

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM THE CHRISTIAN BRETHERN CHURCH, HAMILTON

General

1. I do not think there is a need for this bill. Crimes of speech are very adequately covered by the existing law. Freedom of speech is a fundamental part of democracy. Only dictatorships and totalitarian governments have legislation to control what citizens may say unless it is racist or rabble rousing calculated to stir up hatred. Under freedom of speech an individual has the right to express views on issues with which others may fundamentally disagree. That is fundamental right of every citizen in a democracy.

Disagreement is therefore permitted and to frame Crimes of Speech as hate crimes because someone disagrees with them is limiting free speech. Intentionally stirring up hate by speaking or otherwise expressing views is clearly wrong and should be against the law. However simply expressing a view which others do not agree is not stirring up hatred.

In a church or mosque or synagogue surely freedom to express beliefs and statements of faith must be allowable. If this is not allowable this is a very short step from saying an individual is not allowed to believe or hold a view which others disagree with. Or at least they may not express that view. This is particularly the case if the basis of a complaint is that it is abusive. Which is a subjective term. Threatening is a much more objective criteria to use.

If a Christian believer or person of another faith expresses a view that some practice is morally wrong, it ought not to be possible to interpret that as Hate Speech or Hate Crime because

- a. This is not primarily directed at any individual
- b. This is a statement of belief not a personal indictment or criticism.
- c. An individual who disagrees with the belief of a person of faith may easily make a claim of Hate Speech because they strongly disagree with the views expressed

Consolidation

2. I do not believe there is merit in consolidating legislation in this way. Unless there is evidence that the current legislation is ineffective. Threatening behaviour or speech can be prosecuted under existing law

How to prosecute Crime

4. I do not see the need to include a statutory aggravation of age should be included

Other forms of crime not included in the Bill

5. I do not believe that a statutory aggravation of sectarianism should be included. Sectarianism is wrong if someone behaves in a manner which is sectarian and is inciting hate or discrimination or violence this can be dealt with under existing legislation.

Stirring up Offences

6. Part 2 of the Bill | The new offence of stirring up hatred this should clearly distinguish between intentionally stirring up hatred and the case of an individual unwittingly saying something which is interpreted in that way which was never intended.

Freedom of expression and belief mean that people should be free to express opinions either way with which others disagree. To criminalise expression of views on morality or religion or politics is stifling legitimate debate in a democratic society.

Existing legislation covers threatening or abusive behaviour. No new law is needed

Threatening behaviour only should be included. Abusive behaviour is more subjective.

Free speech should be protected on matters of religion politics or morality.

Free speech clause on sexual orientation should be stronger to allow for expression of individual views.

An individual cannot be compelled to agree with a particular belief or compelled to say or act as if they agree with a belief which they do not share. See, Ashers Bakery v Northern Ireland Equality Authority Case Supreme Court 2019

Any stirring up of hatred offence covering transgender identity must explicitly protect freedom to use person's birth name and pronoun. Otherwise an individual could be prosecuted for stating a fact.

There is serious risk that politically motivated complainants will label disagreement as hatred and try to silence their opponents. Police Scotland have said that free speech clauses are important to prevent it being inundated with vexatious reports.

Lord Bracadale's Independent Review on Hate Crime report stressed the need for a clear distinction between legitimate debate and rabble rousing. The ability to have an express view which another person does not agree with is not Hate Speech. The freedom to express views is part of freedom of speech which is fundamental to democracy. This bill does not protect freedom of speech.

7. Lord Bracadale who reported on this to the Scottish Government, made it clear in his report that there should be clauses in the bill which protect freedom of speech. They have not been included. Lord Bracadale explicitly recommended that intentional Hate Speech should be distinguished from speech which unintentionally

is adjudged to be hateful. Lord Bracadale also recommended that insulting speech should not be included in the bill instead he recommended “threatening” speech which is much less subjective. This advice has regrettably not been followed

In our view this Bill is a serious threat to freedom of speech and is open to frivolous or malicious allegations being lodged. It should be withdrawn or heavily amended

Thank you for taking the time to read this submission.

Christian Brethren Church

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