

‘Hate Crime’

A Challenge to our basic freedoms?

An Overview by the Maranatha Community

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I. Freedom of Speech

Freedom of speech and respect for others are fundamental characteristics of a civilised society. Exchange of views on religion and sexual ethics are part of the exercise of this freedom. Proselytising a religion and raising issues of morality such as acceptance of sexual practices are fundamental to a free and healthy society. These are currently at risk and in recent years those who have exercised this freedom, particularly as Christians, have been subjected to serious inhibition at least, and harassment and persecution, at worst.

We now face a very real danger of moving towards situations where serious injustice is tolerated.

There is a mounting record of examples of this which should be of great concern to those who are endeavouring to uphold the principles of a free society.

To move in the direction currently being followed by the Government, could mean that the general public would be inhibited from any serious discussion about comparative religion or sexual ethics in the light of possible police intervention. This is morally wrong.

2. Policing Problems

With the concept of ‘hate crimes’ having been established there is now a real danger that valuable police time will be wasted in investigating complaints which are trivial and perhaps irresponsible.

This will inevitably lead to the police being placed under greater and perhaps intense public scrutiny and criticism for wasting valuable police resources at a time when many forces are unable to respond effectively, to all reported crimes.

It is now universally accepted that an inordinate and totally unacceptable proportion of serving police officers’ time is devoted to unproductive work including the recording of information and the compilation of statistics. There is a danger that developments associated with ‘hate crimes’ could make this situation considerably worse.

3. Public Confidence in the Police

If the impression, however mistaken, is given of the police being involved in intrusive and repressive activities, this will inevitably drive a wedge between the public and the police. The growing number of cases of supposed 'hate crime' is now leading to legitimate, widespread and rapidly growing disquiet. It is being widely recognised that legislation ostensibly directed towards 'equality' and 'human rights' can be perceived as robbing ordinary people of their freedom of expression. It should never be the role of the police to intrude into, or prevent, public or private discussion of religious faith or sexual ethics.

There is an undeniable danger that some police responses could be construed as unduly intrusive. This could risk generating a public reaction which could very seriously impair relationships between the general public and the police, and also lead to a breakdown between the relationship of the general public and openly practising homosexuals. It is beyond dispute that totally innocent people may be subject to the chilling effect of police investigation and interview. Following arrest, there could be fingerprinting, the taking of DNA samples, the arrangement of police bail with the additional possibility of the cost of paying for legal defence. Innocent people may have to wait months for the outcome of a court case, which may damage their livelihood and public standing.

4. Definitions of terms

It is widely believed that existing laws adequately protect minorities in the United Kingdom. If, however, there is going to be a move towards tighter control, then there is a very heavy responsibility upon both Government and the police to spell out with great precision what is unacceptable. All terms deemed to be 'hateful' or 'inciting' will have to be very accurately defined, otherwise people will simply not know whether they are breaking the law.

Short of publishing lists of specific acts or words and phrases, which are deemed to be unacceptable, it is difficult to see how gross abuse of police time is to be avoided. Unless there is some form of codification available for the guidance of ordinary citizens there will inevitably be confusion and many investigations and proceedings which will be futile.

Good legislation and the effective operation of a system of information and guidance depend upon clear statutory definitions. These are currently often not available.

'Hate crime' is commonly being defined in such a broad manner as to censor all speech which is considered 'negative' or politically incorrect. This includes reasonable criticism of both religion and sexual practice. If, as is often claimed, 'hate crime' is a rejection of our shared values, freedom of thought and speech, it is patently absurd to assume that the remedy is to pass draconian laws which extensively police thought and speech and severely punish those deemed to have said the wrong things.

It appears that active steps are to be taken to generate an increase in the number of complaints registered on religious or gay issues. In view of this, there is now an urgent need for the police and the general public to be given precise descriptions of behaviour and language which are deemed to be unacceptable and possibly actionable. In particular there is now a very heavy responsibility upon the Government and the police to make quite clear what specific views on homosexual behaviour will be deemed to be hateful.

The question now arises as to whether legitimately expressed views on homosexual behaviour by medical practitioners, Muslims, Jews, Christians or the general public be subject to police investigation consequent upon anybody claiming to be offended by them.

It would appear that we have reached the stage where there will be serious doubt as to whether even portions of published articles and books, including the Bible, which refer to gay behaviour, can be read in public for fear of prosecution. This would clearly be a grave infringement of religious liberty.

5. Presenting factual information and expressing legitimate views

It has been suggested that those who for example point to the clinical dangers and consequences of some homosexual practices could be prevented from doing so. This would establish an extremely dangerous precedent in which we could see the operation of 'thought police', even in academic circles. There is a danger of us entering a minefield and placing ordinary police officers in an invidious and even impossible position. There is also a danger of moving towards a situation in which heavily funded, highly organised and militant minority groups will have a privileged position in law and society.

There is an immediate danger of the expression of any view, which is in any way, critical of homosexual behaviour being automatically deemed to be 'homophobic' and not to be tolerated, under any circumstances, by the state. The ludicrous assumption is that most of those who

disapprove of homosexual behaviour are, per se, guilty of homophobia, which is nonsense.

There is now widespread evidence that those expressing legitimate views, often based on their religious convictions, which may be contrary to those of militant gay organisations will increasingly be targeted, harassed, abused and even persecuted for being 'homophobic', which they are not.

6. Placing Police Officers into difficult situations

Police officers of every rank have stated that they entered the police force to serve the community, not to stop or suppress the expression of views. Some of them have stated that they are particularly confused in terms of understanding the precise nature of perceived crimes concerning the express of religious views.

They recognise that it has been universally accepted for generations that debates, discussions and criticisms involving religious convictions are acceptable, even though on occasion they may give some measure of offence.

7. Pressure Groups

Whereas there is a widespread recognition of the need for all citizens to have their human rights protected, there is a rapidly growing feeling among the electorate that gay pressure groups within Government, local authorities, the police and publicly funded bodies, have reached an inordinate level of influence, to the point where many perceive them to be a privileged minority. They currently exercise a disproportionate influence over political decisions. There is an immediate danger that this may cause deep divisions between openly practising gay people and the broader community. This would be a tragedy and a real threat to social cohesion.

8. The Broader Background

Hastily and often badly drafted legislation inevitably clogs up the courts, as judges are asked to rule on what should have been made clear by Parliament. Moreover, it is unfair on both police and public not to know where to draw the line between fair comment and 'hate crime'. Frequently, there has been totally inadequate time for proper scrutiny in Parliament. During a debate on the Coroners and Justice Bill, Baroness Williams of Crosby said *"It is a very difficult situation where, at Second*

Reading, there is precisely one minute for every 20 clauses of the Bill...this is deeply disturbing...". It is, for example, extremely difficult if not impossible, to give an adequate and precise description of what it means to feel 'offended'.

The definition of new crimes is frequently inadequate. For example there is great difficulty in describing what is meant by 'incitement' to hatred. Acts of denigration are notoriously difficult to define. It is significant that there is current widespread controversy concerning the United Nations resolution on 'defamation of religion'. This is because the concept of 'defamation of religion' is fundamentally flawed insofar as it is individuals, both believers and non-believers who have rights and not religions.

It is increasingly being recognised that the right of all individuals to hold their views and express them freely should be respected within the constraints of existing legislation. They are entitled to full protection by the state when their freedoms are threatened.

Freedom of expression within the law is a fundamental part of a free and democratic society. People are justifiably protected in law from behaviour which is offensive, aggressive, threatening or demeaning. However, they should not be free to make serious accusations on the basis of them taking exception to remarks made in discussion, debate, in the private or public arenas.

There appears to be a fundamental misconception on the part of those sponsoring this legislation, namely that it will in some way improve the lives of those who might be subject to 'hate crime'. This legislation runs the risk of unwittingly encouraging the growth of a culture of impunity on the part of those the legislation seeks to protect and of corresponding resentment on the part of other members of society.

Legislation can, in fact, stoke up the very hatreds that it is designed to alleviate. Inevitably, this would place the police in an invidious position. The drafting of guidance notes for the police for the implementation of complex and often badly drafted legislation, raises fundamental questions about respect for the law.

9. Prejudice

Although it is claimed that prejudice is an important factor in determining acts of victimisation, prejudice itself has not been defined. It can only be very subjectively interpreted and this interpretation makes for very bad and arbitrary laws which can be very easily abused.

We are moving towards a situation in which the perception of anybody, not just the supposed victim, is considered a legitimate basis for investigation. This renders the definition of a 'hate' incident even more arbitrary and can generate petty, malicious and unjustified complaints.

The interpretation of what is called 'hate crime' is highly subjective and 'prejudice' is such a broad concept that even well-founded criticism of a particular religion or sexual practice could lead to a criminal conviction under such wide definitions.

10. Confusion

It is extremely confusing and illogical to equate race or disability with a chosen religious faith or a chosen sexual lifestyle. The former are generally inherited whereas the latter are based on personal choices which the individual makes.

11. Existing Legislation

It has been widely observed that most, if not all, events defined as 'hate crime' are already covered by the existing criminal law. Many would argue that there is no need whatsoever for additional laws to cover these particular supposed crimes.

12. The Views of the Public

There is no evidence to prove that the general public wishes to prioritise 'hate crimes' above other crimes. The resources of the police, criminal courts and prison systems are already grossly over-stretched and it is already not unusual for thefts and some other crimes to be left uninvestigated by the police.

There is a real danger that already stretched and limited resources will have to be diverted from dealing with serious crimes that affect the majority of society in order to cater for the interests of particular and often highly vocal sections of the community or to deal with something perceived to be objectionable to some religious group or individual.

13. Conclusion

We are facing the danger of creating real confusion and frustration in the public mind and in the public perception of the role of the police.

Understandably, people resent being told what they can and cannot say, what they should believe and what they should not believe. In the light of experience during the past eighteen months there is mounting fear of continuing witch-hunts against citizens who uphold and express legitimate views but which are deemed to be politically incorrect.

If we are to maintain any measure of social cohesion we must ensure respect and protection for all minorities and at the same time avoiding the situation where others believe that they are being persecuted for their views and beliefs.

It is recognised that there is currently a yawning gap between the public and the political classes. It is at this time that we must recognise the very real dangers of creating a similar gap between citizens and the police. There are encouraging signs of improved relations between the police and local communities and there is still a very strong residual respect for the police.

Unfortunately we are currently seeing a disproportionate amount of police time being devoted to paperwork as opposed to street level policing.

If efforts are made to artificially increase the number of complaints about supposed 'hate crimes', for the purpose of statistics, which now appears to be happening, there could be very serious consequences. It is difficult to avoid the conclusion that what is happening is the ruthless imposition of 'political correctness' rather than the expressed will of the people.

The greatest care must also be taken to protect innocent citizens from being harassed, wrongly investigated and unfairly vilified.

It is a matter of concern that the police may be active in giving encouragement to people to report 'hate crimes' to them. There is a very real fear of hysterical 'witch-hunts' with the police being perceived by many to be more interested in enforcing political correctness than in dealing with real crime which threatens the safety of the general public. There is a serious danger in the encouragement of a distorted mentality of perpetual persecution among some groups whether religious or gay.

Following a number of recent court cases, the public are seeking assurance that they are not to be subjected to intrusive police investigation on the basis of arbitrary and perhaps frivolous claims.

It has been claimed that because the Attorney General must consent to any prosecution concerning 'hate crime', this will in itself guard against any inappropriate or vexatious prosecutions. This is questionable. There appears to be no protection for the public against inappropriate

vexatious and potentially highly damaging investigations which the police may feel obliged to carry out.

The attitude underlying the 'Hate Crime' philosophy follows a number of paths that are dangerous in themselves and are directly contrary to the entire thrust of more than one thousand years of English Common Law:

- There appears to be a reversal of the burden of proof, in that the accused is required to prove that he did not do or say what is alleged. Until the recent past, we have always stuck with the idea that someone is innocent until proven guilty. To add insult to injury, it is notoriously difficult to prove a negative.
- There appears to be a confusion or abandoning of the traditional distinction between the need for there to be both a criminal act (actus reus) and a criminal state of mind (mens rea) in order for a crime to be committed.
- There appears to be an abandonment of any test of reasonableness, that is to say, the judging of circumstances according to an objective rather than a subjective standard. As soon as subjectivity enters in, anyone can claim offence and injury, no matter how outlandish the claim might be.

14. Recommendation

Because of the serious implications outlined above the entire issue of 'hate crime' needs to be urgently reviewed and reconsidered by the Government, the public and the police.

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