

Terry Sanderson's speech to the Religious Freedom Conference, Chatham

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*On 21 June 2014, NSS President **Terry Sanderson** spoke at the Chatham Unitarian Church, about the importance of equalities protections and secularism to religious freedom. This is a transcript of his speech.*

The first problem I have is with a definition of "religious freedom".

What does it actually mean and what does it entail?

In human rights terms it means being free to hold your beliefs and practice them in communion with others. You should be free to change your religion or abandon it.

Article 9 of the European Convention on Human Rights which covers Freedom of thought, conscience and religion puts it this way:

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

I repeat that the freedom to manifest one's religion is limited for *the protection of the rights and freedoms of others*. In other words, it is not absolute. This right extends only so far as it impinges on other people's rights. This is where the difficulties begin. And this is where the problems of definition arise.

If, for instance, a registrar does not want to perform civil partnership ceremonies - which is part of her job – because she says it is against her deeply held religious beliefs, should she be free to simply refuse to do it?

If a Christian hotelier objects to renting a double bedded room to a gay couple because to do so would compromise his Christian values should they be free to do so, even though it is against the law for every other hotel to behave in such a way?

Some Christians assert that cases such as these are an affront to religious freedom, but are they? Has the meaning of religious freedom been extended to the point that it means the freedom to discriminate against those of whom you don't approve – even though they are protected by the law?

The UK's Equality Act protects certain categories of people from discrimination in employment and in the receipt of goods and services.

It is the most advanced equality legislation in the world, which, as far as I am concerned, is something to be proud of. The Equality Act already includes greater protection for religion than is required by the EU's employment directive.

Nevertheless there have been continual arguments about whose rights are more important – those of gay people, who are one of the protected groups, or religious believers, who receive the same protection?

It was clear from the beginning that attempting to put religion and gay rights under one umbrella would pose problems. It would be difficult, if not impossible, to give the same rights to homosexuals and religious believers because these two groups seem to have been in constant conflict for decades. Eventually someone would have to decide whose rights should prevail when they came into conflict.

A series of court cases tried to solve the dilemma. They went all the way to the European Court of Human Rights and the answer seemed clear: gay people's right to equality and fair treatment could not be sacrificed on the basis of claims that they interfered with religious freedom.

I am proud that the NSS was given leave to intervene in these cases and our intervention is thought by some lawyers to have played a significant role in that victory.

However, the pressure from evangelical Christians to have the law reviewed and changed so that they will be permitted - through the introduction of "conscience clauses" - to legally discriminate against those who fall short of their ideals is relentless.

I say again, religious freedom is not absolute. But being gay, according to scientific opinion, is an innate characteristic, in the same way that a person's race is. Gay people cannot change their orientation and that means that it is no more acceptable to discriminate against a person's sexual orientation than it is against their race.

The other thing is that most Christian hoteliers would have no problem observing the law and accommodating gay couples. Most Christian registrars are happy to carry out civil partnerships – and don't consider it an affront to their faith. The few who do raise objections and refuse to do these things are therefore asking for special privileges that result in humiliating other people because of a characteristic over which they have no control.

If the same arguments were made by Christians about black people we would be outraged. If a registrar said that her religion meant that she could not perform a marriage for a black man and a white woman, there would rightly be uproar.

We shouldn't forget that in some Southern States of America within living memory that was the law. We have moved on, I hope, and we are not going to let the same situation arise in this country that renders gay people second class citizens, as black people were in Mississippi and Alabama.

In the United States, the Supreme Court is about to rule on a very important issue of a supposed challenge to "religious freedom" – and most think it is going to rule the wrong way.

It concerns President Obama's flagship Affordable Care Act.

The Catholic Church claims that it forces it to supply its employees with contraception, which we all know is against Catholic doctrine. The President made an exemption that permitted the Church to opt out of this provision of the act, but that was not enough.

The Church's aim is to make it impossible for *any* employer to supply – as part of its health insurance package – contraception.

It does this on the basis of a claim that its freedom of religion is being abused by the Affordable Care Act.

A parallel case on the same matter is being brought by a chain of shops called Hobby Lobby. This is even more interesting, and more frightening, because if the case is won, the personal religious beliefs of the owner of this nation-wide chain will be imposed on the whole of his sizeable workforce.

The executives of Hobby Lobby, and several other companies with religious executives, have complained that the requirement unduly and unlawfully burdens their religious beliefs by forcing them to endorse certain practices — like contraception — which they oppose.

But in human rights terms religious freedom belongs to the individual, not to churches or mosques – or, come to that, hobby shops.

If the Hobby Lobby wins its claim – meaning that a corporation is, in effect, a person - then human rights will have been redefined to apply not only to individual humans, but to corporate bodies. The religious freedom claims on which these cases are based will then be able to be claimed by any corporation or group that wants to impose a particular religious doctrine on its staff or its members.

Religious freedom so easily turns into religious tyranny.

And so I return to the definition of religious freedom as it stands now.

The National Secular Society has a [secular charter](#) on which we base all our campaigning. It states specifically that religious people's right to worship and believe as they will, must be protected in law.

But it does not support any religious organisation's right to take action that results in its doctrines being enacted into law in a way that impinges on the rights of people who do not share those doctrines.

We have a legal definition of religious freedom. It has been tested in court and its limits set.

It is time for those evangelical Christians who are not happy that they do not receive special privilege under the law to think again. They should be happy to live in a nation that respects and protects their religion and everybody else's religion equally.

It not only respects *religious* belief, but any belief that is deeply held. Court cases have made environmentalists and animal rights defenders into the equals of religious believers. And that is as it should be.

Last week, the British Social Attitudes Survey was published and it showed for the first time in any survey or poll that I've seen that there are more people in this country defining themselves as not having a religion than having one.

In the face of this it is ever more important that religion is not given a disproportionate role that can be detrimental to the rights of others. This does not mean curtailing religious freedom, because religious freedom does not include the freedom to disadvantage those of whom you disapprove.

The definition of religious freedom as contained in the Human Rights Act should be sufficient. There should be no more attempts –as there are in America - to extend it to mean something else.

My speech today is less upbeat than it was to have been because of comments made in a speech in Ireland this week by Baroness Hale, the deputy president of the UK Supreme Court. These comments have been seized upon by those who believe religion should have a privileged status in our society. They have interpreted them as indicating that future legal judgments will be more pro-religious by recognising religious conscience more than hitherto.

Baroness Hale asked:

"So should we be developing, in both human rights and EU law, an explicit requirement upon the providers of employment, goods and services to make reasonable accommodation for the manifestation of religious and other beliefs?"

I was relieved that Lady Hale balanced this with:

"But the law now protects all religions equally, without discriminating between them and without attempting to determine which are forces for good and which are not. Not only that, it also protects other belief systems, such as humanism and pacifism, and we have dropped any requirement that these be "similar" to religion. It also protects the lack of a religion or belief. In other words, while it protects freedom of thought, it does not give any special protection to religion as such..."

She concluded

"So the moral of all this is that if the law is going to protect freedom of religion and belief it has to accept that all religions and beliefs and none are equal.

It cannot realistically inquire into the validity or importance of those beliefs, or any particular manifestation of them, as long as they are genuinely held. It then has to work out how far it should go in making special provisions or exceptions for particular beliefs, how far it should require the providers of employments, goods and services to accommodate them, and how far it should allow for a "conscience clause.

I am not sure that our law has yet found a reasonable accommodation of all these different strands. The story has just begun."

I believe the law already has it right. Those who want to exercise their religious freedom by excluding gay people from their private homes or places of worship are at complete liberty to do so.

But they cannot do so as providers of employment or goods or [commercial] services.

If we permitted "conscience objections" in these areas who knows where it might lead. We could find ourselves once more with the equivalent of the notorious 1960s signs that were seen outside boarding houses, "no dogs, no Irish, no blacks."

Conscience exemptions could lead to signs saying "no gays". But given that other people have conscientious objections to other things, that they could claim spring from sincerely and deeply held beliefs, who knows where it might lead.

I will continue to fight to protect freedom of religion – but the freedom of religion defined by the Human Rights Act. I will fight equally hard to prevent any further privileges and special treatment for religion – for every time we grant such a privilege or exemption there will be a commensurate diminution of rights for other people.

Terry Sanderson

Terry Sanderson was the former president of the National Secular Society. The views expressed in our blogs are those of the author and may not necessarily represent the views of the NSS.

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