

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM BRUCE LUFFMAN

My wife and I would like to submit our views concerning this up and coming Hate Crime and Public Order (Scotland) Bill

We would like to confine our remarks to one aspect of the proposed Bill -

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?

Our concern is predicated on the issue of stirring up hatred by any person who was not aware or was it their intention to stir up hatred using words that they would not consider abusive. This is particularly concerning in regard to religious beliefs which we or many other Christians hold dear in terms of morality and matters on which we and others can have strong debate and changing of minds and which should be protected in a **free society**. The problem that we see is that **anyone** in this overly sensitive society can feel abused by anything, however trivial and may not wish to accept **reasonable** debate and discussion as is one's right in a free society

We feel that existing laws in Scotland already cover abusive or indeed threatening behaviour and therefore there is no need to bring in another law to cover this issue.

There is no exclusion for Church of Scotland services that we attend where Christ's teachings are accepted and for example where homosexual behaviour by both sexes is considered sinful. A Minister could be prosecuted for stirring up hatred by preaching on these or similar subjects. This offence of stirring up hatred would then be seen as threatening the freedom of religion and belief and stopping us saying what we believe. This is of course true of non-believers as well as us and would go to the core of a free society that we have enjoyed for hundreds of years in Scotland.

It is right that a Bill should cover **intended** stirring up of hatred but it should only cover **threatening conduct** as abusive behaviour is much more **subjective** in nature. Therefore it is paramount that it is that any new Bill covering stirring up hatred offences, it should be about intention to do so so that the offender is aware of the offence. One cannot accuse another of a serious offence unless it is clear that it is a **deliberate** act. It is, therefore, necessary to protect the free speech clause on religion and thereby make it stronger to protect that **right** to free speech when one is strongly challenging religious beliefs.

It is very important that the **free speech clause** on **both** sexual orientation and transgender identity must be strengthened so that robust discussion is protected but importantly with the latter subject of transgender identity, the freedom must be explicitly protected to use a person's birth name and pronoun and say that man born a man cannot be a woman and vice versa. There is clearly a huge risk that complainants will be politically motivated and vexatious and will call discussion and disagreement as stirring up hatred to **silence** persons who do not agree with them. Police Scotland has already said that clauses on free speech are important so that

they are not overwhelmed with unnecessary and problematic reports.

The threat to freedom of speech could also be obtuse in that persons could be **constrained from discussing subjects** such as Christian morality as they would feel that they might be prosecuted for holding perfectly reasonable opinions and that would be a huge blow to a free society. With this in mind, it is evident from Lord Bracadale's Independent Review on Hate Crime that led to the Bill, that he stressed a need for a **clear distinction** between legitimate debate and the rousing of a rabble. It is clear that this Bill does **not reflect the outcome of the Review.**

My wife and I would ask that you please take note of our concerns in this aspect of the Bill in your deliberations.

Bruce Luffman
08 July 2020