

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM PETER BOUGHTON

I feel that this new "Hate Crime and Public Order" bill is too far ranging, introducing contentious issues which are hard to define with freedom of expression protections inadequately defined.

People need to be able to discuss (verbal or written) the "characteristics" in section 3(3) without needing an expert around to tell them whether they are breaking the law. In particular people have strong opinions on religion, sexual practices and transgender identity. Some freedom of speech is needed and a stirring up of hatred law is not appropriate; defining its limits is too difficult.

Section 11 provides some freedom of expression but is probably inadequate. Would a statement like "Mohammed was a false prophet" be OK under the discussion clause? Who decides? Depending on the particular branch of Islam some Muslims would consider this abusive and hate stirring while others would consider it a valid intellectual position (though they would strongly disagree).

Section 12 is obviously inadequate. For example: A statement that gender is purely a physical biological characteristic is considered abusive and hate stirring by some of the transgender community. It is not covered by either (a) or (b). There is also no protection for beliefs about same-sex marriage.

I do not think that the above bill is clearly defined with respect to the offence of stirring up hatred.

Section 3 talks about "abusive material..." such that "it is likely that hatred will be stirred up against such a group".

Who defines whether such material is abusive?

How do you define whether a material "is likely" to stir up hatred

Could someone be breaking the law just by showing such a paper to a friend in their own home?

How do you decide whether someone is storing material "with a view to communicating" (section 5). Again the what is "abusive" and what "is likely" to stir up hatred is very subjective. What happens when a website publishes a document and over time public opinion changes such that the document offends a group. Has the publisher broken the law? Most documents, once uploaded to the web, are still visible with the right links even if they have been "deleted".

Please amend the bill to allow for some freedom to express one's opinions in all of these areas.

Peter Boughton