

**JUSTICE COMMITTEE****HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL****SUBMISSION FROM GEOFF MILLER**

I have reservations about calling this branch of law “Hate Crime”. Hate is by definition a negative attitude. Legislators assume that to counter a negative another negative is needed; for example, ‘hatred will not be tolerated’. I question the terminology. The aim is surely to promote respect and acceptance of people who differ from the mainstream, or whose views differ from commonly held views. Better, surely, to promote a positive than try to negate a negative? So why not ‘Respect for Persons’ as a positive title, and reference to those qualities that promote respect?

There are other difficulties with Hate Crime. People who feel themselves to be victims of hate crime are often simply responding to criticism of their beliefs or lifestyle, but criticism does not automatically amount to hatred of themselves as persons. This kind of response has been seen in the ‘no platforming’ of speakers at University events and the withdrawal of the use of venues by some local authorities whose members object to certain speakers’ publicised views. Reactions of this kind seem to be immature, ultra-sensitive, and a challenge to free speech. Poorly drafted law could open the door to vexatious complaints by hypersensitive people claiming victimhood and to over-zealous prosecutions. Criminality needs to be defined unequivocally.

There is, however, an obvious need for a clear distinction to be recognised where criticism of beliefs or lifestyles is expressed in ways that do not respect the people holding those views or living as they do. Even so, disrespect does not necessarily amount to hatred, so any definitions in this area need to be finely nuanced. There is the unknowable matter of intention, or motivation, to be taken into account. Who is to say whether a speaker or writer intended to show hatred when giving robust expression to a view at odds with other views?

At the extreme, of course, there are clear examples of views calculated to stir up prejudice leading to hatred, although even prejudice itself does not necessarily imply hatred. What is implied in hatred is ill-will towards a person or community and the expression of that in discrimination or even violence. A feature of disagreements of principle between people is that they can degenerate into personal insults and name-calling. This is another evidence of immaturity, but personal insult does not necessarily amount to hatred.

Our legislators therefore have a delicate job to do if they are going to define precisely what will amount to sufficiently clear evidence of hatred to convict a person of a criminal offence. The difficulty is inherent in the attempt to negate the negative; it would be easier to define the positive characteristics of respect and to decide whether or not they had been met.

Geoff Miller