹¹³ TNS Gallup & Politidirektoratet 2012, p. 54

least reported form of crime in the country.¹¹⁴ Interestingly, while the number increased to 53 percent in 2014¹¹⁵, the number of registered cases remained stable. While these numbers should be read with great precaution, particularly considering differing individual understandings of hate crime, they nevertheless highlight the registration errors in relation to hate crime within the Norwegian police.

As a result of this gap between the legal protection against hate crime combined with efforts to follow-up up the law in practice, and the absence of registered cases of disability hate crime, Norway is an interesting case for study of reception of disability hate crime in the criminal justice system. The aim of this thesis is to explore barriers within the Norwegian criminal justice system which lead to these dark figures by placing the empirical data in the context of a broader theoretical understanding of the societal processes leading to disability hate crime.¹¹⁶

¹¹⁴ Ibid., p. 66

¹¹⁵ Ipsos MMI and Politidirektoratet 2014, p. 21

¹¹⁶ See chapter 2

4 Methods

This chapter will present the methodological approach of the thesis. The main aim of the chapter is to attempt to provide a rationale behind the choice of methods as well as how they are applied.

The chapter is divided into five main parts. Firstly, I present qualitative single case study approach as the research design of the thesis. Secondly, I discuss the process of data gathering, including semi-structured interviews as the chosen method and issues relating to sampling and conducting the interviews. Thirdly, I discuss the data analysis process, before addressing issues of validity, reliability, and generalizability. The chapter ends with a brief reflection on ethical considerations.

4.1 Research design

In order to answer the research question, this thesis applies a single case study approach which is qualitative in nature. A full consensus on the exact definition of case studies is yet to emerge.¹¹⁷ I choose to define a case study as “*an empirical inquiry that investigates a contemporary phenomenon in-depth and within its-real context, especially when the boundaries between phenomenon and context are not clearly evident.*”¹¹⁸ Thus, case study design allows for detailed and intensive study of a particular situation.¹¹⁹ Disability hate crime still remains an understudied topic in a Norwegian context, making single case study an appropriate research design as a means to explore the topic in-depth at an initial stage. As a result, the current study falls within what Levy labels a *theory-guided case study*, an ideographic form of case study where the aim is to gain further empirical insight into a single case as an end in itself, while at the same time being explicitly structured by theoretical assumptions.¹²⁰ With this being said, in reality the study is a combination of deductive and inductive in nature, by constantly going back and forth between empirical

¹¹⁷ Gerring 2007

¹¹⁸ Yin 2009, p. 18

¹¹⁹ Bryman 2012, p. 66-68

¹²⁰ Levy 2008, p. 4

data and theory. Thus, the aim of the thesis is not to test a certain theory through use of empirical data, but to provide initial empirical research on registration of hate crime in Norway with interpretive guidance from the abovementioned theoretical perspectives. A theory-guided approach is preferred over an inductive or atheoretical approach, as interpreting findings in relation to theory and being explicit regarding one's theoretical assumptions has the potential to decrease logical contradictions and ease empirical validation.¹²¹ Thus, the thesis is firmly placed within an analytical paradigm.¹²²

When conducting case study research, it is important to define the specific unit of analysis. The unit of analysis can be everything from a group or organization to an event or a process, but should be limited by clear boundaries.¹²³ In order to operationalize the research question into an empirically researchable case, the unit of analysis in the current thesis is key officials within the Norwegian justice system working with hate crime at a specialized level. Thus, the case is limited to a specific group of actors and – with disability being added to parts of the criminal code in 2013 – a restricted timeframe.

There are three main justifications for the choice of unit of analysis, in addition to obvious resource constraints and practical accessibility. Firstly, while none of the informants in this study conduct the actual first-hand registration of hate crime cases, they are responsible for enabling police officers and prosecutors to register hate crimes properly.¹²⁴ Thus, it is intrinsically interesting to gain further insight into how hate crime specialists perceive the issue of registration of disability hate crime and its barriers, as they have the overall coordinating responsibility when it comes to the issue. Secondly, interviewing experts and specialists are particularly useful as a way of gaining fast access to a relatively unknown field at an exploratory stage of research.¹²⁵ Simply put, little is known regarding disability hate crime in Norway, and hate crime specialists are more

¹²¹ Ibid., p. 5

¹²² Hvidsten 2014

¹²³ Yin 2009

¹²⁴ The two informants from OPD's hate crime unit are the potential partial exception to this. However, while both informants receive hate crime cases from operational police and decide their further outcome, neither are responsible for the initial registration of the cases.

¹²⁵ Bogner et al. 2009, p. 2

likely to have reflected more on the issue of hate crime than operational police. Lastly, the case of hate crime specialists is chosen for its benefits of having elements of being a *critical case*, as it has the strategic importance of being the most likely to produce the greatest degree of knowledge.¹²⁶ As key hate crime officials are the most likely group within the justice system to have in-depth knowledge on disability hate crime and registration barriers, any barriers to registration at this level is likely to be equally applicable to other parts of the justice system.¹²⁷

4.2 Data collection: semi-structured interviews

The chosen method for data gathering in this thesis is semi-structured interviews, which is open and flexible in nature, but at the same time follows a set of themes pre-decided by the interviewer.¹²⁸ Semi-structured interviewing is particularly useful as a method for gaining further insight into people's understanding of the world from their own perspective.¹²⁹ As the aim of the research question is to understand processes and barriers within the Norwegian justice system, internal accounts and experiences from key individuals working with hate crime within the justice system through interviews is appropriate. I have chosen to interview individuals working within public authorities as registration of disability hate crime within the justice system arguably at a minimum relies on adequate treatment and knowledge on the issue by those working within it.¹³⁰ Moreover, as disability hate crime is a fairly new issue on the policy agenda in a Norwegian context, publicly available data remains relatively scarce. Thus, interviewing is a fitting form of method, as this allows for capturing more informal processes not accessible elsewhere.¹³¹

¹²⁶ Flyvberg 2006

¹²⁷ See also 4.4

¹²⁸ Bryman 2012, p. 471

¹²⁹ Kvale and Brinkmann 2009, p. 21

¹³⁰ While the options to study frontline police officers' perceptions or victims of disability hate crime's experiences with the justice system were initially explored, these ideas were eventually deemed beyond the resources and time frame of this thesis

¹³¹ Beyers et al. 2014, p. 176

4.2.1 Sampling

In order to find an appropriate sample for the case, I conducted *purposeful sampling* based on systematic assessments of which units are the most theoretically and analytically relevant.¹³² Based on an initial review of police reports, official documents and media articles on hate crime, the main public institutions within the field of hate crime in Norway, as well as potential informants, were identified. Following initial contact with some of the initial informants, the list of potential informants was slightly altered and expanded in accordance with recommendations of new informants. Thus, purposive sampling was supplemented with *snowball sampling* in order to locate information-rich key informants through the recommendation of initial informants.¹³³ Several of the names recommended by initial informants eventually ended up as informants. Throughout the study, several of the informants ended up referring to each other, indicating that the sample of informants represent some of the key professionals working with hate crime within the Norwegian justice system.

I interviewed five practitioners working with hate crime in the Norwegian justice system at a specialized level. Three of the informants work with hate crime at OPD, while two informants work with hate crime nationally.¹³⁴ In order to attempt to gain different perspectives and experiences, informants were gathered from different echelons within the justice system. Two of the informants work with hate crime at an investigative level at Oslo police district's hate crime unit at Manglerud. The final informant from Oslo police district works with hate crime strategically within the police district. Informants from Oslo police district were chosen specifically due to the fact the police district is the only one in Norway with its own specialized hate crime unit. Thus, specialized knowledge from informants from OPD is particularly interesting. Lastly, two informants work with hate crime at a national level, one at the National Police Directorate, and one at the Ministry of Justice and Public Security. Both these informants have hate crime as one of their specialized areas,

¹³² Grønmo 2004, p. 88

¹³³ Patton 1990, p. 176

¹³⁴ See appendix 2 (For the remainder of the thesis, the informants will be referred to by their corresponding number in the appendix rather than their names, unless expressly stated otherwise)

and among other matters work with the follow-up of national measures on hate crime and coordination of the various police districts. An attempt was made at interviewing an informant from the Office of the Director of Public Prosecutions, but this unfortunately proved fruitless. As accessibility to expert informants can be particularly difficult, I actively attempted to motivate and convince potential informants reluctant to participate by pointing out the need for their particular expertise.¹³⁵

4.2.2 Conducting the interviews

The interviews were all conducted in February-March 2016 at the informants' respective places of employment in Oslo, and lasted between 45 minutes to 1 hour and 20 minutes. Additionally, some follow-up questions were conducted via phone in the aftermath with some of the informants.

Prior to conducting the interviews, the research question was operationalized into an interview guide. As the research question is open-ended in nature, both questions regarding the informant's own perceptions as well as factors of a more organizational nature were explored in the interview guide.¹³⁶ Additionally, the contents of the interview guide were shaped by expectations from previous research and theoretical perspectives, as well as in-depth study of relevant documents and reports on the issue. The initial interview revealed the need for certain changes to the interview guide, as not all questions worked as planned. The changes included alteration and combination of certain questions, changing the order of certain questions, and removal and adding questions. These alterations improved the remainder of the interviews conducted. In order to gather data on the issues not covered in the initial interview, follow-up questions were made with the informant via phone. This reflects the perspective that the researcher should remain flexible and continuously adapt to new situations in the field.¹³⁷

¹³⁵ Beyers et al. 2014, p. 184

¹³⁶ See appendix 1

¹³⁷ Rubin and Rubin 2005

4.3 Data analysis: thematic analysis

For purposes of more formal analysis of the data, I have used *thematic analysis*. While thematic analysis is an analytical method which is not clearly delineated¹³⁸, it can be defined as “[a] method for identifying, analysing and reporting patterns (themes) within data”.¹³⁹ Thus, thematic analysis allows the researcher to organize the data into overall themes, which are analyzed and interpreted in order to answer the research question. Themes can be understood as conceptual linking of expressions into abstract constructs.¹⁴⁰ While the technique of searching for themes is well-developed in a number of more established qualitative data analysis methods, such as grounded theory and interpretive phenomenological analysis (IPA), most of these methods tend to be purely data-driven rather than theory-driven in nature. In contrast to these methods, thematic analysis is not affiliated to any particular theoretical or epistemological tradition, and as a result is more flexible in its approach.¹⁴¹ Due to fact that this study falls within an analytical epistemological tradition¹⁴², a theoretically guided approach is chosen which conducts a more focused analysis of aspects of the data of analytical interest.

I have applied Braun and Clarke’s six-phased approach to thematic analysis, which aims to move from initial ideas to searching for and developing analytical patterns in the data, while at the same time working recursively by going back and forth throughout the phases.¹⁴³ I started transcribing the interviews immediately after concluding each interview. All interviews were conducted in Norwegian, and consequently any citations included in the following chapters have been translated into English. After each transcription, I immersed myself in the data by repeatedly reading the entire data set in an active manner, and noted down initial ideas. Based on these readings, I generated a list of initial codes at the most basic level and collated the relevant data material into them. Thus, the coding was conducted through combination of *concept-coding* and *data-driven coding*, in order to

¹³⁸ Bryman 2012, p. 578

¹³⁹ Braun and Clarke 2006

¹⁴⁰ Ryan and Bernard 2003, p. 87

¹⁴¹ Braun and Clarke 2006, p. 97

¹⁴² See 4.1

¹⁴³ Braun and Clarke 2006, p. 86

allow being guided by the theory and research question while at the same time being grounded in the data itself.¹⁴⁴ At this point, the coding software program NVivo¹⁴⁵ was used for the remainder of the data analysis in order to ease the process. Following this, I started looking for initial overarching themes by sorting and combining the different codes and connected data extracts, and thinking about relationships between them. Mind-mapping was used as a technique in this regard. The candidate themes were then reviewed by checking them against the coded data extracts, as well as the entire data set, through aiming to ensure both *internal homogeneity* (coherence within themes) and *external heterogeneity* (clear distinction between the themes).¹⁴⁶ After altering, combining, dividing up and removing certain candidate themes, a final thematic map with a theme and sub-themes were created. Furthermore, I identified the ‘essence’ of each separate theme as well as all the themes together, and assigned names to each theme and sub-theme. The final outcome of the thematic analysis revealed one main theme, with three sub-themes.¹⁴⁷ Finally, I produced a final analysis of the data by producing the report in the following chapter, relating the findings back to the research question, previous literature and theory.

The overall guiding principle in finding themes was general relevance to the research question. More specifically, three main techniques were used: identification of *repetition* of instances within and across interviews¹⁴⁸, looking for *similarities and differences* in the data¹⁴⁹, and identification of *theory-related material*.¹⁵⁰

4.4 Validity, reliability and generalizability

Two criteria are commonly used to assess data material in scientific research: validity and reliability.¹⁵¹ Reliability refers to the degree of consistency in the research, and whether the

¹⁴⁴ Gibbs 2007, p. 45-46

¹⁴⁵ A qualitative data analysis computer software program for coding and systematization of unstructured and non-numerical data

¹⁴⁶ Patton 1990

¹⁴⁷ See figure 5.1; These themes will be discussed further in the following chapter

¹⁴⁸ Ryan and Bernard 2003, p. 89

¹⁴⁹ Ibid., p. 91; This is similar to the “constant comparison method” found in grounded theory (Glaser and Strauss 1967, p. 101-116)

¹⁵⁰ Ryan and Bernard 2003, p. 93-94

¹⁵¹ Adcock and Collier 2001

same findings would be replicable should the research project be repeated by other researchers in the future.¹⁵² Due to the flexibility and complexity of qualitative research, this will often prove difficult. According to Moisander and Valtonen, the best way to strengthen reliability is to be transparent about the research process and the theoretical stance of the research.¹⁵³ As such, in this chapter I have attempted to allow for replicability of the research by presenting the methods applied in relation to data gathering and analysis in detail, while the theoretical stance was presented in chapter 2. Both the interview guide and list of informants are provided as attachments for potential future use. However, the study is not without reliability weaknesses. Firstly, pre-testing the interview guide and comparing analysis of the same data by different researchers, while being a valuable way of ensuring reliability in interviews¹⁵⁴, was deemed infeasible due to resource constraints. Secondly, a potential issue in interviewing experts is the asymmetric relationship between informant and researcher. Thus, careful preparation is of key importance.¹⁵⁵ In order to address such asymmetry and strengthen my own role as a credible researcher, I spent considerable time prior to the interviews immersing myself in the issue by reading reports, media articles, and previous research.

Validity can be defined as the degree to which the findings accurately represent the social phenomena they are meant to measure.¹⁵⁶ As the informants all have a great degree of specialized knowledge on the topic of hate crime within the justice system, the accounts given are likely to provide a relatively accurate depiction of the situation of disability hate crime registration. However, a potential weakness of the thesis is that while the research question aims to study barriers to registration of disability hate crime in the Norwegian justice system as such, in reality a great deal of the findings reflect the informants' own thoughts regarding the perceptions of other actors within the justice system. Thus, there is a danger that the findings might incorrectly measure the informants' inaccurate ideas of the thoughts and understandings of third parties. Nevertheless, by placing the findings into a

¹⁵² Silverman 2006, p. 282

¹⁵³ Moisander and Valtonen 2006

¹⁵⁴ Silverman 2006, p. 286

¹⁵⁵ Beyers et al. 2014; Kvale and Brinkmann 2009, p. 158-159

¹⁵⁶ Hammersley 1990, p. 57

larger scholarly context, the probability of the accuracy of the findings is arguably increased. Validity in qualitative research largely rests on intersubjective agreement within the research community.¹⁵⁷ As is evident in the subsequent chapter, several aspects of the findings in the current study are largely consistent with results from previous research, and are thus more likely to be valid than if this was an isolated research project.

One limitation with single case studies is that generalizing the findings to a larger population is often considered difficult.¹⁵⁸ The perceptions and opinions of hate crime specialists do not necessarily reflect the situation in the remainder of the justice system as such, particularly considering the small sample of the thesis. Nevertheless, this is not to say that the certain aspects of the present case are without relevance beyond the particular case. Particularly, the use of a critical case could potentially allow for some *logical generalizations* in the form of “*if it doesn’t happen there, it won’t happen anywhere*”.¹⁵⁹ Naturally, specialists are likely to work the most with and have the highest level of knowledge about hate crime in the country. Consequently, if the disability hate crime is poorly understood and responded to at specialized levels of the justice system, the situation is unlikely to be any better in other parts of the justice system.

4.5 Ethical considerations

As is evident from the research guide, all informants were informed about the aim of the research, issues of consent, as well as anonymization prior to each interview.¹⁶⁰ The informants all agreed to have their interviews recorded. The informants were given the opportunity to be anonymized, but all informants chose to be identified with full name and title. While the topic of hate crime is of a sensitive nature, this is less of an issue in interviewing individuals working with the topic on a professional level rather than victims of crime. Thus, no major ethical issues were encountered during the course of the research. As personal data were collected and subsequently published in this thesis, the research

¹⁵⁷ Kvale and Brinkmann 2009, p. 258

¹⁵⁸ Bryman 2012, p. 69

¹⁵⁹ Patton 1990, p. 174-175

¹⁶⁰ See appendix 1

project has been registered with and approved by the Data Protection Official for Research at the Norwegian Centre for Research Data (NSD). All audio recordings and interview transcriptions were deleted following submission of the thesis.

5 Empirical analysis: Disability hate crime as unimaginable

*Racially motivated violence is so well-established.
But hatefully motivated violence against persons
with disabilities? That is more difficult to imagine.¹⁶¹*

The current chapter presents and discusses the findings from the thesis' empirical data collected through semi-structured interviews. In order to address why hate crime against persons with disabilities fail to get registered within the Norwegian criminal justice system, the findings have through use of thematic analysis been structured into an overarching theme with three sub-themes by both being grounded in the empirical data and guided by theoretical perspectives. As discussed in chapter 2 on theory, in order to fully understand disability hate crime and barriers to registration within the justice system it is crucial to go beyond an individualistic approach to one that explores the phenomenon in relation to wider societal structures.

The chapter is divided into two main parts. It starts with presentation and discussion of the overarching theme of the chapter: that hatred towards persons with disabilities is seen as unthinkable within the justice system. This is evident through three identified sub-themes within the empirical data, which structures the remainder of the chapter, each divided into their own sub-section: a focus on vulnerability rather than hate, a lack of societal focus on disability hate crime, and a lack of understanding of disability-specific victimization. Lastly, a final summary of the findings and concluding remarks will be made together with potential limitations of the study and suggested improvements.

5.1 Unthinkable hatred

One of the overarching statements made by informants was that police officers and prosecutors experience difficulty in recognizing and identifying disability hate crime. All informants were of the perception that this difficulty is rooted in an overall disbelief that hatred of persons with disabilities is even possible. Exactly how this difficulty was

¹⁶¹ Arnt Even Hustad, JBD [4]

articulated differed between the informants. While some of the informants limited their discussion of this disbelief in relation to the justice system in general¹⁶², others also expressed their own personal difficulty in imagining hatred of persons with disabilities.¹⁶³ One informant continuously reflected on his own struggle with this issue throughout the interview:

I find it very difficult to identify. I find it very difficult to grasp. [...] I cannot imagine... Where would that occur? Where are the dark figures connected to persons with disabilities, as such? [...] I cannot imagine on what arenas...under what circumstances it occurs. I cannot imagine someone sitting in a wheelchair and being mistreated or threatened because the individual has a disability...¹⁶⁴

While not all of the informants expressed the same amount of personal skepticism and difficulty imagining disability hate crime themselves, the above quotation demonstrates the overall theme which runs through a great deal of the empirical data: that hatred of persons with disabilities is met with disbelief. The findings of the present chapter indicate that the overall disbelief of hatred of persons with disabilities within the justice system more specifically stems from three main issues, which each represent a distinct sub-theme.¹⁶⁵ Firstly, rather than potential objects of contempt, persons with disabilities have a tendency to be perceived as vulnerable and ‘defenceless persons’, which have been victims of opportunistic crime. Secondly, as persons with disabilities are less established in society as victims of hate crime than other protected groups, disability hate crime is not likely to be thought of as an issue that requires attention by the justice system. Thirdly, several of the informants showed an insufficient understanding of disability-specific victimization and challenges. As will be demonstrated throughout this chapter, these barriers are all rooted in a lack of understanding of the societal processes which perpetuate disability hate crime in the first place.¹⁶⁶ Consequently, disability hate crime becomes unfathomable and invisible for professionals within the justice system and, as a result, not registered as such. The three sub-themes will each be dealt with respectively in the following sections.

¹⁶² [1,2,5]

¹⁶³ [3,4]

¹⁶⁴ [4]

¹⁶⁵ See figure 5.1

¹⁶⁶ See chapter 2

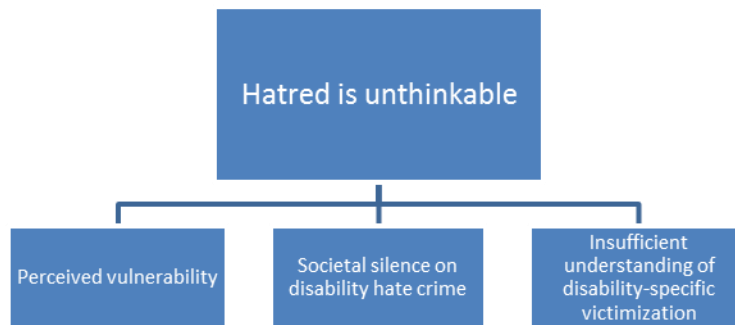


Figure 5.1: Thematic map of main theme and sub-themes identified in interview data

5.1.1 In the shadow of vulnerability

Perhaps the most unanimously agreed upon theme among the informants concerned perceived vulnerability. All informants agreed that crime against persons with disabilities is much more likely to be framed by police officers and prosecutors as opportunistic crime against ‘easy victims’ compared to other protected groups. Several of the informants related this perceived individual vulnerability to broader paternalistic ideas and expectations of disability in society, where persons with disabilities is seen by many as a group which “everyone loves” rather than objects of hate¹⁶⁷, and where persons with disabilities who have been victims of crime tend to be pitied.¹⁶⁸¹⁶⁹ In such an environment, hatred of ‘vulnerable’ persons with disabilities becomes “too evil” to be imaginable:

I think almost it is so trivial that you don’t want to... because it seems so irrational and evil, frankly. For most of us it seems so fundamentally wrong that we have difficulty to believe that anyone can be motivated by [hate] without there being some other reason for [the perpetrator] being provoked or that he wanted to achieve something else.¹⁷⁰

Thus, as persons with disabilities are seen to be targeted as a result of their individual vulnerability, cases of harassment, violence, and abuse against the group is considered to

¹⁶⁷ [2]

¹⁶⁸ [3]

¹⁶⁹ See also 5.1.2

¹⁷⁰ [5]

be ‘senseless’ rather than hateful.¹⁷¹ Such an understanding of disability hate crime as extreme acts against vulnerable subjects arguably creates an image of hate crime against persons with disabilities as abnormal acts committed by deranged individuals, ignoring the societal embeddedness of such crime.¹⁷² As a result of this, according to some of the informants, the justice system is unwilling to explore underlying hatred and instead look for alternative and more “rational” accounts of the motive.¹⁷³

Perhaps the most likely alternative legislative avenue for categorizing crime against persons with disabilities within this understanding is section 77(h) in the Penal Code of 2005, which provides aggravated circumstances for crimes committed against “defenceless persons”.¹⁷⁴ Because crime against persons with disabilities are often understood as senseless crime against vulnerable individuals, a majority of the informants found it likely that many cases of hate crime against persons with disabilities are in fact registered by the justice system, but categorized and prosecuted under section 77(h).¹⁷⁵ Karterud at Oslo’s hate crime unit attributes this to the fact that section 77(h) is often easier to successfully prosecute in court than a hateful motive:

... that is what I think is happening a lot in these cases, because it is very easy to succeed with in court. If for example a person in a wheelchair is attacked it is obviously against a ‘defenceless person’. But it is harder to prove that it was a hateful motive. And then [the prosecutors] choose ‘defenceless person’ and attain aggravated circumstances [...], and are in a way content with that.¹⁷⁶

Additionally, some of the informants were of the perception that many cases of disability hate crime most likely lack the necessary objective evidence of establishing a hateful motive, such as derogatory acts or statements needed for successful prosecution.¹⁷⁷ As argued by one of the informants, the use of section 77(i) in turn sends a signal to operational police not to register disability hate crime, as police officers only register what

¹⁷¹ Quarmby 2008

¹⁷² Levin and Nolan 2010

¹⁷³ [4,5]

¹⁷⁴ Penal Code of 2005, para. 77(h)

¹⁷⁵ [1,4-5]

¹⁷⁶ [5]

¹⁷⁷ [2,5]

they perceive to be likely to be relevant for further prosecution.¹⁷⁸ While no legislative document on hate crime explicitly states that targeting defenceless persons and disability hate crime are mutually exclusive per se, the preparatory works to the Penal Code of 2005 states that ‘defenceless persons’ under section 77(h) could encompass, *inter alia*, “*victims with high or low age, and mental or physical illness or handicap.*”¹⁷⁹ The informants all emphasized the importance of distinguishing between hate crime and opportunistic crime. None of the informants discussed the opportunity of exploring disability hate crime as driven by both a hateful motive and targeting of a ‘defenceless person’ as such. Arguably, such a perceived dichotomy between vulnerability and hate risks ignoring many cases of disability hate crime.¹⁸⁰ In fact, rather than opposing entities, hatred and ideas of vulnerability are likely to go hand-in-hand in disability hate crime through contempt of weakness.¹⁸¹

On the other hand, while a principal distinction between hate and opportunism was emphasized, the informants all problematized automatically framing crime against persons with disabilities as opportunistic crime against vulnerable subjects, as this fails to explore the potential underlying societal prejudice behind such crime. However, several of the informants found the boundaries between hate and vulnerability to be more difficult to balance in practice.¹⁸² The experiences of Oslo’s hate crime unit illustrate this:

When it comes to robbery of someone in a wheelchair [...], we do not even agree entirely how to deal with that. Does one think that the person is an easy victim, so that it is the gains that are the motive [...], and it is not because you have a hateful or negative attitude towards persons with disabilities? And principally, if you look at it in a strict sense, that falls outside of our definition.¹⁸³

As evident from the above quotation, the informant draws a distinction between opportunistic crime and hate crime as opposites. However, the informant also expressed great uncertainty and internal disagreement within the hate crime unit regarding how to

¹⁷⁸ [4]

¹⁷⁹ Ot.prp.nr. 8 (2007-2008), p. 271 (Translated from Norwegian)

¹⁸⁰ Mason-Bish 2013; Roulstone and Sadique 2013

¹⁸¹ See 2.3

¹⁸² [1-3,5]

¹⁸³ [1]

deal with cases involving apparent opportunism.¹⁸⁴ Thus, the issue is not only that persons with disabilities are perceived as vulnerable within the justice system, but that the relationship and balance between hate and perceived vulnerability is often difficult to draw in practice.

At the same time, the informants from OPD expressed an openness to explore hateful motives behind apparent opportunism, particularly in cases where persons with disabilities are systematically and consciously targeted because they are perceived to be defenceless or ‘easy targets’.¹⁸⁵ As a result, Oslo hate crime unit has decided to take on future hate crime cases concerning persons with disabilities that might initially seem like opportunistic crime:

Our strategy now is to start to have a little more of an open mind in relation to this, and maybe take on some cases which we immediately a year ago would have said that “this does not immediately seem like hate crime”. [...] We have to try and fail a little bit to find out where the boundaries go.¹⁸⁶

This among other things shows an acknowledgement of vulnerability often merely creating an opportunity to express underlying hatred.¹⁸⁷ As discussed previously, in order to register disability hate crime it is often necessary to go beyond immediate motives surrounding individual vulnerability and personal gain, and start exploring underlying societal prejudice, such as contempt of perceived vulnerability.¹⁸⁸ However, while such exploration of deeper societal prejudice is commendable, the informants all struggled with understanding the exact boundary between hate and vulnerability. Consequently, if professionals working with hate crime at a specialized level find this balancing difficult, this is not likely to be any less of a case for operational police that are forced to be more concrete in their work.

In summary, a focus within the justice system on perceived vulnerability rather than hatred, defines disability hate crime as an individual problem of the victim rather than one

¹⁸⁴ [1]

¹⁸⁵ [1-2,5]

¹⁸⁶ [5]

¹⁸⁷ Waxman 1991

¹⁸⁸ See 2.3

rooted in societal prejudice.¹⁸⁹ Such a construction of the issue risks incorrectly focusing on the perceived physical attributes and weaknesses of the victim's impairments, which often lead to disability hate crime in the first place, rather than the crime committed.¹⁹⁰ Thus, underlying societal prejudice against persons with disabilities embodied in the perpetrator is ignored, in turn making hatred of persons with disabilities unfathomable within the justice system.

5.1.2 Societal silence on disability hate crime

A second factor leading to the inconceivability of disability hate crime concerns the impact of societal context on registration of hate crime. Several of the informants were of the impression that as the traditional understanding of hate crime in society revolves around ethnicity, sexual orientation, and religion, police officers are naturally more aware of hate crime against those groups.¹⁹¹ As a result, for many professionals within the justice system recognizing hate crime towards the other protected groups is likely to be easier than towards persons with disabilities.¹⁹² The informants all stressed the importance of the broader societal discourse on hate crime on how the justice system works with the issue within the justice system. Even though police officers are trained to protect the law, their attitudes also to a large extent reflect attitudes in the general population.¹⁹³ While hate crime against the other protected groups are frequently discussed in society, this is not the case for persons with disabilities. As a result, police officers do not look for such hate crime:

...it is more talked about, especially racially motivated hate crime or islamophobia [...]. I mean, when did you last time read an article about hate crime against persons with disabilities? [...] So it is not even something we are discussing – it is non-existent. And then police officers do not recognize it either¹⁹⁴

¹⁸⁹ See 2.2.1

¹⁹⁰ Harpur and Douglas 2014, p. 413; Sin 2013; See also 2.3

¹⁹¹ [1-2,4-5]

¹⁹² [1-2,4-5]

¹⁹³ [3,4]

¹⁹⁴ [2]

Thus, whereas hate crime in general is regularly discussed both in the media and the general public, the societal silence surrounding hatred of persons with disabilities is likely to create an environment wherein disability hate crime is not thought of within the justice system either. Consequently, disability hate crime becomes difficult to imagine for police and prosecutors. As disability hate crime is rooted in seemingly ordinary societal processes such as everyday ‘disablism’¹⁹⁵ and often occurs in subtle and hidden circumstances¹⁹⁶, victimization of persons with disabilities is normalized and more ‘tolerated’ in society than contempt towards the other protected groups.¹⁹⁷ In fact, ‘disablism’ does not even exist as a word in the Norwegian language. Arguably, practitioners within the justice system are part of the same societal structures and processes which perpetuates and permits disability hate crime, and are therefore unlikely to see beyond these processes. In fact, one of the informants felt that persons with disabilities were “*a little outside of the ‘core groups’ of the hate crime provisions*”, and consequently questioned whether in practice a higher threshold is required to constitute disability hate crime than for other protected groups.¹⁹⁸ Such internal prioritization between the protected groups risks leading to a victim hierarchy within the justice system with persons with disabilities at the bottom.¹⁹⁹

Additionally, several of the informants pointed to the fact that hate crime on basis of race, religion, and sexual orientation is likely to be at the front of police officers mind when thinking of hate crime simply because the legal protection against hate crime for said groups has existed for a longer period of time, and is therefore more ‘established’.²⁰⁰ In contrast, the legal protection against hate crime for persons with disabilities still remains recent, and, as a result, many police officers remain unaware that disability has been added as a protected group. As stated by one of the informants:

¹⁹⁵ Quarmby 2008, p. 8

¹⁹⁶ Waxman 1991

¹⁹⁷ See 2.3

¹⁹⁸ Mason-Bish 2013

¹⁹⁹ [4]

²⁰⁰ [1-3,5]

Disability is the latest protected group that was added, so perhaps people think of racism and maybe sexual orientation [when they think about] hate crime. So that it takes a little time before it sinks in. [...] I don't think it is that well-known that disability is included.²⁰¹

Thus, hate crime against other groups is more established as something that requires registration than hate crime against persons with disabilities. According to the informant, police officers are particularly likely to fall back to traditional media discourse of the "core" victim groups of hate crime if they have yet to receive training on the issue.²⁰² Other informants similarly were of the opinion that the legal protection against hate crime has not yet "sunken in" to police officers' minds, and that this is something that will improve over time as the societal understanding of hate crime adapts to the changes.²⁰³ Consequently, while hate crime in general and hatred towards the "core" groups has been constructed as a social problem in Norway²⁰⁴, this is arguably yet to fully occur within the justice system for persons with disabilities.

As a result of disability hate crime not being discussed in society, little practical efforts are being done to address the issue within the justice system. The majority of the informants stated that they work significantly less with disability hate crime than hate crime against other protected groups, and that the work that is done remain largely inadequate.²⁰⁵ With the absence of practical cases, a great deal of the informants' work on disability hate crime is limited to cooperation and dialogue with civil society. All informants receive input and participate in regular meetings on hate crime with NGOs representing the various protected groups, as part of a network against hate crime coordinated by LDO. This includes Stopp Diskrimineringen (SD), a disabled people's organization (DPO) which works extensively on disability hate crime.

Admittedly, Oslo police district is increasingly placing disability hate crime on the agenda. The informants from the police district have been vocal in the media on disability hate crime, held presentations on the issue for DPOs, conducted a training seminar on hate

²⁰¹ [1]

²⁰² [1]

²⁰³ [2-3]

²⁰⁴ Bruknapp 2009

²⁰⁵ [1,3-5]

crime where persons with disabilities were one of the groups covered, and discussed the issue at length internally.²⁰⁶ However, disability-specific efforts are more scarce nationally. According to the informant from POD, little work is done within the Directorate specifically on persons with disabilities as a group, as POD largely works with hate crime in general terms rather than working specifically in relation to the protected groups as such.²⁰⁷²⁰⁸ No specific measures are currently planned in relation to persons with disabilities at JBD²⁰⁹ or at ODPP²¹⁰. This stands in stark contrast to the group-specific measures taken for several of the other protected groups.²¹¹ One informant was of the impression that apart from the hate crime unit “*I have yet to hear any key politicians or individuals working within the police force [...] highlight hate crime against persons with disabilities as a prioritized issue*”.²¹² The informant connected this to the lack of discussion of disability hate crime in society.

Additionally, several of the informants emphasized the importance of pressure from civil society organizations in placing hate crime on the national agenda within the justice system.²¹³ At the time of writing, Stopp Diskrimineringen is one of the few national DPOs currently working on hate crime. Whereas civil society organizations representing sexual minorities²¹⁴, ethnicity²¹⁵ and the Jewish community²¹⁶ each have created their own online reporting solutions together with extensive amounts of publically available information regarding hate crime, no similar information or initiatives exist for DPOs. In fact, according to one informant, several major DPOs she had been in contact with

²⁰⁶ [1,2,5]

²⁰⁷ [3]

²⁰⁸ The exception to this is LGBT in relation to coordination of Rosa Kompetanse Justis (see below) as well as the abovementioned communication with NGOs. Additionally, a national training seminar on hate crime planned to take place during 2016 will cover disability as one of the protected groups

²⁰⁹ [4]

²¹⁰ Confirmed through email correspondence with the Office of the Director of Public Prosecutions 18.03.16

²¹¹ See chapter 3.2

²¹² [2]

²¹³ [1-4]

²¹⁴ Landsforeningen for lesbiske, homofile, bifile og transpersoner (No date)

²¹⁵ Antirasistisk senter (No date)

²¹⁶ Det mosaiske trossamfunn (No date)

fundamentally lacked knowledge regarding the meaning of hate crime as a term.²¹⁷ The informant from JBD directly attributed the absence of work on disability hate crime within the Ministry of Justice and Public Security to stronger pressure and lobbying on hate crime from interest organizations representing other protected groups:

LLH²¹⁸ is very resourceful [...], and the same for [interests organizations representing] ethnically motivated hate crime. But I do not think... there have not been any strong voices out there which have highlighted hate crime against persons with disabilities.²¹⁹

According to the same informant, other interest groups have stronger “lines of influence” into the Ministry when it comes to hate crime than DPOs.²²⁰ The National Association for Lesbian, Gay, Bisexual and Transgender People (FRI) has placed hate crime high up on its agenda, and as a result has been instrumental in bringing attention to the issue in Norway.²²¹ In relation to the justice system, FRI runs *Rosa Kompetanse Justis*, a project funded by JBD which aims to increase competence of LGBT-specific challenges within the justice sector, including those relating to hate crime.²²² Such initiatives are likely to increase attention to hate crime against sexual minorities as an issue that requires attention within the justice system. In fact, pressure and agenda-setting from resourceful civil society organizations under the right conditions significantly increases the likelihood of hate crime being registered within the justice system.²²³ Thus, if disability hate crime is not prioritized by DPOs as a key issue that requires attention, this is not any more likely to be the case within the criminal justice system.

Moreover, there are certain signs of a general lack of national follow-up to ensure registration of disability hate crime in practice following the initial inclusion of disability into the criminal code’s hate crime provisions in 2013. Firstly, disability was not added as a category within the criminality registration system until April 2015, almost two years after persons with disabilities were added as a protected ground in the criminal code. As a result,

²¹⁷ [2]

²¹⁸ Now known as FRI

²¹⁹ [4]

²²⁰ [4]

²²¹ Bruknapp 2009

²²² [2-3]

²²³ Mcveigh et al. 2003

any cases of hate crime against persons with disability would be have to be manually placed into the category ‘other’ up until this point.²²⁴ One of the informants attributed the long waiting-period before disability was added to the registration system to a general institutional inertia within the justice system:

The question is almost why it happened so quickly. It ‘only’ took one and a half year. So that is how it is. And it was because Ingvild [at POD] really did not give up. She worked tirelessly to change that category, and she did not give up. ‘No. It has to happen. And it has to happen now.’ So the question is not why it took such a long time...²²⁵

Thus, only after initiative from the hate crime unit together with one of the few individuals working with hate crime within POD, was disability hate crime registered as a distinct category in the system. Other informants attributed the delay to the fact that “*no one worked with it*”.²²⁶ Lillebakken from Oslo hate crime unit expressed frustration at the general lack of national coordination from POD and JBD on hate crime in the period following the creation of the unit in 2014:

When we started up very few of us knew... we tried to seek knowledge in other parts of the police. Only a few of us really knew anything about it. We assumed that at least there was someone above us which could tell us what kind of cases to take on, and we were more or less just told to stick to the core issues and take the clear cases first. To start somewhere.²²⁷

As Oslo hate crime unit is the first of its kind nationally, limiting its work to “clear cases” and “core issues” during the initial phase seems appropriate. However, one might question whether being told to prioritize the most obvious cases might lead to placing the other protected groups first on the agenda. This seems particularly likely since, as demonstrated above, hate crime against the other protected groups is often considered easier to recognize than disability hate crime. Arguably, such language implicitly sends a signal from the national leadership to prioritize more visible and clear-cut cases, such as racially motivated violence and hateful threats against LGBT persons, rather than more “unclear” hate crimes committed against persons with disabilities. Thus, the justice system shows signs of

²²⁴ [1-2]

²²⁵ [2]

²²⁶ [1,5]

²²⁷ [1]

institutional inaction to register and prevent disability hate crime systematically on a national level.²²⁸ Consequently, initiatives to address disability hate crime are largely left to individuals within the justice system with particular awareness of the issue – such as Oslo hate crime unit.²²⁹ Thus, when disability hate crime is not placed on the agenda by national leadership within the justice system, the issue is not likely to be seen as a problem that the police needs to register.

5.1.3 Lack of understanding of disability-specific victimization

A final source of disbelief of hatred against persons with disabilities within the justice system is an insufficient understanding of disability-specific victimization. As a result of the abovementioned societal silence on disability hate crime compared to other groups, it was not only difficult for some of the informants to acknowledge that disability hate crime occurs in the first place, but also more fundamentally understand what it is.²³⁰ One informant expressed that while he has the mental tools for understanding the boundaries of homophobic and racial hatred, these are lacking for hatred against persons with disabilities:

... for persons with disabilities I have no clue. And I think that is because the phenomenon does not have a set wall to play against. It is like playing football without any kind of marking. [...] While when it comes to hate crime against homosexuals I see where we are on the court a lot more clearly. [...] I don't know enough. I don't know the terrain. I don't know where we are on the court.²³¹

As is evident from the above quotation, the informant is at a loss of knowing exactly *what* to look for. He does not “know the terrain”. Interestingly, the informant more easily regarded hatred as possible when persons with disabilities also belong to other protected groups.²³² Another informant struggled with understanding the exact meaning of a hateful motivation against persons with disabilities in a legal sense.²³³ This demonstrates a general lack of a frame of reference for understanding the nature of disability hate crime and what

²²⁸ Equality and Human Rights Commission 2011, p. 111-112

²²⁹ This is also evident from the informants from OPD's ambitions of taking the initiative to start testing “unclear” cases in the courts (See 5.1.1)

²³⁰ [3,4]

²³¹ [4]

²³² [4]

²³³ [5]

it looks like. One potential explanation for this this is that hate crime is understood in more conventional terms as overt attempts at subordination of minority groups.²³⁴ While other protected groups might fit better into this ‘terrain’, hatred towards persons with disabilities is likely to occur in more subtle and hidden forms than towards other groups – and thus be less apparent.²³⁵ While all informants were open to the possibility that harassment, abuse, and violence against persons with disabilities occurring in private settings could be considered hate crime, for several of the informants the existence of a hateful motive underlying victimization in institutional settings were considered more difficult to imagine.²³⁶ This might be attributed to intrusive treatment being more tolerated in care situations as a result of expectations of persons with disabilities as vulnerable, dependent, and grateful rather than autonomous agents.²³⁷ As a result, forms of contempt particularly likely to affect persons with disabilities are left unexplored by the justice system.

The uncertainty regarding disability hate crime also manifested itself among the informants as an uncertainty regarding the boundaries of persons with disabilities as a minority group. Karterud at Oslo hate crime unit felt that a great deal of legal ambiguity regarding the exact definition of disability still remains:

... I mean, you have the legal protection, but it is a little unclear who really falls within it. [...] So I think that with the naked eye it appears as a clear weakness that it is not ... it is very vaguely defined who is regarded to have a disability. That is a problem.²³⁸

Disability is only briefly defined in the preparatory works to the new criminal code, and the document refers to the Anti-Discrimination and Accessibility Act for further interpretation of the term.²³⁹ The informant particularly pointed out the imprecise distinction in the preparatory works between disability and so-called “*trivial conditions*” and “*conditions of a transitory nature*”.²⁴⁰²⁴¹ Another informant – who echoed the legal imprecision regarding

²³⁴ Perry 2001

²³⁵ Waxman 1991

²³⁶ [1,4-5]

²³⁷ Thomas 2013

²³⁸ [5]

²³⁹ Ot.prp. nr. 8 (2007-2008), p. 343

²⁴⁰ [5]

the boundary between disability and ability – pointed to the fact that certain disabilities, such as learning disabilities, are even excluded from the legal definition of hate crime.²⁴² Additionally, both preparatory works limit their definition of disability to impairments such as “*physical, mental and cognitive functions*”²⁴³ and “*loss or damage of a body part or bodily function*”²⁴⁴, and spend considerable time discussing which conditions and forms of impairment are excluded and included within the concept. Consequently, emphasis is placed on individual impairments, rather than societal barriers causing disability in the first place.²⁴⁵ Arguably, a poorly delineated legal definition of disability focusing on individual impairments risks ignoring societal prejudice and contempt against persons with disabilities within the justice system, in turn making hatred of persons with disabilities difficult to imagine. Moreover, this will likely further confuse police officers and prosecutors who already lack a clear understanding of disability. Such confusion was found in some of the informants, which expressed personal difficulty with understanding persons with disabilities as a clearly defined group in society.²⁴⁶ This was succinctly articulated by Hoel at POD:

Disability as a category is so wide. So I do not feel like it is that strange that people are a little uncertain of... what are we talking about here? Are we talking about blind people, are we talking about people sitting in a wheelchair... what is this? [...] I think in a way that there is very much uncertainty in relation to what... what is a disability, who are they, and what can they be exposed to? And then it might not be so strange that you are not thinking of that when you are receiving a reported incident.²⁴⁷

Similarly, another informant mentioned persons with disabilities as a “mythical” group in society.²⁴⁸ This might be attributed to a general difficulty within the justice system in

²⁴¹ Ot.prp. nr. 44 (2007-2008), p. 14 (Translated from Norwegian. In the original language: «bagatellmessige forhold» and «forhold av helt forbigående art»)

²⁴² [2]

²⁴³ Ot.prp. nr.8 (2007-2008), p. 343 (Translated from Norwegian)

²⁴⁴ Ot.prp. nr.44 (2007-2008), p. 14 (Translated from Norwegian)

²⁴⁵ Oliver 1983, p. 27; CRPD art. 1

²⁴⁶ [3,4]

²⁴⁷ [3]

²⁴⁸ [4]

identifying and properly responding to different disabilities.²⁴⁹ As evident from the above quotation, the informant relates the difficulty in identifying the boundaries of disability to a difficulty in recognizing hate crime. By focusing on addressing and understanding the impairment itself, police officers and prosecutors overlook the committed crime.²⁵⁰ Thus, emphasis is placed on the individual impairment itself rather than surrounding disabling barriers in society. This is likely to be aggravated by ideas of persons with disabilities as vulnerable rather than objects of hate.²⁵¹

Ultimately, lack of understanding of disability-specific challenges and victimization is reflected in the measures taken within the justice system to address disability hate crime. As demonstrated previously, few group-specific measures have been taken nationally on disability hate crime to date.²⁵² When asked why no work is being done on persons with disabilities in particular, some of the informants referred to the general prioritization of hate crime and the fact that persons with disabilities had legal protection in principle in the criminal code.²⁵³ According to Hustad from JBD, any efforts taken to address disability hate crime will implicitly follow from the existing hate crime initiatives:

The measures we are suggesting on hate crime now will cover all the protected groups in the criminal code, including disability. [...] Persons with disabilities is not a group which is highlighted in particular...but are among the groups with particular protection in the criminal code...²⁵⁴

This is part of a more general trend among many of the informants of returning to general issues rather than those pertaining to persons with disabilities specifically. Arguably, while a general approach to hate crime might theoretically benefit all groups, the danger of not explicitly acknowledging and addressing persons with disabilities as a particular group is that disability-specific challenges and barriers to justice are potentially not addressed in an adequate manner. As acknowledged by the informant from JBD, the very aim of the existing action plans on hate crime concerning LGBT and anti-Semitism is exactly to gain

²⁴⁹ Beadle-Brown et al. 2014

²⁵⁰ Sin 2013

²⁵¹ See 5.1.1

²⁵² See 5.1.2; See also 3.2

²⁵³ [3,4]

²⁵⁴ [4]

increased knowledge on and address the particular challenges faced by these groups.²⁵⁵ According to the identity model, group identity and the particular historical marginalization of a certain group are the defining elements of hate crime.²⁵⁶ Thus, by not clearly identifying the particular forms of victimization and minority identity of persons with disabilities, one is arguably also overlooking the group-specific processes of systematic marginalization of said group which leads to hate crime in the first place. As understanding hate crime in a disability-specific context is crucial for fully recognizing the phenomenon²⁵⁷, a general approach to hate crime will be blind to group-specific circumstances pertaining only to persons with disabilities. This is implicitly acknowledged by the above-mentioned informant at a later point in the interview, where she stated that *“the police is trained and is very concerned about treating everyone in an equal manner [...], and of course that in itself can be discriminatory”*.²⁵⁸ Thus, if persons with disabilities are difficult to discern as a clearly defined minority group with group-specific challenges, hatred towards that group also in many circumstances is likely to become difficult to imagine or recognize.

5.2 Concluding remarks

This chapter has analyzed empirical data on barriers to registration of disability hate crime within the Norwegian justice system. Based on interviews with key hate crime specialists within the Norwegian justice system, the chapter has demonstrated that disability hate crime is not registered by the justice system because of the fact that hatred of persons with persons with disabilities is seen as unthinkable. Consequently, potential hate crime will not be understood and perceived as such within the justice system, leading to a lack of registration. More specifically, the analysis has demonstrated that this overall disbelief stems from three main barriers to registration. Firstly, by focusing on perceived vulnerability of persons with disabilities, the justice system emphasizes individual traits of

²⁵⁵ [4]

²⁵⁶ Perry 2001

²⁵⁷ Roulstone et al. 2011, p. 358; See also 2.3

²⁵⁸ [3]

the victim rather than surrounding societal prejudice and contempt. As a result, hatred of persons with disabilities is seen as extreme or opportunistic crime against ‘easy targets’. According to several informants, rather than hate crime, crime against persons with disabilities is likely to be categorized and prosecuted as crime against ‘defenceless persons’ under the criminal code’s section 77(h). Additionally, several informants expressed great difficulty in balancing the boundary between hatred and vulnerability in practice.

Secondly, as disability hate crime is not discussed or on the agenda in public discourse, it is not likely to be thought of as an issue that requires attention by the justice system. As practitioners within the justice system are part of the same societal processes which perpetuate and normalize disability hate crime, seeing beyond those processes becomes difficult. Whereas hate crime towards the other protected groups are more “established” in society, hate crime against persons with disabilities is yet to “sink in” as a form of crime which requires registration – particularly considering the fact that disability was only added as a protected ground to the criminal code in 2013. Moreover, as a result of this general societal silence, combined with lack of pressure on the issue from civil society organizations, efforts to address and register disability hate crime remain scarce within the justice system nationally.

Lastly, several of the informants showed signs of an insufficient understanding of disability-specific challenges and victimization. Whereas some informants had a difficulty understanding the nature of disability hate crime, others struggled with understanding persons with disabilities as a group and its particular challenges. Additionally, national efforts to address hate crime tend to be of a general nature rather than address the particular challenges and barriers of persons with disabilities as a group. Consequently, the particular group identity and following historical marginalization of persons with disabilities which leads to hate crime in the first place becomes more difficult to grasp.

One common thread in all of the above-mentioned sub-themes is a lack of understanding of the societal processes and structures which leads to disability hate crime in the first place. Arguably, not having a societal understanding of disability hate crime risks creating an image of violence, harassment and abuse of persons with disabilities as atomistic and abnormal events, ignoring underlying contempt behind the victimization.

Thus, disability hate crime becomes difficult to imagine, and are ultimately seen as unfathomable. As a result, police officers and prosecutors are unlikely to recognize disability hate crime even when they encounter it.

The findings of this thesis share both similarities and differences with findings from previous studies in the UK and US. The overall finding that disability hate crime is unthinkable replicates the findings of studies conducted by EHRC and Sherry which both concluded that hatred of persons with disabilities tends to be met with disbelief both in public discourse and among public authorities.²⁵⁹

Additionally, the informants' agreement that hate crime against the other protected groups are easier to recognize than hate crime against persons with disabilities implicitly reflects Mason-Bish's finding that a perceived victim hierarchy exists within the justice system with disability at the bottom.²⁶⁰ Moreover, similarly to the findings of Mason-Bish, this chapter indicates that one potential explanation for disability hate crime not being dealt with properly is that it has introduced forms of crime not previously associated with hate crime – including hate crime occurring in institutional settings.²⁶¹ Lastly, the abovementioned difficulty in identifying persons with disabilities as a group largely confirms Beadle-Brown et al., Sin and Sin et al.'s respective findings that disability tends to be poorly understood by the justice system.²⁶² By focusing on the impairment itself, some of the informants show signs of what Sin calls 'diagnostic overshadowing'.²⁶³

Moreover, similarly to the findings from Mason-Bish's study of the British criminal justice system²⁶⁴, several of the informants showed signs of perceiving hatred and vulnerability as mutually exclusive motives. Additionally, similarly to the findings of Roulstone and Sadique²⁶⁵, such a dichotomy is to a large extent constructed and perpetuated in law through section 77(h) of the criminal code.²⁶⁶ However, in contrast to

²⁵⁹ Equality and Human Rights Commission 2011; Sherry 2010

²⁶⁰ Mason-Bish 2013

²⁶¹ Ibid.

²⁶² Beadle-Brown et al. 2014; Sin 2013; Sin et al. 2009

²⁶³ Sin 2013

²⁶⁴ Mason-Bish 2013

²⁶⁵ Roulstone and Sadique 2013

²⁶⁶ Penal Code of 2005, para. 77(h)

previous research the informants from OPD also showed an openness to look beyond apparent vulnerability to explore underlying contempt. One potential explanation for this is that whereas the present thesis has studied hate crime specialists, Mason-Bish studied more broadly campaign group activists, policymakers and criminal justice practitioners. As a result, the dichotomy between vulnerability and hate might potentially be experienced as stronger among those who have less specialized knowledge and experience on the issue. Nevertheless, the exploration of underlying hatred indicates that issues relating to perceived vulnerability are more complex than previously indicated by Mason-Bish and Roulstone and Sadique. While an emphasis on perceived vulnerability is easy to criticize in theory, as expressed by the same informants balancing vulnerability and hate is far more complex in practice.

5.2.1 Limitations

While this thesis makes several valuable contributions to understanding barriers to registration of disability hate crime, several limitations remain. Most significantly, the choice of a single case study with a relatively small sample of informants makes generalizing the findings throughout the justice system difficult. Thus, data from hate crime specialists are merely serve as an indicator of the actual situation in the Norwegian justice system. Consequently, a more thorough study collecting data from a larger sample within the justice system would be useful in order to ascertain whether the findings can be supported beyond the present case. Nevertheless, the fact that several of the abovementioned findings reflect an inadequate understanding of disability hate crime by hate crime specialists themselves means that a certain degree of logical generalization of the case might be plausible.²⁶⁷ As even hate crime specialists struggle with understanding disability hate crime, this is not any less likely to be true for other individuals within the justice system with less expertise on the issue.

Another potential limitation is that the absence of registered cases of disability hate crime could stem from other sources than barriers within the justice system, such as

²⁶⁷ Patton 1990, p. 174-175

underreporting by victims. However, while underreporting is likely to negatively impact registration, this does not in itself remove the abovementioned barriers internal to the justice system. Alternatively, some might argue that the source of the low numbers lies not in under-registration, but rather that few cases of disability hate crime occur in the first place. However, this directly contradicts research indicating the opposite.²⁶⁸ In fact, this chapter has demonstrated that it is exactly disbelief of disability hate crime that hinders its registration in the first place.

5.2.2 Suggested improvements

In order to address the barriers to justice mentioned in the present chapter, there is arguably a need for a shift from an individualistic towards a rights-based approach to disability hate crime which sees persons with disabilities as autonomous agents. As a State Party to the CRPD, Norway has a legal obligation to prevent all forms of violence and exploitation, and ensure that cases of disability hate crime are properly identified, investigated and prosecuted.²⁶⁹ Rather than limiting efforts on hate crime to those of a general nature, disability hate crime should be actively placed on the agenda within the Norwegian justice system nationally in order to ensure effective access to justice and de facto access to the law.²⁷⁰ The insights and experiences of Oslo hate crime unit are likely to be an invaluable starting point in this regard. This requires, *inter alia*, action plans, projects, and national registration guidelines that address disability-specific challenges to registration. More specifically, in order to avoid automatically labelling all victimization of persons with disabilities as crime against ‘defenceless persons’, there is a need for legal clarification on the relationship between vulnerability and hate in a similar manner as guidelines given by the Crown Prosecution Service in the UK.²⁷¹

Additionally, as a majority of the abovementioned barriers are attitudinal in nature, truly ensuring effective access to justice in cases of disability hate crime requires not

²⁶⁸ Emerson and Roulstone 2014; Sin et al. 2009; McMahon et al. 2004; Ramm 2010; Schou et al. 2007

²⁶⁹ CRPD, art. 16(2) & 16(5)

²⁷⁰ *Ibid.*, art. 13(1)

²⁷¹ Crown Prosecution Service 2010

reducing the issue to one of accessibility concerns. Thus, moving beyond a situation of disbelief requires disability-specific training²⁷² and awareness-raising within the justice system on persons with disabilities as victims of hate crime and the barriers to registration they face as well as the underlying societal stereotypes and prejudices which leads to their victimization.²⁷³

²⁷² CRPD, art. 13(2)

²⁷³ *Ibid.*, art. 8(1)(b)

6 Conclusion

This thesis has studied barriers to registration of disability hate crime within the Norwegian justice system. The thesis has aimed to answer the following research question: *Why do hate crimes against persons with disabilities fail to get registered within the Norwegian criminal justice system?* In order to address this research question, semi-structured interviews were conducted with five professionals working with hate crime at a specialized level, both nationally and in Oslo police district. The thesis has analyzed barriers to registration of disability hate crime within a broader theoretical understanding of hate crime against persons with disabilities. This thesis has argued that rather than emphasizing individual vulnerability, hatred of persons with disabilities is rooted in underlying societal contempt of perceived weakness.

As shown in this thesis, the discrepancy between the absence of registered cases of disability hate crime²⁷⁴ and disproportionate exposure of persons with disabilities to violence, harassment, and abuse²⁷⁵ stems from a number of barriers to registration within the Norwegian justice system. Based on interviews with individuals working with hate crime at a specialized level within the Norwegian justice system, the thesis has demonstrated that these barriers are all rooted in a lack of understanding of the societal processes that lead to hate crime against persons with disabilities. This in turn creates an environment wherein hatred of persons with disabilities becomes unimaginable within the justice system. As a result of this disbelief, disability hate crime is likely to either be ignored or miscategorized by police officers and prosecutors. Consequently, it should remain relatively uncontroversial to claim that barriers within the justice sector attributes for a great deal of the gap between the absence of registered cases of disability hate crime and persons with disabilities' disproportionate exposure to violence, harassment, and abuse.

These findings should by no means be taken as an indication that disability hate crime is willfully and consciously ignored with malintent within the justice system. In fact,

²⁷⁴ Politidirektoratet 2015

²⁷⁵ Ramm 2010; Schou et al. 2007

the informants all showed a great deal of willingness to address disability hate crime and remove any barriers to registration within the justice system. Nevertheless, the fact that professionals working with hate crime at a specialized level have difficulties with properly understanding and identifying many aspects of the phenomenon itself, indicates that persons with disabilities face a number of barriers within the justice system when it comes to hate crime. Thus, if even persons working with hate crime at a specialized level struggle with the issue, this is not likely to be any less true for frontline police officers and prosecutors throughout the various police districts.

This thesis has made a number of contributions which has not yet been adequately addressed in previous research. Firstly, the thesis has provided initial empirical evidence in relation to treatment of disability hate crime within the justice sector in a Norwegian context. Secondly, whereas previous studies have largely studied barriers to registration of disability hate crime from a purely empirically grounded perspective, the present thesis has attempted to analyze the data within a wider theoretical backdrop. This has allowed for relating barriers to registration to the broader societal processes which perpetuate and conceal disability hate crime in the first place. Additionally, whereas previous research has largely limited its discussion of the inconceivability of disability hate crime to issues relating to perceived vulnerability, the current thesis has demonstrated that two additional underlying factors are of relevance: that disability hate crime is perceived as a non-issue in society, as well as a lack of understanding of disability-specific victimization.

A number of topics have been beyond the aim of this thesis. Consequently, several potential avenues for future research remain. Further research is required on frontline police officers and prosecutors in the various police districts in order to assess whether the barriers to registration of disability hate crime mentioned in the present thesis apply beyond specialized and national agencies. A quantitative survey seems particularly appropriate in this regard, in order to assess whether some of the present findings can be generalized to a larger sample. Additionally, whereas the present thesis has mainly focused on social and attitudinal barriers to registration, future studies should explore legislative aspects beyond those briefly discussed herein. Of particular interest is further analysis of the legal balancing between the criminal code's various hate crime provisions and section 77(h) on

‘defenceless persons’, as well as assessment of how these issues are dealt with in the courts. Lastly, more empirical data is needed on why hate crime is not reported to the police by persons with disabilities in the first place.

The issues discussed in this thesis are not just limited to a technical question of whether or not victimization of persons with disabilities gets categorized as hate crime. More broadly, barriers to registration of disability hate crime are more fundamentally a matter of human rights. Arguably, the CRPD’s obligation to identify, investigate, and prosecute all forms of violence and exploitation against persons with disabilities²⁷⁶, read in conjunction with the obligation to eliminate broader societal prejudice and stereotypes²⁷⁷, requires public authorities to have strong awareness regarding disability hate crime. However, fulfilling these obligations within a justice system which sees hatred of persons with disabilities as unthinkable, and ignores many of its driving forces, is difficult to imagine in practice. Thus, while persons with disabilities have achieved de jure legal protection against hate crime on an equal footing with other protected groups in Norway, this protection largely remains symbolic as long as persons with disabilities face a range of barriers which denies victims *effective* access to justice in practice.²⁷⁸

Disability hate crime is a form of victimization fraught with barriers to justice within the Norwegian justice system. The crimes committed against «Eспен» and «Peter» mentioned at the opening of this thesis²⁷⁹ were both categorized by police and prosecutors as crime committed against ‘defenceless persons’ rather than hate crime. While it remains unknown whether either of these crimes were in fact motivated by contempt, exploring the opportunity seems appropriate, particularly considering the extreme violence and apparent specific targeting of the victims because of their disability. However, nothing indicates that a potential hateful motive was explored throughout their treatment in the Norwegian justice system. Hopefully, this thesis has contributed with initial insights into some of the underlying barriers leading to this outcome.

²⁷⁶ CRPD, art. 16(5)

²⁷⁷ Ibid., art. 8(1)(b)

²⁷⁸ Ibid., art. 13(1)

²⁷⁹ See chapter 1

List of references

International treaties and statutes

CRPD *Convention on the Rights of Persons with Disabilities*, adopted by the UN General Assembly, 24 January 2007, A/RES/61/106

Domestic laws and regulations

General Civil Penal Code of 1902 LOV-1902-05-22 *Almindelig borgerlig Straffelov* [The General civil penal code]

Penal Code of 2005 LOV-2005-05-20-28 *Lov om straff (straffeloven)* [The Penal Code]

Domestic judgments

15-074463MED-FRED

15-124815MED-HEDM

Rt. 2002 p. 1618 (Sjølie case)

Rt. 2012 p. 536 (Doorman case)

Domestic official documents

Ot.prp.nr. 8 (2007-2008) *Om lov om endringer i straffeloven*, Ministry of Justice and Police, 9 November 2007

Ot.prp.nr. 44 (2007-2008) *Om lov om forbud mot diskriminering på grunn av nedsatt funksjonsevne (diskriminerings- og tilgjengelighetsloven)*, Ministry of Children and Equality, 4 April 2008

Prop 131L (2012-2013)

Endringer i straffeloven 1902 og straffeloven 2005 mv., Ministry of Justice and Public Security, 7 May 2013

Secondary literature

- Adcock, R. and D. Collier (2001) 'Measurement validity: A shared standard for qualitative and quantitative research', *American Political Science Review*, 95(3), pp. 529-546
- Barnes, C. (1997) 'A legacy of oppression: A history of disability in western culture', in Barton, L. & M. Oliver (eds.) *Disability studies: Past, present and future*. Leeds: The Disability Press, pp. 3-24
- Beadle-Brown, J., L. Richardson, C. Guest, A. Malovic, J. Bradshaw and J. Himmerich (2014), *Living in fear: better outcomes for people with learning disabilities and autism*. Canterbury: Tizard Centre, University of Kent
- Berk, R., E. Boyd, and K. Hamner (1992) 'Thinking more clearly about hate-motivated crimes', in Herek, G. and K. Berrill (eds.) *Hate Crimes: confronting violence against lesbians and gay men*. Newbury Park, CA: Sage, pp. 123-143
- Beyers, J., C. Braun, D. Marshall and I. De Bruycker (2014) 'Let's Talk! On the practice and method of interviewing policy experts', *Interest Groups & Advocacy*, 3(2), pp. 174-187
- Bogner, A., B. Littig and W. Menz (2009) 'Introduction: Expert Interviews — An Introduction to a New Methodological Debate', in Bogner, A., Littig, B. and Menz, W. (eds.) *Interviewing experts*. London: Palgrave Macmillan UK, pp. 1-16
- Bowling, B. (1993) 'Racial harassment and the process of victimization', *British Journal of Criminology*, 33(2), pp. 231-250
- Braun, V. and V. Clarke (2006) 'Using thematic analysis in psychology', *Qualitative Research in Psychology*, 3(2), pp.77-101
- Bruknapp, G. (2009) *Hatkriminalitet: En sosiologisk analyse av et sosialt problem og en ny kriminalitetskategori*, Master thesis in Sociology, University of Oslo
- Bryman, A. (2012) *Social research methods*. 4th ed. Oxford: Oxford University Press
- Chakraborti, N. and J. Garland (2009) *Hate Crime: Impact, Causes and Responses*. London: Sage
- Chakraborti, N. and J. Garland (2012) 'Reconceptualizing hate crime victimization through the lens of vulnerability and 'difference'', *Theoretical Criminology*, 16(4), pp. 499-514

- Ehrlich, H.J. (1992) 'The Ecology of Anti-Gay Violence', in Herek, G. and K. Berrill (eds.) *Hate crimes: confronting violence against lesbians and gay men*. Newbury Park, CA: Sage, pp. 105-112
- Emerson, E. and A. Roulstone (2014) 'Developing an evidence base for violent and disablist hate crime in Britain: findings from a life opportunities survey', *Journal of Interpersonal Violence*, 29(17), pp. 3086–3104
- Flyvberg, B. (2006) 'Five misunderstandings about case-study research', *Qualitative Inquiry*, 12(2), pp. 219-245
- Gerring, J. (2007) *Case study research: principles and practices*. Cambridge: Cambridge University Press
- Gibbs, G.R. (2007) *Analyzing qualitative data*. London: Sage
- Glaser, B., and A. Strauss (1967) *The discovery of grounded theory: Strategies for qualitative research*. New York: Aldine
- Grønmo, S. (2004) *Samfunnsvitenskapelige metoder*, Bergen: Fagbokforlaget
- Hahn, H. (1988) 'The politics of physical differences: Disability and discrimination', *Journal of Social Issues*, 44(1), pp. 39-47
- Hall, N. (2005) *Hate Crime*. Cullompton: Willan
- Hamm, M.S. (1994), *American skinheads: The criminology and control of hate crime*. Westport, CT: Praeger Publishers
- Hammersley, M. (1990) *Reading ethnographic research: A critical guide*. New York: Longman
- Harpur, P. and H. Douglas (2014) 'Disability and domestic violence: protecting survivors' human rights', *Griffith Law Review*, 23(3), pp. 405-433
- Hollomotz, A. (2013) 'Disability and the continuum of violence', in Roulstone, A. and H. Mason-Bish, *Disability, hate crime and violence*. Abingdon: Routledge, pp. 52-63
- Hvidsten, A.H. (2014) 'Hvorfor tro på formelle modeller? Om forholdet mellom teoretisk modellering og empirisk analyse', *Norsk statsvitenskapelig tidsskrift*, 30(3), pp. 181-204
- Jacobs, J. and K. Potter (1998) *Hate Crimes: Criminal Law and Identity Politics*. New York: Oxford University Press
- Kvale, S. and S. Brinkmann (2009) *Det kvalitative forskningsintervju*. 2nd ed. Oslo: Gyldendal Akademisk

- Levin J. and J. Nolan (2010) *The violence of hate: Confronting racism, anti-semitism, and other forms of bigotry*. 3rd ed. London: Pearson Education
- Levy, J.S. (2008) 'Case Studies: Types, Designs, and Logics of Inference', *Conflict Management and Peace Science*, 25(1), pp. 1–18
- Mason, G. (2005) 'Hate crime and the image of the stranger', *British Journal of Criminology*, 45(6), pp. 837–859
- Mason-Bish, H. (2013) 'Conceptual issues in the construction of disability hate crime', in Roulstone, A. and H. Mason-Bish (eds.) *Disability, Hate Crime and Violence*. Abingdon: Routledge, pp. 11-24
- McCorkle, R.C. and T.D. Miethe (1998) 'The political and organizational response to gangs: an examination of a "moral panic" in Nevada', *Justice Quarterly*, 15(1), pp. 41-64
- McMahon, B.T., S.L. West, A.N. Lewis, A.J. Armstrong, J.P. Conway (2004) 'Hate Crimes and Disability in America', *Rehabilitation Counseling Bulletin*, 47(2), pp. 66-75
- McVeigh, R., M.R. Welch and T. Bjarnason (2003) 'Hate crime reporting as a successful social movement outcome', *American Sociological Review*, 68(6), pp. 843-867
- Moisander, J. and A. Valtonen (2006) *Qualitative marketing research: a cultural approach*. London: Sage
- Nilsen, A.B. (2014) *Hatprat*. Oslo: Cappelen Damm Akademisk
- Oliver M. (1983) *Social work with disabled people*. London: Macmillan
- Oliver M., B. Sapey and P. Thomas (2012) *Social work with disabled people*. 4th ed. Basingstoke: Palgrave Macmillan
- Patton, M.Q. (1990) *Qualitative evaluation and research methods*. 2nd ed. Beverly Hills, CA: Sage
- Perry, B. (2001) *In the name of hate: Understanding hate crimes*. New York: Routledge
- Petrosino, C. (1999) 'Connecting the past to the future: hate crime in America', *Journal of Contemporary Criminal Justice*, 15(1), pp. 22–47
- Quarmby, K. (2008) *Getting Away with Murder: Disabled People's Experiences of Hate Crime in the UK*. London: Scope
- Ramm, J. (2010) *På like vilkår? Helse og levekår blant personer med nedsatt funksjonsevne*, Statistisk Sentralbyrå

- Roulstone, A. and K. Sadique (2013) 'Vulnerable to misinterpretation: disabled people, 'vulnerability', hate crime and the fight for legal recognition', in Roulstone, A. and H. Mason-Bish (eds.) *Disability, hate crime and violence*. Abingdon: Routledge, pp. 25-39
- Roulstone, A., P. Thomas and S. Balderston (2011) 'Between hate and vulnerability: unpacking the British criminal justice system's construction of disablist hate crime', *Disability & society*, 26(3), pp. 351-364
- Rubin, H.J. and I.S. Rubin (2005) *Qualitative interviewing: the art of hearing data*. 2nd ed. Thousand Oaks, CA: Sage
- Ryan, G.W. and H.R. Bernard (2003) 'Techniques to Identify Themes', *Field Methods*, 15(1), pp. 85–109
- Schou, L., G. Dyb, and S. Graff-Iversen (2007) *Voldsutsatt ungdom i Norge – resultater fra helseundersøkelser i seks fylker*, Folkehelseinstituttet, report 2007:8
- Sherry, M. (2010) *Disability hate crime: Does anyone really hate disabled people?* Farnham: Ashgate
- Silverman, D. (2006) *Interpreting qualitative data: Methods for analyzing talk, text and interaction*. 3rd ed. London: Sage
- Sin, C.H., A. Hedges, C. Cook, N. Mguni and N. Comber (2009) *Disabled people's experiences of targeted violence and hostility*, Manchester: Equality and Human Rights Commission
- Sin, C.H. (2013) 'Making disablist hate crime visible: addressing the challenges of improving reporting', in: Roulstone, A. and H. Mason-Bish (eds.), *Disability, Hate Crime and Violence*. Abingdon: Routledge, pp. 147-165
- Thomas, P. (2014) 'Hate crime and the criminal justice system', in Swain, J., S. French, C. Barnes and C. Thomas (eds.), *Disabling barriers – enabling environments*. London: Sage, pp. 312-318
- Thomas, P. (2013) 'Hate crime or mate crime?', in Roulstone, A. and H. Mason-Bish (eds.), *Disability, Hate Crime and Violence*. Abingdon: Routledge, pp. 135-146
- Thomas, P. (2011) "'Mate crime": ridicule, hostility and targeted attacks against disabled people', *Disability and Society*, 26(1), pp. 107–11
- Thornycroft, R. and N.L. Asquith (2015) 'The dark figure of disablist violence', *The Howard Journal of Criminal Justice*, 54(5), pp. 489-507
- Turpin-Petrosino (2015) *Understanding hate crimes: acts, motives, offenders, victims, and justice*. London: Routledge

Waxman, B.F. (1991) 'Hatred: the unacknowledged dimension in violence against disabled people', *Sexuality and disability*, 9(3), pp. 185-199

Yin, R. (2009) *Case Study Research: Design and Methods*. 4th ed. Applied Social Research Methods Series vol. 5. Thousand Oaks, CA: Sage Publications

Public documents

Barne- og likestillingsdepartementet (2009) *Handlingsplan for å fremme likestilling og hindre etnisk diskriminering 2009-2012*

Barne- og likestillingsdepartementet (2008) *Bedre livskvalitet for lesbiske, homofile, bifile og transpersoner 2009-2012*

Crown Prosecution Service (2010) *Disability Hate Crime: Guidance on the Distinction between Vulnerability and Hostility in the Context of Crimes Committed Against Disabled People*. Available from:
<http://www.disability.co.uk/sites/default/files/resources/Disability%20Hate%20Crime.doc> [Accessed 8 May 2016].

Ipsos MMI & Politidirektoratet (2014) *Politiets innbyggerundersøkelse 2014*. Available from:
https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_2800.pdf [Accessed 9 May 2016]

Justis- og beredskapsdepartementet (2014) *Handlingsplan mot radikaliserings og voldelig ekstremisme*

Likestillings- og diskrimineringsombudet (2015a), *CRPD 2015: Ombudets rapport til FNs komité for rettighetene til mennesker med nedsatt funksjonsevne – et supplement til Norges første periodiske rapport*. Available from:
http://www.ldo.no/globalassets/03_nyheter-og-fag/publikasjoner/crpd2015rapport.pdf [Accessed 9 May 2016]

Likestillings- og diskrimineringsombudet (2015b), *Hatytringer og hatkriminalitet*. Available from: http://www.ldo.no/globalassets/03_nyheter-og-fag/publikasjoner/hatytringer_og_hatkriminalitet_rapport.pdf [Accessed 9 May 2016]

Oslo politidistrikt (2013) *Hatkriminalitet: En drøfting av temaet, og gjennomgang av anmeldelser i Oslo 2012*, Strategisk Stab. Available from:
https://www.politi.no/vedlegg/lokale_vedlegg/oslo/Vedlegg_2717.pdf [Accessed 9 May 2016]

Oslo politidistrikt (2015) *Hatkriminalitet: delrapport 1. Statistikk 2014*, Strategisk stab. Available from: <http://spotidoc.com/doc/4427635/hatkriminalitet.-delrapport-1> [Accessed 9 May 2016]

Oslo politidistrikt (2016) *Hatkriminalitet: anmeldt hatkriminalitet Oslo politidistrikt 2015*, Strategisk stab. Available from:
https://www.politi.no/vedlegg/lokale_vedlegg/oslo/Vedlegg_3571.pdf [Accessed 9 May 2016]

Politidirektoratet (2010) *Hatkriminalitet – Registrerte anmeldelser i Norge 2007-2009*, Seksjon for analyse og forebygging. Available from:
https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_1022.pdf [Accessed 9 May 2016]

Politidirektoratet (2015) *Anmeldelser med hatmotiv 2010-2014*. Available from:
https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_3037.pdf [Accessed 9 May 2016]

Politidirektoratet and Oslo politidistrikt (2009) *Hatkriminalitet: anmeldelser registrert i 2007 - En gjennomgang av anmeldelser registrert i 2007 med et motiv knyttet til rase/etnisk tilhørighet, religion og seksuell legning*. Available from:
https://www.politi.no/vedlegg/lokale_vedlegg/oslo/Vedlegg_77.pdf [Accessed 9 May 2016]

Riksadvokaten (2016) *Mål og prioriteringer for straffesaksbehandlingen i 2016 – politiet og statsadvokatene*, Rundskriv nr.1/2016. Available from:
<http://www.riksadvokaten.no/filestore/Dokumenter/2016/MI-ogprioriteringsskriv2016.pdf> [Accessed 13 May 2016]

TNS Gallup & Politidirektoratet (2012) *Politiets nasjonale innbyggerundersøkelse 2012*. Available from: https://www.politi.no/vedlegg/rapport/Vedlegg_1943.pdf [Accessed 9 May 2016]

NGO documents

Equality and Human Rights Commission (2011) *Hidden in plain sight: Inquiry into disability-related harassment*. Available from:
https://www.equalityhumanrights.com/sites/default/files/ehrc_hidden_in_plain_sight_3.pdf [Accessed 9 May 2016]

Funksjonshemmedes Fellesorganisasjon (2015) *Alternativ rapport til FN-komiteen for rettighetene til mennesker med nedsatt funksjonsevne: første CRPD-rapportering fra siviltt samfunn i Norge*. Available from:
http://www.fo.no/globalassets/altrapptilfn_web.pdf [Accessed 9 May 2016]

Electronic resources

Antirasistisk senter (No date) *Meld fra om rasisme*. Available from:
<http://www.antirasistisk-senter.no/meld-fra-om-rasisme/> [Accessed 12 May 2016]

- BBC (2008) *Disabled man 'killed for sport*. Available from: <http://news.bbc.co.uk/1/hi/england/wear/7177716.stm> [Accessed 11 April 2016]
- Det mosaiske trossamfunn (No date) *Meld fra om antisemittisme*. Available from: http://www.dmt.oslo.no/no/meld_fra_om_antisemittisme/ [Accessed 12 May 2016]
- Landsforeningen for lesbiske, homofile, bifile og transpersoner (No date) *Si ifra! #ikkefinndegidet*. Available from: <http://ikkefinndegidet.no/> [Accessed 12 May 2016]
- Nordlandsforskning (2015) *Nybrottsforskning på hatytringer*, <http://www.nordlandsforskning.no/aktuelt/nybrottsforskning-pa-hatytringer-article1695-155.html> [Accessed 1 March 2016]
- Nordli, S. (2015) – *Gutt i rullestol dyttet ned skoletrapp*, NRK Østfold, Available from: <http://www.nrk.no/ostfold/gutt-i-rullestol-dyttet-ned-skoletrapp-1.12185572> [Accessed 29 April 2016]
- Paulsen, H.M.W. (2015) *Autist mishandlet av fire tenåringer*, Hamar Arbeiderblad. Available from: <http://www.h-a.no/nyheter/autist-mishandlet-av-fire-tenaaringer#sthash.vVGUr> [Accessed 29 April 2016]

Appendices

Appendix 1: Interview guide

Intervjuguide (Norwegian version used in interviews)

Introduksjon

- *Introduser* deg sjølv – namn, universitet, mastergrad
- *Mål* – introduser tema for masteroppgåva, hovudmål, innhaldet av intervjuet
- *Konfidensialitet* – informer om taushetsplikt og gje moglegheit til å vere anonym informant. Understrek at som forskar har eg full konfidensialitet med tanke på all sensitiv informasjon, informasjon som ikkje skal vere offentleg tilgjengeleg, og namn og uttalelsar av anonyme informantar. Informer om at det berre er intervjuar som har tilgang til datamaterialet og at all data vil bli sletta ved prosjektets avslutning.
- *Samtykke* – informer at samtykke til å deltake på intervjuet er frivillig og blir gitt av informanten. Informanten kan sjølv velge å avbryte intervjuet på eit kvart tidspunkt uansett grunn.
- *Opptak* – spør om kan ta lydopptak av intervjuet. Opptaket vil berre bli brukt for transkribering som supplement til personlege notater, og ingen andre vil lytte til eller ha tilgang til opptaket. Lydopptaket vil bli sletta etter prosjektets slutt. Dersom OK → skru på båndopptakar.
- Spør om forstått informasjonen over. Nokre spørsmål før intervjuet byrjer?

Bakgrunn

1. Kan du kort forklare innhaldet av jobben din?
2. Kan du forklare korleis din institusjon jobber med hatkriminalitet?
3. Kor mykje vil du seie din institusjon jobber med hatkriminalitet mot funksjonshemma, samanlikna med andre beskytta grupper?
 - [*Dersom lite*] Kvifor?

Registreringspraksis og mørketall

4. [*POD/Oslo politidistrikt*] Kan du forklare korleis hatkriminalitet blir registrert innad i politiet?
5. Korleis vil du overordna vurdere politiets innsats i forhold til hatkriminalitet mot personar med funksjonshemming?
 - Korleis vil du vurdere din eigen institusjons innsats?

- Korleis vil du vurdere innsatsen til andre institusjonar i politiet?
6. Korleis vil du overordna vurdere påtalemyndighetens innsats i forhold til hatkriminalitet mot personar med funksjonshemming?
 7. Politiet har systematisk registrert hatkriminalitet i sine system sidan 2006. Kva er din overordna vurdering av denne registreringspraksisen?
 - Kva slags rom for forbedring fins?
 - I kva for grad registrerer systemet tilstrekkelig hatkriminalitet mot personar med funksjonshemming spesifikt?
 - Endringar sidan 2013? (funksjonshemming lagt til i straffeloven)
 8. Som du mest sannsynleg kjenner til, er det så langt ingen registrerte hatkriminalitetssaker mot personar med funksjonshemming hverken i Oslo politidistrikt eller nasjonalt. Kvifor trur du dette er tilfellet?
 - [Probe] Er det andre grunnar?
 - Kva slags barrierer står i vegen for at anmeldelsar registrerast av politiet?
 9. Kvifor trur du ingen hatkriminalitetssaker med funksjonshemming som motiv så langt har blitt straffeforfulgt av påtalemyndighetene?
 10. Kva for rolle speler eksterne aktørar utanfor politi og påtalemyndighet som media og sivilsamfunn når det kjem til korleis politi og påtalemyndighet jobber med hatkriminalitetssaker mot funksjonshemma?
 11. Kva er din meining om det rettslege vernet mot hatkriminalitet mot funksjonshemma i straffeloven?
 - I kva grad er det rettslege vernet sikra i praksis?

Forståing av funksjonshemming som motiv for hatkriminalitet

12. Frå ditt ståsted, kor mykje kunnskap vil du seie du sjølv har om hatkriminalitet mot personar med funksjonshemming?
 - Kor mykje kunnskap har operative politibetjenter?
 - Kor mykje kunnskap har påtalemyndighet?
 - Kor mykje opplæring blir gitt på dette motivet?
13. Utifrå dine inntrykk, i kva grad er operativt politi i stand til å gjenkjenne funksjonshemming som motiv for hatkriminalitet?
 - I kva grad er politijuristane i stand til å gjenkjenne hatkriminalitet?

14. Ut ifrå dine inntrykk, i kva grad er funksjonshemma offer for hatkriminalitet samanlikna med andre grupper?
15. Slik du ser det, kvifor er funksjonshemma utsatt for hatkriminalitet?
- Skiller det seg ut frå hatkriminalitet mot andre beskytta grupper?
16. Frå ditt ståsted, har ein person med funksjonshemming blitt utsatt for hatkriminalitet dersom han/ho:
- Blir angripe, trakassert eller misbrukt fordi han eller ho blir sett på som sårbar eller eit enkelt mål av gjerningspersonen? [Kvifor/kvifor ikkje?]
 - Blir angripe, trakassert eller misbrukt av ein venn eller familiemedlem i ein privat setting?
 - Blir angripe, trakassert eller misbrukt på institusjon?
17. Ut ifrå dine inntrykk, korleis balanserer politiet og påtalemyndighet sårbarheit og hat som moglege motiv når det kjem til vold, trakassering og overgrep mot funksjonshemma?
- [*Dersom funksjonshemma ofte sett på som sårbare*] Kvifor trur dette er tilfelle?
 - Korleis påvirker dette anmeldelsens utfall?
18. Kvifor trur du hatkriminalitet mot personar med funksjonshemmingar har mottatt relativt lite merksemd i politiet og påtalemyndigheten samanlikna med andre beskytta grupper?

Forbetringar/anbefalingar

19. Frå din ståstad, kva trengs for å sørge for bedre registrering av hatkriminalitet mot funksjonshemma i framtida?
- Eksempler på planlagte forbetringar?
20. Kjenner du til god praksis i dette området, nasjonalt eller internasjonalt?

Avslutning

- Er det noko anna du ønsker å legge til?
- Dersom det skulle vere noko som trengs å oppklarast, er det greitt at eg kontakter deg gjennom epost?
- [*Dersom aktuelt*] Dersom de har interne dokumenter knytta til hatkriminalitet, hadde det vore mogleg å få tilgang til desse?
- Takk informanten og avslutt intervju → slå av opptakar

Interview guide (English translation)

Introduction

- *Introduce* yourself – name, university, master’s degree
- *Aim* – introduce topic of master thesis, main aims, content of the interview
- *Confidentiality* – inform about confidentiality and give option to be anonymous informant. Clarify that as a researcher I have full confidentiality in relation to any sensitive information, information that is not meant to be public and names and statements made by anonymous informants. Inform that only the interviewer have access to the data material and all data will be deleted at the end of the project.
- *Consent* – inform that consent to conduct the interview is voluntary and given by the informant. The informant is free to discontinue the interview at any point for whatever reason.
- *Recording* – ask if can record the interview. The recording will be only be used for transcription as a supplement to personal notes, and no one else will listen to or have access to the recording. The audio recording will be deleted at the end of the project. If OK → turn on recorder
- Ask if understood the above information. Any further questions before the interview begins?

Background

1. Could you briefly explain the contents of your job?
2. Could you explain how your institution works with hate crime?
3. How much would you say your institution works with hate crime against persons with disability, compared to other protected groups?
 - [If limited] Why?

Registration practices and dark figures

4. [POD/Oslo police district] Could you explain how hate crimes are registered within the police/your entity?
5. How would you generally assess the police’s efforts regarding hate crime against persons with disabilities?
 - How would you assess your own institution’s efforts?
 - How would you assess the efforts of other institutions within the police?

6. How would you generally assess the prosecution authorities' efforts regarding hate crime against persons with disabilities?
7. The police has systematically registered hate crime in their systems since 2006. What is your overall assessment of this registration practice?
 - What room for improvement exists?
 - To what extent does the registration system sufficiently register hate crimes against persons with disability specifically?
 - Changes since 2013? (disability added in criminal code)
8. As you most likely know, there are no registered cases of hate crime against persons with disability neither in Oslo police district nor nationally. Why do you think this is the case?
 - [Probe] Are there any other reasons?
 - What kind of barriers are in the way of reported cases being registered by the police?
9. From your perspective, why have no hate crime cases with disability as motive been prosecuted to date?
10. What kind of role does external actors outside of the police and prosecution authorities, such as media and civil society, play when it comes to how the police and prosecution authorities work with hate crime against persons with disabilities?
11. What is your opinion regarding the legal protection against hate crime against persons with disabilities in the criminal code?
 - To what degree is the legal protection ensured in practice?

Understanding of disability as a motive of hate crime

12. From your point of view, how much knowledge would you say you have yourself regarding hate crime against persons with disability?
 - How much knowledge do frontline police officers have?
 - How much knowledge does the prosecution authorities have?
 - How much training is given on this motive?
13. Based on your impression, to what degree are frontline police officers able to recognize disability as a motive of hate crime?
14. Based on your impression, to what extent are persons with disabilities victims of hate crime compared to other groups?
15. In your opinion, why are persons with disability targeted as victims of hate crime?

- Does it differ from hate crime against other protected groups?
16. From your point of view, has a person with a disability been victim of hate crime if he/she:
- Is attacked, harassed or abused because he or she is perceived as vulnerable or an easy target by the perpetrator? [Why/why not?]
 - Is attacked, harassed or abused by a friend/family member in a private setting?
 - Is attacked, harassed or abused in an institution?
17. Based on your impression, how does the police and prosecution balance vulnerability and hate as potential motives when it comes to cases of violence, harassment and abuse against persons with disabilities?
- [*If persons with disabilities are often perceived as vulnerable*] Why do you believe this is the case?
 - How does this impact the outcome of the reported incident?
18. Why do you think the issue of hate crime against persons with disabilities has received relatively little attention by the police and prosecution authorities compared to other protected groups?

Improvements/recommendations

19. In your opinion, what is needed to ensure better registration of disability hate crime in the future?
- Examples of planned improvements?
20. Do you know of any good practice in this area, nationally or abroad?

Summing up

- Is there anything you would like to add?
- If there is anything that requires clarification, is it okay if I contact you through e-mail?
- [*If applicable*] If you have any internal documents relating to hate crime, would it be possible to get access to these?
- Thank the informant and end interview → turn off recorder

Appendix 2: List of informants

Name	Date and place	Position	Organization/institution
[1] Monica Lillebakken	25.02.16, Oslo	Chief Inspector	Hate crime unit, Manglerud police station (OPD)
[2] Ingjerd Hansen	03.03.16, Oslo	Senior adviser	Strategisk stab, OPD
[3] Ingvild Hoel	03.03.16, Oslo	Senior adviser	National Police Directorate
[4] Arnt Even Hustad	09.03.16, Oslo	Senior adviser	Ministry of Justice and Public Security
[5] Oda Karterud	15.03.16, Oslo	Police prosecutor	Hate crime unit, Manglerud police station (OPD)