



# Hate crime against racial and religious groups in the EU: prevention and restoration

## *In brief*

A small proportion of crime is motivated by hatred, but these crimes have a major impact on individual victims and the wider community. When the perpetrator of a crime is thought to have been motivated by hatred for people of a particular characteristic, the crime is classified as a hate crime. Such crimes may include verbal abuse, criminal damage, or physical violence, and can have a long term impact.

Hate crime threatens European ideals of equality and human rights. The Quaker Council for European Affairs (QCEA) undertakes research and advocacy to promote effective policies to reduce hate crime. This criminal justice project within our human rights programme is also relevant to our advocacy on peace issues.

This background paper is a survey of the main issues around hate crime in the European Union. It considers the phenomenon from a range of perspectives and identifies policies needed to prevent and respond to hate crime. The relationship between hate crime, the far-right and wider social conflict is explored to show the wider consequences of failing to take effective measures to address it.

## *Introduction*

The Quaker Council for European Affairs (QCEA) is 'the Quaker voice in Europe', engaging in advocacy toward to the European institutions. Since 1979 we have promoted policies that respect the intrinsic equality of all people everywhere. Hate crime causes harm to individuals and can create division within societies. In some EU Member States, recent increases in hate crime have been directly linked to far-right and xenophobic political groups. Like almost all other European citizens, European Quakers deplore hate crime in all its forms. QCEA calls upon European institutions and Member States to undertake a proper assessment of hate crime in Europe and how it can be prevented.

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### ***What is hate crime?***

Hate crime includes “acts of violence and intimidation, usually directed towards already stigmatized and marginalized groups - a mechanism of power and oppression, intended to reaffirm the precarious hierarchies that characterize a given social order” [1]. Put more simply, a hate crime is a criminal offence where the offender is thought to be motivated by hatred for a human characteristic, such as race. Many are surprised to learn that the term hate crime was not widely used until 1985 when the United States of America proposed a definition in the US Hate Crime Statistics Bill developed between 1985 and 1990. Today, the definition of hate crime varies between EU Member States and between different organisations within Member States. This creates misunderstandings and is a barrier to measurement and policy making at both national and European levels. This paper takes a practical approach: we cannot begin to comprehensively address the phenomenon of hate crime until it is more clearly defined and recorded consistently.

Hate crime is a complex phenomenon in our society. There are many different prejudices that may motivate offenders, or be used by them to justify their actions. Hate crime can be considered from a comparative legal perspective, or as an issue within criminology, police science, political science, sociology or psychology. This paper draws on aspects of each of these fields and argues that greater attention should be given to the issue by the European Union, its institutions, and its Member States. The personal characteristic used as a pretext for an attack can be one of many aspects of human diversity, including disability, sexual orientation, or gender identity. We must remember that it is the attacker's perception which is significant. So, for example, Sikhs have been attacked on the basis of hatred against Muslims, and homophobia can be experienced by straight people. This paper focuses specifically on the sometimes intertwined characteristics of race and religion and considers the relationship between hate crime and conflict within and between societies.

Victims of race-based hate crime are affected in different ways compared with victims of other crimes. [2] There is evidence that victims of hate crime are more likely to consider themselves to have been severely emotionally affected than victims of other types of crime. This is because the characteristic which provided stimulus for the attack is one that they cannot hide from those around them, and this contributes to an unrelenting feeling of insecurity. The victims of race-based hate crime are often members of minority ethnic groups which are marginalised and disadvantaged in other ways. Researchers have identified Afrophobic hate crime in particular as invoking emotions that relate to a long history of discrimination, resulting in feelings of powerlessness and being subject to structural discrimination within society. [3]



Photo: Fire service vehicle used to raise awareness of hate crime. Credit: Judy Crook

## ***Racism, hate crime, and violent conflict***

Individual acts of hate crime and broader violent conflicts within communities (including wars understood as ethnic or religious conflicts) are two sides of the same phenomenon. Perpetrators of individual crimes and violence on a larger scale promote the idea of difference implying untrustworthiness of an ‘other’. They justify crime, violence, and human rights abuses by claiming the ‘other’ group is inferior or a threat.

In the 1940s and 50s the psychologist Gordon Allport suggested that people tend to put themselves into social categories, providing a systematic means of defining others. This theory suggests that individuals enhance their self-esteem by identifying themselves with specific social groups. The process is linked to the development of prejudice, as people learn to see their social group (their ‘in-group’) as superior [4]. If multiple groups form prejudices in a similar way, then peace is at risk from competing nationalist ideas.

The risk of intergroup conflict within communities is one reason why the European Union should give increasing attention to hate crime. The European Union was founded to be a peace project in the aftermath of war and mass atrocities, including the Holocaust. This brings a responsibility to prevent and respond to crime motivated by ethnic, religious, or other types of hatred.

In recent years European societies have faced an increasing threat from xenophobic political movements, such as the English Defence League in the United Kingdom and Golden Dawn in Greece. Some xenophobic parties have done well in national and European elections, including Jobbik which is now the second most popular party in Hungary. Jobbik says it is a party of the greater Hungarian (Magyar) nation, not the smaller borders imposed on the country by historical peace agreements. Leaders speak unkindly of minorities within Hungary’s borders whom they do not consider part of the Magyar people. [5]

Political groups who promote an irrational fear of an ‘other’ put at risk the peace we enjoy within European societies. Their narratives also spread the feeling of insecurity and inequality that can make individual acts of hate crime more likely. In a QCEA article from 2013, Swedish Quaker Per Becker argued that “a greater focus on social justice would ease the distress of the already disadvantaged, thus reducing the opportunity of racist groups to stir up the xenophobia” [6].

It is difficult to generalise across Europe, where different societies and communities have had varying levels of success at protecting themselves from racist narratives. One method of reducing hate crime is to implement effective policies to prevent and respond to hate crime. As academics Boeckmann and Turpin-Petrosino say, “Hate crime laws represent official recognition of the harm of intergroup aggression and the importance of applying sanctions against it” [7]. The lessons of our history have often been learned, forgotten, and then re-learned. Europe needs a more consistent commitment from its policy makers and legislators. Specific recommendations are outlined in the sections below.



Photo credit: Michael Fleshman

## ***Forms of hate crime in Europe***

Hate crime based on prejudice against racial and religious groups in the European Union include:

### ***Anti-Migrant***

Hate crime committed against recent migrants takes different forms across Europe. It is based on prejudice against recent migrants which is often expressed in debates about the availability of jobs, housing, or healthcare. Across Europe, but particularly in Greece and Italy, victims of anti-migrant sentiment have usually been of African or Middle Eastern origin. In north-western Europe victims are sometimes white Europeans who have migrated to another EU Member State after their country joined the EU.

### ***Afrophobia***

Afrophobia is the fear, hate, or dislike of people of African descent. Although there are close to 12 million people of African descent in Europe, their specific concerns receive very little attention from the European Union. One consequence of structures at local, national and EU level excluding Black people is the tiny proportion of policy-makers of African descent. Cécile Kyenge is part of the one percent of Members of the European Parliament who are non-White and one of the only Black MEPs. Prior to becoming an MEP and whilst a minister in the Italian government she was the victim of racist insults, death threats and physical assault.

### ***Anti-Semitism***

The Jewish people are described as both an ethno-cultural and ethno-religious group. Prejudice, discrimination and violence toward Jewish people has taken place in Europe over many centuries. In England and France in the 12th century, stories of Christian children's blood being used in Jewish rituals were created by powerful elites to reinforce the status of Jews as an 'out-group', for example to motivate soldiers during the Crusades. Examples of similar stories continuing to be told can be found as recently in 2005 in Russia and in 2008 in Poland. It is only 70 years since a European government systematically murdered Jewish people in the Holocaust (a fact which a small number of people continue to deny - itself an act of anti-Semitism). European supporters of a Syrian militant group committed murders in the Jewish Museum in Brussels in 2014, and so far in 2015, at a kosher supermarket in Paris and at a synagogue in Copenhagen.

### ***Islamophobia***

Islamophobia, or anti-Muslim prejudice, is the prejudice against, hatred towards, or fear of Muslims, a person perceived to be Muslim, or the religion of Islam. After many European societies have become more comfortable with their multi-ethnic identities, far-right groups have sought to increase fear of Muslims and reinforce narratives of people with a Muslim faith being part of an 'out group'. Examples include the campaigns of the English Defence League and British National Party in the UK. The September 2001 attacks and the media portrayal of the related 'War on Terror' have been used to justify anti-Muslim sentiment. Analysis of the Crime Survey of England and Wales estimated that 70,000 hate crimes took place in England and Wales in 2012, and that the greater proportion were committed against adult Muslim men.

### ***Anti-Gypsyism***

Anti-Gypsyism in a broad sense is used to refer to prejudice against the diverse Roma, Sinti, Gypsy, and Traveller communities. Historic discrimination against people who travel rather than settle continues today, often taking the form of dehumanising treatment and institutional racism. Both Roma and Sinti suffered in large numbers during the Holocaust. Public debate about travelling and settled communities often portrays stereotypes and notions of cultural superiority. Media and political debate in some EU countries also helps to reinforce associations between Roma and Gypsy communities and crime.

These are some of the groups who are frequently subject in Europe today to hate crime based on race and/or religion. It is not meant to be a comprehensive list. Other groups suffer from hate crime but are not included in the scope of this paper.

### ***How widespread is hate crime?***

There are no reliable estimates for the frequency of hate crime in the EU. We don't know how much hate crime takes place in general. Nor do we have specific figures for victims targeted because of their perceived ethnic or national origins, or their religious affiliation or belief. One of the biggest obstacles to addressing hate crime is the lack of reporting: victims often either do not see the value of reporting the crime to government agencies or are even fearful of being re-victimised in the criminal justice system. European governments cannot claim that hate crime is a social or political priority until significant further steps are taken to overcome these challenges. The chart below shows the vast differences between the rates of hate crime reported in EU Member States.

The European Union Minorities and Discrimination Survey (2008) surveyed more than twenty thousand ethnic minority (non-white) citizens, and found that one quarter have been victims of racially motivated crime in the last year. Examples in the EU study include Roma people victimised in Greece, the Czech Republic, and Poland, and Somali-heritage people targeted in Finland and Denmark. In the UK, race- and faith-related hate crime comprises 89 per cent of the approximately 42,000 incidents of hate crime reported each year. [8]

Whilst the chart indicates that the UK is far ahead of other EU Member States in its recording of hate crime, the number of crimes recorded still only represents a small proportion of offences committed. This is indicated by the Crime Survey of England and Wales, which surveys 50,000 people to estimate the rate of occurrence of various crimes. The Crime Survey estimates that 278,000 hate crimes took place in 2013 amongst the combined English and Welsh population of 56 million people. Of the 42,000 hate crimes that are reported in the UK, only a small proportion of investigations result in identification of the offender(s), and even fewer come to a form of justice that helps the victim and community to recover and the offender to avoid committing further crimes.

The progress made in the UK on ascertaining the number of hate crimes has been based on large representative surveys of the populations. Other Member States should replicate this approach. Given that there is often limited trust between police and minority racial and religious groups across the European Union, victims should be facilitated to report crimes through dedicated 'third party reporting mechanisms', such as the UK civil society organisation 'Tell Mama' which allows victims of Islamophobia to report incidents and access support services. Political support is needed to bolster these initiatives because those with an interest in the continued marginalisation of minorities often try to discredit attempts to raise awareness. Although one may claim that this is not a Union level competence, the EU could show leadership.

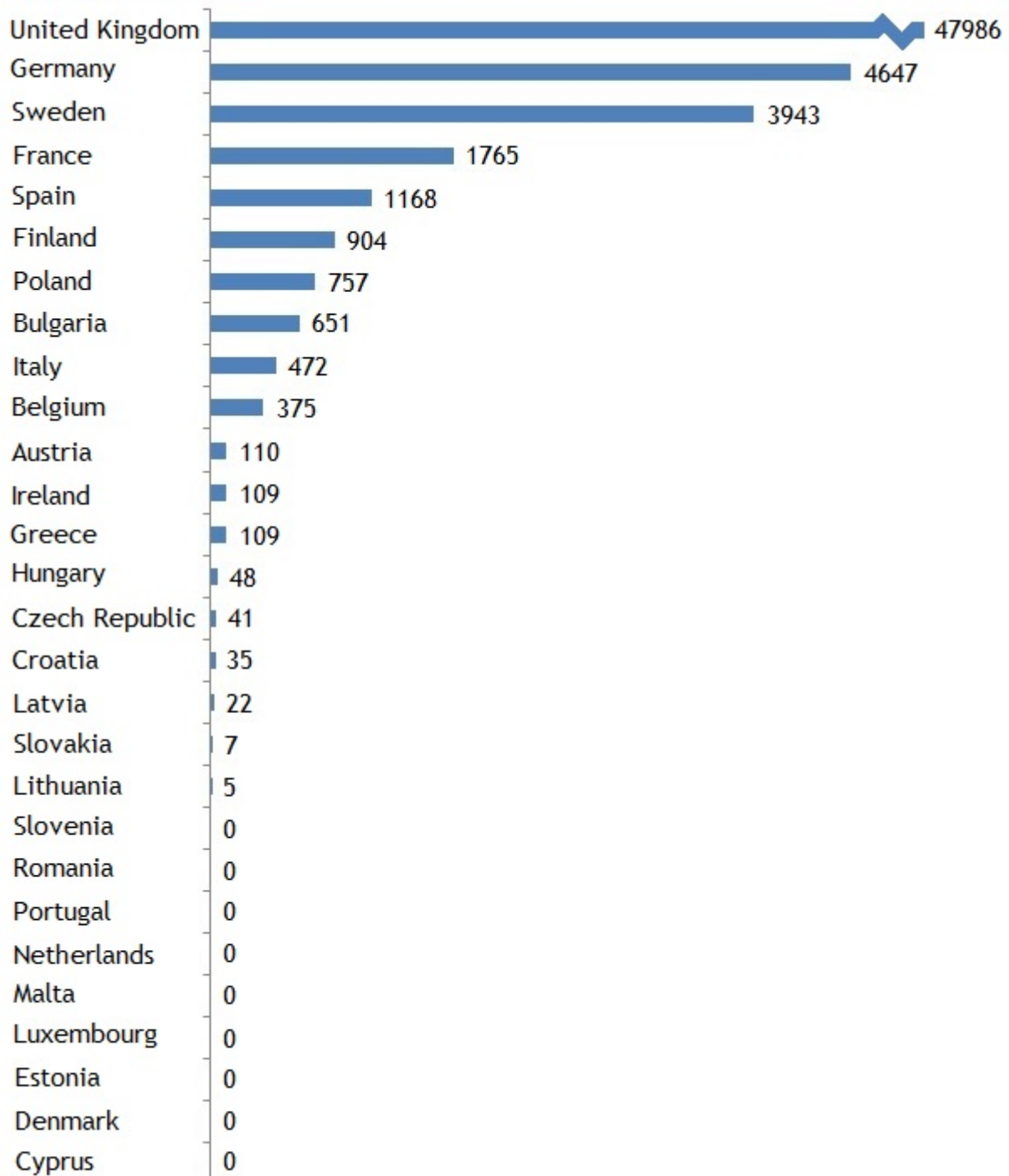
The chart also shows that a number of countries have failed to produce any data on hate crime at all. The leading attempt to measure hate crime reported in Europe is the Organisation for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE, ODIHR). Data for 2013 was published in November 2014, but nine EU Member States had failed to submit data. In European democracies there is a role for European citizens to pressure their governments to contribute to this effort to understand the extent of hate crime.

### ***Recommendations on the recording of hate crime***

1. EU Member States to instigate annual robust estimations of hate crime incidents by use of population surveys
2. EU Member States to develop systems of facilitating reporting of hate crime by its victims, through trusted civil society organisations
3. The European Commission to prioritise hate crime prevention and identify good practice
4. European citizens in EU Member States that do not collect or submit hate crime data to the Office of Democratic Institutions and Human Rights to raise this with their governments.

### ***Number of hate crimes recorded by each EU Member State***

This chart shows the number of hate crimes recorded for the year 2013. Data was collected and published by the Office for Democratic Institutions and Human Rights in 2014.



## ***National responses to hate crime***

Below we consider examples of interesting initiatives in three European Union Member States, highlighting some challenges and some good practice.

### ***Greece - Slowly facing reality***

In the four years between 2009 and 2012 Greece reported only five racially motivated hate crimes. However, at the same time, civil society organisations and UN agencies were reporting widespread hostility toward migrants, and many instances of hate crime committed by police officers. Greece has demonstrated some improvement in recording: 109 hate crimes were reported in 2013. However, this figure still bears no relation to the frequency of hate crime in Greece.

The Greek government has finally begun to show some consideration of hate crime. For example, in 2014 the Greek Minister of the Interior implemented Decision KYA 30651 granting migrants who are victims or the primary witnesses in hate crime cases permission to stay in Greece until the court case is completed. In November 2012, the Greek government assigned a Special Prosecutor to lead prosecutions on hate crime. The following month, it was announced that 70 specialised hate crime units would be created within the Greek police. They are responsible both for investigation and for activity to prevent hate crime (such as liaison with minority groups and identification of high-risk locations). However, the 200 specialist hate crime police officers received only two days of specialist hate crime training. Changing the attitudes, and culture, and improving the knowledge and skills of Greek officers to enable them to deal effectively with hate crime will take many years of continued commitment from the government.

A draft anti-racism law proposed by the previous coalition government (New Democracy and PASOK) in November 2013 was adopted in September 2014 after considerable debate in the Greek Parliament. The new law exempts hate crime victims from paying the 100 euro required to report a crime, previously criticised by QCEA [9]. In December 2013 the Greek Ministry of Justice published a National Action Plan which contained a binding framework of priorities and actions concerning the protection of human rights. The elimination of racism and intolerance was one of the goals included in the plan. According to the Action Plan, “racist violence, in all its aspects, infringes human dignity and at the same time threatens social cohesion; it can also cause the destruction of the rule of law and contribute to social conflict. Therefore, the prevention and the active repression of endemic phenomena of racism and xenophobia constitute the Greek State’s top social priorities” [10].

### ***The Netherlands - Local partnerships***

There is a lively public debate in the Netherlands about the experience of minority groups. Recent migration from Eastern Europe and North Africa featured prominently in the European Parliament election campaign of 2014. Some politicians presented recent migrants as an ‘other’ and a threat to social cohesion, but these candidates did not perform as well as expected on polling day.

In 2009, the Municipal Anti-discrimination Services Act established local anti-discrimination agencies in each municipality, at which citizens can report hate crime and receive help and support. The local agencies work closely with schools, businesses, and police. The Dutch Public Prosecution Service has introduced specialized regional hate crime and discrimination prosecutors who can consult the local anti-discrimination agencies in order to determine the nature of a crime offence. This approach helps to improve the criminal justice system’s awareness of the experience and needs of hate crime victims. It is a model which should be considered by other EU Member States.

## **United Kingdom - Victim focus**

Analysis of UK hate crime statistics shows that most reported hate crime is classified as low level violence, in which no injury is caused.[11] The next most common manifestations of hate crime are violent, with injury and/or property damage. In England and Wales, 82% of reported hate crime reflects racial prejudice while 4% reflects religious prejudice. The UK has many cities in which there are large proportions of people who are not white in the population, but recorded hate crime is higher (per capita) in rural areas.

In recent years the UK response to hate crime has become more victim-orientated. Consideration of racism as a motivating factor for offenders received attention from academics in the late 1970s, within a social science known as victimology. Survey-based research produced evidence that the experience of minority ethnic groups of both crime and responses from the criminal justice system was distinctly different from the experience of the population as a whole. Leading hate crime researcher Nathan Hall argues that, although victims should be the priority, this focus has led to ignoring the needs and effective rehabilitation of offenders [12]. Addressing the needs of offenders in the criminal justice system is not only a more effective way of reducing re-offending, and therefore the number of victims in the future, but can also aid victims in their recovery.

The biggest difference between the UK and other EU Member States is the power that victims have to determine whether or not the crime they are reporting is dealt with as a hate crime. Whilst police are the decision makers in most EU Member States, the UK Association of Chief Police Officers' hate crime definition is a "criminal offence that is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on personal characteristics"[13]. This system was introduced after the police lost public trust following publication of the findings of a public inquiry into the police response to the racist murder of a London teenager in 1993. This victim-determined definition helped to empower victims of hate crime in relation to police officers. In the context of other reforms taking place at the same time, it encouraged a 'public service' culture in British policing and increased interaction with minority communities.

Police in the UK also intervene in situations in which a crime has not been committed. Intervening in non-criminal manifestations of hate has become more common following the requirement for police services to record the number of 'hate incidents' (where they were aware of hate motivated activity, but where there was no related criminal offence - such as a racist email). The intention was that by gathering intelligence and in some cases intervening in incidents where a crime has not yet been committed, that situations will not escalate.

### ***What functions do police need to undertake to address hate crime?***

- Adopt a proactive approach to prevent and also respond to tension within the community
- Distribute preventative messages to the public, for example through minority language radio stations or magazines
- Collect and disseminate information related to hate crime
- Train police officers to meet the specific needs that hate crime victims may have, e.g. taking more time to care for victims as they report crime, especially those who have trouble communicating
- Raise awareness of the support offered by government agencies or community groups
- Improve liaison with civil society groups
- Improve relations with minority groups
- Be more open to involving victims, offenders, and the wider community in a restorative or healing approach, rather than risking increasing harm through a punitive judicial process
- Protect victims and witnesses to ensure they are not at risk from repercussions
- Develop effective relationships with local partners (municipal council, prosecutors, judges) to ensure other parts of the criminal justice process can meet the expectations set by improved policing
- Implement internal processes to challenge inappropriate attitudes of staff and create support networks for minorities within the police

Where police services fall short, a key reason may be an internal culture which is focussed on achieving easily measurable numerical targets and does not value these harder-to-measure activities.





Photo credit: Esther Simpson

### ***Recommendations based on consideration of the cases of Greece, the Netherlands and United Kingdom***

1. Specialist hate crime officers should be used to meet the specific needs of victims, offenders and the community. This should not be done at the expense of hate crime training across criminal justice systems.
2. Local civil society organisations should be enabled to offer services to hate crime victims whilst advising the criminal justice system, schools and businesses on prevention and the needs of victims.
3. Member States should follow the UK example by giving victims the power to decide whether the police treat the crime they experienced as a hate crime.

### ***Alternative responses to hate crime***

Criminal justice systems in EU Member States operate primarily on a punitive basis. They seek to prove that an offender is either innocent or guilty and then punish the guilty as a deterrent to other people committing crime. European Union justice cooperation often fails to ask whether punitive criminal justice models are effective, and indeed whether any form of criminal justice benefits the victim, offender or wider society.

In calling for EU institutions and Member States to prioritise hate crime, QCEA is not advocating for more punitive policies. The new anti-racism law in Greece (see previous section) amended Article 81A of the Greek Penal Code, allowing hate crime offenders to receive increased penalties, and removed the option for judges to suspend prison sentences in hate crime cases. This was partly as a result of an EU Framework Decision (a particular type of legislative act that provides the European Commission more limited enforcement powers than an EU Directive) in 2008 which said that all states must regard a hate motivation as an aggravating factor.

The confinement, isolation and negative influences of prison often make it more difficult for offenders to transform their lives. Some prisons separate the different ethnic groups within the imprisoned population as a short-term attempt to reduce violence or to facilitate meeting practical needs such as religious dietary requirements. Community-based sentences or restorative justice approaches could benefit the victim and reduce the chance of further suffering by helping to reduce the offender's prejudice or increase their understanding of the harm they have caused. These issues are of interest to many Quakers, who have often viewed deterrents, (in terms of criminal justice policy or military policy), as counter-productive or even as a form of violence themselves.

When seeking to change the behaviour of hate crime offenders, criminal justice systems should remember that ignorance can be a factor in prejudice. In a 2003 study the human rights organisation Stonewall found that there was a correlation between lack of contact with ethnic groups and fear of these groups. Undertaking community work with a local minority group could expose potential hate crime offenders to the culture and people belonging to that group, reducing stereotyping and the underlying prejudice or fear of the 'other'. These activities would need to be carefully managed to ensure a positive outcome and safety on all sides. Specialist community service programmes for hate crime offenders could make a useful contribution. QCEA supports Recommendation 8 of the European Network Against Racism (ENAR) Shadow Report 'Racist Crime in Europe' that called on research to be commissioned on the use of restorative justice in hate crime. In 2014 an excellent study by Mark Walters, 'Hate Crime and Restorative Justice: Explaining causes, repairing harms' was published by the Oxford University Press and should be of interest to policy makers.

## ***More radical change***

Hate crime by definition includes an element of a very different type of motivation compared with other offences. Thus, addressing hate crime would benefit from specific criminal or community justice responses that aim to challenge or even de-construct the hatred. The extent to which this is possible, and the needs of hate crime offenders, are topics requiring further research. If condemnation and rejection in childhood or in the job market contribute to the formation of hatred, societies surely need to find loving responses if we are to successfully change offender behaviour.

Policy makers often assume that victims and the wider community favour traditional criminal justice approaches, without examining the evidence. In the Netherlands, hate crime reports are more received by anti-discrimination agencies or through online reporting are more in number than reports to Dutch police and prosecution services (see section above). When designing responses to hate crime the preferences of victims for a non-criminal justice response should be taken into account.

## ***European Union responses to hate crime***

Race- and faith-based hate crime have more clearly become a matter for EU interest since the Charter of Fundamental Rights prohibited discrimination (entering into force in 2009). The Charter obliged EU Member States to tackle crime motivated by xenophobia, racism, or religious intolerance. Articles 1, 10, 21, and 47 of the Charter also provide for the right to human dignity, freedom from discrimination, freedom of conscience and religion, and the right to an effective remedy.

Over the past twenty years, the EU has given increasing attention to the protection of fundamental rights. The European Commission has promoted the principle of equal treatment for all using its structures to support the development of law and practice by EU Member States. In 2000, the European Council (at the time 17 heads of government) adopted a directive (Racial Equality Directive - 2000/43/EC) 'for combating discrimination on the grounds of racial or ethnic origin', which aimed at putting the principle of equal treatment into effect in all EU Member States. According to Article 13 of the Racial Equality Directive each Member State is required to establish one or more equality bodies responsible for promoting equality and human rights, providing assistance to victims of any form of discrimination, and conducting research - the result of which should be presented to the European Commission every five years. For example, in the Netherlands equality bodies were established in the form of the Equal Treatment Commission, and are now incorporated into the responsibilities of the National Institute of Human Rights.

One of the most significant initiatives of the Council is the Framework Decision on Combating Racism and Xenophobia (2008/913/JHA). The Framework Decision, which was adopted unanimously in 2008, established a common legal approach to hate crime. Each Member State was obliged to integrate all the provisions of the Framework Decision into its national law by 2010. Implementation could be improved by the provision of guidance on investigative standards and new provisions to ensure that undocumented migrants are treated fairly when reporting hate crime.

### ***What could a hate crime prevention policy look like?***

- Preventing the development of negative prejudice, for example by educating children to value diversity. Being aware of racism within children's stories or national traditions. Racism and colonialism should be part of the school curriculum
- Using multi-ethnic, multi-cultural and multi-religious material in early years education and children's television
- Taking a whole-family approach. If we learn our group identity and prejudices from parents, then the children of hate offenders may gain from additional support
- Understanding hate offenders: In what other ways are they disadvantaged economically, socially or in their health, and when do they feel those disadvantages most acutely? For example the peak in offending during the late teenage years could be pre-empted by specific peace education in schools.
- Promoting compassion as a response to the harm caused by hate crime
- Examining social, political and economic structures that may contain racial bias, such as the labour market and housing market.

In January 2014 the European Commission published a report, discussing which Member States have implemented the Framework Decision and to what extent [14]. The report pointed out gaps in the transposition of the legislation by some EU Member States and stressed the importance of fully and correctly implementing the legislative framework. The European Commission engages Member States where it identifies weaknesses in implementation. Since December 2014 the Commission has had the responsibility to undertake infringement proceedings against Member States who have not complied. A financial penalty can be issued after two judicial judgements that a Member State has not transposed the legislation.

Infringement proceedings are rare and are undertaken in response to political pressure. The European Commission will only act if there is broad political support, so EU citizens should be encouraged to write to their government concerning tolerance for xenophobia or racist crime by other EU Member State governments. Citizens can also write directly to the European Commission Directorate-General for Justice where they have specific evidence that a Member State is failing to address racist crime.

### ***Is hate crime a priority for the EU?***

In 2014 Strategic Guidelines for the new European Commission were agreed by EU Heads of Government. These guidelines determined the areas of focus for the European Commission for the next five years, until November 2019. Hate crime was not included in the agreed priorities for interior and justice policies. Instead the agreed priorities fall under three broad headings:

1. Migration policy, including ‘dealing more robustly with irregular migration’;
2. Crime and terrorism, including prevention and combating organized crime (such as human trafficking and cybercrime), and countering radicalisation
3. Judicial cooperation: Strengthening existing common tools.

In setting these priorities the EU Member States fail to recognise that the interconnected nature of our global community means that fear-based, reactive, and retributive policy will only reduce security. Within Member States, the level of priority given to hate crime varies widely, as does criminal justice practice relating to hate crime. The opportunity to raise standards in countries with poorer responses to hate crime should provide further motivation for action at an EU level, particularly in the European Council.

QCEA looks forward to a re-examination of existing interior and justice priorities, so that the EU does not miss the opportunity to address the problem of hate crime. In the interim, we note that Frans Timmermans, the European Commission First Vice-President, has been given a very significant role which he could use to prioritise hate crime. For example, impact assessments of Commission proposals should undertake more detailed assessment of their compliance with fundamental rights principles.

### ***Working Party on Improving Reporting and Recording of Hate Crime in the EU***

In 2013 EU Member States agreed ‘Council (of the EU) Conclusions on Combating Hate Crime’. This document committed Member States to taking action to encourage victims to report hate crime and ensuring that government agencies to record it accurately. It is now the responsibility of the European Commission and its relevant agencies to support Member States in implementing the Council decision. In response to these Council Conclusions, the EU’s Fundamental Rights Agency established a Working Party on Improving Reporting and Recording of Hate Crime in the EU.

The European Commission is involved in the Working Party, alongside EU Member States and other international organisations, such as the OSCE. Members of the Working Party send delegates to contribute to the Working Party. They are usually professionals with responsibility for hate crime, such as specialist police trainers, officials from government ministries and staff from prosecution authorities.

The Working Party met for a preparatory seminar in April 2014 in Greece and agreed its priorities: (1) encouraging victims to report and improving recording of hate crime; (2) enhancing multi-agency partnerships; and (3) training for law enforcement and criminal justice staff. It is most important for the Working Party to find ways to routinely hear the experience of victims and the local civil society organisations that support them.

## Conclusion

EU and Member State hate crime policy should prioritise preventative, compassionate and restorative approaches that directly address the causes rather than create further harm and mistrust in communities. The EU was formed originally to counteract nationalism and create economic and political ties. With the increased movement of people and goods today, these bonds must be between social groups as well as between states. It is important to create a broad coalition against division and hatred in society in order to challenge those politicians who exploit or incite xenophobic fears and prejudices.

The cooperation required within in the EU means that Member States must have a certain degree of mutual trust. Citizens are able to travel and trade freely, but governments cannot assure their citizens that, if they are a victim of hate crime in another Member State, their case will be treated with appropriate seriousness or effectiveness. The safety of minority groups in every corner of the EU should be a matter of concern for all Member States.

The absence of realistic estimates of the extent of hate crime in Europe is limiting progress. The European Commission should propose the systematic collection of data, so that data gaps can no-longer be used as an excuse for inaction. The EU Fundamental Rights Agency should be congratulated on the surveys it has done on assessing the extent of racism, xenophobia, anti-Semitism and other forms of hate crime. Further victimisation surveys are needed to learn about the hate crime that is happening in each country and what can be done to prevent it. In 2016 the EU survey on minorities and discrimination, previously conducted in 2008-9, will be repeated. This is welcome and should be supported by surveys at local and Member State levels.

Sevasti Christoforou, Andrew Lane, and Alexandra Bosbeer, May 2015

## Endnotes

- [1] Perry, B., 2001, *In the Name of Hate: Understanding Hate Crimes*. Routledge Publications, London, p.10
- [2] Craig-Henderson and Sloan (2003) in Hall, N (2013). *Hate Crime*. Routledge Publications, London, pp. 65-6.
- [3] Ibid.
- [4] Tajfel, H. See for example *Social Psychology and Intergroup relations* (1982) and *An Integrative Theory of Intergroup Conflict* (1986).
- [5] Jobbik Foreign Affairs Committee (2010) *Radical Change: A guide to the parliamentary manifesto*, pp. 12-23.
- [6] QCEA Around Europe No. 352 August-September 2013. Available online at <http://www.qcea.org/2013/10/around-europe-352-augustseptember-2013/>
- [7] Boeckmann and Turpin-Petrosino in Hall, N (2013). *Hate Crime*. Routledge Publications, London, p. 124.
- [8] Creese, B. and Ladar, D. *Hate Crimes, England and Wales 2013/14*. Home Office, UK. Available online at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/364198/hosb0214.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/364198/hosb0214.pdf)
- [9] Lane, A. Targeted action needed to tackle racism. QCEA blog 26 February 2014. Available online at: <https://qceablog.wordpress.com/2014/02/26/targeted-action-needed-to-tackle-racism-2/>
- [10] Greek Government (2013) *The National Action Plan for Human Rights* [in Greek] Available online at: <http://www.opengov.gr/ministryofjustice/wp-content/uploads/downloads/2013/12/Dikaiomata.pdf>
- [11] - Creese, B. and Ladar, D. Ibid.
- [12] Hall, N (2013) *Hate Crime*. Routledge Publications, London, p. 98.
- [13] College of Policing, 2014. *Hate Crime Operational Guidance*. Available online at: <http://library.college.police.uk/docs/college-of-policing/Hate-Crime-Operational-Guidance.pdf>
- [14] Report from the Commission to the European Parliament and the Council on the implementation of Council Framework Decision 2008/913/ JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law (27 January 2014) available online at: [http://ec.europa.eu/justice/fundamental-rights/files/com\\_2014\\_27\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/com_2014_27_en.pdf)

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