

## JUSTICE COMMITTEE

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

#### SUBMISSION FROM JOHN MASON MSP

1. Do you think there is a need for this Bill and, if so, why? Are there alternatives to this legislation that would be effective, such as non-legislative measures, wider reforms to police or criminal justice procedures? Are there other provisions you would have liked to have seen in the Bill or other improvements that should have been made to the law on hate crime?

I am broadly supportive of this Bill. Non-legislative measures have their place as well but legislation is necessary and important. The Bill does seem primarily to consolidate existing law and I am wondering if this was not an opportunity to specifically deal with some of the major expressions of hatred we see in Glasgow and the West of Scotland, especially around Celtic and Rangers football clubs, and Orange and other marches.

#### *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?

I think consolidation of the law as proposed here is generally a good idea. It makes understanding the law easier for those who do not have legal training if the legislation is all together in one place.

#### *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?

I think the statutory aggravation model is part of the answer but cannot be the whole answer. There can be expressions of hatred which we as a society need to tackle, even if no other crime is being committed.

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?

No comment.

*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?

As I understand it, we do not yet have an agreed definition for sectarianism. And I do understand that for some people the term 'sectarianism' appears softer and vaguer than more specific terms such as 'anti-Catholicism' and 'anti-Irish racism'. However, we do have a particular problem in Scotland with sectarianism which I understand to be a combination of religious hatred, racism, culture, politics, sport and history. Therefore, I suppose I am somewhat disappointed that the Bill does not appear to be taking us much further forward in tackling what I consider is one of the worst areas of hatred that we see in Scotland. We do not generally see thousands of football fans shouting abuse at black people or LGBT people or older people. Nor do we see marches in our streets celebrating victory over such groups. But we do see marches celebrating victory over Catholics and over the Irish and we need to tackle that, if not in this Bill, then hopefully somewhere else.

*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?

I agree that there needs to be an offence of 'stirring up' or similar which does not depend on another crime taking place (i.e. aggravation). Stirring up hatred is already an offence in relation to racism and it does not seem to have caused a problem or to have been used inappropriately. As long as there are protections for freedom of expression, I do not see that stirring up is likely to cause much problem in regards to other characteristics. It might also help in dealing with sectarianism.

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?

I tend to accept the Scottish Government's argument that removing 'insulting' in regard to racism could be seen as a watering down of existing legislation. I also consider that abusive behaviour needs to be included as well as threatening behaviour. Threatening is too limited on its own.

*Other issues*

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

Protecting freedom of expression is extremely important. Specifically 'discussion or criticism' is to be allowed. I am broadly comfortable with this although some religious people feel it is too narrow and might not give them freedom to repeat all

of the Bible's teachings. Both Christians and Muslims tend to believe that their path is the only true way to God. Therefore, they should both be allowed to say this even if it upsets or offends some of those listening.

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?

Yes.

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

I support the abolition of the offence of blasphemy. I strongly believe in the separation of church and state. The state should not align itself with any one religion or belief

John Mason MSP  
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