

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM MATTHEW MCCALLUM

There is a well-known phrase that I'm sure whoever is reading this is aware of, 'The road to hell is paved with good intentions'. The goal of ridding the world of hatred, intolerance and discrimination is a noble one, and I believe one that should be supported to the best of our abilities, either by peaceful individual action, or through group efforts such as those of Black Lives Matter (BLM) and other movements in response to the systemic racism within the American (and others) police force in the wake of George Floyd's brutal murder.

However, the idea that hatred can be legislated away is a dangerously flawed one. Hatred does not disappear because those who hold it cannot speak their views. If an individual hates someone because they are say... a Hindu, that hatred will not dissipate just because they are arrested for screaming abuse at them, if anything it will increase in its severity. I have personally talked with people who, after being prosecuted under hate crime legislation (in Scotland and further afield) for minor actions such as telling an offensive joke, have developed a genuine hatred for those this legislation is supposedly meant to protect. If someone feels persecuted, they will resent those who they perceive as their attackers. Let's bring this back around to the BLM protests in the United States where centuries of constant persecution against black communities have created a culture of justifiable fear directed at the US police force. I do not want to equate centuries of oppression faced by black folks in the USA with somebody being prosecuted for making an edgy joke, but the results are similar, it breeds hatred.

Additionally, this act infringes upon the civil liberties of the people of Scotland. Whilst the spewing of hateful views against any person or group because of some part of who they are is disgusting and should be challenged, that challenge should be within a social context and result in social consequences. No government, no matter how pure their intentions may seem, should have control over what can and cannot legally be said by its citizens. There are, of course, some exceptions. If violent action such as assault, either on person or property, is credibly expressed then that should be investigated, no matter its motivation, or if defamation is perpetrated against a person or organisation.

This act also relies on offense being the main evidence needed for prosecution, evidence that is up to much interpretation. If someone comments on how much I must burn in the sun because of how pale my skin is and I am offended by that statement, is that a hate crime? Or if somebody comments that the sun must not bother me as much because I have dark skin and I am offended by that statement, is that a hate crime? Guilt must be determined through the believed intent and emotion in such cases, the person's intent at the time must be assumed which realistically cannot be done. The accused probably cannot remember their intent at the time, never mind judge and jury.

Also, stirring up hatred is quite vague. If I protest the decisions of a government, organisation or institution could that not be considered 'stirring up hatred' by those groups if they wanted too? If I say, have issues with Israel, Spain, Scotland, or Saudi Arabia, or with Christianity, Islam, or New Age Paganism and speak out against them, could members of these countries or groups not accuse me of stirring up hatred against them? If I say Spain mistreats Catalonia's independence aspirations, or that overall Islam has terrible track record with both women's rights and the rights of sexual minorities could they not argue I was 'inciting hatred' against them? These views, under rights of free expression, are valid. Saying, for instance, that all black people should 'go back to where they came from' is a hateful and ignorant comment that should be mocked and discredited, but not silenced. That will not solve the issue, only inflame it.

Regarding repealing the blasphemy law, I fully support this effort and believe it should have been done long ago, but I fear that this law gives the government similar powers.

To conclude, whilst trying to combat hatred and discrimination within society is a noble and worthwhile goal it is not something that can be legislated away. I believe that this will lead to a greater breeding of resentment amongst the people of Scotland and, rather than dealing with the actual issue of discrimination, inflame anger at both the government and the groups these laws are meant to protect. The no government, no matter how seemingly well intentioned, should have the power to determine what is and is not deemed to cause offense, and especially shouldn't have the ability to prosecute someone over that speech (unless there is a credible threat of violence/is a case of defamation). Much of the act is also quite vague, leading much up to the interpretation. Rather than trying to legislate away hatred and fear, work towards promoting understanding and a nation of free and open dialogue, where all can express themselves without fear of prosecution.

Matthew McCallum
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