

Briefing for Press and Policy Makers: ICCL Gendered Online Harassment paper

Online harassment and harmful communications are significant social problems mirroring structural exclusions offline. This is a gendered problem: **23% of women across the EU have reported experiencing online abuse in their lifetime.**⁵

The Irish Council for Civil Liberties ([ICCL](#)), having carried out independent research into the topic, submitted a paper on online harassment, harmful communications and related offences to the Oireachtas Joint Committee on Justice and Equality on 6 October 2019.

On **9 October**, this Committee will hear from the **tech giants** regarding their policies on **online content moderation**. On **23 October** ICCL will appear before the Joint Committee on Communications on the issue of **online harassment**.

Online Harassment: Gender and Other Risk Factors

ICCL carried out independent qualitative research into online harassment in Ireland and found that most victims of online harassment are women. The perpetrators were most commonly found to be partners or ex-partners attempting to exert control. Examples of harassment included the use of spyware intended for parents who monitor their childrens' activities being used to spy on women. Victims of online harassment suffer a double blow to their rights- not only are they subjected to harmful behaviour but they are deprived of a forum for sharing their experiences because of the chilling effect on their participation in public spaces.

In the paper, we outline how harassment and harmful communications can be amplified online. Apart from gender, risk factors for offline harassment, such as sexual orientation, race, religion, ethnicity, mental health, and ability, are also risk factors online. Another significant problem is the harassment of public figures online, however this was outside the scope of this research project.

We deconstruct the notion of “revenge porn” (it’s not pornography, and it’s not always motivated by revenge), and properly term it “image-based sexual abuse”. ICCL is clear in our understanding that the motivation behind gendered online harassment, in general, is to violate a person’s personal autonomy, dignity, and privacy in a sexualised way. There are serious repercussions not just for the individual, but society, when online harassment and image-based sexual abuse are allowed to occur unchecked.

An emblematic case study

ICCL considers the case of **Dara Quigley**, who took her own life after CCTV images of her arrest by An Garda Síochána while naked on a Dublin street were shared, to be emblematic of the problem of online harassment.

The recording that was held by An Garda Síochána was shared 125,000 times online before it was removed. No individual or organisation has been held responsible for the abuse of Dara Quigley’s image and the impact it had on her mental health and right to life. There are many questions which remain unanswered.

Part of the problem is that our laws are inadequate to deal with image-based sexual abuse. Another part of the problem is that companies refuse to share their policies on the removal of harmful content. And of course, the culture of online harassment mirrors real world issues. Gardaí themselves need better training to respond to this last problem.

CCTV

CCTV is problematic for a number of reasons, including that it doesn't effectively deter crime, that crime levels in Ireland are not sufficiently high to merit blanket surveillance of a population and that CCTV impacts more on certain populations than on others. A detailed discussion of this is contained in our submission to the Oireachtas. Indeed, it contributes to an ever widening net of surveillance which should be considered a form of online harassment itself.

Regulatory and legal responses

There are, as yet, no specific laws addressing this phenomenon in Ireland.¹ At present, acts of online abuse and harassment are prosecuted under the **Non-Fatal Offences Against the Person Act 1997**. This Act covers general harassment but its language is not always directly transferable to cases of online harassment. In addition, the requirement that harassment consist of 'persistently following, watching, pestering, besetting or communicating' means the prosecution has to prove a *pattern* of harassment. This opens a lacuna in the law whereby individual acts of harassment can't be prosecuted effectively.

With regard to platforms which facilitate image-based sexual abuse, the government has already committed to implementing the **UN Guiding Principles on Business and Human Rights**. Properly implemented, these would lead to greater transparency around the activities of companies and their impact on human rights, including actions on content moderation and responses to complaints of online harassment.

However, care must be taken to ensure that any legislation introduced to deal with online harassment and image-based sexual abuse does not limit other fundamental rights. In our paper we call on the government to ensure that the following points are taken into account when drafting new legislation in this area:

- **Blanket monitoring is not rights compliant.**
- **Standardised definitions and removal procedures have proved fallible.**
- **Transparency problems prevent us from making the best evidenced based decisions.**
- **Effective content moderation must be rights compliant moderation and pursuant to judicial processes.**

In our submission we also call for Garda reform, make recommendations on surveillance technology and CCTV, and recommend the government undertakes a research project which would inform legislation, as well as a broad education programme.

¹ We acknowledge the call for legislation from the Law Reform Commission Report at <https://publications.lawreform.ie/Portal/External/en-GB/RecordView/Index/37669> and also The Harassment, Harmful Communications and Related Offences Bill, tabled in 2017, currently before the Dáil Éireann <https://www.oireachtas.ie/en/bills/bill/2017/63/>