

THE TROUBLE WITH RELIGIOUS HATRED LAWS

Religions and their followers should receive no special protection from spoken hostility, argues **Steve Edwards**

Freedom of speech and conscience are invaluable and timeless principles. Thomas Paine summarised them crisply in the eighteenth century, in the introduction to *The Age of Reason*:

I have always strenuously supported the Right of every Man to his own opinion, however different that opinion might be to mine. He who denies to another this right, makes a slave of himself to his present opinion, because he precludes himself the right of changing it.

Governments should play very little or no role in determining what people are allowed to say and hear, regardless of whether this may be ‘offensive’ to the traditional enemies of liberty—primarily religious fanatics—or to those of a weaker ‘moderate’ disposition who would passively give up ‘their’ freedom (and ours too) to buy a little peace and quiet. Yet today there are few legal or moral principles that have come under greater sustained attack.

Under the guise of maintaining ‘religious harmony,’ Western governments are being pressured by a worldwide coalition of United Nations bureaucrats, third-world tyrannies, and ‘progressive’ academics and think tanks into passing legislation with the aim of criminalising the ‘vilification’ and even ‘defamation’ of religions—mainly Islam—and their followers. The instigators of this global confederacy are not arguing for anything particularly new or interesting, yet their goal would reverse hundreds of years of intellectual

development in the pursuit of an unnecessary and unattainable ‘social peace,’ signed on the terms of theist zealots. As freedom of speech and conscience arguably provided and still provide the foundations of limited, anti-despotic government—and indeed the necessary breathing space for some of the most important social advances in the past two centuries, with entire nations and even civilisations climbing out of obscurantism and penury—it could be argued that the Enlightenment legacy itself is now under threat.

The accused

The list of people who have been prosecuted or censored for various speech crimes against religion and religious believers has grown at an impressive clip in recent years.

In 2005 and 2006, British National Party leader Nick Griffin was twice placed on trial, at great expense to himself and to British taxpayers, for ‘inciting racial hatred’ through comments he made in a speech that Islam was ‘a wicked, vicious faith.’ In the wake of Griffin’s subsequent acquittal, then-chancellor Gordon Brown said ‘mainstream opinion in this country will be offended by some of the statements that they have heard made,’ and called for a tightening of Britain’s ‘racial hatred’ laws.¹

Steve Edwards has written on religious vilification and freedom of speech in several recent issues of *Policy*.

In 2006, the Swedish foreign minister, Laila Freivalds, resigned after it was discovered that her department had pressured a web-hosting company into shutting down a site that was about to display a set of anti-Muhammad cartoons.²

In 2007, a demonstration planned to take place in Brussels to promote the 'single aim of preventing Islam becoming a dominant political force in Europe' was banned by the city mayor, Freddy Thielemans, on the pretext that to allow the rally, organised by a coalition called Stop the Islamisation of Europe, to go ahead would 'disturb public order.'³

Earlier this year, Susanne Winter, a sitting member of the Austrian Parliament, was indicted on charges of 'incitement and degradation of religious symbols and religious agitation,' after calling the prophet Muhammad a 'warlord' and 'child molester,' on account of Muhammad's famous betrothal and marriage to a nine-year-old girl. She also referred to Islam as 'a totalitarian system of domination that should be cast back to its birthplace on the other side of the Mediterranean' and warned that Austria may soon have a majority Muslim population unless immigration policies are changed. If convicted, she will face two years in prison.⁴

In May this year, ten police officers arrived at the residence of a Dutch cartoonist known by the pseudonym Gregorius Nekschot and confiscated 'his computer, backups, usb sticks, mobile phone and a number of drawings' after a rigorous search. He was arrested and detained for thirty hours, and is currently under investigation for 'publishing cartoons which are discriminating for Muslims and people with dark skin.' If convicted, he could face up to two years in prison.⁵

In another cartoon-related controversy, Ezra Levant, the publisher of former print magazine the *Western Standard* (now online-only), was brought before the Alberta Human Rights Commission and Citizenship Commission on a hate-incitement complaint following the magazine's decision to republish, in February 2006, the controversial Muhammad cartoons that first appeared in Danish newspaper *Jyllands-Posten* on 30 September 2005.⁶ One of the two complainants, Islamic Supreme Council of Canada president Syed Soharwardy, eventually withdrew his case having paid no legal

fees whatsoever. Levant must still answer to a virtually identical proceeding initiated by the Edmonton Council of Muslim Communities, which accuses the *Western Standard* of 'clearly (promoting) hatred against all Muslims by demonizing our Prophet and therefore, our religion.'⁷ Once again, this will come at no cost to the Council. As the *Calgary Herald* notes, 'human rights complaints are free to the complainant, but defendants are obliged to fund their own counsel.'⁸

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More recently, the conservative Canadian writer Mark Steyn and *Maclean's* magazine, a major newsweekly, were the joint target of an 'anti-hate' case filed in the Canadian, British Columbian, and Ontarian human rights commissions. The last of these refused to hear the complaint, citing a lack of jurisdiction, while the first ultimately dismissed it following weeks of bad press. The complainants were members of the Canadian Islamic Congress, which took offence over a series of articles published in the magazine on topics relating to Islam and Muslims.⁹ One article by Steyn, titled 'The Future Belongs to Islam' (actually an excerpt from his book *America Alone*), was the object of particular 'offense' on the part of the aggrieved Muslims.

In his article, Steyn claims that the Western world is facing a demographic crisis due to a sharp drop in birthrates. This is leading to an aging and declining native European population, supported by an unaffordable welfare state. At the same time, according to Steyn, most Western countries now contain a Muslim minority population that is youthful and rapidly growing due to immigration and higher birth rates. Thus, a 'fast-moving demographic transformation' is bringing enormous cultural changes to traditional Europe. The key question for Europeans, Steyn informs us, 'is whether the primary identity of their fastest-growing demographic is Muslim or Belgian, Muslim or Dutch, Muslim or French.'¹⁰

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The reader is left in no doubt as to the likely answer. Steyn quotes Libyan leader Colonel Gaddafi's predictions that 'the fifty million Muslims of Europe will turn it into a Muslim

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continent within a few decades.' In addition, Steyn cites a Norwegian imam who boasted that 'the number of Muslims is expanding like mosquitoes ... our way of thinking will prove more powerful than yours.'¹¹ According to the complaint against *Maclean's*, Steyn allegedly implied that Muslims 'are part of a global conspiracy to take over the West,' and thereby subjected Canadian Muslims to 'hatred and Islamophobia' through his writings, as prohibited under Canadian law.¹²

Steyn's suggestion that any demographic transformation of Europe would be a 'bloody' and 'destabilizing' affair *could* potentially incite some hatred. Yet if saying so ought to be against the law, one wonders where that would leave British rear admiral Chris Parry, a senior military strategist, whose report to high-ranking defence officials at a Royal United Services Institute conference in June 2006 warned that mass immigration could lead to large-scale 'reverse colonisation' on European soil by 'large immigrant groups with little allegiance to their host countries,' with potentially violent side-effects.¹³

The British Columbia Human Rights Commission has already held several days of hearings on the *Maclean's* case, and a ruling is still pending at the time of writing.

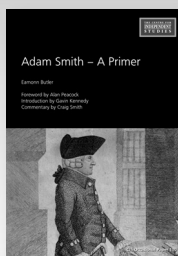
As controversial as these people may be, none were charged with inciting violence or threatening anyone—unlike the proprietors of the Grand Mosque of Stockholm, who in 2005 openly distributed audiotape recordings comparing Jews

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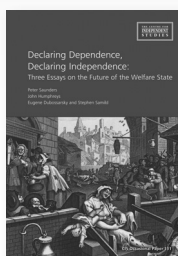


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to apes and pigs and calling for their extermination. Despite admitting that the tapes contained ‘statements that are strongly degrading to Jews,’ and that the recorded lectures openly call for ‘jihad’ to ‘kill the Jews,’ the Swedish government’s Chancellor of Justice, Goran Lambertz, refused to pursue an investigation of the matter on the grounds that the incendiary recordings ‘must be viewed in light of the historical and present conflict in the Middle East’ and therefore ‘should be judged differently.’¹⁴

There have been, however, many prosecutions—often adequate in themselves for the purpose of ‘chilling’ free speech—and convictions for ‘inciting religious hatred’ across Western countries, including Australia. But the pace seems to have been too sluggish for the United Nations, the Organisation of the Islamic Conference (OIC), and other assorted groups.

In March this year, the United Nations Human Rights Council adopted a resolution drafted by the OIC urging states to ban the dissemination of ‘racist and xenophobic ideas and material aimed at any religion or its followers that constitute incitement to racial and religious hatred’ by providing legal protection against ‘acts of hatred, discrimination, intimidation and coercion resulting from the defamation of any religion.’ Interestingly, the resolution also claimed that the ‘respect of religions and their protection from contempt’ is an ‘essential element’ in defending the right of freedom of expression.¹⁵ Yet despite demanding that *religions* in the plural should be respected and protected, the only religion mentioned by name in the entire document was Islam.

This came on the back of similarly-worded resolutions in the UN General Assembly, particularly Resolution 62/154, passed in December 2007, which also called for the prohibition of religious defamation and hatred and demanded that all states ‘promote tolerance and respect for religions and beliefs.’¹⁶ This is certainly something of an escalation from article 20 of the *United Nations Covenant on Civil and Political Rights*, which states that any ‘advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.’ In February 2006, in the aftermath of the *Jyllands-Posten* Muhammad cartoon controversy, a joint statement was

published by representatives of the UN, the OIC, and the European Union, proclaiming that ‘freedom of the press entails responsibility and discretion, *and should respect the beliefs and tenets of all religions*’ (emphasis added).¹⁷

On the link between speech and action

It is not difficult to find advocates of laws against religious hatred and even religious defamation in the halls of academia, politics, and journalism. Former Canadian diplomat and federal human rights commissioner, Maxwell Yalden, has declared, ‘After two disastrous world wars and the horrors of the holocaust, we are surely obliged to judge rather differently the anything-goes theory of free speech.’¹⁸

There is little historical basis to the claim that the Weimar Republic was a bastion of free speech, tragically overwhelmed by unfettered Nazi agitation.

Victorian human rights commissioner, Helen Skoze, concurs. According to Skoze, racial and religious hatred can have ‘serious emotional and psychological effects,’ can lead to ‘physical violence,’ and was a factor in ‘the systematic annihilation of Jews in Nazi Germany.’ For this reason, Skoze agrees, in line with existing Victorian legislation, that we should not be allowed ‘to actively promote hatred *of another religion* and its followers’ (emphasis added), except for certain artistic and other intellectual purposes.¹⁹ Despite holding a more nuanced position on the virtues of anti-hate laws, Associate Professor Caroline Evans, of Melbourne University’s Centre for Comparative Constitutional Studies, argues that ‘the world’s great atrocities are preceded by words of hate,’ and proceeds to list Rwanda, Yugoslavia, and Nazi Germany as examples of where hate speech has led to mass killings.²⁰

There is, in fact, little historical basis to the claim that the Weimar Republic was a bastion of free speech, tragically overwhelmed by unfettered Nazi agitation. Paragraph 166 of the Weimar Criminal Code stated ‘whoever publicly insults

one of the Christian churches or *another existing religious society* with rights of corporation in the federal jurisdiction, its institutions, or customs ... will be punished with a prison term of up to three years' (emphasis added).²¹ This included hate speech against Jews, and there were plenty of such convictions under Paragraph 166 and other provisions. For example, the oft-prosecuted Nazi publisher Julius Streicher (author of the anti-Semitic weekly newspaper *Der Sturmer* and a contemptible and marginal individual widely hated by his own party colleagues), was handed a two-month prison sentence in 1929 for 'libelling the Jewish religion under Paragraph 166 of the Weimar Penal Code.' As a result of the jail sentence, 'Streicher's racial views received more publicity than if *Der Sturmer* had been allowed to publish unchallenged ... within weeks of the verdict, the Nazi Party tripled its 1927 vote in the Thuringian Landtag elections'—an outcome that should give pause to any aspiring censors.²²

Do anti-discrimination activists consider the incitement of hatred as defensible and even laudable so long as the intended victims are bourgeois?

These historical problems aside, for argument's sake let us accept that hate speech 'leads' to mass murder, as the hate-speech censors would have it, albeit in a fairly indirect way. Certainly, it is questionable how much confidence the censors have in our harmonious society if hate-speech laws are supposed to be the main hope in forestalling this dire scenario. And yet, no rational or moral grounds have been provided for terminating an investigation of the link between spoken hatred and violence, or even genocide, at merely 'racial' or 'religious' causes. As Skoze has stated elsewhere, 'Racial and religious discrimination is not the only form of discrimination or vilification.'²³

Marxist ideologues such as Martin Latsis, chairman of the Ukrainian Cheka during the Bolshevik Revolution, clearly incited hatred and indiscriminate violence against people on the basis of their social class in the Red Terror

of 1918. According to Latsis, whether or not a suspected counterrevolutionary actually 'rose up against the Soviets with arms or words' was of secondary importance to 'what class he belongs to ... his origin, education, profession.' Latsis concluded, 'These are the questions that will determine the fate of the accused.'²⁴ High-ranking Soviet leader Grigory Zinoviev went even further when he proclaimed, 'We must carry along with us 90 million of the 100 million Soviet Russian population. As for the rest, we have nothing to say to them. They must be annihilated.'²⁵

This incitement of hatred or envy against people (particularly capitalists) on the basis of class would serve as the template for future Marxist regimes and parties, most notably the Khmer Rouge, who ruled Cambodia between 1975 and 1979. According to survivors and eyewitnesses, the Khmer Rouge divided and categorised the entire population into two classes: the 'old people' consisting of 'villagers, the farmers, and the uneducated,' who formed the party's rural support base; and the hated 'new people' comprising practically everyone else, including capitalists, intellectuals, professionals, the middle classes generally, and even 'people who wore glasses.' The 'new people' were thus slated for enslavement and extermination. As a survivor recounts, 'the Khmer Rouge built animosity and jealousy into (the old people) so the killings could be justified.'²⁶ The rest is history. One of the most brutal dictatorships in the twentieth century, the Marxist Cambodian government was responsible for the deaths of at least 1.67 million people—over a fifth of the population.²⁷

Accepting the logical template of those who advocate prohibitions on 'hate speech,' and given the abominable record of the Khmer Rouge and countless other movements and regimes of a similar ideological hue, including some within the West itself, one could equally make a case for banning all statements that are likely to incite hatred or envy on the basis of class or ownership of private property. To do otherwise is to effectively tolerate violence against a section of society. Indeed, just as the Belgian Supreme Court banned the popular Flemish nationalist party, *Vlaams Blok*, in 2004, we could go further by declaring all radical egalitarian movements to be outside the range of

legally permissible political positions.²⁸ Or do anti-discrimination activists consider the incitement of hatred as defensible and even laudable so long as the intended victims are bourgeois?

Let us return to the oft-cited 1994 Rwandan example, of ‘hate speech’ against a vulnerable minority group leading to genocide. It must be noted that in addition to murdering hundreds of thousands of ethnic Tutsis, with the full backing of the Rwandan state, the machete-wielding Hutu *génocidaires* also exterminated tens of thousands of moderate Hutus who opposed the regime. Indeed, something similar was true of Nazi Germany, where communists, socialists, and social democrats were targeted along with Jews, Poles, and gypsies.

Few anti-hate-speech activists have drawn the lesson here that political vilification has been an equally prevalent ‘cause’ of violence—the French Revolution and contemporary Zimbabwe being particularly brutal examples—and should logically warrant the same legal penalties as any other form of vilification. The other lesson is that of the countless societies that have been rent by different kinds of hatred over the years, only those that have allowed the government to assume unlimited or unaccountable powers, or that have downgraded or failed to protect individual rights (such as free speech, the right to property, and the right to self-defence) at the whim of the mob have gone on to produce the systematic collectivist violence that can lead to mass murder.

Australia is not immune from incidents of political vilification or related violence. For example, the widespread contempt and ridicule heaped on Pauline Hanson and her followers by sections of the Australian media could be fingered as the ‘real cause’ behind the bashing of the then fifty-nine-year-old Keith Warburton, who was knocked unconscious by ‘anti-fascist’ demonstrators outside a One Nation meeting in Dandenong in 1997.²⁹ There *may* even be more controversial, but no less deserving, beneficiaries of anti-hate legislation, such as released ex-paedophiles. A few will undoubtedly go on to be peaceful and law-abiding citizens after having paid their debt to society, but they will invariably be the target of near-unanimous community hatred, harassment, and even violence once their identity is uncovered.

Based on the very arguments of those who support anti-hate laws, there are, in fact, no logical or moral grounds *not* to abolish all the special ‘racial’ and ‘religious’ provisions of these laws, leaving only a universal anti-hate law that prohibits all statements that are deemed to incite ‘hatred,’ ‘contempt,’ or ‘ridicule’ against anyone, for *any* reason, with no unprincipled exemptions whatsoever.

Few anti-hate-speech activists have drawn the lesson that political vilification has been an equally prevalent ‘cause’ of violence.

Let us therefore permit the advocates of religious hate-speech laws to take a more narrow tack. The laws and conventions against ‘hate speech’ state clearly that one must not ‘incite’ hatred against other people, as if an emotion were analogous to a crime. Leaving aside the fairly uncontroversial and easily enforced notion that individuals should not have to suffer from harassment or physical violence on *any* grounds—which in fact covers practically *all* of the claimed ‘effects’ of hate speech anyway—do people really have a ‘right’ to be free from hatred?

For this right to have any meaning it must be upheld consistently, with no unprincipled and immoral exceptions allowed. Otherwise, we will open ourselves up to the charge that our original concern about people’s fragile psyches was disingenuous. The problem is that so long as humans have conflicting economic and social interests it will be impossible to stamp out hatred in public or in private. Any attempts to do so will be at once totalitarian and hypocritical. We are thus dealing with an arbitrary, meaningless, and unachievable ‘right’ tacked on to an ever-lengthening human-rights wish list.

A ban on religion to protect religion?

The logical incoherence and hypocrisy of anti-hate laws is embodied in the fact that the chief if not sole beneficiaries are meant to be minority *religious* groups such as Muslims. The previously mentioned Helen Skoze has claimed that ‘given the current state of what is happening globally,

these laws are really important to people of Muslim belief.³⁰ Or as the co-presidents of the Canadian Jewish Congress put it, ‘the state has a fundamental role to play in protecting vulnerable minorities from hate speech and the harmful impact of hate.’³¹

It has been shown that many leading human rights bureaucrats and bodies (to say nothing of those agitating for the censorship of blasphemy) would censor any spoken hatred of both a religion *and* its followers. Yet it is not immediately obvious *why* either a particular religion *or* its followers should merit *any* statutory protection from ‘hate speech,’ especially as the same protection is denied to others.

There is no moral reason why ... ‘religious tenets’ or their followers should be accorded any particular ‘respect’ or legal protection from spoken hostility.

This legal hypocrisy is compounded by that of the moral kind when one considers that religions and religious ‘holy texts’ themselves partake in some of the vilest hate speech towards nonbelievers, without providing a single morally defensible reason for their incitement. For instance, Sura 22:19–22 of the Koran claims, without providing any evidence, that non-Muslims will have ‘boiling water’ poured over their heads, melting their skin and innards, while being ‘punished’ and terrorised with ‘hooked rods of iron.’ This horrific fate is not intended to be temporary: ‘Whenever, in their anguish, they would go forth from thence they are driven back therein and (it is said unto them): *Taste the doom of burning*’ (emphasis added). Sura 4:56 warns that ‘those who disbelieve our revelations’ shall suffer being ‘roasted’ alive. The punishment does not end there, for ‘as often as their skins are consumed, we shall exchange them for fresh skins that they may taste the torment.’ The passage concludes, ‘Allah is ever Mighty, Wise.’³²

One might brush off these lines about torturing unbelievers in a fiery eternal hell as a common form of religious expression that seeks to win converts by making them fear the after-life consequences of their heresy. Yet it is not clear why such passages should be granted

special protection, as they contain unprovable, unfalsifiable, and epistemologically worthless assertions that dehumanise those who don’t share them. Exalting in the extermination of another human being simply because they do not follow the ‘right’ brand of superstition is not a legitimate philosophical activity—and would never be considered as such in the absence of a religious pretext. Contra the UN, the EU, and the OIC, there is no moral reason why either these ‘religious tenets’ or their followers should be accorded any particular ‘respect’ or legal protection from spoken hostility.

This point takes on particular moral urgency when one considers the incitement to mass murder that is implied in Moses’ destruction of the Midianites, for example. In the book of Numbers, Moses implores, ‘kill every male among the little ones, and kill every woman that hath known man by lying with him.’ With regards to the ‘women children,’ Moses instructs, ‘keep them alive for yourselves.’³³

Thus, if we truly wish to ban religious hatred, we will have to ban religion itself. To do otherwise creates two classes of people: members of one may incite hatred and even violence against anyone they wish with legal impunity; members of the other must grit their teeth and say nothing in return for fear of being arrested by the hate-speech police. Ideally, of course, we should ban neither class from speaking their mind. People should exercise personal responsibility and restraint in a world where others do not necessarily care for or ‘respect’ their personal beliefs, especially ones that have no empirical basis. Yet we are reaching a point where not only are certain groups demanding and receiving the special right not to be ‘insulted’ by others, but also that belief systems themselves are now reaching for this very right on the pretext that to insult ideas is to insult those that hold them. Thus *ideas* (including defamatory and dehumanising notions) may now be granted rights that are simultaneously denied to whole classes of human beings.

Conclusion

There are several distinct forces currently at work in destroying the most valuable features—freedom of thought and conscience—of the post-Enlightenment Western world.

First, there is an unprincipled internationalism that favours integration and compromise for its own sake. This is embodied in institutions such as the UN, where merging or ‘standardising’ different systems and laws is assumed to be a self-contained goal.

Second, there is the tendency of domestic political institutions to view themselves as the protectors of ‘diversity’—another assumed objective in its own right—whereby any potential conflicts or contradictions between distinct groups are headed off by smothering individual liberties and rights and strengthening the hand of the state. Partly contained within this second force are feelings of postcolonial guilt and a desire to exact some vague form of historical justice or redemption by means of according special rights to ‘oppressed’ victim groups.

Third, there are the forces of ignorance and obscurantism, which exploit the weaknesses of the first and second tendencies in order to destroy any challenge to their hold over the minds of men and the territory of nations.

This devil’s bargain between cynical globalism and religious fanaticism will be one of the defining features of international politics in the years to come, bringing increasingly repressive consequences for the once-free nations of the West.

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