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# Heteronormativity and the inverted relationship between socio-political and legislative approaches to lesbian, gay and bisexual hate crime

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## Introduction

The island of Ireland is unusual in that Northern Ireland has had hate crime legislation in place for several years while across the border in the Republic, virtually no laws exist to recognise or address crimes based on prejudice or hostility. Recently, the Republic of Ireland administration has come under growing pressure to enact 'hate crime' legislation in line with the North, the UK and several of its European counterparts (Schweppe et al., 2014). However, as this chapter will illustrate, criminalisation is often the basis upon which claims for social change are founded but legislation must not be viewed a panacea when it comes to the prevention of or protection from targeted victimisation. In order for the law to be effective (and not viewed as tokenistic), analysing the factors informing and sustaining prejudice in a particular society may provide greater insights into how best to challenge it.

In this chapter, a culturally specific focus into the colonial history of Ireland demonstrates key correlations between Irish and Northern Irish history and the emergence of a homosexual identity construct. The chapter specifically analyses the impact of colonialist ideologies and ethno-national tensions informing life in Northern Ireland on wider socio-cultural prejudices which, in turn, inform individual criminal acts. The limited impact law has had in addressing social and political homophobia in Northern Ireland indicates the potential for alternative routes to address sexual minority prejudice. Certainly within the domain of 'hate crime' discourses, the individual prejudices which are integral to such crimes are somehow learnt, thus suggest an alternative socio-political (or socio-cultural) approach is as valid – if not more so – as a legislative one in challenging homophobia.

Central to this analysis is an understanding of heteronormativity. This has been theorised as an institutionalised form of heterosexuality which functions to regulate sexual behaviour, most notably that of homosexuals and women (see Rich, 1980; Witting, 1992; Richardson, 1996; Seidman, 2005; Jackson, 2006). It is a powerful imposition designed to ensure the continuation of the dominant sexual status quo, largely invisible to most but starkly evident to those who find themselves at the margins of socially constructed, commonly imposed social, cultural, political and legislative 'norms' regulating gender and sexuality. Heteronormativity functions to both define difference from, and elicit assimilation to, the implied norm. In recent times, processes of assimilation which have underpinned lesbian, gay and bisexual activism (such as access to equal marriage, citizenship equality, family rights etc.) have been variously accepted or rejected by those at the margins according to whether equality is defined as being *seen as* equal, or having access to the necessary *means to effect* equality (if that is what is desired).

In Northern Ireland, the socio-political and legal challenges to equality faced by sexual minorities are informed by the ongoing struggles concerning ethno-nationalist identity which has characterised life in the province over the past century (Duggan, 2012). Campaigners for lesbian, gay, bisexual and transgender (LGB&T) rights in Northern Ireland are still working on achieving some of the gains made elsewhere in the UK such as equal marriage, adoption rights for civil partners, eradicating the ban on gay male blood donations and recognising transphobia as a 'hate crime' category. The issue of equal marriage indicates a strong discrepancy as in 2015, the Republic of Ireland made history by becoming the first country to legalise same-sex marriage through a national popular vote making Northern Ireland the only place in the UK and Ireland not to implement such rights. Various iterations of the *Northern Ireland Life and Times Survey* have indicated that a growing majority of people living there support the right to equal marriage, yet the ongoing calls for (and resistance to) this demonstrates the intersections of tensions between homosexuality and religious groups which have a long history in Northern Ireland.

Democratic Unionist Party politicians who are opposed to equal marriage rights for same-sex couples have repeatedly blocked attempts by nationalist party Sinn Féin to address the issue in the Northern Ireland Assembly by invoking a petition of concern: a political veto designed to ensure fairness and equality in *cross-community* issues. Although civil partnership laws exist, legal recognition of relationships as marriages may enhance claims to equality and offset discrimination based on 'difference'. However, while the demand for legislation or recourse to law as a default position in the face of discrimination may be both historical and embedded as a cultural manner of responding to unfair treatment, reliance upon the law is not enough; change needs to be embedded in social, cultural and political attitudes which accept sexual difference and diversity organically, not because the law requires them to do so (Ashe, 2009; Duggan, 2012). Therefore when addressing issues of diversity, difference and dividedness, it is pertinent to contextualise these in light of the culturally specific backdrop in which they take place.

## **Contextualising Prejudice: (Sexual) Identity Politics in Ireland**

The island of Ireland is predominantly Christian but historic identity divisions based on religious, ethnic and national groupings tend to highlight differences, not similarities, between denominations of this faith. These divisions stem from the colonisation of Catholic Ireland by the Protestant British in the mid-1500s, sparking tensions that continue to the present day. Antagonism towards the English and Scottish Protestant settlers intensified with their appropriation of land owned by the indigenous Irish, establishment of the Anglican 'Church of Ireland' and implementation of a series of Penal Laws which increasingly discriminated against the native Catholic Irish, underpinning the Protestants' imposed status as a new ruling class. Tensions intensified after the 1690 Battle of the Boyne, where the Protestant William of Orange deposed the Catholic James II, strengthening the Penal Laws to ensure the dominance of the Protestant ruling elite and the continued subservient status of the native Catholic Irish. Interestingly, this colonising period coincided with the passing of the first civil law rendering buggery a capital offence, The Buggery Act 1533. Colonial and sexual politics continued to intersect at strategic points in Irish history, often playing a small but important part in shaping Irish nationalist ideology during a time later characterised as 'such a homophobic period in European history' (Rose, 1994: 6).

During the late 1800s, concerted effort by Irish Nationalists to reclaim political power from the British began to take hold. Elsewhere in Europe, after changes to the law community sodomy from a capital offence to life imprisonment, a medical model of same-sex desire emerged which led to the construction and pathologisation of 'the homosexual'. Prior criminal sanctions had addressed 'unnatural' homosexual *acts*, but the development of a new homosexual 'label' in the 1860s focused on the homosexual *identity*, broadening the scope of criminalisation through perceptions rather than practices (Weeks, 1977). Ideologies of homosexuality were couched in difference from an imposed heterosexual 'norm', invoking negativity and providing a morally infused, legally sanctioned and easily employed discursive tool of denigration. The 1885 Criminal Law (Amendment) Act widened the scope of the criminal law pertaining to homosexuality to include acts of 'gross indecency' between men, leading to the law being dubbed a 'blackmailer's charter' as a result of the ease with which men were indicted under it. This law applied to Ireland as a result of the British Government acting as the ruling administration, therefore, it is perhaps little surprise that the emergence of this new sexual discourse infiltrated the struggles for political power in Ireland. The growing affiliation of homosexuality with the elite (British) classes juxtaposed traditional heterosexual, Catholic, family-orientated Irish working classes. At the turn of the 20<sup>th</sup> century with the struggle for independence waging in Ireland, several elite members of the British ruling class located at Dublin Castle were among those implicated in an alleged homosexuality 'scandal' exposed by two Irish Nationalists in what was later described as a tactical political move (Hyde, 1955). A number of prosecutions for homosexuality resulted for both British and Irish men, but it was the implications for the ruling British classes which were perhaps more profound given that the widespread belief that a 'homosexual vice was rampant in official circles in Ireland' hugely discredited the British Liberal administration at the time (Hyde, 1955: 133).

This construction of an 'alien other, linked to conspiracy, recruitment, opposition to the nation, and ultimately a threat to civilisation' conveniently defined homosexuality through colonial discourses through shared markers of change, difference, unpredictability and unknowing (Stychin, 1998: 9). Hanafin (2000: 51) suggests that the deployment of homosexuality as a British import by Irish Nationalists made it impossible to equate with the nationalist ideal of Irishness, given that 'the Irish self that was posited by the post-colonial elite was pure and clean, expelling what it considered to be 'impure' elements'. As Stychin (1998: 194) elaborates:

This use of homosexuality has been exemplified by the colonial contamination model. In this guise, same-sex acts and identities are seen through the lens of colonialism, and homosexuality becomes a symbol of modernity, contrasted to a "traditional" way of life based on heterosexual marriage and strict gender roles that existed before the perversion of the colonial encounter.

Fears of this potential 'colonisation' extended to the heteronormative family unit, where the threat of breaching 'heterosexual borders' fuelled discourses of denigration. Drawing on Foucault's (1976) concept of the 'family cell' as regulating normative heterosexuality against the deviant 'other', Conrad (2004: 4) argues that, 'the centrality of the family cell to social, economic, and political organization defines and limits not only acceptable sexuality but also the contours of the private sphere, the public sphere, and the nation itself'. The primacy and continuation of the family cell was central to Irish national identity, homogeneity and community, reflecting continuity, regularity and the familiar, as supported by strong ties to the

Catholic Church. Therefore, Conrad (2004: 25) claims that it was perceptions of homosexuality as 'flexible' and 'instable' which caused concern, stirring up wider fears over control:

The concept of the homosexual as a foreign body, an infectious agent in the family cell, thus reveals a profound anxiety not only about sexual identity but also about the stability of the nation and state and the security of their borders.

The Government of Ireland Act 1920 and the Anglo-Irish Agreement 1921 split the island of Ireland into the Republic (the 26 most southern counties) and Northern Ireland (the 6 most norther-eastern). This signalled a new era to Irish and Northern Irish socio-political life; opposition to the partition was intense with violence heightening significantly during what became known as the 'Troubles' period (1968 to 1998). Almost 40,000 people were injured and more than 3500 people were killed as a result of sectarian and military violence, with the Troubles dominating Northern Irish society and politics (see Hayes and McAllister, 2001; McKittrick and McVea 2001). Sectarian-based identity and spatial struggles between Nationalist and Unionist groups overshadowed other minority identities, rendering them politically invisible at a time when civil rights and liberties campaigns were gaining traction elsewhere in the West (Kitchin and Lysaght, 2003; 2004). For some lesbians and gay men living in Northern Ireland during the onset of the Troubles, the struggle for decriminalisation and the subsequent conservative opposition campaign was a viable, if less politically prioritised, issue.

In England and Wales, campaigns for homosexual decriminalisation resulted in the Sexual Offences Act 1967. This legislation was not extended to Northern Ireland, where strong opposition to decriminalisation had been mobilised under the leadership of the Reverend Ian Paisley, then leader of the Democratic Unionist Party. His highly publicised '*Save Ulster from Sodomy*' campaign involved morally-infused discourses of doom and destruction if the law were to be extended to the province (Duggan, 2012). The campaign garnered significant public attention and support, causing the British government to capitulate and desist with their efforts to implement the 1967 Act in the province. Although homosexuality remained illegal in Northern Ireland, public assurances were made that no prosecutions would actually be brought against gay men. However, it was the arrest and subsequent legal challenge by Jeffrey Dudgeon in the European Court of Human Rights which finally effected decriminalisation in 1982. The Dudgeon case prompted similar decriminalisation efforts in the Republic of Ireland, where laws criminalising homosexuality remained in place despite Irish Independence from the UK. Senator David Norris – an LGB activist and openly gay politician – began his legal challenge domestically through the High Court and later the Supreme Court; in 1993 homosexuality in the Republic of Ireland was finally decriminalised via a European Court of Human Rights ruling.

The prejudices around identity and decriminalisation which fuelled negative misconceptions about (male) homosexuality in society soon become itself the focus of psychological study. The term 'homophobia' emerged in tandem with decriminalisation (and other civil rights laws) in the 1960s, offering a way of understanding the fear of and hatred felt towards homosexuality based upon perceptions of what it may usurp: social stability, the family and religious doctrine (Weinberg, 1972). The motivation here was to shift the focus of debate away from the homosexual and onto the negative 'social constructions' of homosexuality which gave rise to such fear or hatred. Homophobia became recognised as a product of social interaction, is grounded in particular social, religious and political views according to the geographical and temporal location in which it manifests (Plummer, 1975; Kinsman, 1996). From this point on,

the struggle for socio-legal recognition and rights signalled a significant shift from identity-based persecution to protection.

## **The Inclusive and Exclusive Dynamics of Homophobia**

Homophobia is an intolerance of homosexuality; in more extreme cases, those identified as homosexuals have been subject to revulsion, persecution and criminalisation as well as (sometimes lethal) violence. The recognition of this violence sought to address the socially constructed nature underpinning the *response*, not the sexuality, thus illustrating its basis in value judgements as opposed to a normative, treatable 'fear' in the conventional sense:

When a phobia incapacitates a person from engaging in activities considered decent by society, the person himself is the sufferer... But here the phobia appears as antagonism directly toward a particular group of people. Inevitably, it leads to disdain toward the people themselves and to mistreatment of them. The phobia in operation is a prejudice, and this means we can widen our understanding by considering the phobia from the point of view of its being a prejudice and then uncovering its motives. (Weinberg, 1972: 8)

Homophobia, therefore, is culturally or socially learnt; it is not inherent. It can be 'unlearnt' if the reasons and rationales underpinning are addressed. These reasons have fluctuated between viewing homosexuality as being biological (nature) or social (nurture), constructing the homosexual as sick, criminal or deviant with varying degrees of culpability attributed leading to programmes designed to 'cure', contain or control (Plummer, 1975; Weeks, 1977; Fuss 1989, Kinsman, 1996; Moran, 1996). D'Emilio (1992: 174) argues that the staunch rejection of the medical model of homosexuality, coupled with a visible affirmation that homosexuality was equal to heterosexuality in a number of ways, 'loosened the grip of prevailing norms on the self-conception of lesbians and homosexuals and suggested contours of a new, positive gay identity'.

Having a common or shared identity has been crucial for many single- or specialist-interest groups to gain political, social or legal recognition, fight inequality and ensure access to equal rights (Bondi, 1993). This form of identity politics, often constructed along fixed, demarcated binaries which function 'as both the basis of oppression and the basis of political power' (Gamson, 1995: 391) may work in the favour of victimised groups in a 'strategically advantageous' manner in that the greater a group's victimisation, 'the stronger its moral claim on the larger society' (Jacobs and Potter, 1998: 5). Butler (1991: 14), however, suggests that identity categories should be continually problematised and promoted as 'sites of necessary trouble'. Avoiding essentialism, or the homogenising of people under the presumption of a shared identity category, is a necessary part of understanding the way in which identity politics can work against a group.

Therefore, a potential paradox becomes evident: identity politics can be used to highlight the discrimination faced by marginalised groups (such as lesbian, gay and bisexual communities) but in doing so, groups may have to conform to expectations of the dominant (heteronormative) model of citizenship, or affect the pejorative identity which they are resisting in order to be duly recognised, thus exacerbating difference in the process. For example, some sought to affirm similarity and solidarity with heterosexuality while others championed the appropriation and use of pejorative language (such as 'queer') as a tool of resistance for sexual minorities to

mobilise and reclaim an otherwise oppressive identity (Kinsman, 1996). Either way, Foucault (1976) deemed these 'resistant discourses': strategic platforms from which to challenge social constructions and prejudice, exposing and usurping dominant power relations in society:

[H]omosexuality began to speak on its own behalf, to demand that its legitimacy or 'naturalness' be acknowledged, often in the same vocabulary, using the same categories by which it was medically disqualified.

While many lesbians and gay men may feel that their sexual identities are intrinsic parts of their character, it is the *socio-legal response* to these sexualities, and not the inherent nature of them, which often informs the problems they encounter. No effort has been made to scrutinise *homophobia* in the same depth as homosexuality, nor offer similar treatments or cures to those who 'fear' homosexuality to the point of physically or verbally violent outbursts. Instead, such prejudice has been met with legislative changes in various Western societies over the past few decades. After centuries of persecution, homosexuality is now afforded legal protection as criminalisation has shifted instead to the *homophobe*.

### The Emergence of 'Hate Crimes'

The introduction of a socio-political 'hate crimes' discourse in the late 1990s led to changes in UK legislation whereby crimes motivated or aggravated by perceived hostilities on demarcated identity bases could be subject to specific and / or enhanced custodial sentences. This statutory concept first developed in America following a number of high profile racial and homophobic murders which were characterised by their severity and brutality (Jacobs and Potter, 1998). The focus on the victim's identity as being a key component in their offender's motivations prompted lobbyists to highlight the real and present danger for minority groups, as well as the impact on their fear of crime. The subsequent emergence of terminology such as 'bias crime', 'prejudice-based crime', 'identity violence' and 'crimes of hostility' epitomised the fact that the motivating factor behind the incident was the perpetrator's aversion to the victim or target's identity (Perry, 2001). Demarcated 'hate crimes', therefore, indicated a change in socio-legal perspectives to identity-based violence, victims and motivations whereby the recognition of aggravating or motivating factors underpinning the commission of the criminal offence (such as harassment, assault or criminal damage) was being addressed in law (Jacobs and Potter, 1998; Hall, 2005).

In the UK, similar perspectives began to emerge following the death of black teenager Stephen Lawrence in 1993, who had been violently assaulted by a group of white youths in an evidently racist attack (Ray and Smith, 2002; Hall, 2005). The advent of legislation pertaining to hate crimes was founded from a singular definition of 'any incident, which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or 'hate', was later applied to specific identity categories (ACPO, 2005). These categories are currently defined as race, religion disability and sexual orientation, with the recent addition of gender identity in England and Wales. Sectarianism is also included in Northern Ireland and, in some cases, Scotland. In the Republic of Ireland, the Prohibition of Incitement to Hatred Act 1989 offers the only legal protection from identity-based victimisation, but has been criticised for its lack of effectiveness as the Irish courts have yet to find invoke the aggravating factor in sentencing (Schweppe et al., 2014). Recommendations made by Schweppe et al. (2014) for four new legal offences as aggravated by hostility (assault, harassment, criminal damage and public order offences) mirror the types of victimisation most frequently reported by victims of hate



crimes. In addition, they recommend the introduction of a sentence enhancement provision under which hostility, bias, prejudice or hatred would be treated as aggravating factors in sentencing. This would bring the Republic of Ireland in line with its UK counterparts, but debates around hate crimes have unearthed several problematic issues, such as defining 'hate' and the politics of in/exclusion concerning recognised 'hated groups'. Furthermore, these discussions have questioned whether all variations of hate crimes should be punished equally as harshly (with increased tariffs designed to reflect the additional prejudicial motivation) regardless of the level of violence involved.

Perry (2001) questions the fairness of this additional tariff if people are acting on prejudices which they have absorbed through social ideologies - in effect 'doing difference' - but recognises the impact that crimes motivated by prejudice can have on the victim. Similarly, Iganski (2008) argues that hate crimes are not committed by certain individuals set apart from the rest of society but by ordinary people within the context of their ordinary lives yet the additional punishments they receive imply sentiments which may not have featured in the criminal act. In addition, punishing hate crimes more severely than similar crimes not motivated by hate implies a level of retributive deterrence as opposed to just punishing the offender on the basis of their crime. If enhanced punishments are meant to be part of a message to wider society, then other manifestations of prejudice which do not result in violent discrimination may also need to be addressed. On the one hand, making an example of the individual perpetrator may offer some peace of mind to the victim and the wider minority community. However, on the other, some forms of prejudice - such as negative comments - may not be classed as crimes and so cannot be addressed by the courts, yet may be as harmful or as dangerous as traditional crimes. Jacobs and Potter (1998) allude to this when they argue that a paradox exists when social cultures overlook, allow or even publicly condone prejudices against certain minority groups, yet enforce harsher punishments for those who act on these prejudices.

## **Homophobia in Northern Ireland**

Despite over a decade of 'hate crime' legislation in Northern Ireland, a clear flux exists between the socio-political and legislative impact such laws have had on addressing homophobia. Records indicate that the number of people victimised as a result of their sexual identity in Northern Ireland is as high as ever; this is seen by some as positive (improvements in reporting mechanisms) and others as negative (indicative of the challenges still faced in advancing social acceptance of sexual difference). The annual levels of police recorded hate crime against LGB individuals in Northern Ireland indicate that the vast majority involves violence against the person, with the number of homophobic crimes and incidents increasing most years. The sanction detection rate for crimes with a homophobic motivation remains lower than those for all crimes recorded by the police at about 15-16% (PSNI, 2013). What has been evident is the importance of addressing the cultural climate in which legislative change is proposed, adopted, rejected, imposed and operationalised.

An Equality Awareness Survey the Equality Commission for Northern Ireland (ECNI) found that the decline in negative attitudes towards LGB people (from 21% in 2008 to 15% in 2011) was not matched with a corresponding increase in positive attitudes (ECNI, 2012). Higher than expected levels of negative attitudes towards LGB people were also demonstrated in specific scenarios: 42% of respondents said that they would mind if an LGB person was in a close

relationship with a relative, 27% minded having an LGB person as a neighbour and 22% minded having an LGB person as a work colleague. As a result, the ECNI emphasised the need for visible political, civic and community leadership as a means to achieve and sustain positive change for sexual minorities. This need, and the impact it can have on effectively promoting positive attitudes towards LGB&T people has also been recognised in a Fundamental Rights Agency survey into the experiences of lesbian, bisexual, gay and transgender across the EU (FRA, 2013). Their research indicated a link between offensive political discourse towards LGB&T people and the level of perceived discrimination by LGB&T people: comparatively lower levels of LGB&T in the survey indicated that they had been discriminated against in countries where politicians rarely used offensive language about LGB&T people (FRA, 2013).

This proves particularly pertinent for Northern Ireland, where comments by some political figures indicating their prejudice against homosexuality have called into question their ability to fulfil their statutory responsibilities in relation to LGB&T rights, protections and equality. In 2007, Democratic Unionist Party (DUP) MP Ian Paisley junior stated in an interview that gay people 'repulse' him. The following year, former DUP MP Iris Robinson made a series of comments during a live radio interview where she stated that homosexuality was an 'abomination' which 'nauseated' her, that homosexuals could be 'cured' with psychiatric treatment, and that she knew of a 'very nice' psychiatrist who could help to 're-orientate' homosexuals back to heterosexuality (Young, 2008; Duggan, 2012). It later emerged that Mrs Robinson had stated that 'there can be no viler act, apart from homosexuality and sodomy, than sexually abusing innocent children' (Belfast Telegraph, 21st July 2008). Responses from those active in the LGB&T sector claimed that her statements constituted insulting words, thus were in breach of article 9 of the 1987 Public Order Act (NI). After a year-long investigation, the Police Service of Northern Ireland (PSNI) stated that no action would be taken against Mrs Robinson for these public statements as she had done nothing wrong (Gordon, 2009). Such political rhetoric did not abate in the wake of these investigations; during the debates about equal marriage, former Ulster Unionist minister Lord Maginnis called homosexuality 'unnatural' and 'deviant' and a 'rung on the ladder' to bestiality, also characterising marriage between two same-sex partners as 'aggressive and demanding' (Mulgrew, 2012).

Ashe (2009) indicates that persecution of the speaker does not go to the heart of the culturally-ingrained problems informing such prejudice. Invoking Butler's (1997) framework of injurious speech, Ashe indicates a need to see such speakers as *means of engagement* with the broader social issues informing the underlying harmful perspectives. In other words, what do their comment suggest about the factors informing and sustaining prejudice in a particular society? Censorship, regulation or legal intervention may silence those with dissenting opinions, thus eradicating the opportunity for minority groups to address negative stereotypes and harmful misconceptions upon which inequality is based. Perhaps equally as illuminating is the level of support demonstrated by other, non-oppositional parties. Politicians from a Catholic and/or Nationalist background have slowly come round to actively promoting equality, rights and freedom from discrimination but cannot be said to have particularly prioritised or championed LGB&T equality issues to the same extent as other civil rights issues (Conrad, 2004). Instead, many of the laws pertaining to sexual minority equality in Northern Ireland came as part of broader packages implemented through the Belfast (Good Friday) Agreement 1998, which signalled the end of the Troubles in Northern Ireland. Section 75 of the Northern Ireland Act 1998 required statutory bodies to have due regard for the need to promote equality of

opportunity and good relations across different identity strands, including LGB&T communities. The swathe of legislation relating to sexual orientation which arose did so quickly and while the administration was in a period of suspension (thus being controlled by Westminster). Had the Northern Ireland Assembly been sitting, laws such as freedom from workplace discrimination in the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003; freedom to register partnerships in the Civil Partnership Act 2004; freedom from victimisation or discrimination in the Criminal Justice (No. 2) (Northern Ireland) Act 2004; and access to equal treatment under the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 may never have made it to statute.

The Belfast (Good Friday) Agreement 1998 also indicated a statutory requirement to obtain information on minority groups and the prejudice and discrimination they may face in society. This proved important for information gathering purposes as many 'UK' studies on homophobia often make little reference to Northern Ireland, or in some cases exclude it altogether. A possible reason for this exclusion may be the evident socio-political and cultural differences that set Northern Ireland somewhat apart from the rest of the UK. Nonetheless, several studies which have attempted to address homophobia and related victimisation in Northern Ireland have highlighted several key themes including the use and meaning of space for sexual minorities (Kitchin, 2002; Kitchin and Lysaght, 2002, 2003), the increasing nature, frequency and perceived 'acceptance' of homophobic hate crime among LGB communities (Jarman and Tennant, 2003; O'Doherty, 2009), the specific experiences of lesbian and bisexual women (Quiery, 2002, 2007) and the mental health issues affecting young same-sex attracted men (McNamee, 2006). Some theoretical analyses which address homophobia in Northern Ireland make passing reference to these cultural differences although few ground these examinations in empirical research with LGB communities (Conrad 1998, 2000; Quinn, 2000; Kitchin, 2002; Kitchin and Lysaght, 2002, 2003). Alternatively, fact-finding studies into the nature and prevalence of homophobic discrimination or victimisation have focused on highlighting negative experiences and their impact, but have done little to assess what causes or sustains these prejudices in Northern Ireland (Jarman and Tennant, 2003; O'Doherty, 2009). Nonetheless, studies which have addressed homophobia and violence in Northern Ireland indicate how external theories about homophobic hate crime are limited in their ability to adequately address the complex dynamics of such prejudice in the context of socio-political life in Northern Ireland (Duggan, 2010; 2012).

## **Conclusion**

The proposed Criminal Law (Hate Crime) Amendment Bill 2015 put forth by the Irish Council for Civil Liberties marks an important milestone in lesbian, gay and bisexual visibility and full civic integration in the Republic of Ireland. At the same time, there is scope to address why such legislation is needed through questioning what is fuelling contemporary forms social prejudice in a country with such a strong history of experiencing persecution. Having recourse to legal redress for victimisation incurred is symbolically important to those most affected by such acts, but efforts need to go further to address the underlying causes of such prejudice. Furthermore, once the legislation is in place, ineffective operationalising of this may render it tokenistic in nature. Either way, engaging with the criminal justice system to redress harms incurred should be the last resort; instead, more proactive, preventative measures may be better implemented

in a social justice environment through welfare, educational and healthcare policies which seek to challenge the harmful ideologies underpinning such prejudices.

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