

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM STEUART CAMPBELL

To the Scottish Parliament Justice Committee:

While I fully support for the abolition of the archaic blasphemy law, there is no reason that religious ideas should be exempt from the scrutiny to which all ideas should be subject. Furthermore, the retention of a common law offence of blasphemy, however vestigial, projects a sense of solidarity with countries where blasphemy is a very serious crime indeed.

The Scottish Government is right to be concerned to protect all its citizens from being targeted as members of minority groups and I do not want to play down the pain of victimhood of any sort. There is social work evidence of more manifest harm caused to an individual and their community when an attack is levelled on grounds of the individual's identity. They feel it more personally and we should acknowledge this.

It is now proposed that the offence of 'stirring up hatred', previously concerned mainly with race, will cover the additional 'protected characteristics' of age, disability, religion, sexual orientation and gender identity. But 'religion' stands out among these as it is the only 'characteristic' that is one of personal choice. No one is born religious or is forced to become so. Consequently it should not be a 'protected characteristic'. That raises concerns for freedom of speech.

The new bill seems 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 whose sensitivities might sometimes be a little esoteric. The distinction between 'abuse' and 'criticism' as is reached for by this new legislation, may not be as clear in the minds of the religious. 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? No Christian has ever been attacked in the street over *The Life of Brian*. What if the tables were reversed? Some holy books are happy to advocate the death and eternal torture of non-believers and to condemn homosexuality as an abomination. With the proposed new criminalisation of 'communicating threatening or abusive material to another person' it may be less absurd that you think to imagine a lawsuit taken out against proselytising groups such as Gideons who zealously do exactly that.

Question 5 of the consultation asks about sectarianism and if there should be further specific sanctions against that. Sectarianism is rightly called 'Scotland's shame', and is a blight on many communities, but we already create social division by the tax funding of religious schools and allowing orange marches in our streets. For the state to tolerate the underlying causes of the problem and yet propose further

legislation against the resulting hate speech seems top-down and bolting the stable door.

As a secularist, I believe that adults should free to choose any sort of personal religious belief for themselves. However, religion's unscientific ideas should not be imposed on state school children, its agendas should not have privileged access to governmental bodies and its sometimes illiberal views should not be exempt from equality laws, which apply to all. To what extent will the language of this bill leave us vulnerable to accusations of abuse?

This proposed Hate Crime Bill in its commendable if misplaced attempt to 'send a message' about prejudice, might, as far as religious belief is concerned, foster a timidity around public debate and discussion of ideas, which is in no one's best interest.

In summary, the proposed Bill will:

- 1) Create new offences relating to 'stirring up hatred'. This will unnecessarily threaten freedom of expression and conscience. Existing legislation already protects everyone in Scotland from threatening, abusive or discriminatory behaviour.
- 2) Criminalise 'abusive' in addition to 'threatening' behaviour. This poses a serious risk to freedom of expression by promoting the idea that there should be a right not to be offended.
- 3) Remove the necessity of proving intent in 'stirring up' offences. People may be prosecuted for a hate crime they did not intend to commit simply for expressing an opinion someone found 'hateful'. The potential sentence for these crimes – up to seven years' imprisonment – makes this particularly important.
- 4) Fail to protect free speech adequately. The protection of freedom of expression sections in the Bill are substantially weaker than the much more robust equivalent in England and Wales.

I am concerned these additions to hate crime laws in Scotland will undermine free speech regarding religion or belief.

People should be protected by law, but beliefs should not.

Steuart Campbell

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