REINTERPRETING THE UK RESPONSE TO HATE CRIME

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Abstract

This paper considers the motivation and function of the UK's hate-crime framework, offering a historically located interpretation. It discusses the development of legislation to combat discrimination- and prejudice-motivated harassment and offending before examining recent assessments of the UK's approach. It then provides a cursory examination of the historical context in which the UK's legislative and policy developments emerged. After exposing the limitations of the current UK response and framing this in a wider domestic and international context, the paper concludes by arguing that the UK's evolving hate-crime policy framework currently remains partial and serves to obfuscate its social control objectives, along with the political anxieties related to the ideological and political threats and disorder that underpinned its development. The article concludes by arguing that the current framework has recently downgraded – and increasingly sidesteps – the need to address internal manifestations of illiberalism, including institutional discrimination, workforce representativeness, racial and religious disparity, and equal opportunities.

Keywords
Hate crime; illiberalism; political disorder; social disorder

Introduction

In 1999, the European Commission against Racism and Intolerance (ECRI) credited the United Kingdom (UK) for having 'one of the most advanced institutional frameworks to combat racism and discrimination' (ECRI, 1999). Since that time, and following in the wake of a series of high-profile prejudice-based incidents, the remit of the UK's framework has widened, moving beyond an exclusive focus upon race to incorporate an 'innovative legal and policy framework applicable to hate crimes' (UN, 2018a). Indeed, the UK framework now obliges forces to record data on hate crimes and hate incidents motivated on the basis of five monitored strands: race, sexual orientation, transgender status, faith and disability (Laverick and Joyce, 2019). Local partnerships are permitted to extend the focus of their hate crime policies to address local concerns and crimes motivated by other manifestations of hostility, such as those related to alternative sub-cultures following the death of Sophie Lancaster within Greater Manchester (College of Policing, 2014a:7-8) and misogynistic incidents in Nottinghamshire (BBC News, 2016:online).

This paper considers the motivation and function of the UK's hate crime framework, offering a historically located interpretation. It discusses the development of legislation to combat discrimination- and prejudice-motivated harassment and offending before examining recent assessments of the UK's approach. It then provides a cursory examination of the historical context in which the UK's legislative and policy developments emerged. After exposing the limitations of the current UK response and framing this in a wider domestic and international context, the paper concludes by arguing that the UK's evolving hate crime policy framework currently remains partial and serves to obfuscate its social control objectives, along with the political anxieties related to the ideological and political threats and disorder that underpinned its development. This article concludes by arguing that the current framework has recently downgraded – and increasingly sidesteps – the need to address internal manifestations of illiberalism, including institutional discrimination, workforce representativeness, racial and religious disparity and equal opportunities. Whilst often neglected by hate crime scholarship, it is suggested that action to address structural and institutional illiberalism, in conjunction with wider economic development strategy and immigration controls, can function to serve the primary goal of maintaining social control and order. It is suggested that uncoupling the former components of this strategy from current hate crime and vulnerability frameworks directs attention away from the roots of this legislative and policy framework, and will ultimately fail to alleviate the structural conditions conducive to prejudice-based violence.

Hate crime as a priority concern

The UK is generally regarded as having both an 'advanced institutional framework' (ECRI, 1999:7) and 'generally strong legislation' (ECRI, 2016:9) to combat racism and discrimination. The 1965 Race Relations Act is widely regarded as the first piece of legislation in the UK to address the prohibition of racial discrimination (Hindell, 1965). Nevertheless, racist threats and intimidation have persisted across the UK, prompting further efforts to counter incitement to racial hatred, particularly through Part III of the Public Order Act 1986, which was largely presented as action to protect ethnic minorities from racist abuse and intimidation (Hansard, 1985).

In 1999, the Stephen Lawrence Inquiry recognised the need for the police service to 'deliver a service which recognises the different experiences, perceptions and needs of a diverse society' (College of Policing, 2014a:1). Described as a watershed in race relations, the Macpherson Inquiry Report on the police investigation into the murder of black teenager Stephen Lawrence in 1993 drew together 70 recommendations, many of which provided a set of general principles that should be applied to a broader range of hate crimes than that of racial harassment. As noted by McGhee (2007:213), such measures became part of a growing number of 'hate crime' provisions that were introduced in England and Wales to address racial discrimination, racially motivated victimisation and racially or religiously aggravated offending. This included the Football Offences Act 1991 (racialist chanting), the Crime and Disorder Act 1998, the Criminal Courts Sentencing Act 2000, the Race Relations Amendment Act 2000 and the Anti-Terrorism Crime and Security Act 2001. As argued by Asquith (2012:147), such legislative developments resulted in 'multiple-service enhancements to victims, along with a comprehensive re-organisation of policing organisations' standard operating procedures and reporting techniques'. This was accompanied by government efforts to measure and monitor the frequency and extent of victimisation, and to provide equal opportunities and workforce representativeness within the police service and across criminal justice and civil service institutions (Laverick and Joyce, 2019). Moreover, as noted by Smithson et al. (2011), the 2002 amendment of the Race Relations Act served to extend the focus beyond race and religion, placing a statutory duty upon agencies to impact-assess all of their policies to prevent race, gender and disability discrimination. In 2010, the Equality Act came into force, providing a single legal framework to tackle disadvantage and discrimination, and extending protection on the basis of a range of protected characteristics.

Despite this flurry of legislative action, it remains the case that within the UK there is presently no single piece of legislation that criminalises hate crime. Nevertheless, legislation currently gives prosecutors two options when applying for an increase in sentence for those who are convicted of a hate crime. Thus, the Crime and Disorder Act 1998 provides for a higher maximum penalty for offences considered to be racially or religiously aggravated, and the Criminal Justice Act 2003 provides for enhanced sentencing for offenders considered to be aggravated by one or more of five protected characteristics (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2018a; 2018b:9-10). As noted by the UN, in addition to a number of domestic laws that apply directly to racial equality, the UK has adopted an 'innovative legal and policy framework applicable to hate crimes' (UN, 2018a). Thus, as detailed by McGhee (2007:214), legislation has been accompanied by 'a growing anti-hate crime movement' across the criminal justice system. In 2003, a London-wide Race Hate Crime Forum was established to promote coordination and cooperation between key agencies. At the same time, the London Metropolitan Police Service, through its Strategy Research and Analysis Unit, sought to build an evidence base for specific and more general forms of hate crime (Asquith, 2012). In 2005, the UK government published its race and community cohesion strategy – *Improving Opportunities, Strengthening Society* – which explicitly referred to the implementation of Britain's obligations under the International Convention for the Elimination of all Forms of Racial Discrimination. The document addressed racism and hate crime specifically, pledging to reduce racially motivated incidents and improve the reporting and recording of racist incidents. In 2005,

the Home Office Standards Unit and the Association of Chief Police Officers published a guidance document entitled *Hate Crime: Delivering a Quality Service*. The document moved away from an exclusive focus upon racially motivated incidents, obliging forces to record data on hate incidents motivated on the basis of race, sexual orientation, faith and disability (Laverick and Joyce, 2019). In 2007, the police, Crown Prosecution Service, Prison Service and other agencies agreed a common definition of monitored hate crime, covering five strands, and the police committed to record reported hate crime for the five monitored strands in 2008 (Her Majesty's Government, 2012:6). Hate crime against disabled, homosexual and transgender people featured within the Conservative and Liberal Democratic Coalition 2010 *Programme for Government* (Her Majesty's Government, 2010a). This marked a turn towards the development of a 'whole communities' and 'needs-based' approach towards tackling prejudice-related crime (Laverick and Joyce, 2019:299).

Against this proliferation of legislative and policy provision, the Crown Prosecution Service (2012) reported that under-reporting and under-recording of hate crime remained prevalent. In an attempt to remedy these concerns, the Coalition government and newly created College of Policing published a series of action plans, progress reports, strategies and operational guidance (HM Government, 2012; CJJI, 2013; College of Policing, 2014a, 2014b; CJJI, 2015; Home Office, 2016; 2017; HM Government, 2018; Home Office, 2018a, 2018b).

An assessment of the UK response

From the summary of legislative and policy developments presented in the previous section, it is evident that the UK government has invested considerable time and energy in building public confidence in their action to tackle hate crime. Whilst scholars recognise the complexity of hate crime, and variations in approaches internationally (see, for example, Chakraborti and Garland, 2012; 2015; Brax and Munthe, 2015, Chakraborti, 2016; Perry, 2016; Chakraborti and Hardy, 2017), it has been suggested by Laverick (2016) that the UK has adopted a liberal crime control response to hate crime, which incorporates the rule of law and institutional reform alongside multi-agency and cooperative action. In particular, the UK's strategic response includes the following: actions to create a common definition in order to generate consistency and improve the effectiveness of the criminal justice system; emphasising training and guidance to improve the detection, investigation, prosecution and management of hate-crime cases; and providing legislative and sentencing reforms. Action has also been taken to strengthen the defence of vulnerable targets and to manage risks in potential high-risk environments, promoting collaboration to strengthen and enhance coordination at policy and operational levels (Laverick and Joyce, 2019:325-352).

Although good practice examples of hate crime interventions and third-party reporting mechanisms are referred to within the College of Policing Operational Guidance (College of Policing, 2014a) and are made available on the True Vision website (True Vision:online), academic research has identified a number of failings within existing UK policy-level responses to hate crime. Whilst a comprehensive overview of the burgeoning hate crime research literature remains beyond the scope of the present paper and has been acknowledged in our previous work (Laverick and Joyce, 2019), it is significant to note that the Government's Action Plan has been criticised for 'its failure to outline specific means

through which most of [its] aims will be achieved' (Waters et al., 2016:9). The Action Plan has also been challenged for its failure 'to provide any information on how their effectiveness or utility will be measured' and for insufficient or an absence of 'detail about when and how… actions will be arranged or whether (and how) their success will be evaluated'. Thus, it has been argued that 'action points are so broadly termed as to make any objective evaluation of their success unmeasurable' (Walters et al., 2016:9). Other research has highlighted a continuing 'failure to dismantle barriers to reporting, a failure to prioritize engagement with diverse communities and a failure to provide meaningful criminal justice interventions', which, it is argued, impacts upon 'the capacity of hate crime victims from different identity groups and backgrounds to access appropriate support', thereby undermining the credibility and effectiveness of policy-level responses in the eyes of victims (Chakraborti, 2018:399).

Moreover, recent inspectorate assessments regarding the UK's approach highlights continuing public dissatisfaction with the police response. Thus, data from the Crime Survey for England and Wales from 2012/13 to 2014/15 revealed that victims of hate crime were still less likely than victims of crime overall to be very or fairly satisfied with the police's handling of the matter (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2017:7). This finding was reiterated in a 2017 inspection of police forces' understandings of and responses to hate crime (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2017:8). Reinforcing the observations of Chakraborti (2018), two further Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services reports raised questions regarding under-reporting and police force understanding of community needs, with one noting 'a significant proportion of victims… do not feel their support needs are recognised or adequately addressed and do not feel they have access to justice' (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2018a:4). Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services further recognised that whilst police forces 'understand that it is important to take hate crime seriously' and 'encourage victims to report incidents', 'this does not always translate into a deeper understanding of their communities and how they are being victimised' (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2018b:4). Moreover, forces were criticised for 'failing to use the limited information at their disposal' and were deemed 'ill-equipped to assess the nature and extent of online hate crime' (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2018b:16).

Somewhat damningly then, Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services revealed an inconsistent picture between (and sometimes within) forces regarding their approach to hate crime, concluding that 'progress has been too slow' (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2018b:6), with victims facing 'a postcode lottery' when it comes to the response (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2018b:93). Significantly, the inspection report also directed attention to the recent pressure placed upon forces within a climate of diminished resources, noting that 'it is difficult to escape the conclusion that competing demands are affecting the ability of forces to respond effectively to hate crime' and reporting a failure to see 'a uniform commitment by force leaders to treat victims of

hate crime as a priority' (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2018b:94). The inspection also reported that there had been 'a substantial decline in some of the outcomes of hate crime investigations, including those that result in a charge' (Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services, 2018b:94), reflecting the observations made within a recent report by the Home Affairs Select Committee, *Policing for the Future*, that highlighted low investigation rates and a marked reduction in the number of charges, summons and justice outcomes across the service, within the contemporary period of austerity (Joyce and Laverick, 2018).

In addition to the effectiveness of the UK's hate crime framework, the nation's record on addressing racial disparities has also recently been called into question. Thus, in 2018, the UN Special Rapporteur on racism (drawing on the findings of both the UK's Racial Disparity Audit and the 2017 Lammy Review) raised concerns over continuing widespread discrimination and socio-economic inequalities faced by ethnic minorities in the UK (UN, 2018a). The UK government was commended for its law and policies governing racial equality, along with its 'innovative legal and policy framework applicable to hate crimes' (UN, 2018a). Nevertheless, concerns were raised regarding the apparent impact on racial disparity of UK law and policy addressing immigration, counter-terrorism and criminal justice. The disproportionate effect of austerity measures upon black and minority ethnic (BME) communities (and women among them especially), were further areas of concern. Thus, it was argued that these 'function inadvertently as a prime instrument of racial subordination', thereby 'exacerbating racial disparities' (UN, 2018b). The UN Special Rapporteur observed that 'the structural socio-economic exclusion of racial and ethnic communities in the UK is striking', adding that 'notwithstanding the racial equality legal framework… the harsh reality is that race, ethnicity, religion, gender, disability status and related categories all continue to determine the life chances and well-being in Britain in ways that are unacceptable, and in many cases unlawful' (UN, 2018a: section B19). The Special Rapporteur consequently concluded by stating that the UK government 'had much to do' to address the structural forms of racial discrimination and inequality (UN, 2018a: section 65).

Political anxiety, social and ideological threat

Careful to acknowledge that no comparisons have been made in relation to the presence of illiberalism in other countries, and recognising Walters et al.'s (2016:9-10) observation that 'compared to most other western jurisdictions across the world, the Government's continued commitment to delivering an effective hate crime prevention strategy is highly advanced', it is possible to conceive the emergence of the UK's hate crime legislative and policy framework as evidence of moral progress. However, the apparent ineffectiveness of the approach, along with the wider issues of continuing widespread discrimination and inequality across the UK (as highlighted above), gives pause for thought. Indeed, taking the long view, it is evident that the UK government's action to tackle racially (and later, religiously) motivated violence and discrimination may also be interpreted against a historical background of political resistance and racial, religious and class antagonism. Whilst this has been addressed more comprehensively elsewhere (Laverick and Joyce, 2019), it is argued below that a cursory overview of the historical, political and economic context in which the UK's legislative and policy developments emerged lends support for a

more nuanced interpretation, thereby raising important questions regarding the function of the current framework and the motivation that underpins it.

Despite its neglect within much hate crime scholarship, it is important to note that UK action to counter illiberal action originally occurred against a historical context that was characterised by long-established structures and patterns of hierarchy, inequality, discrimination and intolerance (Laverick and Joyce, 2019). Thus, evidence suggests that within Britain, racial and religious prejudice, discrimination and violence dates back to at least the sixteenth century. Scholars such as Tickner (2014:165) also observe that gender discrimination occurred from at least the sixteenth century and continued during the early stages of state formation and the beginnings of capitalism in Europe. Thus, scholars locate the emergence of racial concepts, religious discrimination and gender discrimination as inherent within the emergence of the European identity as white and Christian, and as central to the ordering and administration of Empire and, later, world order (Omi and Winant, 1994:61; Bunzl, 2007:9; Shilliam, 2017:286-289). Although a detailed examination of the history of British hostility towards immigrants (including Jewish, black, Asian and Irish people) remains beyond the scope of the present paper, scholars such as Law and Henfrey (1981), Visram (2002), Fryer (2010), Evans (2012), Ranasinha (2012) and Olusoga (2016) locate illiberal practices towards minorities within the background of British capitalism, plantation slavery and the slave trade, in addition to the European colonialist project and imperial expansion. Guha (2002:8 cited in Tickner, 2014:166) observes that gender, as well as race, was important in denoting difference 'as Europe sought to identify itself against the otherness of a multitude of races, religions, languages and cultures'.

During the eighteenth and early nineteenth centuries, racial and religious violence and discrimination was often compounded by periods of economic strain and unemployment, revealing concerns about competition for scarce resources, population growth and threats to social and political order. Challenges were driven by black slaves, the poor white working classes and their supporters, who increasingly employed liberal ideas of freedom, democracy and equality in their attempts to secure political and social justice, both within the UK and abroad (Laverick and Joyce, 2019). Thus, as detailed by Visram (2002), Fryer (2010) and Olusoga (2016), whilst early progressive humanitarian action was taken within Britain to provide relief for the black and Asian poor, this was accompanied by repressive action to expel, restrict and repress such groups (Laverick and Joyce, 2019). It is notable, therefore, that such developments occurred against a background of political unrest in Britain. This initially included calls for universal suffrage, parliamentary representation and reform on the part of black and Asian communities and their white working class supporters. Such action was also accompanied by labour agitation and political action to address economic exploitation and welfare conditions across the British Empire and within British colonies. Thus, the nineteenth century witnessed 'significant legislative provisions and repeated efforts to introduce access controls and sanctions to deter further immigration to Britain, in addition to efforts to expel undesirable, politically inflammatory and/or destitute Blacks and Asians' (Laverick and Joyce, 2019:16). Illiberal action towards African, Asian, Irish, Chinese and Jewish people continued well into the twentieth century; this included employment and housing discrimination, disturbances and riots in British ports

and cities, in addition to far right and fascist use of intimidation and violence (Laverick and Joyce, 2019:22).

Given this history, we argue that an appreciation of the wider historical, political and economic context, and an awareness of the particular events that prompted the government to intervene to produce legislation and policy, are important. We suggest that this is particularly so in relation to recent arguments regarding the apparently contradictory nature of the current anti-discrimination legislation and policy framework, which, as pointed out by commentators including the UN Special Rapporteur, coexists with discriminatory immigration legislation and race relations policies. As will be shown in this paper, a cursory look at the wider context in which key hate crime legislation and policy have been produced suggests that there is greater compatibility between immigration and access control measures and anti-discrimination measures than previously assumed, especially when framed in the light of the events preceding such action. Thus, whilst not denying the humanitarian motives of particular social actors (including particular political parties and individuals) when interpreting the evolution of the UK's hate crime framework against the wider social and political environment, it becomes apparent that this context generated a complex tension between a perceived need to tackle the illiberal social, structural and institutional conditions underpinning prejudice-based action, and more pressing social control imperatives that aimed to secure social and political order. Over time and prompted by a range of specific trigger events, the need to address various forms of illiberalism (such as inequality, unequal opportunities, discrimination and prejudice) became seen as a means of securing wider social and political order goals, which were prioritised within a fluctuating policy framework that was still underpinned by modernist assumptions that equated social diversity with political and social instability (Laverick, 2016:176-179).

Political and social disorder and the development of anti-discrimination measures

When reflecting on the passing of the Public Order Act 1936 (which has been widely regarded as offering protection against racist abuse and intimidation), it is important to observe that this legislative action immediately followed the 'Battle of Cable Street' in London's East End, where more than 30,000 people congregated to prevent the passage of British Union of Fascists supporters at a demonstration (Roach Family Support Committee, 1989:197). Significantly, the Act made no reference to anti-Semitism and did not ban fascist organisations outright, serving instead to prevent street disorder from whichever quarter it emanated. Thus, the ban on political uniforms was as much directed at the Communists ('Redshirts' – not to mention the Social Credit Party, the 'Greenshirts') as it was at the fascists, and fear of uncontrollable public disorder that led to demands for a more authoritarian government was at the heart of the legislation. Moreover, the Public Order Act was passed during a particularly tense period of race relations in British history, which witnessed the proliferation of far right activism. Indeed, as was noted by Lord Elwyn Jones, the Act was passed to deal with 'the threat to freedom posed by the Fascist use of intimidation and violence' (Elwyn Jones 1985 cited in Laverick and Joyce, 2019:34). However, the failure to enforce the Act, particularly the provisions relating to the use of insulting and threatening behaviour, have led some commentators to question the ultimate

goal of the legislation and raise the possibility that the preservation of public order remained the central consideration (Rosenberg, 1985).

Although there was some variation, extremist right wing groups espoused nationalist, white supremacist and racist ideology, seeking to end immigration and pursue a policy of repatriation. They opposed liberal democracy and civil and political liberties, and made immigrants scapegoats for economic hardships and cultural change. In Britain, fascist use of intimidation and violence coincided with the passing of immigration laws that created access control and citizenship restrictions and provided law enforcement agencies with increased powers of enforcement and surveillance. At the same time, minority communities were actively highlighting discriminatory treatment and harassment, drawing attention to the inadequate police response to racial attacks and harassment experienced by minority communities. In addition, this period witnessed the politicisation of immigration within parliamentary election campaigns and evidence of racial disparity in employment, housing and education (Laverick and Joyce, 2019). Consequently, it is noteworthy that the passing of the 1965 and 1968 race relations legislation (which introduced anti-discrimination laws), and the 1986 Public Order Act (which has been credited for legislating against incitement to racial hatred), along with positive action to alleviate racial disadvantage and racial discrimination and to provide equal opportunities, occurred at a time of increasing political agitation. These measures also occurred during a period of increasingly aggressive and confrontational political militancy, with self-defence, direct action and protests on the part of minority communities generating anxiety about the potential for societal unrest and racial disturbance. Particular events, such as the 1981 New Cross Fire and social disorders that occurred in Bristol and Brixton, preceded action to protect minorities from threats, intimidation and abuse. This was accompanied by action to legislate for public order offences (placing restrictions on processions and assemblies) and the passing of immigration laws, which suggests that the maintenance of public order again remained a central concern for law-makers (Laverick and Joyce, 2019).

Racial attacks, harassment and intimidation, along with the spread of hateful literature, continued into the 1990s. This prompted the political mobilisation of minority communities, as evidenced by the creation of the Muslim Council of Britain, the Islamic Human Rights Commission and the Community Security Trust, resulting in calls for a new offence of racial violence. This followed an increase in anti-Semitic hatred (associated initially with the 1967 occupation of the West Bank and Gaza in the Six Day War) and anti-Muslim hostility (arising from the 1979 Iranian Revolution, the 1989 fatwa issued by Ayatollah Khomeini against Salman Rushdie in connection with his book *The Satanic Verses*, and the 1991 Gulf War). Against this international context, and within a diminished economic climate at home, civil unrest – and particularly the potential for racial and religious disturbance – on British soil became salient concerns. These concerns were exacerbated by the 1995 Manningham riots in Bradford and the subsequent disturbances in northern England during 2001. These events highlighted the intersectionality of race and religion and brought to the fore vigilante action on the part of minority communities, poor police–community relations, police inaction and economic disparity. The inquiries prompted by the disturbances resulted in explanations that stressed the role of community segregation and a lack of social cohesion and integration in exacerbating community tensions and fuelling resentment, which, it was

argued, could be capitalised upon by political and ideological extremist groups (Laverick and Joyce, 2019:177-246).

Scholars have highlighted the influence of multiple actors, often with competing and contradictory interests when accounting for major historical shifts in values and the emergence of crime control infrastructure. Thus, Pogge (2008), along with scholars such as Hardt and Negri (2001) and Andreas and Nadelmann (2006), emphasise relations of power and introduce more complex interpretations that incorporate economic arguments, the actions of moral entrepreneurs, and the role of crisis and conflict when explaining agenda-setting, criminalisation processes and crime control responses. Consequently, whilst a number of factors have been implicated in providing the impetus for change, including the Macpherson report, the neo-Nazi nail bombing campaign of David Copeland in 1993, and efforts by the incoming New Labour government to create a new class of racially aggravated offences carrying enhanced sentences (Dixon and Gadd, 2006:312 cited in Laverick and Joyce, 2019:126), we suggest it is also important to remain mindful of the political anxiety regarding the perceived ongoing threat posed by minority groups to social and political order, both nationally and internationally.

The interdependency of domestic and national security concerns became further evident following the second Al-Aqsa in 2000 in the West Bank and Gaza, which became associated with a rise in racially and religiously motivated hate incidents on British soil – spikes that were also associated with the 2001 USA-led invasion of Afghanistan and the War on Terror following the 9/11 attacks and the subsequent 2003 invasion of Iraq. Concerns regarding immigration, crime and terrorism were compounded by the unfettered access into European States of eight central and eastern European countries in 2004 arising from EU expansion, followed by Bulgaria and Romania in 2007, along with the emergence of Islamic extremism in British society commencing with the 2005 London Bombings. Anti-Semitic and anti-Muslim hostilities were reportedly further affected by the 2009 conflict in Israel and Gaza, the 2011 riots and the murder of Lee Rigby in 2013. These events formed the backdrop for David Cameron's commitment in 2013, and his subsequent election pledge in 2015, to hold a vote on the EU. Thus, the 2016 referendum campaign followed the end of the transitional immigration arrangements in 2014, which had served to limit immigration. These developments brought together national and international security considerations within a domestic context of austerity, and merged a range of social, political and ideological threats within media, political and policy rhetoric.

It is interesting to note, therefore, that the Special Rapporteur on racism, referred to earlier within this paper, directed particular attention to the 2006 Immigration, Asylum and Nationality Act, the 2014 and 2016 Immigration Acts and the UK government's Prevent Programme (aimed at non-violent extremism), which were depicted as part of the government's 'so-called hostile environment policy' (UN, 2018a: section 1, 26, 33-34 and 38). These measures were described as deputising both immigration enforcement and the Prevent Duty to a range of frontline agents, contributing to the exclusion of, discrimination against and subordination of groups on the basis of their race, ethnicity or related status, which amplified and legitimated anti-Muslim panic. These policies were further regarded as leading to distrust among BME communities, societal dis-integration and the political, social

and economic exclusion of racial and ethnic minorities, which underpinned the growth of xenophobic discourse and racial, ethnic and religious intolerance within the UK (UN, 2018a).

An alternative interpretation

The observations detailed above, which highlight continuing failings associated with current hate crime provisions, together with evidence of continuing racial disparities in Britain, raised the possibility that the preservation of social order was prioritised over actions to secure the social and political rights of racial groups and the eradication of discrimination, harassment and inequality. Whilst not going so far as to suggest evidence of a grand conspiracy, it is evident that within recent hate crime action plans, equality and diversity issues, including the promotion of workplace representativeness, equal opportunities and efforts to remove internal and institutional discrimination, largely fall beyond the remit of newer efforts to tackle illiberal attitudes and behaviours and fail to address the role of the state, its representatives and its institutions in fostering the conditions conducive to illiberalism (Laverick and Joyce, 2019).

Although the apparent relegation and sidelining of equality and diversity issues has been discussed within the British context as occurring in response to competing priorities within a context of austerity (see Holdaway, 2015; Laverick and Cain, 2015; Silvestri, 2015), international political scholars have argued that nationally and internationally, states are witnessing a liberal crisis in which nationalist and populist groups and authoritarian regimes are increasingly challenging the organising principles, institutions, norms and values of the postwar liberal international system, which is organised around openness, rules and multilateral cooperation, equality, non-discrimination, democracy and human rights (Ikenberry, 2009; 2019; Nye, 2017; Rose, 2017; 2019; Zakaria, 2019).

Scholars have also recently observed what has been described as an acceleration in the trend towards the internationalisation of crime control (Slaughter, 2004:266; Deflem, 2011:91-92; Laverick, 2016:86-135). In relation to hate crime specifically, Perry (2016:621), for example, has described the emergence of 'a new commitment towards achieving a congruent approach to understanding and addressing hate crime' across the EU and internationally. With this in mind, we suggest that framing the domestic and international response towards hatred may be usefully contextualised in the light of international political scholars' arguments regarding the emergence of liberal crisis. Thus, in response to the growing evidence of illiberal sentiment and behaviour, the UN Member States adopted a Declaration at the Summit for Refugees and Migrants in 2016, which strongly condemned acts and manifestations of racism, racial discrimination, xenophobia and related intolerance against refugees and migrants and pledged to 'take a range of steps to counter such attitudes and behaviour, in particular with regard to hate crimes, hate speech and racial violence' (UN General Assembly, 2016). The following year, the UN Secretary-General, António Guterres informed journalists that 'Racism, xenophobia, anti-Semitism or Islamophobia are… poisoning our societies' (UN, 2017b:online). This followed the comments made by the UN human rights chief Zeid Ra'ad Al Hussein, who reminded governments around the world that they have a legal obligation to stop hate speech and hate crimes (UN, 2017a:online). More recently, Guterres warned of a 'disturbing groundswell of intolerance and hate-based violence,' identifying the fight against hate

crime and hate speech as one of his top priorities for 2019 (UN, 2019). In response to this international climate of intolerance, the UN has reiterated its support of the liberal approach to crime control, with Yury Fedotov, Executive Director of the United Nations Office on Drugs and Crime, identifying international collaboration and action to strengthen 'effective, fair, humane and accountable criminal justice systems' as the appropriate way to counter crimes motivated by intolerance or discrimination and to 'protect people and their rights' (UN, 2019).

Drawing upon the work of transnational crime and security scholars and international political theorists, academics and practitioners addressing the area of hate crime domestically may find it prudent to heed the advice of Aas (2012) to remain wary of context-free social theory and responses to global challenges. Wallerstein (2005) similarly advocates transcending state-centric approaches, encouraging scholars to consider developments that occur inside states in relation to their position within regional and international contexts. Thus, for Aas (2012:19), 'various conceptions and theories of global problems are intrinsically connected to their proposed political solutions', to 'practices of power' and to 'various conceptions of order' (reproduced in Sheptycki, 2015:26). Therefore, addressing hate crime nationally within the UK requires not only acknowledging its normative and political functioning as a liberal democratic state, but also giving attention to the UK's place within the contemporary international liberal order of the society of states – which, as suggested above, may currently be experiencing a period of liberal crisis and political and ideological challenge.

Given the recent proliferation of interest in hate crime internationally, it is important to note that at an international level, there remains an explicit recognition of the association between structural and institutional manifestations of illiberalism and illiberal outcomes. Thus, discrimination, non-discrimination, non-hate incidents, extremism and hate crimes may be conceived as part of a wider spectrum of illiberalism that has the potential to underpin more extreme forms. Such examples of illiberalism have been implicated in the commission of terrorism and atrocity crimes, including genocide. Thus, genocide is conceived as 'an extreme form of identity-based crime', where discrimination based on national, ethnical, racial or religious differences and persistent patterns of it 'establish divisions within society which serve as both a material cause and a perceived justification of group violence' (UN, 2014:10-21). Similarly, socio-economic marginalisation, discrimination and political exclusion, along with a lack of good governance, are explicitly recognised as facilitating factors for terrorism within the UN Global Security Strategy (Laverick, 2016:209). The UN is therefore clear on the association between social and economic illiberalism, and illiberalism in the form of violence: particularly genocide and crimes against humanity, including terrorism.

It is argued that action to prevent atrocity crimes requires sustained efforts on the part of individual states to ensure that the rule of law is respected and that all human rights are protected, without discrimination, whilst recognising the need to manage diversity constructively, supporting a strong and diverse society and maintaining a pluralistic media. Moreover, it is noted that 'failure by the State to provide such protection and guarantees to its population can create an environment conducive to atrocity crimes' (UN, 2014:3).

Consequently, atrocity crimes are not regarded as a single or random event. Rather, they are understood as developing in a dynamic process, with cycles of reaction and counter-reaction sometimes occurring between communities. Therefore, the recording and monitoring of hate incidents and crimes are regarded as important aspects of tension monitoring within states. Thus, it is noted that 'it is possible to identify warning signs or indicators that [atrocity crimes] might occur' (UN, 2014:3-4), with intergroup tensions or patterns of discrimination against protected groups identified as two significant indicators of genocide. Discriminatory security procedures against specific groups of the civilian population are highlighted as additional indicators and have been implicated in the commission of crimes against humanity (UN, 2014:3-4; 10-21). As discussed by Williams et al. (2013:5-6), tension monitoring within the UK dates back to efforts aimed at improving the capacity of the police to anticipate civil unrest prompted by Lord Scarman's report into the riots in Brixton, London and other English cities in 1981. Thus, it is noted that the ACPO *Manual of Guidance on Keeping the Peace* (2000) recommended monitoring signs of tension in anticipation of public disorder, with further recommendations following the riots in Burnley and other northern English cities in 2001, including within a Department for Communities and Local Government (2008) report and a report by the Institute of Community Cohesion (2010) that resulted in the widespread adoption by the majority of police services in England and Wales of the Experienced, Evidenced, Potential (EEP) system to record, collate and assess community tension (Williams et al. (2013:5-6).

It is evident, therefore, that the preservation of social and political order domestically and internationally requires the defence of liberal values, particularly those of human rights, equality, tolerance and mutual respect, the protection of which underpins strategies to counter terrorism (UN General Assembly, 2004:1-5; Council of the European Union, 2008), extremism (Her Majesty's Government, 2011:62) and hate crime (Home Office, 2012:12; Her Majesty's Government, 2018:3). Thus, it has been argued that 'without group-level discrimination, even deeply seated grievances are unlikely to transform into the patterns of abuse that give rise to genocide' (UN, 2014:10-21). Anti-discrimination measures and crime control strategies consequently comprise key aspects of a twin strategy directed towards the preservation of the status quo and social and political order, domestically and internationally.

This argument was recognised by the Labour government in their 1964 election manifesto, which discussed the end of colonialism and the responsibility of the British government towards the Commonwealth. Identifying three great problems faced by Britain – those of poverty, a rapidly rising population and racial conflict – the manifesto recognised the role of the Commonwealth 'in grappling with the terrible inequalities that separate the developed and under developed nations and the white and coloured races'. The manifesto explained: 'That is why a Labour Government will legislate against racial discrimination and incitement in public places and give special help to local authorities in areas where immigrants have settled' (Labour Party, 1964:online). Significantly, within the manifesto the requirement to place limits on the number of immigrants entering the UK was also explicitly recognised, with the Labour government committing to retain immigration controls if elected. Consequently, whilst it has been suggested that the current anti-discrimination legislation and policy framework is inherently contradictory in that it coexists with

discriminatory legislation and race relations polices, a cursory examination of the wider context indicates greater compatibility between immigration and access control measures and anti-discrimination measures than previously assumed. Thus, the manifesto referred to the 'tremendous challenge' posed by issues of poverty to Western industrialised nations, noted that 'the problem presented by the colonial uprising is not limited to the Commonwealth' and should be ignored 'at our peril', and recognised 'a growing danger that the increasing tensions caused by gross inequalities of circumstances between the rich and poor nations will be sharply accentuated by differences of race and colour' (Labour Party, 1964:online).

Conclusion

Transnational crime and international policing scholarship has for some time recognised that policing, crime control and governance are associated with threat and security management (Findlay, 1999, 2008; Bigo, 2000; Sheptycki, 2007 reproduced in Sheptycki, 2015:290). As detailed by Deflem (2011:90), policing, especially within Europe, originally sought to monitor politically suspect movements and gradually shifted to address other distinct criminal activities. Scholars consequently distinguish between 'high' and 'low' policing, with the former dedicated to establishing and preserving a political order and the latter referring to routine street policing (Brodeur, 2007 reproduced in Sheptycki, 2015:217). Therefore, crime control strategies and policing are regarded as inherently both normative and political. Domestic and international hate crime control is no exception, with Andreas and Nadelmann (2006:13) reminding readers that there is 'nothing natural, permanent, or inevitable about what states choose to criminalise or decriminalise'.

This paper has suggested that the UK hate crime framework evolved from an initial concern about social and political disorder associated with racially motivated violence and discrimination, and expanded to address hate crime (incorporating a range of protected group-based identity characteristics). More recently, however, the threat to the UK has extended further, encompassing not only social and political disorder but also ideological threats. Thus, in 2010, the UK National Security Strategy acknowledged the need to 'deal with threats motivated by different ideologies that compete with our values', explicitly recognising that whilst Al Qaeda represented 'a major ideologically driven threat', there remained a 'realistic possibility' that over the next ten years 'regionally based ideologies' and 'extremists motivated by new ideologies or narratives could cross the line between advocacy and terrorism' (Her Majesty's Government, 2010b:16). In the wake of the murder of Lee Rigby in 2013, the EU referendum in 2016, the Westminster Bridge attack, the London Underground attack at Parsons Green and murder of Jo Cox MP in 2017, action to address hate crime entered UK strategies to counter extremism, radicalisation and counter-terrorism. Thus, the UK's Extremism Strategy observed that 'many hate crimes are motivated by extremist ideologies, often propagated by individuals who make a careful effort to stay just within existing legal parameters, exploiting the very freedoms they claim to despise in order to undermine our society' (Her Majesty's Government, 2015:10-11).

Therefore, within the UK a causal link is assumed between extremist ideology, hate crime and terrorism, which are distinguished on the basis of whether an individual merely opposes liberal values or encourages, uses or threatens to use violence to achieve their political or

religious objectives. The UK Extremism Strategy consequently commits to tackling all forms of extremism: violent and non-violent, Islamist and neo-Nazi. Significantly, however, the international focus upon socio-economic marginalisation, discrimination and political exclusion, and the explicit recognition of the relationship between structural and institutional illiberalism and these illiberal outcomes, remains absent from this policy framework.

More recently, hate crime has entered into political discourse and policing policy, marking a turn towards vulnerability issues and a 'whole communities', 'needs-based' approach (Laverick and Joyce, 2019). This victim-centred policy turn moves beyond the five monitored protected characteristics to address a range of identity characteristics at the individual level, addressing intersectionality and complexity in victimisation. However, in doing so, this approach still masks the role of structural and institutional factors of illiberalism in providing the conditions underpinning both the perpetration of hatred and prejudice-based victimisation. Moreover, this approach additionally serves to obscure the role of the state in perpetuating racial and religious tension within society, also diverting attention away from the continuing difference in hate crime figures for particular groups, especially for racially and religiously motivated offences, which remain the dominant form of hate-based victimisation in the UK (Laverick and Joyce, 2019).

As detailed in this paper, central to the UK's early framework to address prejudice-based discrimination, harassment and violence was the desire to preserve domestic social order and counter the threat posed by illiberal groups and individuals. Less frequently discussed, however, is the function of anti-discrimination legislation and policy, alongside economic development strategy, as associated tools of soft power to secure these ends. Nevertheless, despite the international (and early UK) acknowledgement of the link between illiberalism (in the form of discrimination and inequality) and societal disorder and violence, it remains the case that over time, explicit recognition of this relationship has faded. Moreover, the need to address structural and institutional forms of illiberalism as a means to counter illiberal ideologies and behaviours has become replaced by policies and strategies that prioritise a single-minded focus upon tackling opponents of liberalism rather than addressing the underlying (illiberal) factors that are conducive to victimisation and perpetration.

By reinterpreting the UK government's current hate crime framework as part of a wider response to the domestic and international liberal crisis, we suggest that the UK framework is both normative and political, with its primary function being to defend liberal values and maintain order domestically and its secondary function to help preserve the liberal framework of international society. In consequence, we regard the UK's framework as part of a continuum of action spanning extremism, hate speech, hate incidents, hate crime, terrorism and atrocity crime, directed towards the alleviation of social, political and ideological threats. Viewed in this way, we do not regard immigration legislation, counter-terrorism measures and extremism strategies as contradictory; rather, they are consistent with the overriding objective of anti-discriminatory laws and policy, and development strategy, to maintain social order and control, internationally and within the UK.

Whilst it is entirely plausible that anti-discrimination measures and development strategies derive (in part) from humanitarian impulses and moral enlightenment, the paper lends support for the work of other scholars, including Hardt and Negri (2001), Andreas and Nadelmann (2006) and Pogge (2008), who have highlighted the need to remain sensitive to complexity, advocating consideration of the role played by multiple actors, often with competing and contradictory interests and relations of power. We suggest, therefore, that addressing the role of crisis and conflict in explaining agenda-setting, criminalisation processes and crime control responses may warrant higher priority than has been the case among hate crime scholars, and we urge policy-makers and practitioners to reinstate attention to addressing internal manifestations of illiberalism, including institutional discrimination, workforce representativeness, racial and religious disparity and a lack of equal opportunities.

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