

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM LIZBETH COLLIE

A few comments on the proposals in the Hate Crime & Public Order Bill, to do with the unintended consequences of well-intentioned legislation:

"Hatred", "abusive" and "stirring up" are impossible terms to define or verify. For example, Is "stirring up" retweeting something contentious? What if you only have 10 Twitter followers? 100? 10,000? What if one of your followers later turns out to be an extremist of some sort? How on earth can the law define my part in their views and behaviour?

The proposals state that someone could be prosecuted if their behaviour was deemed "likely" to stir up hatred, without actually having done so - this is completely unverifiable, opens the door to all sorts of nuisance and grudge complaints, and is a huge barrier to free speech;

Indisputably, one of the commonest forms of hatred and abuse in Scotland is levelled against women and girls, yet misogyny is not covered at this point but is proposed for "a later date";

There is no defence for words spoken in your own home;

On the particular issue of transgender identity, I am deeply concerned that this legislation would criminalise people who do not agree with the radical minority that "trans women are women" and "trans men are men" - these phrases are impossible to define (socially? biologically? in every situation and circumstance?) and, crucially, disagreement on this issue is not hate. For example, stating that you do not believe that trans women should be allowed to compete in women's competitive sports or hold certain posts reserved for women under the Equality Act should not be treated as hate speech. I do not believe that a trans woman should hold a women's world sporting record. This does NOT mean that I somehow hate trans people. It means that I recognise a conflict which needs to be discussed and resolved, to the benefit of all. The free speech clauses don't apply to gender identity which is a hugely contentious issue just now, within Scotland and elsewhere;

The term "stirring up hatred" is way too broad, undefinable, and risks stifling free speech, clear, inclusive debate, and exploration, for example, through the arts;

Harmful abuse is already illegal in Scotland e.g. through legislation covering threatening or abusive behaviour and behaviour which causes fear or alarm;

There is a serious risk that police time will be taken up investigating complaints which are impossible to decide upon, due to the undefinable nature of the terms used in the Bill;

The free speech clauses currently only cover the "discussion or criticism" of religion and sexual orientation. This does not go far enough, in that it only covers those two areas and in that "discussion or criticism" are again hard to define. These important clauses should make clear that we are all able to debate, criticise and explore ideas in robust terms which others may find challenging or indeed offensive in some circumstances. The alternative doesn't bear thinking about.

Lizbeth Collie
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