

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM ROBERT CANNING

I am writing to express my concern about the possible impact on freedom of speech of the draft Hate Crime and Public Order (Scotland) Bill.

While I'm sure the intentions are honourable, some of the wording is open to such difference of interpretation that the present clash of opinions and uncertainty over how it might be deployed is entirely unsurprising.

I am especially concerned about the words "abusive" and "insulting" in Section 3, as their meanings are not clearly defined or distinguished from each other.

A person commits an offence if the person behaves in a threatening, abusive or insulting manner, or communicates threatening, abusive or insulting material to another person, and either, in doing so, the person intends to stir up hatred against a group of persons based on the group being defined by reference to race, colour, nationality (including citizenship), or ethnic or national origins, or as a result, it is likely that hatred will be stirred up against such a group."

My concern is compounded by the dropping of the word "insulting" from descriptions of behaviour excluded from coverage in sections 11 and 12.

Behaviour or material is not to be taken to be threatening or abusive solely on the basis that it involves or includes— (a) discussion or criticism of— (i) religion, whether religions generally or a particular religion, 5 (ii) religious beliefs or practices, (b) proselytising, or (c) urging of persons to cease practising their religions."

This omission leaves open the possibility that someone could be prosecuted for a communication that is deemed not threatening or abusive but both insulting and likely to stir up hatred, even if that was not the intention. If, for example, someone were to post an online expression of their belief that the growth of Islam in a country is a threat to the rights and well-being of its homosexual population, could they be prosecuted under this bill? I'm not sure, but I would very much like to be sure that the answer is "No".

I urge you therefore to oppose the passing of this bill in its present form, since it does not give adequate reassurance that criticisms of group beliefs and behaviours would continue to be tolerated.

Robert Canning.
16 July 2020