

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM DR A MACDONALD

17 July 2020

Dear Sir/Madam

The draft Hate Crime and Public Order (Scotland) Bill

I write to suggest that the above proposals are a frightening attack on freedom of speech. Amongst other items, the introduction of a new offence of ‘abusive speech’, even in the absence of criminal intent, can lead to a guilty verdict and subjected the person to draconian criminal penalty.

The Bill as drafted offers a range of ill-defined terms, in particular that of “abuse”. Since the apparent lack of intent will not stand as a defence, it is in marked contrast to matters of race, colour, nationality (including citizenship), or ethnic or national origins where there must be evidence of actual intent to stir up hatred.

According to the Minister, “Context of course will be key, including the likely audience and it will rightly be a matter for our independent courts to determine whether an offence has been committed on the basis of an independent, objective assessment of the available evidence.”

It is axiomatic however that until such time as a body of case law is established this Bill offers every opportunity for significant miscarriages of justice in the interval.

These days, remarks considered by some as simple statements of fact, or legitimate opinions, are being regarded by others as abusive and liable to stir up hatred. How is it possible to remain safe from such complaints without intolerable restriction on freedom of expression?

I have grave fears that for those of us who cherish free speech, reasonable and reasoned discourse. I see this particularly in the increasingly shrill debate on the proposed reform of the gender recognition legislation. They are liable to be held hostage by this Hate Crime Bill. I ask that you support the critics of this Hate Crime and Public Order (Scotland) Bill to ensure it fails to make the statute book.

Your sincerely

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