

## JUSTICE COMMITTEE

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

#### SUBMISSION FROM SHEILA M GUNN

Dear Sir/ Madam

I would like to submit my views on the above Bill.

#### General

Even a cursory view of history highlights how hard the rights to freedom of speech and freedom of religion were fought for in Scotland. Many times people express views and beliefs that are different from my own, and at times these beliefs are offensive to me - but it is essential that people have the right to express their views, whether I agree or not and whether I find them offensive or not. That is a fundamental of a free society and I do not expect those in government to introduce legislation to silence others, just to save me getting offended. Nor should I be able to accuse anyone expressing views which I find offensive of stirring up hatred - to give me that right would undermine **the very fundamentals of a free society.**

#### Part 2

I have concerns particularly around Part 2 of the Bill and the plans to introduce a new offence of stirring up of hatred. Part 2 would seek to put into statute matters that seriously undermine freedom of speech. The wording of Part 2 could - chillingly - be used in the future to silence debate and threaten freedom of speech. This would inevitably undermine the free society that we currently enjoy. It lays the basis for anyone to take the approach: "if you express a belief that I don't like or agree with, I can accuse you of stirring up hate" - **which completely undermines freedom of speech and freedom of religion and belief.**

The utmost care needs to be taken in the drafting of any legislation in this area, and Part 2 falls short of even a basic level of care for the following reasons:

1. the words "hate crime" mean an action is deliberately done to cause fear or alarm. There already exists statutory provisions which cover threatening or abusive behaviour likely to cause fear or alarm. I can see no reason why any additional law is needed - Part 2 goes further and suggests if someone is offended by some speech, they can accuse the speaker of a hate crime.
2. One of the most attractive aspects of living in Scotland is our freedom of speech. This includes people's freedoms to express religious beliefs and views on morality. Indeed, these are matters on which people can have vigorous debate and change their minds. **A free society must protect this.**
3. The free speech clause on religion must be stronger to protect more than mere discussion or criticism. People should feel free to vigorously challenge religious beliefs. This a fundamental part of **freedom of religion and belief.**

4. A further deficiency of the drafting of the Bill is that even in one's own home, one could be accused of stirring up hatred.

5. A particular failing of the Bill is that church services are not excluded from its reach. This could mean that in a Christian church service where the minister preaches the teaching of the Bible - that Christ is the only Saviour, that other religions are said to be false, or where homosexual behaviour is said to be sinful - could result in the preacher prosecuted for stirring up hatred. This would be the direct effect of enactment of Part 2 of this Bill and **does not accord with a free society or with freedom of religion and belief.**

6. The free speech clause on sexual orientation must be strengthened so that beliefs about same-sex marriage are explicitly covered and more robust debate is also protected. Furthermore, any stirring up hatred offences covering transgender identity must explicitly protect freedom to use a person's birth name and pronoun and to say that someone born a woman cannot be a man, and vice versa. Failure to include this strengthening and these protections **does not accord with a free society or with freedom of religion and belief.**

7. There is particular difficulty with the the proposed offence of stirring up hatred. This poses a threat to freedom of religion and belief to people who are religious AND to atheists. This proposed offence will have the effect of stopping people from giving an account of what they believe. **This does not accord with a free society or with freedom of religion and belief.** *Any new stirring up hatred offences should only cover threatening conduct.*

8. In addition, any new stirring up 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 to accuse someone of stirring up hatred, so it must be clear they were doing so deliberately.

9. There is a serious risk that politically-motivated complainants will label disagreement as hatred to try to silence their opponents, or that people with more sinister or intolerant motivations will label comments as hatred, to stop views they disagree with being expressed. Police Scotland has highlighted that free speech clauses are important to prevent it being inundated with vexatious reports.

10. The Bill fails to provide a clear distinction between legitimate debate on the one hand, and 'rabble rousing on the other - a requirement that the report by Lord Barcadale (which lead to this Bill being drafted) identified as essential.

**It is the grave responsibility of any government to protect the hard-won freedoms from the past, and do nothing to undermine the fundamental freedoms of religion and belief, and freedom of expression, which are the hallmarks of a free society.**

Yours faithfully

Sheila M Gunn

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