

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM SHEENA HOLT

Please find attached my views on the proposed Hate Crime Bill

Hate Crime and Public Order (Scotland) Bill Call for Views

The Committee welcomes your views on any issue relating to the Bill. This could include views on any of the following areas or questions:

General

Question 1 Do you think there is a need for this Bill and, if so, why?

I believe that there is already legislation available which covers threatening or abusive behaviour that is sufficient for prosecuting offences without creating new ways to prevent freedom of speech.

Question 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?

This is such a tricky area that it will require great wisdom to get this right. The offence of stirring up hatred is a contested offence because the freedom to disagree with another's points of view is essential to a free and fair society. The Scottish Parliament has inscribed on the mace the words 'Wisdom, Justice, Compassion, Integrity'. Justice is intended to protect an individual, but is also intended to be for the other persons benefit too. If all we focus on, is an individual's "right" without thinking about what is absolutely right, we will end up with a chorus where culture is in collision with itself. In a society where relativism reigns supreme each person assigns to himself or herself a right that is self-reflective and self-propagating. Freedom of religion and moral beliefs are essential for a healthy society. We do not like to be told we should not do something but it does not mean that the other person hates you, it often takes sacrificial love to tell another that there are consequences for behaviours.

The offence of stirring up hatred may prevent people from giving an account of their beliefs. Freedom to debate and share beliefs in faith matters is of high value in a free society. Closing-down debate and discussion leads to the rise of intolerance which goes against much of what the Scottish Government says is important - that we live in a tolerant society. This must include tolerance for opinions that we may personally find offensive, while still allowing for defence of why we find it offensive.

Question 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?

The definition of these words needs to be carefully considered. I expect Lord Bracadale took an in depth look at the definitions and I would be in favour of going with his views that ‘insulting’ should be removed as it covers too wide a range of definitions relating more to feelings than to fixed ways of behaving. If the definitions are contestable it will make it very difficult for people to know when they are breaking the law as one person’s feelings are not something that another person can predict or necessarily experience.

Other issues

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

Protection of freedom of expression is essential to prevent politically motivated attempts to close-down debate and discussion. Labelling disagreement as hatred is a danger that must be protected against. Police Scotland has said that free speech clauses are important to prevent it being overwhelmed with vexatious reports.

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

If it has been so successful in preventing blasphemy it seems to be sensible to retain it.

Sheena Holt
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