

# Online Hate Speech (and Hate Crime Online)

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# Why are hate crimes worse?

- Victims are targeted because of a personal characteristic they cannot (and should not) disguise
- Crime Surveys for England and Wales (2011/2012 and 2012/2013)
  - Victims of hate crime are twice as likely to report fear, sleep disturbances, anxiety or panic attacks, feelings of vulnerability or loss of confidence
- Community Impact of hate crime
  - Members of a targeted identity group report many of the effects felt by the direct member and alter their behaviour in response to the crime (Perry and Alvi, 2012)
- 'Already a manifestation of divisions within society, it is argued that hate crime further exacerbates tensions, threatening the social fabric. (Iganski, 2001)

# What is a Hate Crime?

- 'Hate' = hate, hostility, bias or prejudice
- 'Regular' crime committed with a 'hate' motivation
  - Or where 'hatred' is demonstrated during, before or after the commission of an offence
- Against a member of a 'protected' community
  - Race, religion, sexual orientation, Trans\*, disability

- How does the criminal law deal with the additional element?
  - New offences created (eg England and Wales)
    - OR
  - 'Hate' dealt with at sentencing (eg Northern Ireland; Canada; New Zealand)

# Why is hate crime legislation important?

- “Hate crime legislation ... offers an important long-term role in shaping society’s evolving attitudes towards race, sexual orientation and other minority group characteristics. The punishment of hate crime offenders as ‘hate offenders’ offers important censure, providing a form of publicly expressed denunciation of offenders’ racist, anti-religious, homophobic, transphobic or disablist actions. Hence, a particularly compelling reason for criminalising ‘hate crime’ is that it assists in shaping positive social mores by helping to create a social climate that rejects public displays of identity prejudice.” (Walters, 2013)

# What is Hate Speech? Ireland and its Obligations

- Prohibition of Incitement to Hatred Act 1989
  - “*hatred*” means hatred against a group of persons in the State or elsewhere on account of their race, colour, nationality, religion, ethnic or national origins, membership of the travelling community or sexual orientation
  - Section 2 offence:
    - “It shall be an offence for a person—
    - (a) to publish or distribute written material,
    - (b) to use words, behave or display written material—
      - (i) in any place other than inside a private residence, or
      - (ii) inside a private residence so that the words, behaviour or material are heard or seen by persons outside the residence,
      - or
    - (c) to distribute, show or play a recording of visual images or sounds, if the written material, words, behaviour, visual images or sounds, as the case may be, are threatening, abusive or insulting and are intended or, having regard to all the circumstances, are likely to stir up hatred.”

- Framework Decision on Racism and Xenophobia
  - Ireland not compliant with Framework Decision
  - Query whether static images and ‘memes’ are included
  - Limited identity groups protected (Transphobic and Disablist Hate Crime not included)
  - “Expectations gap” and “frustrations gap” for victims (Taylor, 2011)
- Government Response
  - ICCPR
    - Legislating for ‘minimalist’ approach ‘would not be considered’
- Additional Protocol to Convention on Cybercrime

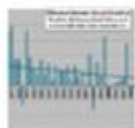
# Hate Speech (Online) In Ireland: Manifestations

- ‘Travellers have been subjected to hate speech for many years. The grown in use of the internet has resulted in hate speech becoming an extremely serious issue.’ (Irish Traveller Movement, cited in Schweppe, Haynes and Carr, 2014)
- ‘[The 1989 Act is i]nadequate to tackling hate crime, especially online hate crimes.’ (NASC, cited in Schweppe, Haynes and Carr, 2014)



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### The Snowball Effect

2 hours ago #

 24  76

Ah Islam , the religion of peace strikes again

I think it will come to the stage where all the other religions will have to team up and wipe Islam of the face of this earth as they are seriously halting humanity's progression , as bad as it sounds it will have to come to that sooner or later but i reckon Christians could defeat them without needing any help

I Hope these people a quick recovery



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Half caste Nigerian/Irish jihadi  
defends execution of aid worker  
David Haines [shar.es/11LqwJ](https://shar.es/11LqwJ) The  
fruits of #diversity. #immigration



20+

1

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We all know who they're and what they have been doing they dont give anything back to the city been here.the kids are used as tools to get them more

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
Write something on this Page...

Get them out of town 12 minutes ago

Right folks im going to make a back up page for this,the force today,ill have it up in a few minutes so like it and w


 **Steve Wilson** let the do gooders come and be robbed beaten intimidated and spat at by the romas

20 minutes ago · Like ·  2

 **Steve Wilson** shut up bringing race into it, they kicked the head off a local musician, they go around begging with coffe cups, shaking them in your face, i told that wan to piss OFF outa me face last week in town, one of them tried to rape a girl, i say hunt them out! and if it was an irish person doing it, the same to them aswell, the race card, always has to be brought up by the high and mighty types. WHIST UP OUT OF IT!

18 minutes ago · Edited · Like ·  4

 **Steve Wilson** This is not about racism. These roman gypsies are 110% dangerous to elderly people, women or child or drunk person. They work as a team.

18 minutes ago · Like ·  2



14 April at 22:22

Spina bifida doll for sale, realistic in every way. Treat her like a real retard.  
\$20 new



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bf men wanking on the bus is not unusual.

6 hrs · Like



At 7 am ?

5 hrs · Like



Well, what fuckin time of day do you wank? I think you're being very judgmental right now. Some people work nights. ...

5 hrs · Like

- iReport (ENAR Ireland)
  - (July-December 2014):
    - 57 incidents involving media and social media
    - Majority concerned racist comments on social media and on newspaper websites
    - Anti-Semitic, Anti-Muslim, Anti-Traveller, Anti-Roma
- Stop Hate Crime (Gay and Lesbian Equality Network)
  - (December 2014-April 2015)
  - 7 incidents 'online or on social media'
- Not clear whether all of these are crimes: utilisation of McPhearson Definition in Third Party CSO Recording Mechanisms

# Impact of Cyber-Hate: The Cascade Effect

- Constituency effected is potentially exponential
  - Hawdon, Oksanen and Räsänen (2014)
    - 1000 people between 15 and 30
    - More than 50% exposed to hate speech or hate material
    - The younger the respondent, the more likely they were to have been exposed to online hate
- Proccessual ties between hate speech, hate incidents and hate crime
  - Keen and Georgescu (2014)
    - Escalation of online to offline hate
    - Online discourses can be used to legitimate real world hate
  - Chan, Ghose and Seamans (2014)
    - Internet can be used as a forum for the recruitment of hate crime
    - Can heighten pre-existing propesities to engage in hate activity
  - Chakraborti and Garland (2009)
    - Use of the internet by extremist groups has been a key development in their activities
    - Used as a means to raise finances and provided a multimedia environment that has given hate groups a more visible presence and more accessible platform

# What is the Interface between Hate Crime and Hate Speech?

- The 'hate' element to a hate crime
  - 'Demonstration' of hate
  - Evidential aspect to proving hate motivation
- Inclusion of s 2 of 1989 Act prosecution with, eg, assault



# Legal Responses

- Utilising existing laws
  - England and Wales
  - Crown Prosecution Service *Guidelines on Prosecuting Cases Involving Communication Sent Via Social Media*
    - Four categories
      - Credible personal threats (OAPA 1861; Malicious Communications Act/Communications Act; Hate Crime legislation)
      - Harassment (Protection from Harassment Act 1997; Hate Crime legislation)
      - Breach of Court Orders (eg Ched Evans case)
      - Communications which are grossly offensive, indecent, obscene or false (section 1 of the Malicious Communications Act 1988; section 127 of the Communications Act 2003); Public Order Act 1986
        - *Chambers v DPP* [2012] EWHC 2157 (Admin), the Lord Chief Justice made it clear that: "*Satirical, or iconoclastic, or rude comment, the expression of unpopular or unfashionable opinion about serious or trivial matters, banter or humour, even if distasteful to some or painful to those subjected to it should and no doubt will continue at their customary level, quite undiminished by [section 127 of the Communications Act 2003].*"
        - *DPP v Collins* [2006] UKHL 40: "*There can be no yardstick of gross offensiveness otherwise than by the application of reasonably enlightened, but not perfectionist, contemporary standards to the particular message sent in its particular context. The test is whether a message is couched in terms liable to cause gross offence to those to whom it relates.*"
        - Would require amendment of section 13 of Post Office (Amendment) Act 1951 to allow for prosecution in Ireland (Daly 2007)

# “Grossly offensive”?

 14 April at 22:22

Spina bifida doll for sale, realistic in every way. Treat her like a real retard. \$20 new



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  of men wanking on the bus is not unusual.  
6 hrs · Like

  At 7 am ?  
5 hrs · Like

  Well, what fuckin time of day do you wank? I think you're being very judgmental right now. Some people work nights. ...  
5 hrs · Like

- Particular offence?
- 'Hate' version of existing offence?

# Issues particular to hate online

- Share/Retweet
- Like/Favourite/Thumbs Up
- Facebook/Twitter Algorithms and unanticipated dissemination
- Editorial Responsibility of Group Administrators
- Closed groups

# Crucial to Remember

- Bernal (2014), ‘There is a lot of trivia on Twitter but that does not mean that Twitter itself is trivial.’
- Symbolic, message and educative function of hate crime legislation
  - “Hate crime laws are important. By explicitly condemning bias motives, they send a message to offenders that a just and humane society will not tolerate such behaviour. By recognising the harm done to victims, they convey to individual victims and to their communities the understanding that the criminal justice system serves to protect them.” (OSCE/ODIHR 2009)

# THANK YOU

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- [www.ul.ie/emotions/hhrhg](http://www.ul.ie/emotions/hhrhg)
- [www.internationalhatestudies.com](http://www.internationalhatestudies.com)
  
- ICCL Funded Research Project: Evaluation of Hate Crime in Ireland and the Need for Legislative Reform