

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM KILTARLITY FREE CHURCH

Kiltarlity Free Church is a congregation of the Free Church of Scotland based in Kiltarlity and covering the area of Kiltarlity, Kirkhill and Beaully. We welcome the Justice Committee calling for views on the Hate Crime and Public Order (Scotland) Bill and would wish to make the following comments.

As a church committed to following Jesus we condemn hatred and abuse in the strongest of terms. We believe all human beings are made in the image of God and so have inherent worth and dignity and should not be treated in a degrading or abusing way. However, we are concerned that it is the norm in our society at the moment for people to feel that disagreement with someone's beliefs, opinions or practices means that we "hate" them and we feel that some provisions of the Hate Crime and Public Order (Scotland) Bill encourage this view.

We have no issues with Part 1 of the Bill which seeks to consolidate existing legislation on aggravation.

We also are in favour of the abolition of blasphemy. We believed it had already been repealed by the doctrine of desuetude but see no harm in formally repealing it. A blasphemy law tends to lead to the state forcing people to believe certain things and we believe this is harmful to society. We are convinced that our beliefs in the life, death and resurrection of Jesus are true and that they can stand up to scrutiny. We want people to honestly and openly engage with those beliefs. We encourage debate and discussion as a means of persuading people that our faith is true. Moreover, we believe people should be completely free to disagree with our faith in any way, including mocking and ridiculing us. Accordingly, we do not believe there should be an offence of blasphemy in Scots law.

Our real concern with the Bill, however, is that in abolishing one form of blasphemy you risk introducing a new blasphemy against accepted speech within society. We strongly oppose the new offences of stirring up hatred and of possessing inflammatory material.

The new offence of stirring up hatred concerns us as it lacks clarity and is incredibly subjective. What exactly is meant by stirring up hatred? We note that the offence can be committed unintentionally and so someone who clearly had no intention of stirring up hatred could face imprisonment or a fine.

Given the offence can be committed unwittingly or unintentionally it seriously curtails freedom of speech.

Will I, as the minister of the congregation, have to constantly be considering whether what I say could be perceived as stirring up hatred – especially when preaching on areas of Biblical ethics? Will I need to have my sermon vetted by my lawyer each week in order to make sure I do not unintentionally commit the offence of 'stirring up hatred'?

Will I have to advise members of my congregation to be careful how they seek to share their faith with others in case they unwittingly ‘stir up hatred’?

As previously stated, we know that our beliefs are not shared by everyone and we welcome challenge, debate and open discussion of our beliefs. However, the effect of the Bill is that, notwithstanding the fact that we do not undertake preaching and discussion of our beliefs with an intent to stir up hatred we will have to constantly be aware of the risks that simply stating our beliefs might be criminal.

We note that there are ‘freedom of expression’ provisions in the Bill designed to counter this chilling effect on free speech. However, in our view it is not possible to offer adequate protection of free speech through those clauses. Freedom of speech means the right to say things which people disagree with and may even personally find offensive. The very nature of the offence of stirring up hatred undermines this freedom. However, if the Scottish Parliament do insist on creating this offence we believe more robust freedom of expressions clauses are needed.

We note that in relation to religion, the protection of freedom of expression is narrower than the equivalent English provision under Section 29J of the Public Order Act 1986 and would favour the wider protection of Section 29J:

“Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.” We believe that those who disagree with our religion should be free to mock us, ridicule us and insult us. That is part of free debate and we welcome the chance to seek to persuade people in the marketplace of ideas that our beliefs are true and can withstand criticism.

In relation to sexual orientation the protection of freedom of expression is particularly narrow, confining itself to discussion of sexual conduct or practices and urging people to refrain from those practices. As a church we do not practise same-sex marriage and currently have protections in law that we should not be forced to offer same-sex marriage. And yet, we note that no protection is given to allow someone to disagree with same sex marriage. Again, we believe the equivalent protection offered by the Public Order Act 1986 (Section 29JA) is stronger and should be used:

“(1) In this Part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices or the urging of persons to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred.

(2) In this Part, for the avoidance of doubt, any discussion or criticism of marriage which concerns the sex of the parties to marriage shall not be taken of itself to be threatening or intended to stir up hatred.”

We also note that there is no clause protecting freedom of expression relating to transgender issues. This is particularly concerning as, while we have compassion and sympathy for those suffering gender dysphoria, we believe that there are only two genders and these are determined on the basis of biology. We believe this is what is taught in the Bible. Under the current provisions of the Bill with no protection for freedom of expression in relation to transgender we would be prevented from stating our beliefs regarding gender.

We also have concerns in relation to the proposed new offence of possessing inflammatory material combined with the right for a warrant to be issued to enter a premise (including private homes) and remove inflammatory material and ultimately destroy it. This could lead to certain books and publications being banned. This will have a major impact on freedom of expression and ignores the fact that people do not necessarily agree with everything they read but are free to engage in the ideas. As Christians we worry that the Bible could fall foul of this offence as we know some people consider certain verses and passages offensive. Will the Bible be subject to confiscation and disposal?

We wish to make clear that we are not in favour of hatred but are concerned that we could find ourselves accused of hatred because we disagree with someone's beliefs, opinions or practices. This undermines our freedom of religion and our freedom of expression and accordingly we oppose the introduction of the new offences of stirring up hatred and possessing inflammatory material.

Kiltarlity Free Church
22 July 2020