

## El Caribe Interview: Lisa Mackenzie from MurrayBlackburnMackenzie

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1. How did the introduction of hate crime legislation come about in Scotland? Was this an organic demand from the local population?

**Interestingly, there was no commitment in the 2016 election manifesto of the Scottish National Party on reform of hate crime legislation. However, various specialist organisations, with LGBT campaigners particularly prominent, have lobbied for extending hate crime law in Scotland for over a decade. This has led to a number of Scottish Government working groups considering hate crime reform, culminating in an independent review by a retired judge in 2017, which recommended new hate crime legislation.**

2. Some women's rights groups take the position that hate crime is a [flawed](#), or indeed, [dangerous](#) concept to enshrine in legislation. What is MBM's position on the legal typification of "hate crime"?

**In general terms, we recognise that hate crime legislation will play a limited role in reducing harms perpetrated against women, but are concerned that as the categories covered are extended, the exclusion of women itself becomes harmful. We took the decision to engage with the legislative process for this Bill because it was clear from the outset that the parliamentary arithmetic existed to ensure it would make it onto the statute book. We wanted to alert legislators to the risks of the proposals contained in the bill, in the hope that they would take that into account during the parliamentary process and amend the Bill accordingly.**

3. Your organization objected to the "stirring up hatred" inclusion into legislation. What does this classification entail and why did you interpret it as a threat to women's rights? In your opinion, where is the (or is there none) line between "offensive speech" and "hate speech"?

**During the passage of the legislation, we and other women's groups submitted substantial evidence that women's right to freedom of expression is already being threatened in the debate about sex-based rights and gender self-identification. We were also at pains to point out to MSPs how contested a term 'hate' has become. MSPs were anxious to distinguish between hate and simply giving offence, but could not see the problem when we pointed to numerous examples of women suffering penalties for making very basic statements of fact about biology and the basis of their oppression. It was and it remains our view that the new offence of stirring up hatred on the basis of transgender identity will be weaponised against women.**

4. The recent reform of the *Hate Crime and Public Order (Scotland) Bill* saw sustained and vigorous campaigning by some women organizations such as MBM. Would you

be satisfied with the “stirring up hatred” amendments proposed by the government if it had decided to also cover ‘misogyny’, or was the disagreement more fundamental irrespective of that?

**We did not campaign for women to be covered by the stirring up offences: we share the concerns of many organisations about the extension of those without much stronger, clearer safeguards against chilling effects than the Scottish Government offered in most cases. We are also sceptical about the merits of a standalone offence of ‘misogyny’. We advocated for ‘sex’ to be added to the “statutory aggravations”, which would have enabled the collection of data and the inclusion of this form of hatred in government advertising campaigns.**

5. Murray Blackburn Mackenzie has argued before the [Justice Committee](#) that the current Scottish hate crime framework infringes on people’s freedom of expression. Some advocates would argue that this would only be a problem for people who want to promote hurtful or discriminatory speech. What would you say to those detractors of your position?

**Our scrutiny of the Bill was motivated by a desire to protect women’s rights to freedom of expression, their right to name the source of their oppression (that is to say, their sex) and to advocate for their rights. The legislative process itself laid bare the tension at the heart of the debate on sex and gender self-identification: that some of the groups who advocate on behalf of those with transgender identities believe it is a fundamental attack on their rights to simply state that there are two sexes or that human beings cannot change sex or that women should have the right to single sex spaces, services and protections.**

6. These amendments were proposed by a centre-left political party and were overwhelmingly voted in favour. Politically, would you say there more appetite to penalise speech critical of the concept of “gender identity” than to penalise the non-verbal crimes committed against women?

**The continuing exclusion of ‘sex’ as a statutory aggravation means that crimes motivated by hatred towards women are treated less seriously in law than crimes motivated by hatred towards other protected groups. In our view, this sends a stark message to women. It was particularly jarring that the legislation specifically protects men who ‘cross-dress’ as women recreationally but not women. That juxtaposition quite clearly shocked a number of MSPs as well as media commentators. It seems as if political parties of all hues shirk from addressing the underlying causes of violence against women and girls, for instance ensuring that women have the economic means of being able to flee their abusers.**

7. Does Scotland have a high rate of rape, violence or domestic abuse convictions? Would you consider that there has been a higher interest in introducing hate crime

provisions into law than in protecting women from crimes already committed against them?

**The conviction rate for sexual offences remains low in Scotland. Groups advocating for women and girls who have experienced men’s violence – like their counterparts elsewhere in the UK – regularly call on Government and criminal justice authorities to increase funding to domestic violence refuges and services, and to address women’s low socio-economic status in society. It is less costly and easier to legislate on an issue like hate crime, than to address the root causes of violence against women.**

8. In your objections to the hate crime amendments to introduce a charge for “stirring up hatred”, you wrote to the [Justice Committee](#) stating: “Given the current climate, we do not believe it is reasonable to ask those who advocate for women having certain rights based on their sex to have to anticipate how the police, prosecutors and courts will interpret what is hateful or abusive in this context and to risk, at minimum, being subject to an investigation into their intent.” Do you consider these amendments, and the fact misogyny was not included into the reform, to be a patriarchal effort to intimidate and police women’s right to freedom of expression?

**It is hard not to conclude that women’s deep-seated concerns about their right to freedom of expression and their ability to campaign for their rights were not taken sufficiently seriously. To us, key players were complacent about the risks to women’s freedom of expression. Most witnesses who gave evidence at Stage 1 were male, and very few argued for women’s inclusion in the Bill. During the final Chamber debate, it was a small group of female MSPs who argued most passionately for women’s concerns to be taken into account and tabled amendments that would have improved the bill for women.**