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Review of the Prohibition to Hatred Act 1989

Public Consultation on Hate Speech

Submission from

Galway City Community Network, the Public Participation Network in Galway City

December 2019

Preface

Established in 2014, **Galway City Community Network** (GCCN) is the Public Participation Network in Galway City. It represents groups and organisations in the community, voluntary and environmental sectors in Galway City. The twin objectives that GCCN pursues are to:



- Advance the values of sustainability, equality, culture, community, empowerment and inclusivity and embed these in the policies, programmes and practice of local government, state organisations, national government and civil society;
- Develop and implement progressive models of and approaches to representation, participation and engagement for civil society in informing and shaping policy development and implementation.

Galway City Community Network is one of the founders and an active member of the Galway Environmental Network.

Submission

Galway City Community Networks welcomes the opportunity to make a submission to the Review of the Prohibition to Hatred Act 1989 - Public Consultation on Hate Speech.

GCCN members include groups and organisations that represent those that are affected by hate speech and hate crime in Galway City. GCCN is aware and concerned at the levels of that racism and discrimination experienced by people in Galway City and these are often experienced as hate speech and other hate crimes.

Hate crime and hate speech are interlinked and GCCN welcomes the proposed improvements to the 'wider suite of measures across all areas of Government, which are designed to address hatred and intolerance'. This suite of measures is essential so that a clear message is provided by the Irish government and its agencies that racism, discrimination and all forms of hate crime will not be tolerated. The reformed legislation must be framed so that prosecution becomes a reality for political leaders, the media and the general public who pursue a hate agenda.

GCCN will focus this submission on the four preliminary issues for discussion have been identified:

- 1) the list of protected characteristics covered by the Act and whether these should be changed
- 2) the use of the term 'hatred' in the Act and whether this should be changed
- 3) whether the wording of the 1989 Act is adequate to deal with online communications
- 4) the need to prove the intent or likelihood of stirring up hatred and whether this should be changed

Protected characteristics covered by the 1989 Act

The Act deals with incitement on the grounds of race, colour, nationality, religion, ethnic or national origins, membership of the Traveller community and sexual orientation. While acknowledging that care is needed not to include characteristics that are in any way unclear, GCCN recommends extending the protections covered by the legislation to include gender fluidity and/or intersex status; people with disabilities, including those with physical, intellectual, sensory, neurological and other disabilities; membership of the Traveller community (as opposed to the travelling community); members of the Roma community; migrant or refugee status; asylum status; socio-economic background; political affiliation or opinion. Research has consistently shown that these groups and communities are the ones most vulnerable to discrimination. While discrimination comes in many forms, hate speech is one of the most common and protection from hate speech is essential to these groups and communities.

The use of the term 'hatred' in the Act

It is noted that the 1989 Act does not define the term 'hatred' and is therefore open to interpretation, including legal interpretation. It is further noted that the use of the term sets a high threshold for conviction. GCCN suggests that the term needs to be defined definitively within the act in such a way as it includes the incitement to hostility, prejudice, bias, discrimination, racism or any other behaviour that causes harm to the person.

Online communications

Online communication is a critical tool for those wishing to incite hatred and stir up hostility. It can be nebulous, making it an effective platform for spreading hatred and promoting enmity. Given the lack of regulation in this area, online communication must be given specific attention in the reformed legislation. Online communication must be seen as 'publishing' as opposed to 'sharing' with friends or followers. This is an essential distinction and must be included in the new act.

Proof for the intent or likelihood of stirring up hatred

The threshold for proving intent or likelihood of stirring up hatred is too high. The difficulty associated with this level of proof is noted even where the impact is that hatred was incited, the defence can argue that there was no intent.

GCCN recommends that the **impact** of the act be the primary test so that where hatred has been incited the perpetrator can be charged with reckless behaviour that has caused the incitement.