

A Christian response to suggested “Hate Speech” law changes, and some proposed re-wording

by Dr Stuart Lange on behalf of NZ Christian Network



Some principles we begin from...

Nobody comes to any issue without some preconceptions, and it can be helpful to state where we are coming from. So, as people of Christian faith...

- We are deeply committed to God, to love for all, to God’s truth revealed in Christ and the scriptures, to the intrinsic God-given equality of all people, and to justice, righteousness, grace, mercy, and peace.
- We absolutely reject all racism.
- We deplore all abusive language, name-calling, hatefulness, and violence – *by* anyone, and *to* anyone.
- We believe that, ideally, all people should relate to one another with gentleness and respect, even when they strongly disagree. Secular people should respect religious people, and vice versa. People of faith should relate respectfully to people of other faiths.
- We believe that, if we are to remain a free society, our freedoms of religious belief (or unbelief) and of expression must be carefully and unequivocally protected.
- We believe that a wide diversity of viewpoints and freedom to debate important issues is extremely important, even though it is at the cost of most people sometimes being exposed to views we find objectionable or offensive.

We believe that the State should avoid all attempts to control the thoughts and speech of its citizens, except where the beliefs and opinions of people are unquestionably inciting extreme hatefulness and violence.

What is behind the proposed “hate speech” laws, and why do they matter?

The Government consultation document has presented the proposed “Hate Speech” law changes as a revision of existing legislation to help restrain extreme racism, and as extending protections against “hate speech” to “groups” defined by sex, sexuality, religion, and disability, and thus to build a “greater social cohesion”. But many people see what is proposed as a dangerous limitation of public debate and freedom of expression, in which constant pressure from some groups could lead to a growing censorship of public debate.

A key question is around the precise scope and wording of the proposed changes, particularly in relation to exactly what is meant by the words “hate” and “hatred”. For different people, and in different contexts, these words carry a range of meanings and implications.

In existing legislation it is already a civil offence (see Section 161 (c) of the Human Rights Act 1993) to use “words which are threatening, abusive, or insulting, being matter or words likely to excite hostility or ill-will against, or bring into contempt or ridicule, any such group of persons in New Zealand on the ground of the colour, race, or ethnic or national origins of that group of persons”. This prohibition on incitement only applies to racism. We agree that for the sake of public safety this existing law is appropriate, to help restrain those ranters who spew forth appalling racist rhetoric,

stirring up disharmony and violence. We also fully agree that the law should be extended to electronic communication.

Because of the significant risk of the proposed law changes increasingly suppressing freedom of expression, however, we are uneasy about the list of groups covered by incitement provisions being extended from just race and nationality to also include groups based on religion, disability, sexuality and gender. We could live with that, though, if (1) the threshold of criminality remains extremely high and (2) the nature and limits of “hate speech” are *clearly defined*.

The key problem with what is proposed

We agree that it should be criminal to stir up extreme animosity and/or incite violence towards any group in society, on the basis of race, and possibly also on the basis of religion, disability, sex and gender.

But the core problem with the wording proposed in the consultation document is that it removes the definitions of incitement that are in the Human Rights Act (see above) and instead substitutes the very elastic term “hatred” – with *no adequate definitions*.

We believe the word “hatred” is too broad and subjective, and – in the absence of very clear definition – is worryingly vulnerable to freedom-stifling misapplications.

In our societal context of increasingly clamorous identity politics, the word “hatred” is highly loaded. Why not stick with incitement to “hostility”, or change it to “extreme hostility”? Across the western world, the introduction of “hate speech” laws is primarily driven by the desire to restrict the expression of views which disagree with LGBT ideologies. Is that what the Government primarily has in view here?

Our concern grows when we read that it would not only be a crime to incite “hatred”, but also to “maintain or normalise hatred”. This too (especially the “and normalise” phrase) is capable of many interpretations and misapplications, and we believe this proposed wording should be dropped.

Over time, we fear, the wording of the proposed law changes would make it all too easy for various secular, religious, and sexuality activists to hunt down any expression of viewpoint that does not support their own views, or which they find offensive, and to claim that it is “hateful” to their group and therefore unlawful. The police and law courts may end up very busy.

All this poses some significant risks for the freedom of our society, as enshrined in the Bill of Rights:

"13 Freedom of thought, conscience, and religion: Everyone has the right to freedom of thought, conscience, religion, and belief, including the right to adopt and to hold opinions without interference.

"14 Freedom of expression: Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form."

The only way to avoid oppressive outcomes with the proposed law change is for there to be included some extremely clear explanations of what inciting “hatred” does and does not mean.

Some sample questions...

1. Under the proposed law changes, could anyone be prosecuted for denying a core belief or doctrine of any religion, and thus potentially causing offence?
2. Could it become criminal for anyone to say that they do not believe in sex transitioning for children and adolescents?
3. Could it become criminal for anyone to say that they do not believe it is fair for “trans” people born as males to compete in women’s sport?
4. Could it become criminal for someone to say that they do not personally believe that same-sex relationships or same-sex marriages are intended by God? (This is not “hatred”, but just a matter of religious belief and expression).
5. Could anyone be prosecuted for reading out or referring to – in public, or even in a religious gathering – any passage or verse in the Bible, Qur’an, or any other sacred religious writing that asserts a doctrinal belief about Allah, Jesus, or salvation, or against unbelief, or against any behaviour, and thus will likely offend someone somewhere.

If the answer to any of those five questions is “yes, or maybe”, then for the sake of everyone’s freedoms the proposed law changes must be worded so as to avoid that.

If the answer is, “no” (or as it says in the consultation document, “only extreme hate speech is criminalised, and that there must be an intention to cause others to develop and strengthen hatred towards a group”), then we need to see that protection clearly reflected in the actual wording of the proposed law changes.

If the answer is, “we don’t know, and we won’t say, but over time we will see how the police and the courts interpret this law in relation to society’s changing thinking”, then we can rightly be very concerned, and may want to ponder what sort of oppressive, thought-controlling Orwellian society our children and mokopuna may inherit.

In our view, the only way for society to protect itself against unjust and tyrannical outcomes through its proposed “hate speech” laws is to state as precisely as possible exactly what “hate speech” is, and exactly what it isn’t.

And so we propose...

that if the Government persists in its proposals to change the laws, and includes the “hate”/“hatred” language into the draft legislation, it also includes a very precise explanation of both scope and limitation, along these lines...

“In the context of this law, “inciting hatred” means to incite extreme hostility, to deliberately and maliciously vilify with the clear intention of stirring up loathing, hostility, contempt, or violence towards a group; it does not mean to express disagreement, criticism or caution in relation to any of the views of a group, or simply to express beliefs and views which members of any group may consider objectionable or even offensive.”

We believe the Government’s forthcoming Bill must clearly provide some such explicit clarification and balance, and should drop the “maintain and normalise hatred” line. If it does so, these law changes may yet possibly be safe, and may prove acceptable to most people. Nevertheless, whatever our religion (or our lack of it), all New Zealanders need to remain highly vigilant in protecting critically important human freedoms of belief and expression.