

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM STEPHEN DUFF

To the Justice Committee - I am very concerned about the bill as currently proposed. Firstly, the term "hatred" is a very slippery concept, subjective and difficult to define. How exactly is this "stirred up" in other people and what specific examples do the proponents believe would be criminalised (and what would still be permissible)? Will the statement "trans women are not real women" be banned? Or what about a Christina who holds a placard at a Pride demo saying "Repent and trust in Jesus"? Or the campaigner who holds up a sign outside a Mormon meeting place reading "Mormonism is not a religion; it is a dangerous cult". This bill throws-up all kinds of questions that the courts are simply not designed to arbitrate on and issues we must be allowed to freely discuss, providing we are not directly inciting violence (the long-established and very sensible exemption).

This is taking a step towards judging people's thoughts and motives, which is impossible and arbitrary - we cannot peer inside an individual's head and decide whether they were saying something out of hate, or as a genuine warning against a behaviour they believe to be warn and even dangerous.

It would appear that an offence can be committed without someone even intending to stir up hatred or even doing so (inadvertently). If the court feels their action were merely "likely" to stir-up hatred, which is a very low threshold and again incredibly subjective, liable to change depending on the fashions of any particular day and what vocal lobby groups perceive to be offensive or intolerable. Some people already claim disagreement with their ideas is hatred, in an attempt to shut down debate - the "free speech" clauses are not strong enough to shut-down this repressive tactic. Do we really want to turn the police and criminal justice system into the Gestapo? How can we criticise human rights abuses in China if the Government is trying to shut down debate here?

In addition, there is no defence in the bill for words spoken in the privacy of your own home - another unprecedented and deeply troubling intrusion on our liberties for absolutely no good reason.

Finally, why is the Justice Committee wasting time legislating on this issue when there are much more pressing problems in our society. Here's just one. In 2014, whilst Scotland was a little distracted with a small constitutional matter, England made it an offence under their Anti-Social Behaviour legislation for landowners to allow toxic, dangerous hogweed to grow unchecked. However, we have still not passed similar legislation in Scotland, which is a real problem because the hogweed has only spread further across scenic landscapes and made it much more dangerous for individuals to exercise their right to ramble. Please focus on these kinds of issues, not criminalising important debates.

Yours sincerely

Stephen Duff
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