

## JUSTICE COMMITTEE

### HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

#### SUBMISSION FROM N. PAIK KOH

I'd like to comment on the Scottish Government's proposed bill on 'hate' crime and public order.

The abolition of the archaic blasphemy law is long overdue and to be welcomed. However, the offence of "stirring up hatred" which, until now, has been largely concerned with race is now proposed to cover the additional "protected characteristics" of age, disability, religion, sexual orientation and gender identity. I have major concerns with regards to including religion and gender identity on this list.

Firstly, religious belief is a choice. People cannot expect to escape scrutiny and examination for their religious beliefs, especially when they are often preached to non-believers in a way that insults the belief system of the non-religious.

People who hold religious views are often at the forefront of the condemnation of others. For example, religious groups picket family planning clinics and condemn women who seek abortion. The freedom of gay people to live a life free from harassment has not been helped by religious people who use often highly insulting terms to condemn homosexuals. Such intolerance from those holding religious views, and who often cite their religion as a basis for criticising others, cannot go unchallenged.

Given the wealth, power, and influence of many religious groups, and the publically-stated desire of many religious people to push back against what they term as 'radical secularism', this bill risks encouraging religious groups to take legal action to protect their own bigoted stances from criticism and scrutiny. It is not the job of MSPs to stifle criticism of religion. Just recently we saw a church in London offering 'cures' for Covid-19. This was a liquid of no medical worth, yet was being sold for a large sum of money. Would I, under this new law, have been allowed to criticise this Christian church pushing quack medicines and defrauding people, or would I have been assessed as attacking a protected group?

The cut and thrust of debate, fundamental to our society for centuries, risks being closed down by this bill because people are afraid of criminal prosecution.

The new bill seeks to criminalise not only "stirring up hatred" but the "likelihood" of stirring up hatred, even incidentally. This bypassing of intent leaves the law open to misapplication by religious groups. The distinction between "abuse" and "criticism" in this new legislation is unclear.

The Scottish bill also goes further than the English and Welsh one which already has sanctions against "threatening behaviour." It prohibits "threatening and abusive behaviour." This is too vague. Who defines what abuse is? Some holy books are happy to advocate the death and eternal torture of non-believers and to condemn homosexuality as an "abomination." The proposed new criminalisation of "communicating threatening or abusive material to another person" is too vague and open to vexatious interpretation.

Question 5 of the consultation asks about sectarianism and if there should be further specific sanctions against that. Why then, does the Scottish Government fund the very instruments that encourage religious division, by funding religious schools?

There is little point in the state funding and supporting a major underlying cause of the religious division, whilst on the other hand increasing the punishments for the result – it amounts to bolting the stable door after the horse has long departed. As regards gender identity, MSPs will be aware of the highly-charged nature of this debate. Strong views are held on both sides. Trans activists have used highly insulting terms and dramatic terms to describe their position in society. Feminists – eloquently represented by JK Rowling recently – have put their argument with equal passion, arguing that vital women-only spaces risk being abused by men who claim a new gender identity for nefarious reasons. There is no right and wrong in this debate but if gender is included as a protected characteristic in this bill, then women’s rights campaigners who have fought for centuries to improve the position of women in Scotland will weep.

In short, free speech needs to be strengthened in Scotland, not impaired. Religion perpetrates many dangerous ideas – of intolerance of others, of stirring up hatred against other ethnic and religious groups. This intolerance needs to be examined with the strongest light possible, not shielded by an ill-conceived piece of legislation.

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