

FREE EXPRESSION IS NO
FFENCE

Fiona Mactaggart MP
Parliamentary Under Secretary of State
50 Queen Anne's Gate
London SW1H 9AT

8 February 2005

Dear Fiona Mactaggart,

Thank you for your long and considered response to our meeting on the religious hatred offence in the Serious Organised Crime and Police Bill. We are pleased that, in order to allay our very real worries, you have decided to change the title of the offence to 'Hatred against persons on racial or religious grounds'. We wish, however, that the change were not only in name.

We understand, as we have previously stated, that the government's intentions are to plug a loophole and protect Muslims specifically in the way that others are protected under racial legislation. But a law which draws a wide brief in order to protect a specific instance seems misguided from its outset.

Despite your arguments, and whatever the guidelines that will attend the clause when it becomes law, it will inevitably aggravate tensions amongst the various faiths, clog up the courts, and induce (self-)censorship in our artistic, broadcasting and publishing establishments. It will also, we fear, create a climate in which expression is constrained for those who might wish to criticize some of the palpable ills associated with religious hierarchies, while encouraging those who want to use the courts and media for self aggrandizement.

Some of us attended the debate in the House on 7th February. Others of us have read Hansard. We trust that you have taken note of the confusion on your own benches about the breadth of the proposed Offence. That confusion exists within the very group you are purportedly setting out to protect. Mr. Mahmood, MP for Birmingham, is happy to defend free speech in its generality, but as soon as he is asked a direct question, a very real intolerance is evident and a wish to see the law applied to precisely the instances you say it doesn't cover.

Just to remind you, here is the point in Hansard:

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**P.E.N. was founded in 1921
by Mrs C A Dawson-Scott**

Ms Abbott : My hon. Friend says that nobody in the Muslim community denies that people should be able to make valid criticisms of the religion, but I was a Member of Parliament at the time of "The Satanic Verses", and there were thousands and thousands of Muslims who believed emphatically that people were not entitled to criticise their religion.

Mr. Mahmood: I am sorry, but I take issue with that. It was not a question of making a valid criticism of the religion. In the context of Salman Rushdie, the issue was

the abusive words that he deliberately used, which were written in phonetic Urdu, criticising—*[Interruption.]* Actual swear words were used within that text.

Mrs. Alice Mahon (Halifax) (Lab): Who decides?

Mr. Mahmood: The decision is taken in the courts, if it comes to that. As my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson) said, there will be an opportunity for some of those cases and issues to be tested. In a sense, that is what the judicial system is about and what this democracy is about: giving people that opportunity.

If even your own backbenchers have false expectations of this new Offence, is it too much to imagine how widespread these expectations will be outside the House and what serious constraints on expression will follow, let alone heightened strife amongst the disparate groupings in Britain today?

You say, quite emphatically, in your letter, that writers and artists like ourselves 'are rightly concerned about freedom of expression.' You go on to say 'The Government's prime concern is the safety and security of our communities.' Would it not be more correct to say that it is the Home Office which is chiefly concerned with security and therefore finds itself blind to other and equally pressing matters? The Government as a whole, we would argue, must be concerned with far more than security – and freedom of expression must indeed be part of that more general concern. After all, if the Government isn't concerned with that freedom, it may soon find the very parliamentary system from which it is formed, let alone its own politics under serious threat.

The fact that the various groups you name want this new Offence is not particularly reassuring. (There are other groups which aren't being listened to, after all.) Nor is the fact that an ICM poll backed it to 57%. The call for capital punishment or hanging for paedophiles might have *less* than 43% of a poll against it: we trust the Home Office won't instantly see fit to propose this. A Government that considers the general good over a term beyond elections should, we feel, put forward laws which work for the benefit of all. Religiously biased constraints on free expression do not.

The Home Office blind spot is evident, too, in the way you talk about the Bhatti case. The fact that the Police did not ultimately find ground for prosecution under the incitement to racial hatred legislation does nothing to alter the fact that the performance of the play was stopped, its expression forcibly constrained, the person of its author threatened and forced into hiding. Nor did the government decide to prosecute those who had issued threats against the author's life, certainly worth saving, whatever the offence felt by her co-religionists.

So, while we are pleased that you have seen fit to re-title the proposed Offence, we cannot say that we are reassured. We trust that the Lords won't be either. It is a sadness to us that we now have to look to the Upper House for the protection of our basic rights.

Yours sincerely,

Salman Rushdie
Lisa Appignanesi (Chair, Free Expression is No Offence Campaign)

CC John Gieve
Charles Clarke MP
Lord Falconer.