

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM JOHN WHYTE

In response to the call for views.

Hate Crime Legislation Generally & Stirring up offences

It is a very serious matter to accuse someone of stirring up hatred. And yet some of the wording used in the Bill is vague and subjective. Especially the terms; 'likely' to stir up..... and 'abusive' behaviour..... . The imprecision and descriptive weakness of these terms is bound to create uncertainty, inconsistency and difficulty in applying the law. The point is made aptly by the Justice Secretary's misrepresentation of the Bill's wording for which he later apologised.

If someone is accused of stirring up hatred then it must be unequivocal that they were doing so deliberately, the wording in the Bill should be precise to facilitate this. With that in mind it is concerning that with such vagueness around these terms that the classification of 'strict liability' is being attributed to the 'offence', surely that is a mistake.

Politically or ideologically driven complainants are already hijacking the law, labelling disagreement as hatred to try to silence their opponents, and evidently it is a successful tactic on many occasions. Any new law should anticipate this phenomenon and build into the law stringent safeguards to root out malicious and damaging allegations and plain mischief-making.

We are on the brink of creating a society where ordinary people are afraid to say what they believe for fear of being criminalised. That is a tell-tale sign of an oppressive, intolerant and conformist society, is it not. Our enlightened modern democracy ought to be stable and robust enough to have open discourse on moral, ethical, religious and other issues and at the end of it disagree without the threat of criminalisation. The assurances of free speech given in the government's 'myth busting blog' published recently ring hollow.

The free speech clauses in the Bill need to be strengthened significantly.

The government and wider parliament ought to take cognisance of the sheer weight of opposition to new hate crime proposals in the Public Consultation where over 90% opposed it. If they don't then all of this public engagement is nothing more than a pointless tick box exercise.

Finally, existing criminal law already covers threatening or abusive behaviour likely to cause fear or alarm. There is just no need for new law.

John Whyte
15 July 2020