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Working Session 2: Combating intolerance and discrimination and promoting mutual respect and understanding – implementation of commitments

OSCE/ODIHR 2007 Human Dimension Implementation Meeting

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Ladies and Gentlemen,

Hate crimes have been at record highs in much of Europe. Due to the continuing data deficit, the full scope of such crimes is unknown, although there is ample evidence of the daily racist incidents that are directed at people of African, Middle Eastern, and South Asian origin, the Roma, and Jewish communities—as well as immigrants in general. In 2006, antisemitic incidents increased significantly in some countries, in a few cases reaching record numbers. Anti-Muslim hate crimes have also persisted in Europe in a climate of growing anti-immigrant bias and racist violence. Anti-gay violence is becoming more apparent in many parts of Europe. Increased public presence has in some cases brought with it a rise in homophobic rhetoric and violent backlash.

Violent hate crimes have resonance beyond the victim of the crime, extending to the entire community to which the victim belongs. Hate crimes are not just a criminal justice problem, but are also a human rights problem, an acute form of discrimination in which one's identity is under attack. Hate crimes breed fear, restrict movement and interaction, and limit the ability of individuals to exercise their rights. Hate crimes can spin out of control and threaten the stability of state itself.

Hate crime laws

Human rights law obliges governments to take necessary measures to combat violence founded on prejudice. While governments have an obligation to combat all crime, the hate crime concept is a simple acknowledgement of the greater seriousness of crimes motivated by racial, religious, or other hatred that harm whole communities. This is an important part of the rationale by which hate crimes should be accorded a higher priority within the competing priorities of criminal justice systems. Hate crime legislation also provides for more severe penalties, in line with the legal principle that more severe punishments should be accorded crimes that are "most destructive of the public safety and happiness."[1]

Thus, one measure to be taken in combating hate violence is the adoption of provisions making racist and other bias motives an aggravating circumstance in the prosecution of violent crimes. A growing number of States – currently more than 30 in Europe and North America - have such legislation.[2] Yet states have largely failed to ensure that those responsible for violent hate crimes are held accountable under these provisions. Governments should make prosecution of hate crimes a priority within the criminal justice system and ensure that police and prosecutors have the training needed to detect and effectively prosecute hate crimes.

Data collection

Official monitoring and data collection to fill the information gap is another building block for effective action to combat hate crimes. This is an essential means to assess and respond to patterns of bias-motivated violence.

Data that is collected systematically and regularly can show short and long-term trends and suggest whether or not government policies to combat hate crimes are working or need to be enhanced or altered. Data on hate crime incidents can also provide important insights into social dynamics. Statistics that are disaggregated by the attributes of the victim can help political leaders and police better understand which groups are most susceptible to violence and to determine how best to allocate policing resources.

Human Rights First has long called on governments to systematically monitor and publicly report on hate crimes. Yet, only a handful of States are currently doing so in a systematic way. A few other governments do produce some statistics, although the numbers they produce tend to be glaringly low as compared with the statistics of nongovernmental organizations

[1] "It is but reasonable that among crimes of different natures those should be most severely punished, which are the most destructive of the public safety and happiness." Justice William Blackstone, United States Supreme Court.

[2] Among the 56 participating states of the Organization for Security and Cooperation in Europe (OSCE), those that still **do not** have express legislative provisions for penalty enhancement based on bias motivations in cases of violent crime against individuals include: **Albania, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Germany, Greece, Holy See, Hungary, Iceland, Ireland, Luxembourg, Lithuania, Macedonia, Monaco, Montenegro, the Netherlands, Romania, San Marino, Serbia, Slovenia, Switzerland,** and **Turkey.**

involved in similar monitoring. Underreporting is widespread and the result is that political leaders are not being made aware of the true extent of the problem.

Even where data on hate crimes is available, those statistics often don't reveal much about the victims, thus limiting the potential of such information to serve as a useful tool in developing policy to provide protection to target groups.

An increasing number of countries provide some data on crimes motivated by antisemitism, although only **Canada** (in some police jurisdictions), **France, Germany, Sweden**, the **United Kingdom** and the **United States** provide meaningful statistics.

Fewer countries report on violence against Muslims. Only **Canada** (in some police jurisdictions), and the **United States** report on "anti-Muslim" crimes. The **United Kingdom** reports on such crimes in its statistics on faith-based crimes, although it is moving toward a system of classification that will add the category "motivated by Islamophobia." **France** reports on anti-Muslim crimes only indirectly – a majority of reported racist crimes are committed against people of North African origin who are typically Muslim.

Similarly, only a few countries can provide reliable statistics on incidents motivated by bias based on sexual orientation, among them **Canada** (in some police jurisdictions), **Sweden**, the **United Kingdom** and the **United States**.

In conclusion, Human Rights First recommends that the participating States of the OSCE undertake the following steps in order to meet their commitments to combat violent hate crimes:

Ensure that those responsible for hate crimes are held accountable under the law and that the record of enforcement of hate crime laws is well documented and publicized.

Adopt legislative provisions that recognize bias as an aggravating circumstance in the commission of violent crime. Such provisions should include in the definition those crimes motivated in whole or in part by animus on the basis of the victim's race, religion, ethnicity, gender, sexual orientation, mental and physical disabilities, or other similar forms of discrimination.

Ensure that police and investigators – as the first responders in cases of violent crime – have the resources and training to detect bias motives and that prosecutors are well aware of the legal measures available and required to prosecute hate crimes.

Establish or strengthen official systems of monitoring and public reporting to provide accurate data for informed policy decisions to combat hate crimes. Governments should undertake to monitor incidents, offenses, as well as prosecutions.

In reporting on hate crimes, record the attributes and/or bias motives of the victims of hate crimes and disaggregate their public reporting correspondingly.

Reach out to community groups. Governments need to take steps to increase the confidence of minority communities by demonstrating a willingness to work more closely with their leaders and community-based organizations in the reporting and registration of hate crimes and on measures to provide equal protection for all under the law.