

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM ANDY DOIG

I hope this letter finds you and your family well regarding the current restrictions. Prior to outlining my views on the Hate Crime and Public Order (Scotland) Bill I would like to elaborate on my personal history of 38yrs in the SNP fighting racism. I have also sent this to the Justice Committee as my official submission to the consultation.

In 1986 I was a founder member of SNP Anti-Apartheid, along with the late Dr Allan McCartney and a handful of others. At the 1987 Westminster elections I stood for the SNP in the Glasgow Pollok constituency and was, to my knowledge, the first SNP Parliamentary Candidate to translate campaign material into Urdu and Hindi. At the 1987 SNP Conference I moved a motion committing the SNP to the establishment of "A Scottish Ethnic Minorities Research Unit" to work with and identify the needs of the Asian and Black communities. And during the 1989 Govan by-election I officially advised Jim Sillars on working with the Asian community in Govan.

I am certain my particular distaste for racism comes from the fact that my family were jazz musicians, and I heard all the classic jazz singers every week at home from a very young age. Before the age of 12 yrs I knew that when Billie Holliday was singing "Strange Fruit", it was a polemic in song against racism. So I abhor racism, sectarianism, and bigotry of any kind, and should have been able to welcome the Hate Crime and Public Order Bill with open arms but I regret to say this is far from the case.

Firstly, I have to ask if it is required and if current laws are not sufficient. In 2012 as a newly elected Councillor I was approached by a Lesbian constituent of mine who was suffering continual and persistent verbal harassment in the street of a homophobic nature. I duly informed the Police Diversity Unit and she was interviewed, and in due course the culprit was taken to court and found guilty and the harassment ended. I cannot see how the Hate Crime Bill can improve on that result.

Whilst the Bill is undoubtedly well intentioned it is fundamentally flawed in a number of ways. For example, Part 1(4) states "Evidence from a single source is sufficient to prove that an offence is aggravated by prejudice". This is a blackmailer's charter as without any secondary source of evidence any individual with a grievance, real or imagined, could alone endanger the reputation of any individual.

Part 2 (3 ii) refers to "threatening, abusive or insulting" material. These are not clearly defined therefore are only subjective terms which cannot be evaluated in law. There is a world of difference between consistent and hateful public abuse of the kind my Lesbian constituent suffered in 2012 and someone who feels objectively offended but the Bill makes no distinction between the two. People rightly have to be protected from hate but no one has the right not to be offended.

Part 2.2 (b ii) refers to "it is likely that hatred will be stirred up", but how on earth do you define "likely" on a scale of not likely to very probable, these terms will simply not stand up in a court of law. Part 2.4 (1) actually brings back state censorship of a kind

that was abolished in the UK in 1968 and this is an appalling authoritarian measure that could actually lead to treasured Scots cultural occasions, such as Burns Suppers, falling foul of the law should one solitary individual take offence at, for example, the reading of some of the Bard's more ribald works such as "Nine Inch Will Please a Lady".

The only way to prevent incidents such as this happening would be for the Bill to include a clause which explicitly states that satire is protected speech, which is the law in other jurisdictions such as the United States and Germany. As no such clause is alluded to in the Bill this is a tremendous opportunity lost to delineate the boundaries of creative art from hate and bigotry.

Part 11 (2) states that "Behaviour or material is not to be taken to be threatening or abusive solely on the basis that it involves or included religions or religious beliefs. Given that many religious sacred texts were written in a far different cultural ethos than we live in currently this is a paper thin protection of religious rights to say the least.

The practice of faith can only be judged to be fair if the primary objective is to explain and proselytise any given religion, rather than to use theological texts in such a way as to justify hatred of certain groups, but no such distinction is made in the Bill. Part 11 (2) should include an Exegetical Exemption for religious and faith groups which would safeguard their right to interpret sacred texts in the context of historical exegesis as it is known particularly in the Abrahamic religions, that is Christianity, Islam, and Judaism. Exegesis comes from the Greek word "To interpret", and applying critical examination to sacred texts would make clear that religions and faith groups have a responsibility to explore the context of texts in full, and not just literally.

For example, it is clear under the proposed bill that a Christian Minister or Priest who preached on the notorious Book of Leviticus, Chapter 18, which clearly prohibits male homosexuality, could fall foul of the law. However, an Exegetical Exemption which builds on the best examples of textual criticism across all faiths, would make clear that Leviticus 18 was a creature of its time and in fact was an injunction against male temple prostitution rather than same sex relationships per se. The lack of an Exegetical Exemption for religious and faith groups is a considerable weakness in the Bill.

The vagueness of the Bill is a major deficiency in its composition which will cause it to run aground much as did the Offensive Behaviour at Football Act when it got into the courtroom. Added to that fatal vagueness is more than a hint of authoritarianism which is a disgrace to the SNP Government, and a betrayal of the Party's historic commitment to freedom of speech. Unless there is radical revision of the kind I suggested then I urge the Government to scrap the Hate Crime and Public Order Bill forthwith.

Andy Doig
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