

JUSTICE COMMITTEE

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

SUBMISSION FROM NETWORK OF SIKH ORGANISATIONS (NSO)

The Network of Sikh Organisations (NSO) is a registered charity no.1064544 that links more than 130 UK gurdwaras and other UK Sikh organisations in active cooperation to enhance the image and understanding of Sikhism in the UK.

What is good about the proposed legislation?

To start on a positive note - the blasphemy law will be repealed. This is something that has not been used in Scotland for over 175 years. The second thing which is noteworthy is age will become a protected characteristic under these proposals – this in our view is indeed a positive step. The Bill will thus extend protective characteristics to the following:

Age, Disability, Race, colour, nationality (including citizenship), or ethnic or national origins, Religion, Sexual orientation, Transgender identity, Variations in sex characteristics.

Could this Bill censor debate on matters of public interest?

We believe the answer to this is yes. The offences relating to ‘stirring up hatred’ⁱ in the Hate Crime and Public Order (Scotland) Bill are a real cause for concern and have serious consequences on being able to speak freely on matters of public interest – be it the ongoing debate around ‘transgender identity’, or matters of religious extremism, in particular in relation to the debate around Islam, and support for violent jihad by some in the Muslim community.

The Bill aims introduces these new offences related to ‘stirring up hatred’ in respect of the characteristics of age, disability, religion, sexual orientation, transgender identity, and variations in sex characteristics. It is the vague elements of this Bill which are dangerous because they are open to wide interpretation and are highly subjective. Most controversially, a person will not even have to show intent to ‘stir up hatred’. It will be enough that his behaviour or communications are considered ‘threatening’ or ‘abusive’ and that a court deems it ‘likely that hatred will be stirred up’.ⁱⁱ This could result in a seven-year prison stretch. We believe this is repressive and insidious, and not befitting of a Western democratic nation. In its current form the Bill would make Scotland one of the most hostile places for free speech in Europe.

Additionally, the Bill also introduces offences of ‘possession of inflammatory material’,ⁱⁱⁱ and the same issue applies here around subjectivity with the drafting of the legislation. We understand the only difference being the threshold for the conduct is that the material is ‘threatening, abusive or insulting’.

Self-censorship or prison

We believe these proposals could lead to an environment of self-censorship, or worst still a seven-year prison stretch for those who choose to express strong and legitimate opinions on controversial, but important issues. Offence archaeologists could wade through historical social media postings to garner evidence which may infringe the proposed legislation – this would amplify the curtailment of free and open discussion and have a chilling effect. It has been suggested the introduction of this legislation could result in the likes of J K Rowling facing proceedings for her position on transgenderism.^{iv} This is because her views (which she has every right to freely express) could be viewed as ‘threatening’ and ‘abusive’ by transgender campaigners and therefore subject to a criminal complaint. The legislation would also have consequences for investigative journalists, historians and commentators who express criticism of Islam, expose Islamic extremism, or discuss the behaviour of Muslim extremists. For a start, the republication of the Charlie Hebdo cartoons, would almost certainly be viewed as ‘inflammatory’ under the offence of ‘possession of inflammatory material’.^v

Moreover, activists or groups who want to shut down opponents could easily interpret criticism of ideology or doctrine as an attack on their community. We have already seen an indication of what this might look like, with the publication of the APPG on British Muslim’s Islamophobia Defined report, which sought to secure a legally binding definition of ‘Islamophobia’. The APPG report asserts:

‘the recourse to the notion of free speech and a supposed right to criticise Islam results in nothing more than another subtle form of anti-Muslim racism whereby the criticism humiliates, marginalises, and stigmatises Muslims’.^{vi}

The Scottish government and the Minister behind this Bill, Humza Yousaf, gives reassurances the Bill will not hamper free speech. However, if the same convoluted APPG reasoning is extended to this legislation, then it is indeed a slippery slope, which could incentivise various groups to weaponize the vague ‘threatening’ and ‘abusive’ (and ‘insulting’ for ‘possession of inflammatory material’) elements of this legislation to silence, persecute, or worst still attempt to imprison critics, by dragging them through the criminal courts for expressing legitimate opinions.

Following significant opposition to these proposals, we are pleased to hear Mr Yousaf is considering withdrawing clauses which will chill free speech, and agree unequivocally with the Scottish Police Federation who say the Bill could absurdly leave officers in a position where they have to determine what passes as free speech, or not.

They say: ‘concern the Bill seeks to criminalise the mere likelihood of ‘stirring up hatred’ by creating an offence of threatening, abusive or insulting behaviour, such offence to include both speech and conduct. This complicates the law and is in our opinion, to vague to be implemented’.^{vii}

We note that people involved in the acting and legal industry in Scotland are equally concerned for the implications on free speech, and have asked the Scottish government for clarity on the massive ‘grey area’ for what exactly is ‘likely’ to stir up hatred as part of an acting performance.^{viii} As it stands, if the Bill is passed an actor could be prosecuted for playing a character with bigoted views, because language in a script can fall foul of ‘likely to stir up hatred’, as charges could be brought regardless of intent.

How the proposed legislation will impact freedom of belief

All faiths have the right to express their beliefs, but this extends to the right of faith groups to hold critical views of the practices of others, without censure or the threat of prosecution.

According to the *Rehat Maryada*, or Sikh code of conduct, halal, and any other ritually slaughtered meat (like kosher) is strictly forbidden. The method of slaughter is considered inhumane (especially non-stun slaughter) but Sikhs also take the view that it is superstitious to believe reciting prayers whilst sacrificing an animal will serve to make it acceptable for consumption in the eyes of a lifegiving, nurturing and benevolent Creator. Many Sikhs are thus strict vegetarians, but those who consume meat are encouraged to eat an animal killed instantaneously with one blow – a method referred to as *jhatka*. If this legislation is passed then you can see how it could elicit complaints about criticism of such religious practices as ‘Islamophobia’, which in turn could be seen sufficient to meet the litmus of ‘stirring up hatred’, with no need for intent. The same would apply to criticism within Sikh teachings against any form of idol worship – which could elicit complaint from Hindus who adhere to this practice.

Both Sikhs and Hindus may well find themselves in a quandary when it comes to recounting parts of their history, especially persecution under Muslim rulers (The Mughals) in medieval India. Every year, Sikhs commemorate the martyrdom anniversary of two Guru's (*Shaheedi Gurpurabs*) Guru Arjan and Guru Tegh Bahadur, and countless others who were executed on the order of Mughal Emperors. An indication of where this could all lead has been previously provided with the APPG on British Muslims report *Islamophobia Defined*, where: 'claims of Muslims spreading Islam by the sword or subjugating minority groups under their rule'^{ix} may be 'Islamophobic'. Alongside prominent historian Tom Holland,^x we warned these proposals could censor discussion of historical facts, such as the gruesome aspects of the Mughal and Ottoman Empires or the Moor conquests, not to mention the crimes of modern-day ISIS. We fear this Bill will have a similar impact on British Sikhs, and gurdwaras who often adorn their walls with images of our hallowed martyrs or *shaheeds*.

Depictions of our history could be viewed as 'abusive' and 'threatening' or 'inflammatory' by those with a grievance and absurdly criminalised. Charges could be brought regardless of intent – in this case simply marking our history and honouring our *shaheeds*. Last year there was an attempt by the BBC to censor our Director, Lord Singh of Wimbledon for merely mentioning the martyrdom of our ninth Guru^{xi} - Guru Tegh Bahadur who gave his life standing up for the freedom of belief of Hindus, who were being forcefully converted to Islam.

We believe if this Bill passes then it could give a free pass to those who want to censor inconvenient chapters in history and curtail the freedom of religious belief of faiths (other than their own), which would result in pitting one religious group against another.

Core teachings of Abrahamic traditions which promote supremacy of their prophets over others, and the notion they are the only path to God, could be in difficulty. In John 14, Jesus said to His disciples, 'I am the way and the truth and the life. No one comes to the Father except through me. If you really know me, you will know my Father as well. From now on, you do know him and have seen him.'

For vexatious complainants, this passage alone from the Bible could be viewed as 'insulting' and 'inflammatory' to their belief in another religious tradition.

In a submission to the Scottish government in opposition to this Bill, The Free Presbyterian Church of Scotland write:

'My main concern in this is the preaching of the Gospel, which involves declaring the truth in spiritual matters. There are such things as right and wrong in human life, and it is the duty of

Christian ministers to explain these things. Among the many things that are wrong – such as lying, stealing, murder, adultery, abortion (in most cases), pride, and hatred of our fellow- men – are sodomy and false religion (such as Islam).^{xii}

The contents of this part of their submission could be viewed as ‘insulting’ to Muslims in itself.

They go onto say: ‘This bill would make the persecution of Scottish Christians for maintaining the truths of Christianity much more likely. Anyone who hears a Christian say something that he does not like (e.g. that his homosexual or transgender conduct is sinful) could claim that what was said was abusive (perhaps even just reading a passage from the Bible) and could have the Christian punished.’^{xiii}

If the Scottish Government’s Hate Crime and Public Order Bill is passed unchallenged, some religious scriptures could be viewed as ‘inflammatory’ themselves, especially when they incite hatred and violence against ‘non-believers’.

We oppose the controversial clauses in this Bill and urge the Scottish government to withdraw them or Scotland will be transformed into one of the most hostile places for free speech in Europe.

Network of Sikh Organisations 17 September 2020

ⁱ <https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2020/04/hate-crime-bill-what-it-will-do/documents/hate-crime-bill-general-overview-note/hate-crime-bill-general-overview-note/govscot%3Adocument/Hate%2BCrime%2BBill%2B-%2BDraft%2BInformation%2BNote%2B-%2BGeneral%2BOverview%2B-%2BRevised%2BJune%2B2020.pdf>

ⁱⁱ Ibid.

ⁱⁱⁱ Ibid.

^{iv} <https://www.pressandjournal.co.uk/fp/news/politics/scottish-politics/2338172/jk-rowling-could-end-up-in-the-dock-if-new-hate-crime-laws-are-passed-critics-warn/>

^v <https://www.spectator.co.uk/article/could-scotland-s-hate-crime-bill-make-depictions-of-mohammed-illegal->

^{vi}

<https://static1.squarespace.com/static/599c3d2febbd1a90cffdd8a9/t/5bfd1ea3352f531a6170ceee/1543315109493/Islamophobia+Defined.pdf>

^{vii} https://spf.org.uk/new-hate-crime-bill-could-devastate-police-relationship-with-the-scottish-public/?utm_source=rss&utm_medium=rss&utm_campaign=new-hate-crime-bill-could-devastate-police-relationship-with-the-scottish-public

^{viii} <https://twitter.com/RadioClydeNews/status/1305120257699446784>

^{ix}

<https://static1.squarespace.com/static/599c3d2febbd1a90cffdd8a9/t/5bfd1ea3352f531a6170ceee/1543315109493/Islamophobia+Defined.pdf>

^x https://twitter.com/holland_tom/status/1128756384537956352?lang=en

^{xi} <https://www.thetimes.co.uk/article/sikh-peer-leaves-bbc-radio-4-show-with-swipe-at-thought-police-m3vcjg77w>

^{xii} https://www.parliament.scot/S5_JusticeCommittee/Inquiries/JS520HC417_Free_Presbyterian_Church.pdf

^{xiii} *Ibid.*