

## **JUSTICE COMMITTEE**

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

#### **SUBMISSION FROM JOAN ACTON**

As this bill criminalises stirring up hatred against people because of characteristics including religion, sexual orientation and transgender identity. These diverse issues should not be covered by stirring up hatred offences, which currently only apply to race.

Religion and morality can be debated in a way that race cannot be debated>  
Existing criminal law already covers threatening behaviour likely to cause fear or alarm.

Hate Crime and Public Order (Scotland) Bill is a major extension to hate crime law. The new stirring up hatred offences could be unwittingly committed by someone who did not intend to stir up hatred. They might not even realise their words considered abusive. In the light of this people could be committing a crime in their own home in a private conversation.

Politicians ministers of parliament public debates, freedom of speech liberty in great danger of stirring up of hatred crime.

If a minister of the gospel preaching say on a Sabbath morning, where Christ is preached as the only saviour of the world and that all other religions are false. Or where homosexual behaviour is said to be sinful, could see the preacher prosecuted for stirring up hatred.

Church services must be protected and this bill does not go far enough with its clauses.

This also affect citizens of our country missionaries, at home or abroad, street evangelists. Everyone be affected our conversations, freedom of speech censored by adding to this already existing hate crime laws. We need confidence in our judicial systems that is favours protection of our freedom of speech.

Religious beliefs and views on morality are matters on which people can have vigerous debate and change of mind. A free society must protect this.

We already have threatening and abusive behaviour covered by the criminal law: Genuinely criminal behaviour and abusive behaviour offence in Section 38 of the Criminal Justice and Licensing (Scotland ) Act 2010. The behaviour must be likely to cause a reasonable person to suffer fear or alarm. The offender must also either intend to cause fear or alarm or be reckless as to weather they did. Not only does this section make further offences unnecessary, it establishes threshold for a criminal offence. The vagueness of abusive still a concern, but the section is less likely to result in someone being unjustly accused because of the reasonable person test and requirement for a perpetrator to be reckless.

If we consider the meaning of the word HATRED look at the definition as defined in our dictionary Threatening generally means connotations of VIOLENCE MENACE or INTIMIDATION. But ABUSIVE tends to be defined as OFFENSIVE, RUDE or INSULTING making it highly subjective.

Any new stirring up of hatred offences should only cover threatening conduct and that already covered as stated in the section 38 of the criminal justice and licensing (Scotland) Act 2010.

Abusive behaviour is far more subjective. Any new stirring up of hatred offences should only cover conduct that is intended to stir up hatred.

Just because something is likely to stir up hatred does not mean the person was aware of this. It is very serious accusation to accuse someone of stirring up hatred, so it must be clear that they were doing so deliberately.

Any new stirring up of hatred offences should only cover threatening conduct. Abusive behaviour is more subjective.

In our democratic country people have had to fight for freedom of speech, protection from oppression, aggressive judicial laws. The consequences if not protected affects all walks of life especially speakers, community workers etc bring much confusion fear a sense of intimidation itself. People should not feel threatened by good robust dialogue debate when there is disagreement as many people do change their minds when all facts pros cons debated.

The offences of stirring up hatred threaten freedom of religion and belief. They may also stop people giving an account of what they believe. This is as true for atheists as religious.

This bill does not go far enough in Scotland to protect religion in debate, speech and expression. A previous offence of stirring up of hatred had a noticeably STRONGER SAFEGUARD. It particularly protected expressions of antipathy, dislike, ridicule, insult or abuse towards religious beliefs or practises. This closely followed the free speech safeguard in the similar law for England and Wales. There is no justification for watering down this protection in Scottish law.

There is a serious risk that politically motivated complaints will label disagreement as hatred to silence their opponents.

Police Scotland would advise very strongly that free speech clauses are extremely important to prevent being inundated with vexatious reports. Taking up precious time unnecessarily. They could be working on more serious crimes to protect the community.

We need strong protection clauses as discussed on the issues of Religion sexual ethics and transgender issues are often highly contested in public debate. In a free society we should be able to challenge, criticize and otherwise robustly disagree with the beliefs of others, even in ways that offend them. We would be better off without any stirring up of hatred offenses in these areas.

The mere thought of prosecution for stirring up of hatred may cause many to keep quiet. This is a more subtle but equally dangerous threat to freedom of speech and undermines a FREE SOCIETY.

For example prominent public figures are already labelled "TRANSPHOBIC" simply for expressing their beliefs in the reality of biological sex.

Disagreeing with the activist catchphrase, "Trans-woman are woman is interpreted as HATRED! So it is dangerous to introduce a stirring up hatred offence covering transgender identity at all especially such a low threshold.

Not including explicit free speech protection is completely creating havoc!

Any stirring up hatred offence on transgender identity must include a robust free speech protecting the freedom to disagree with transgender ideology. This must protect the right to say some-one born a woman is not a man! And vice versa and using a person's birth names and pronouns. If not protected affect all areas of society complete confusion.

#### LORD BRACADLE INDEPENDANT REVIEW

In 2017-2018 Hight court judge Lord Bracadale carried out an independent review of the crime in Scotland. Over 90% of respondents to the review's public consultation were opposed to new hate crimes. Lord Bracadale recommended a free speech clause , acknowledging well recognised concerns about potential risk to "freedom of

expression” These concerns included that genuine and legitimate criticism could be construed as stirring up hatred” having a very chilling effect on freedom of speech.” Lord Bracadale said that any legislation should make a clear distinction between “rational argument” and “rabble rousing” He also accepted the right to free speech “protects expression which shocks, offends and disturbs other people.” This bill does not go far enough to give free speech that Lord Bracadale seemed to recommend.

Joan Acton  
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