

# Freedom of expression cannot be left to the “mercy of others”, says chair of EHRC

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Baroness O'Neill, chair of the Equality and Human Rights Commission, has warned that there is no way of securing freedom of expression and a right not to be offended.

Speaking at Inner Temple for an event held by Theos, attended by the National Secular Society, Baroness O'Neill spoke on freedom of expression and religious freedom, telling the audience that society was in a "terrible muddle about the shape that rights" to free expression and religious freedom should take.

The Baroness said that while freedom of speech and religion has taken "high importance in the contemporary world", the rights were clearly not "universally respected" – as evidenced by the "persistence of intolerance and intimidation, of outright censorship and religious persecution of those of other faiths, and in the criminalisation of apostasy in some states."

Addressing the attack on *Charlie Hebdo*, and the Danish cartoons published a decade ago, Baroness O'Neill said that "offence is a subjective matter" and that there is "no way of securing freedom of expression if we also maintain that there is a right not to be offended."

Certain types of speech, such as intimidation or inciting hatred, she said, "can be regulated without putting freedom of expression at the mercy of others." However a "right not to be offended ... would put everyone's freedom of expression at the mercy of others."

She said that "attempts to regulate speech content have repeatedly foundered because parody and euphemism, satire and pseudonyms, allow people to convey ostensibly prohibited content, while keeping within the law" and that "the Censor's life is not a happy one."

"Our legislation, I think correctly, does not restrict freedom of expression merely because some speech act offends some others, or even offends some of them gravely."

In 2013 the National Secular Society and Christian Institute, along with others, successfully campaigned to change the law to remove "insults" from Section 5 of the Public Order Act.

Because offensiveness is subjective, she told the audience, any "supposed right not to be offended" would "put others' freedom of expression wholly at the mercy of the sensibilities of possible audiences, including audiences who may include some who are hypersensitive, paranoid or self-serving—or worse."

Turning towards religious freedom and freedom of belief, Baroness O'Neill said the law was unclear about what exactly constituted a "belief", pointing out that "opposition to fox hunting [is] classified as a 'religion or belief', but support for fox hunting [is] not classified as a 'religion or belief.'"

Only further legislation or complementary court decisions could establish what types of belief are protected by current law, she said.

When asked about her views on whether it was necessary to protect religion or belief further with a new workplace duty of reasonable accommodation, analogous to the duty on employers to make reasonable adjustments for disabled people, Baroness O'Neill said she had "no firm view" but said the problem with such a duty is that it may "fall on other employees".

When asked how she would respond to Christians who feel "persecuted" in the UK, the Baroness said could see how "a misreading of employment tribunal case could lead people to feel unnecessarily anxious".

The full text of Baroness O'Neill's speech can be read [here](#)

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