



The Association of
Muslim Lawyers (UK)

RELIGIOUS DISCRIMINATION: A CASE FOR LEGISLATION

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Earlier this year, I introduced a Private Members Bill in the House of Commons to make religious discrimination unlawful in employment and in the provision of goods, facilities and services, and to make provision for appropriate enforcement. The Bill also proposed new offences relating to incitement of hatred. Regrettably, sufficient parliamentary time was not available for the Bill to be fully considered and it did not progress as far as it may have done. Such a bill, however, is still important and necessary for a variety of reasons.

I cannot fault the previous government's submission to the United Nations in 1995, which set out, succinctly and boldly, a vision of an inclusive society. The submission said:

"It is a fundamental objective of the United Kingdom Government to enable members of ethnic minorities to participate freely and fully in the economic, social and public life of the nation, with all the benefits and responsibilities which that entails, while still being able to maintain their own culture, traditions, language and values. Government action is directed towards addressing problems of discrimination and disadvantage which prevent members of ethnic minorities from fulfilling their potential as full members of British society".

But what we need is action, not merely bold rhetoric. Under the Labour government, the twin aims of public policy are social inclusion and participation by all in a shared civic culture, combined with cultural pluralism. Bold statements alone will not achieve this. Its achievement requires issues of discrimination and disadvantage to be addressed and acted upon. The law currently deals with racial discrimination, racial abuse and racial harassment, which, regrettably, are facts of life for many of our citizens. Racial harassment occurs when someone abuses and assaults someone else because of their colour, race, nationality or ethnic or national origin, and laws, however inadequate, do exist to protect citizens from such harassment. Likewise, incitement to racial hatred is also a criminal offence. But what if the harassment, abuse or incitement is based not on colour, race, nationality, or ethnic or national origin, but on religion? There is no law and no protection.

The National Secular Society, among others, has expressed concern that my Bill may limit freedom of speech and expression. It is not my intention to make it more difficult for the religious beliefs and practices of any group to be open to critical scrutiny or rational discussion. My Bill would not extend the blasphemy laws, nor would it suppress the legitimate reporting of atrocities or gross violations of human rights carried out in the name of any religion. Freedom of speech and expression, and freedom of the press and other media are the sinews of our democracy, but they are not absolute rights without limits.

Critics of my Bill have argued that the existing laws are adequate to deal with the problem outlined above. But evidence published by the Runnymede Trust in its report, *Islamophobia – a challenge for us all*, clearly shows that the law is inadequate to secure the objective of an inclusive and pluralist society, as set out in the previous government's submission to the United Nations.

Some time ago the Commission for Racial Equality recommended changes in the law in respect of discrimination on grounds of religion and incitement to religious hatred. When these suggestions were put to

the previous Home Secretary, Michael Howard, he said: "I have yet to be convinced that legislation could be justified. So far, there is little hard evidence of discrimination against individuals on religious rather than racial grounds. But I can assure you that the Home Office remains ready to look at any other evidence".

I had hoped that the new Home Secretary would examine that evidence, which is so clearly set out in the Runnymede Trust's report. Various faith communities have expressed concern, particularly about the extent and nature of discrimination in this country against Muslims and the lack of legal remedies that would allow these problems to be tackled. The Runnymede report gives clear examples of the prejudice and discrimination that Muslims experience in their everyday lives. It describes Islamophobia as "*an ugly word for an ugly reality*" and as a growing phenomenon.

Hatred of Islam has existed in Western cultures for several centuries, but in recent years it has become more explicit, extreme and dangerous. It is an ingredient of all sections of our media, and results in many Muslims being excluded from the economic, social and public life of the nation.

The recommendations of the Runnymede report go further than my Bill would have done, not because of any disagreement with them but merely because of the time I had available for consultation and the drafting of the Bill. I had intended, for example, to include the placing of a statutory duty on local authorities to make appropriate arrangements to ensure that their various functions were carried out with due regard to the need to eliminate unlawful religious discrimination. This would have been broadly similar to *Section 71* of the *Race Relations Act*. Unfortunately it was not possible to include such a clause for technical reasons associated with the '*long title*' of the Bill. It would be possible to overcome this in any new Bill presented in the next session of parliament. My Bill addressed only the issues of discrimination in employment and the provision of goods and services, and incitement to hatred.

Estimates of the Muslim population in Britain vary, but the community is reliably thought to number between 1.2 million and 1.4 million. Whatever the correct figure, for the sake of members of that community as well as society as a whole, we cannot afford to allow Muslims to feel isolated and excluded from society.

The argument for legislation outlawing religious discrimination is broadly the same as that for legislation outlawing racial discrimination. First, a religious discrimination law would be a powerful symbol of public policy and would convey the important message that religious identities are valued and respected throughout society.

Secondly, there must be consistency. The *Fair Employment (Northern Ireland) Acts* have created an anomaly: Religious discrimination in employment is unlawful in one part of the United Kingdom, but not in Great Britain. A further anomaly has been thrown up by the House of Lords decision, which I welcome, that Sikhs constitute a racial group and are entitled to protection under the *Race Relations Act*. Similarly, Jews can rely on that Act, because, like Sikhs, they can be defined by their ethnic as well as their religious identity. No such protection is afforded to other religious groups, such as Hindus or Muslims, apart from some possible protection against indirect discrimination, which I refer to later. Consequently, in employment, except in Northern Ireland, an employer is free to discriminate against an employee on the ground of religion, and indeed this is often used as a cover for racial discrimination.

Yet another anomaly has been thrown up by the recent *Crime and Disorder Act*, which addresses racially aggravated behaviour. In a civilised society, criminal law must be operated even-handedly. However, according to this new Act, an attack carried out on a Sikh or a Jew because of his or her religion may be classified as a racially aggravated assault, but an attack on a Hindu or a Muslim may not.

The Government has always maintained that equality of opportunity in employment is economically desirable because discrimination is an inefficient business practice that results in talent being wasted, to the detriment of the public at large. Discrimination also creates frustration and alienation among those who feel that the law does not provide them with redress. Legislation along the lines set out in my *Religious Discrimination and Remedies Bill* would contribute in no small way to the elimination of such frustration and alienation.

At present, the adherents of some faiths might be able to make a discrimination claim under the *Race Relations Act 1976* on the basis of their membership of an ethnic group. Hindus might do so as Indians, or Muslims as Arabs or Pakistanis, under the indirect discrimination clauses of that Act, but a white British citizen who has converted to Hinduism or Islam cannot make any such claim. Nor can groups such as Rastafarians, who are a

minority within their own racial or national group. And even though the 1976 Act may provide some protection from indirect discrimination, financial compensation is not available unless the discrimination can be shown to be intentional. A specific law on religious discrimination would overcome this problem. I accept that defining religion is difficult, but difficulties are no argument for not acting in the interests of justice in our society.

My Bill does not deal with the issue of blasphemy, because I believe that would have been a diversion. Personally, I would prefer to see the current law on blasphemy abolished, rather than extended, and there is a fundamental difference between the offences of blasphemy and incitement. Blasphemy outrages people's sensibilities, whereas incitement endangers their material and physical well being. Currently, incitement to racial hatred is an offence under the *Public Order Act 1986*; inciting others to hate Muslims, however, is not a crime. The 1986 Act does not My Bill would have done just that by making incitement to religious hatred a criminal offence.

It has been suggested that my Bill would limit freedom of speech. I need only to point out that the current law acknowledges that it is legitimate, in a democratic society, to interfere with freedom of expression if the publication of threatening, abusive or insulting material may not only offend people's sensibilities, but have a direct and harmful effect on their lives. An extension of the law to cover religious groups, as well as racial and ethnic groups, would give Muslims and Hindus treatment equal to that of Jews and Sikhs, and would reassure them that their interests are respected sufficiently to warrant their protection from religious hatred.

The *International Covenant on Civil and Political Rights* declares: "*any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited*". We are not legally bound to introduce legislation to implement that provision, but if we are serious about human rights, and about building a society in which we can all participate freely and fully in the economic, social and public life of the nation, with all the benefits and responsibilities that this entails, while maintaining our own culture, traditions, language and values, it is essential that we do so.

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