

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM THE KIRK SESSION AT ST ANDREWS FREE CHURCH

6. Do you have views on the merits of Part 2 of the Bill and the plans to introduce a new offence of stirring up of hatred?

The general issue of "stirring up of hatred" seems ill-defined, especially as it includes the notion of a person or persons being "insulted", which is very subjective. It can be extremely difficult to know when one person saying something that they believe, and which they hold to in sincerity, might be considered "insulting" to another person, and this can go both ways in terms of religious expression, as well as secular thought.

Where there are issues needing important public debate, such as morality, ethical considerations, religious beliefs, marriage, and other matters, such a law could stifle that public debate, as well as unwittingly criminalise teachers, parents, and ministers of religion.

It is especially concerning that, if this Bill was made law, it could also criminalise private discussion in a family home.

There seems to be a lack of protection in this Bill for the following articles of the "European Convention on Human Rights", and so the Bill could be challenged under those articles:

https://www.echr.coe.int/Documents/Convention_ENG.pdf

- Article 8: Right to respect for private and family life
- Article 9: Freedom of thought, conscience and religion
- Article 10: Freedom of expression
- Article 14: Prohibition of discrimination

7. Do you have any views on the Scottish Government's plans to retain the threshold of 'threatening, abusive or insulting' behaviour in relation to the stirring up of racial hatred, contrary to Lord Bracadale's views that 'insulting' should be removed?

We agree that the use of the word "insulting" (and similar, such as "insult") should be removed from the Bill.

The Kirk Session at St Andrews Free Church
24 July 2020