

## JUSTICE COMMITTEE

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

#### SUBMISSION FROM CHRIS D'ARCY

Hello,

I am writing to the justice committee of the Scottish Parliament regarding the proposal of the Hate Crime and Public Order Bill. I will answer the questions as laid out in the call for views page linked here: [Hate Crime and Public Order \(Scotland\) Bill Call for Views - Parliamentary Business : Scottish Parliament](#)

The aforementioned questions will have their answers stated beneath each question.

*1. Do you think there is a need for this Bill and, if so, why? Are there alternatives to this legislation that would be effective, such as non-legislative measures, wider reforms to police or criminal justice procedures? Are there other provisions you would have liked to have seen in the Bill or other improvements that should have been made to the law on hate crime?*

No, there is no need for this bill. The very idea of the Hate Crime and Public Order Bill is antithetical to the idea of freedom of speech. The concept of the addition of subjectively perceived intent to law is ridiculous. A crime perpetrated upon an individual is a crime, no matter their background. To elevate certain individuals over others due to inalienable characteristics is just another form of bigotry, and the opposite of equal treatment.

*2. The Bill brings together the majority of existing hate crime laws into one piece of legislation. Do you believe there is merit in the consolidation of existing hate crime laws and should all such laws be covered?*

No, as there can be no merit in the consolidation of existing bills or laws that should not exist.

*3. Do you think that the statutory aggravation model should be the main means for prosecuting hate crimes in Scotland? Should it be used in all circumstances or are there protected characteristics that should be approached differently and why? For example, the merits of a statutory aggravation for sex hostility rather than a standalone offence for misogynistic harassment?*

No, as the addition of aggravation due to "hate" can be attributed solely by the perception of a victim or witnesses of a crime. Such subjectivity should not be enshrined in law due to its susceptibility for abuse. As has been found in previous trials related to "hate", the context or intent of the "perpetrator" are considered irrelevant. Thus, an individual, perceived to be "marginalised", would have the ability to inflict malice upon others with the backing of the legal system. The "victim" would be able to do this on a whim, given the Police Scotland definition being "something which is perceived by the victim or any other person to be motivated by hate or prejudice." Source: [What Is Hate Crime? - Police Scotland](#). Certain characteristics should not be approached differently, as that defeats the notion of equality under the law.

*4. Do you think that a new statutory aggravation on age hostility should be added to Scottish hate crime legislation? Would any alternative means be measured effective? For example, would there*

*have been merit in introducing a statutory aggravation (outwith hate crime legislation) for the exploitation of the vulnerability of the victim?*

No, there is no need for the addition of modifiers to an act which is objectively a crime as it stands. Example: murder and theft are still murder and theft, there is no need for the addition of an aspect of race, sex, age, etc. In terms of the victim's vulnerability, this is already addressed in whatever crime is perpetrated upon them.

*5. Do you think that sectarianism should have been specifically addressed in this Bill and defined in hate crime legislation? For example, should a statutory aggravation relating to sectarianism or a standalone offence have been created and added?*

No as, referring to what I have previously stated, this is a modifier to an already objectively criminal offence.

*6. Do you have views on the merits of Part 2 of the Bill and the plans to introduce a new offence of stirring up of hatred?*

I am against the idea of an offence of "stirring up hatred" as this would be ripe for abuse by anyone wishing to silence dissent and critique, and commit malice with the complicity of the legal system. As I have previously stated, this is dependent of perception. This perception is subjective and thus not reliable as a means of prosecution.

*7. Do you have any views on the Scottish Government's plans to retain the threshold of 'threatening, abusive or insulting' behaviour in relation to the stirring up of racial hatred, contrary to Lord Bracadale's views that 'insulting' should be removed?*

Speech or behaviour that merely is offensive to the sensibilities, and does not break other objective laws (incitement to violence, public indecency), should be protected.

*8. Do you have any comments on what should be covered by the 'protection of freedom of expression' provision in the Bill?*

All speech, outside of slander, defamation and incitement to violence or crime, should be permitted. The emotional outcome of such speech or action should not be a incriminating factor of the acting or speaking person.

*9. Do you agree with the Scottish Government that Section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 about racially aggravated harassment should not be repealed?*

No, it should be repealed as it is an unnecessary modifier to the existing law against harassment. Harassment against particular people should not be elevated above others, if we are genuinely aiming for equality.

*10. What is your view on the plans for the abolition of the offence of blasphemy?*

Blasphemy is something that should not be an offence. However, the new proposed hate crime bill seeks to criminalise blasphemy under the guise of "hate crime", due to the subject nature of "hate crime".

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I would also like to bring attention to the double standard of women's groups successfully lobbying for the removal of gender from the characteristics of this bill, as per Lord Bracadale's recommendation. Source: [Hate Crime Bill - gov.scot](#). Instead, replacing any such gender "offence" with misogyny. As such, if this bill were to pass, it would be legally permissible to commit acts towards men that would be illegal towards women. I ask, how can anyone who purports to be a champion of equality and fairness push for such a bill that would allow for abuse towards a man, with legal protections in favour of a female abuser?

I do hope that this is read thoroughly and that this bill is dismissed for what it is: a means to silence and criminalise individuals under the co-opted banner of equality. To do otherwise would be a backward step towards a society in which its citizens are treated equally.

Thank you for your time.

Chris D'Arcy  
7 July 2020