

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM WILLIAM MACLEAN

This evidence was submitted partially in Gaelic. The Gaelic content has been translated provided by the Scottish Parliament's Gaelic team.

A charàid chòir agùs a bhana-charàid chòir,

Dear sirs/madams,

Bu thoigh leam d'aire a tharraing ri seò litir ach am faod mi sgrìobhadh anns an Buerla? Chan eil Gaidhlig math agam an drasta.

I would like to draw your attention to this letter but may I write in English as my Gaelic isn't that good at present?

As requested I shall now submit my views, as a free standing and fair member of the Public. These shall be in numerical order in relation to the sections of the proposed Bill, and finally I shall add additional points which have been omitted which I believe are relevant to this proposal.

Section 1, 4

It states a "Single source" of evidence only would be required for a criminal charge to be brought yet this is in direct contravention of Scots law where two witnesses have prior been required to bring forth a prosecution. The act of Corroboration is a strong value and must not be overlooked as one persons perception of an event can be quite misleading, depending on many circumstances. We must seek to maintain the integrity of our Justice system.

Section 3, 1

As recommended by Lord Bracadale I agree that the term "insulting manner" should be erased from the Bill as this is far too vague and frankly in my opinion too soft. Insults can be difficult to deal with but are often learning processes. Surely the Police are already busy enough without having to investigate crimes of citizens insulting each other? If it was to go to the level of "abuse" this is already covered by Law.

Section 3. 1 (b) (ii)

The term "likely that hatred will be stirred up" is again very vague and this should also be reworded more accurately or ejected completely from the Bill. There does not seem to be any acknowledgment for *mens rea* and this would be a travesty for the Scottish Justice system. How can one be guilty of a crime when one does not

know they were committing it? Aside from "strict liability" offences like motoring violations this "stirring up of hate" seems extremely open to interpretation and it would be abhorrent if innocent citizens of Scotland were to fall foul of this badly worded law.

Furthermore it states on the gov.scot website that this new Bill attempts to make the "law easier to understand and more user friendly", yet surely on inspection of this section of the Bill that ideal seems somewhat contradictory?

Section 3, 7

"Displaying, publishing or distributing material"

As an example what if a person has posters on their wall of a celebrity who has recently become entangled in a contentious issue regarding a protected group. At the time of the purchase of the posters the celebrity was untroubled by these issues, yet after having these issues the poster owner had a visit from his Cousin who took offence at his association with said celebrity. Will it now be a crime to have posters or memorabilia of celebrities who become the targets of cancel culture for example?

Section 5, 6

"Giving, sending, showing or playing material to another person"

For the sake of argument two friends are discussing their sexuality and one has suggested that they may be open to "new ideas". The other friend then shows them some material to warn them of some possible dangers of these unknown areas. Will it now be classed as criminal the free exchange of information that has been sent or revealed with the best intentions where there was no intent to offend? Surely we strive for a society where we can encourage free debate and intelligent discourse, rather than the stifling of opposing ideas?

Section 6,

Powers of entry with warrant.

If I may refer back to the poster collector, will they now be the subject of a forced entry and search for some taboo posters? Or perhaps they have some antique books that have some outdated phrases that need "burning"? Do we not live in a society where we can learn from our past together rather than simply try to erase it and deny it?

Misogyny as a stand alone offence.

I apologise for not knowing if this is to be true but have been made aware from some sources that there will be a Misogyny offence yet there will be no equivalent for females, for example Misandry. Are we not seeking an equal playing field here for everyone? Additionally if you take in the fact that between 2011 and 2018, 4451 males committed suicide, compared to just 1623 females (Public Health information Scotland) this unfair and shocking proposal seems quite distasteful indeed. Do men not deserve protections also?

If I may now extend to suggest some ideas and proposals that I believe have been misinterpreted or left out all together.

Firstly, that freedom of expression is the cornerstone of a logical and progressive society. Where will we end up if we cannot express ourselves freely and candidly? In a society where our thoughts are controlled by the state? We already have robust hate speech laws in Scotland and I believe any further tightening of them will only lead to the curtailment of reason and creativity. There must be some risk of offending others if we are to remedy problems together and come to some degree of mutual understanding.

Secondly, that as a country which prides itself on diversity and the promotion and protection of different cultures why would it not be the case that the Gaelic and Celtic peoples of Scotland not be protected under the Ethnic minorities movement? Surely this long suffering yet proud and creative culture can be afforded some degree of legislative protection in the face of a fragile (yet rejuvenated) language and diminishing lands and vocations? It is equality for all that we are aiming for right?

I thank you for reading this far, and I am aware it may not have been the easiest to read due to my lack of any expertise in these fields. But my sentiment is true and from the heart. And I send it to you , learned and professional men and women of the Scottish government, in the hope of making our proud country even fairer and more conducive.

Tha mi fada 'nad chomain,
Le deagh dhùrachd

I am much obliged, yours faithfully.

Uilleam Mac'III Eathainn (William Maclean)