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Title	Racism and hate crime in Ireland: is the legislative and policy framework adequate? Conference summary
Authors	Centre for Criminal Justice and Human Rights (CCJHR);Nasc, Irish Immigrant Support Centre
Publication date	2013-10-01;2013-10-01
Original Citation	Centre for Criminal Justice & Human Rights, CCJHR, UCC (2013) Racism and hate crime in Ireland: is the legislative and policy framework adequate? Conference summary, Nasc, Irish Immigrant Support Centre and Centre for Criminal Justice & Human Rights, CCJHR, University College Cork, Cork, 4 October.
Type of publication	Conference item;Report
Link to publisher's version	http://www.ucc.ie/en/ccjhr, http://www.nascireland.org/
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Download date	2026-11-05 20:30:35
Item downloaded from	https://hdl.handle.net/10468/6967



UCC
University College Cork, Ireland
Coláiste na hOllscoile Corcaigh

Racism and Hate Crime in Ireland: Is the legislative and policy framework adequate?

Conference Summary

Date: 4th October 2013
Venue: Brookfield Health Science Building, College Road, Room G10, University College Cork

Speakers:

Deputy Aodhan O'Riordain, TD
Deputy David Stanton, TD
Stephen O'Hare, Policy and Research Officer, ICCL
Jennifer Schweppe, University of Limerick
Seamus Taylor, NUI Maynooth
David Joyce, Barrister at Law, Member of the Irish Human Rights Commission
Carole-Anne O'Brien, BelongTo Youth Services

Chairs:

Prof Siobhán Mullally, Director, CCJHR, UCC Faculty of Law
Fiona Finn, CEO of Nasc



Hosted by Nasc, the Irish Immigrant Support Centre and the Centre for Criminal Justice and Human Rights, UCC, this conference aimed to promote an open dialogue on Racism and Hate Crime in Ireland. Expert speakers and practitioners from a variety of fields were invited to explore the effectiveness of our current legislative and policy framework and to discuss the impact of hate crime, racism and discrimination of minority groups in Ireland. A number of key issues, and further points for consideration and recommendations were highlighted throughout the day by each of the speakers. This summary aims to highlight the emerging issues and themes, and to draw on these to suggest the next steps to take to respond effectively to racism and hate crime in Ireland.

The conference began with a statement from Minister Alan Shatter (read by Fiona Finn, CEO of Nasc), who first of all denounced hate crime, racism and discrimination as having no place in modern society. He then went on to state that the responsibility for combating such issues lie with all sectors of society, not just the government. Minister Shatter drew attention to the work of the Garda Racial, Intercultural and Diversity Office (GRIDO), who

work to record racist incidents and offer reprieve to victims. Crucially, Minister Shatter's comments made clear his position in defence of the effectiveness of Irish law and policies relating to racism and hate crime (his full statement is available here).

This created an interesting dichotomy as the general consensus that emerged throughout the day amongst all other conference speakers was that the 1989 Act on the Prohibition of Incitement to Hatred is ineffective in dealing with hate crime and racism. For example, speaker Seamus Taylor commented that, on a continuum from maximum to minimum, Ireland's current response is minimalist.



The consensus amongst conference speakers and discussion participants was that the 1989 Act, once considered to be a leading example of 'best practice' on equality legislation within the EU, moving ahead of the requirements of EU law in this field, has now fallen behind. One of the crucial issues seemed to be the lack of/low level of prosecutions under the Act which Stephen O'Hare noted was less than one conviction per year.

The main views expressed about our current legislative framework, as discussed throughout the conference, included:

- The absence of a specific criminal legislative provision taking hate motive into account as an aggravating factor (they are prosecuted as generic crimes under our existing criminal law).
- Judges should be obliged to take racism into account rather than it being at their discretion.
- There is a lack of definition of 'hatred' as used in the 1989 Act. 'Hate' has a high legal threshold, hostility is lower.

The Act has a narrow focus and can be applied only in very limited circumstances, and it was never meant to deal with racist or hate crimes. The idea of enhanced penalties for racially motivated crimes during sentencing was raised as a potential recommendation at the conference. However, as Seamus Taylor pointed out (see presentation here), there is no clear consensus on the grounds which should be covered as a 'bias' or hate motive to a generic crime, as legislation in this regard differs greatly amongst the Organisation for Security and Cooperation in Europe (OSCE) member states. Jennifer Schweppe also noted that there could be evidentiary concerns in proving that hate, or hostility were the clear motivating factors in court. Stephen O'Hare spoke of encouraging the development of guidelines to assist the judiciary in relation to sentencing in cases where a racial motivation is clear and unambiguous (presentation available here).

The conference also highlighted the need for the reform of Irish legislation in order to bring it in line with EU standards. The current Irish position is that there are no plans to introduce legislative provisions for hate crimes either in the form of aggravated offences or in sentencing, although international human rights bodies such as the UN Committee on the Elimination of Racial Discrimination (CERD) have made recommendations here. The European Commission for Racism and Intolerance (ECRI) has also expressed a number of concerns in a recent report on Ireland. Additionally, E.U Legislation such as the 2012 EU Directive establishing minimum standards on the rights, supports and protection of victims of crime, potentially provides an opportunity to advance calls for changes to the criminal law provisions and Criminal Justice System responses.

Professor Siobhán Mullally presented to the conference the important opportunities created by the effective implementation of a positive duty on public bodies to promote equality and human rights (see full statement available here). A positive duty, as in the UK and Northern Ireland, would go beyond the limits of a non-discrimination and complaints-based approach to ensure the dignity and worth of all persons is fully respected, in the work place, or in the provision of goods and services.



The need for clear evidence to support calls for legislating for racially motivated crimes was put forward by Jennifer Schweppe. The trivialisation of hate crimes leads to the acceptance of abuse in communities, therefore it is important to focus on data collection methods with regard to racist incidents. Stephen O'Hare drew attention to the fact that the official collection of data concerning racially motivated crime by the Gardaí shows a far lower number of incidents than unofficial data sources from NGOs and third party research. Thus securing the systematic recording of hate incidents must also be priority.

Although the primary focus of the conference was on legislative and policy reform around racism and hate crime, it wasn't the only aspect of change highlighted at the conference. A number of speakers also raised concerns about the impact of racism on society, the need to build community awareness around the issue and to encourage active participation in order to combat it.

Siobhán Mullally commented that the current Irish climate of austerity measures creates a situation where racism and discrimination can flourish, for example making cuts to Traveller education. As well as this, the negative treatment of migrants and asylum seekers in the country and specifically the policy of direct provision serve only to multiply problems of alienation, exclusion and systematic discrimination.

Other issues that were raised included:

- The media often plays a role in fostering and perpetuating racism against groups such as Travellers and Roma, making linkages between these groups and criminality. David Joyce BL suggested that this may constitute defamation and as such is an area of law that could be explored further to tackle racism.

- The education sector is a crucial field in which to establish equality. Deputy Aodhán O'Ríordáin suggested that in order to support diversity in schools, there must be an effort to employ teachers from different ethnic, social or cultural backgrounds and to provide diversity training for teachers.

- Finally, politicians must distance themselves from making the weakest of society scapegoats of problems they are not responsible for in order to gain popularity. Deputy O'Ríordáin also warned against the presence of racist organisations and the influence they have on mainstream politics.

- The role of integration and the importance of civic engagement by all members of the public was emphasised by Deputy Stanton

Although much of the focus of the conference was on racism in Ireland, the question of hate crime legislation was also considered more broadly to include LGBT rights. Carole-Anne O'Brien, a representative of BeLonGTo, discussed strategies to protect LGBT young people in Ireland against discrimination. She commented that 58% of young LGBT people experience bullying in schools and so there is a compelling need to tackle homophobia and transphobia. You can watch BeLonGTo's great STAND UP! campaign video, which Carole-Anne showed on the day, here.



Next steps:

The conference marked a significant turning point in the development of a national dialogue on racism and hate crime in Ireland. The discussions raised in the conference point to several areas for future debate and reform. Defining 'hatred', aggravated offences versus sentencing enhancement, the need for judicial support and involvement, increased recording and monitoring, and the use of defamation all arose as areas that require considerable attention. One issue that was clear was the wide-ranging consensus that the 1989 Prohibition of Incitement to Hatred is not fit for purpose and that legislative reform is necessary.

In the coming months, Nasc will work with other organisations, politicians, civil servants, and individuals, to develop a model for legislative reform in relation to racism and hate crime, which we will use to lobby for legislative change. We will also continue our work with other anti-racism organisations to continue our calls for

robust flanking measures such as improved official reporting of hate crimes, a new National Action Plan against Racism, and a highly functioning and well-resourced Irish Human Rights and Equality Commission.





We would like to thank all of the speakers for their contributions and the audience for such a productive discussion. For more information about our work to combat racism or to find out what you can do, visit our website at www.nascireland.org.

Please note, this summary is our reflections on the outcomes of the day and does not seek to represent the views of our speakers.

If you see or experience racism, you can report it to us via email at reportracism@nascireland.org or phone (021) 450 3462

