

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM AUDLEY STRANGE

Since you have stated you are looking for the views of the public with regards to the Hate Crime and Public Order bill, henceforth referred to as (HCPO) I wish to add my concerns and questions.

In Relation to:

1 I think any law that is generated to protect specifically named or identifiable groups is the literal definition of privilege. While I accept there is a need to protect various minority communities this is better done through efficacious policing and social policy. Furthermore, I have serious qualms about this bill being weaponised against certain non-protected groups (of which there should be none) by vindictive parties who are quite free to use invective and strong rhetoric while others would be subject to punitive measures for the same thing. As such I cannot see this bill as anything but a form of discrimination. While I commend the Government for being rid of the archaic law regarding to blasphemy, much of what is being suggested is no different in so far as it attempts to criminalise people for denial or insult of certain other protected identities or belief systems. Any laws that exist that are not equally applied and are not in place to protect the entirety of the nation, rather than specified groups are biased and discriminatory.

2 Law should be covered by crime. "Hate" is an emotive and subjective term which is easily abused. As an example, take two young men who argue and get into a fight, the police arrive, would both, given they are still furious with each other, not be quite happy to weaponise "hate crime" legislation against each other? Imagine how often that example could be abused, in all manner of vindictive retaliations. Now granted, if someone is known, or declares that they are deliberately targeting a specific group, then this should be taken into account, but categorising the same crime as worse because of specific factors, devalues the justice given to the victim of those who do not benefit from such specific factors. It leads to a hierarchy of victim and punishment. What evidence do you have that such hate-crime laws have acted as a deterrent?

3 As previously mentioned, any law that favours or protects one group while not giving others the same protections are by definition privilege, and are discriminatory. Statutory Aggravation may not be perfect, but it is much better a model than to use your example, misogynistic harassment. Harassment is harassment, no matter who the culprit is, so if one were to have a standalone offence for misogynistic harassment one should also have a standalone offence for misandric harassment. Regardless, it would seem obvious to me that to break down a simple model into component parts on which groups have protections and which do not, does not seek to provide a fair law, but in fact would only increase resentments and division, as discriminatory practices and privilege always do. The issue is education and implementation of what already exists, not just adding new things that are just as likely to be poorly implemented and abused.

4 Again, the issue the Government seems to have with the current system of Statutory Aggravation is that it is not adequately applied. People are abused. I fail to see how creating differing categories of who it is worse to abuse than others, will mitigate abuse. It would be akin to bringing in a sentencing tier system for murder in which the murder or some groups are automatically given higher sentences. It devalues those who are not, is deeply unfair and will not stop people being murdered. Perhaps, again, the issue is how the current model is applied fairly, rather than bringing in what appears to be an ill-thought out, and frankly reactionary set of seemingly politically motivated "protected characteristics".

5 With regards to Sectarianism, what would be the legal definition of such? While there's no doubt certain groups have been antagonising each other for many decades, this is exacerbated, in part by a still separated schooling system. and long-term cultural divisions that have been imported into Scotland for generations. But the question remains what is meant by Sectarianism? Would it be mutual antagonism between religious sects? If so, would this also be applied to, for example, aggression and agitation between Sunni and Shia Muslims, which I have witnessed first-hand where I live? Would it attempt to stop marches by the Orange Order and Irish Republicans? These terms need to be well defined legally, rather than just an attempt to curb violence between drunk football hooligans.

6 "Stirring up hatred". To be frank, this sounds like something a child would say. It is worryingly nebulous, and, I suspect, deliberately so in order to cast as wide a net as possible. I fear this would be open to massive abuse both by political opportunists and fools. While I accept in a multicultural society that there are tensions which need to be calmed before they escalate and that there are malevolent actors who do wish to agitate and provoke, "hatred" is itself a rhetorical term. We already have laws in place against mobilising people to do harm to others. Have them applied reasonably and thoroughly rather than constructing new bills from questionably and deliberately ambiguous terminology.

7 "Insulting"? Really? Is it not insulting to consider that people are so fragile that we need laws to protect them from mockery? Again, we have laws on harassment. Have them implemented fairly and thoroughly. This is absurd and I think Lord Bracadale is right to suggest that be removed.

8 Freedom of expression is quite simple I would have thought. Anything that is not a deliberate threat, constitutes harassment (as in sustained abusive behaviour), or specifically incites violence should be subject to investigation if a complaint is made. This is a nation that prides itself in its ability to banter, to engage in sardonic ridicule of our powers that be, our friends and neighbours, we are a nation where sarcasm, irony, deliberate malapropism and off-colour jokes are part of our culture. Restricting such, in order to appeal to what seems to be little more than a trend reduces who we are. I find it appalling that our Government would even question what needed to be protected under freedom of expression.

9 Yes, I do agree that racially aggravated harassment should not be appealed. I'd go further and suggest it be extended to protect the indigenous population

10 As Above. Getting rid of the blasphemy law is a good step. However, it is meaningless if other groups beliefs are subject to being protected with the same unquestioning reverence by making criticism or offending those beliefs illegal.

In closing, I would suggest that the current laws are fit for purpose. Even if they are not applied properly, that is an issue with policing rather than law. To value specific groups over others, by suggesting that they need extra protections, is to insult those groups by suggesting they are somehow weaker and in need of more protections, is discriminatory and above all is granting them privileges that others do not have. That is deliberately divisive and will lead to more abuse and resentment, without, as so far as I can tell, any real evidence that such additions to criminal law have any effect on mitigating crimes against the communities they propose to protect. These seem well meaning, but ill-thought out and in direct opposition to a fair and equal society for all.

Audley Strange

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