



OUTLINE

- Women, the Internet, and social media
- What is online hate speech against women?
- Online hate speech – facts and myths
- Legal responses to online hate speech against women
- Why 'regulate' online hate speech (against women)?
- A way forward: proposals for reform

2

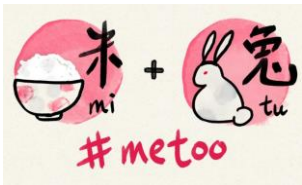


Joanna Cherry QC MP @jannacherry
I look forward to my male colleagues quoted in this article being equally condemnatory of the vile misogyny on [Twitter](#) which has so escalated that I had to have a police escort at my constituency surgery after I called it out at [HumanRightsCtte](#) [#onlineabuse](#)



گندہ زارهای کنار خیابان،
لحظه کوتاهی بود ولی حس خوبی داشت، حس خوب "مقاومت"....
In the wheat farms next to the street. It was just a brief moment but it felt good. I'm talking about the good feeling of RESISTANCE
#ازادویولشکی
mystealthyfreedom#

See Translation



Women, social media, and the Internet

Online hate speech against women

What is online hate speech against women?

ONLINE HATE SPEECH

- Internet
- social media
- trolling
- forms of expressions online which **spread, incite, promote** or **justify hatred, violence and discrimination** against a woman or group of women for a variety of reasons.
- online misogyny as a hate crime (Barker & Jurasz, 2019)
- Text-based abuse (Barker & Jurasz, 2018)
- Oral and / or written
- Tweets; comments online; Facebook messages/ posts; YouTube videos...

What is online hate speech against women?

Sexist hate speech is a form of violence against women and girls that perpetuates and exacerbates gender inequality. (...) Sexist hate speech is one of the expressions of sexism, which can be defined as any supposition, belief, assertion, gesture or act that is aimed at expressing contempt towards a person, based on her or his sex or gender, or to consider that person as inferior or essentially reduced to her or his sexual dimension. Sexist hate speech includes expressions which spread, incite, promote or justify hatred based on sex.

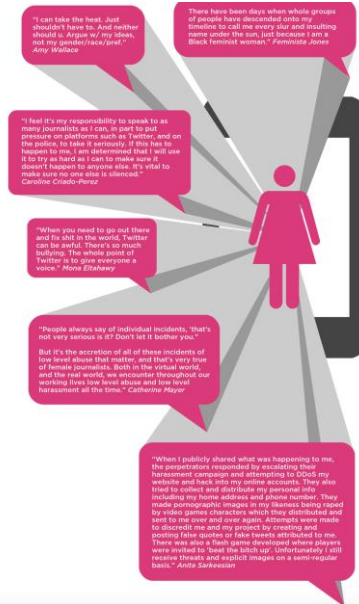
Council of Europe, 'Combatting sexist hate speech' (2016)



Amnesty International (2017) Online poll of women aged 18–55 in the UK, USA, Spain, Denmark, Italy, Sweden, Poland and New Zealand about their experiences of online abuse or harassment on social media platforms.

Online hate speech against women: facts and myths

- Illegal hate speech online targeting gender identity is equivalent to 3.1% of reports to Internet platforms in the EU (European Commission, 2018)
- Hate speech vs. abusive, offensive speech
- Online is 'not real'
- 'It's just a joke'
- 'If you can't stand online abuse, get offline'
- Freedom of expression vs. gender equality



Legal responses to online hate speech against women

- International Law
- European Law
- Domestic responses

Council of Europe

Hate speech is not limited to racism and xenophobia: it may also take the form of **sexism**, anti-Semitism, Islamophobia, **misogyny**, homophobia and other forms of hate speech directed against specific groups or individuals. Such forms of behaviour, which are not accepted offline, are **equally unacceptable online**. Just like the face-to-face world, the internet must provide space to be critical, without providing space for hate speech, including incitement to violence.

PACE Resolution 2144 (2017) 'Ending cyberdiscrimination and online hate', para.2

- PACE Resolution 2177 (2017) 'Putting an end to sexual violence and harassment of women in public space'
- CoE Gender Equality Strategy 2018-2023
- Istanbul Convention, Articles 4 & 17



International Law

- CEDAW, Articles 2, 3 & 7
- CEDAW GR 35
- ICCPR, Article 2(1), 19 & 26
- Freedom of expression & gender equality



International law

“The internet should be a platform for everyone to exercise their rights to freedom of opinion and expression, but online gender-based abuse and violence assaults basic principles of equality under international law and freedom of expression. Such abuses must be addressed urgently, but with careful attention to human rights law.”

“Ensuring an internet free from gender-based violence enhances freedom of expression as it allows women to fully participate in all areas of life and is integral to women’s empowerment.”

UN Special Rapporteur on Violence Against Women, its causes and consequences & UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (8 March 2017)

- Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective (June 2018)
- UNGA, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on regulation of online hate speech (October 2019)

Domestic responses : a UK perspective

- **Offences Against the Person Act 1861**
 - ✓ s16 - threats to kill
- **Protection from Harassment Act 1997**
 - ✓ s4 - fear of violence to person
 - ✓ s2 - harassment
 - ✓ s2 - stalking
 - ✓ s4A - stalking involving fear of violence / serious alarm or distress
- **Public Order Act 1986**
 - ✓ s4 / s4A / s5 – using threatening / abusive /insulting words or behaviour intending to or causing harassment, alarm or distress
- **Malicious Communications Act 1988**
 - ✓ s1 - threat
 - ✓ s1 - electronic communications which are indecent or grossly offensive or convey a threat (intended to cause distress or anxiety to victim)
- **Communications Act 2003**
 - ✓ s127 - menacing character s127
 - ✓ s127 - electronic communication which is grossly offensive or indecent, obscene or menacing, or false, for purposes of causing...needless anxiety

Hate crime provisions: a UK perspective

- Protected characteristics: race / religion / transgender identity / disability / sexual orientation
- Aggravating features for increased sentencing tariffs where there is an underlying criminal offence
- Not 'gender'

'The types of speech that can be prohibited under the criminal law under the umbrella of incitement to hatred are usually defined narrowly. The term "incitement to hatred" usually refers to remarks that target whole groups, which may be identified based on characteristics such as sex, colour, sexual orientation, religion, political or other opinion, gender identity, ethnicity, disability or other status. In England and Wales, online hate speech is covered by provisions on grossly offensive, indecent, obscene or false communications in legislation that expressly covers electronic communications. During my fact-finding visit to London in November 2016, a number of my interlocutors emphasised frankly that the threshold that needs to be met to bring a prosecution for such communications is currently **too high**, and argued that amending the law in this field should be a high priority in the next programme of law reform of the Law Commission for England and Wales'.

Council of Europe Parliamentary Assembly Committee on Equality and Non-Discrimination, 'Ending Cyberdiscrimination and Online Hate, Report by Rapporteur Marit Maij' (13 December 2016) Doc 14217

Platform regulation – the European dimension

- Intermediary Liability
 - ✓ eCommerce Directive – Articles 12 & 15
 - ✓ safe harbour provisions
 - ✓ 'monitoring' obligations
 - ✓ EU digital services act & 'reform'
- Social media platforms as intermediaries?
- Terrorist content
 - ✓ EU Recommendation on Illegal Content Online
- Platform regulation: towards business & HR approach?

The legislative lacuna

- Fragmentation of approaches
- Disparity between hate crime and equality
- No real protection for gender within many domestic hate crime frameworks

- Communications offences also do not deal with the 'gender' element
- Some overlap but ignores the *context* of the abuse / misogyny

Why 'regulate' online hate speech (against women)?

Why 'regulate' online hate speech (against women)?

HARMS

- Online / offline transference
- Non-traditional harms
- Individual and social harms

IMPACT

- Silencing
- Participation in public and political life
- Invisibility of gender
- Normalisation of VAW
- Societal implications: OVAW & online hate as a social phenomenon **and** a social problem

The pitfalls of (over)regulation?

- Criminalization of social media
- E-commerce Directive: a liability shield
- Practical considerations: is policing of social media a way forward?
- Who is in charge of the change?
- The limits of the law



A way forward: proposals for reform



Proposals for reform

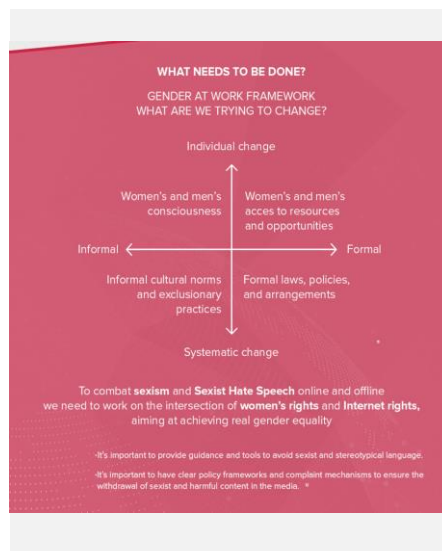


LEGAL CHANGE

- Greater visibility of online harms
- Responsibility: state / platform/ individual
- Comprehensive approach at domestic, supranational and international levels
- Integration of gender within hate crime provisions
- Simpler legislation which addresses the gaps

SOCIAL CHANGE

- Combatting gender stereotypes
- OVAW and online hate as social harms: the dangers of normalization of VAW
- Shared responsibility



Thank you

Dr Olga Jurasz
Law School, Open University (UK)

[@olga_jurasz](https://twitter.com/olga_jurasz) [@hate_om](https://twitter.com/hate_om)

olga.jurasz@open.ac.uk

