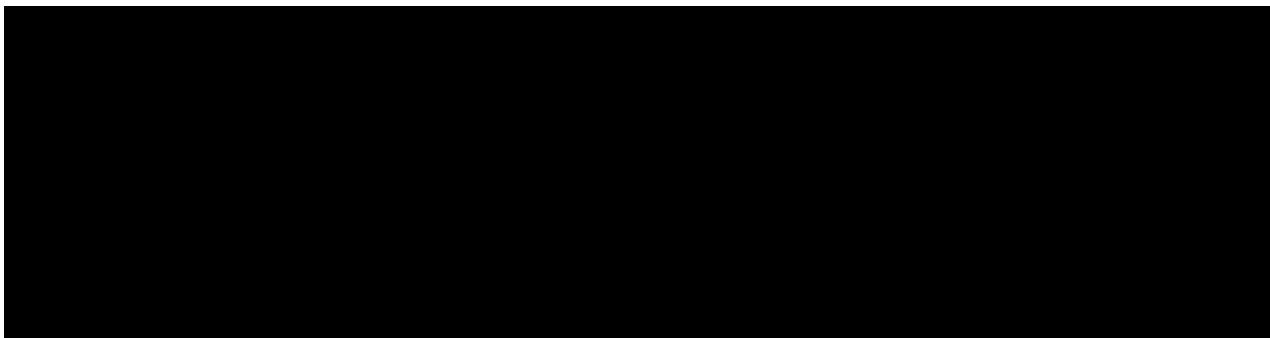


Written evidence from Professor Kathleen Stock (FOE0029)

RELEVANT BACKGROUND

I'm a Professor of Philosophy at the University of Sussex. I have written extensively, in both academic and public settings, about the relation between sex and gender identity, arguing among other things that: womanhood and manhood reflect biological sex, not gender or gender identity; the claim "transwomen are women" is a fiction, not literally true; sexual orientation (being gay, being lesbian) is determined by same-sex attraction, not attraction to gender identity; spaces where women undress and sleep should remain genuinely single-sex, in order to protect them; and children with gender identity disorders should not be given puberty blockers as minors. My book on such matters, *Material Girls: Why Reality Matters for Feminism* will be published by Little Brown in 2021.

These claims are all highly controversial and the mere articulation of them is classed as "hate speech" by some. As documented by *The Times* (8/8/2018), together with other academics I was the subject of a smear campaign by members of a closed Facebook group under the leadership of an academic at Goldsmiths University. *The Times* reported: "Members of the group claimed that the philosophy department of the University of Sussex was "clearly an unsafe environment" because of the presence of Kathleen Stock, a professor who has argued against redefining the category of woman and lesbian to include men. "File a hate crime report against her, and then the chairman and vice-chair," advised one. "Drag them over the f***ing coals."



I wish to comment on the following questions:

Does hate speech law need to be updated or clarified as shifting social attitudes lead some to consider commonly held views hateful?

I have strong reservations about any updating for two reasons. First, an increased focus on hate speech is politically expedient for the police, as it can make them look as if they are tackling crime in a way that makes no great demand upon resources, while other more serious crimes go unalleviated. So I'm generally sceptical about this direction being prioritised in policing.

Second, there is an observable shift, within self-styled progressive culture (including within Universities, which then has a knock-on effect for graduate employers), towards accommodating anxiety and alleviating discomfort. This is increasingly detaching what is *experienced as* hateful, from what is manifestly the product of hateful intentions. This phenomenon is nowhere clearer than in the controversy around naming biological sex as a relevant factor in policies around woman-only spaces, political representation, sport, and medicine; and the belief amongst some that such discussion is hateful.

Shifting social attitudes in this area are significantly produced by trans activist organisation Stonewall, via two well-established “diversity kitemark” schemes: the “Diversity Champion Scheme” and the “Top 100 Employer’s Index”. Current members of one or both of these schemes include most Universities, as well as the Crown Prosecution Service, dozens of police forces, the Equality and Human Rights Commission, and various Government Departments including the Home Office and the Ministry for Justice. Via a raft of publicity material, internal handbooks, and information sheets, Stonewall instructs member organisations that transphobia is defined as “*The fear or dislike of someone based on the fact they are trans, including denying their gender identity or refusing to accept it*” (my italics). In other words, since I and other academics, as well as thousands of members of the general public, reject the importance of gender identity for determining womanhood or manhood, my views are counted as “transphobic” and so hateful, only possibly borne of “fear or dislike”. Yet such beliefs – whether factually right or wrong - have no bearing on any hateful attitudes, or the lack of them; as is borne out by the fact that many trans people are themselves on record as agreeing that gender identity does not determine womanhood or manhood.

The possible consequences of this prejudicial definition of transphobia are further apparent in a Stonewall report from 2017 entitled “LGBT in Britain: Hate Crime and Discrimination”, widely disseminated to member organisations and cited extensively in the media. Examples in that document of “hate crime and discrimination” include: a) “I was asked if I was a boy or girl in a clothing shop as I wanted to try on male clothes. The woman said 'you know they're boy's clothes. Are you a girl or boy?'”; and b) “A female security guard refused to search me when I was waiting in line to get into an event. She made a fool of me in front of the entire line. She said I wasn't a female and made me stand in the men's line .” Note that neither of these incidents involve violence, dislike, or even any apparently intentional disrespect. They simply involve a reference to sex, and a (in my view, reasonable) difference in behaviour on the basis of it.

Apart from demonstrating that, within self-styled progressive organisations, conceptions of hatred are moving, illegitimately in my view, towards whatever causes psychological discomfort to particular individuals without considering the effect on other groups, these examples also demonstrate how what are sometimes counted as universally “shifting social attitudes” about hatred can be manipulated and even gamed by well-funded activist organisations in favour of the laws they would like to see. Organisations such as Stonewall often pretend to speak for whole of some community (in this case, the “LGBT community”) but in fact, as should be expected, there is significant dissent within that group about matters around gender identity and sex: not least from gay people like me who reject the idea that sexual orientation is a matter of attraction to gender identities, rather than to sexes. And of course, deeming the expression of certain concrete views about sex “transphobic” has effects far beyond LGBT people, for it inhibits much needed public conversations about women’s rights, medicine, sport, and so on. In relation to the wording of your question, the point is that, once accusations of transphobia and hatred are in common currency in a particular domain, it becomes very hard to assess whether, indeed, some supposedly “shifting social attitude” is widely held, or whether it is just that people don’t want to be seen to dispute it. Though I have concentrated in my examples on freedom of speech around gender identity, I take it that this point potentially ramifies for other areas where accusations of hate speech are rife.

Does current police guidance and practice on hate speech law help promote freedom of expression?

Current College of Police guidance says (my italics):

“Where the victim, or any other person, perceives that they have been targeted because of hate or hostility against a monitored or non-monitored personal characteristic, *the incident*

should be recorded and flagged as a hate crime (where circumstances meet crime recording standards), or a non-crime hate incident. The victim does not have to justify or provide evidence of their belief for the purposes of reporting, and police officers or staff should not directly challenge this perception. Perception-based recording will help to reduce under-recording, highlight the hate element and improve understanding about hate-motivated offending.”

My comments are as follows:

On incidents recorded as hate crimes

“Home Office Counting Rules for Recording Crime” include the following (my italics): “An incident will be recorded as a crime (notifiable offence) for ‘victim related’ offences if, on the balance of probability: (A) the circumstances of the victims report amount to a crime as defined by law (*the police will determine this, based on their knowledge of the law and counting rules*)”. Meanwhile, police forces are currently advised by Stonewall that it is hateful and potentially illegal to say e.g. that trans women are not women. Therefore, there is a significant concern that officers will wrongly and unjustly record such utterance as hate crimes. Given the CPS’s connection to Stonewall, there is also a further worry that cases will reach prosecution and conviction, in my view potentially unjustly: as in the case of autistic teenager Declan Armstrong, convicted in January 2020 of a public order offence for shouting at a transgender police officer “Is it a girl or a boy?”. (This was reported in the *Daily Mail* as “Teenage yob is ordered to pay £200 compensation to transgender police officer for shouting 'Is it a boy or is it a girl?' at him”; yet it is well known that autistic people are more less likely to understand politeness norms). For these reasons, I have strong suspicions about the supposed recent sky-rocketing of hate crimes recorded against trans people: see for instance “Transgender hate crimes recorded by police go up 81%”, BBC News website, 27th June 2019, and “Hate crimes double in five years in England and Wales”, *Guardian* 15th October 2019. Both of these articles refer to incidents “recorded” rather than convicted.

Each of these factors clearly contribute to an atmosphere of fear and intimidation around asserting the importance of sex and criticising gender identity, as described to me by hundreds of people over the years I have been active in this debate. And yet this is an area where it is crucial that freedom of expression be maintained, since the consequences of getting things wrong in this area are potentially large. They impact on women, girls, gay people, and trans-identified children, to name only a few of the interested parties.

On incidents recorded as “non-crime hate incidents”:

The category of a “non-crime hate incident” should be renamed to something more neutral, as it is misleading: it records only the perception of hate, with no connection to other evidence or the likelihood of conviction, and not even a perception of a crime from attending officers. Needless to say, this is perfectly compatible with an actual absence of hatred (as indeed is the category of “recorded hate crime”, for reasons I have outlined above) Apart from the problem for an individual of this sort of incident staying on police records and potentially showing up in enhanced DBS checks, an official record of hate against one’s name is highly undesirable to most people, and those subject to it meet widespread social disapproval from others. The existence of this category, with this name, clearly has a further chilling effect on freedom of expression for many, and especially around free discussion of biological sex and gender identity.

How has the situation changed in universities in the two years since the Committee's report on the issue?

In a competitive market, Universities keen to attract students, and their fees, are increasingly positioning themselves in explicitly politicised ways. Again, my examples come from the area in which I work, on sex and gender identity. Many University employers have close links with trans activist organisations: most notably Stonewall. A large number of UK Universities are members of the Diversity Champions Programme, including Oxford, UCL, Cardiff, Durham, KCL, Lancaster, LSE, Aberdeen, Birmingham, Bristol, Edinburgh, Glasgow, St Andrews, Warwick, and Sussex. Participant Universities are required to produce “trans inclusion policies” as a condition of membership. Standard clauses included in many such policies include:

- “[A]ny materials within relevant courses and modules will positively represent trans people and trans lives”.
- “Transphobic propaganda, in the form of written materials, graffiti, music or speeches, will not be tolerated. We undertake to remove any such propaganda whenever it appears on the premises”.

As mentioned earlier, Stonewall’s officially published definition of transphobia is “The fear or dislike of someone based on the fact they are trans, including denying their gender identity or refusing to accept it.” This definition therefore might easily classify as transphobic any academic argument that trans women aren’t literally women, and trans men not literally men, since this clearly constitutes a refusal to accept gender identity. Stonewall’s loose definition of transphobia, in conjunction with Stonewall-instigated University trans policies, leaves academics vulnerable to complaint and possible discipline for generating what might well be seen, wrongly, as transphobic material in teaching and research (for instance: can an ethicist or criminologist talk about sexual offending by trans-identified males in women’s prisons? Is this “positively representing trans people and trans lives”?). This naturally acts as a significant psychological obstacle to them initiating or pursuing research.

To test this hypothesis, in 2019, I put out a call for anonymised testimonies from academics about how research critical of gender identity ideology and trans activism was being suppressed. I published the 27 testimonies I received in a Medium post entitled “Are academics freely able to criticise the idea of ‘gender identity’ in UK Universities?”. They jointly describe an atmosphere of fear and intimidation in response to attempts to critically interrogate the idea of gender identity, and an escalation in the use of student complaint procedures to suppress academic freedom in this area. One striking testimony reported: “I received calls from colleagues .to inform me that someone had emailed academics, within my affiliated departments and research groups, making allegations of transphobia..., racism..., homophobia and sexism... In addition, further allegations were made that I may be psychotic due to my views on biological sex and the construct of gender, and consequently I should not be around children or vulnerable people. As a parent, carer and practitioner with vulnerable people, who requires an Enhanced Disclosure and Barring Service checks, and a psychologist, I was deeply concerned and upset about these defaming allegations about my character and psychological state of mind.” I believe this testimony in particular to demonstrate the fallibility of any system which relies upon “perceptions of hate” to determine what is hateful.

Academics critical of gender identity ideology face unusual obstacles in hosting academic or public events. I believe this to be partly due to advice disseminated to Universities by Stonewall, in their document “Delivering LGBT-inclusive education: academic provision, accommodation, catering, facilities, induction, recruitment, registry, societies, sports and student services”. On arranging events, this document says (my italics): “Universities are a place to explore challenging topics and debates, and – rightly – are institutions that promote and uphold the principle of free

speech. However, like all platforms for debate, universities need to balance the right to free speech with their duty to create environments where all students and staff can flourish, and diversity is celebrated. *Speakers who hold strongly anti-LGBT views, such as championing so-called ‘conversion therapy’ for lesbian, gay and bi people or denying that trans people exist as the gender they say they are, cause LGBT people to feel deeply unsafe. ... When assessing the risks associated with hosting external guest speakers at events, we encourage you to think of sexual orientation and gender identity in the same way you would other key aspects of someone’s identity, such as race or faith.*” This advice is clearly prejudicial to the free expression of academics with beliefs like mine which are critical of the concept of gender identity, and our capacity to hold or participate in events reflecting our academic viewpoints.

One consequence here is a reluctance of University managers to be seen to endorse any such event or activity, since they fear both reprisal from students, and negative publicity from a public to whom the central issues at stake are unclear. In April 2019, a conference on prison abolitionism was cancelled by the Open University after receiving complaints that a co-organiser of the conference, Richard Garside (the Director of the Centre for Crime and Justice) had argued, in print, against the inclusion of male trans women in female prisons. Most gender-critical talks now require extra security arrangements as a matter of course. At an event on women’s rights at the University of Edinburgh featuring Julie Bindel, Professor Rosa Freedman, and Professor Sarah Pederson among others, there was a significant amount of protest, as described in the national press, and an alleged attempted assault on the speaker Julie Bindel by a protestor, as reported in *The Scotsman* (6/6/19). A further development is the rise in “no-platforming” (where an invitation is withdrawn or substantially altered in response to public opinion). I have been no-platformed once and had several other no-platforming campaigns directed against me. Other female academics and public figures who have faced no-platforming include Linda Bellos, Jenni Murray, Julie Bindel, Professor Jo Phoenix of the Open University, and Professor Selina Todd of Oxford University (who now has to be accompanied by security to lectures).

A final point is that none of what I describe above is contested by the University and College Union, so that academics like me cannot rely on Union support when our freedom of expression is challenged (or worse). For instance, at the UCU National Conference in May 2019, a motion to support academic freedom to discuss sex and gender was defeated, with some delegates reporting that they were too scared to vote in public for the motion.

All of this contributes to a one-sided public discussion of sex and gender identity, since some academics are not able to contribute to it on equal terms with their opponents. The potential cost to public understanding seems to be to be large.

Yours
Kathleen Stock

23/11/2020