



Speech on freedom of expression delivered to National Policing Protest conference

16 March 2016

By Keith Porteous Wood,

This is now the fourth presentation I have made to the police on freedom of expression. The first was at Bramshill, with two more at the Met. As with them, I am today emphasising why freedom of expression is so important to the fabric of society and exploring the challenges this represents for the police. It will be both theoretical and practical; both are equally important.

I am particularly sorry that Peter Tatchell, who with Simon Calvert made up a trio making the earlier presentations, is unable to be here today. I remember some rather embarrassed almost nervous laughs when, no stranger to New Scotland Yard himself, he reflected at the Met conferences with a characteristic wry smile what a pleasure it was to be *invited* to New Scotland Yard.

An accountant by profession, I joined the NSS after a number of senior finance director roles. It has surprised me how much my accounting and legal background has helped me in my current role.

Secularism has always sought to move beyond the tug of war between religious interests in order to protect freedom of religion and belief for all people.

In many ways Britain is very secular, but not in its institutions. The House of Lords is the only Parliament in the Western world where clerics – 26 bishops – are entitled to sit solely because of being clerics, which we oppose. Similarly, England and Wales are the only countries in the world where daily (largely) Christian worship is mandatory in every maintained school.

Having said that, our society and our laws have become more secular over recent decades. The public increasingly believe in individuals' religious freedom and are increasingly opposed to state imposed religiosity, whether in schools, Parliament or private lives.

Despite this a secular deficit exists in multiple areas and certain religious groups remain determined to maintain current legal privileges, regain old ones and institute new ones.

I am proposing to you that no police service of a democratic country should allow itself pulled into policing the speech, thoughts or beliefs or its populace. However, such a dark scenario could emerge if the state becomes overly entangled in such matters. I will refer to Turkey later.

In the 1880's the Police could have found themselves so entangled when the founder of the NSS (150 years ago) attempted to vote in Parliament when he had not been allowed to take the oath as he was an atheist. The penalty for illegitimate voting was astronomical. He was eventually allowed to take his seat but only after numerous by elections. He went on to

champion the Oaths Act which introduced non-religious affirmations in both Parliament and the courts.

One religious privilege remaining in England and Wales until 2008 was the common law offence of blasphemous libel, until it was abolished by the Criminal Justice and Immigration Act 2008. We took a leading role in this reform, and had been fighting for it for nearly 150 years.

Part of that campaign was a public reading, in 2005 outside St Martin's in the Fields of the poem found to be blasphemous in the "Gay News" case.

I'm pleased to give the police full marks for being unwilling to intervene, as there was no significant risk to public order.

But in other cases the police have I think been somewhat over-zealous in policing free speech, at a great cost not only free speech but also the public purse.

A recent example you may be aware of was the case of Paul Chambers who was found guilty in May 2010 of sending a "menacing electronic communication" after joking on Twitter that he would blow Robin Hood Airport "sky high" if it failed to clear the runway in time for his plane to take off. The airport had, inconveniently for Mr. Chambers, been closed following heavy snow.

He went on to successfully challenge his conviction with the judge making clear that the law accommodates irony, wit and bad taste.

But the police can of course feel under huge pressure to do something when people feel offended. The public were appalled when a man used social media to post an offensive comment about a fatal bin lorry crash in Glasgow in which six people died.

Police arrested Ross Loraine, a 19 year-old from Sunderland after being inundated with complaints about his post and they issued him with a caution.

Police in Scotland then themselves tweeted:

"Please be aware that we will continue to monitor comments on social media & any offensive comments will be investigated."

The policy force in question was unmercifully mocked for that tweet – and rightly so I think. It isn't the job of the police to prevent people from being offended.

A particular concern to us at the NSS is when the weapon of offence is used to silence criticism of religion and interferes with people's religious freedoms and freedom of expression. This is not just theoretical for us. A former NSS president, George W. Foote, spent a year locked up in Newgate Prison for blasphemy after publishing French cartoons mocking religion in *The Freethinker* magazine.

More recently we came to the defence of an evangelical Christian pastor who was charged for offensive remarks he made about Islam during a sermon which he later posted online. To our relief Pastor McConnell was found "not guilty". Delivering his verdict the judge said: "The courts need to be very careful not to criminalise speech which, however contemptible, is no more than offensive. It is not the task of the criminal law to censor offensive utterances."

A disturbing case I was personally involved in came in 2007 when Channel 4 screened a program called *Undercover Mosque*. The documentary presented film footage gathered from 12 months of secret investigation into mosques throughout Britain, much of it at the Green

Lane Mosque in Birmingham. The film caused a furore in Britain and the world press due to the extremist content of the footage.

Soon after, the police visited Channel 4, not to seek additional information to assist with prosecutions of extremists, none of whom were ever prosecuted, but with a view to prosecuting Channel 4, with CPS approval. This gave rise to massive media coverage, all supporting Channel 4.

After a great deal of campaigning, West Midlands Police and the CPS were prevailed upon to issue an unconditional apology on 15 May 2008 and paid a six digit amount in compensation. As a result of a debate in the Lords, which I was instrumental in initiating, the Attorney General, apologised. Channel 4 was doing the country a service. So, uncomfortable questions remain, which Jack Straw was asked but was unwilling to answer, as to what really lay behind this failure to enforce justice, which seemed to me to have more in common with an attempt to subvert justice and enforce injustice.

My second example relates to an authorised demonstration in favour of freedom of expression in Trafalgar Square in 2006. The police were there in force.

The rally was good-natured and there was no credible threat to public order. Speakers included Dr Evan Harris, then an MP, and me as well as other moderates. None of us were by any definition rabble-rousers. We all feel passionately about free expression. We were raising concerns, still valid today, about the potentially draconian religiously aggravated offences under the Public Order Act, given the potential seven-year imprisonment tariff, and the low prosecution threshold. They are in effect a modern revival of blasphemy laws, but for all religions.

Nevertheless high-definition video cameras were focussed almost entirely on the speakers. No doubt I am on file.

As Dr Harris and I were extolling the importance of freedom of expression – you couldn't make it up – the police started interviewing an immigrant from a Muslim country, a small gentle man, who had held up a really small homemade cardboard placard carrying reproductions of some of the Muhammad caricatures. The police told Dr Harris that some unnamed person had complained to them about this and "a summons would be issued for his having insulted a person at the rally because his placard had some of the Mohammad caricatures on it". To us he was a peaceful, defenceless and principled protester who had probably come to this country to escape political and police oppression.

Shocked at the heavy-handed approach, we arranged some high quality legal representation for the protestor, which he could not have afforded. Yet even with this support the police were deliberately prolonging the pressure on him, subjecting him to many months of worry before eventually telling him he would not be charged. What that brave man thinks about British justice now, I hesitate to imagine.

Should the police have allowed themselves to be drawn into this; was it a "something must be done" culture, perhaps pushed by those with an agenda?

Both these instances give rise to uncomfortable questions: and we all need to learn from them.

Unfortunately there is not time for anything more than a brief, but essential, reference to last year's atrocities in Paris targeting freedom of expression, those in a Kosher supermarket and

on the general public. But I understand that one police force wanted to know the names of everyone buying the "survivors' edition" of *Charlie Hebdo*.

While we do not know how police officer Ahmed Merabet, a Muslim, felt about *Charlie* and their views on his religion, we do know that he lost his life protecting his fellow citizens including their right to free expression."

I cannot say how moved I was by the principle shown by the millions of people in France who demonstrated in solidarity for freedom of expression and the victims.

The EHRC have just published helpful guidance called Freedom of Expression.

There is a particular problem with freedom of expression in universities and similar bodies, and this is most common in discussions in which questions concerning Islam are on the agenda. Often moderate Muslims and perfectly peaceful inoffensive people are targeted. They are frequently described as being "Islamophobic", a term too readily applied by those intent on shutting down speech, however reasonable. There are special laws requiring freedom of expression to be upheld in such institutions.

No one and no group should be able to silence others acting lawfully. If we submit to being silenced, even by self-censorship, we risk undermining not just freedom of expression, but democracy itself. So the stakes couldn't be higher and I believe it is essential that the police and security forces do everything possible to protect freedom of expression.

I do of course acknowledge that incitement to violence and hate crimes must be appropriately policed. Police must tackle these effectively and reassure targeted communities but without heavy handed approaches or misguided targeting of free speech.

While we are here discussing practicalities, realities and legalities of policing, we should not lose focus on the moral and philosophical principles that underpin the policing of a free society. This is a society where the police have to carry the public with them and need to enforce the laws not only through the prism of human rights, but with an understanding of their philosophical origins.

It's always a difficult job to prioritise human rights, but for me, close on the heels of the right to life and freedom of thought comes freedom of expression. We must cherish freedom of expression on grounds of both principle and pragmatism:

Without freedom of expression, as I said, democracy is impossible. And without democracy ... I will leave you to imagine that.

Those in power have a vested interest in suppressing dissent, and preventing speaking truth unto power. Even in this country, the recent Lobbying Act is widely seen as an attempt to suppress NGOs such as Friends of the Earth being critical in the run up to General Elections of Government policy, for example by voicing environmental concerns. Sadly, on the fringes of Europe we see wholesale suppression of dissent on the rise. Reportedly, Turkey has imprisoned more journalists than any other country. The inevitable result is that powerful become more powerful, and almost certainly more corrupt. The persecution of whistle-blowers is a good example, but sadly there are many more, even in this country. For example, the silence imposed on those aware of wholesale child abuse, whether in public bodies, local authorities or religious institutions, has led directly to keeping perpetrators from civil justice, and that in turn has led to much more abuse.

Suppressing those with unpopular views, extremist political parties come to mind, enables them to add a victimhood to the list of chips on their shoulder, which could act as a recruiting sergeant. Furthermore, is it not better for these unpopular views to be exposed to the oxygen of publicity, and hence hopefully also counterargument, even ridicule?

Beware of those who claim to be in favour of freedom of expression "as long as it's used responsibly". There is practically nothing that doesn't offend somebody, particularly given how diverse the UK is. And if we are to be limited to saying only that which does not offend, life will become very bland, and society will stagnate.

Always remember your obligation to protect Freedom of Expression as included in the European Convention on Human Rights.
