

## **JUSTICE COMMITTEE**

### **HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL**

#### **SUPPLEMENTARY SUBMISSION FROM NETWORK OF SIKH ORGANISATIONS (NSO)**

The Network of Sikh Organisations (NSO) is a registered charity no.1064544 that links more than 130 UK gurdwaras and other UK Sikh organisations in active cooperation to enhance the image and understanding of Sikhism in the UK.

This submission is supplementary to our original REF NO. J/S5/20/HC/1756 dated 17<sup>th</sup> September 2020. It's mainly in response to some of the wider points raised in evidence at the oral hearing on 10<sup>th</sup> November 2020 in which our Deputy-Director Hardeep Singh gave evidence to the Justice Committee alongside several other organisations.

#### **1.1 APPG definition of 'Islamophobia'**

We note that during the oral session reference was made to a controversial APPG for British Muslims definition of 'Islamophobia'. We understand this is something that the Scottish government is considering adopting.

For the purposes of brevity, we reproduce an open letter (below) we signed which was co-ordinated by leading thinktank Civitas and sent to the then Home Secretary to oppose the definition.<sup>i</sup> The government subsequently rejected the definition.

#### **Open Letter: APPG Islamophobia Definition**

##### **Threatens Civil Liberties**

Addressed to the Home Secretary Sajid Javid

The APPG on British Muslims' definition of Islamophobia has now been adopted by the Labour Party, the Liberal Democrats Federal board, Plaid Cymru and the Mayor of London, as well as several local councils. All of this is occurring before the Home Affairs Select Committee has been able to assess the evidence for and against the adoption of the definition nationally. Meanwhile the Conservatives are having their own debate about rooting out Islamophobia from the party.

According to the APPG definition, "Islamophobia is rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness".

With this definition in hand, it is perhaps no surprise that following the horrific attack on a mosque in Christchurch, New Zealand, some place responsibility for the atrocity on the pens of journalists and academics who have criticised Islamic beliefs and practices, commented on or investigated Islamist extremism.

The undersigned unequivocally, unreservedly and emphatically condemn acts of violence against Muslims, and recognise the urgent need to deal with anti-Muslim hatred. However, we are extremely concerned about the uncritical and hasty adoption of the APPG's definition of Islamophobia.

This vague and expansive definition is being taken on without an adequate scrutiny or proper consideration of its negative consequences for freedom of expression, and academic and journalistic freedom. The definition will also undermine social cohesion – fuelling the very bigotry against Muslims which it is designed to prevent.

We are concerned that allegations of Islamophobia will be, indeed already are being, used to effectively shield Islamic beliefs and even extremists from criticism, and that formalising this definition will result in it being employed effectively as something of a backdoor blasphemy law.

The accusation of Islamophobia has already been used against those opposing religious and gender segregation in education, the hijab, halal slaughter on the grounds of animal welfare, LGBT rights campaigners opposing Muslim views on homosexuality, ex-Muslims and feminists opposing Islamic views and practices relating to women, as well as those concerned about the issue of grooming gangs. It has been used against journalists who investigate Islamism, Muslims working in counter-extremism, schools and Ofsted for resisting conservative religious pressure and enforcing gender equality.

Evidently abuse, harmful practices, or the activities of groups and individuals which promote ideas contrary to British values are far more likely to go unreported as a result of fear of being called Islamophobic. This will only increase if the APPG definition is formally adopted in law.

We are concerned that the definition will be used to shut down legitimate criticism and investigation.

While the APPG authors have assured that it does not wish to infringe free speech, the entire content of the report, the definition itself, and early signs of how it would be used, suggest that it certainly would. Civil liberties should not be treated as an afterthought in the effort to tackle anti-Muslim prejudice.

The conflation of race and religion employed under the confused concept of ‘cultural racism’ expands the definition beyond anti-Muslim hatred to include ‘illegitimate’ criticism of the Islamic religion. The concept of Muslimness can effectively be transferred to Muslim practices and beliefs, allowing the report to claim that criticism of Islam is instrumentalised to hurt Muslims.

No religion should be given special protection against criticism. Like anti-Sikh, anti-Christian, or anti-Hindu hatred, we believe the term anti-Muslim hatred is more appropriate and less likely to infringe on free speech. A proliferation of ‘phobias’ is not desirable, as already stated by Sikh and Christian organisations who recognise the importance of free discussion about their beliefs.

Current legislative provisions are sufficient, as the law already protects individuals against attacks and unlawful discrimination on the basis of their religion. Rather than helping, this definition is likely to create a climate of self-censorship whereby people are fearful of criticising Islam and Islamic beliefs. It will therefore effectively shut down open discussions about matters of public interest. It will only aggravate community tensions further and is therefore no long-term solution.

If this definition is adopted the government will likely turn to self-appointed 'representatives of the community' to define 'Muslimness'. This is clearly open to abuse. The APPG already entirely overlooked Muslims who are often considered to be "insufficiently Muslim" by other Muslims, moderates, liberals, reformers and the Ahmadiyyah, who often suffer persecution and violence at the hands of other Muslims.

For all these reasons, the APPG definition of Islamophobia is deeply problematic and unfit for purpose. Acceptance of this definition will only serve to aggravate community tensions and to inhibit free speech about matters of fundamental importance. We urge the government, political parties, local councils and other organisations to reject this flawed proposed definition.

Emma Webb, Civitas

Hardeep Singh, Network of Sikh Organisations (NSOUK)

Lord Singh of Wimbledon

Tim Dieppe, Christian Concern

Stephen Evans, National Secular Society (NSS)

Sadia Hameed, Council of Ex-Muslims of Britain (CEMB)

Prof. Paul Cliteur, candidate for the Dutch Senate, Professor of Law, University of Leiden

Brendan O'Neill, Editor of Spiked

Maajid Nawaz, Founder, Quilliam International

Rt. Rev'd Dr Gavin Ashenden

Pragna Patel, director of Southall Black Sisters

Professor Richard Dawkins

Rahila Gupta, author and Journalist

Peter Whittle, founder and director of New Culture Forum

Trupti Patel, President of Hindu Forum of Britain

Dr Lakshmi Vyas, President Hindu Forum of Europe

Harsha Shukla MBE, President Hindu Council of North UK

Tarang Shelat, President Hindu Council of Birmingham

Ashvin Patel, Chairman, Hindu Forum (Walsall)

Ana Gonzalez, partner at Wilson Solicitors LLP

Baron Desai of Clement Danes

Baroness Cox of Queensbury

Lord Alton of Liverpool

Bishop Michael Nazir-Ali

Ade Omooba MBE, Co-Chair National Church Leaders Forum (NCLF)

Wilson Chowdhry, British Pakistani Christian Association

Ashish Joshi, Sikh Media Monitoring Group

Satish K Sharma, National Council of Hindu Temples

Rumy Hasan, Academic and author

Amina Lone, Co-Director, Social Action and Research Foundation

Peter Tatchell, Peter Tatchell Foundation

Seyran Ates, Imam

Gina Khan, One Law for All

Mohammed Amin MBE

Baroness D'Souza

Michael Mosbacher, Acting Editor, Standpoint Magazine

Lisa-Marie Taylor, CEO FiLiA

Julie Bindel, journalist and feminist campaigner

Dr Adrian Hilton, academic

Neil Anderson, academic

Tom Holland, historian

Toby Keynes

Prof. Dr. Bassam Tibi, Professor Emeritus for International Relations, University of Goettingen

Dr Stephen Law, philosopher and author

## **1.2 Sikhism is a religion, not a racial group**

There was reference during the oral session on 10<sup>th</sup> November 2020 to Sikhs and Jews being a race, whereby other religions are not considered as such. We contest the claim that Sikhs are a race.

Sikhism is the fifth largest religion in the world. The decision in *Mandla vs Dowell-lee* (1983) held that Sikhs had the right to be protected under the then Race Relations Act (RRA) 1976. The discrimination case involved a schoolboy who was not permitted to wear a turban to school and was about protecting his religious rights. Prior to the case religions were not protected under law, so the Law Lords decided that Sikhs could fit into an 'ethnic' category for the purposes of the then RRA, to be afforded protection under the legislation. The reality is that the 'ethnic' criteria applied

at the time, may well fail if revaluated today. Most Sikhs are British born and speak English as a first language – rather than being born in Punjab and speaking Punjabi as a first language. But this is all academic, because the RRA

1976 has been repealed in its entirety, and the Equality Act 2010 protects all races and religions on an equal footing. Sikhism is a great world faith and has adherents from many races and backgrounds including Caucasian, Afro-Caribbean, Chinese and others. Well known converts include the likes of Alexandra Aitken, the daughter of former Conservative parliamentarian Jonathan Aitken. The majority of Sikhs in Britain are of Punjabi heritage, although you also have Sikhs who are Afghani or Kashmiri and would identify their cultural heritage as such.

In evidence to the Scottish Culture, Tourism, Europe and External Affairs Committee earlier this year, we outlined the reasons why we opposed a campaign by a fringe group the Sikh Federation UK (SFUK) who were lobbying for the inclusion of a Sikh ‘ethnic’ tick box in the 2021 Census.<sup>ii</sup> The Census Order rightly did not include a Sikh ‘ethnic’ tick box, and the SFUK were unsuccessful in three separate judicial reviews to overturn the decision.<sup>iii</sup>

As we’ve always maintained Sikhism is already adequately recorded in the Census under ‘religion’. Our campaign was successful, and a separate Sikh ‘ethnic’ tick box will not be included in the 2021 Census in either England and Wales or Scotland.

### **1.3 Strengthening free speech defences in the Bill**

The current free speech provisions don’t go far enough. As supporters of the Free to Disagree campaign, like our fellow campaigners we believe protection afforded to religion and sexual orientation must also be extended to discussion of transgender issues, and protection for free speech should be extended far beyond ‘criticism’ and ‘discussion’ only. As our Deputy-Director stated in oral evidence the inclusion of much broader free speech clauses, like in parallel legislation in England and Wales (namely section 29J ‘protection of freedom of expression’ in the Racial and Religions Hatred Act 2006) would protect cutting criticism and trenchant opinion. This would include protection for expressions of antipathy and dislike.

## **Network of Sikh Organisations 16 November 2020**

---

<sup>i</sup> <http://www.civitas.org.uk/content/files/islamophobiaopenletter.pdf>

<sup>ii</sup> [https://www.parliament.scot/S5\\_European/General%20Documents/20200131\\_NetworkOfSikhOrgs.pdf](https://www.parliament.scot/S5_European/General%20Documents/20200131_NetworkOfSikhOrgs.pdf)

<sup>iii</sup> <https://www.bailii.org/ew/cases/EWHC/Admin/2020/2931.html>