

# CHANGING HATE LAWS

SHOULD SEXUAL MINORITIES BE PROTECTED AS WELL?

## Attacks justify legal change

It is unfortunate that an event such as the one last week must occur in the Chapel Hill community in order for discussion on sexual orientation legislation to enter wider public scope.

It has become imperative, however, to pressure the N.C. General Assembly to include sexual orientation in the appropriate statutes, so events like this one can be deterred in our communities.

The Ethnic Intimidation Act of 1991 stipulates that crimes committed by an individual "because of the race, color, religion, nationality or country of origin of another person" require that the offender endure specific consequences as outlined by the law.

Many wonder why this type of legislation is warranted, and my response is: based on equality.

Crimes like the one that occurred last week do not target just one individual but a group

**BLAKELY WHILDEN**  
CO-PRESIDENT, UNC YOUNG DEMOCRATS

of individuals — in this case, the LGBTQ community as a whole.

The Ethnic Intimidation Act ensures that offenders will be brought to justice and that all groups of people are equally protected under the law.

Legislation of this nature is necessary to fight discrimination of all kinds, whether it is based on race, religion, sexual orientation or any other factor.

Opponents of hate crime legislation believe that there is no difference between a crime motivated by the minority status of a victim and a crime committed against any other individual.

If this is the case, I find myself wondering why there is a statutory difference between pre-meditated murder and manslaughter.

In the end both result in a death, but the means by which the ends are met are starkly different. Such is the case with hate crimes.

Why is it necessary to add sexual orientation to the N.C. hate crimes law?

Rhetorically I ask, "Why not?" If individuals are protected due to the religion they choose to practice, their nationality, color, race and country of origin, then individuals identifying with a particular sexual orientation also should be protected.

In fact, I believe that the hate crimes law should be expanded to also include gender identity and gender expression. Societal norms dictate acceptable expressions of gender identity, and if an individual doesn't conform, he or she tends to be labeled as homosexual, either rightly or wrongly.

The Chapel Hill Police Department classified the attack last week as a hate crime, and I can only expect that the state of North Carolina will also stand against this type of crime by codifying sexual orientation, gender expression and gender identity in the Ethnic Intimidation Act.

Violence of any kind against another individual is wrong, but crimes motivated by discrimination are utterly inexcusable.

It is time that the N.C. General Assembly takes a stand against violence and protects all residents of North Carolina equally.

Stereotypes of sexual orientation, gender expression and gender identity must not be perpetuated by legislative inaction.

This issue cannot be marginalized into a debate between liberal and conservative ideals because it affects all individuals, regardless of ideological beliefs.

I encourage everyone to sign the two petitions being circulated by the Gay, Lesbian, Bisexual, Transgender-Straight Alliance, one that calls on the N.C. General Assembly to include sexual orientation, gender identity, sex, age and ability in its hate crime laws, and the other that calls on the UNC system to adopt nondiscrimination and nonharassment policies based on sexual orientation, gender expression and gender identity.

Contact Blakely Whilden, co-president of UNC Young Democrats, at [whildebe@email.unc.edu](mailto:whildebe@email.unc.edu).

The University community was shocked last week by the news of a brutal assault on Thomas Stockwell, a junior international studies major at UNC.

The Chapel Hill Police Department, which hasn't yet been able to identify the attackers, classified the incident as a hate crime. But even if those responsible for the assault were caught, they wouldn't face charges by that name.

North Carolina's hate crime laws are limited to the Ethnic Intimidation Act of 1991, which states that "If a person shall, because of race, color, religion, nationality or country of origin, assault another person, or damage or deface the property of another person, or threaten to do any such act, he shall be guilty of a misdemeanor punishable by imprisonment up to two years, or a fine, or both."

Members of the UNC Gay, Lesbian, Bisexual, Transgender-Straight Alliance are trying to change this with one of two petitions they are circulating in response to the attack. The

petition asks the N.C. General Assembly to change the ethnic intimidation law to include protection based on sexual orientation, gender identity, sex, age and ability.

The group also has put together a petition to ask the UNC system's governing board to adopt a nondiscrimination policy for all 16 campuses.

The state turned down a measure to address hate crimes within the law in 1999, indicating that many North Carolinians have concerns about an amendment.

This Viewpoints addresses the question of whether or not the hate crime law should be changed — and whether or not a change would be effective. The recent crime hit close to home, uniting people in support of the student. But it has the community debating any potential legal response.

Contact editorial page associate editor Jeff Kim, at [jongdae@email.unc.edu](mailto:jongdae@email.unc.edu).

By Philip McFee; [pip@email.unc.edu](mailto:pip@email.unc.edu)

## Punish crime, not the intent

George Bernard Shaw said, "The worst sin towards our fellow creatures is not to hate them, but to be indifferent to them; that's the essence of inhumanity." That is what makes hate crimes such a difficult topic to write on.

Writers who oppose hate crime legislation are often accused of being indifferent. However, it is my hope to demonstrate that our opposition isn't out of indifference.

The push for the inclusion of sexual orientation in hate crime laws often comes from the notion that crimes against members of the LGBTQ community are viewed indifferently by a cold and uncaring world.

That is probably true, but one must realize that the world sees genocide in Sudan and does next to nothing. It is not the issue of sexuality that is the root problem — the problem is the world itself.

**RICHARD BEAN**  
UNC JUNIOR

If we strive for equality, we must also realize that equality under the law is as important. It is here we begin to find problems with hate crime laws.

Section 1 of the 14th Amendment says that states cannot "deny to any person within its jurisdiction the equal protection of the laws."

The problem is that hate crime laws unequally protect certain citizens based on categories or qualifications. People of certain races, disabilities, ancestries, et cetera, are no more entitled to protection against crimes than others who suffer the same crime.

Generally speaking, I would say it's a safe bet that all violent crimes involve a level of "hate" to begin with. We do not need legislation to tell us that. Society should avoid laws that qualify human value.

Erwin Chemerinsky, Duke University School of Law professor, told The Los Angeles Times in 2000 that the current laws regarding anti-discrimination in the workplace are protected because they deal with commerce.

However, he claims, "beyond the workplace, it's too hard to find the constitutional basis for federal regulation."

At both the state and federal levels, the 14th Amendment makes it pretty hard to justify hate crime legislation.

Another problem with hate crime laws is the fact that they're often phrased vaguely. Such was the occasion in the Supreme Court case *RAV v. City of St. Paul, Minn.* (1992).

The court deemed that the Bias Motivated Crime Ordinance was too broad and thus unconstitutional.

That said, the real issue here is what we think rewording the hate crimes laws will accomplish.

Do we want to punish crime, or do we want to punish the intent?

Hate is not a crime. Hate is a regrettable condition of humanity that stems from our differences. Since hate is not a crime in and of itself, we should not legally penalize for it.

What should we do then? Should we let people attack others based on race, religion, country of origin, disability and sexual orientation? Absolutely not.

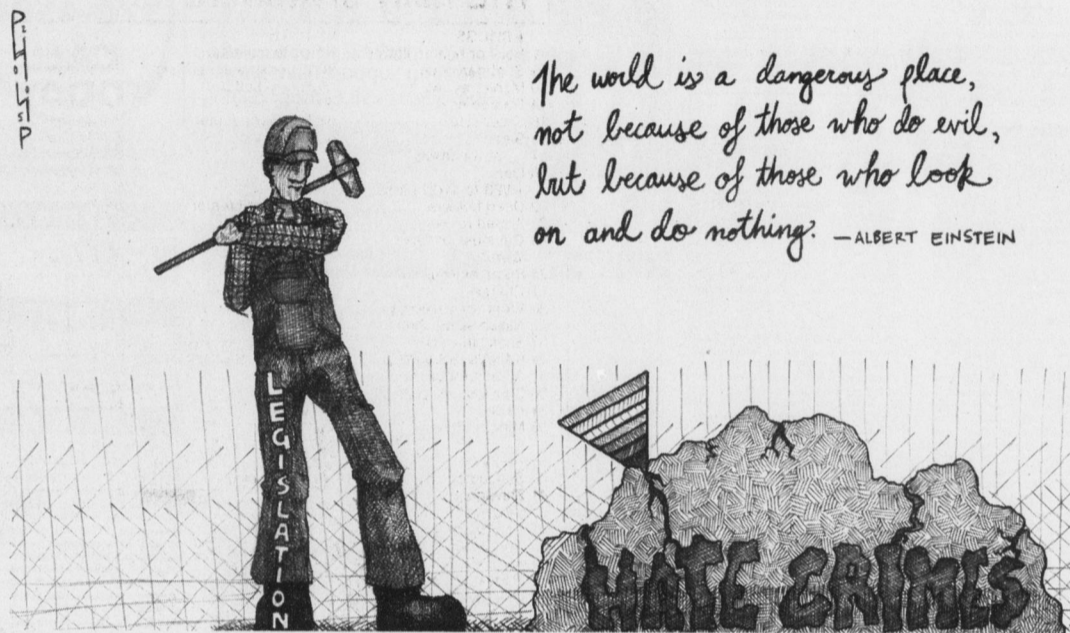
No form of attack should be regarded with more weight than another. Assault is assault. People don't assault others out of love. That requires no distinction.

The actions of those who attack individuals based on their sexual orientation are sickening. They should be punished to the fullest extent of the law. But the crime is the assault, not the hate.

There are other ways a community can join together to condemn such horrific acts besides creating laws that are at odds with the Constitution. We must explore those alternatives while realizing the sad reality that hate is a part of this world and that we cannot legislate it into nonexistence.

Contact Richard Bean, a junior journalism major, at [rbean@email.unc.edu](mailto:rbean@email.unc.edu).

### VIEWPOINTS CARTOON



## Changes would not prevent a similar attack

The Feb. 25 assault on Franklin Street prompted an outpouring of support for the victim. That was a welcome and healthy public reaction to a crime. It also renewed calls for expanding North Carolina's "hate crime" laws to include "sexual orientation." Nothing that happened that night was legal in this state. The current laws didn't stop it. Why think expanded laws would?

Where do North Carolina's laws address "hate crimes"? General Statutes 14-3(c) holds that "If any Class 2 or Class 3 misdemeanor is committed because of the victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a Class 1 misdemeanor" and that "If any Class A1 or Class 1 misdemeanor offense is committed because of the victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a Class 1 felony."

Later, in G.S. 14-401.14 on "Ethnic intimidation," one finds, "If a person shall, because of race, color, religion, nationality, or country of origin, assault another person, or damage or deface the property of another person, or threaten to do any such act, he shall be guilty of a Class 1 misdemeanor."

Also, No. 17 on the state's list of aggravating factors includes any "offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, gender, sexual orientation, disability, or country of origin."

As the laws stand now, the assailants would already face heightened sentencing because of aggravating factors. After all, they "joined with more than one person in committing the offense" (No. 2 on the list). Furthermore, even though "sexual orientation" isn't stated explicitly, it could be considered under No. 20, which is "Any other aggravating factor reasonably related to the pur-

**JON SANDERS**  
POLICY ANALYST, POPE CENTER

poses of sentencing."

Presumably, that catchall would preclude the state from having to rewrite the statutes in case an assault like the one on Franklin Street took place and the victim was beaten for being too fat, whistling, wearing funny clothes or talking like a Yankee. Surely any judge would consider attacking someone just for being gay "reasonably related to the purposes of sentencing."

So should the state's "hate crime" laws be expanded to include sexual preference? Preferably, the state's "hate crime" laws would be repealed altogether, maybe replaced with greater sentencing flexibility for judges to decide on a case-by-case basis. Irrational hatred leading to crime should certainly be considered an aggravating factor deserving additional punishment.

But the statutes already make room for greater punishment for noxious criminal motivations not foreseen by the legislature. As the recent assault showed, trying to enumerate them is unsatisfactory. This ham-handed way to protect citizens from "hate" is bound to leave out some motivations. In this case, it was sexual preference; in the next, who can say?

It's probably too late to put the genie back in the bottle. The change would have little effect other than to provide empty symbolism. So let the laws be amended.

Still, recognize that the outrage here is the assault itself — not that the presumed motivation behind the crime hasn't been given special condemnation by state laws. Don't lose sight of the real in fighting for the symbolic.

Contact Jon Sanders, a policy analyst for the John William Pope Center for Higher Education Policy in Raleigh, at [jsanders@popecenter.org](mailto:jsanders@popecenter.org).

## Hate crimes hurt more than just individuals

Hate crimes serve as a mechanism of oppression against marginalized communities — whether those communities are defined by sexual orientation, gender, gender identity, race, ethnicity, national origin or religion.

Hate crimes are not ordinary assaults or simple acts of aggression. They are deliberate acts perpetrated to send a message to an entire stigmatized group.

Hate crimes deliver the message that if you are in a minority group, you deserve to be in danger and must fear attack.

Thus, hate crimes extend beyond immediate victims and reverberate through an entire targeted community.

North Carolina affirmed that hate crime legislation is a necessary measure to protect against attacks based on race, ethnicity, country of origin, nationality and religion when the Ethnic Intimidation Act was passed in 1991. The law allows for hate motivation to be considered during sentencing.

But the law fails to include sexual orientation, gender and gender identity.

By amending this act, North Carolina would remove the law's implication that hate crimes based on sexual orientation don't merit the same kind of attention as attacks based on ethnicity.

The law must be revised to include a more comprehensive set of protections for lesbian, gay, bisexual, transgender and queer-identified persons from acts of homophobic violence.

The recent hate crime based on perceived sexual orientation that occurred in Chapel Hill makes this revision particularly urgent.

Those that use the rhetoric of "special protections" ignore the fact that hate crimes are especially propagated onto specific groups, dividing the larger community along identity lines.

Members of these minority communities are uniquely target-

**TOMMY RIMBACH**  
INTERN, UNC LGBTQ OFFICE

ed for violent criminal acts, unlike crimes such as theft, which could happen to anyone and are not motivated by identity prejudice. These protections are not "special," since hate crime laws extend to everyone.

Sexual orientation, gender and gender identity aren't simply additional items to be added to a laundry list of protections.

Rapidly increasing numbers of hate crimes based on sexual orientation and gender identity have been reported by the FBI since it began reporting hate crime statistics. According to the FBI's "Hate Crime Statistics, 2003," 16.4 percent of the 8,715 total hate-motivated crimes in that year were based on actual or perceived sexual orientation, second only to crimes based on race. The FBI also reported six murders in 2003 based on sexual orientation, outnumbering five based on race.

The FBI's numbers do not reflect the true number of hate crimes because police reporting is voluntary and hate crime legislation varies from state to state or is nonexistent.

Until North Carolina's Ethnic Intimidation Act is strengthened, queer people remain vulnerable to violent attacks because of their actual or perceived sexual orientation and gender identity.

Homophobic violence enforces hierarchies intended to suppress the liberty, dignity and humanity of queer people, while privileging those in the majority.

We must be vigilant in our determination to construct an accepting society in which hate-motivated violence isn't further propagated. No individual or group should fear for their lives in an open and democratic society.

Contact Tommy Rimbach, an intern with UNC's LGBTQ Office, at [trimbach@email.unc.edu](mailto:trimbach@email.unc.edu).