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**Hate crime,
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Hate Crime Consultation Paper SUBMISSION

INTRODUCTION

1. Family First is an incorporated charitable trust dedicated to providing research, education, and media commentary to support families across New Zealand. It is a strong advocacy group for families, a leading pro-life voice, and key player in major policy debates – particularly those in the social, cultural, and political space.
2. **Family First sees no need for any ‘hate crime’ criminal offences in New Zealand and will oppose any recommendations to do so.**
3. We strongly suggest the Commission, after its deliberations, recommend no changes to the law nor introduction of any form of ‘hate crime’ offences.
4. Family First notes that there are existing ‘hate’ based provisions in New Zealand law, and appropriately can be a factor in sentencing by a Judge.
5. Our opposition to any new ‘hate’ based offences is based on several key factors:
6. The first is an ability to clearly and objectively define what hate is. As the Commission has intimated within its own consultation, it is largely based on the feelings or perception of the victim – this is, by definition, a subjective and individualistic foundation.

7. Secondly, we observe many individuals and groups often claim 'hate' for matters of disagreement. It is important to state that disagreeing with a person's position or values does not mean they are hated. The conflation of disagreement with hate is dangerous and often deployed to silence discussion or debate.
8. Thirdly, we see no philosophical distinction between 'crime' and 'speech'. Or put another way, to accept the need for 'hate crime' will inevitably lead to 'hate speech' being included as has been clearly observed in Canada and the United Kingdom.
9. We note the Commission was earlier keen to explore 'hate speech' but this was stopped by the current government.
10. Family First, along with many others, understands it is impossible for law to be drafted objectively for what is ultimately a subjective matter. We would challenge the Commission to clearly, succinctly, and accurately describe what 'hate' is in a manner that all New Zealanders could both understand and agree.

SAFETYISM

11. Family First rejects the philosophical underpinnings of the consultation. Throughout the document, concepts from intersectionality to critical race theory are present. These in turn indicate a set of political, if not ideological, sympathies which are incompatible with a free, open, and democratic society.
12. Both 'hate crime' and 'hate speech' rely on subjectivity, the preference and perception of the victim, and an acceptance of the aforementioned identity politics, intersectionality, and progressivism.
13. We have observed on many occasions proponents of such ideologies being determined to silence opponents they disagree with. Recently this has been through what is commonly referred to as 'cancel culture' and the Commission will be (should be) aware of the multiple examples, including in public buildings and at universities. These same proponents are among some of the loudest voices for 'hate crimes'.
14. We would maintain that it is very difficult to distinguish between a hate crime and hate speech. We would further suggest that if Parliament were to pass a hate crime law, hate speech would soon follow. This has been clearly seen in Canada.
15. Proponents of such laws are often the first to conflate physical violence with violence that comes from speech or 'harmful' ideas. What is known as 'safetyism' has become prevalent in contemporary discourse. Just as people expect to be safe from physical assault, such proponents seek safety from ideas, or the distress of hearing opposing positions. Again, we point the Commission to the numerous examples of public events being canceled in recent years when opponents of such events claim potential distress and emotional harm to their grouping/identity.

16. There is every reason to believe that these same censorious behaviours will be empowered by such 'hate crime' legislation. Following the trajectory of current arguments and behaviour in New Zealand we could anticipate the following dynamics:
17. Ideas and opinions can create harm; such harm can be equivalent to physical violence; this harm must be considered a crime. It's that simple.
18. We note in your consultation summary (point four), there is already a blurring between 'crime' and 'speech' when discussing the mental impact of a purported hate crime. In fact, all of point four includes ambiguous conceptions based on perception. As the Commission will appreciate, neither perception or ambiguity make for good law.
19. We would also draw the Commission's attention to its own acceptance of safetyism when it writes, "people may find it emotional or distressing to make a submission".

EXISTING DYNAMICS OF CONCERN

20. There are already concerning developments within New Zealand's 'hate crime' space, notably an existing willingness to criminalise what is perceived as 'hate' despite no actual legal definition or framework.
21. Family First notes, in point five of the Consultation Paper Summary, the sentence:
22. "[Police] collected data on reported offences that the victim or another person believes were hate-motivated".
23. While we support the voice of victims – and have frequently advocated for them - this immediately highlights the subjectivity of any proposed hate crime. It is based on belief, and not necessarily fact, as well as the singular view of the victim.
24. We have seen multiple examples in New Zealand where people claim to know the motivation of others. Sometimes a criminal action (e.g. assault) is just an action without any foreknowledge of the who.
25. Family First would draw the Commission's attention to the arson of the Rainbow Youth Centre in Tauranga in 2022. The Judge was clear that this was not specifically directed at the LGBT+ community, but instead a random act. However, mainstream media and activists continue to believe and portray this as a 'hate' base action.
26. Family First is also concerned that New Zealand Police are recording reported hate crimes. There are no such laws and consequently, there is nothing for Police to report on. Any reporting will simply be based on a subjective – if not prejudicial - viewpoint. This was on obvious display during the Albert Park/Posie Parker protests where various

women were attacked and abused, with little to no Police protection despite clear threats to the individuals concerned.

27. In another case, a lawyer in Auckland (Lucy Rogers) was wrongly arrested for standing quietly on the pavement while a pro-Hamas/pro-Palestine protest was occurring. Police demonstrated a lack of legal understanding and subjective prejudice by arresting her for fear the protestors – not her - would become violent due to her sign.

28. These are just two examples, but none give us confidence that any ‘hate crime’ would ever be objective. As these two examples illustrate, it would instead be a highly subjective and likely political set of decisions by individual officers and others.

LESSONS FROM OVERSEAS

29. The Commission would do well to consider the development of hate crime legislation in other jurisdictions, notably the United Kingdom and Canada.

30. Family First would argue that the application of these laws overseas are undermining key pillars of liberal democracies, such as free speech.

31. In both jurisdictions, hate crime laws have extended into speech either formally or by application.

32. In the United Kingdom, the Crime and Disorder Act 1998 and Sentencing Act 2020 introduced ‘hate crime’ into law. Since then there are innumerable accounts of citizens being investigated, arrested, or visited by Police for sharing opinions online.

33. In other instances, individuals have been arrested or harassed for expressing their opinions or standing quietly in public areas. We would content this is part of consequential ‘creep’ that comes from legalising ‘hate’ as a concept.

34. For example, Adam Smith-Connor was arrested for quietly standing outside an abortion clinic, raving quietly for his dead son (previously aborted). Rose Doherty, a 74 year old in Scotland, was arrested for standing outside a hospital with a sign saying “coercion is a crime, here to talk, only if you want.” Journalist Allison Pearson had police visit and seek to charge her for expressing views on the Israel-Gaza conflict.

35. We acknowledge this is an extension of the Public Spaces Protection Orders (PSPO) - orders enabled by the Anti-Social Behaviour, Crime and Policing Act of 2014. However, the extension of such laws should be a warning to New Zealand as to how any ‘hate crime’ or ‘hate speech’ law expands, operates subjectively, and ultimately infringes on freedom of speech, association, and movement.

NEW ZEALAND CONSIDERATIONS

36. In New Zealand recent events show the inherent subjectivity (which can also synonymously be described as bias or prejudice) of hate.
37. The Commission will be aware of the deliberate, specific, and hostile targeting of multiple churches in Masterton by an arsonist. The burning of these churches has not once been reported as a 'hate crime' by any legacy media outlet.
38. In contrast, the defacing of rainbow crossings quickly received the label 'hate' and is frequently reported as such.
39. Family First is aware each case comes with its own distinctions and nuances, however, the key point remains that similar actions received very different labels and attention.
40. Family First would also express concern that this consultation attempting to shoehorn 'hate speech' into a Maori world view (Te Ao Maori). As the consultation acknowledges, unsurprisingly, there is no such concept in tikanga and yet attempts are made to create an equivalence. This does a disservice to to all involved. Not every worldview needs to hold the same or equivalent concepts and ideas.
41. Similarly, the Treaty of Waitangi holds no provisions relating to hate speech and we express concern that once again there are attempts to place interpretations into a document that are simply not there.
42. We also note the Commission continues to raise sex and gender without appreciating they are not complimentary, but exclusionary concepts. There is either sex, or there are genders according to the perceptions of each person who believes them. The two are not compatible and consequently, if defined in any 'hate crime', they will be contradictory in nature, requiring the courts to preference one over the other. We draw the Commission's attention to the current Australian case, now in the Federal courts, of *Tickle v Giggle*, where sex is being overridden by gender – ironically via the Australian Sex Discrimination Act.

HATE CRIME AND MAINSTREAM MEDIA

43. Family First expresses its concern around the Commission's frequent referencing of media reporting as some form of evidence around hate crime. We are confused as to why the Commission believes reporters have any particular insight into such matters.
44. We would draw the Commission's attention to many egregious examples where mainstream media have clearly taken firm positions on controversial issues, for example cannabis reform or abortion and euthanasia.

45. Mainstream media have demonstrated a frequent lack of consistency when it comes to reporting similar behaviours when driven by different motivations/agendas, and the media's perception of these.
46. We would highlight the attack on the Treaty of Waitangi display at Te Papa versus the attacking of the rainbow crossing on K Road. Both were destructive actions, but treated very differently by media, politicians, and commentators.
47. We would also once again draw the Commission's attention to the variance of reporting between the attacks in Albert Park (against Posie Parker and other women) compared to the recent attacks of Destiny Church members against individuals in Te Atatu.
48. Family First would as remind the Commission to look at the reporting around the Rainbow Youth house in Tauranga; an arson attack in 2022. Despite the Judge being empathic that there was no targeting of the building was due to its associations with LGBT+ communities, mainstream media and advocates continue to reference this as being such and a 'hate' crime.
49. It is clear that mainstream media will attribute hate dependent on their prejudicial view of the subject.
50. Family First acknowledges that many of these examples are from the courts per se. However, the courts have shown in their recent rulings (including ironically around the charitable status of Family First) that they believe they are well placed to reflect societal norms and values of the day, such values that are often propagated and promoted via the mainstream media.

FINAL COMMENTS

51. None of the proposed models are useful. They will make the system slower, more complicated, confusing and all based on a subjectivity.
52. We thank for the Commission for their work but reiterate our view that no such 'hate crime' law should be imposed on New Zealand.

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