

## **JUSTICE COMMITTEE**

### **HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL**

#### **SUBMISSION FROM MORGAN WHEELER**

I wish to comment on the above.

Every civilised society should protect the interests of its citizens especially those who may belong to minority or marginalised groups. Hatred towards such groups on the grounds that they are different is unacceptable. Although the Bill may have this as its aim, the actual scope of the Bill goes too far and has the effect of limiting legitimate freedoms and seeking to introduce a new area of criminality.

There is already legislation in place to prevent/punish the use of threatening and abusive behavior and a new law is therefore unnecessary. The test contained within the Bill is also too low and inconsistent. For example although there are some protections in the Bill to allow free speech in relation to religion and sexual practices, there is no such protection regarding the protected characteristic of transgender identity. Why is this so? Moreover, it is possible under the Bill that an offence could be permitted in one's own home in a private conversation. How on earth is this to be policed? I believe that Police Scotland have already stated that free speech clauses are vital to prevent it being swamped by spurious complaints.

The wording contained within the Bill is subjective. How does a person using speech know if it is "likely" to cause offence? Surely a better test would be speech that is "intended" to cause offence. The Scottish Government's own blog talks of offences that do not "unduly" inhibit freedom of expression. What is the definition for that? More serious is the comment that this inhibition of freedom of expression is in reference to the European Convention of Human Rights. Is the Scottish Government really intending to limit ECHR?

It seems that the interests of minority groups (in particular the transgender community) are being promoted against the views and beliefs and others. For example clause 1(4) says that evidence "from a single source" is sufficient to prove that an offence is aggravated by prejudice but clause 3(5)(a) speaking of the defence of reasonable communication only applies if there is "enough" evidence to raise an issue. Such a lack of consistency is unfair.

Furthermore, traditional views, for example those held by religious faith groups, are not sufficiently protected and the wording in the Bill's protection clauses needs to make specific provision for such groups to be able to express their beliefs in a robust manner without fear of prosecution. Lord Bracadale himself in his independent Report emphasised the need for there to be a clear difference between legitimate debate and speech intended to cause offence. Just because a person's views may be offensive to others this does not constitute a crime. I may disagree profoundly with such views but I will respect the right for these to be held and conveyed, subject of course to the limitations contained within ECHR.

I consider that the Bill is in need of major revision. It has come under attack from diverse sections of society and as it stands it is simply not fit for purpose.

Morgan Wheeler  
19 July 2020