



7th August 2015

88/2015

## **POSITION PAPER ON THE DECRIMINALISATION OF THE PUBLIC VILIFICATION OF RELIGION AND OF PORNOGRAPHY**

### **EXECUTIVE SUMMARY**

Religious belief plays an important role in society, particularly in pluralistic societies. There is therefore a social interest in promoting and defending respect for religious beliefs and non-beliefs.

It is in this context that we wish to express our views on the Criminal Code (Amendment) Act, 2015.

### **The Decriminalization of the Public Vilification of Religion**

- The introduction of more recent legal sanctions against hate crimes does not warrant the removal of Articles 163 and 164 which prohibit the vilification of religion, which is wholly different from criticising, ridiculing, censuring or even disparaging or hating. To vilify is to “render vile” and so what the law prohibits is the malicious, abusive debasement of religion, its adherents and its leaders.
- Article 2 of the Constitution of Malta is not to be seen in isolation but as part of Chapter One which lays down the following six most fundamental and equal civic values: the Republican governance of Malta, the Religion of Malta, the National Flag, the National Anthem, the National Language and the Constitution itself. Since the National Religion is on a par with the other five values, one cannot choose between them by requiring five to be treated with reverence and allowing the sixth to be subjected to vilification.
- Articles 163 and 164 should, therefore, not be deleted. However, there should be no difference between the sanctions imposed on those vilifying the Roman Catholic religion and those vilifying any other religion, belief or non-belief.

### **The Decriminalisation of Pornography**

- The Bill states that the reason behind the amendment and the aim to be achieved is “to provide for the better implementation of the right to freedom of expression with regard to the striking of the necessary balance between the right of everyone to receive and impart information and ideas and the need to protect society and vulnerable persons in particular from certain forms of pornography and indecency.”



**THE CHURCH IN MALTA**

- The licensing of sex shops has nothing to do with the “freedom of expression” or the right “to receive and impart information”. It is simply part of the sex industry and trade.
- One should ask how this fits into what the Constitution of Malta established on public morality, decency or morals. The safeguarding of public morality is so fundamental that it even expressly overrides the enjoyment of all fundamental human rights, let alone of profit making.
- The commercialization of the human body is always harmful to the dignity of the human person, even when this occurs with one’s own consent. Sex and sexuality are more than just gratification and pleasure but they are a gift and an invitation for self-giving and for an interpersonal relationship with others.
- Why should it not be self-evident that the arguments in favour of public decency are more compelling than those in favour of public indecency?