

A critical assessment of research into off-road bikes being driven in public parks and the need for legislation.

This critical essay will examine the lack of legislation to protect the public from off-road bikes being driven in public spaces. Research was carried out to gain a broad and balanced understanding of the social, political, legal and human aspects surrounding the issue.

An in person interview was carried out with Anzhela Kotsinian, whose husband was severely injured by a scrambler bike. Community, academic, political and legal sources were also interviewed. While there was an examination of legislation, a sociological report and Dáil Éireann records, to provide background.

Through extensive research, it became apparent this issue could potentially affect any member of the public. Yet, legislation has yet to be introduced to stop off-road bikes being driven in public spaces. Investigating why this legislation had not yet been enacted, was essential. As the project developed, it became vital to understand why young people were driving off-road bikes in parks and why there were no strict measures to stop this.

The sociological report, Darndale, A Long View of an Enduring Challenge, produced for Dublin City Council by former Assistant Garda Commissioner for the Dublin Metropolitan Region, Dr Jack Nolan, along with the Department of Justice's Action Plan, are aimed at developing positive

alternatives to off-road bikes, for young people. The documents provided comprehensive information on the problem and potential solutions.¹

The problem of scrambler bikes highlighted in the media.

From 2014 to 2019, the Road Safety Authority (RSA) reported that six people died as a result of scrambler or quad bike incidents. Three of these were aged 18 or under.²

According to South Dublin County Council, it's illegal to use off-road bikes in public areas, if they don't complete certain requirements.³

The bikes and their use in public spaces, has been a frequent news topic in recent years. On February 16th, 2021, an article published by 'The Irish Times' was headlined 'Wife of scrambler bike victim: 'I don't want to listen to a new story like ours.'⁴ The story outlines measures being introduced by Minister for Transport Eamon Ryan, 'that would give gardaí new powers to clamp down on the anti-social use of scramblers and quads in parks, green spaces, beaches and on wasteland.'⁵ The article highlighted the story of Anzehla Kotsnian and her husband, Ilabek Avetian, who were injured by a scrambler bike in Darndale Park in 2018.⁶

¹ Department of Justice, *Justice Plan 2021* (2021)
<https://www.justice.ie/en/JELR/Department_of_Justice_Action_Plan_2021.pdf/Files/Department_of_Justice_Action_Plan_2021.pdf> [Accessed December 24, 2021].

² Road Safety Authority, *Parents urged not to gift children quad bikes or scramblers for Christmas*, (2020)
<<https://www.rsa.ie/news-events/news/details/2020/10/23/parents-urged-not-to-gift-children-quad-bikes-or-scramblers-for-christmas>> [Accessed 14 February 2022].

³ South Dublin County Council, *Scramblers and Quads - Know The Info*
<<https://www.sdcc.ie/en/services/transport/road-safety/advice-and-guidance/scramblers-and-quads/>> [Accessed December 24, 2021].

⁴Shauna Bowers, "Wife of scrambler bike victim: 'I don't want to listen to a new story like ours,'" *The Irish Times*, February 16, 2021,
<<https://www.irishtimes.com/news/ireland/irish-news/wife-of-scrambler-bike-victim-i-don-t-want-to-listen-to-a-new-story-like-ours-1.4486572>> [Accessed November 2, 2021].

⁵ Ibid.

⁶ Ibid.

On October 25th, 2021, the ‘*Irish Examiner*’ published an article headlined ‘Fresh calls for action on scrambler bikes after hit and run.’⁷ The report details that a woman, in her 20s, was injured by a scrambler bike in Darndale.⁸ Sinn Féin Councillor Larry O’Toole told the newspaper the Government needed to introduce legislation and provide gardaí with more power to apprehend drivers.⁹ On October 25th, 2021 ‘*Dublin Live*’ published a story on the same scrambler bike incident.¹⁰ The headline stated ‘Young woman hit by scrambler bike in Dublin left seriously injured.’

On July 26th, 2020, ‘*The Times*’ published an article with the headline ‘Gangster-ridden streets of Darndale need more visible gardai, urges draft report’.¹¹ The story described how communities, such as Darndale and Coolock, needed to have a stronger garda presence, funding for addiction services and youth support.¹² The article highlighted Dr Jack Nolan’s report.¹³

Interviews

A prominent story featured a couple, who’d emigrated from eastern Europe to Dublin. Anzhela Kotsinian and Ilabek Avetian, were injured by a scrambler bike on Darndale Park in 2018. Mr Avetian, 42, was seriously hurt and today lives in a nursing home.

During research, this case stood out due to the severity of Mr Avetian’s injuries. According to High Court legal papers, he lost his left eye and had a traumatic brain injury. However, the driver

⁷ Cormac O’Keeffe, “Fresh calls for action on scrambler bikes after hit and run,” *Irish Examiner*, October 25, 2021, <<https://www.irishexaminer.com/news/arid-40729479.html>> [Accessed November 2, 2021].

⁸ Ibid.

⁹ Ibid.

¹⁰ Rachel Curran, “Young woman hit by scrambler bike in Dublin left seriously injured,” *Dublin Live*, October 25, 2021, <<https://www.dublinlive.ie/news/young-woman-hit-scrambler-bike-21959397>> [Accessed November 2, 2021].

¹¹ Stephen O’Brien, “Gangster-ridden streets of Darndale need more visible gardai, urges draft report,” *The Sunday Times*, July 26, 2020, <<https://www.thetimes.co.uk/article/gangster-ridden-streets-of-darndale-need-more-visible-gardai-urges-draft-report-k9fcsrtk3>> [Accessed November 3, 2021].

¹² Ibid.

¹³ Ibid.

was under 18 and was never prosecuted - leaving potential questions regarding a gap in legislation. The story was also of interest, due to Ms Kotsinian's media campaign to change the law.

Ms Kotsinian was contactable via a family connection. She agreed to an interview and admitted frustration that the Bill adopted into the Oireachtas at the end of January 2021, hadn't been enacted. She discussed the ramifications of her husband's injuries, explaining her life had been forever changed. She called for a law to be introduced urgently and for stronger policing of the bikes.

Ms Kotsinian was interviewed in person and recorded via phone.¹⁴ Photos were taken of Ms Kotsinian and Mr Avetian in Beaumont Hospital, of the exterior of Beaumont Hospital and of Ms Kotsinian in Darndale Park.

More interviews were arranged, including with Artane/Whitehall north Dublin Sinn Féin Councillor, Larry O'Toole.¹⁵ Councillor O'Toole criticised the lack of legislation. He revealed a 'sense of fear' in Darndale after the woman, in her 20s, was injured by a scrambler on October 24th, 2021. The councillor, who knows the woman, said she was walking on a footpath on Priorswood Road, near Darndale, when she was hit.

Councillor O'Toole's information was cross checked with newspaper reports. The articles verified what he'd said, including that the woman was brought to Beaumont Hospital with serious injuries. This incident had taken place several months after the introduction of the Criminal Justice (Public Order) (Quadbikes and Scramblers) (Amendment) Bill 2021.¹⁶

¹⁴ Anzhela Kotsinian, Interview with Anzhela Kotsinian (interviewed by Olivia Lynott for Final Year Project Assessment) (Dublin: Final Year Project Assessment, 27 September 2021).

¹⁵ Larry O'Toole, Interview with Larry O'Toole (interviewed by Olivia Lynott for Final Year Project Assessment) (Dublin: Final Year Project Assessment, 8 February 2022).

¹⁶ Private Members, *Criminal Justice (Public Order) (Quad Bikes and Scramblers) (Amendment) Bill 2021* (2021) <<https://www.oireachtas.ie/en/bills/bill/2021/7/>> [Accessed December 23, 2021].

Councillor O'Toole explained that the current Bill had been drawn up after a party colleague had tried to initiate similar legislation. However, the Sinn Féin Bill failed due to Government opposition.

Councillor O'Toole's statement was verified by cross checking online Oireachtas debates. In October, 2018, four months after Ms Kotsinian and Mr Avetian were injured, Sinn Féin TDs Imelda Munster and Dessie Ellis stated their 'disappointment' their co-sponsored Bill to update traffic legislation to regulate off road bikes, was rejected by the Government.¹⁷ In May 2019, Fianna Fáil Dublin South West TD John Lahart, told the Oireachtas of concerns gardai were not pursuing off-road drivers, due to a perceived risk to the public.¹⁸ Deputy Lahart and fellow Fianna Fáil TD John Curran, also attempted to establish legislation. The TDs introduced the Road Traffic (All Terrain Vehicle and Scrambler Motorcycle) (Amendment Bill 2019).¹⁹ The Private Members' Bill also reached the second stage before it collapsed, when the 2020 General Election was called.

All Dublin councillors' emails and phone numbers are listed on the Dublin City Council website. Councillor O'Toole, a valuable source, was contacted via email and was interviewed over the phone. The interview was recorded with an iPhone.²⁰

¹⁷ Dessie Ellis TD, Imelda Munster TD, *Fianna Fáil and government refuse to back Sinn Féin bill regulating scramblers and quad bikes on green areas* (2018) <<https://www.sinnfein.ie/contents/51306>> [Accessed 15 February 2022].

¹⁸ Private Members, *Dáil Éireann debate - Wednesday, 8 May 2019* (2019) <<https://www.oireachtas.ie/en/debates/debate/dail/2019-05-08/37/>> [Accessed December 24, 2021].

¹⁹ Private Members, *Road Traffic (All Terrain Vehicle and Scrambler Motor-cycle) (Amendment) Bill 2019* (2019) <<https://www.oireachtas.ie/en/bills/bill/2019/31/>> [Accessed 15 February 2022].

²⁰ Larry O'Toole, Interview with Larry O'Toole (interviewed by Olivia Lynott for Final Year Project Assessment) (Dublin: Final Year Project Assessment, 8 February 2022).

By carrying out online research on Darndale, it became apparent Dr Jack Nolan had conducted an extensive report for Dublin City Council.²¹ The study highlighted gangs, drugs and unemployment problems in Darndale, with community esteem, community leadership, career and job opportunities, being potential solutions.²²

Dr Nolan noted ‘escalating levels of violence’ in Darndale, Belcamp and Moatview, north Dublin, between 2019 and 2020. The report proposed ‘socio-economic analysis and the development of a community plan.’²³ It noted Darndale had high unemployment, a large number of lone parents, below average educational achievements, deprivation and a reliance on State welfare.²⁴ There was a high crime rate, drug dealing, drug dependence and antisocial behaviour, with residents expressing fear. The study showed a ‘culture of intimidation in public spaces.’²⁵ However, an ‘impressive’ number of State services, including those run by Dublin City Council and an NGO, were providing support, education and treatment, including to those with addictions. Dr Nolan signposted the Darndale Belcamp Village Centre, as a valuable community resource. This facility became a communication point for further information for the Final Year Project.²⁶

Dr Nolan felt ‘every effort’ was necessary to ‘improve educational attainment’ and employment opportunities. He said services had to be coordinated to offer youth and addiction support.²⁷ The study described how vital it was that young people were steered away from criminality and were

²¹ Dr Jack Nolan, Interview with Dr Jack Nolan (interviewed by Olivia Lynott for Final Year Project Assessment) (Dublin: Final Year Project Assessment, 31 January 2022).

²² Report for Dublin City Council 2020, Dr Jack Nolan. *Darndale a long view of an enduring challenge*. (Dublin: Report for Dublin City Council, 2020)

²³ Ibid. p.1.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid. p.2.

²⁷ Ibid.

‘positively influenced’.²⁸ Within the study, Dr Nolan suggested one path to ‘dismantle and dilute gangs’ was to a ‘dedicated project for the hardest to reach youth offenders and their families.’²⁹ Dr Nolan’s detailed work gave insight into why antisocial problems, such as driving scrambler bikes in public parks, had become a problem.

Dr Nolan’s voice was essential and thus he was contacted for an interview.³⁰ Dr Nolan spoke of the young drivers' sense of bravado and of the consequences neighbourhoods experienced. He provided a perspective into the multi-faceted issues causing the antisocial behaviour. By reaching out to Dublin City Council press office, it was possible to gain a contact email for Dr Nolan. The interview was carried out over the phone and recorded with an iPhone.³¹

Beaumont Hospital domestic worker Maria Coyne, gave her perspective, as a friend of Ms Kotsinian’s, who’d set up a Go Fund Me fundraiser for the couple.³² Ms Coyne discussed the life-altering injuries Mr Avetian had suffered. She called for legislation to be introduced immediately and for off-road bikes to be policed. Ms Coyne was contacted via social media and interviewed over the phone.³³

Media Demonisation of Darndale

²⁸Ibid.

²⁹Ibid. p.4.

³⁰ Dr Jack Nolan, Interview with Dr Jack Nolan (interviewed by Olivia Lynott for Final Year Project Assessment) (Dublin: Final Year Project Assessment, 31 January 2022).

³¹ Ibid.

³² Maria Coyne, Interview with Maria Coyne (interviewed by Olivia Lynott for Final Year Project Assessment) (Dublin: Final Year Project Assessment, 11 February 2022).

³³ Ibid.

The early focus of the project was to examine the impact of the lack of legislation and the intention of banning off-road bikes in public spaces. However, after examining academic, legal and political reports and interviewing knowledgeable sources with differing views, it became clear that rather than only underlining the problem, the solutions had to be highlighted. There was a lack of youth activities and opportunities in Darndale and a shortage of policing. Research illustrated there was a socio-economic element to the issue. Darndale has high unemployment and deprivation, a low number of third level applicants and a number of gangs. After contacting numerous Darndale community groups, CEO of Darndale Belcamp Village Centre, Nicko Murphy, agreed to make a statement. This interview was documented via email. Mr Murphy explained how the issue of off-road bikes driven in public spaces had negatively affected residents for years and caused damage to the environment. He felt it would be beneficial for legislation or regulations, for the sale of the vehicles to be restricted and for Dublin City Council bye-laws to be upgraded, to allow for the seizing of the vehicles. He said if the vehicles were to be used in a safe, controlled way, this could benefit young people and allow them to learn bike maintenance. While young people could be taught how to drive the vehicles in safe areas.

According to authors Yuning Wu, Ivan Y. Sun & Ruth A. Triplett, in the Justice Quarterly article on ‘Race, Class or Neighborhood Context: Which Matters More in Measuring Satisfaction with Police?’ race and class are equally important predictors regarding resident’s satisfaction with police.³⁴

³⁴ Yuning Wu , Ivan Y. Sun & Ruth A. Triplett, “Race, Class or Neighborhood Context: Which Matters More in Measuring Satisfaction with Police?” *Justice Quarterly*, 26(2009), <<https://www.tandfonline.com/doi/full/10.1080/07418820802119950>> [accessed 3 April 2022].

Ronald Weitzer stated in, 'Citizens' perceptions of police misconduct: Race and neighborhood context,' residents of both white and black middle-class neighborhoods, were less likely to perceive or experience police abuse than were residents of the black, lower-class neighborhood.³⁵ He also stated that, 'Neighborhood class position thus may be an important, but often overlooked, factor shaping citizens' attitudes and experiences.'³⁶ His study was based on residents' interviews compiled from three Washington DC areas.³⁷ The areas varied both racially and socioeconomically.³⁸

Headlines such as 'Gangster-ridden streets of Darndale need more visible gardai...' which featured in a '*The Times*' article on July 26th, 2020, show how some newspaper reports have demonised Darndale.³⁹ While a '*Sunday World*' headline 'Ambitious plan to rid Darndale of thugs and evict criminals, announced,' published on October 12th, 2020, also illustrates media stereotyping of a working class neighbourhood.⁴⁰ While an accompanying published photograph of a garage covered in graffiti, reading 'Garda scum' and 'Rats out,' further demonises the area. A picture caption notes the scene is 'Darndale,' as though this is a normalised image of this community.

The two articles have also interpreted Dr Nolan's report in an unbalanced way, focusing on the antisocial element. When the former garda discusses antisocial behaviour, in his report, he also

³⁵ Ronald Weitzer, "Citizens' perceptions of police misconduct: Race and neighborhood context" *Justice Quarterly*, 16(1999), <<https://www.tandfonline.com/doi/abs/10.1080/07418829900094381?src=recsys>> [accessed 3 April 2022].

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Stephen O'Brien, "Gangster-ridden streets of Darndale need more visible gardai, urges draft report," *The Sunday Times*, July 26, 2020, <<https://www.thetimes.co.uk/article/gangster-ridden-streets-of-darndale-need-more-visible-gardai-urges-draft-report-k9fcsrtk3>> [Accessed November 3, 2021].

⁴⁰ Conor Feehan, "REPORT PUBLISHED Ambitious plan to rid Darndale of thugs and evict criminals announced," *The Sunday World* <<https://www.sundayworld.com/news/irish-news/ambitious-plan-to-rid-darndale-of-thugs-and-evict-criminals-announced-39612440.html>> [Accessed November 3, 2021].

explains the potential solutions and socio-economic reasons why criminality has flourished. This news coverage could potentially risk further scapegoating and isolating Darndale residents. Readers are provided only a negative impression of the area. Yet, Dr Nolan's report states clearly Darndale is home to a number of creative and community groups and that with more work, these types of initiatives can help affect change.

Further Background: Community group and legal expert on traffic law.

Dublin City Arts Officer Ray Yates was contacted via the Dublin City Council press office.⁴¹ He gave insight into community work taking place in an attempt to steer young people away from antisocial behaviour. Mr Yates was included as a source after researching the positive community work Dublin City Council was doing in Darndale.

Mr Yates' interview provided a basis to examine the other side of this debate. It helped gain clarity on the issue of antisocial behaviour and how young people often felt isolated and without prospects. This interview was carried out over the phone and recorded via an iPhone.⁴²

For a legal perspective on the topic, it became clear solicitor John Hennessy, was an important source to interview.⁴³ Mr Hennessy is representing Mr Avetian and Ms Kotsinian in a High Court civil case against the Motor Insurers Bureau of Ireland (MIBI) and Dublin City Council. Mr Hennessy provided a legal assessment of the case, the wider issue of scrambler bikes and a lack of legislation. The solicitor also provided case papers submitted to the High Court, showing the solicitor and Ms Kotsinian were never told the scrambler driver's identity or his registration

⁴¹ Ray Yates, Interview with Ray Yates (interviewed by Olivia Lynott for Final Year Project Assessment) (Dublin: Final Year Project Assessment, 11 February 2022).

⁴² Ibid.

⁴³ John Hennessy, Interview with John Hennessy (interviewed by Olivia Lynott for Final Year Project Assessment) (Dublin: Final Year Project Assessment, 11 February 2022).

plate. The legal papers detailed how the underage driver had been placed on a Youth Diversion Course and had avoided a prison sentence due to his age. The solicitor's interview showed how difficult it is under current legislation to deal with juvenile joyriders. Within the court papers, it's apparent that MIBI claims it's not responsible for the incident and the body asserted Dublin City Council, the owners of Darndale Park, had to be called into the case. The Council was added to the litigation as a secondary defendant. The solicitor explained the Council could theoretically be held liable for the incident, as it had failed to stop scrambler bikes being driven in the park. Mr Hennessy became of interest as an interviewee after Ms Kotsinian stated he was handling the case in the High Court. The solicitor became one of the most knowledgeable experts on the lack of legislation to police the young drivers.

Research

To begin to gain a thorough understanding of the topic, detailed research was necessary. From week one until week 12, there was a focus on political, academic and legal research, along with wide-ranging interviews with experts. Each interview was transcribed on Google Docs. These were edited and added to the Final Year Project, in order of importance. The most vital sections of each interview were prioritised. Each interview offered a different perspective, though some correlations in opinions were found, such as a need for legislation to be introduced and the potential to help divert youths from driving off-road bikes in public spaces. Different voices and research ensured there was a balance of opinions. For example, Dr Jack Nolan and Nicko Murphy both highlighted young people living in challenging environments.

Examination of media articles underlined that off-road bike incidents have resulted in a number of life threatening injuries and deaths. As part of the assignment it was vital to examine the Criminal Justice (Public Order) (Quad Bikes and Scramblers) (Amendment) Bill 2021. The draft legislation is in its second stage in the Oireachtas.⁴⁴ It must go through five stages in Dáil Éireann and then six in Seanad Éireann, before being introduced into law. Launched by Minister for Transport Eamon Ryan and Minister of State Hildegard Naughton, the Bill proposes to give gardai additional powers to tackle the antisocial use of off-road bikes in public spaces. The Bill will prohibit the use of the bikes on private land, that gardai will be given powers to detain a vehicle and to seize vehicles.

During research, it became apparent the Road Safety Authority (RSA) had highlighted that six people had died as a result of scrambler or quad bike incidents from 2014 to 2019. Three of those who'd died were aged 18 or under.⁴⁵ Since the Bill was introduced on January 27th, 2021, more scrambler bike incidents have taken place, according to media reports.⁴⁶ This illustrates how much of a problem the bikes are with regards to public safety.

Dr Jack Nolan's report, along with the Criminal Justice (Public Order) (Quad Bikes and Scramblers) (Amendment Bill 2021) and High Court papers on the Avetian-Kotsinian Vs MIBI and Dublin City Council litigation, were essential to understanding the issue. The documents shed light on the socio-economic problems in Darndale and surrounding areas, combined with a failure by the Government and Dublin City Council to design solutions to stop off-road vehicles

⁴⁴ Private Members, *Criminal Justice (Public Order) (Quad Bikes and Scramblers) (Amendment) Bill 2021* (2021) <<https://www.oireachtas.ie/en/bills/bill/2021/7/>> [Accessed December 23, 2021].

⁴⁵ Road Safety Authority, *Parents urged not to gift children quad bikes or scramblers for Christmas*, (2020) <<https://www.rsa.ie/news-events/news/details/2020/10/23/parents-urged-not-to-gift-children-quad-bikes-or-scramblers-for-christmas>> [Accessed 14 February 2022].

⁴⁶ Private Member, *Criminal Justice (Public Order) (Quad Bikes and Scramblers) (Amendment) Bill 2021* (2021) <<https://www.oireachtas.ie/en/bills/bill/2021/7/>> [Accessed December 23, 2021].

being driven in parks. The information also underscored a failure by the Government to prioritise legislation, namely this Bill and at least two previous draft laws. The High Court papers detailed that even after a young driver had caused life-altering injury to an innocent person, it's still incredibly difficult to hold anyone accountable, due to the lack of legislation in this area.

The interviews arranged post research into this topic, have provided excellent insight into a complex topic. It seems this antisocial behaviour could only potentially be solved by a multi-pronged approach. Each interview questioned the problems and solutions and contributed to what's surely one of the most comprehensive investigations into scrambler bikes being driven in public spaces, the impact that causes to the public and the lack of legislation to control this activity.

Throughout the process, there were challenges, including sources not responding to interview requests. This led to several phone calls and emails being made to chase up interviews.

However, some people didn't want to participate in the end, suggesting the issue was too difficult to talk about. There was an apparent feeling of intimidation from some respondents, who seemed to feel that if they spoke about antisocial behaviour in Darndale, they'd be judged socially in the area. Although, it was explained to interviewees that the research would not be made public, this didn't change these people's minds. It underlined the problems the media may face in gaining balance at times.

This aspect was something that was not considered at the start of the project. While some people refused to take part, others cancelled or changed times and days for interviews. Such delays

made the project more challenging and time consuming. These were issues that had to be overcome and in doing so, the process was more rewarding in the end. It became apparent that journalistic tenacity would have to be adopted and utilised regularly. While it also became clear that diplomacy in explaining the value of the work, was also necessary to win some interviewees over. This process, though at times, difficult, was valuable.

Conclusion

The original plan for the project developed radically from the outset. It had originally been the intent to interview just Anzhela Kotsinian, to discuss the impact the incident had on her life. However, by interviewing several experts in different areas and by referring to several research and legislative papers, the issue became much wider and vastly more interesting. The completed project is an expansive, informative piece of research, which fairly examines all areas which lead to off-road bikes driven in public spaces, being a serious problem. While solutions are suggested towards ending this antisocial behaviour in public spaces.

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