

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM CALLUM CAMPBELL

To whom it may concern,

I am writing this email to express my deep concerns regarding the 'Hate Crime and Public Order (Scotland) Bill'. Throughout this email I wish to draw attention towards particular aspects of the bill which I believe have the potential to be misused, either by well-intentioned, but overzealous police departments/prosecutors, or by future governments that wish to stifle the free expression of individuals within Scotland. Whilst I believe the bill has been introduced with good intentions, I am worried its vague and indirect use of language will leave the door open for future pernicious governments to use the bill as a way to stifle dissent.

The purpose of the state in general is to protect the rights of its citizens and to act in defence of its citizens when those rights are infringed upon. I reject wholly the notion that the government should have the right to legislate the free expression of its citizens, whether or not that speech may be deemed offensive by other individuals, or by the state itself. Free expression is the linchpin of our democracy; it holds together a centuries old, painstakingly constructed system of governance in which the country is governed by the people and not over the people. Without complete freedom to express ideas, it becomes impossible for a society to know a bad idea when one comes along. Like a vaccine immunising a patient against an infection, it is necessary for us to hear a certain amount of bad ideas in order to properly inoculate ourselves against them- this is by building up arguments to refute them. However, if one is never able to hear those with bad or hateful arguments, then one is never able to defend against them. Thus, a virus can spread throughout a society becoming an epidemic. Consequently, if certain constraints on speech already exist within society, then it is easy for those in power infected with the virus to suppress those good ideas that make our society a peaceful and accepting place to live.

My first specific objection arises within Part 1 of this legislation:

- Part 1 - 1(b): whether or not there is a specific victim of the offence, the offence is motivated 15 (wholly or partly) by malice and ill-will towards a group of persons based on the group being defined by reference to a characteristic mentioned in subsection (2).

I reject the idea of an offence being committed that has no victim. It is up to an individual to take offence, and what offends varies between each individual. It is, therefore, impossible to be able to legislate against offence. Furthermore, allowing the government to decide what is offensive sets a very dangerous precedent.

- Part 1 - (3) It is immaterial whether or not the offender's malice and ill-will is also based (to any extent) on any other factor.

It would be impossible to deny that people, whilst constructing and expressing their ideas through language, occasionally misconstrue or misinterpret ideas and cause offence whilst not intending to. This particularly pernicious section of the bill makes it an offence for someone to offend, with regards to the characteristics in subsection (2), whether or not they intended to. Furthermore, with regards to subsection (1b), it is now not even up to the individual to decide whether they were offended by a comment, the state can do that for them. It seems to me that this makes ANY discussion on any of the subjects listed in subsection (2), impossible under threat of prosecution.

Whilst there are many more areas in Part 1 which I could object to, for the sake of brevity, I will list only the examples I find most egregious.

- Part 3- Offences of stirring up hatred

In effect, what is being introduced here seems to be an introduction of a blasphemy law as Part 3 - (3)(c), makes it an offence to "communicate insulting material" to any religious group. A Christian may find my lack of belief in god insulting. Have I, therefore, committed an offence of stirring up hatred making me liable to prosecution?

- Part 5 - Offence of possessing inflammatory material

It seems that, once again, the use of vague language is intended, in order that a wide range of subject matter could fall under the legal remit of this section. In effect, it appears that this section of the bill is likely targeting offensive memes and social media posts; and again the problem of who gets to decide what is offensive arises. Although, this bill seems to have established that it is the state (Part 1 - 1(b)) that gets to decide. The mere possession of material that the state, or individuals, finds inflammatory is now illegal.

I can only assume that the people constructing this legislation are ignorant to, or wilfully ignorant of how technology works. As soon as I am sent something, be it on social media or through email or text message, it is within my possession. I have no control over what is sent to me, and in some instances I have no control over whether what is sent to me is physically downloaded onto my device. Therein lies the problem. A pernicious actor could cause someone to commit a crime, merely by sending them 'inflammatory material'. This is dangerous and irresponsible lawmaking.

- Part 5 - 2(b)(ii), a person sent any material, whether they intended to communicate it or not can be charged, if said material is likely to cause offence by being communicated.

It is not hard to see how this could be used as a political weapon, if some bad actors were to send offensive material to specific public figures which they oppose, and then report that a crime had been committed to the authorities.

Whilst there are many more examples within this bill which I have specific objections to, I have selected those of which I perceive to be the most egregious or the most likely to be misused. It is not the job of the state to protect its citizens from offence and in doing so, a well intentioned government can do irreparable, long-lasting damage to the country. The legislators should take a long, hard look at how any legislation they introduce may be misused in the future, and I believe that this most simple test has

been negligently avoided in this case. I urge that this bill is withdrawn in full and I nervously await the conclusion of the proceedings.

Callum Campbell
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