

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM JOHN GAMBLE

I wish to express my views on the proposals in the above HC&PO Bill currently at Stage 1 in its passage through the Scottish Parliament.

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. Under freedom of speech an individual has the right to express views on issues with which others may fundamentally disagree. 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.

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.

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

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 leery covers threatening or abusive behaviour. No new law is needed

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

Free speech on matters of religion should be stronger to protect the expression of religious views and beliefs

Free speech clause on sexual orientation should be stronger to allow for debate.

Any stirring up of hatred offence covering transgender identity must explicitly protect freedom to use person's birth name and pronoun and to say that someone born a female cannot be a man and vice versa.

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. This bill does not do that

7. I find it astonishing, the the view expressed by Lord Bracadale who as a legal expert was asked to report on this to the Scottish Government, that "insulting" should be removed.

If the distinguished judge who was asked to report on this does not have his view respected then whose view is to be respected?

I think I have made it clear that this Bill is not necessary and should be either abandoned or heavily amended.

Thank you for taking the time to read this submission.

John Gamble
11 July 2020