

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM THE FREE CHURCH OF SCOTLAND (CONTINUING) PUBLIC QUESTIONS, RELIGION AND MORALS COMMITTEE

I am responding to your Call for Views in relation to the proposed Hate Crime and Public Order (Scotland) Bill, on behalf of the Public Questions, Religion and Morals Committee of the Free Church of Scotland (Continuing).

The Committee wish to make the following points:

General

1. Do you think there is a need for this Bill and, if so, why?

This Bill in current form errs in conflating hatred (a matter of the heart) with criminal action. Hatred of another person is contrary to the spirit of Scripture and contrary to the Law of God. The Committee have no desire to encourage in any way the practice of hatred. Nonetheless the Bill seeks to legislate for the sinful heart of man. Only the Gospel of free grace through Jesus Christ can deal with the needs of the human heart. There is therefore a very real need to deal with the hateful heart, but that need cannot be met by legislation.

Consolidation

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?

Consolidation is not wrong of itself, but can scarcely be a wise use of Parliamentary time if the Bill serves no other purpose.

How to prosecute hate crime?

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?

Again, the Committee wish to take issue with the question. You do not prosecute hatred. Nor is hatred itself a crime. Therefore the question is moot. The Scottish Government ought to confine itself to its proper sphere of action, and avoid the pitfall of believing that legislation is capable of transforming the human heart.

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?

Other forms of crime not included in the Bill

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?

Sectarianism was not well defined in the previous Bill relating to Sectarian chants at football matches. The Westminster Confession of Faith (to which all office-bearers of our denomination are bound by a solemn vow) speaks of the Pope of Rome as being the Antichrist and Man of Sin. The Committee have great concern that in the expression of our biblical beliefs, charges of sectarianism may be made against our ministers and people.

Stirring up offences

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?

This area of the Bill is particularly ill-judged. The Bill seems to lack the basic safeguards of looking for intent. Again, a Gospel minister may preach to his congregation, with the intent of convincing them that Roman Catholicism is not Christianity. He may intend the effect of his sermon to be that the congregation would be willing to oppose Roman Catholic teaching and influence, and to witness to a Catholic friend of the dangers of trusting to the Roman church. All this may be clearly the intent. Is this stirring up hatred? To answer the question - no. It is love. It is love to the souls of the congregation that they be not easily drawn aside into false religion. And it is love to those who are deceived in their false religion to be witnessed to of their their danger. The Scottish Government invite suspicion when they decline to define their terms.

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?

Racist action is an area in which the Committee welcome clear legislation. Nevertheless the Committee are concerned that the same flaws noted earlier apply in this case also. Racial hatred becomes a crime in the action, not in the thought. It ought to be sufficient for the law of the land to deal with the actions of its citizens, and not police its thoughts.

Other issues

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

The thrust of the earlier comments will already have indicated the concerns of the Free Church of Scotland (Continuing) as to freedom of expression. Poorly drafted legislation is not improved by tacking on 'freedom of expression' clauses. It serves only to create confusion and shows the folly of the position that thoughts can be effectively policed by the state. By all means outlaw wicked, violent, immoral behaviour. Leave out the imputing of motives.

What will happen when certain forms of expression are defined in law as “illegal hatred” but with certain exceptions is that even the noted exceptions begins to be perceived as being immoral. For evidence I would cite the recent change in loving parental corporal punishment. It went from being an allowed exception (in fact being defined at one stage as justifiable assault!) to being outlawed.

The Committee do not the confidence in the Scottish Government not following the same pattern in this case. Whilst today there may be inserted a freedom of expression clause, tomorrow it becomes all too easy to remove the exception and the safeguards.

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?

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

Blasphemy in our land has become a joke, a smile, a tease. Taking the name of the Lord Jesus Christ, the Father or the Holy Spirit in vain is commonplace and has lost its shame, let alone its force of law. No doubt there is the view that such an ineffective law is futile and anachronistic, and therefore it is wise to abolish it. The Committee strongly oppose this trite and god-free thinking.

There is but one God only, and he is the living and the true God. His name is holy. He does not hold any guiltless who take his name in vain. It is therefore an invitation for divine displeasure to remove what little legal safeguards our land still has. If there are those in Government who are concerned about inoperative legislation, then might we suggest the Government do what is their duty, and enforce this law? What blessing might yet come upon Scotland, were she to return to the honouring of the name of God!

The Free Church of Scotland (Continuing), Public Questions, Religion and Morals Committee
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