



Commission for Racial Equality

RESTORING RELATIONSHIPS: ADDRESSING HATE CRIME THROUGH RESTORATIVE JUSTICE

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Race on the Agenda**

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EXECUTIVE SUMMARY

In June 2006, Race on the Agenda (ROTA) started a research and policy project to examine the use of community based approaches – namely restorative justice – to hate crime. One of the primary objectives is to collect evidence from existing practices to examine the applicability of restorative justice with race hate crime in London. This interim report presents the findings from desk research, meetings with key stakeholders in the criminal justice field and presentations to various national and international conferences. The findings aim to inform and influence policymaking but also to prepare Phase 2 of the project which will be carried out with fieldwork. Phase 3 will involve training and awareness raising, using the findings of Phase 1 and 2. The project will conclude in June 2008.

Phase 1 of the project was supported by City Parochial Foundation which co-funded the post of ROTA's Head of Policy, the manager of the project. Safer London Foundation funded project costs for Phase 1 and will continue to fund project costs for Phase 2. Phase 2 and 3 will be funded by the Commission for Racial Equality.

To deliver the project, ROTA forged strategic partnerships with organisations from the voluntary and community sector that complement its expertise. For example, Independent Academic Research Studies (IARS), an expert group of academic volunteers in restorative justice responded to ROTA's call for partners. IARS was involved in the drafting of this report and will collect the evidence during Phase 2.

The key conclusions and recommendations from Phase 1 are:

- ✚ Hate crime falls within a special category of criminological interest due to the complex sociological, psychological, biological and economic reasons that create it. Its impact on victims and the community, and the methods that are employed to address it make it distinct to other types of crime.
- ✚ Hate crime has appeared relatively late on the policy agenda, and then onto the agenda of various statutory agencies, and it is not until recently that criminologists started to seriously think about the definitional issues surrounding it. Its definitional ambiguity has led to inconsistency in public policy and judicial decisions. Research on hate crime is relatively underdeveloped and the way it is being recorded needs to be improved. Further research needs to be carried out in relation to potential perpetrators. For instance, no information exists on race-related violence between different Black, Asian and minority ethnic (BAME) communities or the hostility directed towards recently arrived migrants and asylum-seekers. Legislation deals with hate crime on a piecemeal basis and existing policies do not appear to be linked-up.
- ✚ Recent UK reports show that the criminal justice system often fails victims of hate crime, while statutory criminal justice agencies are usually faced with unfamiliar questions. Criminal justice practitioners and victim support

workers are keen to explore the prospects of restorative justice with more serious crimes such as hate crime to complement existing methodologies.

- ✚ However, little legislative or political support has been given for the use of restorative practices with hate crime cases. There are fears that its practices, such as mediation and family group conferencing, could expose victims to further victimisation and trauma. The ability of hate crime perpetrators to engage in an honest dialogue has also been questioned. The reluctance on the part of victims and offenders to participate in restorative justice is also seen as another challenge, while there may be limitations with dealing with cross-cultural orientations where decidedly different ideas of what is required for restoration continue to prevail. The unlikelihood of inspiring moral reflection and development is also considered problematic as well as the fact that restorative justice may not have the capacity to address public interest in the way criminal law would.
- ✚ This paper identifies a number of case studies which portray a framework within which hate crime was addressed successfully in a restorative justice way. The majority of these success stories come from the community and are implemented by voluntary and community sector organisations. Most often they are practised in the shadow of the law and without the support of statutory agencies. Evaluation has shown that they do work and that when partnerships are formed between mainstream criminal justice agencies and community groups the results are even more encouraging.
- ✚ With particular reference to restorative justice programmes run by community organisations that focus on young people, both in and outside schools and other educational institutions, the effects can be life changing, targeting directly the root of the biases that lead to hate crime.
- ✚ The overall message of this report suggests that to win the battle against hate crime and its consequences there must be a break down of the stereotypes, attitudes and world views that foster it in the first place. This battle is being fought on a daily basis within schools, places of worship, families, person-to-person relationships and voluntary and community organisations. The criminal justice system has set up mechanisms to facilitate this fight but its limited retributive and punitive approach does not encourage the process of dialogue which appears to be one of the means for combating hate crime. Restorative justice is one form of this dialogue.
- ✚ The various types of intervention (mainstream or other) that play a role in preventing hate crime come from a variety of sources. Guidance is needed in order to link their work effectively, adopting a multi-agency approach. Some models of effective partnership between public, private and voluntary organisations have been identified in this paper. Phase 3 of ROTA's project, particularly the training stage, should include guidance on forging, building and maintaining successful cross-sector, and inter-agency partnerships to address hate crime. The role of Safer Neighbourhood Teams and Community Wardens should be supported, while emphasis

should be given on increasing awareness about existing restorative justice schemes addressing hate crime.

- ✚ Funding for work to bring about attitude change should be long-term as the government supports for the voluntary and community sector through the Compact¹, in order to allow for the change in attitudes to take root. Restorative justice does not offer quick-fix solutions. It is a long-term process which can gradually lead to healing and restoration. Successful intervention projects, therefore, should be able to access ongoing funding beyond the short term. A firm political commitment is needed to direct work and policy more explicitly towards prevention and long-term solutions that heal the victim and the community and educate offenders.

- ✚ Although most of the case studies that appear in this report are taken from London, hasty conclusions should be avoided. Therefore:
 - Phase 2 should focus on understanding what makes a London-based restorative justice programme successful and what the dangers associated with this process are. This will allow the identification of the elements that may be used to construct models for both short term and long term conflict resolution and prevention of racist violence and hate crime at large. Appendix I provides a draft questionnaire for Phase 2.
 - The discussion guide should also help increase knowledge about the types of racist violence and hate crime that are more common in London as well as vulnerable individuals.
 - The sample of the study should include people who have experienced restorative justice in practice. The Phase 1 report shows that the restorative justice literature is extensive and therefore there is no need to collect the views of academics. In addition, it is recommended that people working on the various equality strands (race, disability, age, sexual orientation, gender) are included, as well as key decision makers in London. The geographical location of the fieldwork should be London with particular interest in areas high in hate crime statistics (Appendices III & IV). Appendix II provides a draft sample list for the fieldwork.

- ✚ The project should take into account the recent recommendations of the Commission for Integration and Cohesion and the statutory obligation of the Commission for Equality and Human Rights to record and address hate crime. The work of the Government Office for London Community Reassurance Strategic Group² should also be considered and supported.

¹ Compact is the voluntary and community sector's written agreement with the government (or local public bodies) which has undertakings on both sides, shared principles and values such as recognising the sector's independence, and mechanisms for making it work. More information on <http://www.thecompact.org.uk/>

² This is a strategic group led by London's voluntary and community sector, chaired by ROTA and supported by Government Office for London. Its members (e.g. Metropolitan Police Service/ Authority, Commission for Racial Equality, Greater London Authority, London Councils, London Civic Forum, London Voluntary Service Council) are concerned with the engagement of community groups in the delivery of community reassurance services both prior and after an emergency.

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INTRODUCTION

1. Scope and context of this report

This reports presents the findings of Phase 1 of the project “Restoring relationships: Addressing hate crime through restorative justice”, which is being undertaken by Race on the Agenda (ROTA). The project started in June 2006 and will be completed in June 2008. It is split into three phases:

- ✚ Phase 1: Desk research & project initiation.
- ✚ Phase 2: Fieldwork.
- ✚ Phase 3: Training, Reporting, awareness raising & policy influence.

ROTA is a social policy think-tank that has been active since 1986. ROTA works with London’s Black, Asian and minority ethnic (BAME) communities towards achieving social justice by the elimination of discrimination and promotion of human rights, diversity and equality of opportunity. ROTA achieves these aims by informing London’s strategic decision-makers about the issues affecting the BAME voluntary and community sector (VCS) and the communities it serves and by making government policy more accessible to London’s BAME organisations.

Phase 1 of the project has been funded by City Parochial Foundation and Safer London Foundation. Phase 2 and 3 are funded by Safer London Foundation and the Commission for Racial Equality. This report is delivered in partnership with Independent Academic Research Studies (IARS), a UK based charity run by volunteers and providing research and policy expertise on restorative justice, human rights, community cohesion and equality. ROTA has also collaborated with other community-based organisations working in the field of hate crime and restorative justice such as the Southwark Mediation Centre. We also work closely with the Metropolitan Police Authority London-wide Race Hate Crime Forum, the Government Office for London Community Reassurance Strategic Group and other London key decision makers.

2. Project objectives & deliverables

The overall objective of the project is to help reduce hate crime in London through the use of restorative justice (hereafter RJ). In particular:

- ✚ To reduce the potential for racial discrimination or harassment in London boroughs by encouraging stakeholders (e.g. the local Safer Neighbourhood Teams, criminal justice agencies, Victim Support, VCS bodies and faith-based organisations) to concentrate resources on (a) types of racist violence (b) types of victims and perpetrators and (c) geographical areas that are experiencing an increase in hate crime.
- ✚ To produce models for short-term conflict resolution and long-term prevention of racist violence.

The detailed objectives and deliverables of the project are:

Phase 1 (June 2006 – June 2007)

To carry out a literature review of the work that has already been done in the area of hate crime and RJ in the UK and abroad to:

- # Construct the definitional and conceptual framework of the project.
- # Understand causes that lead to hate crime.
- # Identify pockets of international and domestic examples where restorative justice was successfully used to address hate crime. Explore the reasons behind their success and investigate whether there are any transferable lessons.
- # Identify the gaps and scope for further work as well as themes that need to be complemented with action research.
- # Identify key London areas where hate crime is a prominent issue.
- # Posit recommendations on how RJ could be used to address hate crime in London and construct a questionnaire to be used during Phase 2 of the project (fieldwork).
- # Identify the sample for Phase 2 of the project (fieldwork).

Phase 2 and 3 (June 2007 – June 2008, ongoing)

- # Create a forum of young people from various racial, cultural and social backgrounds to act as an advisory group to the project. Forum members will be encouraged to take leadership and ownership over the project. The findings from their consultations will be fed into the fieldwork and final report to reflect the concerns of young people in addressing the outcome. The discussions will concentrate on methodologies that aim to reduce the potential for racial discrimination or harassment.
- # Collect original data to produce evidence-based recommendations on how to reduce the potential for racial discrimination or harassment. The sample will include 20 practitioners with experience in addressing hate crime. The methodology will be based on qualitative interviews and questionnaires.
- # Produce manuals for trainees and training providers on how to reduce the potential of racial discrimination by concentrating resources on specific types of racist violence, types of victims and perpetrators and geographical areas.
- # Using the findings from the project (desk research and fieldwork) to provide face to face training to agencies such as local Safer Neighbourhood Teams, criminal justice agencies, Victim Support, voluntary & community sector bodies and faith-based organisations on how to concentrate resources on (a) types of racist violence (b) types of victims and perpetrators and (c) geographical areas that the study will identify as being on the increase in hate crime statistics.
- # Produce an evidence based report with policy recommendations to reduce the potential for hate crime and particularly racial harassment.
- # Produce a toolkit with best practice examples and a directory of case studies of organisations that are working successfully in the community to reduce the potential for hate crime and racial discrimination.
- # Organise a final event to share the findings of the project, increase awareness, disseminate the final report, training manuals & toolkit, and provide networking opportunities for organisations working in the area of reducing the potential for racial discrimination or harassment.

- ✚ To commission an external organisation specialising in RJ to assess the impact, methodology and product of the project in an independent fashion.
- ✚ Using the findings from the project (desk research, fieldwork, training and consultations) to influence policymaking by increasing awareness and providing expertise on how to address hate crime in London through RJ.

3. Background to the project

Violence in all its forms is a matter of concern. However, violence that also corrupts our ability to function and live together as a society, and denies our humanity and value as human beings is a cause for even greater concern. Hate crime is one example. It is defined as "a crime where the perpetrator's prejudice against any identifiable group of people is a factor in determining who is victimised"³.

Hate crimes have long been ignored by policymakers, but from the 1990s and especially after the September 11 tragic events, they have become a significant area of concern for public policy. For example, only one year after September 11, Human Rights Watch warned the US government that its officials should have been better prepared for the hate crime wave that followed the terrorist attacks. An increase of 1700% was recorded with regards to anti-Muslim bias crime⁴. The hate crimes included murder, beatings, arson, attacks on mosques, shootings and verbal threats. This violence was directed at people solely because they shared – or were perceived as sharing – the national background, or religion, of the hijackers and al-Qaeda members deemed responsible for attacking the World Trade Centre and the Pentagon.

In the UK, the 2000 British Crime Survey estimated that there were 280,000 racially motivated incidents in England and Wales. In 2005, the Crown Prosecution Service (CPS) prosecuted 4,660 defendants for racially aggravated offences, up by 29% from 3,616 for the previous year. In London, the Metropolitan Police alone reported 11,799 incidents of racist and religious hate crime and 1,359 incidents of homophobic hate crime in the 12 months to January 2006. One year after the July London bombings by terrorists, the Greater London Authority (GLA) published a thorough report on Muslims in London. It noted: "There were 269 incidents of religious hate crime across all faith groups in the Metropolitan Police area between 7 July and 31 July 2005, compared with 40 incidents over the same period in 2004. Increased attacks were primarily directed against Asian and/ or Muslim people. In 2005/6 there were 1,006 reported faith hate crimes, an increase of 469 (87%) since 2004. At the same time, reports from Metropolitan Police Service (MPS) community contacts continue to note the possibility of a large gap between reported and experienced incidents" (GLA, 2006). In addition, the face of homophobic crime is still highly prevalent in the capital⁵. In April 1999, three people died and

³ Association of Chief Police Officers (ACPO) 2007. Also see Recommendation 12, Stephen Lawrence Inquiry Report 1999.

⁴ <http://www.hrw.org/campaigns/september11/>

⁵ The Metropolitan Police reported 1,359 incidents of homophobic hate crime in the 12 months to January 2006.

many more were injured as a result of the bombing of the Admiral Duncan pub; in November 2004, David Morley was killed as a result of a homophobic attack; in October 2005, Jody Dobrowski was beaten to death in Clapham. A 2003/4 study by Stormbreak showed that 45% of LGBT people had experienced a homophobic crime and 20% had been a victim of actual physical assault. According to a 2006 study by Victim Support, between half and two-thirds of people from lesbian, gay, bisexual and transgender (LGBT) communities have been victims of hate crime, with LGBT people from Black Asian and minority ethnic (BAME) groups 10% more likely to be victims of hate crime. Ageism, disability and sexism can also lead to hate crime.

Criminal justice practitioners and workers supporting victims are keen to explore the prospects of restorative justice with more serious crimes such as hate crime. "Restorative justice" is defined as an *ethos* with *practical* goals, among which is to *restore* the *harm* done by including *all* affected parties in a process of understanding through *voluntary* and *honest* dialogue, and by adopting a *fresh* approach to *conflicts* and their control, retaining at the same time certain *rehabilitative* goals" (Gavrielides 2003). RJ encompasses practices such as victim-offender mediation, family group conferencing, restorative circles and restorative boards.

Admittedly, RJ practices, both in the UK and internationally, are largely being used for minor offences and juvenile offenders. The Crime and Disorder Act 1998 and the Youth Offending and Criminal Evidence Act 1999 used extensively RJ features to combat anti-social behaviour caused by juvenile offenders. However, according to the RJ theory, the new paradigm can provide alternatives that can either complement or replace the traditional criminal justice system both in terms of adult offenders and serious offences (Gavrielides 2004). However, little legislative or political support has so far been given for the use of restorative practices with hate crime cases.

ROTA is keen to explore the potential of RJ with hate crime and particularly racial violence and harassment. We set off with an objective frame of mind. Our primary concern is race hate crime in London particularly in relation to the BAME groups that we were set up to serve. If RJ does prove to be a viable option then we will be keen to support its application and disseminate information about best practice.

4. The originality and contribution of the project

At the time of writing several UK reports have been published with significant research findings on hate crime and particularly victims and potential offenders. For example, the 2006 Victim Support *Crime and Prejudice* Report records the effects, experiences and needs of victims of hate crime and identifies gaps in the provision of services to them. The 2005 Runnymede Trust Preventing Racist Violence report provides a detailed analysis of mechanisms for working with actual and potential perpetrators of hate crime. Finally, the London-wide Race Hate Crime Forum headed by the Metropolitan Police Authority (MPA) has recently commissioned from the University of Essex an evaluation of their work. ROTA has been a member of the Forum

since its establishment in 2003 and has been developing its project in consultation with Forum members.

All the aforementioned reports as well as additional documents from the national and international literature have been reviewed for the purposes of this report which concludes that ROTA's project is unique in the following ways:

- ✚ It examines hate crime, an area that is relatively new to the criminological research field⁶. There is lack of detailed evidence on its causes, offenders, victims, solutions and impact. The project will enhance the theoretical and practical knowledge in this area and identify areas that will need to be followed up with further research.
- ✚ It looks at the application of RJ in an area that has traditionally been considered controversial for the application of non-conventional criminal justice procedures. The project will help the RJ movement to expand and test its application not just with juvenile offenders or minor crimes, but also with serious offences and adult offenders.
- ✚ It combines academic, research and practical expertise by analysing and criticising the extant academic literature and at the same time collecting empirical evidence from community-based organisations that have a record in addressing hate crime with RJ.
- ✚ It examines the role of the VCS in addressing hate crime. The VCS is often forgotten by both the literature and key criminal justice decision makers. With the exception of the MPA Race Hate Crime Forum, little has been done to collaborate with the VCS on addressing this type of crime. The project will identify case studies from the community and learn from them to influence current practice positively.
- ✚ It is carried out by an organisation from the VCS. ROTA is independent in its approach and has close contact with the communities it was set up to serve. The VCS plays an important role in promoting a feeling of empowerment and belonging in communities. Organisations working in the VCS help satisfy communities that feel isolated and let down. As partners, providers and advocates, VCS organisations are ideally placed to work with key players to achieve results for local people - improving the quality of life and the quality of services in every area and encouraging strong and cohesive local communities.
- ✚ It is carried out in partnership with other organisations from the VCS. The partnerships not only complement ROTA's long expertise with BAME communities and VCS organisations in London, but also provides a model for a successful relationship between VCS bodies and statutory agencies.

⁶ In the UK, for instance, the first major report on hate crime was published in 1978 by Bethnal Green and Stepney Trades Council and was titled *Blood on the Streets*. The report was then followed by the Home Office first official study on statistics of racist incidents recorded by the police.

DECONSTRUCTING HATE CRIME

1. Defining hate crime

Although hate crime is considered an ancient phenomenon⁷, it has arrived relatively late on the political and policy agendas, and then onto the agenda of various statutory agencies. It is not until recently that criminologists started to seriously think about the definitional issues surrounding this type of crime. The lack of consensus, for example, around what constitutes a 'racial attack' or 'hate crime', made the studying of this phenomenon even more difficult.

In addition, varying definitions also lead to problems in real-world application such as inconsistency in public policy and judicial decisions. For example, in the UK, John Laidlaw, a 24-year-old British National Party (BNP) supporter who vowed to "kill all black people" and shot several others was found to not have been motivated by racial hatred. *The Times* reported that "Judge Samuel Wiggs, sentencing Laidlaw at the Old Bailey, made no finding that the shootings were racially motivated" (Bird 2007: 31). However, this was not the man's first race hate offence. In May of last year, Laidlaw opened fire on two black men in the space of half an hour in North London. In that incident, one man was left fighting for his life after being shot in the neck, while another individual was hit in the back. Laidlaw had been shooting at Evans Baptiste, 22, who recognized him as the man who had attacked him with a hammer earlier that year. Less than three weeks before the attempted murders, Laidlaw was given an 18-month supervision order for aggravated bodily harm and abuse towards Ayandele Pascall, a black man, who had beeped his car horn at him.

In the UK, 1993 was a critical year for the theoretical and legislative development of race hate crime including its definitional challenges. Stephen Lawrence, a black teenager, was attacked and stabbed by a group of five white youths while he was waiting for his bus in Eltham, South London. The investigation that followed as well as the processing of this case became the focus of a special inquiry. Among other things, it showed that there is institutional racism not only in the police force, but also in other public services.

The incident fell within the jurisdiction of the Metropolitan Police who, according to the inquiry, failed to arrest the suspects for two weeks, and when they did so they did not prosecute them apparently for lack of evidence (Macpherson 1999). All five of them had a history of knife attacks while a number of eye witnesses that were present during the incident gave evidence to the police. In fact, as it appeared later, the most disastrous failure of the police was not following up very detailed information about the youths from an informant the day after the murder. The Lawrence family lawyer revealed that the police investigation was presented with a five-page statement from a witness right after the incident who talked of conversations with the suspects before and after the killing (Marlow and Loveday 2000).

⁷ See for examples Socrates' Freedom of Speech and Hate Crime.

In 1998, the Chief Constable of Greater Manchester acknowledged that his police force possessed a degree of institutional racism. Giving evidence at the Stephen Lawrence inquiry, he said: "We have a society that has got institutional racism. Greater Manchester Police therefore has institutional racism" (Cathcart 1999). At the same time, a spokesman for the Metropolitan Police was arguing that the two police chiefs were using different definitions. "The Commissioner was talking about institutional racism as being a matter of policy which means that all police officers go to work with a racist agenda" (Green and Grieve 2000). Sir William Macpherson, who was responsible for the Lawrence inquiry, said: "There is a reluctance to accept that racism is there which means that it will never be cured". As a result, the inquiry produced what is now commonly accepted in the UK as the definition of a racist incident: "any incident which is perceived to be racist by the victim or any other person". This is the definition that will be used throughout the project.

2. Understanding hate crime and its causes

2.1. Hate crime – a different type of crime

As previously mentioned, research on hate crime is relatively underdeveloped and hence that aspect of criminological knowledge is limited. However, from the 1990s and onwards, hate crime has come to the attention of policymakers and criminologists who most of the time reacted with little knowledge about its causes. There are several key distinctions between hate crimes and other types of crimes.

While most hate crimes involve relatively minor offences, including graffiti, propaganda, harassment, intimidation and vandalism, their impact can be much greater and long lasting. For example, hate crimes are more likely to be directed at individuals than property, often involve patterns of repeat victimisation, evoke a large amount of fear, and the emotional impact of hate crime is much higher than crimes without a specific motivational element. The International Centre for the Prevention of Crime report *Preventing Hate Crimes* states that: "The most likely offender is an adolescent or young male, living in a poor area with a high level of unemployment and economic instability, and in a country where there are rapid changes in population. On the other hand, the people most at risk of being victimised are racial and ethnic minority groups or individuals, religious minorities, gays and lesbians, children and young people, and those living in poor areas with high levels of unemployment and economic instability" (International Centre for the Prevention of Crime 2002).

The major underlying distinction between 'ordinary crime' and hate crime is an element of personal enmity (or motive) absent in other crimes. Robert Kelly in *Hate Crime: the Global Politics of Polarization* claims: "Hate conveys that behind a crime is an aversion for the victim or an attraction to a potential crime victim, precisely because of his or her perceived individual or social attributes. Sometimes an offender's motive for violence and murder may

result from the tacit approval of an audience of 'respectable citizens'. Attacking Jews, blacks, homosexuals, and politically proscribed groups may be driven by the key consideration that these people cannot defend themselves and are therefore vulnerable" (Kelly 1998). Kelly goes on to say that motives may be further complicated by offender ideas that include 'audience approval' and the 'ratification of complex emotional needs' quite apart from practical considerations, including whether potential victims are likely to be affluent.

With hate crime, inferring a motive is often difficult by looking at the known facts of a crime. In the US, most interracial crimes are not hate crimes. The fact that the offender and the victim are of different races does not have a direct correlation with the motive. It is usually a chance occurrence that a certain victim was chosen, and nothing more. For example, a group of young Hispanic men leave a party and want to get in a fight with the first person they see. It could be anyone: another Hispanic kid, an old black couple, a south-Asian store owner, or a white male jogger. The target is selected by random occurrence. The symbolic status (e.g. race, religion, and ethnicity) of the victim is irrelevant; one target is as good as any other.

2.2. Causes of hate crime

The criminological, sociological, psychological and biological theories around hate crime tell us that this phenomenon is attributed to a number of factors, some of which seem to be more prominent than others. The limited scope of this paper does not allow to elaborate on these theories but merely to refer to them for critical reflection.

One of the main theories behind why hate crime happens is based on the role of economics. While ethnic tensions are thought to increase during economic downturns, a study done in the late 1990's by an American political scientist attempted to refute this analysis (Green 1997). In this study, Green argued that a weak economy precipitated by a drop in cotton prices did not directly lead to an increase of hate crime activity. However, the study also found that tensions are easily inflamed when a new racial group moves into an ethnically homogenous area, and levels of violence were often directly correlated with the speed of racial integration.

According to Richard Berk, "The fact that people of one race may steal from people of another race may simply be a function of differences in wealth that happen to be associated with race. Indeed, the race of the victim may be unknown to the perpetrator even after the crime is committed (e.g. in a burglary)" (Hamm 1994). Professor Berk uses this example to show the difficulty of finding specific hateful motivation behind certain offences.

Criminologists have argued that the elevated rate of victimisation among BAME communities arises to some extent because their members fall into demographic groups that are at higher than average risk. They also tend to aggregate in areas where victimisation risks are relatively high. The tendency of ethnic minorities to aggregate in this way also triggers effects of 'non-mixed

multiculturalism'. Examples include: Harlem in New York City (USA), Sabongaris in Northern Nigeria and Tower Hamlets in East London (UK)⁸. It could be argued that this form of human ecology' encourages social exclusion, stereotypes and prejudice of residents therein rather than social and community cohesion.

For instance, Kushnick (1998) argues that racial violence became an issue in England when African and Caribbean communities, along with other Commonwealth minority ethnic groups were invited to undertake unfilled low paying jobs in the booming post-war era. Kushnick argues that what followed these groups of various ethnic origins were increased prejudice, neighbourhood segregation, discrimination, and racism in the work place and other spheres of life. It should not come as a surprise, therefore, that in the UK the phenomenon of racist violence started to be discussed only after the Notting Hill Race Riots of 1958.

However, it would be naïve to think that hate crime is simply due to demographic factors. It is far more complex than that. Hate crime is a phenomenon that is largely due to a 'non-mixed multiculturalism', political and religious bigotry and social intolerance. Hence it could be argued that re-socialising social class, religious bigots and racial fanatics could impact the society's conceptual orientations, and influence the social lens through which we view and understand each other.

Taking the example of Nigeria, it could be argued that the persistence of inter-ethnic and religious violence – especially among the Igbos and the Hausa communities – is largely due to religious fanaticism and 'non-mixed multiculturalism'. Hence it is not uncommon to hear an Hausa person calling an Igbo man *iyamiri* – which connotes a starving man looking for water to drink – and an Igbo man calling an Hausa man *aboki* - meaning a fool or a cattle rearer – when social interactions degenerates in quarrels. These derogatory terms go as back as Nigeria's 1960s civil war where they were used to consolidate the negative assumptions each ethnic group had about each other.

Arguably, the politicisation and the occasional unethical use of crime statistics, and the role of the media contribute to the negative held assumptions of the 'Others'. Members of Radstas, an advocacy group responsible for statistical data, are concerned at the extent to which official statistical data reflect governmental rather than social purposes. Thus, the lack of control by the community over the aims of statistical investigations, the way these are conducted and the use of the information produced, the power structures within which statistical and research workers are employed and who control the work and how it is used is of concern if hate crime is to be effectively addressed around the world. Similarly, the fragmentation of social ecology into "mono-ethnic communities" because of the fear of 'Other'

⁸ However, some have argued that London should be treated as a separate example because despite aggregation in certain areas, diversity is still maintained.

obscuring human connectedness is an issue worthy of evaluation if racial violence is to be controlled.

The difficulties with statistical recording of hate crime do not stop there. According to the British Crime Survey, less than half of racist incidents are reported to the police. In addition, the CPS found that despite efforts to boost confidence in the system, an additional 5% of hate crime charges were dropped because there was no witness testimony (of 6,200 charges brought, 2,506 were dropped). Moreover, in 2004/5, the CPS reported that 8% fewer charges than last year were dropped because of insufficient evidence. Conviction rate for all race offences charged dropped 2%. The Commission for Racial Equality said the figures suggested a "difficult social problem that continues to blight the lives of many of Britain's ethnic minorities ... Until all victims and witnesses of these crimes have full confidence that the justice system will deal with them, we will never know the true extent of the problem".

Carr-Hill (2006) claimed that official/governmental statistics contribute to the exacerbation of hate crime in the UK. He argued that perhaps the seed of racial violence against the British minority ethnic groups might have been sown in 1965, when McClintock brought out one of the Cambridge studies apparently showing that the Afro-Caribbean population were much more likely to be convicted of violent crime than the native white population. This report, Carr-Hill argued, was at the Home Secretary's desk when the first 'Race Relations Act' was passed by James Callaghan, limiting the number of Commonwealth immigrants. Reporting the work of Hall *et al*, Carr-Hill further noted that in the 1970s, when there was a 'mugging' panic in London, the Daily Mail over-exaggerated the Metropolitan Police crime statistics, saying that victims were "reporting their assailants as black". However, this was "because the Daily Mail had already told them that muggers were black" (Carr-Hill 2006: 17).

Furthermore, social exclusion and the phenomenon of 'non-mixed multiculturalism' has often been encouraged by political figures. Examples include Enoch Powell's *Rivers of Blood* speech in 1968, and Margaret Thatcher's 'swamping' statement of 1978. There she noted: "People are really rather afraid that this country might be rather swamped by people with different cultures ... the British character has done so much for democracy, for law, and done so much throughout the world, that if there is any fear that it might be swamped, people are going to react and be rather hostile to those coming in" (Ohri 1998: 15). The speech of Roy Hattersley about black immigrants is also relevant: "Integrations without control is impossible, but control without integration is indefensible" (Ohri 1998: 14).

THE LEGISLATIVE AND POLICY CONTEXT OF HATE CRIME

1. UK Legislation relating to hate crime

There are a number of UK laws that aim to address hate crime directly or indirectly. These laws not only seek to punish the behaviour of individuals who commit hate crime, but also place positive duties on local authorities to promote good relations between all racial groups. Those Acts are briefly explained below.

Public Order Act 1986 – Sections 18 to 23 of this Act create a series of offences for the use of words or behaviour; the display, publishing or distributing of written material; the public performance of a play; or the distribution, showing or playing of a recording or broadcast, if it is intended to stir up racial hatred⁹. (Also see Racial and Religious Hatred Act 2006 below). The courts must be cautious when prosecuting under this Act as they will be limiting the right to the freedom of expression. They must therefore balance the competing arguments in a similar fashion to the procedure existent under the European Convention on Human Rights.

Protection from Harassment Act 1997 - This Act was in part conceived to outlaw forms of ongoing or continuous conduct that could be characterised by hate crime, which would be difficult to prosecute otherwise. Michel Howard, the then Secretary of State for the Home Department said that it would not only cover “stalkers, but disruptive neighbours and those who target people because of the colour of their skin”. The Act therefore provides redress for victims of both racial and homophobic harassment.

Crime and Disorder Act 1998 – This Act places a positive obligation upon local authorities and the police to work together with other key agencies within the community to develop, implement and monitor strategies for reducing crime and disorder in the area, including hate crime¹⁰. Specifically with regards to hate crime, sections 29 to 32 of the Act create a series of ‘racially aggravated’ offences wherein the determining factor is the victim’s membership to a racial group, and the offender is motivated by that factor, or he displays hostility based on the victim’s membership of that group¹¹.

Race Relations (Amendment) Act 2000 - This Act places a duty on all public bodies to take necessary steps to eliminate racial discrimination, promote equality of opportunity and promote good relations between persons of different racial groups¹². Public authorities now have a duty to ensure that as policy makers and service providers that they consult ethnic minority representatives, take account of the potential impact of policies on ethnic minorities, monitor the actual impact of policies and services, and take

⁹ Public Order Act 1986, http://www.opsi.gov.uk/si/si1987/Uksi_19870198_en_1.htm

¹⁰ See s17 Crime and Disorder Act 1998, <http://www.opsi.gov.uk/acts/acts1998/98037--e.htm#28>

¹¹ *Ibid*, s28(a-b)

¹² s71 Race Relations (Amendment) Act 2000, <http://www.opsi.gov.uk/ACTS/acts2000/20000034.htm>

remedial action when necessary to address any unexpected or unwarranted disparities.

Anti Terrorism, Crime and Security Act 2001 – Part V of this act deals with the issue of religious hatred, specifically those who are victims of a crime because of their membership to a religious group. This works in a similar fashion to the sections of the Crime and Disorder Act mentioned above. For the purpose of the Act a religious group means a group of persons defined by reference to religious belief or lack of religious belief¹³.

Criminal Justice Act 2003 – Sections 145 and 146 of this Act gives courts power to impose tougher sentences for offences motivated or aggravated by the race or religion of the victim, by a disability, or by his sexual orientation¹⁴.
Racial and Religious Hatred Act 2006 – This Act builds upon the provisions mentioned above and amends the Public Order Act 1986 and targets acts that intended to stir up hatred against people on religious and racial grounds¹⁵. The definitions of racial and religious group remain the same as for the Crime and Disorder Act and the Anti Terrorism, Crime and Security Act above¹⁶.

2. UK policies addressing hate crime

Accompanying the above legislation is a series of policy initiatives and partnerships that attempt to solve the hate crime problem through various tactics, acting as a gloss on the law. Some of these policies originate from State departments, such as the Metropolitan Police Service's Targeted Policing Initiatives¹⁷, or the Department of Education in the form of compulsory 'citizenship' education in secondary schools¹⁸. A common thread between all of the groups is their wish to tackle the underlying problems that are seen as casual factors of hate crime, as a preventative long term measure.

In addition, the Metropolitan Police Service has a number of initiatives that try to tackle hate crime, including its Community Safety Units (CSUs)¹⁹, which are located in all 32 of the London boroughs. The CSUs offer a local service to victims of hate crime to address their immediate needs. They offer an advice service whereby the potential victim can find out where they stand in relation to the law when they have been affected by a particular incident. They then promise to keep in constant contact with the victim throughout the process

¹³ Part V, s39(4) Anti Terrorism, Crime and Security Act 2001

<http://www.opsi.gov.uk/ACTS/acts2001/10024--f.htm#37>

¹⁴ Criminal Justice Act 2003, <http://www.opsi.gov.uk/acts/acts2003/30044--o.htm#145>

¹⁵ Race and Religious Hatred Act 2006,

<http://www.opsi.gov.uk/acts/acts2006/20060001.htm#aofs>

¹⁶ Other pieces of primary legislation are also relevant such as the Housing Act 2004 and the Anti-social Behaviour Act 2003. These can be found at <http://www.opsi.gov.uk/>

¹⁷ The Home Office's Targeted Policing Initiative, part of their Crime Reduction Programme, invites police services to submit innovative projects to combat specific crimes. In early 1999 the Met submitted a project to the Targeted Policing Initiative to research and progress methods of investigating Racially Motivated Crime

¹⁸ It includes programmes of study on human rights, ethnic diversity, and conflict resolution.

¹⁹ Some Boroughs (e.g. Southwark) call them Hate Crime Units.

and give them a direct phone number in case they have anything further to ask. But, in attempt to retain trust with the victim he or she will have their wishes consulted at every step allowing the victim to have some control over the situation. Finally, they offer guidance about how to handle any eventual outcomes of the process, such as what is required if they are summoned to court.

Moreover, the Crime Reduction Agenda seeks to reduce the prison population, prevent re-offending and crack down on anti social behaviour. Specifically with regards to hate crime, the Crime and Disorder Reduction Partnerships (CDRPs), which have typically involved the local authorities, advocate the use of multi-agency racial harassment panels; their focus is on victim support, to give the victim the confidence to report the crime in the first place. The Community Cohesion Agenda seeks to ensure the future of a multi ethnic Britain. As a result, Community Cohesion pathfinder projects have been set up by the Home Office for the sharing of good practice. Community cohesion is now seen as a crucial part of tackling race and equality issues as illustrated by the governments strategy on "race, equality and community cohesion". The prevention of racist violence is particularly important for this policy as "racist violence severely threatens the success of efforts to promote community cohesion" (Isal 2005: 10).

Furthermore, the Neighbourhood Renewal strategy is a general policy that tries to tackle the lack of identity amongst perpetrators, thereby promoting inclusion. Similarly the Civil Renewal strategy which is supported by all the major political parties, aims to tackle the disengagement of individuals and communities from involvement with civil society. The Green Paper produced by the Department for Education entitled Youth Matters aims to help young people make informed choices about their lives. This doesn't tackle racist violence directly, but the Home Office emphasises the importance of working with young people, particularly in relation to tackling racist violence.

The Commission for Integration and Cohesion set up in 2006 also seeks to tackle the underlying causes of hate crime. The Commission's final report, released June 2007, considers innovative approaches looking at how communities across the country can be empowered to improve cohesion and tackle extremism. Specifically it examines the issues that raise tensions between different groups in different areas, and that lead to segregation and conflict. It puts forward recommendations on how local community and political leadership can push further against perceived barriers to cohesion and integration. It also looks at how local communities themselves can be empowered to tackle extremist ideologies and develops approaches that build local areas' own capacity to prevent problems, and ensure they have the structures in place to recover from periods of tension. ROTA made a submission to the Commission, providing examples of organisations from the VCS working on community cohesion (ROTA 2007).

Finally, the Commission for Equality and Human Rights (CEHR) has obligations to monitor hate crime and challenge prejudice and stereotyping of particular groups, and promote good relations through the use of its regional

networks. ROTA has produced a separate report on the CEHR's regional presence in London and continues its awareness raising and consultation project with the region's VCS (ROTA 2007).

3. European Policies and Legislation Addressing Hate Crime

The European Union has always had at its heart the need to combat discrimination, partly for increased economic integration and partly because the union itself was borne out of the horrors of racial hatred and genocide experienced during the Second World War. But while the Treaties of the EU safeguard and protect workers from discrimination based on their race and ethnicity there is a lack of legislation to tackle hate crime across the 25 member states. The Commission for Racial Equality believes that the European Union fails to provide protection to individuals for the more "ruthless expressions of racism and xenophobia"²⁰.

It is accepted that just as within Britain there is a lack of consensus among the countries of the European Union when it comes to combating hate crime. Part of the problem is that there is no agreement of what is classified as a racist crime or incident. Robin Oakley says that "there is a real need for comprehensive training programmes to be put in place across Europe, which can provide a co-ordinated response to policing in this area" (Oakley 2005: 3). Police investigations across the territories often fail to pick up on racist elements in many crimes. Oakley suggests that there should be Europe wide legislation in this area that requires the police to record 'racial motivation' for crimes. This would allow the effective monitoring of policing statistics at European level and make it easier to identify examples of good practice.

Awareness of the data comparison problem in Europe has been identified by the Fundamental Rights Agency. The agency carries on the work of the European Monitoring Centre on Racism and Xenophobia (EUMC) created by Council Regulation 1035/97, which was responsible for collecting and processing information on the extent, development, causes and effects of the problem within the European 25. But, in relation to the problem identified above, analysing and comparing the statistics is treacherous. Countries like the UK who have much higher levels of reported racist crimes are not necessarily the worst perpetrators. It just so happens that the UK has possibly the most comprehensive data collection system in Europe (EUMC 2006). On the whole, the UK compares well with other European countries and this is largely to do with its multi agency approach to the problem, which is the "key feature of state policy against racist violence" (Witte 1996) and is lacking in many other EU countries. The co-operation between the police and other agencies has long been recognised in the EU, indeed it is enshrined in Article III-257 of the EU Constitution that the Union should "combat crime, racism and xenophobia through measures of co-ordination and co-operation between police and judicial authorities and other competent authorities". The London-wide Race Hate Crime Forum should act as a model of good practice to be transferred to other states.

²⁰ www.cre.gov.uk/default.aspx.locid-0hgnew0o2.Lang-EN.htm

IS RESTORATIVE JUSTICE A VIABLE OPTION FOR HATE CRIME?

1. Scepticism with restorative justice and hate crime

To combat hate crime the whole community needs to be targeted by our strategies and policy. This can be seen as important when the Home Office noted that: "The views held by all kinds of perpetrators towards ethnic minorities are shared by the wider communities to which they belong" (Sibbit 1997).

This 'wider perpetrator community' as well as the young population that is exposed to hate crime philosophies are two groups that RJ has addressed successfully in the past. Moreover, the significance of the community as a 'party' in hate crime, suggests that RJ might indeed be well suited for a holistic approach. According to RJ's theories, the restorative norm has the philosophical potential to address sensitive and complex crimes.

Undoubtedly, victims of hate crime experience a range of effects that can have a long-lasting or sometimes life-lasting impact. These include fear, particularly of repeat attacks, anger, illness including depression and physical ailments, trauma in children, restrictions in lifestyle and substantial financial loss. Statistics have shown that for various reasons nine out of ten victims had not gone to court although three-quarters said that they would be prepared to give evidence if the perpetrator were prosecuted (Victim Support 2006). Research has also shown that victims are often keen to move beyond "victimhood" and take a role in supporting other victims or changing/ engaging their communities. Survivors also want to see action taken to tackle the root causes of hate crime. RJ processes empower victims and may give them the feeling of taking control of what has happened to them. In addition, even when a restorative meeting may fail to achieve its transformative purpose, an apology and meaningful remorse on behalf of the offender can have a significant impact on the victim and their family.

Restorative practices are founded upon the principles of inclusion, respect, mutual understanding and voluntary and honest dialogue. One could argue that these are core values, which, if ingrained in society, could render hate crime almost virtually impossible. Hence, bringing people face to face with their fears and biases may help dispel myths and stereotypes that underlie hate attitudes. It may also allow perpetrators to see victims as people. In fact, it could be argued that the RJ encounter is fundamental to building cross-cultural bridges and integration. Umbreit suggests that "the continuing movement toward adaptation of the restorative justice paradigm could be enhanced only if practitioners, advocates and policymakers become increasingly sensitive to and knowledgeable about cross-cultural issues and dynamics that impinge on the practice and on the very notion of justice" (Umbreit 2001: 66). However, the lack of legislative, policy and financial support for these services should make us wary and seek for concrete evidence before any recommendations are made.

In fact, many have argued that RJ might indeed not be the best alternative for serious offences including hate crime. For example, some have claimed that RJ practices, such as face-to-face mediation, could expose victims to further victimisation and trauma. In addition, the ability of hate crime perpetrators to engage in an honest dialogue has been questioned. After all, why would a racist criminal whose attitude towards others has been consistent suddenly agree to engage in an honest dialogue? Furthermore, what guarantees can RJ practitioners give to victims that their racist attackers will not hurt them further, or change their minds and retaliate?

As with sexual offenders, perpetrators of racist violence fall within a special category of criminological interest, where criminal behaviour and activity is examined as a phenomenon that is attributed to deep-rooted causes. Racist perpetrators might not be easily susceptible to rehabilitative and community-based approaches, while victims may be exposed to further victimisation if brought in contact with them (irrespective of how remorseful the perpetrator may seem).

The reluctance on the part of victims and offenders to participate in restorative justice is also seen as another challenge. For instance, participation in victim-offender mediation requires that both parties are willing and able to participate in the process. Moreover, there is always a feeling of apprehensiveness for the victim when they are going to encounter the offender. This is particularly true if the offence is a hate crime since there is a specific intent to attack an individual because he or she belongs to a specific community.

A further difficulty with RJ in addressing hate crime is the concept of restoration of the *status quo ante*. Like tort law, RJ is concerned with restoring the parties to the *status quo ante* through restitution and payment i.e. the position they would have been in, had the crime not occurred. In cases that deal with property crime – or even some crimes against the person – this is attainable. But when it is concerning a hate crime, this may be more difficult. Prejudicial attitudes are deeply rooted within a person. Victim-offender mediation may not have the thrust of causing an offender of hate crime to experience remorse. In fact, it has been argued that in most cases, victim offender mediation will meet an arrangement that suits the vengeful victim and a middle-class mediator that will lead to ganging up on the young offender, exact the expected apology, and negotiate an agreement to pay back what she/ he has taken from the victim by deducting portions of his or her earnings from his or her minimum wage job. Therefore, it has been said that little social transformation is likely to arise from utilitarian transactions of this sort.

The additional challenge in dealing with hate crime is to start from a blank slate. This is almost impossible when the biases and prejudices of not just the victim and offender, but also the mediator are brought in the room. Therefore, it is argued that hate crime issues ought to be necessitated by an objective judge that keeps the parties detached from one another and also keeps the influences of biases to a bare minimum.

However, some RJ practitioners claim that they can balance, or counter, inequalities among the parties. Others have argued that instead of breaking down the barriers and prejudices that the offender and victim bring to the table, mediation practices are apt to compound pre-existing power and status differences even more systematically and seriously than formal judicial processes. Specifically in terms of hate crime, RJ practices may alienate both the victim, and offender in its attempts to bring community cohesion. They may alienate the victim in the sense that after the crime, community cohesion is not a 'live' prospect; they may also alienate the offender for the same reason. It has been suggested, therefore, that RJ practices conceivably maybe more successful in dealing with hate crime if they were implemented post-imprisonment because at this point heightened emotions have somewhat subdued.

Additional criticism of the use of RJ with hate crime includes its limitation with dealing with cross-cultural orientations where decidedly different ideas of what is required for restoration continue to prevail. For instance, Umbreit (2001) argues that in multicultural society the cultural background of victims, offenders and mediators are often different which if not carefully handled "carries a risk of miscommunication, misunderstanding, or worst of all, re-victimisation". Smith also argues that, "for RJ to work, a broad moral consensus must exist on what is good and bad conduct, on right and wrong" (Smith 1995: 157). So can a restorative justice process work if the parties involved have different conceptions of restoration, or typification of others? Whose idea of 'restoration' or 'person typification' should prevail? For example, if a conflict occurs within African-Caribbean communities, or African-American communities, restorative processes might seem appropriate, as these communities tend to share similar sense of what is required for relationships of social equality to exist - although 'within-group' culture dynamics should not be underestimated. But what if one of the parties is not African or Caribbean? Are the prospects of a successful restorative justice process lessened in the absence of a shared understanding of restoration?

A further challenge facing RJ in dealing with hate crime is the unlikelihood of inspiring moral reflection and development. "In theory, bringing the offender to the table to confront the victim face-to-face will enable him to realise the cost of his actions in human terms and to resolve to lead a better life" (Delgado 2000: 765). However, it is said that it is very unlikely that the offender will have a crisis of conscience upon meeting the person he or she has victimized in a hate crime. Most often hate crime is premeditated and is caused from long-lasting negative images of a particular group of people. A 45 minute meeting is unlikely to have a lasting effect if the offender is released to his or her neighbourhood immediately afterwards. Delgado claims that this example demonstrates that RJ may be apt to make an offender a better person, but lacks the long-lasting effect to inspire moral reflection (Delgado 2000).

Furthermore, it is said that RJ does not have the capacity to address public interest in the way criminal law would. "Mediation pays scant attention to the public interests in criminal punishment, particularly retribution" (Delgado 2000: 770). In particular, the symbolic element of a public trial is an opportunity for

society to reiterate its deepest values; loss of that staged public event is a major concern. In a trial where an offender is indicted for a hate crime offence, the community at large has a chance to express its deepest emotions either to the media or among their own communities in mutual dialogue. Yet, if this process is done behind closed doors in which there are sworn testimonies signed by the offender, victim and mediator there is minimal chance that it will have a significant impact in the community because it is personalized and kept in the dark. There is also less of an opportunity for public outcry surrounding a mediation dialogue than a public trial. Therefore, poor outlook for the hate crime to be benighted by the community at large. This paradox has more of a likelihood to occur in large cities such as London than smaller towns, villages or hamlets.

All in all, it is argued that the traditional criminal justice system aims at uniformity, employing a system of graded offences and sentencing guidelines designed to assure that similar cases are treated alike. The absence of a formal adjudication process is a gap that RJ practitioners must fill. However, at this moment there is no obvious metric because RJ practices have not been applied on a systematic level towards hate crime.

The weaknesses of the current criminal justice system are the theoretical strengths of RJ. Proponents of RJ claim that, the new paradigm offers a balance between the needs and rights of both offenders and victims regardless of race, gender or religion. Essentially according to advocates of restorative practices, if the theoretical version of RJ is applied to hate crime it should bring about positive results. To understand this claim, instead of engaging in further detailed theoretical discussion, the report will look at case studies where RJ is used successfully to address hate crime in various countries and within different cultural contexts. However, before taking this step, a brief account of how a hate crime case reaches the mediation room is in order.

2. The process of dealing with hate crime in the restorative way

2.1. Restorative justice practices and their place in the criminal justice system

RJ programmes can appear in various shapes and forms depending on the structure of the criminal justice system in which they are implemented, as well as the level of tolerance coming from the public, the politicians and the cultural and historical background of the country. In an attempt to categorise the various kinds of RJ programmes, a classification can be drawn using the programmes' relationship with the traditional criminal justice system.

Three different types of RJ schemes are identified: 'independent', 'relatively independent' and 'dependent'. First, RJ programmes are 'independent', when they are offered as real alternatives for criminal litigation, diverting the criminal case out of the formal process. This occurs at a very early stage of the case, replacing any penal response to crime. The final outcome precludes re-entrance of the case in the criminal justice system. Second, RJ practices can

be 'relatively independent', when they are offered as part of the regular criminal procedure. This can take place at any stage of the case, which is diverted and referred to a mediator charged with reaching an agreement between victim and offender. If this is accomplished successfully, it will have an impact on the outcome of the criminal proceedings. Its most common effect is to reduce sentencing, although there have been cases where charges were dropped altogether. Finally, mediation projects can be 'dependent', when they are situated adjacent to the conventional system. This model is used after the criminal trial has run its course, and is mainly employed in instances of the most serious crime or in the prison context (Groenhuijsen 2000).

In the context of hate crime, a case takes the following four steps. The first step is a referral of the case to the RJ programme. These referrals generally come from people within the justice or social system, such as police, prosecutors, judges, probation officers but also social workers and housing officers. They take place any time from the date of the offence to the period of parole. The second step is the preparation of the case. The victim and the offender are contacted separately by the mediator who gathers information about the offence and answers questions from both parties. The third step is the actual meeting between the victim and the offender – and in the face of family group conferencing of their families, friends and relatives. The fourth step involves preparing the file and returning it to the referral source²¹.

A precondition is that the offender has admitted the offence and that all discussions that will take place will remain confidential and unusable in the criminal justice system. The process is voluntary for both victims and offenders and involves several stages.

The second step is a meeting usually starts with a statement from the victim, explaining what it felt to be harmed and posing their questions to the offender – the most common one being "Why me?". The offender is then invited to give his/ her story of what happened. This introduction is followed by a constructive and honest dialogue that is facilitated by a neutral mediator. This focuses on how the offender may repair the harm done and what can be done to reintegrate him/ her back into the community. The dialogue is concluded with an agreement between the victim and the offender which may vary from a written apology to community punishment and compensation, the completion of an education programme, getting a job and holding it down, or making commitment to stay out of trouble. The truth is that depending on the programme, agreements and penalties may vary from being strongly retributive to solely rehabilitative.

²¹ This account is not meant to be prescriptive; other types of indirect mediation exist particularly in relation to incidents which though may not be classified as "offences" may raise concerns in the community e.g. neighbourhood disputes, racist comments etc.

SOME SUCCESS STORIES: ADDRESSING HATE CRIME THROUGH RESTORATIVE JUSTICE – CASE STUDIES

1. Case study from Minnesota, US – hate crime and bullying in schools²²

In the town of Fairmont Minnesota, US, the suburbs were gradually being encroached upon by a larger metropolitan centre. Racial and ethnic tension started to arise when minorities exiting from the inner city sought new opportunities in the suburbs. There was resentment, fear, and hate that bubbled to the surface in the community; especially in the local high school. BAME high school students were called names and spat upon, attacked with baseball bats, and intimidated at school. In response to the attacks, the Fairmont school personnel mounted an awareness campaign, which included inviting speakers to come and give lectures on African-American history and the civil rights movement. However, these efforts had little impact. As a last resort, school officials invited the assistance of a county-based mediation team to implement restorative justice dialogue.

As part of the plan, letters went out to families of high school students that school personnel had identified. These letters invited families to participate in a pre-conference to explain the larger meeting and the guidelines to be followed and to give them an opportunity to share their concerns and experiences with the racial conflicts.

By the time of the meeting, 150 people, who had each been prepared in a pre-conference, showed up to express their views. While the meeting was open to anyone who wanted to attend, the county mediators were confident that because of the large number of persons who had gone through a pre-conference, the group would hold itself accountable to the guidelines of the process such as being respectful and not interrupting. On the stage of the high school auditorium two mediators facilitated a group of 10 students, encouraging them to talk about their fears and experiences. One of the victims, a young black girl, spoke of the intimidation she felt when she was accosted in a darkened school hallway by three white boys. These males responded by telling her they had no intention of physically harming her, they were only trying to scare her. The girl's tears spoke clearly of their success. Another white youth, who had been expelled by the school administration, was allowed to express his side of the story. It became clear to many participants that racial conflict was fuelled by both whites and blacks. These were not isolated events; everyone in the school was a victim.

The students, teachers, and community were greatly helped by the restorative conference. Student representatives met with school personnel over the following days to help take steps towards reducing harassment. One of the major positive outcomes was that the administrators agreed that the first line of response to student conflict would be referral to peer mediators rather than

²² Taken from Coates, R., Umbreit, M., & Vos, B. "Responding to Hate Crimes through Restorative Justice Dialogue" *Contemporary Justice Review*, Vol. 9, No.1, March 2006.

investigation and expulsion. Restorative justice dialogue provided an outlet for the key stakeholders and successfully addressed a hate-driven situation that was spiralling out of control.

2. Case study from Israel²³ - restoring intercommunity relations

In Israel and the occupied territories, there is a significant amount of mistrust and dislike between the resident Jewish and Arab populations. This case study involves two young Arab offenders who committed an armed robbery against a Jewish victim. The Jewish victim experienced the offence as hate crime and an act of terrorism.

The young perpetrators, Mohammed and Sami, were interrogated and detained in a juvenile facility for fifteen days. Afterward they returned to their houses and were under partial house arrest, enabled only to attend school. A charge was brought against them for attempted robbery and conspiracy to commit felony. Mohammed's father had a heart attack after hearing the news of what his son had done. Sami's father was immensely embarrassed by this son's actions which he saw as a terrible injury to the honour of the family. Since the event, the victim, Sarah avoided passing through Arab villages. She left her job and other projects that deal with the Arab community; relations with Arab friends became strained due to the trauma she experienced.

Although the young offenders and their families expressed a strong desire and willingness to correct the damage they had done, the victim expressed her absolute reluctance towards any contact. The young offenders tried to contact her around the time of the crime, and in different ways they tried to convey their message of *sulha*²⁴ (forgiveness), as is customary in Arab culture. Failing this, the juvenile probation officer for the boys consulted with the Restorative Justice Unit of the Juvenile Probation Services to check out the possibility of mediation between the participants involved. Initially, Sarah expressed reluctance, but after a thorough explanation from the RJ team, she decided to go ahead with family group conferencing. This was attended by Sarah, her husband, her eleven year old son, her brother, and her social worker; Mohammed, his father, and his mother; Sami, his father and his brother; the juvenile probation officer for the case; and the case mediator. At the beginning, the atmosphere was filled with tension and suspicion. Sarah retold the events she had experienced. The boys and their parents listened carefully to her words. They then spoke about their involvement and accepted responsibility. Mohammed and Sami explained that they had no real intention of physically hurting Sarah. They expressed sorrow and deep regret for their

²³ Taken from Umbreit, M., and Ritter, R., "Arab Offenders Meet Jewish Victim: Restorative Family Dialogue in Israel" *Conflict Resolution Quarterly*, Vol. 24, No. 1, Fall 2006, pp. 99-109.

²⁴ In Israel, as in other Middle Eastern countries, traditional informal processes of restorative justice exist alongside the criminal justice system. The most commonly known is called *Sulha* (peacemaking). Today it is used much less than before the establishment of the state of Israel 58 years ago, yet it still prevails among the Arab, Druze and Bedouin minorities. *Sulha* is used in cases as simple as small disputes, as well as in the most difficult criminal offences, such as murder or severe corporal damage. In severe cases, *Sulha* is put into motion to prevent a blood feud. www.realjustice.org/library/beth06_goldstein.html

deeds and explained that they had not considered the difficult consequences of their actions. When they heard Sarah's words, they understood the serious implications of their actions.

The atmosphere allowed the parties to speak directly about the injuries to parent-child relationships, education, and neighbourly relations between Jews and Arabs. During the process Sarah and her family expressed understanding and compassion toward the boys and their families, even a will to affect their lives in a positive way. For Sarah, the retelling of the story allowed her to vent her feelings of anger and fear, and this was actually part of the process of healing. The mediation process fulfilled her need to be in a safe place, emotionally and physically, without feeling judgmental or guilty. For the boys and their families, this meeting fulfilled the need to live in a society without social and cultural injustice, to distance the boys from the criminal subculture, and to reintegrate them into the community by renewing trust in their place in society.

The meeting ended with a settlement written by the participants, which was later accepted by the juvenile court in lieu of a conviction. At the end of the mediation session, which lasted three and a half hours, all the participants expressed feelings of satisfaction and relief that the process had given them, allowing them to bridge the conflict, hurt feelings, and thoughts that had disturbed them. The impact of restorative justice dialogue offers a glimmer of hope to serve as a bridge toward greater understanding and tolerance among all diverse populations in the region.

3. Case study from London – Southwark Mediation Centre: a community-based approach to Hate Crime in Southwark

The Hate crimeS project at the Southwark Mediation Centre in London, UK is a community-based RJ project, which uses a multi-agency approach to the rising levels of hate crime in the community. The project trains and empowers community members to address issues of anti-social behaviour and crime in partnership with the education authority, the police and local and national Government agencies. It provides a conflict resolution service that works in partnership with enforcement agencies. It is a service which is accessible to all members of the community in order to resolve conflicts, reduce aggressive behaviour and assist the community to improve their quality of life, enabling them to feel safer; by reducing crime and the fear of crime. It enables those who are involved in anti-social behaviour and crime, take responsibility for their actions so that Victims feel the conflict has been dealt with in a constructive way.

Cases are either referred to the mediator by another agency (police, local housing association etc), or are self-referred. The process is very simple and involves the victim and offender negotiating their problem with the help of an impartial mediator. This can either be done face to face or indirectly through written communication. It has been said that "many victims...do not wish to prosecute their harassers but want to know the underlying cause of the hatred and the perpetrators to fully realise the impact they have on their victims" (Isal

2005: 22). Originally, the project was funded by the Home Office, and then by the Local Authority and other independent funding. This will soon come to an end, and the mediation service will be challenged.

A 2003 evaluation of the project by Goldsmith University showed that it reduces incidents of repeat victimisation from 1 in 12 to 1 in 4. The project was also included as a best practice example in the 2004 Runnymede Trust "Preventing Racist Violence" handbook and the 2005 Office of the Deputy Prime Minister Toolkit on hate crimes.

Parents who experienced racial harassment and attended the project commented: "Nobody could deal with this issue until you came along. Now the children are talking. My children can come out now and play without being harassed. The young people are even waving hello rather than hauling abuse ... the constant feedback over the phone (from the mediators) was very helpful ..." (Southwark Mediation Centre 2006).

4. Case study from London – The Metropolitan Police Authority London-Wide Race Hate Crime Forum

The MPA London-Wide Race Hate Crime Forum (LWRHCF) is one of the most prominent multi agency partnerships that addresses hate crime. Members include: the Metropolitan Police Service, the Crown Prosecution Service, Government Office for London, the London Probation Service, the Greater London Authority and the Commission for Racial Equality, but also voluntary and community sector organisations such as ROTA. One of the targets of this partnership is to tackle the gaps in the "co-operation, sharing of information and learning between agencies" as highlighted by the Stephen Lawrence enquiry (Macpherson 1999). The inquiry noted that such co-operation could generate trust and confidence of policing among BAME communities.

The Forum also aims to reduce and prevent the occurrence of race hate crime, promote a consistent service and instil confidence in its victims who report the crimes. Its work has centred on the London boroughs with the highest levels of recorded racist incidents. Each of these boroughs then makes a presentation to the Forum, which aims to highlight any good practices. A report by the Runnymede Trust praises this initiative's sharing of good practice across London boroughs as a particularly strong element of the project (Isal 2005: 36).

Evaluation that was commissioned from Essex University showed that four years after its creation, the Forum remains one of the best models of good practice for third-tier multi-agency partnerships against race hate crime in Europe. However, a number of challenges were highlighted which if not addressed could lead to the demise of the partnership. The members from the VCS although keen to support the work of the Forum were not provided with support and proper resources to do so. As it is common in the third sector, organisations are understaffed and under-resourced and hence they have to prioritise what they are usually being directly funded to do. The Forum itself is

said to face its own funding challenges, and its future is uncertain considering that there has not been any commitment to support it.

5. Case study from Oregon, US – restoring hate crime following September 11th

This case study concerns an incident that took place when an individual twice phoned the Islamic Cultural Centre in Eugene, Oregon, US proclaiming death on the Muslim community in retaliation for the September 11th terrorist attacks.

The police were able to trace the call and arrested the individual. The man who first received the messages at the Islamic Cultural Centre, Mr. Adi, feared for his and his family's safety and thus a police officer was assigned to protect them. The police officer looked after the family's wellbeing, opened their mail, and routinely checked their car for suspicious activity. In the wake of the attacks, Ms. Adi gave up wearing her traditional head scarf, and her daughter was harassed by a boy who claimed all Muslims should be shot.

After negotiations with the police, the offender indicated a desire to apologise for his actions and make amends. The prosecuting attorney, who had previous experience with the Community Accountability Board that operated in the offender's neighbourhood, initiated efforts to seek a mediated dialogue. Three mediators first met with the offender. He acknowledged that he had been enraged by the pictures and stories of the Twin Towers attack and had made the threatening phone calls to scare the Muslim leader. After the calls, he claimed that he was mortified by his actions and wanted to restore what was done. A week later, the mediators met with the Adi family who had expressed interest in meeting the individual who had upset their lives. In addition to wanting to know why the man had committed the hateful act, they voiced concern for the pain caused to the entire Muslim community.

Soon thereafter, the Adi family met the offender face-to-face. They wanted the dialogue to take place in a public way in order to educate and promote healing across the broader community. In addition to the mediators, over 20 persons were present representing the community and the justice system. The meeting lasted for roughly two and a half hours, in which the offender made an apology followed by an attempt to explain his emotions and his ongoing anger issues. The Adi family asked questions about why the offender had made the calls; and pointed out that death threats in Middle Eastern culture are very serious. Throughout the meeting, Mr. Adi was aware that the offender never made eye contact with him. Community participants expressed sympathy for the Adi family and made clear their willingness to help hold the offender accountable while supporting his efforts to change. Tension prevailed at the meeting's conclusion. Although the Adi family remained unsatisfied with the offender's level of candour, they agreed to carry out the initial plan of meeting a second time. Mr. Adi believed there was still potential for healing.

During a debriefing, a mediator learned that the offender had felt "overwhelmed" by the District Attorney's presence, and under extreme

pressure to provide the right response. Also, the offender said that he had been deeply offended by a community member's comment that he wasn't fit to raise children. What people did not know is that the man had lost a baby son. His grief remained turbulent and he had experienced bouts of depression. Therefore, the mediator encouraged him to share his story at the next dialogue session.

The second meeting began with the Adi family asking their questions. They received clear assurance that the man would never commit the act again. Community members detailed the ongoing impact of the crime on the larger community. Further, the offender informed the group of his counselling progress and of his new job. He also spoke directly about his own loss of his baby son. Sharing that grief developed a connection with the victims, and the man became more humane and genuine. After a series of additional questions, Mr. Adi was satisfied with the progress, and explained that they were ready to move forward. At the Adi family's request, the offender agreed to make a public apology. If that action jeopardized the man's job, Mr. Adi was prepared to speak to the man's employer. The Adi family also wanted the offender to attend two upcoming lectures on Islam. He was also encouraged to cooperate with news coverage of the case, continue his counselling, and speak about his experience to teens at a juvenile detention centre. As the meeting ended, Mr. Adi reached across the table and shook the man's hand.

The offender's apology letter to the Adi family and the Muslim community appeared on the editorial page of the Register-Guardian on November 18th. A front page story also appeared covering the Adi family's story. After attending the first two lectures on Islam, the offender decided to attend more. In this case, RJ served to humanize both the victim and the offender. If the man was punitively sanctioned, it is unlikely that there would have been an understanding as to why the crime happened. The community, the offender, and the victim were satisfied by the use of RJ to address the initial hate crime

6. Case study from Slough – Aik Saath: promoting racial harmony between Sikh and Muslim young people

Following racial tensions between Sikh and Muslim communities in the mid-1990s in Slough, the local council set up a project whereby a mediator/peacemaker brought the perpetrators together for mediation or conflict resolution sessions. This led to the setting up of Aik Saath, a programme that provides conflict resolution training for young people through peer education. The project aims to promote racial harmony and encourage young people to understand each other in a positive way.

Referrals are usually achieved through a variety of agencies including schools, youth offending teams and youth clubs. These involve groups of young people among whom conflict is identified as a problem. Sometimes the requests come from the young people themselves who have seen the Aik Saath in action through films and fliers. The project is based in the locality and hence young people who watch the informative films can identify with the locations, with the characters in the film as well as with the conflict.

The outcome of their work can be best appreciated in an anecdotal rather than a purely quantitative way. There are clear signs of changes in attitudes by some young people after just a few weeks of working with the organisation. Monitoring comes in the form of a questionnaire given to young people, asking what the sessions do for them. The project is funded by the Big Lottery Fund, but faces serious capacity issues and core funding challenges.

7. Case study from Southwark – Police, Partners and Community Together in Southwark (PPACTS): a multi-agency approach to hate crime in Southwark

PPACTS was set up as a Targeted Policing Initiative to look at innovative policing. It is a multi-agency partnership of both statutory and voluntary organisations with the aim of reducing racist and homophobic crime and incidents in a particular area of Southwark that had been identified by the police as a hotspot. This project brought together the local Police Force, Victim Support, a Youth Project from the area, the Southwark Mediation Centre and various other local mediation services.

The project used both a problem-solving and a partnership model to tackle racism and homophobia in the area. The partnership model involved taking time to build strong linkages between different agencies and the BAME communities in the area. The problem-solving approach involved asking all partners in the project to look at what they could do in relation to three intervention strands: supporting the victims, dealing with the perpetrators and impacting on the location.

This approach allowed for the different agencies involved to share intelligence and examine the incidents in a wider context. For example, the project found that the young people it engaged with, in response to their racist attitudes, were already known to the police for other non-racially motivated crimes and anti-social behaviour. Such information was vital in successfully working with the perpetrators. Also, such open support for victims of racist violence and harassment and their families, in a particular setting, acted as a deterrent to perpetrators and potential offenders. Following this project, the Police recorded a large reduction of racist incidents in the area. Although these figures should be treated with caution, community intelligence developed by the partnership model pointed to the conclusion that there had been a tangible reduction in incidents. The project received Demonstration Status from the Home Office a sign that this was an example of good practice that should be replicated in other settings.

8. Case study from Lambeth, England – Restorative Approaches in Schools Project

The Restorative Approaches in Schools is designed to introduce and support the introduction of restorative approaches into Lambeth Schools. This has evolved from the evidence of the Youth Justice Board evaluation of RJ in schools.

The project works in three key ways:

1. To train members of the school community in restorative approaches to help reduce or minimise conflict in the school community.
2. The RJ in Schools Co-ordinator works with schools responding to a particular conflict situation.
3. To work with various partners at Local Authority level to develop a restorative approach across the authority.

The project uses a range of restorative approaches, including Peer Mediation, staff mediation and the restorative conference in schools, to help reduce bullying and conflict. The main aim of restorative approaches is to develop systems that focus on the inter-personal and social network damage that occurs when bullying takes place. This has meant facilitating a number of meetings in a restorative way to support pupils, parents and staff when in conflict. The role has meant working with Police, Youth Offending Team's Educational psychologists, Education consultants and advisors, voluntary organisations and Health specialists.

In their submission to the House of Commons Select Committee on Education and Skills the Project noted: "The nature of racist bullying has moved on from white to black bullying as was prevalent with the influx of Caribbean's, it is worth mentioning at this point that a lot of parents in Lambeth still carry the scares of racist bullying from their own time in school and schools that do not recognise this can inflame a already volatile situation. Racist bullying in a diverse borough such as Lambeth, often falls on the latest emigrant group such as Eastern Europeans, or groups that have remained closed for example the Somali groups in Lambeth are often seen as distinct from other African groups" (Roberts 2006).

The Government's policy on bullying has focused on exclusion as the means of addressing this type of behaviour in schools. With the introduction of the *Every Child Matters* agenda, both local authorities and schools have consequently had to implement a holistic approach to support both victim and bully, as well as inquiring into the underlying causes of the situation. Unlike the Youth Justice Board, the DfES has not formally endorsed restorative justice as a means of supporting pupils in conflict. A document from the DfES, offering guidance on restorative approaches (and the models which could be implemented in schools with case studies) is necessary to give schools support.

CONCLUSIONS AND RECOMMENDATIONS

It is fair to be sceptical about the use of innovative approaches to hate crime when they take away elements of adversarial criminal justice procedures including the principles of openness, proportionality and 'just deserts'. This paper has provided a balanced analysis of the pros and cons of the innovative approach of RJ with hate crime offences. Through case studies from around the world, the application of restorative programmes is put in context and conclusions can be drawn for further analysis, investigation and research.

The majority of criticism of the way the UK deals with hate crime is levelled at the current legislation and recording of racist crime. One of the biggest criticisms of the law is its punitive ethos, which given the nature of the crime is wholly ineffective in solving the problem. The number of people being imprisoned each year continues to rise with a total prison population of 75,000²⁵. This is because simply punishing the offender does not change his views or that of the community who shares his/ her views and therefore effectively stop the crime from happening again. Similarly the Runnymede Trust says that "support for punitive approaches rather than addressing the root causes of violence has not reduced racist attacks and racist crime" (Isal 2005). There is no doubt that punitive measures are important in the process, but no more so than preventative ones. There is therefore a need for a formal structure to "provide strategic leadership, embed policy and share good practice" (Isal 2005) led by the government. It has been suggested that the restorative justice model, the exemplar being the Southwark Mediation Centre project referred to in this report, is one of the best ways to deal with this problem. For example, on the victim and offender level it allows offenders to see their victims as people rather than stereotypes.

Another criticism is that the law and the police statistics don't help or represent racist or homophobic harassment effectively. Gail Mason believes that it is the low level, persistent and virtually unremarkable nature of harassment that enables it to shape the daily lives of its recipients (Mason 2005). A lack of understanding is also existent of the relationship between victims and offenders. There is a tendency for hate crime to be conceptualised as being committed solely because of the racial, ethnic or sexual orientation of the victim. This is likely to exclude incidents where there is a pre-existing relationship, which the police may perceive as simply being a personal dispute with no racial or hate crime element involved. The number of incidents where the victim and offender know each other is actually 40% for racially motivated crime (BCS 2000). A recent study carried out by the Understanding and Responding to Hate Crime Project (URHC) found that in only 10.22% of racially motivated incidents is the perpetrator a stranger to the victim while most of the times he/ she lives nearby. Overall, the punitive and retributive philosophy of the criminal justice system does not provide dialogue as an option in the fight against hate crime. RJ is one form of such a dialogue.

²⁵ www.hmprisonservice.gov.uk/assets/documents/10000CDAweb_bull_June05.doc

The identified case studies portray a framework within which hate crime is addressed successfully using RJ. Although most of the examples were from London, we should not jump into any hasty conclusions. Nor should we proceed to draft detailed guidance on how RJ could be used in the context of London and hate crime. This should be a task for further analysis through Phase 2 of the project.

One of the most striking findings of this report suggests that restorative dialogue to address hate crime is mainly facilitated by organisations from the VCS. Both internationally and nationally victim-offender mediation and family group conferencing for hate crime have been the focus not of statutory agencies but of VCS organisations. The identified case studies as well as initial findings from consultations show that these community-based project work most of the time in isolation and in the shadow of the law. They are challenged by barriers facing most organisations in the VCS such as lack of funding and legislative support, capacity building and network opportunities – communication. Statutory agencies are either unaware of the efforts done in the community to address hate crime, and those who are aware do not actively engage with them on a consistent and long-term basis. Official criminal justice statistics do not include RJ practices as a variant, and evaluation of their impact is done on a piecemeal basis.

This report concludes with two sets of recommendations. Without being prescriptive, the first set of recommendations aims to give directions for Phase 2 of the project i.e. guidance on sampling, geographical locations, discussion guide and methodology. The second set of recommendations is directed towards various stakeholders working in the area of hate crime in London. These are presented in this report as preliminary recommendations to be followed up with fieldwork.

1. Recommendations for Phase 2 of ROTA's project

Discussion Guide and themes to be covered: In the absence of empirical data on the appropriateness of RJ in addressing hate crime in London and the pitfalls associated with such an approach, it is recommended that Phase 2 of the project focuses on understanding what makes a restorative programme that runs in London successful and what are the dangers associated with this process. This will allow the identification of the elements that may be used to construct models for both short term and long term conflict resolution and prevention of racist violence and hate crime at large. The discussion guide should also increase knowledge about the types of racist violence and hate crime at large that are more common in the London context as well as locations and individuals that are high in risk. Appendix I provides a draft discussion guide for Phase 2.

Sample & geographical location: The sample of the study should include people who have experienced restorative justice in practice. The Phase 1 report has shown that the restorative justice literature is extensive and therefore there is no need to collect the views of theoreticians or academics. In addition, it is recommended that people working on the various equality

strands are included as well as key decision makers in London. Finally, considering the specific remit that the Commission for Equality and Human Rights will have in addressing hate crime, it is recommended that it is included in the fieldwork. The geographical location of the fieldwork should be London with particular interest in areas high in hate crime statistics. Appendix II provides a draft sample list for Phase 2. Appendix III provides a breakdown of the various geographical London areas high in hate crime.

Methodology: When considering the research strategy of the project a number of factors have to be taken into account. These include the limited time and resources available for the carrying out of the study. *Qualitative* research is therefore thought to be the most appropriate strategy. According to Miles and Huberman, it can “persuade through rich depiction and strategic comparison across cases, overcoming the abstraction inherent in quantitative studies” (Miles and Huberman 1994: 41). The impetus for the carrying out of the survey demands that an adequate level of freedom is left to the respondents. This is hopefully going to allow them to talk at length, think about issues, talk in their own terms and about things that are important to them and are related to the discussed topic. This can not be achieved through the application of a quantitative design mainly because this would have approached the investigated matters not through the examination of the substance of the sample’s responses but of variables (Punch 2003: 2).

2. Recommendations for stakeholders working in the field of hate crime

Recommendation 1- Central and Local Government: The various types of intervention (mainstream or other) that play a role in preventing racist violence come from a variety of sources. Guidance is needed in order to link their work effectively, adopting a multi-agency approach. Some models of effective partnership between public, private and voluntary organisations have been identified in this paper. Phase 3 of ROTA’s project, particularly the training stage, should include guidance on forging, building and maintaining successful cross-sector, and inter-agency partnerships to address hate crime.

Recommendation 2 – Researchers: Hate crime needs to be treated as a special category of crime that lacks a concrete definition; it is caused by a number of psychological, sociological and biological factors and reaches down to the very essence of our humanity as well as the value of our community and co-existence. The way it is being recorded needs to be improved and further research needs to be carried out in relation to potential perpetrators. For instance, additional research should examine race-related violence between different BAME communities or the hostility directed towards recently arrived migrants and asylum-seekers. Further research should also explore the potential for devising a typology²⁶ around potential perpetrators of racist violence, and examine whether such a typology could be effective in preventing racist violence.

²⁶ Such a typology should provide information on what constitutes a potential perpetrator of hate crime e.g. age, background, views held by them towards ethnic minorities.

Recommendation 3 – Policymakers: The aforementioned typology of potential perpetrators should not be used in a manner that corresponds to the current punitive/ retributive culture of the traditional criminal justice system. Where it is applicable (i.e. there is consent from all parties etc), potential perpetrators and the wider community should be engaged through RJ programmes to understand the long-lasting, deep impact racist violence can have on individuals and community groups. Case studies presented in this paper show that by bringing victims and offenders of hate crime together can help them heal, amend and restore.

Recommendation 4 – Legislator: Crime reduction legislation and policy, whether punitive or preventative, needs to be assessed against its impact on reducing or preventing racist violence. RJ practices have been dismissed by mainstream criminal justice agencies without being tested. Community-based organisations offering RJ services may be used as a source of information. However, it is important that when assessing the value of work to challenge racist attitudes agencies recognise the validity of anecdotal evidence and soft outcomes.

Recommendation 5 – Funders: Although governmental agendas must set the guidelines for the provision of public resources, funding agencies should support creative implementations of this agenda that respond to the needs, expertise and successful work of grass root organisations. One such innovative approach is found in the RJ movement. Funding agencies could take the lead in developing programmes that explicitly support creative and innovative work with potential perpetrators and victims of hate crime. Finally, funding for work to bring about attitude change should be long-term in order to allow for the change in attitudes to take root. RJ, for instance, does not offer quick-fix solutions. It is a long-term process which can gradually lead to healing and restoration. This needs to be appreciated and supported. Successful intervention projects, therefore, should be able to access ongoing funding beyond the short term. Compact compliance should be championed and better monitored.

Recommendation 7 – Politicians: A firm political commitment is needed to direct work and policy more explicitly towards prevention and long-term solutions that heal the victim and the community and educate offenders. Political figures should be held accountable for behaviour that encourages racist attitudes in the community.

APPENDIX I: DRAFT QUESTIONNAIRE FOR PHASE 2

I. General Information about the survey:

The survey is part of ROTA's project "Restoring Relationships: addressing hate crime through restorative justice", funded by the City Parochial Foundation, Safer London Foundation and the Commission for Racial Equality. The survey is interested in the practices and opinions of a selected sample of practitioners/researchers/evaluators in the criminal justice field regarding restorative justice.

You have been selected as part of this representative sample to complete the questionnaire. Your views are crucial to ROTA's project. I will be very grateful if you will fill it out at your earliest convenience.

I will be pleased to send you a copy of the results of the survey when they have been analysed as well as a copy of the Phase 1 report that recommended your practice as part of the sample. Thank you for your assistance.

II. Personal Information:

Today's Date: _____

Name and Title _____

Phone: _____

Fax: _____

Email: _____

Current Post: _____

Department/Institution and address _____

III. Questions

1. How do you define hate crime?
2. How do you define restorative justice?
3. What particular type of hate crime do you deal with and in what context?
4. How do you deal with hate crime? Briefly explain the process you usually adopt in your practice.
5. Have you been able to devise any theories on a typology of a potential hate crime offender?
 - 5.1. If yes, then provide the profile of a potential hate crime offender.
 - 5.2. If no, then why?
6. What are the 3 key challenges and successes of your practice when dealing with hate crime?
7. Is your practice part of (delete as appropriate):
 - a. the public sector
 - b. the private sector
 - c. the voluntary and community sector
8. Do you work with statutory criminal justice agencies?

- 8.1. If yes, what are the 3 key challenges and successes of your working relationship with them?
- 8.2. If no, why?
9. In your view, what are three key challenges in addressing hate crime in London?
10. Would you recommend restorative justice as an alternative approach to hate crime?
 - 10.1. If yes, why and what sort of challenges would it face if it was to be mainstreamed?
 - 10.2. If no, why?
11. Is there anything you would like to add?

APPENDIX II: SAMPLE FOR PHASE 2

NAME & ORGANISATION	POSITION	LOCATION
Luke Roberts, Lambeth Children Services	RJ Practitioner – Restorative Approaches Coordinator	Lambeth, London, England
Elena Noel, Southwark Mediation Centre	RJ Practitioner. MEDIATOR – Hate Crimes Project Manager	Southwark, London, England
Martin Wright, Lambeth Mediation Service	RJ Practitioner – Restorative Justice Mediator	Lambeth, London, England
Paul Crosland, Mediation UK	RJ Practitioner – Restorative Justice Manager	England & Wales
Belinda Hopkins, Transforming Conflict	RJ Practitioner – Director	England & Wales
Peter Dunn, Victim Support	Victim Support Policy – Head of Research and Development	England & Wales
Paul Cavadino, NACRO	Offender Support Policy – Chief Executive	England & Wales
Ben Lyon, Association of Restorative Justice Practitioners	RJ Practitioner – Director	England & Wales
Harriet Bailey, Restorative Justice Consortium	RJ Practitioner – Chief Executive	England & Wales
Charles Pollard, Youth Justice Board	Youth Crime Policy, Chair of the Youth Justice Board	England & Wales
Kimmett Edgar, Prison Reform Trust	Prison Policy, Manager	England & Wales
Barbara Tudor, West Midlands Probation	RJ Practitioner – Restorative Justice Manager	England & Wales
Mike Ledwidge, Restorative Justice Training Foundation	RJ Practitioner – Director	England & Wales
Mark Reedman, Consortium of LGBT VCS organisations	VCS/ LGBT Policy – Chief Executive	UK
Vivienne Hays, Women's Resource Centre	VCS/ Gender Policy – Chief Executive	UK
Samantha Mauger, Age Concern	VCS/ Age Policy – Chief Executive	London
Helen Bowes, Greater London Authority	Regional Policy – Senior Policy Officer	London
Bennett Obong, London-wide Race Hate Crime Forum	Police – Manager	London
David Macnaghter, MPS Violent Crime Directorate	Police – Manager	London
Francesca Klug, CEHR	CEHR – Commissioner	UK
Virginia Lockett, Faith Works	VCS/ Faith – Chief Executive	UK
Christine Goodall, Disability Law Service	VCS/ Disability	UK
Rafiu Williams, MiNet	VCS/ Race – Manager	London
The fieldwork should aim to include victims and offenders who have undergone RJ		

APPENDIX III: LONDON & HATE CRIME

April - December	fy05-06	fy05-06	fy06-07	fy06-07	Change	Change
	Racist Incidents	Racist Offences	Racist Incidents	Racist Offences	RI Incidents	RI Offences
Barking & Dagenham	351	354	291	298	-17.1%	-15.8%
Barnet	490	369	341	235	-30.4%	-36.3%
Bexley	368	305	280	275	-23.9%	-9.8%
Brent	341	270	258	180	-24.3%	-33.3%
Bromley	271	236	224	210	-17.3%	-11.0%
Camden	419	311	388	356	-7.4%	14.5%
Croydon	391	344	255	219	-34.8%	-36.3%
Ealing	390	310	347	320	-11.0%	3.2%
Enfield	320	185	273	210	-14.7%	13.5%
Greenwich	527	403	422	405	-19.9%	0.5%
Hackney	338	249	284	266	-16.0%	6.8%
Hammersmith & Fulham	237	206	177	167	-25.3%	-18.9%
Haringey	236	216	173	149	-26.7%	-31.0%
Harrow	259	175	293	189	13.1%	8.0%
Havering	267	222	240	161	-10.1%	-27.5%
Hillingdon	386	362	319	319	-17.4%	-11.9%
Hounslow	476	458	342	319	-28.2%	-30.3%
Islington	391	334	341	287	-12.8%	-14.1%
Kensington & Chelsea	221	154	189	170	-14.5%	10.4%
Kingston upon Thames	220	175	189	151	-14.1%	-13.7%
Lambeth	337	258	295	285	-12.5%	10.5%
Lewisham	456	357	372	398	-18.4%	11.5%
Merton	235	202	168	159	-28.5%	-21.3%

Newham	357	311	273	230	-23.5%	-26.0%
Redbridge	217	150	208	148	-4.1%	-1.3%
Richmond upon Thames	165	123	124	89	-24.8%	-27.6%
Southwark	403	361	273	274	-32.3%	-24.1%
Sutton	218	159	162	131	-25.7%	-17.6%
Tower Hamlets	535	475	463	491	-13.5%	3.4%
Waltham Forest	312	281	258	213	-17.3%	-24.2%
Wandsworth	215	192	185	171	-14.0%	-10.9%
Westminster	508	407	440	386	-13.4%	-5.2%
MPS	10898	8948	8883	7892	-18.5%	-11.8%

APPENDIX III: LONDON & RACIST INCIDENTS VOLUME CHANGE

Borough FYTD 14/01/07	RI Sanction Detection %	Change on FY2005/6 final detection rate	Borough RI Bespoke Target	HO Sanction Detection %	Change on FY2005/6 final detection rate	Borough HO Bespoke Target
Barking & Dagenham	26.8%	9.4%	25%	71.4%	63.1%	22%
Barnet	23.4%	9.1%	25%	40.0%	12.7%	22%
Bexley	28.5%	11.5%	25%	29.4%	-0.6%	25%
Brent	32.4%	1.5%	25%	44.4%	22.2%	22%
Bromley	22.0%	5.1%	25%	13.0%	-4.2%	22%
Camden	33.8%	-0.7%	26%	23.4%	-12.5%	22%
Croydon	26.2%	7.6%	25%	21.4%	-0.3%	22%
Ealing	23.2%	4.5%	25%	27.3%	13.8%	22%
Enfield	22.5%	-0.3%	25%	37.5%	8.1%	22%
Greenwich	19.1%	4.4%	25%	15.6%	2.7%	22%
Hackney	41.5%	12.1%	25%	24.6%	-7.5%	26%
Hammersmith & Fulham	22.1%	-9.0%	25%	12.5%	9.2%	25%
Haringey	40.8%	19.8%	25%	26.5%	-4.6%	22%
Harrow	27.2%	5.4%	25%	54.5%	31.4%	30%
Havering	49.1%	22.9%	25%	54.5%	37.8%	22%
Hillingdon	21.4%	3.6%	25%	15.4%	-11.5%	22%
Hounslow	31.9%	4.7%	25%	31.8%	-0.7%	25%
Islington	34.0%	7.4%	25%	27.8%	12.2%	22%
Kensington & Chelsea	32.8%	6.9%	26%	27.8%	24.0%	22%
Kingston Upon Thames	40.1%	13.1%	25%	21.1%	8.6%	30%
Lambeth	29.2%	-7.9%	30%	16.3%	-12.1%	25%

Lewisham	30.8%	8.6%	25%	27.9%	1.8%	22%
Merton	23.8%	-2.7%	25%	54.5%	44.5%	22%
Newham	27.7%	5.5%	25%	43.2%	24.8%	22%
Redbridge	22.4%	2.3%	25%	50.0%	26.9%	22%
Richmond Upon Thames	38.0%	4.7%	30%	42.9%	16.2%	22%
Southwark	37.0%	14.3%	25%	31.1%	9.8%	22%
Sutton	38.2%	11.0%	25%	100.0%	-33.3%	50%
Tower Hamlets	29.0%	3.2%	25%	19.5%	3.6%	22%
Waltham Forest	22.1%	5.7%	25%	12.5%	-6.6%	22%
Wandsworth	34.1%	15.0%	25%	8.3%	-2.0%	22%
Westminster	41.9%	7.7%	30%	27.2%	15.3%	22%
MPS Total	30.0%	6.5%	26%	26.6%	5.0%	23%

Bespoke targets have been used to colour code and grade performance
Green = Target Achieved - Yellow = Within 10% of Target - Red Below 10% of Target

APPENDIX IV: CONFIDENTIALITY AGREEMENT WITH THE SURVEYS' PARTICIPANTS

- The names and details of the participants will be included in a list/table
- Where quotations are given as examples, the source will not be disclosed
- Supplementary or clarifying notes added to the text of the quotations, will be marked with [], and will be the responsibility of the author alone
- No direct or indirect information will be given during analysis that could endanger the anonymity of the source of a given comment or quotation.

Ethics and confidentiality matters: The carrying out of a social research survey involves a number of ethical issues that may arise during evaluation. These “cannot be ignored in that they relate directly to the integrity of a piece of research and of the disciplines that are involved” (Bryman 2004:505). The literature on ethics and politics of social research is rather extensive (Beals 1969; Lee-Treweek and Linkogle 2000; Sieber 1982; Sjoberg 1967). The following matters should also be considered:

- **Harm to participants:** It was anticipated that participants might become concerned about the way they answer some of the questions particularly since the questionnaire is drafted in the hope of producing data that would reflect practical reality. This is impossible to achieve without the honest depiction of the sample's experiences. In order to avoid any negative consequences for the participants, the data display and analysis should be carried out in such a way that the sources of the cited quotes are not disclosed. This not only mean that names are not disclosed, but also that no indirect inferences are given that can assist in any way in the identification of the given source.
- **Deception:** This occurs when the researcher presents her research as something other than what it is. The literature advises that the research is as transparent as possible. To this end, it is suggested that before the researcher proceeds with an analysis of the data, a 'data display' is provided where direct quotes from the participants are given. While doing so, care should be taken that the confidentiality rule is not in conflict.
- **Acknowledgement:** The participants should be acknowledged through the presentation of a table that would provide details of their current profession and relationship with RJ. This, however, has to be carried out respecting the limitation set out by the first ethical principle of confidentiality.
- **Informed decision:** The sample should be given a “confidentiality agreement” which described all the above matters (Appendix VI).

Limitations inherent in Social Research: The literature is replete with examples of studies which show that even when social research is carried out respecting all of its methodological rules, there can still be unpredictable outcomes. Besides, it would be naïve to believe that any science can fully interpret human behaviour. This, of course, is not reason enough to abandon social research altogether. On the contrary, by acknowledging its limitations we may be able to define “the space left for social research to contribute to understanding the human condition and to inform policies and practices to improve it” (Shipman 1997: 175). The following limitations are relevant to this survey and should be taken into consideration:

- **Conceptual limitations:** The procedure of modelling human behaviour and organisation encounters a constraint which is due to the complexity of the human condition “and the ingenuity of individuals in breaking free of any constraints on development, interaction and individual behaviour” (Shipman 1997: 161). The debate over the interpretation of the word 'science' in social science has been fierce. Acknowledgment needs to be given to the fact that “once you get *Inside the Whale* of society, it is not reducible to laws, but requires imagination and metaphors that are not mechanical” (Bell and Encel 1978: 162).
- **Technical limitations:** Social scientists need to be aware of the technical limitations of the methodologies they employ. As Shipman put it: “once in the field with questionnaires...the more sensitive researchers realised how divorced they were from the really important social events, how much was lost or distorted through sticking to the

techniques, and how artificial was the picture drawn by the statistics summarising the riches of social interaction” (Shipman 1997: 163).

- **Organisational limitations:** These are anticipated on two separate levels. First, the scientific nature of the research has to encounter the personal, professional and political hopes of the researcher. According to the literature, these are always expected to “influence not only the topics chosen for investigation, but also the way these are organised and the results interpreted” (Shipman 1997: 164). Second, the sample could carry its own personal, professional and political hopes and beliefs especially when these are attached to funds or monetary awards (whether achieved or not). Undoubtedly, the selection of people who had experienced RJ in practice is anticipated to create a number of methodological pitfalls the most obvious of which is arguably their already biased attitude towards RJ. As the population is largely composed of people who had already chosen RJ as their field of profession, this is an indication of a possible preference towards its methods (although this should not be taken for granted). These limitations have to be acknowledged and addressed through the methodologies discussed in this report and by adopting a narrow scientific approach. However, as Shipman claimed, while doing so “the methods used may satisfy examiners, but they might not be suitable for catching the topic. Every student, whether writing an essay or completing a doctoral thesis, has felt this pressure” (Shipman 1997: 166).

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