

JUSTICE COMMITTEE**HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL****SUBMISSION FROM CAMERON PATERSON****1 Criminalising Speech**

Hate Speech legislation is nothing less than the restriction of the right to freedom of speech. It allows for the control of the things that Scottish citizens say and the opinions that they express. Disguising this as the compassionate desire to protect the 'protected groups' in the bill from hateful or offence speech does not change this fact.

The current political climate is one of the so-called 'Cancel Culture' - in which comedians are denied platforms for their routines - and 'Political Correctness (PC)' - which has seen offence become perpetual - already poses a risk to freedom of speech. Social media sites are selective about which views they choose to platform, and it is almost always right wing views that see themselves deplatformed. There is an ever narrower column of opinions that are safe to express, and this column is being pushed more and more to the left. Right wing beliefs, regardless of whether they are moderate or extreme, that go against the popular, left wing opinions are increasingly branded as 'alt-right' and the people who hold these opinions discredited (often wrongly) as racist, sexist, homophobic etc. Doing this will only make extremism on the right much popular, and people with moderate right wing views will be forced underground by an overwhelmingly left wing establishment. This bill only serves to further consolidate this threat to freedom of speech by criminalising the expression of views that protected groups may find offensive. In order to explore ideas and debate them to any meaningful extent, one had to risk being offensive - something that this bill could criminalise.

When free speech advocates express their support for people being allowed to view offensive views, it is easy to disregard by claiming that these advocates just want freedom of consequences for their speech. Speech does, and should have consequences. Namely, social ones. Legal consequences for speech, however, is a step towards authoritarianism. The unfortunate truth is that universal freedom of speech means that people have the right to say grossly offensive things. Any criminal consequences for speech cannot be justified in a society that champions the individual right to freedom of speech.

2 Hate Speech in Scotland and Specifics on the Bill

'Hate Incident - Any incident which is perceived by the victim or any other person, to be motivated (wholly or partly) by malice of ill-will towards a social group but does not constitute a criminal offence (non-crime incident) Hate

Crime - Any crime which is perceived by the victim or any other person, to be motivated (wholly or partly) by malice of ill-will towards a social group.'¹

¹ <https://www.scotland.police.uk/assets/pdf/151934/184779/hate-crime-sop>

The above definitions are taken from Police Scotland's Hate Crime Standard Operating Procedures document. The troubling word in these definitions is 'perceived' - it makes it easy to disregard the true context or intent behind someone's words. This is especially troubling when it comes to the context of comedy - comedians being investigated or arrested for the telling jokes is a 'canary in the cage' phenomenon and only serves to highlight the threat posed to freedom of speech by bills such of this one. The police in the UK and Scotland arresting people for tweets is a prime example of the government punishing speech in an attempt to be compassionate, but which in reality is an example of restrictions on the right to freedom of expression. To reiterate the right to say grossly offensive things is protected under the right to freedom of speech, it is the opinion of this author that saying such things is not the best use of this right, but that does not change the fact it is their right.

'creating new offences relating to stirring up hatred in Part 2 of the Bill that will apply in relation to all listed characteristics (including age, disability, religion, sexual orientation, transgender identity and variations in sex characteristics) (currently these offences only relate to race)' ²

The above is taken from the webpage calling for submissions regarding the bill. The vagueness of 'stirring up hatred' here is troubling. Especially when taken in the context of PC culture in which disagreement with mainstream ideas and purported truths often enough taken as enough to constitute hatred or intolerance. Is criticism or opposition towards social movements that claim to stand for equality, such as the Black Lives Matter, enough to constitute stirring up hatred? Is insulting or disagreeing with someone who happens to be a member of one of the protected groups 'stirring up hate'? This wording is open to interpretation, which in legislation that attempts to control speech is dangerous.

3 Conclusion

Hate speech legislation is something that has no place in a society that champions freedom of speech. It is fundamentally an attempt by the government to control and regulate what speech and which opinions are permissible. Laws which criminalise certain opinions as 'hateful' can lead to people being unwilling to be part of the debate process which freedom of speech allows, or worse, being afraid to hold certain beliefs for fear of legal action.

Cameron Paterson
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² <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/115038.aspx>