

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM JOHN MACLEOD

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 do not believe that there is a need for this Bill, in that while hate crime is greatly to be deplored, a bill of this nature attempts to restrict the expression of thought and debate on issues of public concern and importance, and will undoubtedly be counter-productive in that the suppression of discussion will lead to a fostering and a festering of hatred and covert actions of outworking of that hatred.

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?

While there may be some possible merit in bring together existing crime laws into one piece of legislation, this Bill does not give as much protection to freedom of belief and expression as exists under current legislation.

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?

The danger in using the statutory aggravation model as the main means for prosecuting alleged hate crimes is that it provides such a broad range of possible identification of multiple alleged aggravations that it can be used aggressively against virtually any expression of opinion on virtually any subject and therefor be abused as a tool against the expression of any opinion not considered universally acceptable.

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?

I do not believe that age hostility can be effectively dealt with by means of hate crime legislation, not least because governments and other public authorities are amongst the worst offenders in terms of age hostility.

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?

Attempting to address sectarianism by means of hate crime legislation is at best ill-advised. Sectarianism

in Scotland, in the sense in which the term Sectarianism is generally understood, is primarily a feature

of the central belt in Scotland and is closely tied to the "sport" of football and the geographical origins,

in Scotland and elsewhere, of those involved in the sectarianism.

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?

There is a very immediate danger that the plans to introduce a new offence of stirring up hatred would

be used as a means to suppress debate on religious views and morality.

Existing legislation already covers behaviour likely to cause fear or alarm, so there is no need for new

legislation on the subject.

There is inadequate protection for Christian Churches to propound the teaching of the Bible. Such

legislation without adequate protection for Christian preaching must inevitably be regarded as an attempt

to restrict the Christian Church and suppress the teaching of the Bible on issues which are controversial

in society.

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?

Lord Bracadale's view that insulting should be removed is much to be preferred to the plans of the

Scottish Government. Insulting is vague and cannot be meaningfully defined, so opens the way for the

proposed legislation to be used oppressively against views which may be deemed politically incorrect.

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

There should be freedom of expression for any statement or expression of opinion which is not

threatening or encouraging others to behave in a threatening manner.

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?

As one who belongs to a multi-racial family I do not consider that racially aggravated harassment is a

helpful or useful concept in legislation.

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

I support the retention of the offence of blasphemy.

Blasphemy is the ultimate hate crime and, quite apart from its theological significance, amounts to an aggressive and gratuitous social attack on Christians. It comes into a different category from the mere expression of an opinion and depends on its offensiveness for its effect.

John MacLeod
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