



**Title:** TASC Submission on Hate Speech to the Department of Justice and Equality

**Date:** 10/12/2019

The following pages outlines TASC's stance on the four 'preliminary issues' outlined in the public consultation review.

**Issue 1:**

TASC believes the 'protected categories' outlined in relation to hate speech should be expanded to include 'profession' and 'socioeconomic status,' two subject areas in which TASC has conducted extensive research.<sup>1</sup> We argue that one's 'profession' or lack thereof, should be protected because incitement of hate against certain groups of workers is a well-documented phenomenon with sometimes violent outcomes. For example, abortion providers in the United States have long been the target of extreme rhetoric, hate crimes, and terrorism.<sup>2</sup> Although a person can in theory change their profession (unlike ethnic background or skin colour), studies show that over time a person's identity, self-worth, and financial security become enmeshed with their work, thus making a career change unthinkable.<sup>3</sup>

**a). Profession:**

Human rights defenders and journalists are examples of Irish professionals who would benefit from hate speech protection. These professional groupings are particularly vulnerable to hate speech and hate crime because they sometimes represent contested societal values and because stereotypes are often made about their members' attitudes, actions, and beliefs. For example, the need for protection for immigrants and the professionals who support and care for them is evidenced by the increases in racist, anti-immigrant sentiments.<sup>4</sup>

**b). Socioeconomic Status:**

TASC believes that socioeconomic status should also be made a protected category under the law. This need primarily arises in relation to homeless and low-income populations. We need look further than the recent burning of a Cork homeless man's belongings by teenagers to see how easily those suffering from homelessness can be de-humanised and targeted.<sup>5</sup> Similarly, individuals receiving government assistance may come under threat for their use

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<sup>1</sup> See 'The State We are in: Inequality in Ireland today (2019);' 'The social implications of Precarious Work (2018);' and 'The distribution of wealth in Ireland (2015)' at [link removed]

<sup>2</sup> Winter, Aaron. (2014). In *Extremism in America*. (ed.) George Michael. University Press of Florida. Available from: [link removed]

<sup>3</sup> See Fyers, Tom. (2006). 'Work, Identity, health' *Clin Pract Epidemiol Ment Health*. Available from: [link removed]

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<sup>4</sup> See article [link removed]

<sup>5</sup> [link removed]



of public funds, as the increasingly popular narrative is that they ‘freeloaders,’ ‘lazy’, and a general drain on Irish society. Although Irish recipients of social welfare payments are less likely to face persecution than in other countries, the US and UK environments in which low-income groups are increasingly vilified, especially by right-wing media, should give Ireland pause for reflection.<sup>6</sup>

### **Issue 2:**

TASC believes that incitements to ‘hatred,’ as outlined in the 1989 Act, should be defined as appeals to violence against, fear of, or discrimination toward protected groups. In effect, a reasonable interpretation of ‘stir up hatred’ would likely already include these elements but a more detailed definition will protect against undue encroachments on free expression and political speech.

### **Issue 3:**

TASC believes the nature of hate speech online is inherently different than that of hate speech in traditional media, articles, and books. This is because, with the internet, the ability for the average person to create and disseminate hate-inciting content has increased exponentially and the monetary costs to do so have decreased to near zero. At the same time, the effects of online hate speech can exceed those of offline hate speech in significant ways. Numerous studies have shown that online bullying is often more detrimental to the victim(s) because the content can be accessed by anyone, is often impossible to remove, and because the target of the bullying has no means of recourse. For this reason, TASC believes online hate deserves special consideration as part of hate speech legislation.

In addition to the broadcast and print-era terminology of the 1989 Act, TASC recommends adding that the law extends to speech that is publicly disseminated online. To determine what content is and is not public, it may be helpful to set a minimum threshold for potential viewership of the content in question. For example, even though a post may only be shown to one’s Facebook ‘friends,’ the nature of Facebook friendship is not equitable to offline friendship. In reality, most people could probably not identify every person on their Facebook friends list. As a result, even though a person may limit a Facebook post to include only their ‘friends,’ doing so does not necessarily mean that they intended the message for an intimate audience. A threshold for ‘public’ dissemination could be that the message in question likely reached at least 100 people. This threshold would exclude most messages sent via email and Facebook threads, as well as via messaging apps like WhatsApp, from which messages can be sent to multiple people simultaneously.

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<sup>6</sup> See The ‘broken society’ election: class hatred and the politics of poverty and place in Glasgow East’ available from: [link removed]

**Issue 4:**

TASC made no definitive conclusion on whether or not hateful ‘intent’ should be requisite for prosecution under the law. This is because the nature of online messaging makes the subject especially complex, as online messages can easily expand past the intentions of the publishing individual. For example, a post that was only expected to garner a few ‘likes’ between friends could possibly be shared by thousands of people. Therefore, in most cases of online hate speech, intent would likely be difficult to prove. On the other hand, intent is not required for prosecution under other areas of law where harm is concerned. For example, a speeding motorist who strikes a pedestrian will be brought to trial regardless of whether the harm they caused was or was not intentional. The central question, therefore, may be whether the outcome of the hateful speech should determine prosecution and level of redress. TASC believes this answer should be addressed in consultation with communication and media law experts.