

Hate crime bill threatens free speech on religion, NSS tells minister

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Plans to introduce a new offence in [the Scottish government's hate crime bill](#) pose a threat to free speech on religion, two secularist groups have told the justice secretary.

In a joint letter to Humza Yousaf, the National Secular Society and the Edinburgh Secular Society (ESS) have criticised a new offence of 'stirring up hatred' on religious grounds.

The letter questioned the necessity of introducing such an offence. It also raised particular concerns over the threshold for criminality and the weakness of a clause in the bill which is designed to protect free expression.

Letter criticises threshold for conviction

The bill could see people convicted of the offence if their behaviour is "threatening or abusive" and either intended to stir up hatred against a religious group or "likely" to do so.

The letter said the inclusion of the word "abusive" in the law "poses a serious risk to freedom of expression by promoting the idea that there should be a right not to be offended".

"It risks capturing a vast array of speech and will create an unreasonable expectation that religious sensibilities are protected by something akin to a blasphemy law."

The letter also criticised the fact that there would be no requirement to prove intent to secure a conviction.

"Because of the potential adverse impact on freedom of expression, including the chilling effects of the new offences in encouraging self-censorship, we believe it necessary for the prosecution to prove criminal intent."

Letter criticises weak free speech protection

A clause designed to protect free expression in the bill would prevent people from being convicted "solely on the basis" that behaviour or material "involves or includes discussion or criticism of religion or religious practices".

The letter said this provision was "substantially weaker" than its equivalent in England and Wales's Racial and Religious Hatred Act. A clause in that act says the law won't be given "effect" in a way that restricts criticism of religion.

The NSS and ESS's letter said: "If stirring up offences are introduced the freedom of expression protection clause must be strengthened to avoid seriously chilling free speech."

Additional notes on letter

- The letter noted that the Criminal Justice and Licensing (Scotland) Act 2010 already outlaws threatening or abusive behaviour against anyone where such behaviour would be likely to "cause a reasonable person to suffer fear or alarm".
- The letter also welcomed plans within the bill to [abolish Scotland's blasphemy law](#).

NSS comment

National Secular Society CEO Stephen Evans said: "The Scottish government's plans to outlaw 'stirring up hatred' on religious grounds are unnecessary and pose a threat to freedom of expression.

"This bill will make it too easy to secure convictions on vague grounds, while worsening a climate of censorship and self-censorship and wasting police time.

"We urge the justice secretary to reconsider whether 'stirring up hatred' on religious grounds should be an offence at all. If he still concludes that it should, the bill will need to be amended to ensure the offence is narrowly defined and free speech is adequately protected."

ESS comment

Neil Barber, Edinburgh Secular Society's communications officer, said: "We applaud the Scottish government's concern for equality and the protection of minority groups but its proposed restriction on free speech concerning religion is flawed.

"A personal choice of religious philosophy may be quite peculiar to the individual and is very different from the immutable characteristics of race, disability or sexual orientation.

"Open and honest debate will be intimidated by a law protecting religious ideas from 'abuse' and criminalising 'the likelihood of stirring up hatred', which seems to bypass intent."

The ESS campaigns on secularist issues in Scotland and is [affiliated to the NSS](#).

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