

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM MICHAEL R

Dear Government,

In reference to your open call to views on the new bill I have included an answer under the questions included in

<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/115038.aspx>

General

1. Do you think there is a need for this Bill and, if so, why? Are there alternatives to this legislation that would be effective, such as non-legislative measures, wider reforms to police or criminal justice procedures? Are there other provisions you would have liked to have seen in the Bill or other improvements that should have been made to the law on hate crime?

I do not believe there is a need for a new bill that weaponises morality. I'm sure the police have better things to do than to become a referee to our culture wars, we are already protected against threatening and by in large abusive behaviour without the need for further state intervention. Lastly hate crime laws are entirely subjective and open to abuse, and as a society we will pay for it.

2. The Bill brings together the majority of existing hate crime laws into one piece of legislation. Do you believe there is merit in the consolidation of existing hate crime laws and should all such laws be covered?

While I do not agree with several of the updated descriptions of hate crime laws. The merging of these laws does have merit with regards to transparency and simplicity.

3. Do you think that the statutory aggravation model should be the main means for prosecuting hate crimes in Scotland? Should it be used in all circumstances or are there protected characteristics that should be approached differently and why? For example, the merits of a statutory aggravation for sex hostility rather than a standalone offence for misogynistic harassment?

The notion of protected characteristics over all characteristics is concerning, especially in a society that affirms the belief in equality (unless it's equality for some). We have many conflicts between multiple characteristics that create contradictions on the hierarchy of groups - feminism vs transgenderism, homosexuality vs religious beliefs. How can we discriminate against one group in denying their ability to discriminate against another.

4. Do you think that a new statutory aggravation on age hostility should be added to Scottish hate crime legislation? Would any alternative means be measured effective? For example, would there have been merit in introducing a statutory aggravation (outwith hate crime legislation) for the exploitation of the vulnerability of the victim?

It's not clear what difference this makes to protecting citizens when compared to existing laws that protect different age groups of people. This will set a precedent for anything to be added as a characteristic (i.e. body shape, hair colour, eye colour, height as a protected characteristic etc). When we start to break down further characteristics of individuals (i.e. referring to intersectionality) we actually come to the natural conclusion that the greatest minority is the individual - which abolishes all notion of this identity politics.

5. Do you think that sectarianism should have been specifically addressed in this Bill and defined in hate crime legislation? For example, should a statutory aggravation relating to sectarianism or a standalone offence have been created and added?

Stirring up offences

"(c) race, colour, nationality (including citizenship), or ethnic or national origins, (d) religion or, in the case of a social or cultural group, perceived religious affiliation" - it is to an extent covered in this list of characteristics or at least inferred.

6. Do you have views on the merits of Part 2 of the Bill and the plans to introduce a new offence of stirring up of hatred?

It is surprising that 'hatred' is not against the law, but the 'stirring up of hatred' will be. It is even more interesting how this is primarily directed at groups rather than at individuals. Who gets to define groups and who gets to decide what group any particular individual belongs to as a matter of law. With regards to freedom of speech, this bill removes the ability for public discourse on the majority of social issues in our society. Any public criticism that references a listed characteristic can constitute as stirring up hatred.

7. Do you have any views on the Scottish Government's plans to retain the threshold of 'threatening, abusive or insulting' behaviour in relation to the stirring up of racial hatred, contrary to Lord Bracadale's views that 'insulting' should be removed?

This proposed new bill grants the courts the power to perceive intent of an individual's actions as if the court is capable of reading an individual's mind at the state of the supposed offence. The wording "abusive or insulting manner" are not clearly defined and allow entirely subjective interpretation of intent to be made. It is interesting how the term "variations in sex characteristics" is used. With previous mention of misogynistic harassment (<https://www.gov.scot/news/hate-crime-bill/>) it is disgusting to think that misogyny is included and not misandry - protecting one sex over another is by definition unequal. I would agree that the goal of removing hate from society is both a virtuous and an ambitious goal, but being selective on what is a protected

characteristic is only equality to some. Why do protected characteristics need to be included when simply a discrimination based on an individuals identity should be enough to constitute a potential crime.

8. Do you have any comments on what should be covered by the 'protection of freedom of expression' provision in the Bill?

This new bill is not only a violation of Article 10 European of Human Rights on our 'freedom of expression', it allows an incredible amount of abuse of power in suppressing opposing views and prosecution of a number of innocent citizens expressing their liberal right to speech. It is without a doubt that people can use their freedom of speech for malicious intent (this goes a number of ways), but it is still a human right. You cannot just take away an individuals' human right just because you don't like how some people are using theirs.

It is the battle of the right not to be offended over the right to speech. It is impossible to maintain freedom of expression when indirect speech can be interpreted or perceived as having hateful intent against one of the listed characteristics. Unless the prosecution service has the ability to read minds to affirm intent at the moment of said offence, the likelihood is they have to use bias against the individual to determine it. While protections for criticism have been mentioned within the body of the article - this is contradicted by the body of the bill.

9. Do you agree with the Scottish Government that Section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 about racially aggravated harassment should not be repealed?

We need to identify a clearer statistical occurrence of successful prosecutions vs arrests of such an offence, along with wider public consultations of what this means. Do we even need this if the above amends are forced through without a referendum?

10. What is your view on the plans for the abolition of the offence of blasphemy?

While it is clear that nobody has been prosecuted for this law for quite some time I would agree it is time to abolish this outdated offence. Even though it is not clear whether this has merely been retranslated into the list of protected characteristics.

Regards,

Michael R
09 July 2020