

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM FIONA FLANAGAN

Dear Sir/Madam,

I write with concern regarding the proposed Hate Crime Bill, and in particular the changes relating to 'stirring up hatred' and 'abusive' behaviour, and applying this to issues of belief.

There is much debate right now regarding the Gender Recognition Act, and the impact of self-ID on the rights and safety of women and girls. While all transgender people should be able to live their lives free from threatening or violent behaviour, there is valid debate to be had over how male-bodied people identifying as women impacts on natal women and girls. This bill would effectively silence that debate, and would mean that women would no longer be able to either campaign for their rights or even discuss the impact of self-ID without the risk of being jailed - this silencing of free speech goes against democracy and is akin to the actions of a dictatorship, where 'wrongthink' must be punished.

Since the prospect of self-ID inherently includes a risk of some non-transgender males abusing the system to gain access to women's spaces, then we must be allowed to discuss those risks and find a way to eliminate them. Since there are also transgender women in Scotland who have serious concerns about self-ID, it makes it even more bizarre to legislate against the right to discuss these issues. Some quarters of the transgender activist movement strongly assert that being a woman is no more than a belief or a feeling - it is preposterous to suggest that anyone who disagrees with that assertion should face criminal prosecution, just as it would be preposterous to suggest that those who assert there is no god should face criminal charges because that assertion deeply offends those who believe in god. Transgender people are already covered by the same rights and protections that everyone has - allowing male-bodied people to access single-sex women's services such as rape crisis centres, homeless shelters and women's prisons will remove rights from natal women, and this is not democracy or equality. To legislate against women's groups even being able to discuss the implications of this is morally wrong.

It is dangerous and wrong to criminalise 'abuse', giving the impression that anyone who takes offence at those who don't subscribe to their beliefs can be punished through the law - free speech has long been a cornerstone of democracy, and this bill over-reaches its remit by attempting to effectively end free speech. There are already protections for those who threaten or cause harm to others through hate crimes - charging people with a crime simply for refusing to believe what others believe is a dangerous path to go down.

What is even more deeply concerning is the proposal to remove the necessity of proving intent to stir up hatred - this will mean those making an innocent mistake in print or verbally, who meant no harm or ill-intent, will find themselves charged with a crime, potentially carrying an onerously long jail sentence. There is no way, in a

functioning democracy, that people should be charged with a hate crime where no hate was either intended or deliberately carried out. It is also against all democratic principles that those accused will have the burden of proof of their innocence placed on them - they will be guilty until proven innocent, rather than those doing the accusing having to prove that a crime was committed.

The Scottish Government is often accused by its opponents of being a nanny state - an argument which, as a long-time SNP supporter, I have always strongly disagreed with. This is, sadly, the first time that I feel that criticism is valid - while everyone has the right to live in peace and be free from attack or persecution, this has to be balanced with a right to free speech and freedom of belief. This bill contains proposals which seriously undermine democracy, making it a crime to openly hold different beliefs, and legitimising those who feel that just holding a different belief is an attack on them and should be punished. These proposals will not make Scotland a fairer or more equal society, but will instead silence free speech and limit democracy.

Regards,

Fiona Flanagan

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21 July 2020