

## **JUSTICE COMMITTEE**

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

#### **SUBMISSION FROM ROBERT KENT**

Thank you for giving me the opportunity to provide my views on this proposed legislation. I believe the Bill is unnecessary, socially divisive and manifestly unjust. It does not provide greater clarity, transparency or consistency but represents a breathtaking departure from the basic historic principles of freedom, equality and justice that underpin modern Scottish society.

Hate crime legislation has evolved in a poorly considered piecemeal way because it reflects the aims of a number of different campaign groups and activists who are trying to use it to change social attitudes. Appeasing these pressure groups by bringing the fragmentary legislation together as this Bill proposes will only increase the corrosive effect of identity-based victim-focussed politics, exacerbate social divisions and accelerate the drift to authoritarianism. A more constructive approach would be to abolish the unhelpful and divisive concept of hate crime.

The Bill is unjust and discriminatory. Current legislation already protects people from threatening behaviour and prohibits incitement to violent acts and there is no reason why perceived hatred for certain identified characteristics should make such crimes worse, or why perpetrators of crimes without such 'hate' elements should be treated more leniently. The law must be inclusive and fair and the Bill puts people who do not happen to have the specified 'protected' characteristics into second place, elevating certain minorities into a new privileged aristocracy enjoying special protections that are denied to the majority.

If the Bill does become law it will be soon be just as out of date as the legislation it seeks to consolidate. Other groups not currently listed among those that enjoy special protection will clamour for their identifying characteristics to be added to those listed in the Bill. The proposed addition of age and sex, the arbitrary development of different transgender identities and the consideration of sectarianism as new protected characteristics are examples which show this to be true.

The Bill's proposal to create a new offence of 'stirring up hatred' amounts to a new blasphemy law. A direct attack on freedom of belief and free speech, the proposed offence is confusing and will simply be used by factional interests to censor opposing views and infringe the liberties of the majority. The right to disagree, irritate and offend others is essential for open discussion and a basic feature of a free society. The vague and subjective nature of the offense will require lawmakers to clarify what is or is not 'hate speech' or 'stirring up hatred', unnecessarily burdening the police and courts. The Bill will enforce conformity, encourage informers and denunciations, increase the fear of being politically incorrect or 'phobic', close down open and frank discussion of important issues, and increase the sense of Scottish society becoming increasingly authoritarian. The Bill will turn Scotland into an Orwellian thought-police controlled state.

In summary, referring to the questions listed in the Call for Views:

There is no need for the Bill. Existing laws adequately protect us.

- 1 There is no merit in consolidation. All hate crime legislation should be abolished as arbitrary and unfair.
- 2 Statutory aggravation is unjust. It creates a two-tier justice system in which those with protected characteristics are a privileged aristocracy.
- 3 Age hostility should not be added.
- 4 Sectarianism should not be added.
- 5 The proposed new offence of 'stirring up hatred' should not be added. It is a direct attack on the essential democratic freedom of expression.
- 6 Insulting, threatening and abusive behaviour should not be included. These are subjective and will prevent free speech.
- 7 Freedom of expression should be drawn as widely as possible, and only limited where incitement to violent acts is involved.
- 8 The category of racially aggravated harassment is unhelpful and socially divisive.
- 9 The offence of blasphemy may no longer be relevant but hate crime legislation is simply a new secular version of blasphemy and equally inappropriate in a free society.

R Kent