

Defining Public Duties to Tackle Incitement to Hatred whilst Respecting Freedom of Expression:

REVIEWING THE LEGAL & POLICY FRAMEWORK

FRIDAY 13 OCTOBER 2017
CANADA ROOM, QUEEN'S UNIVERSITY BELFAST



THE SENATOR
GEORGE J. MITCHELL
INSTITUTE FOR GLOBAL PEACE,
SECURITY AND JUSTICE





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This report is comprised of edited transcripts based on recordings taken during the conference.

CONFERENCE PURPOSE

A one-day conference, held on 13 October 2017, to address the 'threshold' and 'intervention' questions increasingly defined in human rights law as to when public authorities can or must act against speech and cultural expression in order to protect the rights of others.

CONFERENCE ORGANISERS

The conference was organised by the Equality Coalition, with support from the Senator George J. Mitchell Institute for Global Peace, Security and Justice.

The Equality Coalition is a civil society alliance of NGOs and trade unions that aim to promote equality in Northern Ireland. It is Co-Convened by the Committee on the Administration of Justice (CAJ) and UNISON.

The Senator George J. Mitchell Institute for Global Peace, Security and Justice is a Global Research Institute (GRI) based at Queen's University Belfast.

**Equality
Coalition** 



AGENDA

9.45AM

OPENING

Introduction:

Equality Coalition Co-Conveners Patricia McKeown (UNISON) and Daniel Holder (CAJ)

Welcome:

Claire Sugden (MLA and Former Justice Minister)

10AM

PANEL 1: HARMS AND IMPACTS OF HATE EXPRESSION

Chair:

Patricia McKeown (UNISON)

Panel:

Gavin Boyd (The Rainbow Project);
Ellen Murray (SAIL NI);
Ola Sobieraj (Stronger Together Network);
Anna Lo (Chinese Welfare Association);
Dessie Donnelly (PPR);
Dr Rachel Killean (QUB).

11AM

LAUNCH OF EQUALITY COALITION RESEARCH REPORT 'INCITEMENT TO HATRED IN NORTHERN IRELAND'

Dr Robbie McVeigh (Independent Researcher)

11.20AM - BREAK

11.35AM

PRESENTATIONS ON LEGAL FRAMEWORKS AND THE EUROPEAN CONTEXT

1.

Anti-Roma parading and police intervention - The case law of the European Court of Human Rights, Judit Geller (European Roma Rights Centre)

2.

European Commission against Racism and Intolerance (ECRI) General Policy Recommendation 15 on Combating Hate Speech, Jeremy McBride (Monckton Chambers & ECRI)

3.

Incitement to hatred in Spain - The risk of political censorship, Professor Jon-Mirena Landa (University of the Basque Country)

12.30PM

PANEL 2: PUBLIC AUTHORITIES' RESPONSE TO THE MORNING SESSION

Chair:

Professor Colin Harvey (QUB)

Panel:

Sinead Simpson (DoJ);
Paul Giannasi (MOJ);
Assistant Chief Constable Mark Hamilton (PSNI).

1.15PM

LUNCH

2PM

PANEL 3: POLITICAL PARTIES

Moderator:

Professor Kieran McEvoy (QUB)

Panel:

Raymond McCartney MLA (Sinn Féin);
Colin McGrath MLA (SDLP);
Mike Nesbit MLA (UUP);
Clare Bailey MLA (Green Party NI).

3PM

WORKSHOPS

1.

A Fresh Start for parades, flags, identity, culture and tradition Factoring in countering hate expression and the rights of others?

Chair:

Professor Colin Harvey (QUB)

Panel:

Dr Dominic Bryan (QUB);
Sophie Long (QUB);
Pat Conway (Relatives for Justice);
Christine Davis (NI Housing Executive).

2.

Countering Incitement to hatred on grounds of gender - A missing category

Chair:

Patricia McKeown (UNISON)

Panel:

Kellie Turtle (WRDA);
Clare Bailey MLA (Green Party NI);
Elaine Crory (Hollaback).

3.

Free religious expression and countering homophobia - Drawing the line

Chair:

Daniel Holder (CAJ)

Panel:

Ciaran Moynagh (McLernon Moynagh Solicitors);
Patrick Corrigan (Amnesty International);
Dr Gail Neil (Ulster University).

4.

What is the broader role of public authorities? Public funding and intervention

Chair:

Fidelma O'Hagan (CAJ)

Panel:

Paul Noonan (ECNI);
Paul Jordan (Community Relations Council);
Seán Brady, (PPR);
Tony O'Reilly (North West Forum of People with Disabilities).

4.15PM

REPORT BACK FROM WORKSHOPS AND FINAL PANEL

CONFERENCE BRIEFING NOTE (PROVIDED TO ATTENDEES)

The focus of this conference is on incitement to hatred on protected equality grounds, namely racist, sectarian, homophobic, misogynistic, ableist or otherwise inciteful expression that may precede and create the context for 'hate crimes'. The focus is not on attacks that are considered to be hate crimes or their legal framework.

There are a number of duties on public authorities with regards to incitement to hatred, which are provided for in international human rights law under the UN and Council of Europe instruments, and recent years have seen a more precise codification of threshold tests and developments in ECHR case law. In summary, the conference will focus on the following areas:

- Outlawing the most serious forms of hate expression on protected grounds with a codified threshold test to differentiate from protected free expression;
- Legal certainty over duties to intervene by the police and other public authorities to remove materials that incite hatred on protected grounds;
- Duties on Councils and other public authorities not to sponsor or support events and actions furthering racist/sectarian/ homophobic/misogynistic/etc expression, and to take reasonable steps to prevent such manifestations through the conditions on public funding.

Northern Ireland has had incitement to hatred legislation since 1970. The current legislation is the Public Order (Northern Ireland) Order 1987, which falls short of the stipulations of international human rights standards, and has been interpreted within a framework that sets the threshold for the offence very high. In 2015, one person was convicted under the legislation, relating to racist material on a loyalist bonfire, which was reported as likely to be the first conviction of its kind. More recently, it has emerged there have been a total of 14 convictions in recent years.

The Police (PSNI) currently have a policy of only intervening to remove materials if there is a serious risk to life or public safety. CAJ, the Chief Constable, and the Northern Ireland Human Rights Commission (NIHRC) have all called for the legislation to be re-examined. Further to a CAJ request, the Justice Minister Claire Sugden MLA, initiated such a review within the Department of Justice before the collapse of the Northern Ireland Executive in early 2017.

INTERNATIONAL LEGAL DUTIES

Both protecting freedom of expression and prohibiting advocacy of ethnic and religious hatred have long been complementary aims of international human rights standards. Similar principles have increasingly been held to apply to such advocacy of hatred on other recognised protected grounds – such as sexual orientation, disability or gender/gender identity. The question that has long been posed is how the boundary between the two is drawn i.e. freedom of expression must be balanced against restricting or sanctioning hate expression.

As crude ideal types there have historically been on the one hand the Anglo-American model, which gives greater primacy to free speech, save when a very high 'clear and immediate danger' type threshold is met.

On the other hand, there is the model which gives greater primacy to restricting expression where necessary to suppress racist ideology and expression, a model more favoured in those European states that faced occupation by the Nazis. The UK historically has more reflected the former model. This is illustrated by its lodging and maintenance of an 'interpretive declaration' to Article 4 of the International Convention for the Elimination of All Forms of Racial Discrimination (ICERD) on positive obligations to tackle incitement and racist ideologies. This declaration does not however prevent the UK, or any of its constituent parts, legislating to strengthen their respective domestic legislation. Merely, it states that the provisions of ICERD do not oblige the UK to do so (although the UN ICERD Committee takes a different view that the provisions are of mandatory character). The ICERD Committee had held, as has the Council of Europe, that sectarianism in Northern Ireland, should be considered as a specific form of racism, which attracts the protections and provisions of ICERD. Article 4 of ICERD provides that:

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in Article 5 of this convention, inter alia:

- A)** Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- B)** Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- C)** Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

The UK is also party to Article 20 of the International Covenant on Civil and Political Rights (ICCPR), which provides that "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law". Additionally, within the Council of Europe human rights system, to Article 6(2) of the Framework Convention for the Protection of National Minorities (FCNM) provides that state parties will "undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity".

In addition to these grounds, the same principles have been applied to a number of other protected non-discrimination grounds in hate speech laws, including sexual orientation, disability, gender, and gender identity. The (Council of Europe) European Commission against Racism and Intolerance (ECRI) has also produced a General recommendation (15) on combating hate speech. The preamble sets the regional context for this as:

Recalling moreover that Europe derives from its history a duty of remembrance, vigilance and combat against the rise of racism, racial discrimination, gender-based discrimination,

sexism, homophobia, transphobia, xenophobia, antisemitism, islamophobia, anti-Gypsyism and intolerance, as well as of crimes of genocide, crimes against humanity or war crimes and the public denial, trivialisation, justification or condonation of such crimes;

And defines hate expression and its protected grounds as follows:

Hate speech for the purpose of the Recommendation entails the use of one or more particular forms of expression – namely, the advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, as well any harassment, insult, negative stereotyping, stigmatization or threat of such person or persons and any justification of all these forms of expression – that is based on a non- exhaustive list of personal characteristics or status that includes “race”¹, colour, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation.

The question of drawing the boundary between protected freedom of expression on the one hand and prohibiting advocacy of ethnic and religious hatred on the other has been debated internationally and locally for some time. ECHR jurisprudence has also long made clear that free expression is protected when it “shocks, offends or disturbs”² or is capable of “creating a feeling of uneasiness in groups of citizens or because some may perceive them as Disrespectful”³. But it does draw a distinction between this and expression which “spreads, incites, promotes or justifies hatred based on intolerance”⁴ or encompasses “the promotion of discrimination or ethnic division”⁵. Article 10 includes the ‘rights of others’ as one of its grounds for legitimate restriction. The rights of others includes other ECHR rights. It has been held under Article 8 of the ECHR (right to private and family life) that there is, under certain circumstances, a positive duty on the state to protect persons from racist expression⁶, providing both permissive powers and duties on the state to intervene to protect the rights of others in a number of contexts. In one case in the context of anti-Roma protests organised by right-wing groups in predominantly Roma neighbourhoods, in which a woman and her child had been subject to racist abuse, the Court reiterated the positive obligations under Article 8, including circumstances where there are duties to protect an individual from the acts of another⁷.

¹ The use of the term race in the ECRI recommendation is explained as follows: “Since all human beings belong to the same species, ECRI rejects theories based on the existence of different races. However, in this Recommendation ECRI uses this term “race” in order to ensure that those persons who are generally and erroneously perceived as belonging to another race are not excluded from the protection provided for by the Recommendation.”

² *Handyside v UK* 1976[49]

³ *Vajnai v. Hungary* (2008) [57]

⁴ *Erbakan v Turkey* (1999)[57]

⁵ *Vona v Hungary* (application no. 35943/10), (2013) [66]

⁶ *Aksu v. Turkey* [GC], application nos. 4149/04 and 41029/04, § 58, ECHR 2012

⁷ *R.B. V. Hungary* (no. 64602/12) 12 April 2016 [99]

The ECHR case of *Vona v Hungary* also related to anti-Roma marches, in this instance by the far-right Magyar Gárda grouping. The European Court cited domestic judgments that regarded Magyar Gárda as having “created an anti-Roma atmosphere by verbal and visual demonstrations of power”. The Court held that public authorities are entitled to take restrictive measures “if the right to freedom of assembly is repeatedly exercised by way of intimidating marches involving large groups” and the measures have become necessary to avert large-scale, coordinated intimidation related to the advocacy of racially motivated politics. The Court also held that the state can protect the right of targeted groups to live without intimidation, particularly when ethnic groups are singled out. The Court emphasized that although there was no actual violence at the march, its paramilitary nature was problematic given as this meant the group’s discriminatory message was “accompanied by the physical presence of a threatening group of organized activists”. Hence, the march was capable of “conveying the message to those present that its organizers had the intention and the ability to have recourse to a paramilitary organization to achieve their aims, whatever they may be”. The Court contextualized this threat by reference to the historic context of the group’s association with past racist violence, and held that paramilitary demonstrations, accompanied by racist discourse, “must have an intimidating effect on members of a racial minority”. The Court considered that the repeated organization of the rallies was capable of intimidating others and affecting their rights and it elaborated that this was “especially in view of the location of the parades”, which had been held in proximity to Roma populations. *Vona* referenced a concept emphasized in the domestic courts that Roma residents were a ‘captive audience’ of the parades and, given their locations they “had not been in a position to avoid [their] extreme and exclusionary views”. Ultimately the court upheld that the decision of the domestic authorities to outlaw the group had not breached Article 11 ECHR ⁸.

The emerging jurisprudence therefore points to a manner in which relevant standards could be codified to protect the rights of others in such circumstances, without becoming a further mechanism for the undue restriction of legitimate protests and expression. This risk and important distinction is explicitly recognized by CERD who state that:

The Committee observes with concern that broad or vague restrictions on freedom of speech have been used to the detriment of groups protected by the Convention. States parties should formulate restrictions on speech with sufficient precision, according to the standards in the Convention as elaborated in the present recommendation.

The Committee stresses that measures to monitor and combat racist speech should not be used as a pretext to curtail expressions of protest at injustice, social discontent or opposition ⁹.

There have been considerable international developments in recent years in codifying a threshold for intervention, including the test provided for within the UN Rabat Plan of Action. The ICERD Committee has issued General Recommendation 35, which also codifies a threshold test. The ECRI has also produced a general recommendation (15) on combating hate speech, which codifies in its explanatory notes a threshold test. This excludes matters such as “satire or objectively based news reporting and analysis” from hate speech and provides a contextual test. The issue of a requirement of ‘intent’ to prove hate speech has been subject to considerable discussion and is provided for in the Rabat Plan of Action, but not the ICERD or ECRI recommendation.

⁸ *Vona v Hungary* (application no. 35943/10), (2013)

⁹ CERD/C/GC/35 General Recommendation 35, (Combating racist hate speech), paragraph 20

The ECRI recommendation states that ‘intent’ might be clearly present in some circumstances, but may not always be easy to demonstrate – particularly when coded language is used – and sets out that the risks of relevant acts being incited depends on specific circumstances. Like Rabat and ICERD, the ECRI recommendation sets out a number of key considerations.

Namely, the need to consider:

- A)** the context in which the hate speech concerned is being used (notably whether or not there are already serious tensions within society to which this hate speech is linked);
- B)** the capacity of the person using the hate speech to exercise influence over others (such as by virtue of being a political, religious or community leaders);
- C)** the nature and strength of the language used (such as whether it is provocative and direct, involves the use of misinformation, negative stereotyping and stigmatisation or otherwise capable of inciting acts of violence, intimidation, hostility or discrimination);
- D)** the context of the specific remarks (whether or not they are an isolated occurrence or are reaffirmed several times and whether or not they can be regarded as being counter-balanced either through others made by the same speaker or by someone else, especially in the course of a debate);
- E)** the medium used (whether or not it is capable of immediately bringing about a response from the audience such as at a “live” event); and
- F)** the nature of the audience (whether or not this had the means and inclination or susceptibility to engage in acts of violence, intimidation, hostility or discrimination).

NORTHERN IRELAND LEGAL FRAMEWORK

The conference is to focus specifically on the issue of countering hate expression, rather than on the increased sentencing for offences aggravated by hostility, as set out under Article 2 of the Criminal Justice (No. 2) (Northern Ireland) Order 2004 (often referred to informally as ‘hate crimes legislation’). The conference focus is also **not** on public relations campaigns against hate crimes, albeit that both areas are likely to be referenced and critiqued where it aids context.

In Northern Ireland, the topic has never been far from the headlines with heavily contested debates over high profile speech considered racist, sectarian, misogynistic, or homophobic. The voices of those groups subjected to discriminatory expression are not always prominent in the debate. The purpose of the first panel in the conference is to discuss the harms and impacts of such expression on protected groups – to convey the seriousness of the problem and engage in debates around when state intervention should be made. Whilst there may be many challenges to greater state intervention, not to do so arguably leaves unchecked the harms of such discourse on vulnerable target groups, and creates an ‘acceptable level’ of such discourse.

There have been a range of significant controversies in recent years, reflecting the different formats in which hate expression has manifested itself. There have been widely reported homophobic remarks made by senior politicians, in addition to other high profile cases, such as those involving Pastor O’Connell; Kildare band, The Druids; and the Royal Black Institution. The burning of items on bonfires is a recurrent problem. This has been the case in summer 2017, with issues racist and sectarian slogans and items on bonfires having been particularly prominent.

The medium for gender-based hate expression has more prominently been social media and other online channels. Significant discourse around welfare changes and cuts has contributed to the marginalisation and stigmatisation of protected groups, especially persons with disabilities. At the beginning of the modern 'Troubles', the former Stormont Parliament passed the Prevention of Incitement to Hatred Act 1970 (on the protected grounds of religious belief, colour, race or ethnic or national origins). Despite widespread incitement fuelling the conflict, there was only one prosecution and no convictions under this Act. The Act was subsequently superseded by the Public Order (NI) Order 1981.

NI's current legislation on incitement to hatred is Part III of the Public Order (NI) Order 1987. This covers offences of 'stirring up hatred' or 'arousing fear' against a group of persons on grounds of religious belief, sexual orientation, disability, colour, race, nationality (including citizenship) or ethnic or national origins. The categories of sexual orientation and disability were added in 2004. Gender is not a category in the legislation, nor is gender identity, although the PSNI do consider transphobic hate expression to be covered, presumably under grounds of sexual orientation (given as the perpetrators of such expression rarely make a distinction). Offences under this legislation include (with some caveats) threatening, abusive or insulting words or behaviour, or displaying written material that is either intended to stir up hatred or arouse fear (on one of the listed grounds) or which, having regard to all the circumstances, is likely to have that effect. The legislation therefore already does not require proof of 'intent', rather it defers to a contextual context. Summary conviction can carry a fine or up to six months imprisonment. Conviction on indictment carries a fine or imprisonment for a longer term.

In 2015, there was a high profile conviction relating to racist messages placed on a bonfire¹⁰. Statistical data released by the police under Freedom of Information indicates there have only been a small number of arrests and charges under the legislation since its inception. In September 2015, the Chief Constable told the Northern Ireland Policing Board that the PSNI wished for a review of the legislation with a view to the legal regime being simplified. The Chief Constable urged the "legislative authority in Northern Ireland to consider this matter urgently"¹¹.

The problem with the current legislation is that it is interpreted as setting a high threshold and neither the Public Prosecution Service (PPS) nor PSNI have any specific written guidance themselves on how to interpret its provisions. In our view, this compounds the lack of legal certainty over the scope of Part III offences. The PSNI does have a Hate Crime Incidents Service Procedure and a Manual of Conflict Management, but these are limited to passing references to the PT III offences. The PPS Hate Crime Policy 2010 is similar. The PPS do also have a short four-page document entitled the 'stirring up offences' under the Order, but does not currently reference any of the international law contextual tests.

In 2014, the office of the Attorney General for Northern Ireland (AGNI) issued statutory human rights guidance to prosecutors¹². This guidance references, for example the UN Rabat Plan of Action and includes the six-stage threshold test for incitement to hatred within the guidance. This therefore provides a framework the PPS should have regard to when considering charges under Part III of the 1987 Order.

¹⁰ See 'X convicted over racist slogan on loyalist bonfire' BBC News Online 8 September 2015

¹¹ Northern Ireland Policing Board, Questions to the Chief Constable, 3 September 2015. 'The placing on bonfires of election posters, effigies and other images of public figures (Pat Sheehan)'

¹² Guidance by the Attorney General for Northern Ireland pursuant to Section 8 of the Justice (Northern Ireland) Act 2004 No. 4 HUMAN RIGHTS GUIDANCE FOR THE PUBLIC PROSECUTION SERVICE Laid before the Northern Ireland Assembly on 21 March 2014.

Section 37 of the Justice Act (Northern Ireland) 2011 outlawed, with a fine, 'sectarian chanting' at major sporting events, along with chanting of an 'indecent nature', and chanting which "consists of or includes matter which is threatening, abusive or insulting to a person by reason of that person's colour, race, nationality (including citizenship), ethnic or national origins, religious belief, sexual orientation or disability". There was considerable controversy during the passage of the bill regarding its provisions and protecting free speech. There was also ultimately a removal of a definition of sectarianism from the face of the bill.

The Public Order (NI) Order 1987 repealed the Flags and Emblems (Display) Act (Northern Ireland) 1954 and there is no legislation directly regulating the private display of flags. There is the 2005 Joint Protocol in Relation to the Display of Flags in Public Areas, in which the PSNI are the lead agency. The interagency protocol lists four reasons why flags are often displayed: the "celebration of cultural identity", "marking of a festive event", "sectarianism or intimidation", or "marking out territory". The latter two categories could correlate with the 'rights of others' exemptions permitted under ECHR Article 10. At present, however, the PSNI position is that it will not intervene unless there is a significant risk to public safety or life.

Section 76 of the Northern Ireland Act 1998 provides a general prohibition on a public authority carrying out functions relating to Northern Ireland to discriminate, or to aid or incite another person to discriminate, against a person or class of person on the ground of religious belief or political opinion.

Under Section 75(2) of the same act, there is a duty on designated public authorities to "have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group" (without prejudice to the duty to promote equality of opportunity set out under S75(1)). Unlike the counterpart duty in Great Britain (under S149 of the Equality Act 2010), in which the good relations duty is defined as in particular concerning "tackling prejudice and promoting understanding" across all protected grounds, the term 'good relations' is not defined in the NI legislation. There has also been significant criticism from Council of Europe treaty-bodies as to the interpretation of the NI duty. Nevertheless, there have been recent moves, including by the Equality Commission for Northern Ireland (ECNI) (who have the statutory function to advise on the duty) to define the duty in a manner similar to GB legislative provisions across the three protected grounds. The good relations duty can therefore be reasonably interpreted as providing for a legislative duty on public authorities in NI to tackle racism and sectarianism. There is also a similar duty on local councils, who are also subject to S75(2), to inter alia promote good relations between different 'racial groups' under Article 67 of the Race Relations NI Order 1997.

Anti-discrimination legislation also outlaws discriminatory harassment in, where applicable, employment and the provision of goods, facilities and services, although there are gaps in these protections.

The framework for the regulating of parades in NI has also been subjected to a number of (ultimately aborted) processes for reform, flowing from the Strategic Review of Parading (resultant from St Andrews Agreement); the Draft Public Assemblies, Parades and Protests Bill 2010 (resultant from Hillsborough); and the recommendations for legislative reform that were to flow from the Stormont House Agreement. There have been calls for greater transparency within the framework in which decisions are made and the successive agreements have sought to more closely tie the decision making framework in the legislation to the ECHR - with particular reference to restrictions based on the rights of others, rather than public order considerations. As such, any reform to parading legislation would also have to grapple with similar 'threshold questions'.

There are therefore a number of areas where by the existing legislative framework in NI falls short of the stipulations of international standards such as ICERD, FCNM and the ICCPR.

The legislation in Great Britain already differs to Northern Ireland in a number of ways and has been shaped by a different context. For example, for a long time 'religion' was not included as a ground in Great Britain (until 2006 - incitement to racial hatred having first been outlawed in 1965) - with the concern of the debate being that such measures may encroach on satire. By contrast, the NI issue has been one of combating sectarianism. The related debate has also been different in Scotland.



SPEAKER BIOS A-Z

Please note: These bios were written in advance of the conference and were correct as of October 2017, when the event took place. They have not been updated in the interim.



CLARE BAILEY

Clare Bailey became deputy leader of the Green Party in Northern Ireland in November 2014. She was elected to the Northern Ireland Assembly as an MLA for South Belfast in May 2016 and again in March 2017.

Clare has a BA in Politics with Cultural and Media Studies from Queen's University Belfast, where she was elected Mature Students' Officer.

Clare was the driving force behind Green Party NI becoming a pro-choice party. Whilst individuals within the party had been pro-

choice for some time, this was a brave step, marking the Green Party NI out as the first pro-choice party within the Northern Ireland Assembly. She continues to volunteer as a Marie Stopes escort and to be a prominent advocate for abortion law reform.



GAVIN BOYD

Gavin Boyd is the Policy and Advocacy Manager for The Rainbow Project. He has 10 years' experience of research and policy development.

After studying Law at Queen's University Belfast, he worked in the Northern Ireland Assembly as an advisor to Dolores Kelly MLA, before joining The Rainbow Project in 2010.

First employed by The Rainbow Project as an Education Equality Officer, Gavin has delivered training to over 2000 teachers in 40 schools across Northern Ireland on homophobic and

transphobic bullying. Appointed to the position of Policy and Advocacy Manager in 2014, Gavin now works on a range of areas, encompassing employment, justice, policing, equality, human rights, local government, education and health.



SEÁN BRADY

Seán Brady is an organiser with PPR, providing support to the campaigning families behind Equality Can't Wait - Build Homes Now and to the sick, disabled and unemployed activists driving the Right to Work; Right to Welfare campaign.



DOMINIC BRYAN

Dr Dominic Bryan is a Reader in Social Anthropology at Queen's University Belfast. Research interests include political rituals, symbols, commemoration, public space and identity in Northern Ireland. He is author of *Orange Parades: The Politics of Ritual Tradition and Control*.

He has been principle investigator on major ESRC funded projects exploring symbols and political change in Northern Ireland.

In 2014, he was co-author of *The Flag Dispute: Anatomy of a Protest* and recently was co-

author of *Flags: Towards a New Understanding*. Dominic is also the Chair of Diversity Challenges and co-Chair of the Commission on Flags Identity, Culture and Tradition.



PAT CONWAY

Pat Conway has recently begun working as an Advocacy Worker with Relatives for Justice. Previously he worked in London and Belfast as a social worker. Working with the Northern Ireland Association for the Care and Resettlement of Offenders on a wide range of projects, he oversaw the planning, commissioning and delivery of the Challenge Hate Crime project.

This three year piece of action research developed a model of addressing behaviours with perpetrators of hate crime as well as

examining the response to hate crime by the criminal justice system and by political parties. The issue of sectarianism was also examined. Previously, Pat has also served as a board member for Healing Through Remembering and CAJ.



PATRICK CORRIGAN

Patrick Corrigan is Northern Ireland Programme Director and Head of Nations & Regions at Amnesty International UK. He contributed to the AIUK publication (June 2017), Tackling hate crime in the UK. He co-founded and jointly manages the Love Equality campaign for civil marriage equality in Northern Ireland, and is a Director of the Human Rights Consortium.



ELAINE CRORY

Elaine Crory is a part-time politics and history lecturer and an activist with various feminist organisations. She has been director of Hollaback! Belfast, an anti-street harassment organisation, since 2015.



CHRISTINE DAVIS

Christine Davis worked as a full time volunteer in Springfarm for over 10 years where she was involved in supporting Springfarm to become one of the first community led self-declared Shared Neighbourhoods.

Christine joined the Housing Executive in 2008 as a Cohesion Advisor for the Shared Neighbourhood Programme, of which Springfarm was the flagship project. She has worked in the cohesion unit since joining the organization and is currently the Assistant Neighbourhood and Cohesion Manager.



DESSIE DONNELLY

Dessie Donnelly is Co-Director (Development) of Participation and the Practice of Rights (PPR).

Dessie has been with PPR since its inception in 2006 as a funded pilot project based in North Belfast. PPR's approach has received commendations from a range of United Nations bodies and now organises to build power with people experiencing inequality across Ireland and in Scotland. Prior to joining PPR, Dessie was an organiser in the trade union movement. He worked for the Service Employees International Union (SEIU) in the

USA between 2000 and 2002, and with UNISON in Ireland from 2002 to 2006.



JUDIT GELLÉR

Judit Gellér is a senior lawyer at the European Roma Rights Centre (ERRC), which is a Roma-led international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma.

To achieve legal and social change for Roma, as a qualified lawyer, she has been leading various pieces of litigation and legal advocacy challenging discriminatory practices against Roma, including litigation before domestic and international bodies (such as the European Court of Human Rights and UN Treaty Bodies).

Judit plays a key role in litigating intersecting

forms of discrimination. Judit holds a BA degree in Public Administration from the Corvinus University of Budapest and a Master of Law from the Eotvos Lorand University Budapest.

She studied international human rights law at the University of Leuven and completed a traineeship at the European Court of Human Rights. Judit was a fellow of the Women's Human Rights Training Institute's programme for women's rights lawyers and currently she is pursuing an LLM in Children's Rights.



PAUL GIANNASI

Paul Giannasi is a Police Superintendent working within the Ministry of Justice (MOJ) in the United Kingdom.

He leads the Cross-Government Hate Crime Programme, which brings all sectors of government together to coordinate efforts to improve the response to hate crime from across the criminal justice system.

Paul is the UK National Point of Contact to the Office for Democratic Institutions and Human Rights on hate crime and has worked to share good practice within the OSCE region and

within Africa. Paul is also a member of the Association of Chief Police Officers (ACPO) Hate Crime Group and is coordinating the refresh of the ACPO hate Crime Manual, which will guide all UK police officers and partners.



MARK HAMILTON

Assistant Chief Constable Mark Hamilton started his policing career in 1994, serving in a wide range of posts in Belfast and Armagh.

In July 2013, Mark was promoted to Assistant Chief Constable, Service Improvement Department. In July 2014, Mark took on the role of National Police Chiefs Council, Hate Crime Lead, to promote hate crime standards and awareness across the UK. In March 2015, Mark was appointed as Interim Director of Human Resources. In February 2016, Mark was appointed as the Head of the Legacy and Justice Department.



COLIN HARVEY

Professor Colin Harvey is Professor of Human Rights Law at the School of Law, Queen's University Belfast. He is a member of the Academic Panel at Doughty Street Chambers in London.

In 2011, he was appointed to the Research Excellence Framework 2014 Panel for Law, and to the REF2014 Equality and Diversity Advisory Panel. He served as Head of the Law School at Queen's (2007-2012), as a member of Senate (2010-2012), and as Director of the Human Rights Centre (2005-2008).

He was Professor of Constitutional and Human Rights Law at the University of Leeds from 2000-2005. He has held Visiting Professorships at the London School of Economics, the University of Michigan, and Fordham University. Prof Harvey served on the NI Higher Education Council (2002-2006), and the NIHRC (2005-2011).

Professor Harvey is the General Editor of Human Rights Law in Perspective, and is the on editorial boards of the International Journal of Refugee Law, Human Rights Law Review, European Human Rights Law Review, and NI Legal Quarterly. He has written extensively on human rights and constitutionalism.



DANIEL HOLDER

Daniel Holder has been employed as the Deputy Director of the Committee on the Administration of Justice (CAJ) since 2011 and is currently Co-Convener of the Equality Coalition.

Prior to this, he worked in the policy team of the Northern Ireland Human Rights Commission (NIHRC) for five years, and before that led a migrant worker equality project run by the South Tyrone Empowerment Programme (STEP) and Dungannon Council.

He previously worked in Havana, Cuba, as a language professional for the University of Havana; the press agency, Prensa Latina; and Cuba's national broadcaster, ICRT. He has a primary degree in Spanish and Sociology, as well an LLM in Human Rights Law, both from Queen's University Belfast.



PAUL JORDAN

Paul Jordan first joined the Community Relations Council in 1998 and is currently the Director of the Funding & Development Programme.

Paul is responsible for developing and implementing the Council's policies and practices in relation to the provision of funding for community relations work.

He oversees a number of funding interventions such as the Core Funding Programme and the Community Relations/Cultural Diversity Programme. The former provides regional

funding to build and support good community relationships. The Community Relations/Cultural Diversity Programme helps community/voluntary groups throughout Northern Ireland develop their capacity to engage in community relations work and to enhance the community relations potential of projects they undertake.

Paul also oversees the North Belfast Strategic Good Relations Programme in partnership with The Executive Office. Prior to joining the CRC, Paul was a full-time youth worker and was responsible for the design and delivery of a wide range of peace-building programmes.



RACHEL KILLEAN

Dr Rachel Killean is a Lecturer based within the School of Law at Queen's University Belfast. She is Deputy Director of the Human Rights Centre and a Fellow in the Senator George J. Mitchell Institute for Global Peace, Security and Justice.

She teaches human rights law, the law of evidence, criminology, and transitional justice. Her research focuses on responses to victimisation, with a particular focus on sexual and gender based violence, and incidences of mass atrocity.



JON-MIRENA LANDA

Professor Jon-Mirena Landa is currently Full Professor of Criminal Law at the University of the Basque Country (Euskadi, Spain) and Director of the Chair for Human Rights and Public Authorities at the same University.

His principal lines of research deal with racism, xenophobia and discrimination, as well as hate crimes, crimes against humanity, terrorism, and penology.

He has taught at many other academic institutions including the Lauterpatch Centre for International Law at the University of

Cambridge, the University of Munich, and the Ludwig Boltzmann Human Rights Institute in Vienna. He was awarded the Vom Humboldt research fellowship in November 2005.

Prof Landa was Director of the Human Rights Office of the Basque Government (Justice Department) from November 2005 until May 2009. At the moment, he is director of a research team funded by the Spanish government who are analyzing the system of criminal sanctions with a comparative approach and with a special focus upon hate-crimes and terrorism.



ANNA LO

Anna Lo is a former MLA and current Director of the Chinese Welfare Association.

Born in Hong Kong, Anna came to live in Northern Ireland in 1974. Initially, she worked for the BBC in Belfast as a secretary and a freelance contributor for the Chinese Service.

After qualifying in social work at the University of Ulster, she worked in social services and for the charity Barnardo's, before becoming the Director of the Chinese Welfare Association in 1997.

She was elected to the Northern Ireland Assembly in 2007, remaining in politics for almost a decade until retiring in 2016. The Blackstaff Press published her autobiography in October last year.



SOPHIE LONG

Sophie Long is a current PhD Candidate at Queen's University Belfast and the former Director of Communications for the Progressive Unionist Party (PUP).

Her thesis is on *The Politics of Misrecognition: an Insider Analysis of Political Loyalism and its Place in the Peace*. A feminist activist, her research interests are recognition theory, status, public reason, class and political violence.



JEREMY MCBRIDE

Jeremy McBride is a Barrister at Monckton Chambers in London. In addition, he acts as an expert on human rights law for the Council of Europe and various international organisations.

He is a Visiting Professor at the Central European University; a Visiting Lecturer at the University of Oxford; and a member of the Expert Council on NGO Law of the Council of Europe's Conference on INGOs.

He was a Member of the European Union network of experts on fundamental rights

and is a former Member and Chair of the Scientific Committee of the European Union's Fundamental Rights Agency. He co-founded INTERIGHTS (the International Centre for the Legal Protection of Human Rights) and is editor of Butterworths Human Rights Cases.



RAYMOND MCCARTNEY

Raymond McCartney is a Sinn Féin MLA, representing the Foyle constituency, who was first elected to the Assembly in 2004.

Raymond is also chairperson of Coiste na n-Iar Chimí, the umbrella group for organisations who work with political ex-prisoners and their families.



KIERAN MCEVOY

Professor Kieran McEvoy is a Professor of Law and Transitional Justice at the School of Law, Queen's University Belfast.

He is a Fellow of the Academy of Social Sciences and was previously employed in the NGO sector before entering academia in 1995. He has been a visiting professor at New York University, Fordham University, UC Berkeley, Cambridge University and the London School of Economics.

He spent a year as a Fulbright Distinguished Scholar in the Human Rights Program at

Harvard Law School. He has a long history of human rights and conflict transformation activism. He has served as a board member of the Committee on the Administration of Justice (CAJ) for much of the last two decades, as well as being a founding board member of Community Restorative Justice Ireland.

He is also an active member of Healing Through Remembering. His areas of research interest include transitional justice, truth recovery, amnesties, ex-combatants, victims, human rights, the sociology of the legal profession, penology, restorative justice, comparative legal studies, and conflict resolution. He has written or edited six books and over fifty journal articles and scholarly book chapters.

His research has garnered significant international recognition including winning the British Society of Criminology book of the year award, he was named by Arena magazine as one of the UK's top ten 'young intellectuals' for his work on the Northern Ireland peace process.



COLIN MCGRATH

Colin McGrath is the SDLP Education Spokesperson and has been a MLA for South Down since the 2016 election.

Prior to this, he was a councillor for Down District Council, serving as both Chair and Vice-Chair of the council at different points.



PATRICIA MCKEOWN

Patricia McKeown is Regional Secretary of UNISON, the Public Service Union, and one of the most senior trade unionists in Ireland.

She is currently Co-Convenor of the Equality Coalition. She was President of the Irish Congress of Trade Unions (ICTU) from 2007 to 2009, as well as Chairperson of its Northern Committee between 2005 and 2007.

She is former Deputy Chairperson of the Equal Opportunities Commission for Northern Ireland (EOCNI). Patricia is currently an elected member of both the NI Committee

and the Executive Council of ICTU. She has recently been appointed as a worker representative for Ireland on the European Economic and Social Committee (EESC).

Patricia has pioneered a range of partnership initiatives with employers in both the public and private sector, including international initiatives with unions and employers in the USA. Her union, UNISON, is an outstanding champion of programmes on lifelong learning and continuous professional development. It recently pioneered an award-winning jobs project in West Belfast with the Belfast Trust and the West Belfast and Greater Shankill taskforces, which has delivered real jobs in areas of greatest objective need, while developing parallel career opportunities for existing health service workers.



ROBBIE MCVEIGH

Dr Robbie McVeigh is research director with An Dúchán – a partnership providing community based consultancy, evaluation and research services. He has extensive experience of working with statutory and community organisations across Northern Ireland. He has also published extensively with a particular focus on human rights and equality in Northern Ireland.

His work includes theoretical and policy-oriented research as well as primary research with minority ethnic groups and community organisations. Much of his research and

academic work has focused on racism and sectarianism in Ireland, north and south. His publications include *Racism and Anti-racism in Ireland* (with Ronit Lentin, *Beyond the Pale*, 2002) and *After Optimism? Ireland, Racism and Globalisation* (with Ronit Lentin, *Metro Eireann*, 2006). He has extensive experience of working internationally on minority ethnic issues, including commissions from the European Year Against Racism, European Union Monitoring Centre on Racism and Xenophobia, and European Roma Rights Centre.



instructed in the ongoing proceedings to overturn the ban on paying sex-workers, which has put women at risk. He recently helped secure the right of humanist couples to marry in Northern Ireland and, as a member of the UK LGBT Family Law Institute, has worked to make fertility treatments more accessible. Ciaran lectures in public law at Ulster University and is a founding partner of McLernon Moynagh Solicitors based in Belfast and Holywood.

CIARAN MOYNAGH

Ciaran Moynagh is a Solicitor Advocate conducting human rights litigation in Northern Ireland. He has represented clients in a broad range of judicial reviews and civil actions, which have challenged and successfully changed the law in Northern Ireland as it relates to underrepresented and overlooked communities.

He is currently representing a couple on the issue of same-sex marriage.

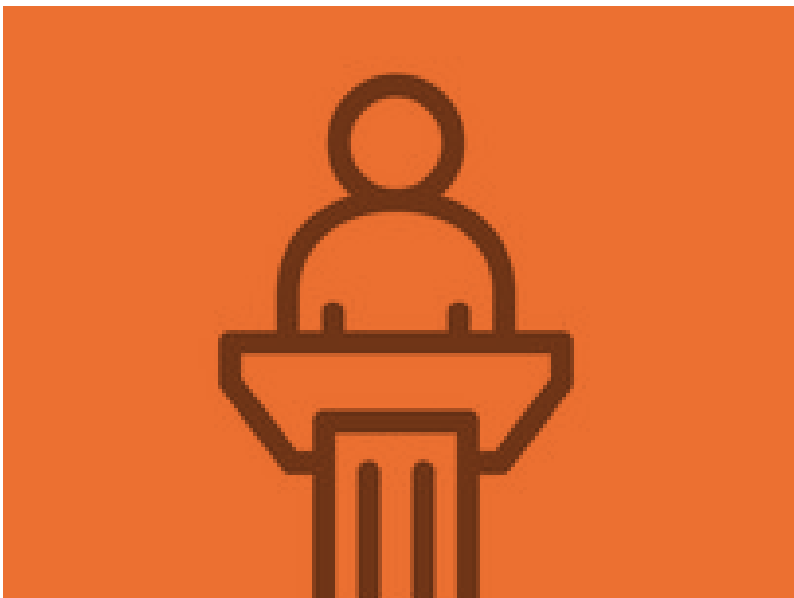
He led the successful judicial review on protecting transgender privacy rights and is

ELLEN MURRAY

Ellen Murray is a Director of SAIL NI, where she coordinates support and services for young transgender people across Northern Ireland.

She is also founder of trans youth charity GenderJam NI, and an expert in the healthcare needs of trans and non-binary people in NI. She is also involved in activism as a disabled woman, with a particular interest in the impact of welfare cuts and disablist attitudes on the human rights and experiences of disabled people.





GAIL NEILL

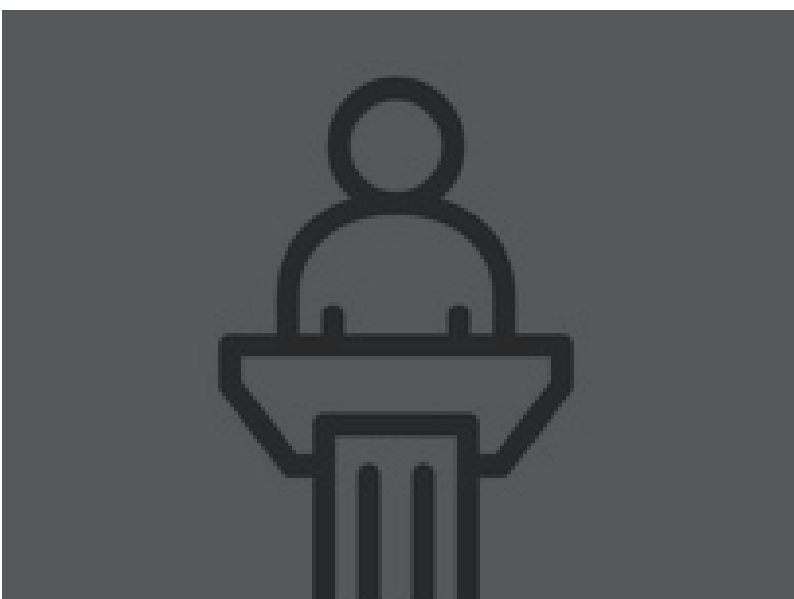
Dr Gail Neill is a Lecturer in Community Youth Work at Ulster University. Prior to academia, she worked for 20 years in the voluntary and community sector, working specifically on personal and development programmes with marginalised groups of young women. While at YouthAction Northern Ireland, she facilitated the 'Out & About' group for 14 years. This programme engaged young LGBTQ women in youth work programmes and campaigning initiatives. Gail's doctorate research explored the experiences of young LGBTQ women growing up and coming out in Northern Ireland.



MIKE NESBITT

Mike Nesbitt is a former broadcast journalist and CEO who has represented Strangford as MLA since 2011.

For a five-year period (2012 to 2017), he was leader of the UUP. He currently chairs the All Party Group on Sport and Recreation.



PAUL NOONAN

Paul Noonan is a Senior Policy Officer with the Equality Commission for Northern Ireland (ECNI). Current areas of responsibility include: racial equality, disability, welfare, and health.

Previous posts held include: Director of Belfast Travellers Education & Development Group and Coordinator of the Northern Ireland Council for Travelling People.



FIDELMA O'HAGAN

Fidelma O'Hagan is the Solicitor with CAJ. She qualified in London where she practised immigration and prison law.

When she returned to Northern Ireland in 1999, she began work as an immigration solicitor in Law Centre (NI) where she specialised in trafficking, refugee and human rights law, as well as being a casework manager. She remained with the Law Centre for 17 years.



TONY O'REILLY

Tony O'Reilly is member of the North West Forum of People with Disabilities Management Committee and is currently a volunteer peer advocate and policy worker with Forum.

He has 30 years' experience working for people with disabilities in both a paid and voluntary capacity.

He previously worked as a Policy Officer with the Equality Commission for Northern Ireland (ECNI) (2003-2015) with primary responsibility for disability matters.

Among his duties was the responsibility to provide secretariat support to the Independent Mechanism for Northern Ireland, which is the joint responsibility of both ECNI and the Northern Ireland Human Rights Commission (NIHRC) and monitors the implementation of the UN Convention on the Rights of Persons with Disabilities by the government in Northern Ireland.



SINEAD SIMPSON

Sinead Simpson is Head of the Crime and Community Safety Branch at the Department of Justice. Sinead joined the Civil Service in 1992.

Since then, she has held a range of policy, legislative, project management and operational posts in the Northern Ireland Office (NIO) and DoJ, including seven years on secondment to the Northern Ireland Policing Board, and three years with the Prisoner Ombudsman for Northern Ireland.

Sinead joined DoJ's Community Safety Division in 2012 and took forward implementation of the first Community Safety Strategy, with particular responsibility for policy issues including hate crime and antisocial behavior. Sinead is also currently supporting the governance and delivery of the draft programme for government indicator to reduce crime, and the harm and vulnerability caused by crime, which has a focus on people and place based approaches.

Sinead joined DoJ's Community Safety



OLA SOBIERAJ

Ola Sobieraj coordinated the Migrant Workers Support Project and Ethnic Minority Support Project within the Cookstown and Western Shores Area Network from 2005 to 2015. Since 2015, she has been involved in training community interpreters and bilingual advocates, as well as facilitating and project managing diversity and intercultural awareness programmes within the private and community sectors.

For the last year, Ola has also been coordinating activities of the Stronger Together Network on behalf of the Stronger Together Consortium.

Stronger Together is an unincorporated network of organisations who work predominantly with culturally and linguistically diverse communities.



CLAIRE SUGDEN

Claire Sugden is an independent MLA, who served as the Minister of Justice in the fourth Northern Ireland Executive.

Further to a CAJ request, she initiated a review of hate crime legislation within the Department of Justice (DoJ) just prior to the collapse of the Northern Ireland Executive in early 2017.



KELLIE TURTLE

Kellie Turtle is the Women's Sector Lobbyist, based at the Women's Resource and Development Agency (WRDA). She is responsible for developing lobbying and campaigning strategies in order to communicate women's views and priorities directly to policy makers and politicians.

Kellie has previously worked as the Education Worker at the Northern Ireland Human Rights Commission (NIHRC) delivering human rights training to the public and voluntary sector, and providing human rights advice to government on policy and legislation. Kellie obtained an

MA in Gender and Society from Queen's University Belfast in 2009 and in the same year co-founded the Belfast Feminist Network, a grassroots community collective of people seeking to facilitate a platform for feminist activism.

PANEL 1:

HARMS AND IMPACTS OF HATE EXPRESSION



Chair: Patricia McKeown, UNISON.

Panel: Gavin Boyd, The Rainbow Project | Ellen Murray, SAIL NI | Ola Sobieraj, Stronger Together Network | Anna Lo, former MLA and Director of Chinese Welfare Association | Dessie Donnelly, PPR | Dr Rachel Killean, Queen's University Belfast



GAVIN BOYD

Policy and Advocacy Manager,
The Rainbow Project

The harm caused to individuals by homophobic incitement often follows a familiar pattern. High-level political discourse can create a climate that then leads to direct acts of homophobic intimidation, denigration or discrimination against the LGBT community.

This behaviour manifests itself in many different ways, such as the presence of homophobic graffiti near someone's home;

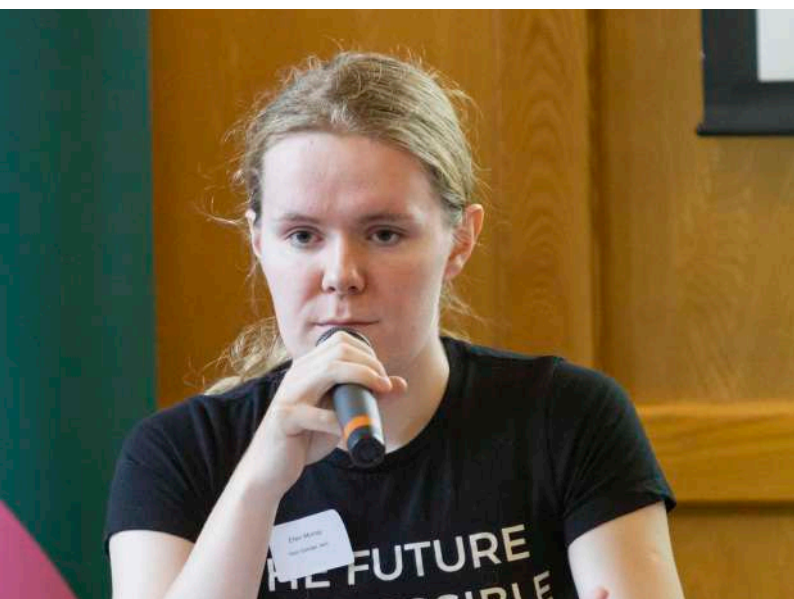
name calling in the street or other places; homophobic bullying in the school setting - a particular problem; or direct acts of violence or intimidation. The harms caused by such acts can be immense and are the backdrop to high levels of anxiety, self-harm, and isolation for LGBT persons.

Often, the negative affects follow a familiar, incremental pattern - a downward spiral. For example, the placing of homophobic graffiti next to a home initially may lead to an individual becoming withdrawn and isolated, not wishing to leave their home. However, over time the anxiety induced by the graffiti can lead to other serious problems, such as self-harm.

Incitement, and the failure to deal with it robustly, undoubtedly makes such incidents more prevalent. There are generally 'spikes' in actions and attacks against LGBT persons on the back of statements by persons in authority that heighten homophobia. This could be the comments of senior politicians, such as DUP representatives, but it could equally be information given out or articulated by schools. The climate in NI is different to anywhere else on these islands, with much higher levels of prejudice and, therefore, much higher potential for harm to be caused to lesbian, gay and bisexual individuals and trans individuals, as perpetrators rarely make a distinction between these groups. The risk of both incitement itself and subsequent incidents is much greater here than in other parts of the UK and Ireland.

There is significant concern about the application of the current law being insufficient. Whilst importantly 'sexual orientation' is a protected group under the current law on stirring up hatred, the threshold for committing an offence is being interpreted too highly in the specific harms context of NI.

In particular, there is concern at the recent attempt to turn incitement to hatred law on its head. Prompted by a complaint from DUP politician Jim Wells, the PSNI launched an investigation earlier this month into a woman who carried a "Fu*k the DUP" banner at the 2017 Pride Parade. Although the organisers had the banner removed given the context of the parade, it is clearly an example of political expression. Neither the DUP, nor any other political party, is a protected group under the legislation and it is clear that no offence has been committed. Activists are entitled to say "Fu*k the DUP".



ELLEN MURRAY

Director, SAIL NI

The impact of transphobic incitement to hatred and associated violence on trans individuals and communities is often profound. Many conversations in public media around trans rights debate our basic abilities to use public facilities and exist in public space, which leads to the perceived legitimisation of acts of hatred towards trans people. When basic public space is unsafe, trans people tend to self-exclude from those conflict zones, which means that many trans people, and especially trans women and those read as transgender

in every area of their lives, experience extreme social isolation due to the degradation of their support networks and social connections. This is accentuated by difficult decisions trans people accessing healthcare services are forced to make. For example, someone undergoing medical transition may be forced by healthcare services to come out and be read as trans everywhere in their lives in order to access hormone pathways. For many, this manifests as a decision between safety or hormones.

There are many intersecting issues affecting trans populations; perpetrators don't always distinguish between homophobia and transphobia, but there is a growing experience of specific transphobia in Northern Ireland as cultural competency and awareness of trans people increases. This is a difficult thing to tackle for a community which is often so institutionally marginalised from support services and pathways to justice.



OLA SOBIERAJ

Coordinator, Stronger Together Network

Attitudes and perceived attitudes towards migrants and other minority groups have undergone a marked change since the Brexit referendum. Accompanying this has been an increase in racially motivated hate crimes, such as racist graffiti and the defacement of property. As a result, many migrants are living with a growing fear they will be attacked or deported. Many are experiencing a diminished feeling of belonging and are taking the result of the EU referendum very personally.

There has also been a noticeable shift in the type of discourse used on factory floors and on our streets. For example, open threats of deportation against migrants and referring to EU citizens as 'illegals'. This discourse can be hard to challenge, especially when it comes disguised as 'harmless' teasing or jokes. In the run up to the UEFA Euro Cup 2016, such derogatory comments were often hidden in plain sight within the context of football banter.

With the media and word of mouth acting as if the UK has already left the EU, insecurity and confusion regarding current rights and entitlements is growing. Some employers and landlords are already requiring work permits and visas from EU nationals. Worryingly, the 'hostile environment' policy originated by the UK government in 2012 has filtered down to service providers, employers and landlords. Meanwhile, the language of 'deportation', of sending people 'back home', has become part of everyday discourse, especially in conflict situations.



ANNA LO

Former MLA and Director of Chinese Welfare Association

When I first started to work with members of the Chinese Community in the 1980s, I was surprised to see the acceptance of the level of racism against them from within the community itself. The frequent harassment - the taunting, graffiti, attacks on their properties - and the lack of police prosecution had made many of them feel powerless. I remember when I first spoke out in the media regarding racism, I was told by some elders in the Chinese community to keep quiet.

They worried that it might bring more trouble to them and many were resigned to keeping their heads down.

They said that of course they faced racism because they lived in someone else's country and they were second class citizens. That climate of intimidation might have changed somewhat for the Chinese community as they are now into their third generation, but it is still apparent in the newer migrant communities.

Incitement to hatred against ethnic minorities causes fear, anger and alienation in those communities. In some cases, it could lead to serious consequences. In 2004, the Chinese Welfare Association wanted to purchase an old mill in Donegal Pass in South Belfast to turn it into a Chinese community centre. We applied for planning permission to renovate the old building and proceeded to consult the local community. Then a storm of opposition came from some residents, who said that they didn't want the street to be turned into a 'Chinatown'. A public meeting organised by the local community association was held, during which racist comments were made without much challenge.

Tensions were raised and a racist pamphlet entitled "Yellow Invasion - who's 'Pass' is it?" was widely circulated in the area. The leaflet stated and I quote, "The influx of yellow people into Donegal Pass has done more damage than 35 years of the IRA's recent campaign of republican propaganda and violence waged against the Protestant community of Donegal Pass. It is eroding the Britishness and Ulster Protestant culture and heritage from our area - more than the IRA could have ever hoped to do..." and so on. The effect of all of this was to create fear in the Chinese community and incite hostility in the local Protestant community. Some local Chinese businesses and residents became nervous and worried about reprisals against them and therefore wanted CWA to drop the plan. Then we received a threat that the local paramilitary would 'firebomb' the centre if we went ahead. Luckily, Belfast City Council stepped in and offered a vacant site for a new build off the Ormeau Road.

I would like to refer to another example and that's the episode involving Pastor McConnell. In 2014, there was an escalation in attacks on immigrants. On average two to three incidents were being reported daily to the police, though this was not the full picture as some didn't contact the PSNI. It was a worrying new trend as incidents were not just confined to South Belfast, it was occurring across the city. Also, these incidents were not low level harassment but vicious physical attacks on properties and individuals. So much so that Will Kerr, the Assistant Chief Constable commented that racist crimes within certain areas of the city had "a deeply unpleasant taste of a bit of ethnic cleansing" about them.

I was the Chair of the All Party Group on Ethnic Minority Communities at the time and we sought views from the community groups who were involved in promoting community relations on the ground. We were told that with government cutbacks, there were limited resources to continue with such projects. Amidst the rising tension, Pastor James McConnell, in a Sunday sermon, described the Islamic faith as "heathen, satanic and a doctrine spawned in hell". Such comments were echoed by a couple of other church ministers. Similarly, several DUP politicians also expressed public support for the preacher. I was incensed by Peter Robinson, the then First Minister of NI who subsequently spoke in defence of the pastor. He added fuel to the fire by stating that he would only trust Muslims to "go down to the shop" for him and to give him the right change.

Such remarks are demeaning, negatively stereotyping a whole community. It showed his utter ignorance of the diversity of the 4,000 strong Muslim community in NI, who have made significant contributions to many different fields, particularly in the health service.

We saw immediately after those comments several attacks on the Muslim community and people were really frightened. Church leaders and politicians are influential people and their negative comments against a minority could give legitimacy for some local people to target them.

In terms of social media hate messages, I got them from the moment I stood for election in 2007. When I suggested we should take down the tattered flags on lampposts ahead of the Giro d'Italia cycle race, I received a barrage of racist abuse on social networks.

One person posted several pictures showing him holding an imitation machine gun along with my election poster. Clearly, the message was that I should be shot. I was glad that the police took swift action to investigate the online abuse and actually got results, unlike the time of my first election, when they had seemed powerless. A number of people received police verbal cautions and one person was found guilty of breaching the Communications Act and given a suspended sentence.



DESSIE DONNELLY

Co-Director (Development),
Participation and the Practice of
Rights (PPR)

PPR has worked with a broad range of marginalised groups to realise their right to housing. To give just a few examples, we've worked with people living in hostels; with destitute asylum seekers and those in UK Home Office sponsored accommodation; with Irish Travellers in Cork, Galway and South Dublin; and with high rise tenants in Edinburgh. In terms of our work in Belfast, there is one

thing you cannot help but notice when organising among those experiencing homelessness - the overwhelming majority of those affected are from a Catholic and nationalist community background. While they may not be practicing Catholics or even politically active, the experience of their community - and how it has been treated historically by the NI state - continues to impact both their opportunities and outcomes.

Religious inequality in housing is not a revelation. For example, in 2012, during the Girdwood regeneration in North Belfast, the Housing Executive released figures stating that 95% of the new social homes built in north Belfast would have to be targeted at the nationalist community to meet need. In 2017, according to the Housing Executive, this had risen to 96% with nationalist areas requiring 938 additional homes, compared to 38 in unionist areas.

The matter of persisting and entrenched religious inequality in areas like North Belfast has been explicitly raised by the UN Committee on Economic, Social and Cultural Rights (CESCR). The issue was featured in the Committee's concluding observations from their examinations of the UK state in both 2009 and 2016. It was also raised by UN Special Rapporteur on adequate housing in a report published in 2014 after she had undertaken an Official Mission to the UK and visited Belfast. The same year, the matter was raised with the Northern Ireland Executive by the Council of Europe Commissioner for Human Rights. The Equality Commission for Northern Ireland (ECNI), Northern Ireland Human Rights Commission (NIHRC), and Northern Ireland Commissioner for Children & Young People (NICCY) are all on record as calling for this imbalance to be addressed.

It is not as if the matter could not be addressed if the necessary will existed. The Equality Can't Wait residents - who PPR helped establish and support to this day - have documented the available land that exists right across Belfast, as well as the money available to build housing on a significant scale to address both inequality and homelessness. They also worked with Iranian architects Basraav to produce plans for ambitious and sustainable mixed-used developments capable of housing hundreds of families.

Yet, in August of this year, the Hillview site, one of the only remaining windfall sites in North Belfast capable of providing housing on a proportionate scale, was zoned for 'retail-only' development by the Belfast City Council Planning Committee. How did we get here? There have been successive failings by public authorities to implement the core equality provisions of the Good Friday Agreement and Section 75 of the Northern Ireland Act 1998. Not only this, but there has also been a basic failure to even acknowledge that religious inequality persists to this day and is getting worse, despite all of the international interventions by the UN and other bodies. This context is critically important because it influences what is deemed as 'acceptable' treatment by public figures and, in turn, affects how people directly affected by homelessness, who are often disproportionately from the Catholic community, experience public services.

I'd like to briefly outline this context and these failings by public authorities in further detail. The Hillview site is owned by a private developer, who at one point had the site purchased from him by the National Assets Management Agency (NAMA) due to his toxic debt. He managed to recover and subsequently repurchased the site at a seriously reduced price thanks to the Irish tax-payer, who, at the time, were 'tightening their belts' and experiencing surging levels of homelessness and unemployment.

An illegal market is facilitated every Sunday on the Hillview site - the presence of which has been known to Belfast City Council - who regulate markets - since 2012. It is still open to this day. Despite this transparent illegality, during the recent planning application for retail-only development at Hillview, Belfast City Council planning officials cited the presence of the market as evidence of the need for retail on the site. There was no acceptance whatsoever that their planning decision should be shaped and directed by equality requirements or that homelessness had anything to do with their deliberations. Councillor Chris McGimpsey, who supported the retail-only application, made an argument on television that the presence or absence of homes on the site was not what they were asked to consider and therefore the homeless families' objections were groundless. They were wrong.

Of course, no planning application can proceed legitimately to council unless the Northern Ireland Housing Executive (NIHE) has supported it in advance. So what was their view on this matter? Through Freedom of Information (FOI) requests, PPR discovered that in 2014 a housing association wrote to the Chief Executive of NIHE requesting support to build 100 social homes on the Hillview site. The Chief Executive, Mr Clark Bailie, wrote to the housing association stating that any housing in Hillview "[r]equires political and community consensus". However, Section 75 is not about consent.

This response from NIHE has to be taken in a wider context. In 2009, they decided to change how they calculated religious inequality. Prior to this, someone applying for housing would have to designate themselves as Protestant / unionist or Catholic / nationalist. If they did not, NIHE would use a proxy indicator based on the individual's postcode, what school they attended, etc. Other public bodies use or have used similar proxy indicators to determine community background for the purposes of promoting equality and/or promoting integration. One such example is integrated schools.

However, when NIHE decided to change their system, overnight the number of households on the waiting list from a Catholic background dropped from 73% to 57% and a new category of 'unknown' was established. That reduction took place without a single person or a single family being housed. So, essentially, you are monitoring inequality by not monitoring equality - just re-categorising people to make it appear as if the inequality is not as bad.

At around the same time, NIHE also removed the policy of 'ring-fencing' guaranteed units of social housing on a yearly basis for specific groups in society - travellers, rural communities, Catholic households, etc - where there was pronounced inequality to address. When the policy was dropped, we asked how this would impact Section 75 protected categories and the Housing Executive said that if we wanted the information, we would have to pay £33,000. A £33,000 bill to extract information which NIHE would be required to collect if they were discharging their duties. So trying to get the data to see the impact of the policy change was blocked as well.

There were also changes in government policy on housing at this time, originating from within the Department for Social Development (DSD) (now the Department for Communities). In 2012, Nelson McCausland as Minister developed a policy called Housing-Led Regeneration which morphed into Building Successful Communities initiative. Suddenly housing need was being redefined from homelessness to attracting people back into specific communities - and this new definition was purposely being used to re-direct resources away from objective need. As a result of this scheme, Stormont purchased land in a unionist area of north Belfast at a loss to the public purse of over £1 million.

What was the NI Executive doing? In response to the aforementioned Equality Can't Wait campaign, 49 MLAs (including five Executive Ministers) from all political parties except the DUP had pledged to do anything in their power to address persistent housing inequality. After 18 months had elapsed since they made their pledge, PPR submitted an FOI to find out what had been placed on the agenda at Stormont. Not once had any of the supporting Ministers or their parties tabled housing for discussion. Persistent religious inequality in housing may be considered significant enough to warrant three separate UN interventions, but it simply was not a political priority for our own government.

That is our experience of working with public authorities and politicians on housing. How they behave in practice is reflective of the wider context in which all this takes place - and this is important for what we are talking about today.

North Belfast offers us another example. The first North Belfast housing strategy was initiated in the year 2000. At the time, the SDLP in North Belfast called for a strategy to address religious inequality. Meanwhile, Nigel Dodds, the MP for that area, concurrently said to the papers that, "The reality is that ordinary Protestants on the ground have seen the area being run down and neglected over the years, having been forced out by the IRA and Sinn Fein Hitlerite Nazi tactics. What we are now seeing is demands led by nationalist politicians to take away the peace lines - it's a recipe for civil war."

In 2004, the UDA issued a public statement in North Belfast, saying, "We have declared an orange line around all Protestant areas. Whilst we realise that one community is growing faster than the other we cannot allow another garden, another house or another street to be attacked."

Maybe no one is surprised by these statements, which says something in itself, but the important thing to take away from this is the response from public authorities, who are supposed to tackle inequalities. What we have seen from the Hillview site and others is that they are appeasing this type of divisive agenda more and more, and that is why inequality is getting worse.

In 2004, a senior official from the NIHE called Colm McCaughey was interviewed in the Ireland on Sunday newspaper. In this interview, he said, “There are two communities here which require two different solutions. In the Protestant community we have a classic inner city problem of a housing market in decline and an ageing population. The answer here is to renew and reinvent areas by demolishing low standard housing to attract people back.” His advice to Catholics and Nationalists in housing need or homeless in North Belfast? “Become more mobile, moving for example to areas outside of North Belfast.”

Such attitudes and policies may not often be directly or overtly discriminatory, but the impact they have on a mother with four children living in a temporary hostel who goes every day to try to find some sort of solution for her family is unacceptable and creates a climate where the denial of dignity becomes mainstreamed. The tables are turned on them and they can begin to feel that instead of having problems, they are the problem.

It is sobering to note that if all the effort that was put into denying inequality and demonising those in need actually went in to addressing inequality, it wouldn't take long for change to be felt where it is needed most.



DR RACHEL KILLEAN

Lecturer, School of Law, Queen's University Belfast

When I talk today, I'm going to concentrate on incitement to hatred related to gender, not to gender identity. Firstly, because that is my experience. Secondly, there is a distinction drawn within hate speech legislation between 'gender' and 'gender identity' as transphobic hate speech is already considered to be covered within the legislation [whereas, hate speech directed at a particular gender is not]. We know from the Public Order (Northern Ireland) Order 1987, that the offence of

incitement to hatred can fit a number of different patterns of behaviour. This includes threatening, abusive, insulting and aggressive behaviour in the public sphere.

We do not have to go far to find examples of this type of thing directed towards women. We find words such as “bitch”, “slut”, “tramp”, “cunt” that reduce women to animals or their body parts and are used so regularly in private and public that they rarely invite comment. Insulting words can also take the form of victim blaming, re-victimisation, slut shaming, body shaming, sexualised threats, offensive comments on appearance or gender identity, false compliments, and jokes that are designed to humiliate or ridicule.

This type of language and behaviour has similarities with types of words and language directed at groups that are already protected by the incitement to hatred legislation. That similarity arises from the fact that these words and actions contain within them an inference about the inferiority of that person and an inferiority of the group to which that person belongs. This sort of language reinforces and creates a position of inequality and accrues a sense of vulnerability and victimisation within a group.

The 1987 Order also prohibits the use of visual images or signs that are abusive or insulting. To find examples of this, we need look no further than the internet and the readily available array of highly sexualised images of women and the use of derogatory language to describe women and the acts that are being done to them. In 2013, the 'Women, Action and the Media' campaign drew attention to how often social media content promotes violence against women. For instance, images of Rihanna's battered face alongside captions celebrating the actions of the boyfriend who assaulted her (Chris Brown) have been widely shared on social media. That is just one example of many.

These types of images normalise negative attitudes towards women and cause emotional and psychological harm to those who see them. They humiliate and objectify women. They reflect a desire to control or punish women who do not adhere to socially accepted behaviours and serve to remind women of their perceived inferiority.

I also want to draw attention to how violent pornography incites hatred. Studies suggest that repeated exposure to violent pornography can increase the appetite for violent sexual activity and violent actions against women. Similarly, individuals exposed to this type of violent imagery may be more accepting of rape than those who are not. I do not want to over generalise and imply that all pornography causes violence against women or suggest that all people who commit violence against women watch violent pornography. Rather, I want to show that these things are not entirely disconnected from the mistreatment of women. It is more helpful to view these sorts of actions on a continuum, rather than as separate incidences and different types of harm.

The internet has also made it easier to stay anonymous when posting openly misogynistic material and has therefore become a way for misogynists to direct gender hate speech at women in positions of power, including journalists, feminists and others that speak up and draw attention to themselves. Such behaviour relates to a third form of incitement to hatred that is also contained within the 1987 Order – written material that is likely to stir up hatred or induce fear.

We have examples of this with high profile people such as Malala Yousafzai after her attempted assassination and Diane Abbot MP, who has constant hate speech directed at her. An online survey carried out by the Youth Department of the Council of Europe found that 83% for respondents had encountered hate speech online and that women were one of the top targets.

So what harm does this cause? Well, it has a number of harmful results. Firstly, it can create a forum where people can hold particularly violent or hateful views. It can allow people to find support, reassurance and rewards for their views with impunity. In extreme cases, it can incite people to commit serious violence, such as the right wing extremist, Anders Behring Breivik, who murdered 77 people in Norway. In the manifesto he released to justify his actions, he blamed women directly for what he called the harmful feminisation of Europe. He was found to have shared his views online and was inspired by and supported by others who had similar beliefs. Again, my intention is not to oversimplify a complicated situation or to overlook the various actors involved, but such examples do show the potential of incitement to hatred to influence the perpetration of crime.

To finish, it is not simply that hateful words may or may not result in violence. Insults and violent language are the most pervasive means of promoting discriminatory attitudes. Abusive and derogatory language injures the dignity of the person targeted and it reinforces the idea that the group to which they belong is inferior. It also has the harmful result of silencing, marginalising and excluding women from their full participation in society and limiting their freedom of expression.

This is an important point, yet others argue that gender equality considerations should not be allowed to limit freedom of expression by placing restrictions on what can be said about women. However, the Council of Europe has said that while freedom of expression is enshrined in several legally binding human rights instruments, it is not an absolute right.

Instead, it is linked to other rights. Under this view, freedom of expression and equality between women and men are both seen as an integral part of the fundamental rights of a true democracy. They are fundamentally intertwined and freedom of expression cannot be used to intimidate a large part of the population. The Council of Europe further notes in the ECRI General Policy Recommendation N°15 on Combating Hate Speech that we need to combat gender discrimination and sexism, and renounce hate speech on sex, gender and gender identity.



LAUNCH OF EQUALITY COALITION RESEARCH REPORT 'INCITEMENT TO HATRED IN NORTHERN IRELAND'



DR ROBBIE MCVEIGH

Independent Researcher

About five years ago, when the Equality Coalition approached me to look at defining sectarianism in law in Northern Ireland, I noticed 'KAH' – meaning “kill all huns” – was inscribed on the side of a telephone junction box near the UNISON office in North Belfast. It struck me as particularly poignant because Inez McCormack had recently passed away [in January 2013]. Someone like Inez would have been classed as a 'hun' – and yet she had done so much to oppose sectarianism and promote fair employment. Did the person

who wrote KAH really mean for Inez to be killed? Inez who led the broader struggle for equality and who was central to the development of the MacBride principles and to promoting equality for Catholics and nationalists.

I looked recently and the inscription is still there, despite the amount of time that has now passed. It raised a question that cuts to the heart of questions around incitement to hatred. What – if anything – should we do about it? And if we think it shouldn't be there, whose job is it to remove it?

It is an interesting moment to discuss these issues, particularly because I think there are contradictory tendencies going on in the public discourse around this. The recent Trump presidential campaign made racist and inciteful things quite normalised, in a way they were not previously. At the same time, however, you see people, such as Germaine Greer, who a generation ago were regarded as rights activists, being excluded from conversations at universities because of the perceived need for safe spaces. There is a real and genuine tension there. There is a substantive discussion to be had particularly within the human rights community.

Sometimes identifying incitement to hatred can be straightforward – for example when it comes to comments such as “Kill all Xs”. Other times it is not. If a band is playing a tune by The Beach Boys outside a Catholic church in North Belfast, people may hear it as the Famine Song, but the band may say they are playing a harmless tune by a popular band. There is quite a lot of complex reading to be done in this kind of situation. Sometimes it is much more interesting to consider whether something is inciteful or not from a sociological point of view, rather than from a legal viewpoint.

Forty years ago, the American Civil Liberties Union, sister organisation to CAJ in the USA, supported the right of a Nazi party to march in the Chicago suburb of Skokie, where there is a high proportion of Jews and Holocaust survivors. So, at one end of the civil liberties spectrum you get free speech treated as an almost absolute right, while at the other end of the spectrum you have the view that there are and should be strict limits to free speech.

In this regard, we have recourse to international standards. These did not arise simply as a result of what is often characterised as ‘political correctness gone mad’. They came about in response to a certain period of history in which incitement to hatred had led to institutionalised racist violence of the most profound kind and the horrors of the Holocaust. As an example, let’s look at the newspaper, *Der Stürmer*, which was published in Germany from 1923 until the end of World War II. This publication included racist and anti-Semitic content and was institutionalised by the Nazi state. Copies were displayed across towns and villages in prominent red boxes. Whether you agreed with the analysis offered by the paper or not, you couldn’t help but engage with that space. It is this institutionalisation of hate that becomes particularly interesting within a human rights analysis.

At the Nuremberg trials, the editor of the ‘*Der Stürmer*’, Julius Streicher, was convicted of crimes against humanity. Though Streicher hadn’t been involved in other Nazi crimes directly, he was found guilty and executed because of the fact the paper was promoting incitement to hatred.

This crucial moment helped precipitate the development of the swathe of international standards on incitement to hatred that we have today. There are many different mechanisms that can provide us with guidance when looking at what to do about incitement in the Northern Ireland context.

One of the key points I want to make is that incitement to hatred is different from hate crime. I personally think there are big problems with the way hate crime paradigms work here and there is some critique of that in my research report. There has been so much discourse around hate crime in Northern Ireland and yet the legislative basis for it is pretty shaky. However, there is legislation defining incitement to hatred and the stirring up hatred in Northern Ireland. On this, the legislation is quite clear. Not perfect, but clear.

Let me touch upon the historical context. The most notorious free speech act in the history of Northern Ireland was a statement made by Sir Basil Brooke while he was a junior government whip in the NI Parliament (he would later become NI Prime Minister). In 1933, in direct appeal to incitement, he compelled people “to employ good Protestant lads and lassies”.

This is a pretty clear example of why we needed an equality agenda in the Good Friday Agreement, as well as an example of the type of speech we would all hopefully like to leave behind. However, it is not completely unlawful to say that even now. Even though it is incitement to discrimination and there is a clear demand to prohibit it under international standards, this statement would not be covered by the legislation we work within in Northern Ireland and this is a problem.

The situation is less murky when the statement is as blatant as “kill all huns”, “kill all Muslims”, “kill all taigs”, or “kill all Protestants”. It is quite clear and explicit that all of these are examples of incitement to hatred, as defined under the NI legislation and within international standards. It is criminal and it is unlawful.

Then we have the case of Anna Lo, former MLA. In 2014, the slogan “Anna Lo Ate My Dog” was placed on a bonfire, alongside Alliance party election posters bearing her face. There was a personal element to this, but it is a clear case of incitement to hatred on the basis of race as well. On the one level you can read it as a political attack on an individual, an attack on a political party. However, because the slogan also references a racial stereotype, most people would recognise it as incitement to hatred on the basis of race.

The most grotesque example of all has to be the photo, shared online, of a child’s face with “KAT” [Kill all Taigs] written on her forehead in face paint for the 12th of July celebrations.

There was some discussion at the time about how this should be addressed, including a threat of prosecution. It came down to who had put the photo of the child on the website, not who had committed the actual act of writing 'KAT' on the child's face. If any one thing was to sum up how difficult the challenges and contradictions can be in addressing incitement to hatred in Northern Ireland, it is this picture.

Recently, you may have seen the "EU RATS OUT" graffiti spray painted on a wall in Banbridge. This was dealt with, but it shows you how incitement has changed over recent years. It is still there, it is still pervasive, and it is still so normalised. We do not even equate these things to the genocidal imperative.

I move on now to the case of the Ballcraig Bonfire, which led to a prosecution of one young man for inciting racial hatred. This is the most high-profile case of late, but there have been other examples and there have been other prosecutions and other convictions. One thing DoJ need to do in future is triangulate the information gathered by the PSNI and PPS and use this to establish baseline data on what is happening in these cases because a gap exists at present.

The judgment in the Ballycraig Bonfire case generated a lot of public discussion. The act prosecuted was in relation to the racist slogan placed on the bonfire, not the sectarian slogan that was also present. The genocidal sectarian material was not prosecuted. The reason given for this was that the investigation was mostly done by a photographer, who happened to see the person writing the racist statements. While I do think the prosecution was correct with regards to the threshold for incitement to hatred, there were a lot of other things there that should have been prosecuted for at the same time. The bonfire this year was not used to display any slogans inciting hatred, but paramilitary flags were still placed on it. On the positive side, the court case did open up discussion in communities about what was unacceptable to say and what was protected freedom of expression.

When you look at incitement to hatred from the perspective of human rights, especially in reference to examples like the events in Skokie, it is striking how much power is given to the state to censor free speech. This is something we all need to address. There is currently a toleration policy on incitement to hatred in Northern Ireland. There are genuine questions for all of us about what the limits on free speech should be. However, in a broad context, we should be looking towards a zero-toleration approach. And to return to my point of departure, that would see the removal of the 'KAH' graffiti near the UNISON office because of its genocidal imperative.

Conclusions

- Currently, there is effectively a 'toleration policy' towards incitement to hatred in Northern Ireland.
- There are genuine questions for human rights practitioners and the broader community on the limits of 'free speech' and how to define what is not protected freedom of speech.
- NI should move towards a 'zero-toleration approach' to incitement to hatred.
- We need to consider what 'zero-toleration' to incitement to hatred would look like, particularly in terms of legislation, government action and good relations.
- There should continue to be a separation of incitement to hatred from 'hate crime'.

Recommendations

- Ensure the existing legislation on incitement to hatred is enforced more robustly. Any DoJ review of the legislation should establish baseline data on the use of Section 3 of the Public Order (Northern Ireland) Order 1987.
- Reform current legislation, including criminalising incitement to discriminate and extending cover to additional grounds such as gender and (explicitly) gender identity.
- Encourage broader debate / discussion around the limits to 'free speech' in the context of good relations and peacebuilding.



PRESENTATIONS ON LEGAL FRAMEWORKS AND THE EUROPEAN CONTEXT:

- **ANTI-ROMA PARADING AND POLICE INTERVENTION**
THE CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS
Judit Gellér, European Roma Rights Centre
- **EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)**
GENERAL POLICY RECOMMENDATION 15 ON COMBATING HATE SPEECH
Jeremy McBride, Monckton Chambers & ECRI
- **INCITEMENT TO HATRED IN SPAIN**
THE RISK OF POLITICAL CENSORSHIP
Professor Jon-Mirena Landa, University of the Basque Country

ANTI-ROMA PARADING AND POLICE INTERVENTION

THE CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS



JUDIT GELLÉR

Senior Lawyer, European Roma Rights Centre (ERRC)

I'm a Senior Lawyer at the European Roma Rights Centre, which is an international organisation based in Budapest, Hungary. The objective of my presentation is to familiarise you with the work of our organisation, the European Roma Rights Centre (ERRC), and to discuss the case law of the European Court of Human Rights (ECtHR) as it relates to anti-Roma parades and the violence against Roma. First, I would like to say a few words about the organisation I work for.

It is an organisation that has existed for 20 years and our mission is to combat discrimination against Roma and to ensure their equal access to justice and public services, including healthcare and education. Our main area of work is strategic litigation, which is what my role is focused on. The organisation also does research and advocacy, human rights education, and media and communications outreach.

Roma is the biggest minority in Europe. There are about 10-12 million Roma living in Europe. It's not a homogenous group. There are a lot of subgroups that cover most of Europe, though primarily Central and Eastern Europe, with lower numbers found in Western Europe and also in the Western Balkans, which is where we work with Roma.

We aim to support legal cases that will expose and contribute to the elimination of discriminatory structures that prevent Roma from enjoying full equality. Many of the cases we litigate in are heard at the ECtHR in Strasbourg. Most are centred acts of violence against Roma. Some are focused on the state's response to violence orchestrated by private individuals or private groups. Others look directly at violence perpetrated by state actors, like the police or doctors.

I would like to talk about a series of events that happened in Hungary since around 2007. Three particular cases were heard at the Strasbourg Court:

- 1** Vona v Hungary, which was about the dissolution of an association that was involved anti-Roma rallies and paramilitary parading in Roma neighbourhoods.
- 2** R.B. v Hungary, which was about the harassment of a Romani woman by a paramilitary group member, also through some anti-Roma parading and patrolling.
- 3** Király and Dömötör v Hungary, which, again, was centred on instances of anti-Roma parading and involved the failure of the police to protect two Romani individuals who were exposed to these abuses.

In the first two cases, in Vona v Hungary and RB v Hungary, my organisation, the ERRC, intervened as a third party as per ECtHR procedure. A third party intervention basically means you provide additional information relevant to the case, which shows the broader context and provides some comparative law analysis for the court to consider in making its judgment.

In each of these cases, several rights were engaged that are protected under the European Convention of Human Rights (ECHR). These were specifically: Article 10, freedom of expression; Article 11, freedom of assembly and association; Article 8, the right to respect for private life and family life; Article 3, inhuman and degrading treatment; and Article 17, which is the prohibition of the abuse of rights under the Convention.

I will just move right to the case Vona v Hungary. The judgment in this case was delivered in 2013, but the events took place in 2007 and 2008. This case concerned a far right paramilitary association, known as the Hungarian Guard Association, that was funded by a Hungarian extreme right party, which is still in the parliament today [the Movement for a Better Hungary or Jobbik]. Soon after its formation, the Hungarian Guard Association founded the Hungarian Guard Movement. The Movement's aim was to defend Hungary physically, spiritually and intellectually, which meant their aim, basically, was to defend Hungarians from Roma and so-called gypsy criminality. They attempted to achieve this aim by holding paramilitary rallies in towns densely populated with Roma.

They held these demonstrations throughout Hungary in many towns. Members dressed up in uniforms and bore armbands similar to those worn during the Second World War by members of the Arrow Cross party - a right wing group who were responsible for the extermination of Roma from Hungary together with the Jewish community. Essentially, the rallies were held to intimidate Roma and, ostensibly, to bring law and order to these towns and to protect the Hungarians.

At one of these rallies, the state authorities refused the demonstrators permission to enter a Roma neighbourhood. The public prosecutor also sought court action to dissolve the Association because he viewed the paramilitary marching as an abuse of the right of freedom of assembly and association since these activities were breaching the rights of Roma.

Additionally, the type of uniform the demonstrators were wearing was banned and their style of marching was seen as capable of threatening Roma people. There were other legal issues involved, like how the different legal entities, the Association and the Movement, are connected. The end result was that the authorities dissolved the Hungarian Guard Association because of the activities of the Hungarian Guard Movement, which were deemed to be violating the rights of the Roma minority. This decision was upheld by the regional court and then, in December 2009, by the Supreme Court, at which point the judgment became final.

In response, Gábor Vona, who was the chair of the Association, the Movement and the far right party funding it, turned to the European Court of Human Rights and claimed that his ECHR Article 11 right to association had been violated because of the dissolution of the Association. In return, the Hungarian government argued that there was no interference with his Article 11 rights because the law allowed for the dissolution of associations that were committing an offence or where the activities were violating the rights of others (in this case, the rights of the Roma minority, who had been subjected to paramilitary rituals capable of threatening and intimidating them).

My organisation, the ERRC, intervened in the case and we reminded the court that the freedoms guaranteed under Article 11 of the Convention can be legitimately restricted in order to protect the rights and freedoms of minority communities, such as the Roma. We called attention to the fact that Roma enjoyed special protection under Article 14 of the Convention. We also highlighted the positive obligations, thresholds and guidance provided in international law outside of the Convention.

Tolerance and non-discrimination are among the basic values protected by the ECHR and, above all, the most important thing is consistency with the Convention. We stressed in our intervention that if there is a danger that a policy is going against democratic principle or may imminently aim towards the destruction of democracy then the state does not have to wait for these actions to actually occur, they can intercede beforehand. This is what happened in the Vona case – the Association was dissolved to prevent it from carrying on with its unlawful activities.

In its judgment, the ECtHR agreed with us - agreed with the government - and said that the dissolution was proportionate and there was no violation of Article 11. I think the important thing to emphasise here is that the court looked at the whole context of the case, at the manner in which the rallies were held and at how the captive audience of Roma could not avoid being victim of these abuses. The court considered all these elements and then brought this decision, finding that the authorities reacted in the manner in which they should.

It does not necessarily always work like that. Two similar cases have been heard by the ECtHR since Vona v Hungary: R.B. v Hungary in 2016 and Király and Dömötör v Hungary in 2017. Though these two cases concern the same kind of events as in Vona v Hungary (i.e. paramilitary groups patrolling in Roma communities and Roma are held as a captive audience), they occurred in a different context because the applicants themselves were victims of these rallies and paramilitary marches.

In R.B. v Hungary, ECtHR found that the applicant's Article 8 right to private and family life had been violated due to the failure of the police to adequately investigate allegations that a demonstrator had subjected her to racially motivated abuse. However, the court did not think the Hungarian authorities acted in an unlawful way during the events because "the response of the police to the events as they unfolded was reasonable in the circumstances".

The outcome in Király and Dömötör v Hungary was different. The ECtHR was more firm and followed the arguments previously brought in the Vona case. It said because violence happened during the parade in question, the Hungarian authorities should have intervened. Because if they fail to do so in such instances, it's like the state promoting, legitimising or tolerating such behaviours from extreme right wing paramilitary groups.

[Judith has co-written an article on Vona v Hungary with Dezideriu Gergely, available here: <https://strasbourgobservers.com/2013/08/07/vona-v-hungary-freedom-of-association-and-assembly-can-be-restricted-to-protect-minority-rights/>]

EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

GENERAL POLICY RECOMMENDATION 15 ON COMBATING HATE SPEECH



JEREMY MCBRIDE

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Commission against Racism and
Intolerance (ECRI)

I want to talk about the European Commission against Racism and Intolerance (ECRI) Recommendation No. 15 on combating hate speech. We have already seen from both Judith and Robbie's presentations that there are a range of international standards relating to hate speech and the question might be asked, why yet another one? ECRI, which has

a particular focus in terms of its mandate from the Council of Europe, saw at least three reasons why there was a need for this general policy recommendation.

First of all, ECRI undertakes country monitoring work and the number of incidents of hate speech in the 47 Council of Europe member states seems to be growing, including instances involving the use of electronic communications, which further exacerbates the problem. Secondly, the ECRI is concerned that the existing instruments to tackle hate speech tend to be rather partial, in the sense that they concern either only certain forms of hate speech or only forms of hate speech directed at particular groups. Therefore, even though ECRI's mandate itself does not cover all issues in relation to intolerance, it wanted to create a more comprehensive instrument that could be used by others as well. Thirdly and finally, ECRI wished to develop an instrument not solely concerned with the prohibition of hate speech, but one through which other issues could be addressed. ECRI wanted first of all to identify and address the conditions conducive to hate speech. It wanted to raise public awareness as to the foundation on which hate speech is based. It wanted to encourage steps to counter the use of hate speech. On top of this, it wanted to support those who are targeted by the use of hate speech, while also encouraging those who use hate speech to disabuse it and to move away from the organisations promoting it.

Now, as we have already heard, there is a tension in terms of hate speech and the right to freedom of expression. Although the inevitable starting point for a Council of Europe body like the ECRI is the protection of human rights, the Council of Europe is also concerned with protecting people against intolerance and promoting respect for equality and dignity. These are of equal value and it is important to recognise that freedom of expression is a qualified right. It is not an absolute right. Nonetheless, freedom of expression is important and that's why you have in the ECRI recommendation a fairly graduated approach to dealing with hate speech. The use of criminal sanctions is not the only weapon that the recommendation sees as important for dealing with hate crime. It acknowledges there are other approaches that can be taken. Before resorting to criminal sanctions, it sees the need to undertake research, because we need to know more about what brings about hate speech. We need to raise public awareness of what contributes to it. The recommendation also tries to deal with self-regulation within industries and within governments. It encourages legislatures to join an instrument that works against the use of hate speech in parliaments. Legislatures are also advised to use administrative and other regulated sanctions before even thinking about the question of taking criminal sanctions.

The recommendation differs from our other instruments in that it's much wider in terms of what it sees as hate speech. It's concerned with the advocacy, promotion or incitement of any form of denigration, hatred or vilification, as well as harassment, insult, negative stereotyping, stigmatisation or threats made towards a group based on personal characteristics. Although the recommendation lists a number of these personal characteristics, that list is not seen as exhaustive. For example, gender identity and gender are both explicitly mentioned in the recommendation, but just because something isn't listed does not mean it is excluded.

Though quite a substantial document, in a way the most important part of the recommendation is perhaps the explanatory memorandum, which goes into detail about what steps are needed. The recommendation is concerned not only with forms of expression intended to incite acts of violence, intimidation, hostility or discrimination, but also with conduct which can be reasonably expected to have that effect. In other words, it's going beyond the notion that you need intent for something to be hate speech.

The definition of hate expression is very wide and of course includes messages conveyed over electronic media. However, it also includes conduct such as gestures, which are designed to communicate a message or opinion, as well as signs, flags and so on. There is an exception for the use of satire and objective news reporting, but that is in itself qualified by the concern that it should not be taking place in an irresponsible manner. That way, when you have expression that is unnecessarily offensive, advocates discrimination, or involves vexatious or humiliating language, then it would not be seen as being protected.

The recommendation sees hate speech that either incites or has the effect of inciting acts of violence, intimidation, hostility or discrimination as particularly serious, but it is not limited to this and I think it's important to emphasise that fact. We've seen today that there are all sorts of statements that supposedly people are expected to accept, but which should not really be tolerated and should be addressed, even when criminal sanctions would not necessarily be appropriate. This includes all kinds of conduct that promotes hate, vilifies others or uses negative stereotyping. On the other hand, certain forms of hate speech that have the intent to incite violence, or can be reasonably expected to do so, should be tackled through more serious measures, which do have the effect of interfering to an extent with freedom of expression.

The problem with intent is the difficulty of proving it in particular cases. Often you have people saying, "I didn't intend this, I was merely concerned with facts".

Or the person involved may have been using coded language, which disguises that they're trying to promote discrimination. Because of this, the recommendation goes on to look at what might give rise to a reasonable expectation of incitement to violence, etc. It's a question of looking at the range of situations and the context in which the hate speech is actually taking place. Relevant factors may include:

- Existing tensions in society.
- The capacity of the perpetrator to exercise influence. Individuals such as a political leader or a church leader will have more influence on people through the comments they make.
- The nature and strength of the language used. The more you use misinformation and negative stereotyping, the more significant the hate speech will be.
- The specific circumstances in which the remark was made. Was it said in isolation? Or was it something which took place over the long term? If you have a debate on television, for instance, you might need to look at how the comments made related to each other to understand the specific context.
- The medium through which the hate speech was delivered. Was it a live event? Because then there's a risk of those present responding.

So this gives us a much more exacting approach. In your own legislation, there has been some softening around the question of whether intent is required. However, the recommendation goes beyond this and is concerned with a much wider range of circumstances. It's concerned with all personal characteristics that may form the basis on which attacks are taking place against particular people.

The recommendation is not limited to expression in public, but when it comes to the more serious sanctions and the use of the criminal law then it does have to be something which has taken place in public. At the same time, the recommendation is very concerned with the potential for abuse of hate speech legislation. If you look at the experience in some countries to the east of Europe, you will find there that hate speech is used to deal with the people who are critical of official policies and are part of the political opposition. Therefore, this type of political speech is specifically excluded. While there is a need for law enforcement to understand what amounts to hate speech and to take action to deal with it, at the same time, it's important that there is an awareness of when the people involved in the proceedings are political opponents.

That came out I think quite well earlier today in the discussion about the "Fu*K the DUP" banner at the Pride parade [see Dr McVeigh's presentation]. If you look at the implementation of a lot of hate speech legislation, you see that it does seem to be enacted in such a way that those who are supposed to be protected by it are often the ones that are prosecuted. Now that's not empirically demonstrated, but there's certainly an impression to that effect. There is a need to ensure that hate speech legislation is not misused to suppress legitimate criticism.

In conclusion, the ECRI recommendation is quite a substantial document that covers a wide range of activities. It's addressed to governments, but it will only be effectively implemented if governments work with civil society. That's very much the object of the recommendation.

INCITEMENT TO HATRED IN SPAIN

THE RISK OF POLITICAL CENSORSHIP



JON-MIRENA LANDA

Full Professor of Criminal Law,
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In this presentation, I'm going to focus on the risk of political censorship inherent to this kind of legislation, using Spain as an example. The provision related to incitement to hatred in Spain has been defined in a very open way - it means to promote, foster or incite hatred, hostility, discrimination or violence. It is targeted in the sense that the incitement must occur against a group of persons based

on one of a number of stated grounds (racism, sexism...). Originally this included race, ethnicity and national origin, but this was later broadened. In 1995, incitement to hatred was included in the Spanish Criminal Code and since then the scope of the provision has been expanded progressively.

The definition of incitement to hatred is too vague, too open. If we compare it with other jurisdictions, there has not been any effort by the legislature to try to introduce a kind of restrictive requirement. A last reform of this kind of legislation took place in 2015 and the problem has only increased. In fact, we do not have only one offence of incitement to hatred in Spain, but six basic offences, and the maximum penalty could be up to six years imprisonment.

There was a reaction from the juridical stakeholders against the reform in form of a widespread reluctance to make use of this kind of legislation. In technical terms, the interpretation of Spanish judiciary has been to try to apply a standard very similar to the one of the United States of America: i.e. If there isn't clear and present danger, the behaviour at stake will not be criminally relevant. So there has been so far no real effort by the judiciary for trying to enforce incitement to hatred. Instead, there has been a general reluctance to resort to this kind of legislation.

Nevertheless, we have had some convictions, but, as in Northern Ireland, there are very few - not more than two dozen in twenty-something years. For example, one case concerned the uploading of a video that consisted of ways to kill a woman. Four convictions related to incitement against immigrants, in particular one of them through a poem that was published in a local newspaper with very rude wording. Three convictions related to Nazism / the denial of genocide or trivialising Second World War crimes, and so on. There is a quite interesting case of conviction that might be related to ideological background. There was an accident involving a Germanwings aircraft in 2015. A plane was flying from Barcelona to Dusseldorf and the co-pilot of the airplane, who was mentally ill, decided to crash the airplane into the French Alps against the mountainside. He killed the crew and 144 passengers, many of whom were Catalan. Immediately after the crash, there were comments on social media directed against people from Catalonia.

A conviction for incitement to hatred resulted from some tweets spread by a person using, let's say, 'black humour' advocating for more Catalans to be killed. At the time of the accident, the political context was a hot public discussion happening in Spain about independence of Catalonia. So the background to analysing this case and conviction is the political situation between Catalan and the Spanish people. The case, therefore, shows the risk of misusing criminal means in order to interfere in open political and ideological discussion.

Let's compare, in this last part of the speech, incitement to hatred (Article 510 Spanish Criminal Code) with incitement to terrorism (Article 578 SCC), which are pretty similar in some ways. Whereas there have been only a few convictions in twenty-something years for incitement to hatred, there are hundreds of convictions for incitement to terrorism, especially since 2010. It seems that we have double standards at play here. When terrorism is involved, we open the door to convictions, no problem. When it comes to right wing groups, Nazism, fascism, we have problems to enforce the legislation. Probably this links with the past of Spain, the model of transition, and so on and so forth. But nonetheless we are using different standards for very similar instances of incitement across a constellation of cases.

Worryingly, in the last couple of years, there seems to be a trend towards initiating incitement to hatred proceedings in a way that seems to interfere with political discussion. Perhaps instead of explaining it in a theoretical way, I'll give you two examples. One took place in the Basque country, in a small village (Altsasu) where the vast majority of the people are pro-Basque independence and do not want to see police officers there. One night, at four o'clock in the morning, three off-duty police officers were drinking in a pub that's normally visited by leftist nationalists. Some of the patrons recognised the police officers and began some kind of quarrel, a bar brawl. The chief prosecutor in Spain has pressed charges for incitement to hatred against those involved in the incident. Because if you target police officers, they affirm, you are conveying or delivering the message, "Get out of the Basque country", and that's incitement to hatred. At the end of the day, they've been brought to court with counts of terrorism and, in addition to this, incitement to hatred, with maximum penalties of up to 25 years. That is a real, open and controversial case at the moment.

Another very recent example occurred in Catalonia at the time of the independence referendum. The referendum took place on 1 October 2017, but it was prohibited by the Spanish authorities beforehand and the central government in Madrid sent police forces to gather the ballot boxes. Some mayors at the municipalities were in favour of making the referendum possible, but a few were against it. This ignited a kind of political campaign targeted at those few mayors who were not ready to make the referendum. In response, charges were brought against this campaign for incitement to hatred, protecting, in this case, state authorities. My question is whether incitement to hatred should be aimed at protecting only vulnerable minorities or groups according to its original meaning, or if it should be used for the protection of majorities, even for the protection of state authorities. To put it in other words, if we open up too much the scope of this kind of provisions, there is the potential risk that it can then be abused by authorities to crack down upon dissenting groups.

I have a couple of concluding thoughts. Firstly, is it really possible to filter, in an effective way, the constellation of cases that may amount to be the core part against which there could be widespread consensus to apply the provision of incitement to hatred? Further, could we have incitement to hatred legislation stated in a clear way in order to avoid misusing it to interfere in an illegitimate way in the right of freedom of speech? My view, taking into account the experience within the Spanish jurisdiction, would be that we have to promote this kind of legislation but with clear limits. Incitement to hatred, if criminalized, has to be defined in a very precise way, otherwise authoritarian abuse and illegitimate ideological interference could be around the corner.

PANEL 2:

PUBLIC AUTHORITIES' RESPONSE TO THE MORNING SESSION



Chair: Professor Colin Harvey (QUB)

Panel: Sinead Simpson (DoJ) | Paul Giannasi (Ministry of Justice) | Assistant Chief Constable Mark Hamilton (PSNI)



SINEAD SIMPSON

Head of the Crime and Community Safety Branch, Department of Justice (DoJ)

I will speak today about the review of hate crime legislation that our previous Justice Minister, Claire Sugden, committed to progressing. I think today's event and particularly some of the testimonies that we heard this morning in the first session underline why this review is required.

The overarching need for us in the justice system is to deliver a legislative framework that is robust, effective and capable of meeting societal need. I think a lot of the inputs today - and indeed some of the contacts we've had from our colleagues elsewhere in the UK - have shown we're not alone in terms of trying to get the legislation right. From our perspective in justice, it's likely that our review will cover [not just] incitement to hatred but all levels of the hate crime legislation.

In terms of the work we've been doing, we obviously hope to have an Executive in place soon to be able to start the outward facing part of the review. However, in the absence of that, we've been doing some scoping work and we've been having conversations with various parts of the criminal justice system here and in other jurisdictions, including Scotland, where they are looking at similar issues.

But obviously we have a particular context here that very much affects how we should deal with these issues. When we get to the public facing side of the review, we will want to make sure that the terms of reference and how we move forward embrace the needs of many of the people that are here in this room. This event has been a good start and we are grateful to CAJ and partners for starting the conversation and continuing it in an informed way.

In terms of the scope of our review, this will be subject to Ministerial approval. From the work that we have done across the system, engaging with interested parties, we think that it's going to be quite far-reaching. I think, and again, this has been underlined by today, we need to look at the effectiveness of the legislation in protecting the needs of the protected groups. We obviously need to look at whether there is a need for additional groups to be added. I know we have a workshop this afternoon on gender and gender identity, which will be helpful to us. We need to look at the case for specific hate crime offences, an issue that maybe hasn't been mentioned so much this morning. I think we will want our review to look at the usefulness of restorative practices as part of the overall solution. We need to look at the effectiveness of what we have in terms of online hate and incitement. We need to look at whether there's a need for guidance and training for practitioners within the criminal justice system. This is a complex issue and we need to make sure that people within the system are giving an effect to the legislation - including police officers - and that they understand how to operationalise the legislation.

There is a need to make sure what we do is compliant with the European standards, which others have spoken about today. Particularly, we need to look at the incitement laws. Perhaps when Mark [Hamilton] and Paul [Giannasi] speak, they might elaborate on this and some of the difficulties around giving effect to the laws we have currently [see pages 55 and 56 for these presentations]. Finally, in terms of the information that's out there about the cases going through the system, we need to look at how well we communicate what we do.

A review is not going to take place in a vacuum; we have met Dr Dominic Bryan here today as a member of the Flags, Identity, Culture and Tradition Commission and this work is going to be pertinent to the review. We need to have conversations with Ministers around the Executive table. It's going to be a complex review, and I think it will raise issues for the criminal justice system. As the discussion this morning has shown, the legislation does need to be robust, but that's only one part of the solution and there are wider issues that we need to take into account, including the civil sanctions and the role of wider society.

So, in terms of a process, until such time as we have an Assembly and Executive in place, we will continue our scoping work. When we have a new Justice Minister, we will bring the fruits of that labour to them and hopefully agree draft terms of reference. I think it's important to say that they would be draft because we would want to follow the practice that has been used elsewhere in the UK and appoint someone who is legally qualified to head up a review. It is likely they will have views on the terms of reference. I also think many of you in the room would want to be consulted on the terms of reference. I think then, once we get those agreed, it would be a case of the reviewer taking forward that work and then coming back to the Minister and the Northern Ireland Executive with recommendations.

(An independent, judge-led review into hate crime legislation in Northern Ireland was eventually launched by DoJ in June 2019 despite the continued absence of a power sharing government in NI)



PAUL GIANNASI

Head of the Cross-Government
Hate Crime Programme, UK
Ministry of Justice (MOJ)

I am going to outline my experience of being involved in this work and you should see these as my views, not government policy on the area. I have worked on action plans regarding the internet, hate speech and incitement. I want to set out some of the challenges and pick up from some of the things we have heard this morning. I believe one of the challenges is jurisdiction. Prevalence versus

capacity is another area. Even if we put every police officer and every prosecutor onto this, we would not deal with the problem.

When MP Ruth Smeeth was racially abused on television, she had around 25,000 messages sent to her in the next 24 hours that had homophobic, misogynistic and racist abuse. Each of those is a separate offence potentially. These came from all over the world not just the UK. The most vile material is not always the most prosecutable. For me, the difference is between someone with an audience of two million and a hardened Neo Nazi in a darkened room - one will have a much bigger impact on communities, but there is no international consensus on this. I have represented the UK on fora regarding these issues and discussed the European approach and the American model of free speech. Sometimes we are not even talking about the same thing at these meetings. Some states are talking about UN resolution 16/18, which is about religious freedom. Some in the room are talking about the protection of theology, and not the human rights element. I am there talking about the right to live and religious freedom, while others are talking about cartoons, etc. We need to grapple with that and see the distinction.

To summarise, our advice to police officers and the advice to prosecutors [is to look at the context]. We cannot draw a line in the sand and show them where incitement to hatred is. It is 5% what is said and 95% context. You need to look at the individual incident. We concentrate on the framework for independent decision-making. We have a free and independent police and prosecution service, and it needs to remain that way. In incitement cases, prosecution also needs the attorney general's permission.

I will give examples so I can delineate between those three or four areas of hate speech and explain where it may or may not be appropriate to look at criminal remedies. The first category I want to talk about is crimes that are crimes in their own right but are delivered through speech. Crimes such as threats of criminal damage and threats to kill, etc. The speech is not the criminal offence, the damage is. [What if instead] homophobic language is sprayed on a wall of someone's house? The criminal damage is an offence, but the speech on this wall is also a hate speech offence and very damaging. It is about recording this differently going forward.

Sometimes a victim of hate speech might retweet things they have been abused by. Is sharing the same as writing the original material if it is the same words? I would not think that the victim retweeting should be convicted for example.

Some things are offensive, but are probably legal and could be argued as satire. When you read online content without initially looking at who has posted something you might say it is legal. However, when you relook considering the additional context of who has posted the material, you might see it differently as demonising a whole community or religious sect. On one argument, “Islam is evil” is an attack on theology, but then when you look at who wrote this statement, it is really accusing Muslims of all being terrorists.

A Twitter troll admitted he was guilty of a racially motivated crime when he tweeted racist slurs against a black footballer and served a short sentence in prison. This shows us that the court does see the internet as a ‘public space’. We also have material such as when all Muslims are referred to in a derogatory way online when it suits people to demonise them. Yet someone like Mo Farah will be called a ‘British athlete’ by the same people when he wins. We work with charities to educate on internet safety, and have agreements with Facebook and Twitter about their behaviour. Challenging online hatred is in its early days of work.

In July 2015, in North London, a white supremacist group wanted to have a march against the ‘Jewification’ of Europe. They planned a march and called for thousands of people to come using social media. Around 10 days before the march was scheduled, when the police were still considering whether or not to restrict it, an organiser posted about the event to his Facebook page. The material depicted Jews as weeds and referenced Hitler. The police took a statement from the poster and he was remanded in custody. The attorney general agreed to a court appearance and he was sentenced to three months in prison. One in four Jewish people in that area then received a message of reassurance from us through the internet. For a minimal cost of £120, this message was able to reach out to a marginalised community.

The Metropolitan Police put restrictions in place for the march, which took place in Whitehall, not North London, and 19 neo-Nazis were present. Several hundred protesters turned up and a line of police officers stayed between the two groups. [Activities] took place in North London to show solidarity with the Jewish community. For me, this is an example where state, community and laws have come together to send a message because it does not just take one of them. It requires all of us to work together to find solutions.



MARK HAMILTON

Assistant Chief Constable Mark Hamilton, Police Service of Northern Ireland (PSNI)

I am with the Police Service of Northern Ireland (PSNI). I am the UK hate crime lead and I work closely with Paul [Giannasi] [see previous presentation]. Without the benefit of hearing all the speeches this morning, I think the police have got better at addressing hate and hate activity, but we have been unable to operationalise this as effectively as communities want. Incitement to hatred is

not prosecuted widely anywhere in the UK and you have heard from Paul why this is the case. Even within the national hate crime guidance, the threshold is very difficult.

I do not think that Article 9 in the Public Order (Northern Ireland) Order 1987 is sufficient, especially for addressing the growth of hate speech across the globe and, of course, the internet. Hate speech is growing and the latest UK hate crime figures will be published this week. More people are reporting hate than they did previously, but the internet helps people to spread hate faster than ever before. Are there more people sitting around using hate language than before and are they using social media to put it out there? Or has it always been there? I think there is more hate, but this is on a global scale and I am taking in the international context.

Professor Jon-Mirena Landa [see page 51] has described the fine balance between using the incitement to hatred laws, but not having them protect [state actors]. The PSNI has human rights compliant training procedures and the law cannot be in favour of the state - it should be about protecting individuals and vulnerable groups. It should not be protecting groups who do not need protection, such as the police.

The offences that occur, especially in the summer in Northern Ireland, are a problem. For the first time, this last summer, the PSNI Chief Constable challenged the senior team around incitement to hatred laws, hate speech and manifestations of this. This is because for many years we were trying to physically stop the hate between communities and have more of a peace keeping role. However, what we have seen in the last 10/15 years is a de-escalation of physical tension. So, happily, we are at a point where the Chief Constable can stop talking about water cannons and riots, and talk about what are we doing about hate activity and imagery on bonfires.

The importance of today is that we can start talking about finer issues and how to stop racism, sectarianism, misogyny, ableism and homophobia, etc. There needs to be conversations and discussions on panels such as this. I have not seen a country get incitement to hatred 100% right though. It is about the whole criminal justice system - we are not joined up and prevention begs a question. I am not sure we will get an accessible definition of incitement to hatred that will serve everyone in communities. I personally think a better approach is for policing to be active in public order offences and to better address individual activity. The number of successful hate crime cases in England and Wales is high and this has a knock on impact for us all.



PANEL 3: POLITICAL PARTIES



Moderator: Professor Kieran McEvoy (QUB)

Panel: Raymond McCartney MLA (Sinn Féin) | Colin McGrath MLA (SDLP) | Mike Nesbit MLA (UUP) | Clare Bailey MLA (Green Party NI)



RAYMOND MCCARTNEY

MLA, Sinn Féin

Dia dhuit, I am the Justice spokesperson for Sinn Féin. I have sat on the NI Policing Board and the Committee for Justice at Stormont. The particular issue for this [proposed] review on hate crime legislation is to outlaw the most serious forms of hate expression, while at the same time being careful around the threshold of freedom of expression.

I think legislation should bring forward legal certainty on the duties of public bodies and the PSNI with regards to how and when they

can intervene. It should place a duty on public bodies not to support events that may promote any form of hate, whether it is homophobia, misogyny, racism, etc.

I think there is a realisation in the PSNI that there are obvious gaps in the legislative framework. There have been a very low amount of convictions and we do not have all the details of them. For example, do cases come forward that do not meet the threshold? Did those people who were convicted plead guilty? etc. Sinn Féin have said at the Policing Board that they are supportive of legislative change. The PSNI do think the expression of hate threshold is too high. There are issues around the stirring up of hatred - intent is hard to prove and the context is needed.

I think the broad theme and context of the legislation means there needs to be wide consultation and we definitely need to secure an agreed definition of what incitement to hatred is. We do not want a repeat of the lack of definition of sectarianism in law, which meant the PSNI were unable to properly police chanting in sports grounds as there was no agreed definition of what sectarianism was.

There should be an offence punishable by law for when someone is disseminating ideas that are inciting hate on a protected area of equality. Public bodies need not to support or fund events that incite hate. I think it is clear that there are issues such as when the PSNI feels it is problematic to remove election posters from bonfires because it is difficult to prove a hate crime. It would be easier to prove stolen property. There needs to be a clear definition so that the PSNI - or another public body - can act to remove anything that is inciting hate. I think that in many ways on the surface this looks like an easy piece of legislation to take forward, but we need to be mindful of discussion and consultation on this topic. The Department of Justice (DoJ) and Minister need to take forward a precise piece of legislation that can make a difference by consulting with groups such as those here today.



COLIN MCGRATH

MLA, SDLP

I found a quote from Maya Angelou, which I think is relevant for what we face here - "Hate, it has caused a lot of problems in the world, but has not solved one yet". Hate has caused a lot of our problems. If we don't change our ways and approaches, we are doomed to repeat what we have always done. If we ask how we counter incitement to hatred, it is about legislation and reforming what we have.

The threshold is too high. If we only have a few convictions under the legislation, then either society is fine or the legislation is not working and I suspect it is the latter. I welcome the work of Claire Sugden in getting a review of this legislation.

Legislation is not going to be the silver bullet to sort out all our problems. I think the solution is community based and we need to be the leaders and example in communities. We have to do much more to combat hatred in our communities, through community workers, police and the local councils. Everyone has a duty to combat hatred in all of its forms. I started at the Assembly last year, but before that I spent 18 years in youth service. In a youth setting, I would have naturally challenged any racism, homophobia, etc. I would have asked them if they understood the words they were using and how they would make the other person feel. We stop doing this when young people are around 15 and we let adults say whatever they want without challenging it. I think politicians who are in a position where they can challenge such behaviour should. I know from an SDLP perspective our party leader has said he would not meet Donald Trump as he cannot be in a room with someone who promotes hate. Another example is Belfast City Council asking the Lord Mayor to not attend the White House so as not to condone such behaviour.

If we look at what happened in the shared housing development, Cantrell Close, SDLP MLA Claire Hannah was on the ground trying to challenge the sectarian incidents occurring in that area, along with other political parties. This sent out a clear message.

I think that we need to reflect too as politicians on what we have been involved in and I know that there has been issues of yogurts and curry [a phrase used to mock the Irish language], LGBT slurs, and slurs about people of a different religion. We need to do better than that to set a good example. If we look at the community and the sectarianism of bonfires, etc, and online social media, it seems okay to say and do what you want. There seems to be no accountability.

I do not have all the answers. I know there are experts in this room, and this will inform the work we do as politicians. We have to grow a community that accepts others and accepts difference. We must not only change the law, but be the leaders needed in communities.



MIKE NESBITT

MLA, UUP

If we choose to live in a democracy, we will see and hear things we do not like. The question is: Do we want a free for all or do we want to draw a line in the sand saying this far but no further? The secondary questions to this then are: Where do we draw the line in the sand? And, most importantly, why do you draw the line there? If you are having a line it must be based on a principle and it needs to be easily and clearly understood by the majority of people, who will be held to account.

I think what is clear is that the current line does not work. It is not clear and there are very few convictions. We continue then to see unacceptable behaviour, such as political posters on bonfires.

Do I support a review? I do with reservations. As a matter of principle, I do support education over legislation. I do not believe hate is not a natural occurrence. We could with education move to a generation where they would not say some of things people are saying today. I do think that legislation can back this up.

When I took up the UUP leadership in 2012, I was immediately confronted with a crisis; Ken Maginnis, long standing MP and then a Lord at Westminster, went on the Stephen Nolan Show and compared homosexuality with bestiality. I could not accept that and he is no longer in the UUP. Are the current laws or the reformed laws going to take that on board? We need to think of the scope when we draw the new line. We also need to protect freedom of expression where we can.

I would like to draw your attention to something. If Stormont gets up and running again, there will not be a second chamber scrutinising legislation. If we go back with a new Executive, we may not have anyone wanting to form an opposition. We also rely on the media to provide scrutiny and we have not upgraded our legislation on defamation now that the internet exists - I think we are one of the only countries not to have done this. So this makes it much more difficult for journalists and freedom of information and expression gets squeezed. When I was a journalist, I was told, "If in doubt, leave it out." If the media think they will get sued, then it will get left out.

So, I would like us to view this work in that broad context of doing everything we can to protect freedom of speech and freedom of expression, but ruling out those things we quite rightly want to put on the far side of the new line.



CLARE BAILEY

MLA, Green Party NI

Thank you having me today. I have been here all morning and the conversation and information today has been diverse. I agree with Mike Nesbitt [see previous presentation] in that we have to be careful of just using legislation because legislation alone is not a panacea. However, it does send a clear message about what will not be tolerated.

I want to mention two pieces of legislation to demonstrate what I have just said about legislation not being a panacea. Abortion

legislation in Northern Ireland does not restrict women from getting abortions, yet they cannot. Rape, murder and violence against women, we have legislation on all of this, but it still keeps happening. It is societal change that is also needed to be effective and to get the results we want.

Although when we talk about hate crimes we often think about sectarianism, it is not our only problem. Nonetheless, it is a huge one that we still have not been able to deal with. This summer alone in South Belfast we saw a huge outpouring of sectarianism. For example, at the Sandy Row Bonfire. This bonfire got bigger and more dangerous and was too close to a high-rise block of apartments. Thirty homes were damaged by the fire, against the health and safety advice from the Northern Ireland Fire and Rescue Service, and yet nothing was done to move it.

Cantrell Close has also been mentioned [see Colin McGrath's prior presentation in this section]. It is a stark reminder as to how we deal with sectarianism. Cantrell Close was built as a shared housing neighbourhood under the Together: Building a United Community strategy. Nowhere in that document does it mention how to deal with flags and sectarian intimidation. There were no explicit measures for any statutory authority - including the NI Housing Executive or the police - to take any action at Cantrell Close.

We need to look at the political failures. We need to take responsibility as political parties here and also worldwide with President Trump, the uprising of the far right in France, and the political issues in Catalonia. When we create political vacuums in NI like we have now, not working together as we should, and when political parties band together against a group of people in society, all this creates the insecurity that drives the hate. We can talk about legislation, the failure to prosecute, and the failure of the PSNI to take action, but if we don't provide leadership to create a better society then we as politicians must take responsibility for that.

WORKSHOP 1:

A FRESH START FOR PARADES, FLAGS, IDENTITY, CULTURE AND TRADITION - FACTORING IN COUNTERING HATE EXPRESSION AND THE RIGHTS OF OTHERS?



Chair: Colin Harvey (QUB)

Panel: Dr Dominic Bryan (QUB) | Sophie Long (QUB) | Pat Conway (Relatives for Justice) | Christine Davis (NIHE)

INTRODUCTION

The December 2014 Stormont House Agreement (SHA) provided for the establishment of a 15 member Commission on Flags, Identity, Culture and Tradition with a remit of producing - within 18 months - a report on “flags and emblems and, as required, broader issues of identity, culture and tradition”. Following on from the publication of A Fresh Start: the Stormont Agreement and Implementation Plan, the commission was appointed in June 2016. The SHA also proposed looking at legislative options on remaining key issues for parading, with a focus on “proper regard for fundamental rights protected by the ECHR”. This was reaffirmed in the Fresh Start agreement, which referred to the preparation of a discussion paper for the NI Executive. This workshop examined how both of these SHA initiatives should take into account ECHR ‘rights of others’ considerations, including the countering of hate expression.

DR DOMINIC BRYAN

Reader in Social Anthropology, Queen’s University Belfast & Joint Chair, Commission for Flags, Emblems, Culture and Tradition (FICT)

This event is extremely useful for our work - I’ve been listening and taking notes intently. The way the Commission for Flags, Emblems, Culture and Tradition (FICT) works is that we are not a commission, as it were, of ‘experts’ set up to solve a problem - although I suppose I am, for want of a better word, a flag expert.

Rather, we were set up with all the political parties involved and are trying to move to some position of consensus, ideally within the next two months

The commission was asked to:

- 1** Identify and acknowledge opportunities presented by having a rich community in which cultural expression is celebrated;
- 2** Consult with new and established elements of our community to identify commonality, as well as difference;
- 3** Consult with the UK and Irish governments as appropriate;
- 4** Encourage shared learning, active listening and understanding in a meaningful way across traditional boundaries;
- 5** Scope the range, extent and nature of issues relating to flags, identity, culture, and tradition;
- 6** Map benefits and opportunities in terms of flags and related issues, whilst also highlighting challenges that remain;
- 7** Produce a report on recommendations for the way forward.

You'll note this doesn't mention who to produce the report for and, since we have no NI Executive, it is not clear at the moment. The key bit, if you like, is what do we want to contribute to develop:

- A)** A community where cultural expression is celebrated and embraced;
- B)** An open, tolerant, mutually resourceful and respectful society, which seeks to increase and deepen understanding of different cultural identities;
- C)** A shared identity that relies on its mutual independences and seeks to develop areas of common value.

Part of what we have to do is think about the nature of our shared identity, which is quite an interesting and challenging thing to consider. We need to improve the approach to dealing with contested displays of expressions of identity, maximise opportunities to achieve significant reductions in the manifestations of hate crime, encourage constructive debate around where challenges remain, maximise opportunities, and benefit freedom of expression.

We have been meeting with different sectors of society and engaging in numerous ad-hoc meetings. We estimate we've met with around 700 people from around 150 groups, and we've received submissions from a range of groups.

Northern Ireland has been through a particular history with high levels of violence, which means we are the sort of society that is more divided in certain key respects, which we've been talking about today. Does that make a difference to the context of how we define incitement to hatred? I think probably we are more permissive than most societies. I am not sure if that is a reflection of our divisions, that we feel like we need to be more permissive. Should we potentially be more heavy handed on hate? I think this is an interesting question.

The lack of intervention is sometimes astounding, as is the almost paralysis of agencies over these issues. The state has to go to extraordinary levels to avoid potentially igniting community tensions. This causes a near paralysis. One of the things the FICT commission has been thinking about is whether there is a way we can restructure how the state works, which means that this paralysis isn't there.

I'm always astounded by how the different groups you meet are very good at seeing incitement to hatred by the other group. When you point out some of the stuff that their own group might do, they sort of go, "Ah well, I hadn't noticed that before." I'm hopeful we will achieve a set of principles setting out how we all should behave in a public space, which is agreed by political parties and by the people here. Through that, maybe our political parties will look, in terms of leadership, at how they deal with key symbolic issues. Despite everything, freedom of expression is very important. It is the tool that undermines the powerful, as well as the powerless. So, in doing this, let's not abandon freedom of expression.

A difficult task is having to balance the issues related to our 'two communities' against those experienced by the many different minorities that exist in our society. Trying to produce something that listens to minorities while still meeting the needs of the two main traditions has been tough. Additionally, the environment in which we are producing this work has been impacted by the lack of local government. I fear that without some leadership there it will be too difficult for our report to prosper.

SOPHIE LONG

PhD Candidate, Queen's University Belfast

My PhD research tried to address the argument advanced by loyalists that their culture is disrespected. What I tried to find out from them was: Who do you want the respect of? And why do you want that? For loyalists - and we saw this with the Orange Order during the 12th of July celebrations - the fact that nationalists get upset with them is actually quite pleasing. They don't want the respect of nationalists or Irish republicans. On the other hand, the Orange Order got upset when the British mainstream media began critiquing them about their conduct during the parading season because of the DUP's new, more visible position with the Conservative Party. So, when people ask for respect, you should always ask who they want it from. By doing so, you can find out who they grant authority to. That's what I tried to investigate through my research. It was a three-year project, including a two-year ethnographic study when I was in the PUP. I gathered a lot of very rich data.

I will now give an overview of my findings and I will include some quotes from my participants, who were all PUP members. Perhaps depressingly, progressive loyalists, for the most part, wanted the esteem and social approval of parties such as the DUP. That was what was important to them. Now, that didn't mean that they wanted unionist unity; they were very clear to point out that they joined the PUP because they had a different political ethos and different policies from the DUP and UUP. However, they still wanted their esteem. They wanted recognition of some kind.

In response, I said, if you want recognition, it's either for a contribution you've made or it's for your identity and who you are. You might want recognition for being a good guitar player, or a kind person, for example. So I asked them what specifically they wished to be recognised for.

One of the answers was that they wanted esteem for protecting the Union during the conflict. They wanted recognition for the sacrifices they had made in enacting violence, spending long periods of time in prison, suffering trauma, having their families break down, becoming addicted to different substances, etc. They wanted recognition that they had done that, and that a broader population had benefitted from their violence. One of the quotations was something like: "Well loyalists succeeded in their objectives. The Union is safe, we did win, but nobody thanked us for that."

Interestingly, Aaron Edwards' new book [UVF: Behind the Mask] points out that the Orange Order did privately thank Billy Wright for his violence at Drumcree. They sent a letter saying: "You'll not be forgotten, we'll look after you." So unionism has privately thanked loyalism, but they want public recognition for what they did. They also want some recognition for the fact that they contributed to peace. That they negotiated the ceasefires.

There's a really great quote from David Irvine, where there are a couple of DUP members around a table, and they said at the time, "We're not going to take this deal, we'll go back to war." And David Irvine said, "You'll not go back to war, it was never you at war in the first place. If we go back to war, it will be our sons that lie in jail, that go to their graves, so we'll take this deal". The progressive loyalists who I spoke to were deeply unhappy that unionists hadn't recognised them for their contribution to achieving peace. Part of the respect they were seeking was bound up with this kind of frustration that they fought the war, they fought for the peace, and now they've been cast aside.

Whenever I'm looking at how progressive unionists respond to issues like flags and bonfires and all kinds of things, I'm looking at it in that context. Also, the new context of Northern Ireland, where we have a re-balancing of ethno-sectarian identities. If you happened to be a Protestant for much of the history of Northern Ireland then by default you did okay. It was like being male or being white. No one ever really asked what it meant, you never really had to legitimise it, you just got along okay. And now that's changing, and unionism is having to give an account of itself. That's very difficult. For some unionists, the response has been, "Why should I? It's a good thing to be a unionist. It's a good thing to be in a flute band."

I'll give you a few quotations from my participants. I spoke to the party leader and deputy leader of the PUP, the party chair, councillors, and a group of young PUP members as well. One of the quotations is this, "We're seen as this section of people who are there to be dismissed and be ridiculed, and to be used for whatever purposes. And so it is very difficult for people to take you seriously. Very difficult for people to not only listen to you, but to hear you, and to take on your views. I know in 2012 with the flag dispute, and the flag being restricted in the capital city, it was used probably just as a whole outpouring of other injustices."

This is an argument that Gareth Mulvenna put forward in The Guardian at the time. He said that the events were not just about a flag. They were about a whole other sense of loss. Loss of their place in industry, as we went through deindustrialisation; loss of status, which I've just referred to; and that tempestuous relationship with parties such as the DUP, which, at the start of my thesis, I compared to a personal abusive relationship - like a battered wife returning to a man and hoping that maybe this time it will be different, maybe this time it will work.

One of the younger participants pointed out that some of the satire that takes place in the local media here around the 12th of July could be counted as hate speech. She said, "How can we, with our tiny voices and our platforms on social media, get the point across [and ask], why are you doing this? Why is this okay? Why do you open the paper, read that and snigger? Why screenshot it? Why is it funny? Why can't you look at Nazi propaganda...and Jews [drawn] as rats with the flag on them the same way. Protestants were [drawn] as rats with the flag on them."

[Note: The specific drawing referred to in the last quote is a drawing by a local cartoonist that depicted loyalism as a rat with the Union flag on it.]

I'll give you one more quote. This is a fairly insightful comment from a young guy in Carrickfergus. "Don't get me wrong, I was annoyed when the flag came down and...that was a starting point for me. I started questioning and analysing everything, and I walked through my community and saw it falling to bits, a lot of people unemployed, drinking during the week, drugs. I guess when you have nothing, you cling to symbols for some hope. I think that's what happened to a lot of people."

One of the things that we could do is found in this political theory called the politics of respect. This would require us to consider other people in our deliberations. What that means is to recognise that other people aren't stepping stones to the ends we want to get to, but that they are ends in themselves. For example, for loyalists celebrating the Twelfth, the politics of respect would mean considering nationalists as ends in themselves - i.e. taking into account that burning the Irish Tricolour flag will impact on another person, who is a moral agent, who is your moral equal, who has hopes and aspirations, who is not simply a mode to expressing yourself.

I compared that within my thesis to the IRA campaign for a united Ireland and how this might have gone very differently if they had treated unionists as ends in themselves, and not stepping stones to another point in history. That's what the politics of respect asks us to do. Essentially, it says when you're making decisions that are going to impact somebody else, if you don't take them into account, you're not affording them moral respect. You're dismissing them and saying, "Look, having weighed it all up, I'm quite happy to discount you as long as I can get to where I want to go." If we do wish to develop politics of respect, people must be given this moral respect and it's quite difficult.

Loyalism feels on the margins for two reasons I think - the new Northern Ireland is predicated on being post-violent, so any reminder of violence is unwelcome. It is also predicated on consumer citizens. To access the capital city, you need to be able to consume, you have to have purchasing power. If you come from a community that is associated with being violent or as being working class, you're not welcome as a public reminder of those two things. If we are to actually value all identities, we need to deal with this problem. I think we could. It would require a class analysis of the society we live in and of the conflict, and it would also require an analysis of why the conflict happened and the conditions it fostered, but I think those would be useful things to do.

PAT CONWAY

Advocacy Worker, Relatives for Justice (RFJ)

For those who don't know, RFJ was established in 1991, by relatives of people killed by British soldiers, members of the RUC, and, at that time, by loyalist paramilitary organisations in circumstances where collusion with state forces was suspected. More latterly, I think there is an understanding that the collusion web extends as far as some republican organisations. RFJ aims to provide appropriate therapeutic and developmental based support for the bereaved and injured of the conflict, within a safe environment. It seeks to examine and develop transitional justice and truth recovery mechanisms; assist with individual healing; contribute to positive societal change; and ensure the effective promotion and protection of human rights, social justice, and reconciliation in the context of an emerging participative democracy.

I am going to go straight to examples that pertain to this particular conference.

The first one is in respect of a banner that was put up in honour of Billy Wright in the East Vale estate in Dungannon in 2016. Underneath the picture of Billy Wright, was the quote, "I would look back and say Cappagh was probably my best" – an apparent reference to the UVF murder of three IRA men and a civilian in 1991. Billy Wright, as most people probably know, was a member of the LVF, which previous to that was the UVF, and essentially operated around the East Tyrone, Dungannon and Portadown areas. The banner was pretty sophisticated, not casual. Somebody went to a lot of trouble and spent money to erect it between two lampposts. I think what some people found objectionable about it was that it referred to a particular attack.

The response of the PSNI was, "There's no doubt that this sign would be perceived by some to be offensive, but not by others, and while we are sensitive to the feelings of the victims' families, the PSNI must attempt to achieve balance between the rights of one community over another, and of course must act within the law. We are working with the community in an attempt to resolve this matter and will continue to do so."

Patsy McGlone MLA was vocal over this incident and referenced incitement to hatred laws in his response to it. Speaking on The Nolan Show, he said; "This was a leader of a paramilitary organisation, which inflicted terrible suffering on parts of Tyrone and Armagh. My initial reaction was to feel for the families of those murdered - indeed I have attended funerals of people murdered by Mr King Rat's gang." And he concluded by saying, "I feel that the police response that they have to balance the rights of the community over another - this has nothing to do with rights; this is either right or wrong."

RFJ, after an exercise collecting views of the families that were impacted by the killings, also put out a statement, "The families of those killed at Cappagh have experienced collusive murder, cover up by RUC/PSNI, harassment, attempted imposition of a hierarchy of victimhood, and now further grievous insult to injury by this PSNI move. Not only did the PSNI refuse to accept this act of extreme provocation and hurt constituted a hate crime, they sought to justify their deliberate inaction by stating that those responsible for erecting the banner had the right to celebrate murder, and to offend the bereaved. The PSNI comments were as odious as the intentions of those loyalists who erected the banner."

My next example relates to something that happened about two or three years ago, but came to the boil this summer. Another banner was put up, this time in Moygashel, near Dungannon, depicting Wesley Somerville – a UVF member who was involved in the Miami Showband massacre, which left five dead including himself when the bomb he was trying to plant in a van detonated prematurely. Families of the victims of the massacre called for the removal of the banner. It was eventually stolen off the lamppost. An individual has since been charged by the police for theft of property in relation to the banner's removal.

A residents' group said the banner would be going back up when the police returned it because people want to commemorate what Wesley Somerville did and what happened. A representative from the group said that he personally had family and friends who were killed by the IRA and that he was offended by the IRA murals and commemorative monuments in Dungannon. That is the kind of response from a person who said he represented the views of people in Moygashel.

I have now given two examples of what it's like for families to be confronted with these type of banners and experience that hurt. When you talk to the families and you see the response of people who were very close to the conflict, the view that is often expressed to me is that the important thing is to remember people, but not necessarily to celebrate the actions of those people.

In terms of what's needed going forwards, it seems to me that we do need new legislation on incitement to hatred, which is based directly on international instruments. The implementation of current legislation seems to be very ineffective. We also need strong political leadership, not only by political parties represented here, but also by the British government. We need to remove the ambiguity where at all possible. It's not just a legal problem, but a social and political issue.

Finally, in my view the families we support require acknowledgement of their experiences, particularly by government and political parties, and in the context of truth recovery. I think, politically, there is a significant absence of acknowledgement articulated by the DUP and the TUV particularly. There's no responsibility expressed by either of those parties that they had any culpability, by acts of omission or commission, during the conflict. I think that's something that needs to be addressed before we actually can move on.

CHRISTINE DAVIS

Cohesion Advisor, Northern Ireland Housing Executive (NIHE)

I work in the NIHE Community Cohesion Unit. Most people, when you say Housing Executive, would think social landlord, which we are. We have just under 90,000 properties province-wide. But NI is post-conflict, so we are still dealing with those physical manifestations of segregation: interfaces, murals, flags, etc. Our housing estates are often areas of multiple deprivations. We have huge amounts of single identity estates and very few mixed estates - though we do now have a new programme where we are delivering shared housing. We, in cohesion, try to deal with all these issues and try to make our communities visibly more welcoming.

How we do that is not just about enforcement, but it is also about engagement. It is not about looking at communities as the problem, but treating them as part of the solution. Our approach is to work with communities, engage with communities, and to take a community-led approach to help them move forward. It's a journey and everybody is at different stages in the journey, so it is about recognising this and moving them forward appropriately.

We work across five themes of cohesion: race-relations; communities in transition, interfaces; segregation and integration; and flags, emblems and symbols. When there is something like a contentious mural in a housing estate, we wouldn't go in to try to take it down. We go in thinking, how can we work with the community and support the community? What are the issues of the community? Communities will not talk about things like murals or flags whenever they are living in deprivation - it needs to be a holistic approach, where you are working with the community to get the best outcomes for the community.

You also must work with the community as a whole. All stakeholders have a role to play. Ex-combatants are part of a community, just like older and younger people - everybody needs to be part of the solution. So that's how we have been moving forward with the cohesion strategy. It's about communities that are impacted by multiple types of deprivation.

There is no confidence, there's lack of capacity. It's about taking proactive approaches to build that confidence and capacity to allow people to engage. It's about socialising younger residents into a new set of norms and helping ex-combatants find the opportunity to evolve, to become active citizens where they can be role models for their younger peers.

It is not about enforcement; it is about going in and subtly working with the communities to help them on the journey, because subtle is sustainable. The last people who should see the change are those from within the community. The change should be more visible to those on the outside looking in because that's when it becomes sustainable. When you go out and confront, you meet with resistance. There is a role for enforcement and legislation, but there's a much bigger role for taking a proactive approach to support communities on a journey of what is and what is not acceptable, with clear definitions of what is acceptable. I think when people value themselves, they find it easier to value other people and to engage with other people. It is about community confidence.

I think, going forward, subtle is sustainable and communities need to be part of the solution. It's a twin track approach, enforcement and engagement.

WORKSHOP 2:

COUNTERING INCITEMENT TO HATRED ON GROUNDS OF GENDER - A MISSING CATEGORY



Chair: Patricia McKeown (UNISON)

Panel: Kellie Turtle (WRDA) | Clare Bailey MLA (Green Party NI) | Elaine Croy (Hollaback)

INTRODUCTION

This panel discussed the problems created by the exclusion of gender from the current hate crime legislation and legal framework, and the actions public authorities could take by way of remedy.

The Public Order NI Order 1987 outlawed stirring up hatred and arousing fear. Reflecting ICERD, it covered a number of indicators of ethnicity in NI (including nationality, religion, etc). In 2004, the grounds of sexual orientation and disability were added.

In relation to transphobic expression, usually dealt with under 'gender identity', there has been some read into the legislation. However, gender as a category, and hence the protection of women from misogynistic hate expression, is not covered at all.

Gender is already a protected ground in 'hate speech' laws in a number of other jurisdictions, including South Africa, Canada, Netherlands, France, Chile and some Australian states, and is a referenced ground in the European Commission against Racism and Intolerance (ECRI) General Recommendation (15).

KELLIE TURTLE

Women Sector Lobbyist, Women's Resource and Development Agency
(WRDA)

I would like to start by saying that it is a real shame gender is not dealt with in our current incitement to hatred legislation. When you look at the international standards and you look at General Recommendation (15) from the ECRI, which we heard about this morning [see Jeremy McBride's presentation on page 48], the recommendation lends itself so well to what women experience and have experienced for generations. When you look at some of the wording in the recommendation, it is about protecting people from the idea that they are in some way inferior; it is about tackling language that degenerates or vilifies a person or a group of people – things that women have experienced for generations, which were considered perfectly acceptable behaviours up until quite recently in our history.

I would like to explore the problems our legislative framework creates for women when we try to tackle hate speech against us. This is all part of a wider context of gender neutrality and a lack of understanding - or a lack of willingness to accept - the gendered nature of inequality and the fact that gender inequality exists. Structurally, institutionally, culturally, politically, gender inequality is a real thing that disadvantages women within our society in Northern Ireland.

There have been many advances in gender equality in recent decades. All those advances are wonderful. However, gender inequality that disadvantages women is still a real thing and yet we do not see that reflected in policy. For example, our strategy to tackle domestic and sexual violence is gender neutral. When you speak to colleagues from all around the world, they just cannot believe this is the case as we know that women experience domestic and sexual violence disproportionately. The strategy should have tried to tackle this and address this inequality.

All of this fits into this general lack of understanding of the realities that women face and how they experience inequality, which in turn then feeds into the lack of legal protection that we, as women, have around issues related to hatred. Do we not have these legal protections because of how poorly this society understands gender inequality? Or is it the fact that women get left out of all of this what actually contributes to this lack of progress? I believe it is a little of both.

I personally see a distinction between sexism and misogyny. There can be sexism and sexist attitudes, but it is misogyny that is the same as racism - it is a hatred perpetuated towards women on the basis of them being women. When you look at the prevalence and the acceptability of that in our society, I don't think there has been the same progress made in challenging it as there has been in challenging other types of hate speech that do have protection under law.

Just a couple of weeks ago, the menu board outside of a restaurant on Botanic Avenue had a slogan written on it that was right out of the history books. It said, "You can beat the wife, but you can't beat our deal." What bothered me most about that incident was not the actions of that one person, but the tirade of people who came out afterwards to say, "It was just a joke. Catch yourselves on."

So there is often a general acceptance of that sort of language. I don't think we are going to see a whole lot of progress made until we start having gender recognised under these legal protections. Another problem that this oversight throws up is the practicalities of how you try to tackle hate speech directed towards women when you don't have a framework to work within.

A couple of years ago, I engaged with Belfast City Council over an event they had put on for International Men's Day. In general, I have no issue with events dealing with issues that primarily affect men. However, in this case the organisers were working in partnership with and giving a platform to a group called 'Men's Rights NI'. I had visited the Facebook page for this group and I had read the leader's blog. I saw a post about a video they were going to show at Belfast City Council. It was basically about the denigration of women and promoted damaging stereotypes that women are all liars, that women will try to steal your children off you, that women are all crazy, etc. So I engaged with Belfast City Council to ask that they do not give a platform to the damaging messages of this group. I had to use Section 75(2) - the good relations duty to promote good relations between men and women - and show that giving this group a platform was clearly a breach of that. I had a terrible response from the first person I went to. However, my intervention was then passed further up the chain and Belfast City Council decided to amend the programme. A good result, but I should have been able to use laws around hate speech to achieve it. Without appropriate laws being in place on misogynistic hate speech, we are not going to see a significant change culturally.

My final point follows on from some of what I have already said. I have real concern about the degree of coordinated online hate speech against women. This is not just about men spouting something to their friends on their Facebook page. There is a massive growth of men's rights organisations online. I have no issue with men organising around issues that affect them, but that is not what the majority of the men's rights movement is about - it is actually an anti-women movement. I know I sound like I am anti-men, but the majority of the content promotes a negative characterisation of women and there is a subsection of the men's rights community that are inciting people to rape. There are pick up artists who teach men how to be better at picking up women, but basically they are teaching how to coerce and how to force women into having sex. Our legislation needs to catch up with that as it is a real threat to women.

The growth of the men's rights movement is also linked to the growth of other right-wing movements, such as the alt-right and neo-Nazi groups springing up in the USA. When you look at who these people are, many of them started out in a men's rights group and they still carry those values with them. There has been a lot of really good journalistic analysis of the connection between misogynist hate groups and those groups that morph into neo-Nazi / alt-right groups and incite hatred in towns and cities all over the world. We have an urgent job to do if we want to catch up with these trends.

CLARE BAILEY

MLA, Green Party NI

It is hard to know where to start on this continuum. Women are not a minority – gender is a protected category under the Section 75 equality duty and women make up 51% of our population in Northern Ireland, according to the last census [held in 2011]. Brexit was apparently an overwhelming success because 52% of people voted for it, yet women are still classed as a minority. We are not often seen in positions of power and this needs to be addressed.

Violence against women is one of the most critical issues that we need to address. As a society, we face an overarching threat of gender-based violence. Before I was elected as an MLA, I worked for NEXUS, a counselling organisation that supported victims and survivors of sexual abuse. Their statistics show that one in four people in Northern Ireland 'should expect' to be abused at some point in their life. The male users predominantly were abused as children, but women experienced abuse throughout their lives. Yet we don't speak out very often about that, we do not understand the impact of that, we do not understand how widespread it is.

When you want women to come forward, put their head above the parapet and take up a role in public life, you need to consider what support and networks they might need around them to help them achieve this. A report by the Commissioner for Public Appointments says that since the signing of the Good Friday Agreement (GFA) in 1998, the number of women in public life has dropped. This needs to be looked into. What are we doing to encourage women to come forward? Why was there 35% women in public roles before the GFA, but only around 32% in public roles 20 years later? We have the most female MLAs we have ever had at only one third or 30%. If we don't get women into decision making roles, we are not going to get very far. We need to look at gender quotas as they are a proven mechanism for improving gender imbalance.

There are other places in the UK that are doing so much more than we are in terms of trying to put gender on the agenda. For example, more than a year ago the police in Nottingham introduced gender as a hate crime category. So far, we have heard very positive things about the impact of that policy. Such policies can give women the confidence to come forward, creating the cultural change within institutions so that first responders actually understand what is happening to women at different levels.

When I was first elected to Stormont last year, I asked to be on the Justice Committee. At the time, Claire Sugden was our Justice Minister and that was a first for Northern Ireland [as before only men had held the role]. She was doing some very good work. Soon after she took the job, we started having conversations about additional protections for women. Northern Ireland is the only region in the UK that has no stalking laws, we do not recognise it as a crime and it gets lumped in with harassment and general anti-social behaviours. Again, the impact of this is huge. Stalking is a gender-motivated crime. This is not to say men are not victims as well, but it is a gendered crime that needs to be dealt with in that context. Domestic violence is also not a crime here. Instead, it is lumped in with assault, harassment, GBH and ABH, and each attack will be dealt with as a separate instance. Women's Aid statistics show that 1 in 4 women can expect to experience domestic violence in the home at some stage in their life. It is startling that we have no legislation to deal with these gendered crimes. The Justice Department was starting to work to change this in the last mandate and was moving very fast [until power sharing collapsed].

Once I started speaking out about my own experience with stalking, so many other people did the same, including other female MLAs.

People started to contact me who had never before shared what had happened to them; others were trying to deal with it, but said it wasn't being treated properly by the police. I find it shocking that when you just scratch the surface, when just one person speaks out, we see a whole lot coming out behind them.

In terms of domestic violence policy, we were looking during the last mandate at treating coercive control as a crime, which is what England has moved to, as well as the USA. Making this change would help focus minds and encourage us as a society to look at the cultural and systemic nature of that level of abuse. The Chair of the Justice Committee, when we had people come in to give us evidence, decided we needed to engage with men's rights groups and Men's Aid because this affected men too. There is still this attitude that we cannot bring forward any laws on misogyny without bringing in misandry, although they would not use those words.

We have a patriarchal society, structures, institutions and cultures that actively discriminate against women on the basis of gender. Men are starting off from a better place than women ever will. Once we see movement to rebalance this, we start to see backlash. There is an old saying that says, "First they laugh at you, then they fight you, then you win." We are definitely in the fighting days. We all need to stand together and push for the same things.

ELAINE CRORY

Director, Hollaback

The Hollaback movement originally comes from New York. A woman on a train one day observed a man publicly masturbating and she uploaded a photo of it to a website saying what she saw, where and when. She wanted to publicise that this is what happens on public transport. Within days, she had hundreds of emails from people about men who had taken photos of them, or said something inappropriate, or touched them, etc. She came up with the Hollaback name and created a website where people could share their stories of harassment publicly, as she had done. The movement spread worldwide as it became clear that street harassment is a global problem.

Street harassment is worse and more common in certain areas and cities, and it is an expression of sexism, which very often slides into misogyny. What we often dismiss as just harmless catcalling can be unpleasant sexism but can slide further. Hollaback is campaigning for awareness of all of this, and for laws to cover certain areas of harassment. Hollaback is also doing research and it is from this research that we have a lot of statistics about just how big a problem street harassment is.

Firstly, street harassment exists on a continuum: It can be someone catcalling from a building site or shouting about rape from a car, and everything in between. It qualifies as street harassment when it happens in any public space, like on the street, on public transportation, or in a dark night club. Street harassment is seen often as the softer end of things. When reported in the media, it is frequently laughed off. "Police called over catcalls" was a recent headline. People soften street harassment by referring to it as just catcalling, but it is much, much more than this. Street harassment is catcalling, but it is also following people, it is touching people, and it is public masturbation deliberately in view of someone or on someone. There are also the lesser reported examples of street harassment, such as insulting someone's appearance, 'fatcalling', and 'tatcalling' (commenting on someone's tattoos). Anything that involves observing a woman's appearance and telling her about it counts.

A common defence used is that catcalling is a 'compliment' - why are you complaining if I say you are attractive? It is not a compliment to impose your view of someone else onto them. Besides which, what is said is often not something that could ever be classed as a compliment. It can be predatory and can escalate as far as rape, which is one of the things that make incidents of street harassment impossible to dismiss as harmless. Street harassment also has a massive impact on people.

We have done research into the ages of women targetted by street harassment, worldwide. We asked them to record the age at which they first remembered being publicly harassed in any form. From this, we discovered that the average age is between 11 and 17 years old, peaking at 13, but as young as eight years old. It is at this sort of age that girls start to become more self-conscious. I personally was 13 years old when it first happened to me. I had just started secondary school in my new school uniform, but the man who harassed me was at least in his early 20s. I remember his face like it was yesterday. This is usual, young women and older adult men, and this adds a value of fear to it. No matter what the perpetrators think to themselves, their behaviour comes with an unspoken threat.

In our research, we also asked women to record what impact they thought street harassment had on them. The most obvious impact is that they do not feel safe in public. They carry their keys as a possible weapon, they walk in lightened areas, they get taxis. It was reported just this week that women do not walk as often as men - why is this? It is because they do not feel safe. A taxi to and from your door is a lifeline for some women, but, of course, those too are often not safe. The fear is absorbed at a very young age. You are like that lobster in a pot that is slowly heating up, you almost do not feel it at all, you then become part of this soup. It becomes part of the background noise of your life. You shouldn't go down that street on your own. You shouldn't be out with your group of friends - all of these things are absorbed.

At 11 to 13, young women start to become aware of their appearance and they often become sexualised for the way they dress. Then you see the rape culture - a misunderstood term about the excuses we make as a society to explain some of the horrific things that happen to women. Rape culture is all the excuses that we give to let men off the hook - e.g. Why did she wear that? Why did she drink too much? Why was she alone with that man? It starts at a young age, internally, with thoughts like, "Maybe I should wear jeans and not shorts. Maybe I should be careful of showing my shoulders."

A few years ago, Hollaback did a video - 10 hours of walking in New York. You may have seen it, even if you didn't realise Hollaback made it. The video showed a woman walking in a pair of black jeans, a black t-shirt and a backpack. A man walked in front of her with a camera in his backpack so he could film all the encounters she had with other people. Subtitles were later added to show everything that was said to her by men. Throughout the 10 hours, she was constantly harassed and she dressed the way she did purposely so people could not say, "Oh, but she was wearing a short skirt."

This video told a story about why we need legislation. It showed that if you walk alone as a woman, you are inviting comments, or worse. Some men just started to talk to her, some walked uncomfortably close to her saying things like, "Hey baby, do you want to come for a drink?", etc. Then people put on the glasses of rape culture and say, "He's just offering her a drink? You can't even offer a woman a drink?" But we know - because we have all been there - that this is not what he is doing at all. All of this seeps in to the point where we need to look at whether our laws address street harassment effectively.

For example, in Belgium verbal harassment or any harassment that will cause fear in people is illegal (though these laws are hard to get a conviction under as you need to know who your harasser was. Also, things like flashing wouldn't be covered). Another problem is that many of the behaviours people do as part of street harassment are already in themselves illegal, such as public exposure, but when women experience them on the street, they often do not realise they are the victim of a crime. That is because society tells us this is the behaviour that women should expect.

Much like is the case with domestic violence, it is not enough to just let the law as it is stand. It is not going to tackle the problem. You need to name the issue and tackle it explicitly so that young women grow up knowing that this sort of behaviour in public is not okay and young men grow up understanding street harassment is a crime.

When asked, "Do you ever think it is okay to catcall someone?", 70% of men said it can never be considered okay. This cannot be a true reflection of their perceptions as 100% of women say they have been catcalled and it is not only 30% of men travelling the world catcalling. At some level, they are excusing their behaviour. We need to name street harassment for what it is, and we need to tackle it!

WORKSHOP 3:

FREE RELIGIOUS EXPRESSION AND COUNTERING HOMOPHOBIA - DRAWING THE LINE



Chair: Daniel Holder (CAJ)

Panel: Ciaran Moynagh (McLernon Moynagh Solicitors) | Patrick Corrigan (Amnesty International) | Dr Gail Neil (Ulster University)

INTRODUCTION

This workshop explored where the line should lie between protected manifestations of religious beliefs, homophobic discourse that needs to be discouraged or challenged by public authorities, and homophobic hate expression. Article 9 of the European Convention on Human Rights (ECHR) guarantees freedom of thought, conscience and religion – this in itself is not qualified, persons are entitled to think and hold the religious beliefs as they wish to.

Article 9 also provides for freedom to manifest religion. This is however qualified, in much the same manner as freedom of expression and freedom of assembly are qualified under Articles 10 and 11 ECHR. The manifestation of religion can be subject to proportionate restriction, provided this is no more than is necessary and is set out in the legal framework in pursuit of a number of listed legitimate aims, including the protection of the (ECHR and other human) 'rights of others'. This is particularly relevant in relation to the right of LGBT persons not to face discrimination.

There are a variety of viewpoints within persons of faith in relation to LGBT rights, with some faith groups supporting, for example, marriage equality and others opposing this. Under the previous mandate, the DUP, with some reported support from within the Catholic hierarchy, proposed a 'conscience clause' to amend equality legislation to permit acts of discrimination on grounds of sexual orientation in goods, facilities and services when these acts are undertaken for reasons of any religious belief.

Religious discourse in some instances veers to stating that persons of minority sexual orientation should not exist, that being gay is a 'sin' or even an 'abomination', which can or should be 'cured'. In the case of *Core Issues Trust v Transport for London*, the courts upheld a ban on the former placing adverts on London buses implying persons could be cured from being gay, arguing that the 'rights of others' places limitations on free religious expression. TFL was duty bound to follow a properly defined 'good relations' duty to tackle homophobia, and this in turn meant that the public authority's action in banning the adverts was compatible with the ECHR.

CIARAN MOYNAGH

Solicitor Advocate, McLernon Moynagh Solicitors

I primarily practice criminal and family law defence. On the other side, an increasing body of my work is strategic litigation and public interest litigation, including cases that deal with minority rights. I am in petition for same sex marriage. We're also involved in some abortion issues and immigration matters so I am very interested in incitement to hatred.

In terms of this topic, in my opinion, individuals and groups should be protected from harassment, from pestering and intimidation. Freedom of expression is important, the right everyone has to expression and freedom of speech. However, I think we should look at the consequences of what has been said on the receiver. What harmful outcomes happen to that person? LGBT young people and adults face a context of constantly hearing negative things about themselves, and their sexuality is so intrinsic to their person. Therefore, instead of looking at freedom of speech, I always come from the view that we should consider: was it necessary to say that? And then look at the harm or the potential harm caused.

This morning we have heard a lot about law, legislation, politicians and courts. When dealing with freedom of expression and assessing the limitations of that right, I worry about the courts as they polarise debates. It's an adversarial setup, it removes that safe space for conversations, and the law can be considered a blunt instrument. However, we have to realise that we don't live in a utopia and that people are harmed by speech and that's where limitations come in on freedom of expression.

Freedom of expression is protected under Article 10 in the European Convention on Human Rights (ECHR). The convention is there to maintain and promote the ideas and values of a democratic society. Gouder in the UK in 1975 said the hallmark to that can be summed up in three words: pluralism, tolerance and broad mindedness.

We need to look at Article 10, but I think we leave out Article 8 a lot in this debate, which is the right to private and family life. Article 8 is considered very broadly - it can include workplace, home life and many other things. I think that when you are hearing negative things on homophobia or LGBT persons, their Article 8 right could be somewhat engaged. Finally, Article 17 of the ECHR states that when a person seeks to restrict a human right in the name of another human right, but they are undermining that first human right, this is not allowed. Practically speaking, when it comes to discrimination, I think Lord Justice Laws put it very well in a 2010 case when he said, "The law forbids discriminatory conduct, not by reference to the actors' motives but in reference to the outcome of his or her acts or omissions."

My last two points would be that we do need a creative solution and we do need legislation. However, the solution people often immediately jump to when we seek to sanction incitement to hatred is criminal conviction - i.e. the perpetrators going through police stations, going through court, and getting convicted. I think we need a check on this. For example, we don't want children convicted and prosecuted so we've come up with this great restorative justice programme for young people. I think we need to look at a solution whereby people inciting hatred don't necessarily go through a court system, but instead go through an educational and informative process.

PATRICK CORRIGAN

Northern Ireland Programme Director, Amnesty International

I'm going to offer up a robust defence of freedom of expression or at least caution against placing severe restrictions on freedom of expression through criminal law because of the unintended consequences this can have.

This discussion is about where you draw the line. I found myself drawing the line not that long ago when my attention was drawn to some Facebook posts made by local individuals who were advocating the fire-bombing of the Belfast Islamic Centre. These posts were based on their own religious beliefs but were certainly expressing hatred of a religious group. So, I picked up the phone, first to the Islamic centre, then to the PSNI's hate crime reporting hotline. I reported the posts and the police came out, took a statement and pursued the individuals involved. They were tracked down offline. I think it resulted in a caution in one case and, in another, in the file being sent to the PPS. Now I had no compunction in doing this because I felt it was my moral duty to intervene as the posts had clearly crossed the line and gone beyond the 'casual' racism and the like that you often get on social media.

Pastor James McConnell gave a sermon at the Whitewell Metropolitan Tabernacle, for which he was brought to court [in this sermon, he had referred to Islam as "satanic" and "heathen"]. In his judgment on the case, District Judge [Liam McNally] said, "The courts need to be very careful not to criticise speech which, however contemptible, is no more than offensive. It is not the task of the criminal law to censor offensive utterances." And I agreed with that judgment. Pastor McConnell's remarks were contemptible, the content of that sermon was contemptible and, in fact, attracted widespread criticism. There was ultimately some recognition by Pastor McConnell that his remarks had given offence, leading him to give a partial apology and withdraw some aspects of his remarks. So, in this instance, criticism by a range of individuals led to a process of reflection.

While we do have the right to live lives free from harassment, intimidation and violence, we don't have the right to live lives free from being offended.

Pastor McConnell's comments were offensive, but I would argue that they certainly didn't directly incite intimidation or violence, although I perfectly accept that they may well have contributed to the hostile climate within which the Muslim community in Northern Ireland lives. And we know that this climate of hostility often leads to people crossing the line, not only in threatening violence, but in perpetrating it.

Equally, we sadly regularly see homophobic discourse from political leaders and from religious leaders. We know that homophobia runs deep among many people with deeply held religious beliefs in Northern Ireland. Much of the homophobia we see is an attempt at the NI Assembly to legislate to provide for the lawful discrimination of the LGBT community based on the idea that if you have deeply held religious beliefs, you are entitled to discriminate.

We have seen homophobic comments from Iris Robinson, for instance. It is no surprise that with politics here that we see homophobia in the school playground, but we need to be careful about what remedy we pursue. Amnesty International was founded to defend freedom of expression because of people being locked up simply because of expressing political or religious belief. That is sadly still the bread and butter for Amnesty today around the world. Often prosecutions will be dressed up as being carried out for a legitimate state purpose, for public order, for the protection of morals, or whatever, but it results in people being jailed.

In short, international law has set down various thresholds and tests about necessity and proportionality in relation to incitement to hatred. I think we need to closely follow those and the legislative framework. We also need a moralistic approach on how we respond to these incidents, not always reaching for the criminal law.

I mentioned homophobia in the education system a moment ago. We know that the NI Executive has sat on a report for the last 15 months which showed most LGBT pupils do not feel their schools are a safe environment [this report was given to the then Education Minister, Peter Weir, in March 2016, but not made public until months later]. That is one example of a non-criminal justice set of policy options that our government has. There is much, much more that can be done. A few years ago, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression talked about a strategic response to hate speech that is not just about a punitive approach, but also about changing hearts and minds. There is a line, but we need to be careful where we draw it.

DR GAIL NEILL

Lecturer in Community Youth Work, Ulster University

I have been a youth and community worker in a number of voluntary and community settings for 20 years, and for the last 15 years have worked with LGBT young people. I want to come at this topic from that angle - what it is like to grow up and come out in NI. What are young people hearing with regards to sexuality and religion within NI? What impact has public discourse on them? How are they making sense of that and what recourse do they have?

It is really important to state that the quotes I am giving are from research I conducted in 2015. You may be fooled into thinking the material is from years ago, but it is two years old. We should not underestimate the power of public discourse and the impact it has on young people. One of the young women I spoke to said, "When you think Christian, you think they are never going to accept me. You think they think it is all an abomination or whatever." Another young woman said, "That was horrific comment [sic] when gay people were compared to bestiality."

The negative discourse is part of everyday life and the young people I spoke to were familiar with it and it became part of the narrative that they used to talk about themselves – e.g. “I am not an abomination, I am not sinful.” They began to use the language they were hearing in reference to themselves.

One young woman noted that, “If the largest political party in NI said the things they said you would also think the people who voted for them also thought along similar lines. Those politicians’ views are widely known and they are put in power by the majority of people so if the majority think the same as them you might not want to come out because there is so much negativity going around and people are saying that’s disgusting and that’s gross.”

Young women recognise that some of what they are hearing is not confined to the realm of political parties but so mainstreamed that one said: “It is ingrained within society.” People may try to excuse it when friends or peers say such things. For example, a different young woman said, “There is a girl in halls where I live and she doesn’t take well to you being gay because she is from a similar background to me, extremely catholic, and that is all wrong. So jokingly for about 6 months she called me dirty and disgusting but I knew ... she didn’t actually mean it so I just let it lie.”

Young people recognise the influence religion has on some political parties and that politics and religion are not two separate things Northern Ireland. While this angered some young people, they also saw it as part and parcel of how this country is run. When asked what stopped people from coming out, one young woman said, “Religion. Religion is the biggest one. Unfortunately, the DUP are in power and they are religious zealots. Unfortunately, that is just the way the government is run over here, the churches run things. It shouldn’t be the case.”

Given what they had seen in the media and what they heard their politicians saying, young people started to almost anticipate that their sexuality was going to be a problem, even if this hadn’t yet been their experience. One young woman said, “I think of statistics and stuff because I looked at whole pile of research and I thought, Jesus, I will get bottled if I go out there. I found all this research on NI and how homophobic it was and I guessed that was probably the norm and that being gay was going to be an issue.”

Many felt they had limited avenues through which they could challenge their sexuality with what was being said publicly. The majority of those I spoke to were under 18. They did not vote and they felt they had very little access to political platforms on which they could affect change. Their experience of the education system was that schools do whatever they want to under guise of a school ethos and nothing can be done about it. Young people effectively thought they had no political platforms and in school their voices were completely overlooked.

One young woman said, “My school is really Christian. The headmaster would go on about the school as one big Christian family. If you could imagine the views of the DUP, it was basically that but in a school form. So we had assembly and everyone just sat and sang hymns and stuff like that ... I looked around and no one seemed to have an issue with it so I thought they don’t have an issue with this, the chances of me coming out might not be good.”

So aware were young people of the heterosexual norms and expectations maintained in a university or school setting that coming out, being open and honest about their sexuality, was not possible for many of those that I spoke to. One young woman said, “I wish I could have been brave and come out when I was at school but I just wasn’t ready for it”, while another, who was still at school, said, “I wish I was strong enough but I am not, not yet.”

Within a system that promotes heterosexual norms, admitting to their sexuality required an act of bravery and being gay was essentially political. So, where do we draw the line? Through my work with young people I found the negative discourse and the political discourse around sexuality in NI does two things. It can politicise young people and there are some fantastic example of youth led campaigns where young people had enough and fought back in whatever way they could. Sometimes that meant challenging school authorities. Other times, it meant going to rallies or taking to social media to try to affect change. But all too often this negative discourse so badly damages young people that they say nothing at all.

One young woman said: “When I look back at school, I wasn’t even going to class. I was that terrified, I was going to my locker or the toilets or hiding in the hall. One time when I did go to class, I got name called and the teacher did nothing about it. The teacher just said, ‘Well, what do you expect at your age coming out in school?’”

Another young woman shared her experience of extended periods in hospital because of what she referred to as a mental breakdown, at first concealing and then disclosing her sexuality. She said that, on a daily basis, teachers would describe and enforce heterosexuality as the only normal type of relationship. She said that one teacher commented, “If it is on the curriculum that I have to teach that homosexuality is not a sin, I will retire from my job.” These are the messages young people heard on a daily basis. While these kind of comments made some angry and they fought back, often the intersection of age and sexuality meant that young people didn’t have the confidence, were not given the platform, or were not taken seriously and their voices were effectively silenced. One young woman summed this up very succinctly, “When those in power or those with the most influence within society talk as they do about LGBT matters, it almost excuses homophobia in a way. [People] think, “Well, if they can say it, so can we.””

WORKSHOP 4:

WHAT IS THE BROADER ROLE OF PUBLIC AUTHORITIES? PUBLIC FUNDING AND INTERVENTION



Chair: Fidelma O’Hagan (CAJ)

Panel: Paul Noonan (ECNI) | Paul Jordan (Community Relations Council) | Seán Brady, (PPR) | Tony O’Reilly (North West Forum of People with Disabilities)

INTRODUCTION

This workshop explored the level of compliance of public authorities in Northern Ireland in relation to international frameworks on countering racism (sectarianism), hostility towards minority groups, and discrimination.

The UN and Council of Europe human rights treaties on countering racism also cover sectarianism in relation to NI and contain a number of binding duties on public authorities intended to counter racist expression. This includes a duty on such bodies to deny public funding for activities that involve racist / sectarian discourse, as well as further obligations to take effective steps to promote respect and tolerance, and counter acts of discrimination, hostility or violence.

Article 4 of the UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) provides that public authorities are to “undertake to adopt immediate and positive measures designed to eradicate all incitement to or acts of [racial/sectarian] discrimination”. Public bodies are also to “prevent the provision of any assistance to racist [/ sectarian] activities, including the financing thereof”, and are banned from promoting or inciting racial discrimination.

Article 6 of the (Council of Europe) Framework Convention for National Minorities obliges public authorities to “encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons’ ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media”. Further, the article also requires public bodies to “undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity”.

The current legal and policy framework in Northern Ireland contains a number of gaps in relation to ensuring compliance with these duties.

PAUL NOONAN

Senior Policy Officer, Equality Commission for Northern Ireland (ECNI)

First, I would like to point out that the Equality Commission for Northern Ireland doesn’t have any direct jurisdiction in relation to incitement to hatred as such. ECNI is established under the Northern Ireland Act 1998 and has a remit for implementing a range of equality legislation. The antidiscrimination legislation has had positive impacts in terms of both employment and the provision of services. Applicants, employees and service users know the standards to expect from public sector employers and they know the potential recourse if standards are not met. There are of course still individual issues with respect to employment and service provision and more work needs to be done, but overall things in this sphere have improved. The commission’s remit includes overseeing the statutory duties on public bodies under Section 75 of the Northern Ireland Act 1998 (Section 75) and under the Disability Discrimination Act 1995.

The commission has particular duties under the Race Relations (Northern Ireland) Order 1997 (RRO 1997) to work to eliminate unlawful racial discrimination and harassment; to promote equality of opportunity; to promote good relations between persons of different racial groups; and to keep the legislation under review. Finally, together with the Northern Ireland Human Rights Commission (NIHRC), we have been designated as the independent mechanism tasked with promoting, protecting and monitoring the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

The Equality Commission has been active at a number of levels in our work with public authorities to address both the conditions that give rise to hate crime and the inappropriate display of symbols, and the symptoms that arise from hate speech, such as violence, all in the context of the duty on public authorities to promote equality of opportunity and good relations.

This activity has included:

- Our endeavours to secure the endorsement of international human rights monitoring bodies for our policy positions;
- Giving leadership through speaking out against inflammatory comments by public figures that are injurious to good relations;
- Our policy work at domestic level with public authorities;
- Our ongoing advice and guidance to public authorities on their Section 75 duties and positive disability duties. This is probably the area that is particularly relevant to this workshop.

As an example of our work with international human rights bodies, our submission to the most recent reporting cycle for the Framework Convention for the Protection of National Minorities (FCNM) drew attention to a range of issues. We highlighted the persistence of negative attitudes towards migrant workers and minority ethnic individuals, amongst others, and expressed concerns about evidence of discriminatory, sensational and unbalanced media reporting at a UK-wide level. We proposed a number of recommendations to the NI Executive and the FCNM Advisory Committee, including that the Executive here should implement specific long term measures to tackle prejudicial attitudes and to promote values of acceptance and respect for difference; use early intervention and education to combat racism and other discriminatory attitudes; take appropriate action to support integration; foster community cohesion; and promote participation in public life through various equality strategies, including the Racial Equality Strategy 2015 - 2025 and Together: Building a United Community strategy. We also highlighted the findings of the Leveson report with regards to “discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers”. Additionally, we highlighted the need for our departments to address the issue of institutional racism.

By way of further example of our international work, in our submissions to the Committee on the Rights of Persons with Disabilities (CRPD) during the examination of the UK back in August, some of our recommendations were also relevant to the subject of today’s conference. This includes our recommendation to the State Party to resource long-term positive awareness-raising campaigns, training and education to address prejudice and negative attitudes towards all disabled people, including those with mental health conditions and those claiming social security benefits. We also recommended that the government itself should not fuel prejudicial views through its own communications, particularly with regards to the rights of disabled people claiming social security benefits.

Senior figures in the Equality Commission have also shown leadership through speaking out against inflammatory comments by public figures. For example, our current Chief Commissioner addressed the comments on Islam made by Pastor McConnell and the then First Minister Peter Robinson, drawing attention to the negative stereotype promulgated there. A previous Chief Commissioner publicly raised concerns over the language used in public debate regarding equality on grounds of sexual orientation, saying:

“The free expression of personal belief is a crucial right in our society. However, it must show the same restraint that is required of all public utterances ... It should not seek to characterise those who do not share the same belief of being worthy of any lesser regard or entitlement ... Debate on these matters ought to be moderate in tone and respectful of the legal rights of all the people in Northern Ireland. Public representatives should not use language or make statements which might contribute to a sense of isolation or vulnerability by gay people, who still face prejudice in the community.”

Moving onto our policy work at local level, this has, for example, included calling for the implementation by the Executive of specific long-term measures to eliminate racism and racial discrimination; to tackle prejudicial attitudes; and to promote values of acceptance and respect for difference. We have lobbied for these to be addressed through the racial equality strategy. We have also developed policy positions calling for the implementation of other grounds-based equality strategies e.g. on disability, sexual orientation and gender, which, inter alia, include elements of awareness raising, addressing stereotypes, promoting good relations, and so on.

The commission has regularly engaged with public policy debates relating to good relations, which are within our remit. For example, contributing to the debate on codes of conduct for MLAs and Councillors in reference to where the boundary between free speech and inflammatory speech lies, and inputting to the debate on Together: Building a United Community.

Finally, turning to our ongoing advice and guidance to public authorities on their Section 75 and positive disability duties, we are engaged in a range of work to ensure that public authorities comply with their equality and disability scheme commitments. Current priorities include:

- Improving the equality of EQIAs by key public authorities, for example:
 - Issuing summary advice on different aspects of those duties;
 - Facilitating a forum for government departments and other large public authorities to provide advice on key identified areas;
 - Holding a series of training sessions for public authorities on equality assessments and disability action plans - most are fully booked;
- We have produced an updated summary advice note of our 2007 Good Relations written guidance, which sets out what promoting good relations should look like and covers leadership, governance and policy objectives, as well as the nature of the S75 (2) duty.

There are a number of good practice examples of progress made by public authorities in the promotion of good relations. These can be found in the annual Section 75 progress reports issued by public authorities. Generally, these examples fall into two categories:

- (i) Positive measures to promote good relations. For example:
 - Integration of Roma youth, an initiative undertaken by a number of education authorities.
 - Annadale Streets Ahead, which dealt with the relationship between people from different local communities and people of different racial background.

- (ii) Measures the public authority has taken to manage a situation that may have a potentially negative impact on good relations. For example:
 - The Good Neighbour Charter adopted by Apex Housing.
 - Belfast City Council's bonfires scheme, which attempts to mitigate the worst effects of unregulated bonfires.

Moving onto the issue of publicly funding programmes, ECNI believes these should be screened in accordance with equality scheme commitments. Public authorities may wish to consider how they can equality proof these to ensure that they are not running the risk of inadvertently funding activities that are discriminatory against groups belonging to the S75 categories. Such public authorities should take into account relevant examples from the joint guidance produced by the commission and the Central Procurement Directorate on Equality of Opportunity and Sustainable Development in Public Sector Procurement. This guidance includes pre-qualification questionnaires for seeking information from potential bidders on the extent to which equality in the workplace is ensured. The guidance also provides a sample equality of opportunity contract condition for inclusion in the contract with the successful bidder. These could be used as a basis for the development of similar tools that promote equality of opportunity and good relations with respect to funding programmes.

The commission has also engaged at the wider strategic level with matters of good relations that are within our remit e.g. by submitting our views to the Panel of Parties and participating in the Commission for Flags, Identity, Culture and Tradition. Last but not least, with regard to our work with public authorities on the positive disability duties, public authorities are required to have a current disability action plan in place with measures directed at the two duties (which are the promotion of positive images of persons with disabilities and inclusion of persons with disabilities in public life). 90% of public authorities now maintain a current disability action plan and we are focusing our efforts on ensuring that the remaining 10% put a plan in place. Furthermore, we are seeking improved quality of disability action plans in 10 strategic authorities.

I hope what I have outlined has given some indication of the role of the Equality Commission in relation to the subject of today's conference and I look forward to responding to relevant questions that arise.

PAUL JORDAN

Director of the Funding & Development Programme, Community Relations Council

The Community Relations Council assists in the implementation of the NI Executive's Good Relations Strategy, Together: Building a United Community. Tackling sectarianism and racism is the primary focus of our work. One of the key things for us is establishing relationships with the communities and organisations that we're trying to support. We're trying to effect change and promote engagement. It is vitally important that we and the organisations we support understand what is expected of each other, and that there are very clear aims and objectives from the outset in terms of the expected community relations outcomes from funded projects.

Within that, we are aiming to bring people together who don't normally come together to talk about issues that we normally avoid, such as sectarianism, and tackling those things. A lot of work involves taking groups through their training needs, looking at what their actual response is to need.

It is a challenge as we are dealing with a variance of capacity and experience. Some organisations are very well experienced with peacebuilding work, but might be coming together with an organisation of ten people - how do you work with that? We're very conscious that we're managing public money and the management of that does sometimes propose a challenge. We are constrained within public finance and must do our best within that.

Our work focuses a lot on attitudes and relationships. A lot of our work is looking at tackling attitudes and creating a space whereby people are engaging with difference on a practical, everyday level. I'd describe it as trying to make what is extraordinary become ordinary and everyday. You learn a lot by looking at the views of different generations and how young people today see difference.

We need to be able to approach all of this within the context of the legislation we have in NI. Some things involve risk. You're always trying to mitigate that risk by being clear about what is expected, putting reporting mechanisms in place, and following through with consequences when necessary. With bonfires, there's a very clear remit, we work with the community and make clear what we're not supporting. There have been times when we have had to withdraw an offer of funding because what was going to happen was not what we had agreed. For example, one group told me that firing a volley of shots over a bonfire was cultural, but we don't define it as such.

To be clear, we are about building relationships, not dividing them. We fund around 170 to 180 different programmes per year. 30 of these are 'on the ground' programmes led by our core 'satellite' organisations. We also have a small grant scheme that funds around 140 projects with a widening degree in terms of types of projects. One of these is the Belfast Mela, which we began funding as a small project to see where it would go.

We have a developmental approach where we walk alongside an organisation. That's where you build relationships and trust. A lot of our job is about building those human relationships and addressing fears, actually setting a line and saying this is what we define as good relations work. A lot of people will say it's mixed, therefore it's cross community. However, just because an activity is mixed does not necessarily mean it is bringing people together, e.g. people shopping in Tesco from across the communities. What actually makes it a true cross-community project is where it is connecting people, where it is stretching and challenging.

Last year, for instance, we funded former members of the RUC who wanted to engage with some republican groups. They said, "We want to understand because we have never talked. How do we hear their stories?" That is extremely sensitive, difficult work, but it's work that can make a difference. Having a clear framework for our funding makes it possible to effect change across a whole range of communities and for us to be responsive to ideas.

SEÁN BRADY

Organiser, Participation and the Practice of Rights (PPR)

First, I will take you through a case study about two families, one from North Belfast and one from East Belfast, and how their lives unfolded in the aftermath of the Peter Robinson and Pastor McConnell comments in May 2014. As I talk you through these examples, you will get a sense of the public authorities involved and the racism that excluded these families from resources they were entitled to.

The context behind all of this is that our housing market is sectarian and unequal. Most Catholics and Protestants know their place in that market, whereas most refugees do not. They come into that market and are placed often in areas where houses are available, but attitudes to refugees aren't great. Inevitably, conflict ensues and they are on the receiving end of it.

These two families came to PPR via the Base2 project run by NIACRO [this project is funded by the Northern Ireland Housing Executive (NIHE) to support families at risk of exclusion or violence from their communities]. The project provides a verification service, using back channels and discussions with paramilitary organisations to determine whether or not people have been intimidated, before advising NIHE of the degree of intimidation the family has faced. At this point, the NIHE considers this information in order to determine whether to award a points status of intimidation to the family, which will translate into resources like housing.

We have a 40-year-old point system for social housing, too few housing units, and a whole load of people on the waiting list. There is sectarian division and refugee and asylum seekers have to battle to access resources in the first place. You also have to take into account the culture within the organisations that are supposed to do something about the issues these families experience.

In May 2014, Pastor McConnell and Peter Robinson said what they did about Muslims. Two Muslim families, who had been living in Tigers Bay for three months, appeared on the Stephen Nolan show in the aftermath of the comments to explain that they weren't Jihadis, but upstanding members of the community. Afterwards, their homes were attacked, their windows were broken, and they fled. One family went to live with friends in South Belfast. The wife in the other family was heavily pregnant and she and her husband spent most of the following week in the hospital, where she had their second child.

The latter family approached the state asking for assistance and that is how they came into contact with Base2 in NIACRO. They declared themselves intimidated. NIHE agreed they were homeless, that they had been attacked and could not return. However, even though the police were investigating what happened as a hate crime, NIHE concluded from their own investigations that the family was **not** intimidated.

From then until now, they remain living in a hostel in North Belfast, even though they have since had two more children. They choose to remain in an area where they feel safe, but where there is no housing available for them. They have no intimidation points and therefore have not been put to the top of the list in the way you would be if you were found to have been intimidated.

A number of African families came to PPR in the next few months from Island Street in East Belfast. Their homes were attacked. They took photos of the attackers, who returned later that night, beat the two tenants who had taken the photos, and stole their phones from them (although the photos had already been saved to the Cloud). No-one was convicted in these cases. At first, the families were told that they had not been intimidated and to return home, which they did. Then a pipe bomb was thrown into a garden where a five-year-old was playing. After all that had happened, the NIHE agreed to consider some of the families to have been intimidated. The end result for these five families was that two remain in temporary accommodation and are not recognised as having been intimidated, the other three were recognised as having been intimidated and were accommodated, but only after moving back and experiencing the pipe bomb attacks.

That was their experience of asking the state to respond to the racism and hatred they had faced. Those who do not have a permanent home are in that situation primarily because the state blames the housing crisis on people rather than on a lack of resources, and the lack of resources is the lack of houses. In the absence of enough housing units, they suppress points and obscure the real picture and the real figures. That's what happened in these cases.

As we work with people, we also try to understand the systemic issues. Immediately after the racist comments in May 2014, there was a spike in racist attacks reported by the PSNI. Yet, NIHE reported less people presenting and being accepted as intimidated. In terms of black African families, we represented 10 families in 2014 / 2015 (50 people in total). Less than five of these families were recognised as being intimidated and zero Muslim families were. Therefore, they don't exist in the figures.

TONY O'REILLY

Management Committee Member, North West Forum of People with Disabilities

The North West Forum is there to ensure our human rights are protected. When talking with a former First Minister to seek the speedier implementation of an EU directive he said, "But I thought you were a bunch of disabled people?" People don't attribute the notion of human rights to disabled people. Politicians don't believe the Disability Discrimination Act (DDA) and social security should have been invented for drug addicts and alcoholics, but those in 'real' need. This is why the welfare reform changes came in, to ensure that people with the greatest need get the proper support. Ministers and the media all said this.

We had a meeting in August in Geneva with the UN Council and a researcher who was looking at the experience of people with disabilities in relation to hate crime, particularly in relation to social security measures. We were with others from the UK, all sharing our experiences, and were asked whether it is indifference on the part of the government to fail to understand what the welfare reforms are about. We replied that it's not indifference, it's proactive incitement to hatred.

To give one example, a junior minister on BBC TV said DDA and social security was never meant for drug addicts and alcoholics, it was meant for real disabled people. He didn't explain that alcohol and drug dependency is recognised as a disease by the World Health Organisation (WHO) or that, as far as the law goes, social security is provided to cover the impact that addiction has on the person's activity, it's not covering their addiction in itself. We weren't told that only 1% of those people in NI claiming these benefits are alcohol or drug dependent. That very same day several members of the North West Form were challenged on the basis of this interview by members of the public.

It's not just the BBC. The rise in negative attitudes has become so bad that the Chair of the Committee on the Rights of Persons with Disabilities (CRPD) has said that it will eventually result in violence against disabled people, and that the whole Committee is very concerned about this. She said that much more needs to be done by the State Party [the UK government] to challenge hate crime and incitement to hatred. The language used by politicians is very dangerous. She said it's not quite at 1933 to 1949 levels yet, but we're getting there. That's the degree of concern. Amongst 2,000 pages of evidence, she said she actually has evidence of disabled people being described as parasites by senior government ministers and officials.

All the different cuts across the UK run parallel with the rise in negative press. Our recommendation to challenge this rhetoric is that we want an examination and full review of press standards in terms of what is going into the press and how protected groups are being presented. We are disappointed that disabled groups weren't involved in the Leveson Inquiry. We'd like to see a review of the code of conduct for local councillors and our politicians to ensure what they are saying accurately reflects circumstances and impairment. The government has lied before about the nature of the welfare reforms and their impact in their public consultation documents. For example, in their comments on those suffering from multiple sclerosis, they suggested that money can be withdrawn because people with the condition are fine some of the time. They failed to mention that MS is a progressive condition.

In terms of disability duties on public authorities, we are concerned that the content of disability action plans often isn't fit for purpose and fails to address the core issues. This isn't a criticism of the Equality Commission of Northern Ireland (ECNI), or any public authority. This is an issue of resources. The disability duties haven't been given the profile that other duties have been given. Things would improve if there was proper implementation of the disability duties, including ECNI challenging public authorities to do better and naming and shaming those that don't deliver the requirements as set out under the DDA.



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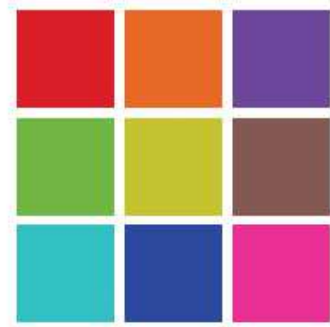
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