ANNEX C: Guidelines for NGOs on reporting hate crimes

Information for Civil Society
Contributions to ODIHR'S Annual Hate Crime Report

FREQUENTLY ASKED QUESTIONS

   ➢ **What is ODIHR's working definition of hate crime for the report?**

> **Hate crime = criminal act + bias motivation**

The term "hate crime" or "bias crime" describes a type of crime, rather than a specific offence within a penal code. The term describes a sociological concept, rather than a legal definition.

Hate crimes always comprise of two elements: **a *criminal offence* committed with a *bias motive*.**

The first element of a hate crime is that an act is committed that constitutes an offence under ordinary criminal law (such as assault, property damage or murder). Hate crimes always require a base offence to have occurred. If there is no base offence, there is no hate crime.

The second element of a hate crime is that the criminal act is committed with a particular motive, referred to as "bias". It is this element of bias motive that differentiates hate crimes from ordinary crimes. This means that the perpetrator intentionally chose the *target* of the crime because of some *protected characteristic*.

   o The *target* may be one or more people, or it may be property associated with a group that shares a particular characteristic. The perpetrator might target the victim because of actual or even perceived affiliation with the group.

   o A *protected characteristic* is a common feature shared by a group, such as "race", language, religion, ethnicity, nationality, gender sexual orientation or any other similar common factor that is fundamental for the identity.

   ➢ **How does ODIHR report on NGO data?**

In addition to official government statistics, ODIHR also collects information from NGOs on cases known to them that fit ODIHR's working definition of hate crime. These are generally cases brought to the attention of staff concerning some type of criminal act and some type of evidence or perception of bias motivation. Therefore, it contains both elements of a hate crime. However, in most instances the case has not been decided by a court. The cases might or might not have been reported to police due to a lack of victim confidence, or the case may still be under investigation. Therefore, ODIHR reports on such cases as "incidents." It is important for NGOs to record all such potential hate crimes in order for the annual report to better reflect the extent of hate crimes in the OSCE region.

➢ **Does ODIHR collect information on other forms and expressions of intolerance, like hate speech and discrimination?**

ODIHR does not include statistics or detailed information about incidents of hate speech or discrimination. Some OSCE participating States criminalize "hate speech." However, hate speech laws do not fall within the ODIHR working definition because "speech" is not a criminal act. The concept of discrimination refers to less favourable treatment of a person on the basis of a protected characteristic. Even if a state has civil or criminal penalties for discrimination, those laws don't fall under ODIHR's working definition of hate crime because it does not involve a common crime, like assault or vandalism.

➢ **But, how can I tell if an incident is motivated by bias?**

In order to assess whether an incident was motivated by bias, it is useful to use bias indicators. They provide criteria by which to evaluate the probable motive, but do not necessarily prove that an offender's actions were motivated by bias. Below is a non-exhaustive list of bias indicators:

Victim/Witness Perception - Does the victim or witnesses perceive that the incident was motivated by bias?

Comments, Written Statements, Gestures, and Graffiti - Did the suspect make comments, written statements or gestures regarding the victim's background? Were drawings, markings, symbols or graffiti left at the scene of the incident? If the target was property, was it religiously or culturally significant, such as a historical monument or a cemetery?

Racial, Ethnic, Gender, and Cultural Differences - Do the suspect and victim differ in terms of their racial, religious, ethnic/national origin or sexual orientation? Is there a history of animosity between the victim's group and the suspect's group? Is the victim a member of a group that is overwhelmingly outnumbered by members of another group in the area where the incident occurred? Was the victim engaged in activities promoting his/her group at the time of the incident? Did the incident occur on a date of particular significance (e.g. a religious holiday or a national day?)

Organized Hate Groups - Were objects or items left at the scene that suggests the crime was the work of paramilitary or extreme nationalist organization? Is there evidence of such a group being active in the neighbourhood (e.g., paraphernalia, posters, graffiti or leaflets)? *It is important to underline that, in many cases, hate crimes are committed by individuals not connected to any organized group or with no previous history of criminal behaviour*

Previous Bias Crimes/Incidents - Have there previously been similar incidents in the same area? Who were the victims? Has the victim previously received harassing mail or phone calls or been the victim of verbal abuse based on his/her affiliation or membership of a targeted group? Was the victim in or near an area or place commonly associated with or frequented by a particular group (e.g., a community centre, or a mosque, church or other place of worship).

In case of attacks against property the significance of a particular structure or location to communities that face discrimination can be an indicator. An additional example might be

that the property targeted has religious or other symbolic importance for a particular community or is a centre of community life –such as a school, social club or shop – for a particular group.

> **Is it still a hate crime if there are other motives involved in the criminal incident?**

In many cases individuals who have been targeted because of prejudice or bias have also had items of value like money or mobile phones stolen from them in the course of these attacks. In these cases an important consideration is whether the particular individual was chosen because he or she was identified as a member of a particular group sharing core and protected characteristics.

> **How do I send data about hate crimes to ODIHR for the 2011 report?**

You can send information about hate crimes and hate incidents that took place in 2010 as well as information about your organization's activities in the area of combating hate crime to **tndinfo@odihr.pl** indicating in the subject line "**HCR 2011 [NAME OF YOUR ORGANIZATION]**".

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SAMPLE FORMAT FOR COLLECTING INFORMATION ON HATE CRIMES

Below is a basic overview of areas that ODIHR considers when analyzing information submitted for the annual report. For those NGOs who already have existing reporting methods, the sample format can be referred to as an example of what ODIHR is looking for, and therefore what type of information will be included in the hate crime report. For those NGOs who need further guidance when collecting information, the sample format can be helpful in reporting to ODIHR, as well as in their own advocacy or monitoring work.

Sample Format for Collecting Information on Hate Crime

- Date, time and location of the incident
- Source of information
- Victim(s) involved
- Type of the crime(s)
- Perpetrator(s) (if known)
- Brief description of incident with bias indicators
- Status of the case
- Response of local authorities
- Impact on the victim(s) and the community

➢ **Date, time and location of the incident**
Understanding when and where an incident took place is essential in analyzing the frequency and patterns of incidents and can be bias indicators when determining if an incident is a hate crime.

In addition, when reporting to ODIHR, please be aware that only those hate crimes that occurred in the calendar year 2010 will be included in the hate crime report, regardless of when they were actually recorded by monitors.

➢ **Source of information**
The main sources are often interviews with victims and witnesses and media monitoring. When information is taken from media reports, it is important to asses the reliability of the source and cross-check the information as much as possible.

➢ **Victim(s)**
Anyone can by a victim of a hate crime. Hate crimes can also target property associated with a group that shares a protected characteristic. For the purposes of the hate crime report, ODIHR reports on the following bias motivations:

- racist and xenophobic crimes;
- crimes against Roma and Sinti;
- anti-Semitic crimes;
- crimes against Muslims;
- crimes against Christians and members of other religions;
- crimes against other groups, including LGBT and people with disabilities

When collecting information it is important to report on all possible characteristics that may have formed the basis for the bias-motivated criminal conduct and to be aware of the possibility of *multiple biases*.

*** Please refer to the frequently asked questions above for more information on protected characteristics.

➢ **Type of crime**
It is important to report on the type of crime committed. This information can be used to analyze patterns of crime and will be necessary in any follow-up with authorities.

ODIHR reports on the following crime types:
- homicide
- physical violence
- damage to property
- vandalism

- desecration of graves
- attacks against places of worship
- threats/threatening behaviour
- other crimes can also be included and described

➢ **Perpetrator(s)**
Information on suspected perpetrators (their age, ethnicity and relationship to the victim[s]) can be important indicators in determining whether the incident was a hate crime. This information can be used in any follow-up with the community and/or authorities. It can help indicate, for example, where prevention efforts are needed to combat hate crimes and provide important facts for further investigation.

➢ **Brief description of the incident with bias indicators**
Bias indicators can be used to help identify hate crimes. Briefly describing the incident in connection with objective criteria of bias indicators can provide the factual basis for appropriate advocacy and/or recording of information.

*** Please refer to the frequently asked questions for a description of potential bias indicators.

➢ **Status of the case**
Data recorded on whether a crime has been reported to the police or not can offer a good indication on the prevalence of under-reporting. In cases where acts have been reported to the police, it is important to record the response of law enforcement as this may give a good indication of how police tackle the issue and the victim's perception of the police. This includes whether the case is being actively investigated, prosecuted and sentenced. If known, it is also important to note the legal code provisions under which the incident was recorded and investigated.

➢ **Response of local authorities**
  Noting the responses of authorities can provide an understanding of how hate crimes are addressed and any good practices in responding to them. These may include statements by public officials, press releases and/or meeting with representatives of the targeted community.

➢ **Impact on the victim(s) and the community**
  This information should include the perception of the victim concerning the response and treatment by government and non-governmental bodies. It should also contain any reactions by the local community (e.g., issuance of a press release), perception of the targeted community (e.g., fear for safety) pr impact on the security situation (if any).

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For more information, please contact us at: tndinfo@odihr.pl