

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM JOEL FEE

I would like to go through the bill and state my opposition to a number of sections (and my agreement to one section)

To begin I would like to say that I fundamentally disagree with the bill as a whole and would like it to be scrapped entirely. Further, I would like any reference to the terms "hate speech" and "hate crime" to be repealed in any Scottish Law that possess them. The motivation for any crime can vary greatly and I do not believe that motivation for a crime based on prejudice (of which the Bill only lists a few chosen characteristics) should hold any significance to the prosecution of the crime. The only reference to motivation in criminal law should be for intent or lack of intent as with the difference between man-slaughter and the different degrees of murder. Hate is an emotion that everyone experiences and can a very valid emotion to feel in many circumstances. Language can be hateful but it should not be up to the government to decide which is illegal. This is a clear attack on the freedom of speech and expression. The term "stir up hate" is incredibly vague and gives power to the accused, the courts and the government to enact this law upon anyone and this will be up to the government's narrow pool of protected characteristics. This law does not penalise "stirring up hate" of - men, people of particular class or economic group, people with a particular political stance or follow a particular political party, any physical characteristic of a person (innate or otherwise), people who follow or support any particular group/organisation/company at all - including sports teams. This list can continue further and shows for one - that the Bill does not aim to protect everyone, and two - the absurdity that this bill should even attempt to cover all possible forms of hate. Hate is a part of humanity and should not be criminalised.

Since my disagreement with the bill as a whole is clear, I will point out that I believe that giving a prison sentence of 7 years for "stirring up hate" would be tyrannical and fascist in the truest definitions of the words.

I will move to a couple of specific parts of the bill.

Part 1 Section 1 - (3) "It is immaterial whether or not the offender's malice and ill-will is also based (to any extent) on any other factor."

This allows that there are no defensible circumstances by which someone could commit an offence of the bill, which I find to be wrong. To give an example - a person being physically assaulted, who responds to the assault by verbally attacking a protected characteristic of the attacker, would provide cause for the attacker to pursue hate crime charges for the person being attacked.

Part 2 Section 5 - (1 & 2) To further dispute the use of the term "stir up hatred" I would like to give an example of how this section of the bill could reasonably be pursued within its framework. The "threatening, abusive or insulting material" could be a religious book like the Bible or Quran, since they can be perceived by some as "threatening, abusive or insulting". In this case, "if the material were communicated,

hatred would be stirred up against such a group" would apply, since according to the accuser, the book would stir up hatred against their group. Therefore, even possessing one of these books could be the cause to pursue justice for a hate crime. Any material or words spoken should be regarded by the freedom of speech and expression.

I have great concerns for privacy too since this Bill seems to open up the possibility for being persecuted for things said, written, or done in private circumstances (which later possibly become public), to be open to cause offence to someone and invoke them to pursue justice.

I would also like to know if there is any right for this Bill to retroactively persecute anyone for things said, written or done in the past? I do not believe that it is been mentioned in the Bill, though I am not entirely familiar with law.

Part 2 Section 11 & 12 - Only two of the listed characteristics are allowed to be discussed or criticised according to these sections. All of the characteristics, and indeed all things, should be open to discussion and criticism without fear from law. To exclude all but two, this Bill suggests that merely by discussing or criticising these other characteristics could illicit "stirring of hatred". This would be an extreme violation of people's freedom of speech.

Part 4 - This is the only section of the Bill that I agree with. Blasphemy as such should not be a crime. But since the Scottish Government, through this Bill, have decided which characteristics are important and should be protected from hatred, it will have created a new kind of blasphemy law that picks and chooses instances of when someone is stirring hatred of a group or not.

Regards,

Joel Fee - A concerned Scottish citizen

Joel Fee
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