

The Serious Organised Crime and Police Bill 2005

The proposed new offence of Incitement to Religious Hatred

A Submission to Members of the House of Lords by the Maranatha Community

The Government proposals to create a new offence of Incitement to Religious Hatred have generated widespread concern and growing opposition from a broad spectrum of public opinion. This has been enflamed because it is planned to introduce repressive legislation to create a criminal offence carrying up to 7 years' imprisonment. The following notes have been drawn up by the Maranatha Community.

1. There is widespread opposition

- 1.1 Human Rights groups, civil liberty organisations, members of all political parties, together with people actively involved in community relations, are expressing severe criticism and opposition to this proposed law. Major objections have been raised.
- 1.2 There is no evidence of any widespread or substantial public demand for the proposed legislation.
- 1.3 If the true extent to which the legislation represses freedom of speech were to be known, the public outcry would be even greater than it is now.

2. There has not been proper consideration

- 2.1 Such a fundamental assault upon religious freedom of expression, with immense significance for the future life of our nation, has not been adequately considered. Outrage has been expressed that a mere one hour and twenty minutes was devoted to it in the House of Commons.
- 2.2 The Home Secretary has been repeatedly reluctant to give examples of cases which would elicit prosecution.
- 2.3 It is hoped that there will be a far more thorough examination of its implications when it is considered in the House of Lords.

3. A risk-averse culture is being created

- 3.1 The trend towards a litigious society which is inhibiting and limiting a wide range of activities in society is already doing serious damage to the quality of our lives. This proposal would accelerate this trend.
- 3.2 This proposal would inhibit free expression of religious convictions.
- 3.3 This proposal could lead to substantial infringements of the liberty of the individual.

4. The proposed law is unnecessary

- 4.1 There are already remedies for offences against a person, property offences and public order offences when there is violence, a threat of violence or incitement to violence.
- 4.2 The threshold of operation of some of the laws under the Public Order Acts is, in fact, already disturbingly low. Harry Hammond, a pensioner, was convicted under

Section 5 of the Public Order Act 1986 for using “*threatening, abusive or insulting words or behaviour ... within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby*”. Mr. Hammond preached in the street while holding a placard with the words “*Stop homosexuality*”. Although he was himself threatened, he was arrested and punished.

- 4.3 It is difficult to envisage a situation which would be serious enough to warrant prosecution which did not involve action or incitement to action which is not already illegal.

5. The new law will lead to confusion

- 5.1 The wording of the new offence is highly ambiguous and open to selective interpretation.
- 5.2 There are no clear definitions of key terms such as ‘hatred’, ‘abusive’, ‘threatening’, ‘religion’, or ‘insulting’. It will be extremely difficult and in some cases quite impossible for a court to draw a line between comments that will stir up hatred and legitimate free speech and debate about religious issues.
- 5.3 In the confusion, basic principles of British law are in real danger of being abused. The respected human rights barrister, Geoffrey Robertson QC, has referred to the proposals as being “*unnecessary and clumsily framed*”.
- 5.4 The Bill vaguely targets those who are deemed to ‘intend’ and those who ‘likely’ to incite religious hatred.
- 5.5 Confusion about what is ‘offence’, ‘annoying’, ‘disturbing’, ‘threatening’, ‘abusive’ or ‘insulting’ will be inevitable. Doubt about the precise nature of harassment, alarm and distress will place unbearable responsibilities on the shoulders of the police who will have to try to implement this legislation. They will face the extremely difficult situation of having to decide what constitutes real offence.
- 5.6 The sponsors of the proposal are guilty of clumsily conflating the separate issues of race and religion.
- 5.7 The proposal gives the judiciary power to consider religious issues which it does not have the competence to resolve. To make matters worse, it then gives the ultimate power to take action to the Attorney General, who is a politician.
- 5.8 It fails to recognise that religion and race are not analogous and it runs the serious risk of applying law to individual sensibilities and feelings.
- 5.9 George Monbiot, writing in the Guardian has stated “*This Bill, like the 1997 Protection From Harassment Act, fails to distinguish between the manner in which information might be presented and the information itself. If you stood outside a chemist’s shop telling people that one of the drugs they were using caused mutations in human foetuses, you would be alarming or distressing them, even if you behaved with the greatest courtesy*”.

6. The new law will lead to a denial of religious freedom

- 6.1 The proposal undoubtedly denies the full right to express religious views. This ambiguous proposal would shatter our inherited tradition of freedom of speech.
- 6.2 Timothy Garton-Ash, the eminent historian of St. Antony’s College, Oxford University, says “*Everyone who cares about free speech – the oxygen of so many other freedoms – must shout now to stay the Government’s hand and prevent it pushing through Parliament this ill-conceived, badly worded, dangerous piece of law*”.

- 6.3 John Mortimer QC says *“If we are free to adopt a religion we must also be free to discuss the dangers of other religious beliefs”*.
- 6.4 There is nothing in the text of the proposal to guarantee legitimate missionary activity or criticism.
- 6.5 There is no reference in the proposal to defending truthfulness and reasonable comment.

7. There are sinister implications

- 7.1 It has been admitted by the former Home Secretary that even the quoting of portions of sacred texts (e.g., the Qu’ran) will be sufficient to lead to prosecution if *“out of context”*.
- 7.2 The Home Secretary failed to explain what he meant by *“out of context”*. It can only be assumed that significant portions of scripture could be outlawed because of a confused and repressive piece of legislation.

8. Public confidence in the law will be undermined

- 8.1 The police will have the power, following complaints, to open criminal investigations, seize documents and confiscate files. Such investigations would be widely publicised in the press, inflicting damage on innocent people.
- 8.2 The proposal has enormous potential to generate malicious, vexatious and frivolous complaints to the police, thus abusing the judicial process.

9. The new law will be counterproductive

- 9.1 The proposed new crime would have a significant potential to aggravate and cause religious tension and could easily criminalize ordinary religious discussion.
- 9.2 It would inevitably lead to the creation of an environment of threat, counter-threat, intimidation and repression. The legal process itself would be seen as confrontational, putting the police in an invidious position. The new offence could deeply divide communities. It is important to recognise that legislation against insult can readily criminalize the expression of legitimate religious views.
- 9.3 The new offence would enable intolerant and bigoted people to stifle those views which they despise. Threats of legal action would not only prevent or silence free expression of religious conviction, they would enable threats of legal action to be used as a political lever and this could easily enflame feelings and generate accusations and counter accusations.
- 9.4 The new law could replicate the intolerable situation which has emerged in Australia, where under similar legislation a Christian pastor has already faced serious charges, simply for criticising Islam. A scholar and an authority on Islam, he has been convicted and is now awaiting sentence.
- 9.5 Supporters of the proposal should note the assertion of a former proponent of the Australian law, Amir Butler, Executive Director of the Australian Muslim Public Affairs Committee, who says *“All these anti-vilification laws have achieved is to provide a legalistic weapon by which religious groups can silence their ideological opponents”*.
- 9.6 Those concerned with the importance of freedom of expression are now questioning whether the proposal would prohibit the public reading and reproduction of those portions of the Qu’ran which could be deemed to be incitement to violence on religious grounds.

- 9.7 It is significant that Keith Porteous Wood, the Executive Director of the National Secular Society, has warned "*The Government present focus on community cohesion and diversity will be ill served by this legislation, which has the potential to set one faith group against another. Secular courts will be obliged to decide on matters of theological interpretation which should not be their concern*".

10. There is deep concern about the political implications

- 10.1 There is a widespread perception that this proposal has been introduced primarily because of the forthcoming General Election, seemingly to compensate for the opposition of many Muslims to the war in Iraq. Because Muslim populations tend to be concentrated in one area, they are clearly perceived as having a potentially decisive influence upon results in some constituencies, particularly those which are marginal. Some Muslim leaders have been quick to recognise this and it has been reported that already they are threatening to withdraw support from those politicians who vote against the proposal to create this new offence.
- 10.2 A further factor which has hardly been considered in the debate about this new proposal is that even in Britain, with its proud tradition of religious freedom, Muslims who convert to Christianity already frequently face extreme harassment, distress and even assault. This often leads to them having to flee from their community to another part of the United Kingdom, or even abroad. Moreover, while Muslims in the United Kingdom enjoy religious freedom, this is in marked contrast to the persecution of millions of Christians in Islamic countries, who suffer grievously for their faith.
- 10.3 The net result of the implementation of this proposed law would be to damage relations between the Muslim and non-Muslim communities in Britain and to introduce a totally unnecessary tension in the application of law.

11. Conclusion

- 11.1 The Government has repeatedly attempted to reassure the public by stating that the law will only prevent the deliberate whipping up of hatred towards a religious community, with ill-intent, and will not prevent legitimate criticism of another's religion or missionary activity directed towards followers of other faiths. However, there is no guarantee of this in the text of the Bill.
- 11.2 This proposal will suppress legitimate speech and encourage intolerance. It is not worthy of amendment and should be rejected in its entirety.

3rd March 2006

The Maranatha Community is a movement of many thousands of Christians throughout the country active in all the main churches. Its membership includes a substantial number of people involved in community work. It has taken the initiative in a broad range of social projects directly contributing to the enrichment of community life, and it also has extensive international experience.