

## JUSTICE COMMITTEE

### HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

#### SUBMISSION FROM JOANNA BUICK

Hello

I have been reading the draft Hate Crime and Public Order (Scotland) Bill and wish to make the following submissions to consultation with reference to Parts 1 (Aggravation of offences by prejudice) and 2 (Offences relating to stirring up hatred).

#### Part 1 Aggravation of offences by prejudice

Your list of protected characteristics excludes 'sex', a factual state similar to age and disability as personal physical attribute. Omitting sex removes consideration of sex-based prejudice, in particular misogyny which pollutes society and affects women in all areas of life - crimes against women proliferate. Are you seriously intent on removing the concept of aggravation on the basis of sex?! This would be misogyny of the worst kind.

Statistics taken from the UK Government (2019) factsheet at

<https://homeofficemedia.blog.gov.uk/2019/03/07/violence-against-women-and-girls-and-male-position-factsheets/>

give important information about crimes against women - it seems unlikely these crimes did not have a component of 'aggravation of offences by prejudice' on the basis of sex.

- In the UK, 1 in 4 women will experience domestic abuse and 1 in 5 sexual assault during her lifetime. Globally this rises to 1 in 3.
- The Crime Survey of England and Wales estimates 20% of women and 4% of men have experienced some type of sexual assault since the age of 16, equivalent to an estimated 3.4 million female victims and 631,000 male victims. 5 in 6 victims (83%) did not report their experiences to the police.
- An estimated 3.1% of women (510,000) and 0.8% of men (138,000) aged 16-59 experienced sexual assault in the last year.

#### Part 2 Offences relating to stirring up hatred

Sections (2) [offence] and (3) [characteristics]

It is likely that some people will take offence if their views are called into question by others. Our supposedly liberal government cannot and should not legislate against debate or performance on the basis of someone, somewhere, possibly taking offence - that is offensive to free speech.

Your list of protected characteristics excludes 'sex', a factual state similar to age and disability as personal physical attribute. This must be an error - see comments on Part 1 above. You cannot seriously be suggesting the removal of sex as a human characteristic.

Gender identity is a social construct and, while any threatening behaviour and hatred of people whose identity is transgressive or transcending of gender normative roles is obviously unacceptable, discussion of gender roles must be permitted as free speech. Your draft would make discussion of gender roles impossible, thus preventing free speech. Discussion of gender constructs is not hate speech. Gender norms shift all the time - how on earth would you police this? Would your legislation lead to approved gender presentations, reinforcing stereotypes?!

Others, including performers, legislators and leaders, have thought carefully about these issues - please take note:

Rowan Atkinson

Speech at UK Parliament discussing Section 57 of the Crime and Courts Act 2013 which came into force on 1 February 2014 <https://www.youtube.com/watch?v=eOxJ-789YtA>

Criticism, ridicule, sarcasm, unfavourable comparison, stating an alternative point of view to the orthodoxy - all can be construed as insult. "The best way to increase society's resistance to insulting or offensive speech is to allow a lot more of it". "If we want a robust society we need more robust dialogue and that must include the right to insult or to offend."

UK Parliament's Joint Committee on Human Rights

"we do not think that language or behaviour which is merely "insulting" should ever be criminalised".

<https://publications.parliament.uk/pa/jt200809/jtselect/jtrights/47/4711.htm>

Barack Obama

"The strongest weapon against hateful speech is not repression; it is more speech — the voices of tolerance that rally against bigotry and blasphemy, and lift up the values of understanding and mutual respect."

"efforts to restrict speech can become a tool to silence critics or oppress minorities.  
(Remarks to the UN General Assembly, 2012)

Please reconsider your draft and amend it to protect free speech, defend sex-based rights, and encourage identify constructs that do not reinforce misogyny.

Joanna Buick

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