

## JUSTICE COMMITTEE

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

#### SUBMISSION FROM WILL DALY

Hi Justice Committee,

Do I think there is a need for the bill?

There is a need for a bill to address the issue of blasphemy, and there is a need for a law to address the issue of violence motivated by hatred of a protected class. However, due to the nebulous nature of "hatred", and the paramount importance of freedom of speech, I cannot see a way to prosecute based purely on the hatred itself, without the physical evidence of a particularly *physically harmful* deed.

There should be no law which makes it illegal to offend someone. Freedom of speech means freedom in all cases, not just free to say things people like to hear. You do not need to support what someone says to support their right to say it. The law is not there to protect people's feelings.

There is no such thing as a "Hate Crime" only a crime which is motivated by hate. Another law must have been broken first.

How to prosecute a hate crime?

Hate crimes should only be prosecuted as a result of a material or physical damage to a person or persons, which it is deemed were motivated by their membership to a protected class. It should be a second-stage offense, where another crime must be committed and have reasonable evidence, and then be able to prove it was motivated by protected class prejudice, using further physical means, such as Tweets directed towards the victim, a history of slurs against the victim (for which there is evidence), evidence of membership to groups which openly express negative opinions against the group, etc. The applicability of "hate" cannot be ascribed by making guesses as to a person's motivations, as this is a slippery slope towards fascism.

"Stirring Up Hatred"

This sounds like wording you might find in the recent Chinese laws imposed upon Hong Kong. "Stirring up hatred" is such a vague and applicable term, that it can quite literally be used to prosecute almost anyone, for any reason to which the state or government decides. It is exactly the kind of vague wording used by fascist governments to prosecute dissenters. This needs to be FAR more specific if it's going to be included in law.

"Threatening Or Abusive Manner"

This is a term which is entirely up to the interpretation of the "victim" in most cases. This should require physical evidence (camera footage, paper trail) which

demonstrates a material and immediate danger of the victim coming to harm. Which I believe is already the standard for this type of behaviour out-with any kind of "Hate Law".

#### On Forfeiture or Disposure of "Hatred Material"

This material is protected under freedom of speech, and cannot be seized or destroyed. It is not the material which is at fault, it is the application of the hatred within to commit an actual crime which is illegal. This sort of sounds like book-burning, and will more likely simply radicalize the offender further.

#### Protection of Freedom of Expression

Having to add exceptions for "discussion" of specific topics is frankly ludicrous. Is this fascist Europe? Discussion and debate are the cornerstones of our society. No topic should need an "exception" as all topics purely used in discussion and debate should be exempt from prosecution, otherwise what's the point? You should be allow to express any belief, no matter how distasteful, no matter which group/groups consider it offensive or are the subject of said beliefs. This is freedom of speech, and it is paramount to the continued freedom of our society.

Thanks - I hope my points are considered carefully. As a resident of Scotland I want us to be more free, not less. It is not laws like this which will make our society a better place, it is better education and less poverty.

Regards,

Will Daly.

Will Daly  
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