



## **Joint submission by NCCWN Limerick Women's Network and NCCWN Clare Women's Network – Public Consultation on Hate Speech**

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### **Purpose of the submission**

NCCWN Limerick Women's Network and NCCWN Clare Women's Network respectively welcomes the opportunity to contribute to the public consultation on hate speech.

The majority of women NCCWN networks work with have experienced some form of hate speech within their lifetime, particularly women from the LGBTQ+ community, women with disabilities, Traveller women and women of colour. The purpose of this submission is to not only highlight these instances and their impact but additionally to give recommendations on how laws could be utilized to keep women in Irish society safe from hate speech and hate crimes.

## **About NCCWN**

NCCWN receives core funding from the Department of Justice and Equality to work with women from a gender equality, anti-poverty, and social inclusion focus.

Our mission is:

*The mission of the NCCWN is to empower and support community-based women who experience disadvantage and marginalisation as a result of barriers to participation and lack of opportunities. This will be achieved by our women's projects bringing about positive and sustainable changes to their lives and society using collective action and feminist approaches, with an emphasis on policy and challenging structures, attitudes and behaviours that marginalise women.*

NCCWN is a volunteer led, grass roots, feminist organisation made up of 17 networks nationwide. NCCWN is a trans inclusive organisation.

## **Submission Methodology**

This submission has been developed using a number of methods; giving reference to the 19 years of engagement the NCCWN networks have had with women living in Ireland, gathering and acknowledging information from relevant organisations and stakeholders and through numerous consultations held locally where the opinions, feedback, expertise and experiences of local women were shared with us.

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

It is the view of NCCWN Limerick Women's Network and NCCWN Clare Women's Network that both disability and women should be included and protected by the 1989 Act. In relation to women being included we would go further and recommend that misogyny or misogynistic acts should be considered hate crimes. The issue of sexual harassment within society has been noted by Government with campaigns such as No Excuses<sup>1</sup> running nationally, along with strategies put in place to deal with domestic, sexual and gender based violence.

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<sup>1</sup> *The ultimate goal of the No Excuses Campaign is to reduce and prevent the incidences of sexual harassment and sexual violence, which effects the lives of too many people, both directly and indirectly, and thereby make Ireland a much safer society* [link removed]

However, despite the work being done at national level, violence against women or acts of misogyny are still very prevalent in our society. Since 1996 230 women in Ireland have died violently at the hands of a man, in the majority of cases the man was known to them, being a current/ex-partner or family member<sup>2</sup>. According to CSO figures for 2018, there were 2771 reports of rape and sexual assault, with nine out of ten victims of recent sexual violence reported in 2018 being female.<sup>3</sup>

At the launch of No Excuses, Minister for Justice and Equality Charlie Flannigan stated that, “*Research has shown that Ireland suffers from disturbingly high levels of sexual harassment and sexual violence.*”. He went on to say, “*The aim of this campaign is to make the public question our responses to a range of sexual harassment and potential sexual violence scenarios which are endemic in society, to consider the extent to which we excuse or ‘explain away’ incidents when we see them, and to ask us to stop excusing them if we do*”<sup>4</sup>. With the Minister himself acknowledging the prevalence and problems associated with sexual harassment and sexual violence in our society, what better way to ensure that act of sexual harassment and sexual violence are taken seriously than to include it in hate speech and hate crime legislation.

There is precedence for misogyny being considered a hate crime. In 2016 Nottinghamshire Police began recording misogyny as a hate crime<sup>5</sup> and in 2018 France began tackling street sexual harassment known as *outrage sexiste*<sup>6</sup> or offensive sexual behaviour, in one year over 700 tickets were issued to people guilty of this behaviour<sup>7</sup>.

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<sup>2</sup> Women’s Aid (2019) *Femicide Watch 2019 - A Legacy of Loss for Women, Family and Community*, Republic of Ireland, page 9. Available: [link removed]

<sup>3</sup> CSO (2019) *Recorded Crime Victims 2018*, Republic of Ireland, available: [link removed]

<sup>4</sup> Department of Justice and Equality (2019) *Minister Flanagan launches major national awareness campaign on sexual harassment and sexual violence*, Republic of Ireland, available: [link removed]

<sup>5</sup> Nottingham Women’s Centre (2019) *Misogyny Hate Crime Policy*, UK, available: [link removed]

<sup>6</sup> Gouvernement.fr (2018) *Against sexual and sexist violence*, France, available: [link removed]

<sup>7</sup> Bienvault, P. (2019) *Street harassment, a timid start to the law against sexist outrages*, France, available: [link removed]

Indeed, the Government has come a long way in legislative terms when attempting to protect women, making rape within marriage a crime in the 1990s, and more recently the introduction of a legal definition of consent and coercive control, both of which are welcomed by NCCWN networks.

Most positively the Government is continuing this work with the Bill proposed by Brenda Howlin where the taking and sharing of non-consensual intimate photographs and “upskirting” will become offenses. Arguably, the aforementioned offenses could be considered misogynistic acts, therefore, it is only reasonable to include women as a protected party and become covered by the Act, thus giving women more confidence to challenge said behaviour and the choice to report should something be said or done to them. Sexual Violence has been noted as being an historical issue in Ireland<sup>8</sup> and that does not seem to be changing in Irish society, further protecting women by including them under this Act would go a long way to making women feel and ultimately becoming more safe.

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

The use of the term “hatred” in the act is necessary due to the overt nature of hate speech and hate crimes. However, when speaking with women during the consultation process many women<sup>9</sup> spoke of the not so obvious aggression that they often felt from people. What could also be considered *microaggression*. Microaggression is defined as “*a comment or action that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a member of a marginalized group.*”<sup>10</sup> Many women experienced people staring at them, making them feel uncomfortable and unwelcome in public space and people acting as if they did not want the women around. On some occasions the women reported being asked to leave groups or public spaces and felt humiliated, powerless and dejected as a result, especially as the majority felt there was no point in reporting these instances as nothing would or could be done.

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<sup>8</sup> COSC, (2016) *Second National Strategy on Domestic, Sexual and Gender-based Violence*, Republic of Ireland, page: 2, available: [link removed]

<sup>9</sup> These were women from the Traveller, LGBTQ+ community and women of colour.

<sup>10</sup> Merriam-Webster (n.d) *Definition of microaggression*, available: [link removed]

On one particular occasion, however, one woman, a woman of colour, did report an incident to the Gardaí but felt she was not taken seriously and the Guard in question never followed up with her, this was two years ago.

Given the subtlety of what these women experience along with the overt, aggressive and sometimes violent behaviours they are subjected to, we recommend that the hate speech and crime legislation include the word *hostility*. The numerous indirect actions (or microaggressions) women described should be covered under legislation as acts of hostility.

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

We recommend the wording of the Act be changed to make prosecutions under incitement to hatred online more effective, this should include the public commenting on online forums. For example, if a person is seen to be speaking negatively or aggressively in public spaces online about communities covered under the Act when they are working with or in proximity to said group. This should be taken very seriously both in legal terms and by the person's employer and/or the educational institute they are attending.

We were given examples of people working in Direct Provision Centres spreading false truths and being openly racist online regarding people in the Direct Provision Service and particular troubling instances that happened in one Centre. Other potential examples of this behaviour would be if a doctor or nurse posts homophobic comments openly online or if a solicitor or member of an Gardaí Síochána say openly misogynistic things online. These problematic views should be considered matters of public interest as they could potentially result in large numbers of the public being unsafe in numerous scenarios. This would also give recourse to people who see such hate or hostility directed at them in public in the form of reporting, and the people behind such hate and hostility being accountable.

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

Yes, the requirement that an offence must be intended or likely to stir up hatred does make the legislation less effective and should include circumstances where the person was reckless as to whether their action would stir up hatred. At present, groups online that openly speak with hatred and hostility towards women and other groups covered in the Act can potentially 'play dumb' around there being any intention of stirring up hatred, as these are simply their own personal views to which they are entitled. One could argue that this could be considered a form of the manipulation tactic known as gaslighting,<sup>11</sup> the law should always strive to protect vulnerable people and groups from such possible tactics.

In addition to including circumstances where a person has been reckless as to whether their action or speech would stir up hatred in the legislation. Our further suggestion would be in cases when a person or group have been arrested on the grounds of stirring up hatred towards a particular protected group, before the Director of Public Prosecutions decides on whether to continue with a case a representative of the target group is given the opportunity to demonstrate to them how said hate speech, intended or not, has or could have impacted on their lives and community. It still may not end up in a court case or prosecution but at the very least the protected group will have their voices heard. Additionally, the potential defendants should be required to read said statement.

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<sup>11</sup> Sarkis, S.A (2017) *11 Warning Signs of Gaslighting - Gaslighting is a manipulation tactic used to gain power. And it works too well*, available: [link removed]

## **Overall recommendations**

- Amend the list of protected characteristics covered by the 1989 Act to include women
- Acts of misogyny should be considered in hate speech and hate crime legislation
- Gardaí and other civil servants should be required to complete sensitivity training in relation to race, religion, gender, disability and the LGBTQ+ community in order to ensure people from these communities feel safe, understood and comfortable if reporting hate speech or hate crimes
- Anyone who is working with or in proximity to a protected group and discovered to be communicating hate speech or involved in hate crimes towards said group should be held accountable
- Consideration should be made to include and acknowledge microaggressions and / or acts of hostility towards people covered in the Act
- If a person or group are arrested under this legislation, the target group should be awarded the opportunity to let the Director of Public Prosecutions know the potential impact of the crime on their lives before making a ruling on whether the case should move forward.

## Location of Nationwide projects represented by NCCWN

