

Sky News, 02 April 2024, Siobhian Brown discussing the Hate Crime Act

<https://www.youtube.com/watch?v=TMcagTONy50>

Trevor Phillips

Minister, can we start by clearing up a couple of uncertainties? If I said that non-Christians are bound for Hell, I'm not gonna ask you to adjudicate on that. But I'd like you to tell me who would decide in the first instance, whether that could be hate speech or not?

Siobhian Brown

Okay, if I just may. just give you a little bit of history here, stirring up hatred has been against race for over 40 years in Scotland, England and Wales. So just for your specific question there, what this hate crime in Scotland that was enacted yesterday does mean, is that it would be an offence to incite hatred, to be **abusive and threatening**, stirring up hatred towards an individual, which would cause them fear and alarm. If you were just saying that in your house or in your social media, I'm not going to be saying what the Police Scotland would say, but that's your expression, your freedom of expression, which is respected within this Bill.

Trevor Phillips

Yeah, but if I can be a little specific, let's say that I said that non-Christians like that Humza Yousaf are bound for hell. And somebody else, as I understand it, any individual might be able to report me to Police Scotland for a hate crime. Is that true? Or is it not true?

Siobhian Brown

If you were causing fear for an individual through your comments. I think we have to be clear here, Trevor, that England and Wales have had stirring up hatred against religion and race for the last 15 years. So what...

Trevor Phillips

I'm just asking you to think about the mechanics of this. I'm not even asking whether such a comment is wrong or not. I'm just asking, would someone be entitled under the new law to report me to the police?

Siobhian Brown

If an individual was personally threatened and in fear of your comments, and they felt that they wanted to report it, then it would be up to the individual, then it would be up to the police to decide whether or not there was any criminality involved in those comments.

Trevor Phillips

And it wouldn't have to be the person I'd named. And presumably, nobody would have to take into account whether I was trying to be funny, or whether I really meant it. It's just the words that count. What I'm trying to get clear here is what is the law actually permitting?

Siobhian Brown

Okay, what the law is doing is we're protecting people from the core aggregate [previous word unclear] hatred and prejudice within our communities. So this, as I said previously, this has already been law for over 40 years for race, and in England and Wales for religion, and sexual orientation will have 15 years. So what we're doing...

Trevor Phillips

With respect, as a former chair of the Commission for Racial Equality, and the Equality and Human Rights Commission, and one of the authors of the 2010 Act, this isn't exactly the same law, because the law that we have in England and Wales relating to race doesn't incorporate, specifically, the provision that anybody, whether they are involved or not, can report you to the police. And that's what I'm really trying to get at here. Is that the case or not?

Siobhian Brown

If anybody felt threatened, they could report it to Police Scotland, there is a very, very high threshold of criminality, because freedom of expression is embedded into the legislation that has been brought into place in Scotland.

Trevor Phillips

Okay, let me ask you another, just another I suppose technical but straightforward question. If I say something that is heard in London but I know that it's going to be heard in Scotland, am I liable to be covered by this legislation as well? Could Police Scotland investigate me in those circumstances? Or do I have to be in Scotland or Scottish?

Siobhian Brown

My understanding this legislation is for people in Scotland and for crimes that happen in Scotland.

Trevor Phillips

So the act of hate speech has to be committed in Scotland.

Siobhian Brown

That's my understanding. That's what we've incorporated into the Scottish Act, yes.

Trevor Phillips

Oh, so for example, JK Rowling who says in her tweets, arrest me if you dare, but I'm abroad, so that actually doesn't count because he says this abroad.

Siobhian Brown

I'm not going to comment on individuals' behaviour or comments. All I will say is, what is in this Hate Crime Act is a protection for people from minority groups with protected characteristics from **abuse and from threatening behaviour** that would cause them fear or alarm.

Trevor Phillips

The reason that I'm asking all these questions, I guess, is that I think there's still a little bit of confusion about how this will actually work. Who would actually operate it? But there's also a separate question, which is one of priorities. Last year there were 5,738 hate crimes reported in Scotland. Let's assume that everybody who got reported was prosecuted in some way. Let's say that you get 6,000 next year under this legislation. What guidance are you giving to the police? I'm not saying it's operational, but presumably, they have to have some guidance about what is more important than what else? Are you giving them guidance about

whether hate speech against age is more important than one against religion? Or is it the degree of venom? What is the story here?

Siobhian Brown

No, there are all protected characteristics under this Act. And that we have been working very closely with Police Scotland throughout bringing in this legislation and myself within the last year before it has been introduced on, yesterday. But one of the things is they have been given a very, very clear steer throughout this legislation when it went through parliament in 2021, about the protection of freedom of expression.

Trevor Phillips

The issue of priorities here seems to me quite an important one, and I just want to put this to you. Most of the conversation, whether you wanted this to be the case or not, has been about speech about sexual identity, transwomen, transmen and so on. I looked at the data for Scotland last year, that is the financial year ending 2023. In that year there were 55 cases of hate crimes which had a trans element, that was down from 86 the previous year. Meanwhile, there were 61,934 cases of domestic abuse. The Scottish Government has said that it's hope for legislation on misogyny has to wait while this piece of legislation goes through. 55 versus 61,934. 61,934 have to wait while the 55 gets dealt with. Is that the right order of priorities here?

Siobhian Brown

Yeah, if I could just give you a little bit of history because this was considered going back in 2021 when the legislation was going through the Scottish Parliament, but women's groups at the time did not want to include it. They wanted a further separate bill coming from the Scottish Parliament. What we did do is that we had Helena, Baroness Helena, have an independent review, which we took the recommendations forward. And last year we consulted on that to bring through a specific misogyny bill which will be introduced later this year into the Scottish...

Trevor Phillips

Well, you could have introduced that anytime you liked Why, when there's 62,000 as opposed to just over 50 crimes, did you choose the one that affected 50 rather than one that affected 62,000?

Siobhian Brown

No, not at all. And I appreciate that there is very polarised views regarding transgender identity but this, we have to remember, that this Hate Crime Act does incorporate against age, disability and the race, religion, so it's not all about transgender. Women typically still have misogyny, if I just may finish, Trevor, if I can, we are...

Trevor Phillips

The total of those is about two and a half thousand. As opposed to 62,000 domestic abuse.

Siobhian Brown

Yes, and that's why we really need to have a separate bill because I also have violence against women and girls and so we have a separate bill for misogyny, moving forward, as we

have been listening to our women's group and stakeholder that did not want it included in this Act.