



**Briefing for the
report stage in the House of Commons
on the provisions of the
Racial and Religious Hatred Bill**

July 2005

1. JUSTICE is an independent all-party human rights and law reform organisation. It is the British section of the International Commission of Jurists.
2. JUSTICE is sympathetic to the Government's purpose in seeking to place incitement to religious hatred on the same footing as incitement to racial hatred. We accept there may be a protection gap in our penal law in that people subjected to hatred, abuse and vilification because of their religion do not have the same protection under the criminal law as those targeted because of their race. Non-discriminatory protection of all those with religious or other beliefs is an important aim in a pluralistic society that values diversity, and there is a case for strengthening such protection. As race is defined so as to include Jews and Sikhs, but not Muslims, Hindus or Christians, the current law is unequal and creates a hierarchy of victims. This situation has been criticised by the House of Lords Religious Affairs Select Committee, in June 2003, as well as the UN Committee for the Elimination of all forms of Race Discrimination in August 2003 and more recently the European Commission against Racism and Intolerance and the Council of Europe Human Rights Commissioner Mr Gil-Robles.
3. Accordingly, in the past, we have supported legislation along the same lines as the Racial and Religious Hatred Bill. However, we have become concerned that the Bill requires further consideration and re-drafting in order to ensure that freedom of expression is preserved. We fear that the consequences of legislation of this kind may not achieve the desired effect. Provisions which are intended to increase tolerance may, in fact, increase intolerance. Accordingly, at present, we are not persuaded that the provisions of the Bill precisely meet the need.
4. Firstly, JUSTICE considers that if the Bill is to proceed it must also abolish the offence of blasphemy as it is outdated and discriminatory in protecting only the Christian religion and such inequality cannot be justified. Its retention conveys the message that the provisions of the Bill constitute a lesser form of blasphemy for non-Christian religions. It is essential that reformulation of law is not piecemeal. The repeal of the blasphemy laws should be part of this legislation. The Government should change the scope of the Bill and introduce an appropriate amendment to this effect.
5. In addition, it is likely that the current Blasphemy laws are contrary to the free speech, freedom of religion or belief and anti-discrimination provisions in the European Convention on Human Rights, Articles 9,10 and 14, because they protect only the Christian religion (or even just the Church of England) and not other religions. JUSTICE can see no point in the Government retaining on the statute book a crime that it does not intend to use to prosecute offenders. On the other hand, we do see considerable dangers to retaining it in such circumstances as it leaves it open to be used by the general public, vested interest groups as well as vexatious litigants. A recent example of this was the attempt by the Christian Institute to bring a prosecution against *Jerry Springer: the Opera*. Such an action can be used to threaten freedom of expression as such litigators do not have to operate within the same human rights framework which applies to the Court and the Government. The need to respond to such litigation, even if it is ultimately unsuccessful, could be a considerable curb on free expression.

6. In respect of the proposal to ban incitement to religious hatred, we consider that the wording of the offence must be tightened to make it clear that it applies to incitement of hatred to people and not religion or belief as abstracts, as there is an important distinction between belief and believer. Whilst the believer should be protected from hatred for holding religious beliefs, the beliefs themselves are not entitled to receive such protection. We are concerned that the present form of words proposed by the Government in the Bill might have an adverse effect on the freedom to be highly critical of religious beliefs.
7. An additional safeguard would be a requirement that information and statistics be published annually. An annual breakdown of the statistics of prosecutions for incitement to religious or racial hatred by reference to the racial and religious group of both of the parties involved would correct any misinformation as to the application of these provisions and serve to re-assure those concerned about the inhibition of freedom of expression.
8. JUSTICE therefore considers that any new legislation should be re-worded to make it clear that it is the hatred of persons identified by religion or belief that is to be protected, that freedom of expression is to be given greater protection and that this should be done at the same time as removing the outdated provisions in relation to blasphemy.