2nd UpCare training: Legal and ethical framework in incidents of gender-based violence.

Biography - Lolis Michael

LOLIS Michael is an Officer of the Hellenic Police. He is a graduate of the Schools of Police Officers and Officers of the Hellenic Police, as well as of the Department of Public Administration of Panteion University with a specialization in Public Institutions, having thus immersed himself in Public and European Law and Human Rights. He is currently continuing his studies at the Department of Political Science and History of Panteion University.

He has served for 5 years in Security Departments in the centre of Athens and then for 2 years at the Headquarters of the Hellenic Police Headquarters, while for the last 5 years he has been serving at the Department for Combating Racist Violence in Attica. At the same time he is an active member of the "European Union of LGBT Police Officers" and the "Police Action for Human Rights" and is in charge of the "LGBT Police Action" Department. Finally, he is a certified Council of Europe Expert and Trainer on Policing Hate Crimes based on Sexual Orientation and Gender Identity and conducts training seminars and conferences for Police Officers all over Europe.

Speaking openly to the Police, but also to the Greek society about homosexuality and the need for visibility, acceptance and respect for LGBT people, he is actively and publicly active with interviews, speeches and trainings in order to raise awareness, defend and promote Human Rights.

Why are we here?

- Speaking engagement as a Police Officer.
- Contribution of the Police to the defence of Human Rights of LGBTQ persons.
- Collaborating with the scientific community and the CP.
- Gender Identity Terminology, Masculinity Standards and
- Gender Violence, Hate Crimes and Victim Protection.
- Scientific Documentation and Bibliography.

Gender and sexual orientation

Biological sex: It is the classification of individuals as male or female when assigned a sex at birth, based on chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics.

Gender: Refers, traditionally, to the social and cultural construct of being male or female.

Sexual orientation: Refers to each person's capacity for deep affection, emotional and sexual attraction and intimate and sexual relationships.

Gender identity: Refers to a person's personal sense of their gender.

Gender expression: These are the outward manifestations of gender, expressed through a person's name, pronouns, clothing, hairstyle, behavior, voice, or body characteristics.

The LGBTQI+ acronym

- <u>**L**esbian</u>: A woman who is sexually and/or emotionally attracted to women.

- <u>Homosexual/**G**ay</u>: A man who is sexually and/or emotionally attracted to men.

- <u>**B**isexual</u>: A person who is sexually and/or emotionally attracted to more than one gender.

- <u>**T**ransgender</u>: is an umbrella term that includes people who have a gender identity that differs from the gender assigned to them at birth. It includes multiple gender identities, such as trans man, trans woman, non-binary, agender, genderqueer, genderfluid, etc.

- <u>**Q**ueer</u>: Has become an academic term that is inclusive of people who are not heterosexual and/or cisgender.

- <u>**I**ntersex</u>: Intersex individuals are born with **gender characteristics** (such as chromosomes, genitalia, and/or hormonal structure) that do not strictly fall into male or female categories or belong to both at the same time.

The "+" in the LGBT acronym may include (but is not limited to):

- **Asexual:** An asexual person experiences no or very little sexual attraction. Asexuality is an integral part of who these individuals are.

- **Pansexual / Omnisexual:** These terms are used to describe people who have romantic, sexual or emotional desire for people regardless of gender identity.

- **Questioning:** is the personal process of exploring a person's gender identity, gender expression and/or sexual orientation.

Gender Identities and Masculinity Patterns

Scientific study and information on **gender identities** help us to recognize the **discrimination** suffered by women and LGBTQ people, and how men are affected by the **masculinity patterns** they form.

It is important to understand their seriousness, since **gender discrimination** is expressed through verbal violence, harassment, threats or psychological and physical violence and is very common.

Systemic **prejudice**, **negative discrimination** and **unequal treatment** are major **sources of stress** for women and LGBTI people and have a significant negative impact on their health and professional lives, especially when these people try to hide or deny their sexual orientation or gender identity.

In recent years, more and more people are opposing entrenched gender discrimination and supporting Human Rights.

Patterns of masculinity are generally considered to be the **hegemonic and dominant heterosexual patterns of 'masculine' behaviour** promoted by patriarchy, such as competitiveness, dominance and aggression, are identified in men's characteristics of being resilient, appearing tough and venting their emotions through anger, avoiding the appearance of weakness and seeking adventure, danger and violence.

Toxic masculinity is defined as the pattern of masculinity that primarily harms women and LGBTQ people and affects men and is the set of **antisocial behaviours** that promote male superiority and aggression through the threat or use of psychological or physical violence. One of the most abhorrent expressions of toxic masculinity is found in the fact that the vast

majority of **homicides and rapes** are committed by men, and that men are three times more likely to commit suicide than women. Its extreme form of expression is the **militarism** that breeds <u>wars</u>. As a pattern of masculinity it affects large sections of the population and is also **linked to sexism, homophobia, bullying and sexual harassment.**

Masculinity patterns are linked to the way gender identity is performed. Gender identity is shaped through the differences in the social roles that each gender is called upon to play and the social relations between genders.

According to the **biological approach,** these differences and relationships are determined by biological factors, which are transformed into social inequality through the phallic sexual superiority of men.

The **sociological approach** states that gender identity is shaped by observation, imposition and imitation, with reward and punishment playing an important role.

Finally, the **anthropological approach** goes back to the cave age where survival required the man to be a hunter to bring food and the woman to take care of the hearth and children, resulting in the stereotype of the strong man and professional and on the other hand the woman as a good mother and housewife.

An important factor in the social expression of gender identity is played by the **socialisation agents** (family, school, friends, media) that shape the behaviour and character of the individual according to gender and teach them to live according to the rules that exist for each of them respectively.

Everything suggests that ultimately **gender is a social construct** and has no direct connection with biology. Gender expression is the way a person communicates gender identity to others through behavior, clothing, hairstyles, voice, and physical body characteristics.

Masculinity norms can have a negative impact on **quality of life**, as women and LGBTI people perceive them as <u>unfair discrimination that contributes to their lack of trust</u> in society and much more so in the police.

Women's and LGBTQ people's **lack of trust** increases the likelihood of <u>not reporting gender-based violence and homophobia</u>, such as rape, domestic violence, sexual

harassment and abuse that they suffer, with the result that many of these incidents remain 'in the dark'.

The EU's Fundamental Rights Agency has clearly highlighted the phenomenon of under-reporting of these crimes.

Alternative versions and models of masculinity are therefore needed, which intervene in men, and in traditional models of masculinity in general, towards the formation of new healthy forms of masculinity. The aim is a joint effort to change in a direction of **caring, allied and interdependent** models of masculinity towards patriarchally structured hegemonic, dominant and toxic versions and manifestations of masculinity.

Sexism, misogyny and toxic masculinity, through the sexist and homophobic jokes, comments and posts on the internet, the sexist and homophobic public discourse that unfortunately dominate, inevitably create the necessary **background of gender violence**, turning it into a triviality, normalizing it and delivering it legitimized in the collective unconscious.

Discrimination on the basis of gender identity and sexual orientation

Patriarchy, defined as the timeless historical social system in which men biologically have the status of being the exclusive holders of power, with women systematically oppressed, and sets **social privileges** the lack of which automatically distinguishes other people (black, gay, bisexual and women) as inferior, resulting in much of society being affected by men's norms.

Heteronormativity: refers to cultural and social practices where men and women are led to believe that heterosexuality is the only one.

Sexism: any action, gesture, visual presentation, spoken or written word, practice or behaviour based on the idea that a person or group of people is superior because of their gender(s).

Dominant gender perceptions

In surveys conducted, dominant gender perceptions can be seen to be reflected in a general stereotypical framework of prejudices based on **conservative and anachronistic** ideological constructs.

The **denial of interculturalism and diversity** is also apparent. It is generally accepted that foreigners, Muslims, Roma and LGBTI people should not coexist, since homogeneity is considered a key element. Thus diversity is not considered permissible.

Research also shows that **younger people consider older people to be too conservative and do not allow them to express themselves freely** and take the initiative, which negatively affects the progress and modernisation of the culture.

Stereotype, is a belief about a person or people based on trends or characteristics of the groups they belong to. It is a preconceived and oversimplified generalization about a group of individuals, with no emphasis on individual differences.

Prejudice, is a preconceived judgment, opinion, idea or attitude, towards other individuals or groups, which is negative and based on rumours and opinions that do not take into account knowledge and facts.

- **Stereotype: Cognitive**
  How do I categorize and "label" a person?

- **Prejudice: Emotional**
  How do I feel about a person? What is my attitude towards them?

- **Discrimination: Behavioural**
  How do I act towards a person?

Hate crime

Hate crimes are criminal acts caused by bias or prejudice towards specific groups of people. To be considered a hate crime, the offence must meet two criteria: First, the act must be a **criminal offence**. Second, the act must be motivated by **prejudice**.

Prejudicial motives can be broadly defined as **prejudiced negative opinions, stereotypical assumptions, intolerance or hatred directed towards a particular group that has a common characteristic**, such as race, origin, language, religion, nationality, **sexual orientation, gender or any other fundamental characteristic**. People with disabilities may also be victims of hate crimes.

Forms of hate crime: can include threats, property damage, assault, murder or any other criminal offence committed with a bias motive. Hate crimes do not only affect people from specific groups. <u>People or assets associated with</u> - or even perceived to be members of - a group that shares a protected characteristic, such as human rights defenders, community centres or places of worship can also be targets of hate crime.

Hate speech includes any form of expression that disseminates, incites, promotes or justifies racial hatred, xenophobia, anti-Semitism or other forms of violence and hatred based on intolerance, including intolerance expressed through aggressive nationalism and ethnocentrism, discrimination and hatred against minorities and migrants. *The issue of regulating hate speech is often related to **freedom of expression**.*

Freedom of expression is provided for in several international, European and national laws. The right to freedom of expression includes freedom of opinion and freedom to receive or impart information or ideas without interference from public authorities and regardless of frontiers. But this right is not absolute. The exercise of this freedom entails duties and responsibilities, and may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary measures in a democratic society for national security, territorial integrity or public safety.

Legal framework against racism

- Code of Conduct for Police Officers (Decree 254/2004)
- Article 82A PC "Crime with racist characteristics.
- Law 927/1979 (tr. 4285/14) 'On the punishment of acts or actions aimed at racial discrimination'.
- Article 137A par. 2 PC "Torture".
- Law 4443/2016 "On the Implementation of the Principle of Equal Treatment".
- Operation of T.A.R.B. Article 7 of. P.D. 7/2017.
- Law 4478/2017 "Victim Support".

Code of Conduct for Police Officers (P.D. 254/2004)

- **Respect and protection of human rights.**
- **Protection of vulnerable/vulnerable social groups.**
- **Protect** all citizens **without discrimination** from illegal acts against them.
- **Prosecute** infringements of the law **without discrimination.**

- **Avoids prejudice** based on colour, gender, national origin, religion, sexual orientation, disability or any other distinguishing characteristic of the individual

Approach Hate Crimes

1. Identical offence: In the case of the specific criminal provision, the racist motive is included in the objective element of the crime. Few legal orders have chosen this route.

2. Racist motive as an aggravating circumstance: Most legal orders have chosen that the commission of the offence with a racist motive constitutes an aggravating circumstance and is taken into account by the court when calculating the sentence. See former Article 79(1)(c). 3 PC: the commission of the act out of hatred of national, racial, religious or sexual orientation against the offender constitutes an aggravating circumstance.

Article 82A of the Criminal Code - Crime with racist characteristics

If the circumstances show that a **crime has been committed against a victim whose selection was made on the basis of race, colour, national or ethnic origin, genealogical background, religion, disability, sexual orientation, identity or gender characteristics**, the scope of punishment shall be increased. \

Protected necessities

- Race
- National ethnic origin
- Religion
- Gender identity
- Sexual orientation
- Colour
- Disability
- Genealogical background

Law 927/1979 "On the condemnation of acts or actions aimed at racial discrimination" as amended by Law 4285/2014 "Combating certain forms and manifestations of racism and xenophobia"

Article 1 Public incitement to violence or hatred

1. Any person who intentionally, publicly, orally or through the press, via the internet or by any other means or manner, incites, provokes, stimulates or encourages acts or actions that may cause discrimination, hatred or violence against a person or group of persons, identified on the basis of race, colour, religion, or genealogical background, national or ethnic origin, sexual orientation, gender identity or disability, in a manner that endangers public order or poses a threat to the life, liberty or physical integrity of the aforementioned persons, shall be punishable by a term of imprisonment of three (3) months to three (3) years and a fine of five to twenty thousand (5. 000 - 20.000).

2. The same penalties shall be imposed on anyone who, with intent and by the means and methods referred to in paragraph 1, incites, incites, provokes or stimulates the commission of damage or damage to property, if used by the above groups or persons, in a manner that endangers public order.

Article 2 Public approval or denial of crimes

1. Anyone who intentionally, publicly, orally or by word of mouth, through the press, via the Internet or by any other means or manner, condones, trivialises or maliciously denies the existence or gravity of genocide crimes, war crimes, crimes against humanity, the Holocaust and crimes of Nazism that have been recognised by decisions of international tribunals or the Greek Parliament and such conduct is directed against a group of persons or a member of a group of persons identified on the basis of race, colour, religion, genealogical background, national or ethnic origin, sexual orientation, gender identity or disability, when such conduct is manifested in a manner that may incite violence or hatred or is threatening or abusive against such a group or a member of such a group, shall be punishable by the penalties provided for in paragraph 1 of the preceding Article.

2. If the act referred to in the preceding paragraph was committed by a public official or employee, in the exercise of the duties assigned to him/her, a prison term of six (6) months to three (3) years and a fine of ten thousand to twenty-five thousand (10,000 - 25,000) euros shall be imposed.

Article 137A par. 2 of the PC "Torture"

2. **Torture** committed by the persons and under the circumstances provided for in the preceding paragraph even without the purpose stated therein shall be punishable by the same penalty, **if the selection of the victim is made on the basis of the characteristics of race, colour, national or ethnic origin, genealogical background, religion, disability, sexual orientation, identity or gender characteristics. In this case Article 82 A shall not apply.**

Law 4443/2016 "On the implementation of the principle of equal treatment of persons"

The purpose of its provisions is to promote the **principle of equal treatment and combat discrimination:**
- on grounds of race, colour, national or ethnic origin, genealogical background
- on grounds of religion or belief, disability or chronic illness, age, marital or social status, sexual orientation, identity or characteristics
- to facilitate the exercise of workers' rights.

Concept of discrimination

'**Direct discrimination**' means that a person is treated less favourably than another person is, has been or would be treated in a comparable situation,

'**Indirect discrimination**' means where a provision which is prima facie neutral may place persons with certain characteristics at a disadvantage compared with other persons.

Evolution of anti-racism legislation and its implementation

- From hostility to hatred and from hatred to selection of the victim on the basis of his/her characteristics or vulnerability

- From increasing the sentence in sentencing to investigating bias at every stage of the process from the commission of the crime

- The interconnection of the investigation with the hearing and the court's decision

- Special Departments and Offices for dealing with racist violence

- Special prosecutors and management of racist, homophobic, transphobic crime

- Interagency liaison to identify potential victims - Special Agreement.

Presidential Decree 132/2012 as amended by Presidential Decree 7/2017 - Establishment of Departments and Offices for Combating Racist Violence

1. **Intervenes** on its own initiative or upon submission of a complaint, charge or complaint in the investigation and prosecution of crimes relating to the commission, preparation or in any way public incitement, provocation or stimulation to commit, offences or the manifestation of acts or actions which may cause discrimination, hatred or violence against a person or group of persons on grounds of race, colour, religion, descent or national or ethnic origin.
2. **Collects**, process and use information appropriately.
3. **Coordinates and guides.**
4. **Develops partnerships.**
5. **Prevents and addresses racist violence.**
6. **Oversees.**
7. **Cooperate** with international Organizations and Bodies, as well as with Bodies and representatives of vulnerable social groups.
8. **Keeps a special record** of incidents of racist violence.
9. **Informs victims** or complainants of racist violence about their rights.
10. **Ensures** that the competent services are **informed** in cases where medical or hospital care or psychological support is required for victims of racist violence, and that an interpreter is present if requested or deemed necessary.
11. **Immediately informs the competent public prosecutor.**

1st Department of Social Issues and Countering Racism of the Hellenic Police Headquarters
1. **Handles** issues of racism and xenophobia and guides the regional services in dealing with them.
2. **Cooperates** with relevant governmental or non-governmental agencies, as well as with Services, Authorities, Agencies and organizations.
3. **Maintains statistics** regarding incidents of racial violence, collecting, studying and evaluating them.
4. **Represents** the Greek Police at national, European and international level in conferences, workshops and events on issues of racism and xenophobia.

What are the human rights of LGBTQ people?

All people have certain fundamental, universal and inalienable rights - simply because they are human beings. These so-called "Human Rights" are not just privileges that can be taken away at the whim of someone else, even the State itself.

They are "Rights" because they are things that allow you to be, do and have. These rights exist to protect you from people who might want to hurt or harm you. They are also there to help us live in an atmosphere of friendliness between us and to live in peace.

When people are not aware of their human rights, violations such as discrimination, intolerance, injustice, oppression and slavery arise.

The United Nations Universal Declaration of Human Rights emerged from the horrors of World War II and was signed in 1948 to shape a common understanding of individual rights. It is the basis for a world based on **freedom, justice and peace**.

Police and vulnerable groups such as LGBTQ people, a difficult relationship

Traditionally the relationship has not been the best with many problems and is linked to the phenomena of under-policing and over-policing.

1. **Under-policing** means not understanding and accepting and therefore neglecting vulnerable populations and their needs. We also have indifference towards incidents of violence against vulnerable groups and especially hate crimes based on sexual orientation and gender identity, which are ignored but mainly underestimated due to prejudice.

2. **Hyper-policing** means targeting and stereotypical profiling against vulnerable groups. It is associated with prejudiced accusations, insults, mistreatment due to intense friction leading to resentment.

These have an impact on vulnerable groups, underlining their trust in the police and not cooperating with them. This makes it difficult for the police to be effective in preventing and solving crime. Finally, lack of trust in the police increases the likelihood of not reporting crimes.

Discrimination against vulnerable groups and police culture

1. **Inherent conservatism,** Police officers tend to reflect the dominant conservative views of society. The Police are hierarchically structured and strictly disciplined, hence making them generally conservative. They also maintain society's prevailing negative attitudes towards vulnerable groups, despite being a vulnerable group.
2. **Social isolationism** because of the elements of power, risk and effectiveness of the police profession, which make it suspicious and stand against anything different making it suspect of wrongdoing. It creates an "us" and "them" relationship with citizens. Thus vulnerable groups are treated with greater suspicion and are particularly targeted. "Police clients" shows just that.
3. The **dangerousness** of the police profession, making Police aggressive, tough with intense display of strength and power as an entrenched practice.
4. The **"Ethos of Masculinity"**

Suggestions for improvement

We identified existing problems between Police and vulnerable groups, despite this there is room for improvement:

1. Integration policies and anti-discrimination policies
2. Establishment of stable dialogue structures.
3. Intercultural Policing - Police Liaisons.
4. Mediation
5. Promoting a culture of tolerance towards diversity.
6. Basic and continuous human rights training.
7. Either through enforcement or mimicry, stereotypes are reproduced within the Police.

Protection of victims of hate crime

The EU Victims' Rights Directive defines a **victim of crime** as: "A **natural person** who has suffered harm, including physical, mental or emotional harm or financial loss directly caused by a criminal offence".

"**Harm**" can include injury or loss of life, material (property) and moral injury (including pain, physical, mental or emotional distress), economic loss and loss of income and loss of support for dependents.

Secondary victimisation refers to victimisation that occurs not as a direct result of the criminal act but through the response of institutions to the victim.

- Lack of response or unhelpful and discrediting response. - Assigning responsibility for the crime to the victims.

- Minimizing the severity of a reported hate crime and restraining the individual.

- Denying the victim's perspective in assessing and evaluating the crime, not considering a bias motive or dismissing it as irrelevant.

- Displaying negative attitudes or reinforcing the perpetrator's prejudices, and treating the victim accordingly.

- Expressing sympathy and understanding for the offender.

- Lacking appropriate knowledge, experience and skills to recognise the importance of the victim's identity to the crime suffered.

- Lack of attention to individual needs, particularly the need for information and justice.

- The denial of victims' rights.

Victims of hate crime share common needs with victims of other forms of crime. There are some needs that are more likely to exist for all or some hate crimes. Some needs are also specific to particular types of hate crime and understanding them is vital.

1. Personal safety and protection.
2. Practical help.
3. Emotional and psychosocial support.
4. Confidentiality.
5. Information and advice.
6. Assistance in navigating the criminal justice system.
7. Respect and decent treatment.
8. Victim-centered approach.

Finally, the principles of the criminal justice system should contribute to:

- Ensuring that victims have **effective access to justice** both procedurally and physically, that they can participate in accordance with the law at all stages of the process. To this end, legal assistance and representation must be provided.

- Ensure that victims are **protected** from **bodily harm immediately after the incident** and continue to provide such protection in accordance with identified risks and protection needs.

Criminal justice system authorities <u>together with victim support services</u> should act to:

- Approach victims of hate crime with an awareness of the <u>particularities</u> of hate crime victimisation,

- Treat victims of hate crime <u>sensitively and respectfully</u>, in a professional and personalised manner.

- Assess the <u>needs</u> of each hate crime victim on an individual basis.

- Address the victim's need for medical assistance, emotional and <u>psychosocial support, and any financial and practical support</u> required.

- Consider and provide for the victim's <u>need to be heard</u>.

- Take appropriate and timely steps to identify and support victims' <u>privacy and confidentiality needs</u>.

- Provide full and timely <u>information</u> to victims about their rights, the process and available support services. The provision of information should not be formalistic, but should be tailored to the victim.

In conclusion, all of the above will be successful:

- Higher levels of trust from each Citizen.

- Ensuring uniformity of the Police Work.

- Effectiveness of the Police and reduction of crime.

- The Police must be the first institution to give the message to the whole society that LGBTI people are equal members of society with respect to their characteristics.

- It is a question of democracy in the end.

Conclusion

As an "institutional activist", who is assuming the position and duties of an Officer of the Greek Police, in order to promote and defend Human Rights against Racism and Discrimination, I must say that there is no end to the struggles for the abolition of gender discrimination and the claim for equal rights. Sustained action for a less racist and in this case sexist and more democratic police force is a means to the dynamically changing social environment we all live in.

As a gay activist, my pursuit is, how do we enjoy our lives while in the midst of the struggle, since as a trans colleague of mine says "revolution is anything I can do while dancing", which is why Pride is the epitome of claiming Human Rights, a colorful revolutionary celebration, free of discrimination, imposed roles and norms that crush us. A celebration of Freedom and Democracy, with the Police as an integral part.