



CRIMINAL JUSTICE SOCIAL WORK
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Race and Hate Crime Prevention in Scotland

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1. Introduction

This Briefing Paper covers the following topics:

- Current literature and theory on racially motivated and hate crimes
- The legal response to race and hate crimes
- Community responses to racially motivated crime and the implications for Scottish social policy

A Growing Problem?

Police recorded figures for racially motivated crimes in Scotland have risen considerably in the last few years prompting extensive interest and research, including the production of Clark and Moody's paper, *Racist Crime and Victimisation in Scotland* (2002), which recommended that the Scottish Executive adopt a zero tolerance publicity drive similar to that created for domestic violence cases.

It is, however, difficult to be certain as to whether this rise in recorded incidents reflects a rise in the actual number of offences committed. Firstly, the Scottish figures (see below) reflect an increase as a result of changes to police practice, following the acceptance by all forces of the definition of racist crime put forward by the inquiry into the death of Stephen Lawrence: that is, that a racist incident is "*any incident which is perceived to be racist by the victim or any other person*". Secondly it seems that the way in which offences are recorded by different police forces is not consistent; some record each incident as one offence whereas others record each element of an incident as separate offences (Clark and Moody 2002).

Racially aggravated offences (including harassment and conduct) by police force area, 2002/03 - 2006/07¹

Police Force Area	2002/03			2003/04			2004/05			2005/06			2006/07		
	RAH	RAC	Total	RAH	RAC	Total	RAH	RAC	Total	RAH	RAC	Total	RAH	RAC	Total
Central	12	184	196	12	252	264	22	331	353	6	344	350	8	342	350
Dumfries and Galloway	4	23	27	4	23	27	4	33	37	2	57	59	0	29	29
Highland	9	179	188	12	232	244	12	253	265	3	205	208	1	213	214
Grampian	11	287	298	7	258	265	16	368	384	13	384	397	5	440	445
Lothian & Borders	13	153	166	32	270	302	20	338	358	100	784	884	94	1038	1132
Northern	29	29	58	10	47	57	15	77	92	9	80	89	2	58	60
Strathclyde	336	1026	1362	307	1181	1488	422	1417	1839	357	1616	1973	341	1629	1970
Tayside	61	317	378	48	402	450	39	489	528	13	321	334	12	262	274
Scotland	475	2198	2673	432	2665	3097	550	3306	3856	503	3791	4294	463	4011	4474

RAH: Racially Aggravated Harassment

RAC: Racially Aggravated Conduct

The rise in recorded offences may also be attributable, to some extent, to recent efforts by police forces to actively encourage victims to report such offences², in recognition of the fact that such crimes are frequently under-reported due to factors such as mistrust of the police, fear that the complaint will not be taken seriously, fear of retaliation, or language difficulties (Clark and Moody 2002). Relationships between the police and the public can, of course, vary over time. For example, the relationship between the police and some ethnic minority communities seems to be deteriorating rather than improving in the recent climate of the “war on terror”. For example, sixty members of Glasgow’s Afghan community recently staged a demonstration outside Strathclyde Police Headquarters to protest against what they feel is the growing harassment of Afghans at the forces’ Special Branch, particularly while travelling through Glasgow Airport³.

One way to address these difficulties is to look to the research into the experiences of victims of racially aggravated offences and their communities. An analysis of the Ethnic Minority Booster Sample of the Scottish Crime Survey 2000 found that ethnic minorities had a higher risk of household victimisation, theft from cars and repeat victimisation than the white sample, even after taking account of the differences in age and socio-economic profiles between the samples. However the two samples were found to have a similar risk of personal offences such as assault and robbery, and after making adjustments for the different age and socio-economic profiles, the white sample had a slightly higher level of risk of personal victimisation. (Scottish Government 2002)⁴.

With regard to fear of crime, in their 2002 study Clark and Moody found that 28% of the 102 minority ethnic organisations surveyed felt that the number of racially motivated offences had increased, while only 8% felt it had decreased. These findings are complemented by the results of the 2003 Scottish Crime Survey which found that 42% of ethnic minority respondents were “very” or “fairly” worried about becoming a victim of a racist attack compared with only 10% of white respondents (McVie, Campbell and Lebov 2004). This is supported to a degree by the most recent evaluation of the *One Scotland* Campaign which found that exposure to any form of racist behaviour (as a victim, witness or perpetrator) had reached 42%, the highest level since the evaluation began in 2001 (Scottish Executive Social Research 2006). However the research also found that racism was perceived as less of a problem in Scotland than at the previous wave of research in 2005.

Surveys are not, of course, without their methodological difficulties. Bowling (1998) has argued that for many that are subjected to it, racist victimisation is a *process* which may span a number of years and consist of many individual incidents. This makes capturing repeat victimisation by way of a survey difficult; not least because the victim may have difficulty deciding which incidents are relevant. Further, a survey cannot record the wider social context, and thus the impact on the victim and the community, of the incident (*ibid*). Nevertheless the conclusions from research across the world that there has been a real growth in racially motivated crimes cannot be ignored: research in England and Wales, the United States, Australia and Canada, has reported significant rises in racially motivated offending

1 Taken from Scottish Government Statistical Bulletin: Recorded Crime in Scotland 2006/07

<http://www.scotland.gov.uk/Resource/Doc/239682/0066121.pdf>

2 Association of Chief Police Officers - Scotland *Religion and Faith Reference Group Action Plan 2006 -2009*

3 Reported in the Sunday Herald 27.09.08, it should also be noted that Strathclyde Police had recently been praised by the Metropolitan Police Service for their positive race relations. http://www.sundayherald.com/news/heraldnews/display.var.2453803.0.afghan_communitys_protest_at_harassment_by_police_force_hailed_as_role_model.php

See also http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7669187.stm

4 The 2000 Scottish Crime Survey: Analysis of the Ethnic Minority Booster Sample. <http://www.scotland.gov.uk/Publications/2002/05/14693/4205>

(Levin and McDevitt 1993, Bowling and Phillips 2002).

Problems with defining racist and hate crimes

In terms of defining a hate crime, the Scottish Government has been proactive in introducing and enforcing racist crime legislation. This is highlighted by the introduction of legislation that compels the courts to take into account racial motivation as an aggravating factor when sentencing an individual if it can be shown the offence is at least partly motivated by malice and ill-will towards members of a racial group⁵. Nevertheless, there still exists some confusion as to what constitutes a race crime. For example, the Scottish Government accepted the definition from the Stephen Lawrence Inquiry that:

“A racist incident is any incident which is perceived to be racist by the victim or any other person.”
(*The Stephen Lawrence Inquiry: An Action Plan for Scotland (1999-2000)*. Scottish Executive.)

However, such a definition does not always translate into practice, as Clark and Moody note:

“some Sheriffs had indicated that they did not regard ‘casual remarks’ said ‘in the heat of the moment’ as constituting racial aggravation, but Regional Procurators Fiscal felt that the legislation did include such situations and were unwilling to drop the aggravation in such cases” (Clark and Moody, 2002).

The confusion over what does and does not constitute a race crime, and the subsequent action (or inaction) taken by practitioners, again highlights Isal’s (2005) findings that, without the proper training, practitioners may deal with a racial incident inappropriately. Furthermore, current Scottish legislation pays scarce attention to preventative rather than punitive measures to ensure that race crimes do not occur in the first place.

Defining racist and hate crime in the Scottish context is further complicated by the issue of sectarianism. Moody and Clark (2004) have argued that traditionally “intolerance in Scotland reflects religious rather than ethnic divides”. This is often played out through rivalry between Catholic and Protestant football clubs with three of the biggest Scottish cities, Glasgow, Edinburgh and Dundee, having two teams; one traditionally supported by Catholics and the other by Protestants. The link between sectarianism, racism and football in Scotland has been made by the charity Show Racism the Red Card that has recently criticised the supporters of Rangers football club for singing racist songs and other clubs, while they have not been named, have been denounced for the singing of songs that “celebrate” the Ibrox disaster⁶.

Problems with tackling racist and hate crimes

One difficulty in tackling racist crime in Scotland is that there is currently a lack of centralised support and information sharing, as evidenced by the fact that currently there are no clear set guidelines in Britain for social workers or others working in community practice to refer to when addressing crimes of this nature. As Isal (2005) notes,

“Practitioners [and this term includes a wide range of individuals from social services and police, to doctors and education] often find themselves in a challenging situation, when faced with racist attitudes, and do not feel equipped to deal with them. This lack of confidence and skill can often result in a lack of or an inappropriate response when racist attitudes are encountered”.

Without a clear understanding of the nature of racist and hate crime behaviour, effective preventative programmes will, of course, be more difficult to develop. This is particularly important as if projects are not working effectively they may run the risk of closure once funding runs out.

Indeed during the “One Scotland Many Cultures” conference held in Glasgow in March 2006, a recurring message dominated the event: if anti-race and hate legislation is to be effective there must be leadership and support from central government. The fact that this point was raised not only during the main presentations but also during the workshops suggests that, from the perspective of those organisations who do work on the forefront of race equality, support from central government is still lacking.

5 Section 96 Crime and Disorder Act 1998

6 <http://www.theredcardscotland.org/>

2. Literature on racially and hate motivated crime

Towards a workable definition of racially and hate motivated crime

The term hate crime, as opposed to racially motivated crime, is increasingly occurring in literature. This is partly in response to the recognition that racially motivated and bias crimes are perpetrated from the common psychology of prejudice, defined by Allport (1954) as

“...an averse or hostile attitude toward a person who belongs to a group, simply because he belongs to that group and is therefore presumed to have the objective qualities ascribed to the group”.

The term hate crime, therefore, encompasses those crimes committed on the grounds of, for example, victims' race, ethnicity, colour, religion, sexual orientation, age and sex.

It is worth mentioning, however, that the term 'hate crime' has not been without its own problems in countries such as Canada and the United States, both of which have actively created anti-hate crime legislation. The problem in the USA, as Cogan (2002) notes, is that each State may define differently those groups which are protected under the term 'hate crime':

“The legal definition of a hate crime depends on the hate crime law considered. What makes a crime a hate crime is the existence of bias or prejudice of the perpetrator who committed the crime against an individual based on the victim's real or perceived social grouping. Yet, definitions may differ in terms of which groups are included. Gender, disability, and sexual orientation may or may not be included, whereas race, ethnicity, religion, and national origin usually are.”

Furthermore, Franklin (2002) discovered that

“Because hate crime laws have been operationalized with little or no attention to societal power dynamics and social inequalities, their paradoxical consequences may include disproportionate punishment of minorities whom they were intended to protect.”

This is an important point as there has been significant academic debate between commentators who feel that hate crime laws send a valuable deterrent message (Iganski 2008) and those that argue either that they risk heightening racial tensions within the community (Malik 2003, Jacobs and Potter 1998) or that they disproportionately target the groups they are designed to protect if ethnic minorities respond to racially motivated harassment with further violence (Hall 2005). Therefore the way in which hate crimes are defined, be it narrowly or widely, will depend partly on the understanding of the purpose of hate crime provisions that is adopted. For example one definition of hate crime is provided by Barbara Perry (2001):

“Hate crime is a mechanism of power and oppression involving acts of violence and intimidation against already stigmatised and marginalised groups, and intended to re-affirm the precarious hierarchies that characterise the given social order.”

A second definition of hate crime has been put forward by criminal justice agencies that view hate crimes, both against ethnic minority groups and other social minority groups such as people with a physical or mental disability or those who are gay, lesbian or transgender, to be motivated by the offender's ignorance and subsequent fear of the minority group. Indeed the UK charity *Action for Social Integration*, which seeks to promote equality and diversity while tackling discrimination, submits that:

“Intolerance is very often rooted in ignorance and fear: fear of the unknown, of the other, other cultures, nations, religions. Intolerance is also closely linked to an exaggerated sense of self-worth and pride, whether personal, national or religious. These notions are taught and learned at an early age. Therefore, greater emphasis needs to be placed on educating more and better. Greater efforts need to be made to teach children about tolerance and human rights, about other ways of life⁷.”

Such a view is supported in England and Wales by the Crown Prosecution Service⁸, Bedfordshire⁹ and Wiltshire

7 <http://www.afsi.org.uk/issues.html>

8 http://www.cps.gov.uk/victims_witnesses/hate_crime.html

9 <http://www.bedfordshire.police.uk/crimeinfo/hateincident/hatecrime.htm>

Police¹⁰ and the Metropolitan Police Service¹¹. What is useful about this understanding of hate crime is that it provides not only optimism that hate crime and its causes can be tackled but a clear strategy for doing so; through education and socialisation. If perpetrators of hate crimes can be educated about the characteristics, needs and feeling of their victims, and any irrational fears which they hold be elided then it should be possible to reduce the incidence of racially motivated offences.

Who are the perpetrators of racist violence/hate crime?

Perry (2001) has summarized hate crime and perpetrators of hate crime as:

“...those [individuals] unaccepting of the heterogeneous nature of the contemporary societies in which they live and primarily characterise social groups according to their visible ethnic, racial or sexual identity rather than their personal attributes. From that cause, a key component of hate victimisation is the existence of bias and prejudice based upon ‘what’ someone is, rather than ‘who’ they actual are.”

When we think of a perpetrator of racist violence, we may imagine a young white male, between the ages of 16 and 25, with poor education, no work and originating from a deprived background. However, when considering all racially motivated offences, the Commission for Racial Equality (1999) noted:

“Perpetrators of racially motivated offences range from very young children to pensioners. Both men and women are involved, often acting together as groups of friends or families...”

Similar conclusions were drawn by Sibbit (1997) who identified six groups of racially motivated offender ranging from pensioners to 4 to 10 year olds.

Omar Khan (2002) of the Runnymede Trust confirms this view but also adds

“...while females and the very young and very old deliver racist abuse and harassment, there is also evidence to suggest that young males remain more likely to commit the more physically violent acts and it is often unclear who commits the frequent attacks on property, residential and business, of black and minority ethnic people.”

Perhaps it is unsurprising that perpetrators of racial abuse do not constitute a uniform group given Sibbit’s (1997) conclusion in a Home Office Report into racial violence that offensive behaviour of these perpetrators often echoes the attitudes prevalent in the wider community in which they live. Indeed Bowling (1998) has argued that racial slurs

“...are not the result of the individual pathology of the offender, but reflect and reinforce accepted discourses of race and territorial ownership that are shared by a large population, even perhaps a majority of the white English population”.

Bowling goes on to suggest that violent racism is simply an “*aggressive distillation*” of widely held attitudes. This is a common theme throughout much of the literature available on race and hate crime. Most researchers acknowledge the need for proactive legislation and action by central government and senior members of communities against racist crime and abuse, thereby setting an example to communities and individuals.

As the above suggests, current research and other literature focuses on the motives behind race and hate crime, the definition of such crimes, the perpetrators, and victim response to the crimes. Very little attention is given to methods for dealing with perpetrators of these crimes or, ideally, for preventing these crimes from happening in the first place.

10 <http://www.wiltshire.police.uk>

11 <http://www.met.police.uk/csu/hatecrime.htm>

3. How is Race and Hate Crime Dealt With?

The Legal Response to Racist and Hate Crime in Scotland

The response of the Scottish legal system to racist and hate crimes came under considerable scrutiny following the murder of Surjit Singh Chhokar who was attacked and fatally stabbed outside his girlfriend's house in November 1998. The handling of the prosecution and investigation led to a Chhokar Family Justice Campaign¹², a judicial inquiry into the handling of the case led by the Right Honourable Sir Anthony Campbell¹³ and an inquiry by Dr Raj Jandoo¹⁴ into the treatment of the family by the Crown Office. Three suspects who were embroiled in a row with Mr Chhokar over a benefits cheque stood trial for murder, having been identified by Mr Chhokar's girlfriend who witnessed the stabbing. However they were not tried together and each lodged a special defence of incrimination implicating the other. Two were convicted of assault and the third was acquitted. The trial judge, Lord McCluskey was publicly very critical of this decision:

“The fact that no one has been convicted of the murder of Mr Chhokar continues to cause widespread public concern. His parents and immediate family feel that the criminal justice system in Scotland has failed them and many others agree with them. Some have voiced their views through the Chhokar Family Justice Campaign with Mr Amer Anwar as its spokesman. The failure to obtain a conviction for murder has been attributed to the fact that all three men did not stand trial together. At each trial the accused before the court blamed another not before the court for stabbing Mr Chhokar to death. This apparent mishandling of the case has led some to ask the further question was the decision to prosecute in this way influenced by the fact that Mr Chhokar was a Sikh and those accused of his murder were white?”¹⁵

Of the reports that followed the prosecutions, Dr Jandoo's is of the most relevance here as Sir Anthony Campbell's focuses primarily on decisions made by the Crown Office throughout the prosecution process, rather than the issue of racism within the criminal justice system. Dr Jandoo concluded that there was evidence of institutional racism throughout the investigation and prosecution as while the police had effectively traced and apprehended the suspects they immediately dismissed racial motivation from their line of inquiry; attributing the attack instead to the row over the benefits cheque. Dr Jandoo was also critical of the Police and Crown Office's ignorance of Sikh customs which require the body to be cremated rather than buried. This, combined with a lack of communication between the institutions, became a particularly problematic issue as it is Crown Office practice only to release the body for burial rather than cremation. This led to a notable delay in the body being released and considerable distress on the part of the family.

The Crown Office was also criticised for its lack of communication with the family, both with regard to informing them about the case and asking sufficient questions about Mr Chhokar and his lifestyle prior to the murder, and their failure to provide adequate interpreters.

Dr Jandoo noted that the Crown Office had approved a Race Strategy Action Plan in June 1999 and that Strathclyde Police and the Association of Chief Police Officers -Scotland (ACPOS) had both taken measures to tackle racism, but emphasised that for minority ethnic communities to have confidence in these bodies such policies must filter down to, and be applied by, every individual officer or member of staff. This observation is a poignant one, particularly as it has been observed above that one of the reasons for the under reporting of race and hate crimes is a lack of trust in the criminal justice system and a perception amongst minority communities that such allegations will not be taken seriously. However Dr Jandoo was keen to recognise that his Report must be read in the context of such initiatives:

“What is more, not only are the faults remediable, but there are encouraging signs that steps are being taken to cure them. If this Report were concerned only with events up to the spring of 1999 it would have presented a sorry picture indeed; and my findings and recommendations would have had to be severe and radical. However, much has been done in the time since then, both by the Crown Office and the police: some of the initiatives which have followed have been stimulated by the Chhokar case, and some by the Stephen Lawrence Inquiry Report, but many were likely to have developed anyway. I have taken full account of these developments, and my findings are tempered by that.”

Dr Jandoo's first recommendation was that an Inspectorate of the Crown Office and Procurator Fiscal Service (COPFS)

12 <http://users.quista.net/joe.serche/cfjc/> nb this domain is set to expire soon

13 <http://www.scottish.parliament.uk/business/committees/historic/equal/reports-01/chhokar-b-01.htm#2>

14 http://www.scottish.parliament.uk/business/committees/historic/equal/reports-01/chhokar-vol01-01.htm#P160_2353

15 Quoted in Sir Anthony Campbell's Inquiry http://www.scottish.parliament.uk/business/research/pdf_res_notes/rn01-97.pdf

should be established, headed by an independent Inspector. This recommendation was implemented and the Inspectorate published in March 2005¹⁶ a report on the Crown Office's handling of race issues. The Report outlines a number of positive steps taken by the Crown Office to address the criticisms made by Dr Jandoo such as the introduction of strict guidelines by the Lord Advocate on how racially motivated offences should be dealt with by the Police and Crown Office. The Report found knowledge of, and compliance with, the policy to be high with Court action being taken in 85% of cases as compared to 60% of cases without a racial motivation. This high level of compliance has been sustained with 88% of charges resulting in court proceedings in the year 2007 – 2008 (COPFS 2008)¹⁷.

One way in which the policy achieved this was by prohibiting the use of Fiscal Fines for racial crimes as, if the accused pays a Fiscal Fine, the case is not taken to Court and a conviction is not recorded. Further Fiscals are to only give an accused a warning, which are given by letter or occasionally in person, in the most exceptional circumstances. Fiscal warnings are another alternative to prosecution that prevent the accused from being prosecuted for that offence in the future.

The Inspectorate of the Crown Office and Procurator Fiscal Service also found that the Crown Office had brought about a notable change of internal policy and culture with regard to racial and other victim and witness issues, evidenced by the policy documents on racial crime, translation, interpretation and a new and since revised chapter in the Crown Office Book of Regulations on victims, next of kin and witnesses. Indeed, now all Crown Office staff receive diversity training, which will also have a positive impact upon the institutional culture. These are all positive changes that, when considered in conjunction with police initiatives such as the ACPOS Religion and Faith Reference Group Action Plan 2006 -2009¹⁸, give reason for optimism that the legal response to racially motivated offences has improved notably since 1998.

The legislative response has also developed since 1998. Section 96 of the Crime and Disorder Act 1998 created a new aggravation that could be added to charges where the crime is racially motivated. Further, section 50A of the Criminal Law Consolidation (Scotland) Act 1995¹⁹ created an offence of racially aggravated harassment which is committed when the offender, on at least two occasions, harasses the victim verbally or by other means because of the victim's racial group. In 2003 this protection was extended to members of religious groups by section 74 of the Criminal Justice (Scotland) Act, and a 'handout' member's bill²⁰ has recently been introduced to the Scottish Parliament seeking to extend the existing hate crime legislation to crimes motivated by the victim's actual or presumed sexual orientation, transgender identity or disability²¹. In addition to the intention of sending a clear message that the Government is committed to tackling hate crime, these provisions are also significant as they will facilitate improved monitoring and recording of the levels of hate crime in Scotland which is beneficial for both future research and policy making.

However there are disadvantages to a largely legal response to hate crime. The first is that it is not always practical or appropriate. Clark and Moody (2002) give the example of a shopkeeper who is repeatedly victimised, and then is swamped months later with court citations. They argue that if victims find the court process too time consuming, or do not feel that the sentences handed down are adequate; they may not report subsequent offences. Clark and Moody submit that the shopkeeper's difficulty is not easily remedied as the Procurator Fiscal cannot guarantee to the victim that the offender will be convicted, or what sentence will be handed down. However the victim's experience of prosecution process may difficulty may be somewhat remedied by referring the victim to services such as the Crown Office Victim Information and Advice service (VIA) or Victim Support Scotland.

A second argument against a legislative approach to tackling hate crime is that it may increase social divisions rather than ameliorating them. Sullivan (1999)²² submits that a legal response that singles out racial groups for different treatment highlights social divisions along racial lines. This argument is also made by Malik (2003) who argues that the criminal law should only seek to capture the most serious incidents of racially motivated offences; those that are clearly motivated by hate. However other racial offences may be encouraged by stereotype (for example mugging a Muslim woman because the offender thinks they are less likely to resist) or may occur as part of a course of conduct that began as a disagreement over, for example, entry to a night club, or as a dispute between neighbours, that escalates to the point of racist insults being thrown. Malik submits that if such legislation is used in response to the latter "less serious" examples then this may be socially divisive as negative attitudes toward racial minorities are often pervasive throughout communities:

16 Inspectorate of Prosecution in Scotland, "Thematic Report on Crown Office and Procurator Fiscals Response on Race Issues" 2005 <http://www.scotland.gov.uk/Resource/Doc/37428/0009587.pdf>

17 Summary of COPFS Race Crime Statistics 2003 – 2008 <http://www.copfs.gov.uk/About/Departmental-Overview/diversity/racist-crime/Statistics0506>

18 <http://www.scotlandagainstracism.com/onescotland/files/ACPOS%20Action%20Plan%202006-2009.pdf>

19 Inserted by The Crime and Disorder Act 1998 (Commencement No. 2 and Transitional Provisions) Order 1998

20 A members bill supported by the Government

21 Sentencing of Offences Aggravated by Prejudice (Scotland) Bill

22 Quoted in Nathan Hall, "Hate Crime" 2005 p71

“Where there is a wide divergence between concepts and definitions which are developed in the law and those which are used in communities, it is likely that there will be a build up of resentment and a ‘backlash’ against minorities who may be viewed as enjoying an ‘unfair advantage’ under the criminal law.... These individuals have to continue to function and co-exist in communities where racist attitudes prevail and where the perpetrators of racist crime often have wide support. Any policy of singling out certain groups for special protection under the criminal law which fails to attend to the views which prevail in these social contexts is likely to place at risk exactly those individuals and communities which the new racially aggravated offences seek to protect”.

The risk of further disadvantaging the already disadvantaged has also been recognised by Paul Iganski (2008). However Iganski argues that hate crimes are particularly damaging to the individual victim who may suffer serious emotional harm from a “minor” offence as they have been singled out for their individual characteristics. Further he submits that the commission of hate crimes does great damage to society as it is socially divisive and contravenes commonly held norms and values such as the equality principle and respect for diversity; therefore a flexible application of the law and alternative interventions should be sought.

A final argument against pursuing a mainly legal response to hate crime is that such an approach does not tackle the causes of such offending. As stated above, racially motivated offending does not occur in a social vacuum, and racist attitudes are often held throughout the community. Hall (2005) gives the contemporary example of the recent public hysteria surrounding asylum seekers which was fuelled by media reports suggesting that asylum seekers and illegal immigrants were diverting jobs and other resources from existing communities. This widespread public hostility ultimately culminated in public protests against asylum and immigration. Such negative attitudes must be tackled at a community level to prevent racist offences being committed; something that the law is ill-equipped to do, other than by sending the deterrent message that such behaviour is illegal.

Community Interventions

The Runnymede Trust, an independent policy research organization founded in 1968 which focuses specifically on racial issues, has recently published the results of a two year research project in England entitled: *Preventing Racist Violence: Work with actual and Potential Perpetrators - Learning from Practice to Policy Change*, (Isal, 2005). This research gives a helpful overview of racist crime, its motivation, perpetrators but, importantly, schemes to tackle racist crime and recommendations for prevention and further legislation. In the absence of much other research, this report provides invaluable information for anyone working with racial violence cases and forms the basis of the following part of this review paper.

The Runnymede report highlights the fact, already alluded to in this review, that *“Current work to challenge attitudes to prevent racist violence is surprisingly scarce given the scale of the problem”* (Isal, 2005), and is informed by the view that general government policy towards racist crime is usually punitive rather than preventative. This report suggests that as the effectiveness of a punitive response is easier to measure, for example the number of convicted offenders that are imprisoned and therefore prevented from offending for a set period, they are prioritised over preventative measures. In contrast while preventative measures may be more successful in the long term, due to the difficulty in evaluating such initiatives, they receive less support from government or local authorities. Isal (2005) quotes a comment from a mediator in London from 2004 that sums up the frustration of those who are trying to work in this field:

“The lack of support comes sometimes from local and central government. If they don’t put it on the agenda, it is going to be problematic for us to act on. There is a non-recognition of the fact that there needs to be intervention before it [racist violence] happens. It’s all very reactive. If we really want to eliminate racism, we need to work on that soft area, where it hasn’t happened yet, and that comes if it is made into a priority at central government or with education agencies where people will be more open and will make the time and resources to work with agencies on this...”

A lack of centralised funding and support not only affects the establishment of preventative projects; failure to secure funding can also lead to services being withdrawn from communities. Sibbit (1997) gives the example of the Otterley Detached Youth Project which ran in the South Leigh area of London for three years and which had been set up in response to concerns about the high levels of racially motivated violence and harassment carried out by young people in the area. The project was “detached” as it aimed to work with young people who were difficult to engage with through more direct methods such as youth clubs. Sibbit submits that the project was successful both in engaging with these groups of young people and also in challenging their attitudes towards offending generally and to racism. This

was achieved through building trusting relationships with the young people so that they could discuss their problems, for example drug use, with the workers and so that the workers could challenge the racist views held by the young people. The project also sought to broaden the experiences of the participants through trips and leisure activities, one of which included a visit to Maidstone Prison in an attempt to erode the “hero status” that prisoners held in this community.

The police felt the project had had a “*very very good impact*” on the young people in the community and some of those that had taken part in the project warned that there would be “rioting” amongst young people on the estate if the project were to come to an end. Nevertheless further funding could not be secured and the project came to an end after three years.

In addition to a lack of centralised support the Runnymede Report also notes that there is little central cohesion to the work being carried out by various groups across the UK, and where practices have been successful in challenging racist behaviour this information has not been shared. Similarly, where practices have been unsuccessful the lessons that could be learnt from these failures have also not been promoted. In Scotland the ‘One Scotland, Many Cultures’ conference in May 2006 did show the willingness for organizations to come together to discuss issues, however more work needs to be done to promote knowledge sharing and best practice models.

Due to the paucity of research dealing with actually tackling and preventing race and hate crime, the Runnymede Trust’s only option for seeking to understand the issues was to investigate projects set up by local communities. However, due to the complexity of these various projects (e.g. some were set up to deal with youth violence in general and not just race crimes) the Trust settled on four London Boroughs to draw up their research. Isal (2005) is careful to note

“No sample of this size is ever representative, but we wanted to show a diversity of experience, and the challenges and opportunities presented by differing contexts.”

The report sets out eleven case studies of successful projects alongside the relevant analyses. Because of the wide range of causes that might prompt an individual to commit racist violence, along with complex contextual factors of the local area, (such as the presence of extreme right-wing groups or the socio-economic make-up of the community) Isal notes that a ‘one size fits all’ approach was not practical under the current race crime policy in the England and Wales (Isal, 2005).

This analysis may be equally applicable to Scotland as each community is unique in terms of its distribution of ethnic groups and social problems faced. When taken as a whole, Scotland and England and Wales are ethnically very similar: 88% of Scots define themselves as “white Scottish” and 87.5% of individuals in England and Wales see themselves as “white British” (2001 Census). Further, Indians make up 2% of the population of England and Wales and 3% of the population of Scotland; and 0.9% of the population of the former and 0.1% of the latter are from an African ethnic group. However it must be remembered that these statistics relate to each country as a whole and the distribution of ethnic groups in Scottish communities may be very different to that of communities south of the border. Indeed Moody and Clark (2004) note that it is only possible to speak of a numerically significant ethnic minority population in Scotland’s four largest cities: Glasgow, Edinburgh, Aberdeen and Dundee. The diverse characteristics of each community will impact upon the formulation of an effective Scottish race crime policy.

Indeed, the Runnymede Trust researchers found that anti-racist projects in the various English areas tended to be set up in response to particular community problems. An example of this is the Aik Saath project, which is a peer education project that draws on conflict resolution training to promote an anti-racist message and community cohesion that was set up in 1998 following serious incidents of racial violence in the Asian community in 1996-1997. Further, as noted above, there is a widespread recognition amongst researchers, practitioners and commentators that the perpetrators of racist offences do not act in a social vacuum; rather their behaviour tends to reflect attitudes commonly held in the local and in the wider community (Iganski 2008, Isal 2005 and Sibbit 1997)

This observation that racist perpetrators do not act within a social vacuum is further born out by the fact that most of the projects, bar one, studied by the Runnymede Trust, work with the whole community and were found by them to be successful in tackling racism. For example, *Police, Partners and Community Together in Southwark (PPACTS)* used a problem solving and partnership model to tackle racism and homophobia. The partnership model worked by building strong ties between various agencies, in particular the police, and the minority ethnic communities. The problem solving model approached the various partners involved with the project and asked them “*what they could do in relation to three intervention strands: supporting the victims, dealing with the perpetrators, and impacting on the location*” (Isal, 2005). This multi-agency approach supporting both victims and perpetrators resulted in a tangible

reduction in racist offences in the area.

A contrasting approach was taken by the London Bubble Theatre project which provides a safe environment in the form of theatre, where potential perpetrators of racist violence can express their attitudes and have their opinions challenged in a constructive way. The good practice recommendation drawn from this project was *Using Art as a Tool* to effectively challenge racist beliefs.

“While arts activities provide an opportunity to bring together different communities, they can also be used proactively as an instrument to challenge racist attitudes through choosing to focus on specific topics for plays, such as the Bubble Theatre has been doing with hate crime” (Isal, 2005).

Another project, the *Bede Anti-Racist Detached Youth Work Project (BDYWP)* had a similar approach to the London Bubble Theatre Project. In order not to ‘scare-off’ potential racist perpetrators they avoided overtly marketing themselves as a specifically anti-racist project. However, the anti-racist message remained a core objective of BDYWP. The project engaged with racist perpetrators and potential perpetrators by providing simple outdoor activities and using these environments to gain the trust of the young people and allow them to discuss their racist attitudes whilst challenging them in a stable and safe setting. The results of the project were, like most, qualitative the Trust noted, but the police in the area noticed a 40% reduction in racist street crime.

This method of working with the whole community rather than just individuals is highly recommended by the Runnymede Trust. Indeed working with individual perpetrators may not only be economically unfeasible but it may also be futile if the work carried out with an individual is then undermined by their family views at home. In an earlier Runnymede Trust report, Khan (2002) submitted that:

‘...it would be impossible to devote enough resources to combating the racist psychology of every potential perpetrator, it is perhaps more effective to begin by addressing prejudice and delinquency in the community, keeping in mind the role of government to address social disadvantage and inequality on the broader canvas’.

4. Conclusions and Summary

This paper has shown there are a number of problems with the definition and recording of race and hate crime in Scotland. While it is likely that academics will continue to debate this issue, it should be recognised that since the Scottish Government accepted the Stephen Lawrence Inquiry’s definition of a racist incident to be one that the victim, or any other person, perceives to be racist the number of racist incidents recorded and prosecuted has increased markedly. The Scottish Government’s stated commitment to tackling racially motivated offending and handling such cases effectively and sensitively, demonstrated by the introduction of new hate crime legislation, the Chhokar Inquiries and the “One Scotland” campaign must also be acknowledged.

However it has also been established that the perpetrators of racist violence are often tacitly supported by the attitudes of those in the wider community, and that a purely legal response to such behaviour may not always be practical or effective. Therefore it would seem imperative that the Scottish Government also continues to review its approach to preventing race and hate crime. The Runnymede Trust has developed three categories of intervention:

- a) *Primary prevention*: working with society as a whole to change racist attitudes.
- b) *Secondary prevention*: working with potential perpetrators of racist violence to prevent offending.
- c) *Tertiary prevention*: working with those who have already offended to prevent re-offending.

Social work has a role to play in all three categories, however currently the focus has predominantly been on tertiary prevention. The Runnymede Trust strongly emphasizes the need to put more focus on primary and secondary prevention with local authorities playing a major role in this area.

The way in which such prevention programs are funded, run and evaluated must also be considered. While the Scottish Government’s ‘One Scotland’ campaign does bring together several projects on to its web site, whether they co-ordinate their responses and findings is unclear. Furthermore, as noted, the Scottish Government legislation focuses on punitive rather than preventative measures, so although funding is given to these projects there remains concern that once this funding runs out the projects will end. There is, therefore, a strong argument for a move away

from reliance on voluntary projects to centrally organized strategies for dealing with racism and hate crimes. As Isal (2005) explains:

“For all interventions to work effectively and be encouraged, a formal structure within government is needed and a strategy to bring it into operation. This formal structure would draw from the wide range of practice that has as a common thread the inclusion of preventative work with potential perpetrators of racist violence, by challenging their attitudes. It would encourage the sharing of good practice in the area, especially cross-sector exchange and information.”

Such recommendations are also voiced in the work of BEMIS (Black and Ethnic Minority Infrastructure in Scotland). In their executive summary, *Listening to the Voice* (BEMIS, 2001), the need for a national infrastructure lead by central government was highlighted. It is worth noting that in the introduction Dr Moussa Jogee, Commissioner for Racial Equality in Scotland, comments that this is “*long over due*”. This was cited in 2001, and at the time of writing in 2008 still no form of centralised government organization exists.

In addition to the need for centralised support, an important theme throughout the Runnymede Trust’s research was the need for cross-sector partnerships. However, this is not without its problems. The Runnymede Trust found in some areas that difficulties could arise where public authorities and community-based groups collaborated, resulting in problems for the latter. In some extreme cases these difficulties risked alienating the very individuals whom the community-based groups had been trying to target, for example, racist perpetrators (Isal, 2005). Multi-agency approaches are strongly advocated by the Runnymede Trust but they note that few have been set up to deal with racist crime prevention. For that reason they cite the PFACTS Southwark group, discussed above, as a “*good case for piloting multi-agency work in general*” (*Ibid.*).

Finally a crucial part of an inter-agency, centralised approach to tackling racist and hate crimes is that practitioners have access to relevant training and that knowledge on good practice is shared between agencies. Indeed the Runnymede Trust concluded that practitioners often lack the skills and confidence to challenge racist attitudes and behaviours, and strongly recommended that far more training and support for practitioners dealing with and preventing racist violence should be provided.

The following guidelines are a brief summary of The Runnymede Trust final report. Although some are already covered by current Scottish legislation it is useful to draw all the points together:

- It is absolutely necessary for there to be strong leadership from central government with regards anti-racist or hate crime policy. This should include clear definitions about who is protected under hate and race crime policy and what constitutes a hate or race crime.
- There should be a firm political agreement to direct work and policy towards prevention which should run alongside the existing punitive measures.
- Race and hate crime prevention should be given priority on the crime reduction agenda and should be embedded in all policy, for example through the education system.
- Agencies must work closely together.
- Preventing race and hate crime should involve the whole community and not just the individual.
- Further research is needed to assess the effectiveness of Anti-Social Behaviour Orders.
- Youth work should not be co-opted solely into diverting young people from crime, but should be more aspirational in both its objectives and outcomes.
- Practitioners need specialist support to effectively prevent racist violence and help perpetrators challenge their beliefs.
- Further research is needed into what works in challenging racist attitudes.
- Finally, but most importantly, effective and innovative work challenging racist attitudes needs secure, prolonged and consistent funding.

References

- Allport, G. (1954). *The Nature of Prejudice*. Cambridge, MA: Addison-Wesley.
- Association of Chief Police Officers - Scotland *Religion and Faith Reference Group Action Plan 2006 -2009*
- BEMIS, (2001). *Listening to the Voice*, Executive Summary.
- Bowling, B (1998). *Violent Racism: Victimization, Policing and Social Context*. Oxford University Press
- Bowling, B and Phillips C (2002). *Racism, Crime and Justice*. Longman
- Brearley, M. (2001) The Persecution of Gypsies in Europe. *American Behavioural Scientist*, 45 (4), 588-599.
- Sir Anthony Campbell (2001). *The Report of an Inquiry into Crown Decision Making in the Case of the Murder of Surjit Singh Chhokar*
- Clark, I., and Leven, T. (2002). *The 2000 Scottish Crime Survey: Analysis of the Ethnic Minority Booster Sample*. Scottish Executive Central Research Unit: The Stationery Office.
- Clark, I., and Moody, S. (2002). *Racist Crime and Victimisation in Scotland*. Scottish Executive Central Research Unit: The Stationery Office.
- Commission for Racial Equality Factsheets (1999). *Racial Attacks and Harassment*.
- Cogan, J. C. (2002). Hate Crime as a Crime Category worthy of Policy Attention. *American Behavioural Scientist*, 46 (1), 173- 185.
- Delivering for Scotland's Gypsies/Travellers: An updated response to the Equal Opportunities Committee inquiry into gypsy travellers and public services. Scottish Executive (2001).
- Franklin, K. (2002). Good Intentions: The Enforcement of Hate Crime Penalty-Enhancement Statutes. *American Behavioural Scientist*, 46 (1), 154-172.
- Hall, N. (2005). *Hate Crime*. Willan Publishing
- Iganski, P. (2008). Criminal Law and the Routine Activity of "Hate Crime". *Liverpool Law Review* 29 (1), 1-17.
- Isal, S. (2005). *Preventing Racist Violence: Work with actual and Potential Perpetrators -Learning from Practice to Policy Change*. The Runnymede Trust.
The Report is available online at <http://www.runnymedetrust.org/>
- Inspectorate of Prosecution in Scotland (2005). *Thematic Report on Crown Office and Procurator Fiscals Response on Race Issues*
- Jacobs, J., Potter, K.(1998). *Hate Crimes*. Oxford University Press
- Dr Raj Jandoo (2001). *Report of the Inquiry into the Liaison Arrangements Between the Police, the Procurator Fiscal Service and the Crown Office and the Family of the Deceased Surjit Singh Chhokar in Connection With the Murder of Surjit Singh Chhokar and the Related Prosecutions*
- Khan, O. (2002) *Perpetrators of Racist Violence and Harassment*, The Runnymede Trust.
- Levin, J., McDevitt, J (1993) *Hate Crimes*. Plenum Press
- Malik, M. (2003). "Racist Crime": Racially Aggravated Offences in the Crime and Disorder Act 1998 Part II. *Modern Law Review* 62 (3), 409 - 423

- McVie, S., Campbel, S., and Lebov, K (2004) *Scottish Crime Survey 2003*. Scottish Executive Social Research: The Stationary Office
- Moody, S., and Clark I. (2004) Dealing with Racist Victimisation: Racially Aggravated Offences in Scotland. *International Review of Victimology*, 2004 (10) 261-280
- Perry, B. (2001). *In the name of hate: Understanding hate crime*. New York: Routledge.
- Scottish Government Statistical Bulletin: Recorded Crime in Scotland 2006/07 <http://www.scotland.gov.uk/Publications/2008/03/06120248/0>
- Scottish Government Statistical Bulletin: Recorded Crime in Scotland 2006/07 <http://www.scotland.gov.uk/Resource/Doc/239682/0066121.pdf>
- Sibbit, R. (1997) *The Perpetrators of Racial Harassment and Racial Violence*. Home Office Research Study 176
- One Scotland Many Cultures 2005/06 – Waves 6 and 7 Campaign Evaluation. (2006) Scottish Government <http://www.scotland.gov.uk/Resource/Doc/148647/0039524.pdf>
- The Stephen Lawrence Inquiry: An Action Plan for Scotland (1999-2000). Scottish Executive.
- Working Group on Hate Crime Consultation Paper (2003) Scottish Executive <http://www.scotland.gov.uk/consultations/justice/wghc-04.asp>

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