

## **JUSTICE COMMITTEE**

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

#### **SUBMISSION FROM INTERCULTURAL YOUTH SCOTLAND**

##### **Summary**

Intercultural Youth Scotland (IYS) welcomes the opportunity to be asked to submit written evidence and speak at the deposition to the justice committee regarding the Hate Crime and Public Order (Scotland) Bill.

The outline of our evidence shall follow the format of

- First, the historical and current landscape surrounding racially based hate crime from the perspective of young people, alongside our In Sight Report (2019) and our Covid in Colour Report (2020). The focus will be around the underreporting of racist hate crimes and the lack of education that leads to inconsistency of reporting.
- Second, the necessity for racial hate crimes to be dealt with separately due to race historically and consistently being ignored when relating to equalities or protected characteristics.
- Third, the need for hate crimes to be dealt with through alternatives to the current criminal justice systems and institution, and specifically the benefit of this when dealing with racially motivated hate crimes. This will cover alternatives to policing looking at community organising through grassroots organisations and a diversity of engaged and groundbreaking organisations.

##### **Introduction**

IYS is a youth-led organisation working for Young Black and People of Colour Scots. We encourage a collective action of less heard intercultural voices in Scotland, creating social impact and justice. We broaden horizons and offer direct, specialist support and vital pathways for Scottish intercultural young people who face barriers to success.

We build from our base of experience and the trust of our community of Black and People of Colour Scots who face educational inequalities, anti-blackness & racism, discrimination and other barriers to success in Scotland. We build trusting relationships and a cultural blend to deliver opportunities and a platform for youth-led change for Young Black and People of Colour Scots, including through their co-production of everything we do.

## **Intercultural Youth Scotland supports the need for the Bill**

Intercultural youth Scotland fundamentally supports the general principles of the bill to allow for hate crime legislation to become simplified through a clear, single piece of legislation. In theory, this should allow victims of hate crimes to know their rights in a more accessible way, and allow for hate crime reporting to more accurately represent the actuality of the crime.

## **Racial Hate Crimes and experiences of Racism from a Youth Perspective**

Until now, racial hate crimes and racism have been largely approached from a general perspective rather than a youth perspective. In doing so, the experiences and concerns of young people have been significantly excluded over the years. Due to this, our organisation has conducted a series of reports independently, which detail the reality of life for young Black and People of Colour Scots. The reports in question are the In Sight report (2019) detailing the perceptions and experiences of our community in Scottish schools, alongside our Covid in Colour (2020) report detailing the experiences of young Black and People of Colour Scots during the pandemic. The details of this report will be outlined throughout this section alongside national statistics which will also be highlighted.

Our In Sight Report (2019) provided a necessary outline of the reality of the everyday lives of Black and People of Colour Scots in School and in wider society and our Covid in Colour report (2020) specifically focused on social issues that had been exacerbated due to the COVID-19 pandemic and the impact of the pandemic. With the focus of our submission being on the perspective of young people, it is necessary to note that the major area of concern in relation to institutional racism for young people remains the education system Our report highlights clear institutional failing in regards to accurate reporting of Racism:

- Over half of female respondents (51.3%) and male respondents (53.3%) disagreed or strongly disagreed with the statement 'Teachers at my school were knowledgeable about the processes they were required to follow if a racist incident happened at school'.
- Almost one in three female respondents (29.5%) strongly disagreed with the statement 'If I experienced a racist incident at my school, I would feel able to tell my teacher'
- In response to the statement 'I believe my school would respond effectively to any concerns raised about racism or discrimination', half of male respondents

(50.0%) and almost half of female respondents (48.7%) expressed disagreement or strong disagreement.<sup>1</sup>

- 63% of respondents reported that they have experienced or witnessed racism at their school<sup>2</sup>

Looking more broadly at experiences outside education the current reality is startling with Racial hate crimes remaining the most commonly reported hate crime.

- Over the last 8 years there has been a recorded 33,087 race related charged as processed by the Crown Office and procurator Fiscal
- As of 2019/20 this yearly figure sat at 3,038 which is an increase of 4% compared to 2018/19<sup>3</sup>

These statistics and reports paint a very clear picture of Scotland's problem with racism. The levels of racism that continue to plague the day to day life of young Black and People of Colour Scots is having a significant impact on their mental health. Although this bill is warranted and necessary, it cannot alone address the systematic racism that exists within Scottish society

### **Race to be treated separately from the overall Hate Crime legislation**

It is clear from the current and historical perspectives on racial hate crimes and racism that fundamentally the situation is not improving and is arguably getting worse. As a result, we believe race should be treated separately as a protected characteristic and should be dealt with differently due to its long-lasting, systematic and institutional nature.

There is, undoubtedly, a need for this bill to ensure an adequate process for recording racist hate crimes and incidents, and we do not believe a consolidated bill of all protected characteristics would do so. There is a significant problem when it comes to the wider understanding of racism and recording of race being merged and often ignored in equality groups, spaces and bills. Combining race with all other protected characteristics is simply reinforcing the structures that continue to fail Black and People of Colour Scots. We know from experience that this approach is not going to achieve an adequate or equal outcome in relation to handling of racist hate crimes or incidents.

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<https://static1.squarespace.com/static/5b9aaa1c0dbda3921bdda433/t/5f74cd3e560f724947cdd939/1601490289574/COVID+IN+COLOUR+FINAL+UPLOAD+VERSION.pdf>

<sup>3</sup> <http://www.crownoffice.gov.uk/publications/equality-and-diversity>

The problems with the current structuring is that It is essential that aggravation of prejudice is understood in terms of multiple characteristics and is recorded and prosecuted as such. The current legislation only allows for consideration of one protected characteristic and restricts the true understanding of a victim's identity. We need to understand, record and prosecute based on a person's identity in its entirety: a Black transgender disabled man's experience and marginalisation is fundamentally different from that of a white gay man - and that should be reflected in the law. Intersectionality seeks to understand a person's lived experience through the interconnectedness of multiple and overlapping systems of discrimination. Unless such a frame of understanding is built into reporting bodies and organisations across Scotland, the systems currently in place will not have the capacity to adequately take into account race as a factor in hate crimes or incidents.

There is a serious review needed on the decisions about what makes a racist hate crime and/or a racist incident. It should not be solely down to the police to determine what is a racist hate crime and what is a racist incident. The definitions of both overlap and it is therefore currently in the hands of the police officer and often the senior police officer (who is often a white middle class man) to determine this. We cannot expect those without lived experience, and without the proper knowledge or training, to be able to determine such decisions. For example; It SHOULD be logged as a hate incident if any non-Black teachers, police officers or anyone in a position of authority uses the "N" word, yet with the current reporting and understandings of racism, this would not happen. As an organisation that works with young Black and People of Colour Scots, we are inherently aware of the ways in which the institutions of the criminal justice system - the courts, prisons and the police - fail and oppress our young people due to inbuilt systematic racism that is continues to be prevalent in Scotland.

Thus, unless intersectionality was to be adopted and implemented as a national framework, we do not see the current systems having the capacity to adequately deal with racist hate crimes and incidents in the appropriate manner, and without causing serious psychological harm to Black and People of Colour Scots. This warrants a significant call for alternatives to the existing system.

### **Alternatives to the criminal justice system**

It is essential when taking in account written and testimonial submissions of views on this bill and all of the recommendations that alternatives to the current structures and institutions are not ignored. The issues that exist with the current provisions related to

hate crimes will not simply be resolved through this single bill and guidance. As highlighted in our In sight report (2019) and our Covid in Colour Report (2020) it is abundantly clear that young Black Scots in particular have no trust in the criminal justice service and the police, and in fact have a longstanding negative relationship with them. Given this situation, it is necessary to look to alternatives to current policing and the criminal justice system that would enable Black Youth to feel supported and safe.

The ways in which we suggest to rectify the harm of these institutions on Black and People of Colour Scots is to defund the current institutions, and move towards a community-focused framework. Although this bill has merits in providing guidance on how to report hate crimes and covers within it racial hate crimes, the institutions themselves are not in a position to take this guidance on as they do not have the relevant training or knowledge. These institutions cannot be solely responsible for the handling of racist hate crimes or incidents as they do not have Anti-Racist training, Cultural Proficiency training and their workforces remain undiverse and underrepresents Black and POC individuals. It would be woefully irresponsible to rely on institutions with so limited a level of training and experience to adequately address the situation.

Our proposed end goal strategy would be to have a completely community run support and engagement network by those with lived experience or relevant and recent effective engagement in dealing with racist hate crimes and incidents. This equitable model of a community support and engagement network would act as a consultation space for Black and People of Colour Scots to seek guidance and support when they have experienced a racist hate crime or incident. From there, the consultation centre could act as a hub for multi-level additional support and guidance. It would run a restorative justice approach providing education on what racist hate crimes and incidents are, as well as their impact, hoping to work with both victim(s) and offender(s) to ensure all parties are able to move on and heal from the incident. The hub would also act as a panel in which other organisations and services could seek advice in instances where they needed clarity about determining the scope of a potential crime. There needs to be a serious reflection on current systems and the need for the adoption of third party reporting. If people and particularly Black and People of Colour Scots cannot report to the police there are clearly significant institutional problems and we must ask ourselves why and how we improve that.

However, we do acknowledge that the current systems and institutions are far from achieving a fully restorative justice approach and community support network approach. However there are multiple global models about how to begin to move towards a defunded criminal justice system and move to community based approaches which can act as a guide. We would ask that the aim should be to run a fully funded and

comprehensive parallel system of our proposed ideas alongside the current criminal justice system to provide more support to victim(s). Thus begin to create and hopefully slowly mend the bond between these systems and all Black and People of Colour in Scotland.

Intercultural Youth Scotland  
November 2020