

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM IAIN R SUTHERLAND

General

1. Existing criminal law already covers threatening or abusive behaviour likely to cause fear or alarm. No new law is needed.

Consolidation

2. I accept in principle that consolidating legislation on a particular topic may be a good thing. However, I am not convinced that the existing laws need to be extended.

How to prosecute hate crime?

3. No comment.
4. No comment.

Other forms of crime not included in the Bill

5. No comment.

Stirring up offences

6. Part 2 of the Bill could unreasonably restrict freedom of speech and risks criminalising decent citizens who have no abusive, threatening or violent intent, but who simply disagree with the lifestyle, doctrines or ideologies of others and respectfully articulate their views.
- As the Bill does not require the intention to stir up hatred, much depends on how broadly the courts will construe the phrase "it is likely that, if the material were communicated, hatred would be stirred up against such a group". The new stirring up hatred offences could be unwittingly committed by someone who did not intend to stir up hatred or even realise that their words could be considered abusive.
 - Religious beliefs and views on morality are matters on which people can have vigorous debate and change their minds. A free society must protect this.
 - A stirring up hatred offence could be committed in a private conversation in your own home.
 - Church services are not excluded. Christian beliefs that have been mainstream for millennia could become criminal overnight, e.g. a Sunday morning sermon where Christ is preached as the only Saviour and all religions are said to be false, or where homosexual behaviour is said to be sinful, could see the preacher prosecuted for stirring up hatred.
 - Offences of stirring up hatred threaten freedom of religion and belief. They may stop people giving an account of what they believe. This is as true for atheists as for religious people.
 - Any new stirring up hatred offences should only cover threatening conduct. Abusive behaviour is far more subjective. The threat that even a respectful expression of disagreement with, or criticism of, a point of view could be

construed as abusive will create a fear of prosecution that will restrict freedom of speech and legitimate debate.

- 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.
- 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.
- 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.
- 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.
- There is a serious risk that politically-motivated complainants will label disagreement as hatred to try to silence their opponents. Police Scotland has said that free speech clauses are important to prevent it being inundated with vexatious reports.
- The mere threat of prosecution for stirring up 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.
- Lord Bracadale's Independent Review on Hate Crime report, which led to the Scottish Government's Bill, stressed the need for a clear distinction between legitimate debate and rabble rousing. The Bill does not come close to reflecting this.

7. I do not see the need to retain "insulting".

Other issues

8. There should be explicit protection for quoting from the Bible and for expressing personal belief in its contents. It should be explicit that disagreement with a point of view, ideology or doctrine and the expression of that disagreement is not, of itself, hatred nor disrespect. It is a basic principle of freedom of speech that citizens should be free to express disagreement in an open and respectful way without fear of prosecution.

9. No comment.

10. I have no objection to the removal of the offence of blasphemy. If Christians wish to enjoy freedom of speech they must accord it to others.

Kind regards,

Iain
Iain R Sutherland

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