

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM D BLUNT

I state my views by responding to the ten questions provided by the Committee on the Scottish Government website.

General

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?

I do not think there is a need for this Bill. So-called 'hate crime' laws go against the fundamental principle of equality before the law, in that they afford some 'victims' a more privileged status than others. A crime should be a crime, irrespective of who the victim is or who the perpetrator is.

The practice of creating special categories of victim is discriminatory, leaving those who do not fit into these categories with the sense that they are being dealt with unfairly and unjustly. It is a divisive practice, in that it invites any individuals in society with a grievance, whether real or imagined, to identify themselves as a special group and put pressure on government to be included as a category under 'hate crime' legislation. This hardly helps foster a harmonious society.

I am concerned at the way in which the existing 'hate crime' legislation is being used to inhibit and even erode our hard-won freedom of religion and freedom of speech. I fear that if this Bill is passed in its present form then the situation for Christians in Scotland will deteriorate further. It seems to take only an allegation of 'hatred' against Christians who are preaching in the open air or distributing tracts in public and action is taken against them.

As an example, there have been several cases in recent years where Police Scotland have treated an expression of disagreement with homosexuality by street preachers as a 'hate crime', arresting these preachers simply because a complaint has been made against them – without even checking to see if there is any evidence to support the complaint. While the courts usually throw out any charges which may arise, the threat of arrest, questioning and charging can have an intimidating effect upon those who are simply exercising their historic religious and civil liberties in accordance with

the law.

Consolidation

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?

As indicated in my response to question 1, I am of the view that so-called 'hate crime' laws go against the fundamental principle of equality before the law, in that they afford some 'victims' a more privileged status than others. A crime should be a crime, irrespective of who the victim is or who the perpetrator is.

I believe that the existing 'hate crime' laws ought to be repealed and that threatening or abusive behaviour which is likely to cause fear or alarm to another person should be prosecuted under the appropriate sections of the criminal law.

How to prosecute hate crime?

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?

As indicated in my response to question 1, I am of the view that so-called 'hate crime' laws go against the fundamental principle of equality before the law, in that they afford some 'victims' a more privileged status than others. A crime should be a crime, irrespective of who the victim is or who the perpetrator is.

I believe that the existing 'hate crime' laws ought to be repealed and that threatening or abusive behaviour which is likely to cause fear or alarm to another person should be prosecuted under the appropriate sections of the criminal 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?

I do not think that a new statutory aggravation on age hostility should be added to Scottish hate crime legislation. As indicated in my response to question 1, I am of the view that so-called 'hate crime' laws go against the fundamental principle of equality before the law, in that they afford some 'victims' a more privileged status than others. A crime should be a crime, irrespective of who the victim or the perpetrator is.

Other forms of crime not included in the Bill

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?

I do not think that 'sectarianism' should have been specifically addressed in this Bill

and defined in hate crime legislation. It is disturbing how often the term ‘sectarianism’ is used and yet no definition of it is provided.

Any Bill placed before the Scottish Parliament is bound to take account of the fact that the Protestant Reformed religion is established by law in Scotland. Any legislation enacted by the Scottish Parliament must safeguard the liberty of the individual to state that the Protestant Reformed religion established by law in Scotland is true and that Roman Catholicism in particular is in error. To state these things does not amount to hatred.

Stirring up offences

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 do not believe that the plans to introduce a new offence of “stirring up of hatred” should be proceeded with, especially when actions which are merely “likely” to stir up hatred are embraced by it. I believe that such plans are very dangerous, in that if such an offence is introduced it increases the likelihood of malicious complaints against individuals who have simply stated an opinion with which others may disagree and which they may find objectionable. A truly tolerant society must allow for differences of opinion on many matters, without these necessarily becoming grounds for possible criminal action.

It seems today that whenever one person is criticised by another, the assumption is that the criticism is motivated by hate. This is quite unwarranted, as only God knows the heart. It may also be quite unjustified, as there may be occasions when a rebuke is given in love out of a genuine concern for a person’s welfare. This is especially true with the gospel of Jesus Christ, which addresses us all as sinners, and requires our repentance, but promises salvation to all who turn to the Lord seeking His mercy.

My understanding is that the terms of the Bill do not exclude services of public worship, or even private conversations in one’s own home. If a minister takes as the text for his sermon the words of Christ in John 14:6, “I am the way, the truth, and the life: no man cometh unto the Father, but by me”, and tells his congregation, as any faithful minister must, that Christ is the only way to heaven, and that the followers of other religions will go to hell, could that potentially see him prosecuted for stirring up hatred?

It is my view that, for the reasons I have given, ‘hatred’ is far too subjective a term to be employed in the criminal law. The law should deal only with conduct which is *demonstrably* threatening, and which is clearly *intended* to stir up hatred. Such behaviour is adequately covered by the existing criminal law.

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?

I believe that the threshold of ‘threatening or abusive’ recommended by Lord Bracadale in relation to the stirring up of racial hatred was too low, so I certainly do not agree that ‘insulting’ should also be part of the threshold. To include ‘insulting’ conduct in the legislation would make the standard required for charging and conviction far more subjective than it ought to be.

It is my view that without the requirement that a person *intended* by his conduct to stir up racial hatred, meaning that his action was deliberate towards such an end, any new legislation would be likely to see many people brought before the courts who ought not to be there, they being quite unaware at the time that their action was of such a sort that it would or could stir up racial hatred.

Other issues

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

I believe that protection for free speech is a vital principle in a free society. It is essential for such a principle to be maintained if there is to be discussion and debate on important matters without fear of arrest and potential prosecution. Such discussion and debate is quite different from inciting hatred.

I believe that any offence covering 'hatred' of a person on the basis of their religious belief must take account of the fact that the Protestant Reformed religion is established by law in Scotland, and safeguard the liberty of Christians to affirm on the basis of the Word of God in Holy Scripture that the Protestant Reformed religion is true, to state that other religions are false, and to call upon the followers of other religions to repent and turn to Jesus Christ for salvation.

I believe that any offence covering 'hatred' of a person on the basis of their sexual orientation must safeguard the liberty of Christians, on the basis of the Word of God in Holy Scripture, to refer to any such orientation and behaviour which is inconsistent with the Word of God as sinful, and to exhort those who follow such lifestyles to change their behaviour. As an example, the law must continue to protect the liberty of Christians and others to condemn so-called 'same-sex marriage' as a perversion of God's will for mankind, and not equivalent to marriage at all.

I believe that any offence covering 'hatred' of a person on the basis that they are 'transgender' must safeguard the liberty of Christians, on the basis of the Word of God in Holy Scripture, to refer to such persons according to their fixed biological identity, and to say that someone who was born a man is not and never can in truth be a woman, and that someone who was born a woman is not and never can in truth be a man.

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?

I do not agree with the Scottish Government that Section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 about racially aggravated harassment should not be repealed. As indicated in my response to question 1, I am of the view that the practice of creating special categories of victim is discriminatory, leaving those who do not fit into these categories with the sense that they are being dealt with unfairly and unjustly.

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

Blasphemy against the true God should be an offence in any civilised society, because God's name is holy. The third commandment is: "Thou shalt not take the name of the Lord thy God in vain; for the Lord will not hold him guiltless that taketh his name in vain." (Exodus 20:7) The name of God signifies all that pertains to God.

The sin of blasphemy can only be committed against the true God – the God who has revealed Himself in Holy Scripture as one God in three Persons, the Father, the Son and the Holy Spirit. This fact is affirmed in Scotland, in that the Protestant Reformed religion is established by law and in that in 1690 the Scottish Parliament ratified the *Westminster Confession of Faith*, chapter 20 and section 4 of which states:

"And because the powers which God hath ordained, and the liberty which Christ hath purchased, are not intended by God to destroy, but mutually to uphold and preserve one another; they who, upon pretence of Christian liberty, shall oppose any lawful power, or the lawful exercise of it, whether it be civil or ecclesiastical, resist the ordinance of God. And for their publishing of such opinions, or maintaining of such practices, as are contrary to the light of nature, or to the known principles of Christianity, whether concerning faith, worship, or conversation; or to the power of godliness; or such erroneous opinions or practices, as either in their own nature, or in the manner of publishing or maintaining them, are destructive to the external peace and order which Christ hath established in the church; they may lawfully be called to account, and proceeded against by the censures of the church, and by the power of the civil magistrate."

The civil power should safeguard the Christian religion from denigration. A law forbidding blasphemy safeguards all that is properly sacred, including the Person of Jesus Christ, but it also protects men from *themselves*. To insult God is a far worse thing than to insult our fellow men and will incur an awful penalty at the day of judgement. Civil rulers have a duty to punish blasphemy, as is clearly implied in the following question and answer of the *Westminster Shorter Catechism*:

"Q. 56. *What is the reason annexed to the third commandment?*

A. The reason annexed to the third commandment is, That however the breakers of this commandment may escape punishment from men, yet the Lord our God will not suffer them to escape his righteous judgment."

If the offence of blasphemy was to be abolished then we would be saying as a nation that we do not care about God's honour. Also, if men had more respect for the God of the Bible they would have more respect for themselves and for each other, and the result would be a more cohesive, orderly and stable society, which should be the desire of us all.

Rev. David Blunt

24 July 2020