

JUSTICE COMMITTEE**HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL****SUBMISSION FROM BRYNDÍS BLACKADDER**

For the attention of The Justice Committee, Scottish Parliament,

This bill threatens the foundation of free society: the ability to communicate freely. 'Insult' is extremely subjective; the legislation institutes 'perception' another term such as "insulting" that is inherently subjective as a legal concept, which overrides any discoverable 'intent' or even the opinion or level of offense felt by the 'target' group in society or elected individual that someone may be complaining on behalf of. This is extremely dangerous; it could be very easily used with malicious intent, to harass and silence people.

If there is no need for "corroboration" there is yet more power given to a complainant and since their *perception* is given credible precedence over every other person's interpretation (including the victim) and without 'test' to see if it meets any criterion of hate. If their motive for complaining and reporting is not interrogated this hands individuals immense power to control others; to use the law, police and so on, as strong men to do their bidding and censor political opponents, neighbours or acquaintances, in person or online, that they have a disagreement with or are in competition against.

The lack of need for pattern or repeat offenses to constitute criminality is also disconcerting. One may 'slip up' and say something which someone could be waiting for in hope of using this to get them silenced, one can imagine individuals intentionally 'riling up' people to verbally lash out in text/ arguments etc. as Bracadale disconcertingly states words uttered in the "heat of the moment" are not excused as a moment of passion, that it is as bad as any concerted harassment campaign or hateful outburst. This is criminalisation of anger. It is unjust and anti-human nature to criminalise expression of rage or irritation, by the convention of insult in disagreement humans developed a lexicon based on perceived characteristics of the person they are 'reading' (as termed in gay male/drag scene American culture for exchanges of good humoured but scathing insults) , insults are tailored to the person the exchange is with to avoid generalisation, it is identifying and not broad, this is the nature of interpersonal discourse when complaining about a specific individuals actions, character and being that is annoying someone. To criminalise said identification is to declaw an individual, to further disarm people and increase their worry of lacking ability to operate as free individuals with the right to defend themselves with verbal aggression or defensiveness. Inversely to what the bill seeks to achieve I believe it will increase antagonism, create a seething and unsettled vibe in society, constant stifling of opinion, nervousness about who hears your moment of passionate rage even between friends who would 'make up' afterwards will make a surreptitious, lying and increasingly angry population. Everyone knows that holding things in can make people unwell and increase their ill temper.

It doesn't just criminalise anger, it paints the most mild and amiable discourse as aggressive and antagonistic just based on someone's perception and *dislike* of the

conversation occurring. We cannot allow people to be able to claim “offense” just to shut down a conversation. It give way too much power to individuals to control discourse, politics etc. via weaponising of laws. The power in society will be controlled by *The Complainers*, meanwhile those that have a normal tolerance to debate and are less ‘sensitive’ just lose their ability to talk. This creates an appetite to ‘race to the bottom’ a tattle-tale culture of mutually all reporting each-other in a battle to try and get your opponent ‘cancelled’ before they ‘cancel you’ . This creation of ‘appetite’ is disconcerting and extremely worrying, one can see it occurring already, comments such as “why not Sex then? Why are women not protected in Hate Crime? Veganism? Diet? Goths? Hair colour, what about red heads? Skin diseases?” etc. or worse, opinion of any sort may be “protected” so one may eventually be considered “hateful” for interrogating *any belief* at all. This will make conversation a risk at any level, it could criminalise anything and the government is tricking the public in to supporting this slippery slope of increased legal overreach in to the private and public spheres of communication.

It is telling and conspicuous that this is politically motivated as a way to control the individual as it creates loopholes to make Internet Service Provider, ‘Social Media hosting’ bodies, corporations and churches exempt. It allows these bodies to control the speech on the platforms but they themselves (CEOS, etc.) take on no risk for increased illegality of discourse, they can facilitate hate but are not punished, they can define hate and have no skin in the game. They can profit from “hate” but risk nothing.

The corporations of the world should not be given such powers of censorship. It is a national security risk to allow conglomerates to auto-censor discussions and mould the zeitgeist. It is anti-democratic for the public sphere to be curated by political parties that manage to make deals with tech giants. Freedom of speech should be seen as advantageous for every human and every party, please bear in mind that there is no guarantee that you and your party, or you and your kin, ethnic group or class will always be in power and in control of the ‘mob’ opinion. This has been attempted in history multiple times and I am appalled the Scottish government is being so myopic; why repeat mistakes of history? In 2020 the theme of the year is both acknowledging then scrubbing traces of the past, I would like the government to cease emulation of communist social control and fascism, learn from the Red Army and Stasi , please do not use them as examples to imitate. Scotland wants a just, fair and happy society... fearing your neighbour and feeling watched, surveilled and scared is no way to create cohesion and respect. It will only cause distrust in protected groups, and inhibit engagement between groups. Why would people want to converse with others who regularly report people who engage with them in conversation? Particularly in recent years many have observed the extreme use of reporting tools in online forums by the transgender community, it became necessary for survival and advantageous to avoid even going near their online community for fear of reprisals (banning, locked accounts, police visits) for the tiniest trespass against them. This prickly clique and gang situation is just further ghettoising society, if one strays in to the metaphorical territory of other groups online one could immediately be seen as being antagonistic, “hateful” and “insulting” just via disagreement which could be construed as “literal violence”. It can be painted as an affront by engaging, by *existing*, as a person who is “able bodied”, White, “Cis-het” etc.

As American “Critical Race Theory” also gains traction in the U.K I am concerned that there is now an insinuation that “speaking while white” could be an offensive act. Offense and perception of insult is so subjective and so promoted by the most sensitive individuals in society that I fear, with good reason, this will actually further divide society create insular groups, deter integration and sharing of cultures and opinions and create ‘us and them’ attitudes.

Satire, the arts, theatre and storytelling are the ancient methods of humans to dissect their own culture and ask big philosophical questions, to interrogate politics, to try and change social attitudes, they are fundamental to how all societies share knowledge and develop ideas, remember history and develop empathy, widen imaginations etc. Inherent to satire is parody, lampooning events and opinions often blowing it to over the top proportions and integral to it is offense and insult against religion, sub cultures, political parties and social conventions; through emphasis and extremeness it shows the audience that which it is highlighting, out of its normal proportions it will shine a light and undo habituation to a concept. It is necessary to shock. The offense is what engages the critical mind; lack of offense and insult creates complacency and inaction and no change. To criminalise whole theatre crews and cast is almost totalitarian, why is the U.K trying to emulate a caliphate? Why delete blasphemy laws just to create new ones? How can anyone risk their livelihoods to tell stories for fear of offense? The U.K theatre, film and arts industries are extremely profitable to the U.K and one of our proudest exports. Why inhibit our industry and inventiveness?

Again look to history and all the great artworks, books, plays and films censored, banned and hidden or destroyed due to contemporaneous ideas of insult and offense. Learn from history.

I now want to discuss how there seems to be no justification to this bill as it appears Hate Crime numbers are going down or are stable and considering the U.K population is going up it is technically going down overall. Even with intense add campaigns and organisations such as Stonewall paying people £25 to learn how to report anti LGBT hate crime, then numbers remain very low, surprisingly low considering the almost hysterical portrayal of the UK as such a ‘hot bed of hate’. I must conclude that the “stake holders” involves want more “criminality” to justify their own funding by the government; if your mandate and goal is to tackle and raise awareness of hate, but there is very little statistically, and your awareness raising hasn’t increased reporting... it is easily deductible that they feel that lowering all the thresholds for criminality is an easy way to *boost the numbers* and therefore justify their funding. If there is no need for corroboration, proved intent or pattern, one-off insults could be considered hate crimes and immediately the numbers will be inflated on paper thus facilitating the harvest of further millions to be paid to stakeholders, their interest in there being such crimes to justify their organisations’ existence. If society statistically is becoming more accepting, groups that are there to discuss the hate and promote acceptance are becoming obsolete. Task completed, project comes to a close, the money runs out and they are not re-commissioned. It is a self-sustaining political move and certainly appears driven by those with salaries dependant on “hate” existing.

I am seriously concerned that it will also be seen as a crime to even hold a document privately with no intention of dissemination. This is ridiculous. Especially considering archaeologist and collectors must preserve historical memorabilia, books etc. Again this encourages deletion of history and sanitation of records, sterilising the global human history. Humans have always warred, hated each other, racism and sectarianism is ingrained in history and holding examples of it should not be criminal. Researchers, museums, enthusiast and the curious will risk being criminals. If museums are exempt, why can institutions hold pieces of history but not the citizens of a country? It is shared history and some people's ancestry. It is anti-individual.

The bill lacks clarity and often amalgamates concepts that are very divorced from each other such as Trans and Intersex/ DSD conditions, VSC etc. Trans is not the same as intersex, at all.

"VSC" I worry could be used to describe a male's beard if he "Identifies" as female. Therefore this could consider his beard a "variation in sexual characteristic" therefore criminalising a woman who rejects a male from a women only space citing his conspicuous male beard. Extremely dangerous legislation. Further conflated and included is "Non-binary" an amorphous concept with no logical definition. We cannot have laws protecting things that aren't solidly observable, that have a vague definition only held by people of that group and that is indistinguishable than a passing fashion movement or sub-culture. The law creates an appetite to protect the minutiae of society, sub-culture and movement from criticism, mockery and critique.

We must be able to criticise all ideology especially new ones. It is particularly important to allow 'insulting' discussion about new ideologies such as Transgenderism because the lexicon of their ideology so rapidly changes it is easy to "offend" by using the incorrect terminology or even quote a member of the community to another *who holds a different understanding of the definitions or concepts discussed*. People, women especially, must be given the full right to discuss womanhood, femaleness and the definitions of words, to make it illegal to discuss themselves is surely a form of oppression at the level of genocide. To be blocked from discussing your own being and group is immense government cruelty and against human rights. In a time period where it is considered hateful for a woman to say "a Woman is an Adult Human Female" one must realise legislation based on perceived insult is absolutely disastrous.

Thank you for this opportunity to engage with these proposals.

Yours sincerely,

Bryndís Blackadder

24 July 2020