



## **Galway Traveller Movement Submission to Public Consultation on Hate Speech**

December 2019

### **Background to GTM:**

The Galway Traveller Movement was established in 1994. GTM is an independent Traveller organisation for Galway City and County made up of Travellers and non-Travellers. We have worked for more than two decades to challenge and respond to the structural inequalities that the Traveller community are subjected to. Our work has always been rooted in an understanding of and respect for the distinct culture and ethnic identity of the Traveller community.

We welcome the opportunity to respond to this review of the Prohibition of Incitement to Hatred Act 1989. The following are our responses to the issues raised:

### **Issue 1: Protected characteristics covered by the 1989 Act**

The list of protected characteristics in the Prohibition of Incitement to Hatred Act 1989 refers to Travellers as “membership of the travelling community”. Travellers were recognized as a distinct ethnicity in March 2017. The legislation should be updated to acknowledge such recognition. The Traveller community experience the effects of the incitement to racist hatred on multiple fronts. Their race and ethnic origins are conflated with their distinct culture to scapegoat and stereotype them as a community. Travellers are an ethnic minority. Their culture and traditions are used as a weapon against them and they are dehumanised by anti-Traveller sentiment, especially in the areas of accommodation, education and employment.

The following is a quote from a Traveller who took part in a focus group on Hate Speech:

*“I think in Ireland with Travellers, you don’t need a different look, a different skin colour... because straight away the Irish people can recognise you as Traveller, I don’t know how that happens...they can just give a look at you... so you are faced immediately with discrimination”<sup>1</sup>*

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<sup>1</sup> E. Siapera, E. Moreo, J. Zhou (2018) Hate Track: Tracking And Monitoring Racist Speech Online. November 2018. Dublin: DCU School of Communications, Institute for Future Media and Journalism (FuJo), Anti-Bullying Centre (ABC), and Insight Centre for Computer Analytics, School of Computing.

## Issue 2: Use of the term “hatred” in the Act

The term “hatred” is the correct term for the Act. The issue is the application of the Act and the lack of a meaning for the word “hatred” balanced against a potential definition that would increase prosecutions but possibly limit the freedom of expression. A modern-day interpretation would also acknowledge that hate is often incited where the person publishing the hate is reckless as to the consequences of their actions.

The frustration with the Act is laid out here:

*“Given this misunderstanding of the very specific focus of this legislation I witnessed what I would describe as ‘an expectations gap’ and ‘a frustration gap’ between community aspirations from this legislation and the reality of its limited application and implementation to date. This expectation gap is not insignificant and potentially undermines social cohesion, and a sense of the system working for all. There is an opportunity and a need to address this gap with information and public education.”<sup>2</sup>*

A Government Spokesperson added:

*“I think we would all acknowledge that hate speech is not freedom of expression, in fact hate speech is the opposite. Hate speech is designed to shut down people’s opinions, to shut down their culture,”<sup>3</sup>*

The UN has advised in the past on the distinction between different types of expression:

*“In terms of general principles, a clear distinction should be made between three types of expression: expression that constitutes a criminal offence; expression that is not criminally punishable, but may justify a civil suit or administrative sanctions; expression that does not give rise to criminal, civil or administrative sanctions, but still raises concern in terms of tolerance, civility and respect for the rights of others.”<sup>4</sup>*

While a report from Northern Ireland outlines:

*“The focus on ‘stirring up’ hatred confirms the broad societal impact. In other words, it is something which clearly and unambiguously has generated, or is likely to generate, attendant unlawful behaviour.”<sup>5</sup>*

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<sup>2</sup> Responding to Racist Incidents And Racist Crimes in Ireland, An Issues Paper for the Equality Authority. Séamus Taylor, Lecturer, Department of Applied Social Studies, National University of Ireland, Maynooth. September 2010

<sup>3</sup> Ciara Carberry, Principal Officer at the Department of Justice

<sup>4</sup> Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred, A/HRC/22/17/Add.4

<sup>5</sup> Equality Coalition Northern Ireland, Incitement to Hatred in Northern Ireland, Dr Robbie McVeigh

### Issue 3: Application of the Act to online speech

Hateful content is published online with the potential of a much wider audience, where the person posting the content is reckless as to whether such content will lead to incitement. The legislation should be updated to address every possible online platform – especially where the publishing of content is akin to broadcasting such content to a larger than perceived audience. This includes traditional social media platforms like Facebook, Twitter and Instagram, but also messenger platforms like WhatsApp and Snapchat, as well as forums that broadcast their content like 4Chan and Reddit.

The Hate Track report helps us to properly define hate speech within an online context:

*“Racially-loaded toxic speech is defined as language and contents that entrench polarisation; reinforce stereotypes; spread myths and disinformation; justify the exclusion, stigmatisation, and inferiorisation of particular groups; and reinforce exclusivist notions of national belonging and identity.”<sup>6</sup>*

.... with a responsibility placed on the media

*“Social media pages of news outlets seem to play an important role in channeling racially-loaded toxic contents through the comment threads on their posts. The way mainstream media frame and present news has an impact on the comments left.”<sup>7</sup>*

and a non-exhaustive list of the type of content that passes as hate speech

*“Social media affordances and tropes lend themselves to racially-loaded toxic contents, which can include memes, multimedia materials, hashtags, tagging and other forms that allow the materials to travel further.”<sup>8</sup>*

The reality for Travellers in this area has been documented already by many contributors to the field of study:

*“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.”<sup>9</sup>*

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<sup>6</sup> E. Siapera, E. Moreo, J. Zhou (2018) Hate Track: Tracking And Monitoring Racist Speech Online. November 2018. Dublin: DCU School of Communications, Institute for Future Media and Journalism (FuJo), Anti-Bullying Centre (ABC), and Insight Centre for Computer Analytics, School of Computing.

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Irish Traveller Movement, cited in Schweppe, Haynes and Carr, 2014

#### **Issue 4: Proving intent or likelihood**

The requirement that an offence must be intended or likely to stir up hatred renders the legislation ineffective. In a modern context which the 1989 Act fails to address – people don't "share" hate on their social media news feed, they broadcast it, they give it a platform which in turn gives it the potential to be broadcast on other platforms. A burden of proof so high is impossible to meet in the context of social media. It must be reworded so that the person posting the hateful content – regardless of whether they are aware of the incitement to hatred effects of such content once published – is adjudged to be responsible for the consequences of posting such content. Ambiguity as to intent is leading to a severe lack of faith in the legislation. This element of the legislation must be amended so that someone who is reckless as to the consequences of broadcasting hate comes under the scope of the Act. Travellers are racially abused because of their culture and their ethnicity and very often, forms of racism directed at the community are not recognised as projections of hate. This failure to acknowledge the entire stereotyping of a community hollows out any faith that specific community may have in the existing legislation. Statements or images that generalise about Travellers are only posted or shared to tar the entire community with the same brush with the sole aim of reducing their humanity in the eyes of the wider population – the definition of hatred.

An explanation of the "stirring up" requirement is offered here:

*"We can already sense a tension between the element of incitement that is best characterised as 'encouraging' and the bit that is best characterised as 'stirring up'. At least by implication, the 'encouraging' suggests a nexus between individuals, one person exhorting another to do something; 'stirring up' in contrast is holistic, it is – like a wave setting something in motion that moves beyond that individual nexus. This aspect is explicit with incitement to hatred since it is focused on a 'group'."*<sup>10</sup>

The Irish Council for Civil Liberties commented recently on the balancing of the freedom of expression against hate speech:

*"While proponents of hateful speech frequently invoke their right to freedom of expression, there are in fact very clear limits to this right when it impinges on the rights of others. Indeed, hate speech of this nature can have chilling effects on expression by suppressing a person's ability to speak due to hateful backlash. In this case, the rights of Fiona Ryan and Jonathan Mathis to enjoy a private and family life, and to equality of treatment, are clearly impacted. Their right to freedom of expression is also curtailed because they are unlikely to feel empowered to express their identity as a mixed-race couple in the future."*<sup>11</sup>

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<sup>10</sup> Equality Coalition Northern Ireland, Incitement to Hatred in Northern Ireland, Dr Robbie McVeigh

<sup>11</sup> ICCL calls for urgent review of Incitement to Hatred Act, Dublin, 27 September 2019

## **Conclusion:**

This concludes the GTM submission to the public consultation on Hate Speech. The lived reality for the Traveller community is having to face such speech daily. The propagation of such hate infects public discourse and ultimately results in the dehumanisation of the Traveller community. This shouldn't be the limiting of the freedom of expression but instead understanding the freedom of speech within the context of the incitement to hatred, and ultimately looking at how such hatred disempowers minority communities and their own freedom of expression.

As was stated in the Council of Europe:

*“We should keep in mind that human rights are interdependent and interconnected. This means that (i) there can be no such thing as two conflicting human rights and that (ii) human rights need to be interpreted in light of each other”<sup>12</sup>*

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<sup>12</sup> [link removed] Mr Michael Herd, Rapporteur of the Seminar