

Freedom of expression: FAQ

Should speech that may offend religious people be censored?

Article 10 of the European Convention on Human Rights protects *"...not only the information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also those that offend, shock or disturb; such are the demands of that pluralism, tolerance and broad-mindedness without which there is no democratic society."*

Our vision for a secular democracy is underpinned by the right to free speech. Without this, democracy cannot exist. Therefore, religion must not be returned to a place of special protection, where it cannot be satirised, ridiculed or criticised. This would amount to a return of blasphemy laws.

Such restrictions on free expression are increasingly [called for](#) under the guise of protecting 'community cohesion' or 'community relations,' and many religious figures and political leaders (including [Pope Francis](#) and former [President Obama](#)) have argued that free expression should only be exercised where it will not aggravate religious sensibilities. This argument must be rejected emphatically; free expression is a fundamental principle of a free, democratic, secular society, and we must not return, through the backdoor, to the type of society where religion is exempt from criticism, ridicule and satire.

There is often confusion between respect for individuals and respect for beliefs. While respect for the rights of the individual is enshrined in law, beliefs and organisations do not and should not automatically command respect in a democracy. The weapon of taking offence is increasingly being used against freedom of expression, along with claims of bias or persecution, partly because it is hard to challenge such a subjective response. People or groups who claim the right not to be offended often demand the right to offend others in the expression of their beliefs, moral values and so on.

As well as being subjective, offence is also mutable. As the Parliamentary Assembly of the Council of Europe points out: *"What is likely to cause substantial offence to persons of a particular religious persuasion will vary significantly from time to time and from place to place"*.

It also states that: *"The Assembly is of the opinion that freedom of expression (...) should not be further restricted to meet increasing sensitivities of certain religious groups"*.

Importantly, claiming offence and demanding respect cannot be acceptable when claims are made by cultures that violate basic human rights.

The European Court of Human Rights' guide to the implementation of Article 10 of the European Convention on Human Rights states: *"Those who choose to exercise the freedom to manifest their religion, irrespective of whether they do so as members of a religious majority or a minority, cannot reasonably expect to be exempt from all criticism. They must tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrines hostile to their faith."*

The necessary limits to freedom of expression are well understood in international law but attempts to further limit this freedom beyond a prohibition on incitement to hatred and violence run counter to the rights enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In addition, the European Court of Human Rights states that there are no grounds for affording better protection to the institutions than to individuals.

The crime of religiously aggravated offence introduced in the UK in 2006 represents a new kind of blasphemy law; the crime of religiously aggravated insulting behaviour carries a sentence of up to seven years in prison. Professional offence-takers in religious communities have already begun to exploit this new avenue of restricting criticism and comment about their beliefs. A blasphemy law became effective in Ireland in 2010.

Should speech that may provoke violence from religious extremists be censored?

Freedom *from* discrimination or censorship and freedom *to* communicate is vital in a democracy in debate, reportage, creative media and any public arena.

Media organisations must have the liberty to publish material (or not) as they see fit. But self-censorship under the threat of violence is not an exercise of free choice.

The state should fully commit itself to defending those who decide to make use of their fundamental human rights to free expression and speech, regardless of whether individuals' substantive use of their right is seen by some as 'inflammatory' or 'provocative'. These arguments amount to blaming victims for violence directed at them. The state must defend these individuals.

Instead, we have seen art exhibitions cancelled after the police made unreasonable demands for financial compensation for security. The state must incur the financial cost of defending free speech, as it does unequivocally in France.

Death threats against Salman Rushdie are widely seen as the start of the current malaise in the UK. Those responsible were allowed to go unpunished while Rushdie was castigated and vilified. This sends a signal that restricting others' freedom of expression can be carried out with impunity and that religion is off limits for debate or criticism.

How are religious and nonreligious views being censored?

Believers in any one religion are not a homogeneous mass. A vocal minority – frequently extremists – often claim to speak for whole communities. Equally, there is no one nonreligious culture; non-believers are as diverse as believers.

One of the growing causes for concern is that these diverse voices of the non-religious are either not being heard or are not equally valued: religious voices are claiming their right to freedom of expression but at the cost of non-religious voices being silenced. Claims of bias or persecution are used to silence debate or to steer it into areas non-critical of religion, particularly in its more extreme forms. It is these that are the greatest threat to social cohesion, equalities and free expression. And it is these most in need of being brought into open public debate.

In 2008 the UN Special Rapporteur on Freedom of Religion or Belief noted that laws protecting religious citizens are inherently discriminatory against atheists, non-theists, and religious sceptics because they protect religion as opposed to belief or conscience and their expression.

There is also the risk of a hierarchy of values with the most orthodox religious considering theirs the truest or most important and those of the non-religious either a pale imitation or non-existent – and therefore not worthy of respect or discussion. The potential result is a homogenised, sanitised universal culture that either gives offence to none or is controlled by the most vocal and powerful group whatever the rest of the populace may want or believe.

How can we challenge hate speech?

A vibrant civil-society with robust freedom of expression is best placed to challenge hateful speech, discrimination and sectarian bigotry. Free speech organisations have an important role in this.

In a liberal, secular society individuals should be afforded respect and protection, ideas should not. While we must always defend the right to criticise any religion or belief, a secular society is meaningless if it does not protect the rights and dignities of people of all faiths and none. While some may seek to shield religion from any criticism, we must also be wary of criticism used as a cloak for bigotry.

Should religious people have an absolute right to proselytise wherever and whenever they wish?

There are increasing incidences of religious groups or individuals claiming their right to proselytize as freedom of expression. For example, the Christian GP Richard Scott who [claimed](#) it was his right to preach to his patients. In this case, the General Medical Council disciplined him for infringing on his patient's rights and breaching best practice guidelines. While expressing religious views is a right, it is one limited by context and by whatever other rights it may impinge on.

What is the NSS position on anti-Muslim bigotry and 'Islamophobia'?

The National Secular Society opposes sectarianism, bigotry and discrimination against individuals or groups because of their religion. Secularists strongly oppose discrimination or privilege on the grounds of religious or non-religious beliefs, or perceived beliefs.

Our mission is to challenge religious privilege and discrimination. This is essential to protect the Human Rights of individuals of all religions and beliefs, including Muslims, and we hope to work positively with individuals and groups of good conscience regardless of their religion or beliefs to further this mission.

Anti-Muslim groups may attempt to link their prejudice to legitimate secular concerns, however secularists do not oppose one form of religious privilege when it is afforded to Muslims while

supporting similar privileges for other groups. For example an anti-Muslim group may oppose a Muslim faith school, but that would be quite different to a principled secularist position against faith schools.

Anti-Muslim bigotry, directed against individuals or "Muslims" as a whole, is distinct from (even discourteous) criticism of Islamic ideas, ideology or practices and can be directed against anyone perceived to be Muslim regardless of their religious or ideological views.

In a liberal secular society individuals should be afforded respect and protection, ideas should not. Secularists reject the idea that any set of beliefs should be privileged or protected from criticism. For this reason we have concerns over the use of the term "Islamophobia". Accusations of 'Islamophobia' have been used to silence debate about (and within) Islam, to justify religious privilege, to justify religious violence and even to argue against showing solidarity with Muslim victims of Islamist violence.

Far from combatting prejudice and bigotry, erroneous cries of 'Islamophobia' have in fact become a cover for it. LGBT rights campaigners have been called 'Islamophobes' for criticising Muslim clerics' views on homosexuality. Ex-Muslims and feminist activists have been called 'Islamophobes' for criticising certain Islamic views on women. Even liberal and secular Muslims have been branded 'Islamophobes'

Anti-Muslim bigotry seeks to present Muslims as a monolithic block sharing the same beliefs. This plays into the hands of Islamists, who seek to present themselves as the genuine and definitive voice of Muslims.

Secularists uphold individuals' rights to interpret their beliefs as their conscience dictates. We reject 'religious policing', when groups insist that their interpretation of a religion should be privileged and define who is a 'real' member of a religious group.

Islam like any other religion or belief system is a diverse and evolving ideology. While some Islamic beliefs may conflict with secularism and liberal values, there is no reason why individual Muslims and Muslim groups cannot reconcile the values of secularism and Human Rights with their own beliefs. Indeed, around the world secular and progressive Muslims are often on the frontline of challenging Islamism.

Many Muslims face discrimination and bigotry and may be victims of racism. Some far right groups use Islam and Muslims as code words for non-white to further their deeply anti-secular identity politics. However, erroneous accusations of racism should not be allowed to silence legitimate criticism and debate about (and within) Islam. Doing so leaves a gulf which is filled by anti-Muslim bigotry and helps extremists from both sides put forward a monolithic view of Muslims.

Finally, we are wary of conflating **Islamism** with Islam or Muslims. Such conflation can be used either to promote anti-Muslim bigotry, or to protect Islamism from criticism through erroneous accusations of 'Islamophobia'.

Islamism describes a range of religiopolitical ideologies characterised by:

- The belief that specific interpretations of Islam are definitive, should guide social and political decisions and should be privileged/enforced through violence, state policy or severe social pressure.
- Extreme hostility to apostates and Muslims with different interpretations of Islam, especially when they are perceived as liberal, progressive or secular.

- Explicit anti-secularism, coupled with the claim that secularism and Islam are incompatible.
- Extreme hostility to Human Rights and free expression where they contradict with the Islamists' preferred interpretation of Islam.
- The desire to establish a caliphate as a real world political entity governed by Islamic law.
- Extremely reactionary attitudes towards women and LGBTQ people – based on an interpretation of Islam.

"Phobia language, including "Islamophobia" and "Christianophobia", has been used in some international human rights fora. This emphasises "feelings" rather than "actions", whether or not a human right has actually been violated. Human rights allows restrictions on inciting hatred against religious (or non-religious) believers, but it also requires a proper balance to be struck to safeguard freedom of expression. It is therefore important to ensure that freedom of religion or belief itself, not feelings about it, remains the primary focus of concern."

- Foreign & Commonwealth Office Freedom of Religion or Belief Toolkit

What is the NSS position on the burka and niqab?

The National Secular Society has serious concerns about the wearing of the burka (full veil with face covering) or niqab (face covering), relative to their symbolic role and the subjugation of women; their making an issue of female gender and sexuality; their potential to cover-up evidence of abuse; and their potential to hinder a woman's communicative abilities and integration within civil society.

These concerns notwithstanding, the NSS does not support attempts to legally ban the burka or niqab. We oppose a general 'burka ban' two grounds of principle: a woman's right to choose what she wears, i.e. her right to free expression; and her right to religious freedom.

An individual's right to express herself and to freely practise her religion constitute two of the fundamental principles upon which the NSS's ideal of secularism is based. We reject any legal interference with these principles, provided their realisation does not unjustifiably undermine the rights and freedoms of others.

The NSS sees as unjust and paradoxical, any attempt to promote freedom for women by limiting their freedom to dress and practice their religion in the way that they choose. Forcing a woman not to wear a burka or niqab contravenes a woman's right to choose in the same way that forcing her to wear one does; both cases represent an attempt to control the woman and dictate how she should express herself.

A law which prohibits the burka and niqab also punishes the very women society is seeking to liberate. The NSS takes the position that if a woman is being forced to wear the burka or niqab, the person forcing her to do so should be punished – not the victim of that enforcement.

The NSS is also concerned that a prohibition on the wearing of the burka and niqab would serve to further alienate women already on the margins of mainstream society. Furthermore, imposing a burka/niqab ban could exacerbate tensions between various communities in the UK and merely encourage some women who had not previously worn the burka or niqab to do so in protest or on principle.

The NSS condemns any view that rejects women as equal to men and abhors violence and harassment against women.

We recognise that the European Court of Human Rights has upheld the French ban on face coverings, accepting the argument of the French Government that the law was based on "a certain idea of living together".

Nevertheless, in a British context we are not convinced that the banning of the burka would aid social cohesion.

Instead, we urge the government to put greater focus on the creation of mechanisms designed to help women escape subjugation and domestic abuse, leave oppressive family structures without the fear of violent reprisals, as well as equip them with tools to better integrate within society and ensure their autonomy.

Whilst the NSS does not support a general ban on the wearing of the burka and niqab, religious freedom is not absolute and should be limited proportionally in response to legitimate security concerns. The state has every right to ensure that a woman removes her burka or niqab for security purposes where necessary. Thus, we would support any requirement to remove a full veil in places such as airports or for the purposes of identification.

Likewise, where there are legitimate security concerns, legal identification requirements, or a reason why the ability to communicate unhindered is considered paramount, we fully support the right of public institutions to implement their own policies restricting face coverings.

Schools

In the interest of protecting young girls from being compelled to wear the burka, we consider it appropriate to prohibit the wearing of the burka/niqab in schools.

School leaders who consider face coverings to be an impediment to good communication in the classroom should be fully supported in implementing uniform policies prohibiting them. We would however urge the Government to legislate on this rather than leave it to individual schools.

Courts

We regard it as a component of a fair trial in the UK that under ordinary circumstances all participants should be seen. It therefore follows all individuals taking part in courtroom proceedings, irrespective of their religion, race or gender, must be plainly and publicly identifiable.

We are opposed to any privileging of religion in court rooms. Either all people have the right to cover their faces while participating in court proceedings, or they do not. It is clearly unacceptable to have individuals wearing masks, for instance. Given this, we believe it would be injurious to grant a religious exemption and privilege allowing some people to cover their faces for religious reasons but not others. Religious sensitivities must not be allowed to obstruct the legal process.

We therefore maintain that face coverings should not be allowed in court proceedings, whether civil or criminal. This should apply regardless of whether someone is giving evidence or not, or serving as a Juror, Judge, Barrister or Solicitor.

We believe there is a need for clear central guidance to avoid individual judges having to make his own or her own decisions whenever the matter arises.