

## **JUSTICE COMMITTEE**

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

#### **SUBMISSION FROM THE SCOTTISH SECULAR SOCIETY**

##### **Introduction**

The Scottish Secular Society stands and campaigns for freedom of religion, freedom from religion and equality for all. We are a society that considers the right to hold and practise a religious or philosophical belief to be equal in value and dignity to the right to refrain from such beliefs or practices. We consider that a truly secular polity is the best protector of those of faith and those of no faith. We work towards a Scotland in which no denomination is privileged over any other, Christianity is not privileged over other faiths, and belief is not privileged over non-belief.

In this context, we believe there should be no distinction between people of any faith or people of no faith in their access to the institutions of government, civil society and justice, simply by virtue of holding one set of ideas or questioning another. Religions – and indeed the non-religious worldviews – are, at their core, sets of ideas and practices which have no existential privilege from being questioned or tested in a respectful public or private discourse.

These views stem from a human rights framework and are cognisant of the ills that attend human societies when religious differences create sectarian differences, leading to disruption of the peaceful order of the civil society we all seek, even to the extent of violence and murder. We believe the law should not induce a conflict between the right to hold and practise beliefs and the right to freedom of expression of ideas *about* those beliefs.

Most importantly, the ideas which people hold should always be distinguished from the people holding them. People deserve dignity; ideas do not. A society in which ideas and the people who hold them are conflated is one in which the roots of sectarianism and conflict are even more easily sown.

In the context of this framework, we submit our comments which address Part 2 and Part 4 of proposed Bill.

##### ***Stirring up offences***

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?

*There is no need for such an offence. Threatening and abusive behaviour is already an offence under Scots law in the Criminal Justice and Licensing (Scotland) Act 2010 at section 16.*

*Deeply-held religious or philosophical beliefs can be integral to a person's sense of self and identity. This means that one believer can take speech much more to heart than another might, but it would be a legal absurdity for a difference of perception to be the difference between criminality and civility.*

*We believe it is fundamentally important to distinguish between the belief and the believer. Many beliefs are absurd from the perspective of those who do not hold them, but this Bill would threaten the non-believer or the holder of another belief with criminal sanctions were robust discussion, criticism or mockery of the beliefs themselves to be taken as abusive and insulting by the holder of those beliefs. The gravest risk is not the chilling effect on freedom of expression, but the very real fear that these provisions would legitimise feelings of vengeance in the hearts of those who have perceived an insult, whether intended or not. It is particularly disturbing that, here and elsewhere, one can offend without any intention of doing so, and that an offence can be committed by speech deemed likely to stir up hatred, whether hatred is actually stirred up or not.*

*The deep irony is that this Bill would come perilously close to establishing a modern, broadly-scoped, criminal regime of blasphemy, in the very same Bill which seeks to abolish the ancient common law offence.*

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?

*The offence itself is unnecessarily wide. People rightly deserve to be protected by the law from threats, and such protection is established by the 2010 Act. However, including abuse and insults in definition of the offence poses a serious risk to the freedom of expression. What is abusive and what is insulting are subjective matters for the recipient, and not a characteristic of the speech or the material per se.*

### **Other issues**

10. What is your view on the plans for the abolition of the offence of blasphemy?

*This is long overdue and welcomed.*

Scottish Secular Society  
22 July 2020