

Address by David Pollock (EHF) to Conference on the Limits of Religious Freedom

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The degree of uniformity in society in the past can easily be exaggerated, but what is undeniable is that there was almost always a dominant religion or ideology, espoused by and identified with the political masters of the day, and that heresy and schism were seen as a threat to the state and were liable to lead to religious persecutions.

Typically the religion or belief of those in power – Roman Catholics in Italy, Anglicans in England, Marxists in the USSR – became legally privileged.

But in most countries the social and intellectual context has changed with education, mass migration & other factors producing a much less uniform society.

No longer is it a matter of safeguarding the state against alien and subversive ideas: today we are concerned with maintaining the coherence of a multi-ethnic, multi-belief & politically divided societies. What holds a modern community together when it encompasses such a variety of fundamental views? How much freedom to differ can be allowed – especially if the difference is of behaviour rather than of opinion or belief?

I confine my attention in this paper to what are called western societies and to religion and belief, and ignore the extremists who threaten the very existence of society in favour of those groups who attempt peacefully to impose their own values on others or to arrogate to themselves a role we would see as belonging to the state.

I wish to start by examining the formal position of religion in society. There are three models found in modern societies:-

Establishment – Sometimes for historical reasons one religion or belief has become legally privileged, although its privileges will necessarily have become attenuated as society has become tolerant and multi-faith. This is the situation, for example, in the United Kingdom – it is objectionable in principle but (to be honest) not very onerous in day to day life.

Plurality of recognised beliefs – In countries such as the Netherlands and Belgium there are two or more beliefs that enjoy privileges, typically including hypothecated taxes on a basis of capitation. This system of privilege for established ‘pillars’ of society reinforces those beliefs and may artificially sustain them, militating against their fading away.

Secularism – Elsewhere – as in France or USA – the separation of the state from any religion is entrenched in law. It is plain that this is the arrangement that humanists – at least in theory – prefer. But it is equally plain that there is no positive correlation – & there may be a negative one – between the degree of secularism in a country's constitution and the extent and depth of religious belief in its population. Where could one find a more religious society than the secular USA? a less religious one than England with its established church?

So what do we mean by a 'secular society'? Here is one answer.

'a tradition of secularism that denies religions the possibility if not the right to play a role in public life. This form of prejudice against Christians or ideas based on religion, which exists both in Europe and the United States, mainly concerns questions relating to sex, marriage and the family'.

That came from a recent report on defamation of religions to the UN Human Rights Committee by its Special Rapporteur [E/CN.4/2005/18/Add.4]. We may reject his report as biased and ill-informed but that will not change the hostile perception of many people.

The Vatican has succeeded in getting the UN Human Rights Committee to recognise 'Christianophobia' as an evil equivalent to anti-Semitism or 'Islamophobia'. In a speech in December 2004, Archbishop Giovanni Lajolo, the Vatican's foreign minister, referred mainly to an alleged backlash against Christianity in the Middle East after the Iraq war. But he also 'echoed Cardinal Joseph Ratzinger . . . who said last month that parts of Europe were so now secular that Christianity was being pushed into the margins' – [London Daily Telegraph 7/12/04].

And the term was quickly picked up in the USA and used to refer (for example) to shops using the term 'Season's Greetings' rather than 'Happy Christmas' in the interest of inclusiveness. The right-wing commentator [Pat Buchanan](#) said:

'What we are witnessing here are hate crimes against Christianity – the manifestations, the symptoms of a sickness of the soul, a disease a Vatican diplomat correctly calls "Christianophobia," the fear and loathing of all things Christian, coupled with a fanatic will to expunge from the public life of the West all reminders that ours was once a Christian civilization and America once a Christian country.'

Christianophobia may be an invented word used to cover any exercise of free speech that Christians don't much like. The same is often true of Islamophobia and of anti-Semitism. There are undoubtedly cases of religious persecution and gratuitous insult that Christians, Muslims and Jews suffer. But there is also a self-serving opportunism that tries to apply the same accusation against any problematic criticism of the religion or of the actions of its followers. And the religious are still very influential and have the power to make themselves heard.

So our problem is that a secular state is easily seen as an anti-religious state by those who are used to religion having things all its own way.

We may argue it is neutral, a level playing field, but we must be ready not just for wilful misinterpretation but also for innocent misunderstanding. Remember, for many the word 'Christian' is literally a synonym for 'virtuous'.

We can surely understand how the secular state is not welcome to believers whose values are very different and who are used to their traditional dominant place in society. For those wedded to 'traditional family values' the new acceptability of gay marriage, readily available abortion, experiments with human embryos must seem at best a provocation, at worst a vision of hell.

We must not underestimate the importance to believers of their religion or we shall fall into the facile error of thinking religion can easily be eliminated like a disorder of the mind – not that those can always be cured.

Their religion means as much or more to them than Humanism does to us – it provides them with a governing principle for making sense of the world, places them in a historical tradition, and imposes on them an overriding duty going beyond this-worldly concerns.

Especially if your religion is deeply felt, it must be difficult to distinguish (to use words of Roy Brown when he commented on the UN report quoted above [Commission on Human Rights: 61st Session, April 2005] 'secular opposition to the imposition of dogmatic Christian views on western society' from 'discrimination against Christians' or 'secular protection of freedom of conscience and support for the separation of religion and state' from 'prejudice against religion'.

'Secularism' he said 'should not be confused with militant atheism' – or indeed with atheism of any kind. But with a history of (for example) persecution of believers and of churches turned into museums of atheism in the militantly atheist USSR, the confusion is easily understood.

So, if we are defending the idea of a secular society, we can do it as a battle – 'we're on top now so you must accept being oppressed' – but as a corollary we have then to accept the legitimacy of religious oppression of our values when the religious are on top.

Or we can defend a secular society as a genuine open society – but then we have to face the question of what we are saying to religious groups in that open society. And of course here I refer not to any dialogue we may have with them about the truth or otherwise of their or our claims but about the limits we wish to impose on their (and our) freedom in a secular civil society.

This demands careful thought on our part and I do not pretend I have made more than a beginning with that thinking.

We need to start by returning to first principles. This (we say) is only life we have, and hence we value this life for ourselves and for every individual, accepting a moral duty to make life as good as possible for everyone, and we attach great importance to that

very recent invention, Human Rights and to the open society that most fully embodies them and gives them protection.

Both the Universal Declaration of Human Rights and the European Convention for Human Rights endorse freedom of 'religion or belief'. Article 9 of the Convention reads in part:

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.

Interpretations of the Universal Declaration by the UN Human Rights Committee and of the European Convention by the Court of Human Rights make it plain that Humanism, agnosticism and atheism are all protected as 'beliefs'.

We therefore have parity with religion in law in all those countries that have adopted the European Convention and we can legitimately lay claim to the same rights as the law gives to religion.

But the corollary of this is that Humanism is just one more 'religion or belief' competing in a crowded marketplace. We must learn to see Humanism as just one of a great variety of lifestyles or world-views, special only because it is ours, ours because it meets our criteria for truth & acceptability, but no more legitimate in civic society – no more to be privileged in the Open Society – than the faith of a Jehovah's Witness or a Roman Catholic.

What, then, do we mean by an 'open society'? We mean one that is inclusive, open to people of all persuasions, 'based' (to quote George Soros, who devotes such huge resources to his Open Society Foundation) 'on the recognition that people have divergent views and interests and that nobody is in possession of the ultimate truth' [George Soros: appendix to *The Bubble of American Supremacy* (Weidenfeld & Nicolson, 2004)].

In such a society, the government, other public authorities and social institutions seek to reconcile individual freedom with social coherence by entrenching human rights and the freedoms (not least of belief and speech) they guarantee while building on common interests and working to reduce conflict so that people may live together constructively.

Supporting such a society, we have to accept that, just because we are certain religion is dangerous nonsense, we do not have the right to cut corners in achieving its elimination, even if that were possible. Remember, Humanists are committed to reason before they are committed against religion, and we are against religion because it is contrary to reason, not as a matter of dogma. We need to win our battles by argument, not by force.

So, what do we say is the legitimate role of organised religious groups in an open society? In order to approach an answer, I want to examine three questions:

1: What is the legitimate role within society of groups representing a religion or belief?

2: What are the limits of self-govt for such groups within society?

3: What are the limits of free speech in the public space for religions and beliefs?

1: What is the legitimate role within society of groups representing a religion or belief?

One humanist argued to me recently that it is right to allow organisations representing religion and belief to have privileged access to government – as in Article 52 of the draft European Union constitution – because they argue from a moral base which should inform all pragmatic governmental decisions.

Another has argued that religious organisations should not be allowed to engage at all in political discussions or lobbying, because they are divisive and found their values in concerns not of this world.

I disagree with both.

It is an essential feature of a free, democratic society that all its members should not just be permitted but have the absolute right and be encouraged to participate in the decisions that will affect their lives.

In practice, the complexities of modern life make full participation on the Athenian model impossible, but we should not impose artificial constraints.

Organisations representing religions and beliefs – such as Humanism – should have the absolute right to engage in politics, to respond to Government consultations, to lobby elected representatives and engage in the full panoply of political action on matters that engage their beliefs.

If the churches or Islam or other opponents of ours wield more power than we like, then that is their right and our challenge. If government and others in power pay more attention to their demands than is proportionate, then that is an abuse of power that we must oppose.

If government at their behest restricts the liberty of the rest of us in ways incompatible with a free society, then that is wrong of government but not necessarily an abuse of their position by the churches. (It might be tempting to say that their position would be illegitimate because they were seeking to limit the freedom of all, by contrast with our wish to maintain it but not interfere with their leading restricted lives, but though persuasive, this is not decisive, since we also would oppose the removal of some constraints on freedom – it is a question of degree.)

Finally, if the religious organisations are unrepresentative of their members, it will be our duty to point this out and demand that Government discount their views accordingly.

2: What are the limits of self-government within society for groups representing religions or beliefs?

Let me take Islam as an example. Many Muslims have libertarian views similar to ours, but if we look at organised Islam, we find that extreme Islamist groups want to make society Islamic, ruled by shari'ah law – their position is almost identical with that of the Catholic church in mediaeval times – while less extreme Islamist groups claim the right for their own communities within western society to become self-ruling – that shari'ah should rule their internal occasions – family disputes, marriage and divorce, and so on.

This might seem a blatant assault on the human rights of the members of such groups – including especially any who question the traditional rules. But it could be argued against this that anyone who joins a club or a profession submits to its rules, and the law will rarely interfere if the internal tribunals operate by the rules of natural justice. Sometimes indeed the law specifically recognises the internal arrangements of private organisations, as for example the disciplinary body for medical doctors in the UK.

After all, the churches have their own internal religious law on many matters of sexual behaviour, marriage, divorce and so on, and their own internal system of discipline – all the way from “say ten Hail Marys” to excommunication. So why should the same not apply to Islam – or any other group?

The answer must be that self-government for such groups must be accepted – but within strict limits.

I suggest there are at least five provisos, however, and they are powerful.

1. natural justice, not arbitrary procedure, should determine their decisions, and there must be the option of appeal on matters of procedure to the secular courts;
2. there must be no trespass on rights of non-members of the group;
3. there must be no trespass on matters where state has significant interest such as taxation and criminal law;
4. the delegated procedures must command the consent of group members;
5. there must be no compulsion to remain in the group nor any impractical barriers to or penalties for leaving the group – fore example, children must be educated to general standards so that they can as adults move out into wider society if they wish.

3: What are the limits of free speech & behaviour in the public space for religions and beliefs?

I will take two examples – one affecting the freedom of speech of critics, the other affecting the freedom of behaviour of followers of a religion or belief.

(a) Critics' freedom of speech

Heresy and blasphemy used to be subject to the criminal law. Indeed there is still a law against blasphemy in the UK and it is defended as a comfort for believers (even non-Christian ones) although it applies only to the Church of England and is said to be unusable now in these days of human rights.

(Actually it is still in use: the European Court of Human Rights – which seems remarkably ready to give states the benefit of the doubt where religion is concerned – vindicated its use as basis for banning a short video film and the relevant authority (the British Board of Film Classification) has since used it to ban other videos.)

Nevertheless, Article 10 of the European Convention on Human Rights does guarantee freedom of expression – freedom to hold, impart and hear all manner of opinion. The limitations are again very restricted – national security, public safety, prevention of crime, protection of health or morals, protection of the rights of others, and so on.

Plainly denial of and debate about religious beliefs can no longer be barred by law.

It is likewise little disputed in the UK that beliefs have to be prepared to withstand insult, mockery and hatred. Indeed, 20 years ago the UK's Law Commission, charged with keeping our laws under review and up-to-date, in recommending abolition of the blasphemy law, said:

Ridicule has for long been an acceptable means of focussing attention upon a particular aspect of religious practice or dogma which its opponents regard as offending against the wider interests of society, and in that context the use of abuse or insults may well be regarded as a legitimate means of expressing a point of view upon the matter at issue. [Criminal Law Offences against Religion and Public Worship (Law Commission no. 145), HMSO, 1985]

However, there are voices raised against this liberal attitude, from religious minorities – especially Muslim organisations – who say that criticism of their doctrines or scriptures is illegitimate and should be banned. They were outraged by Salman Rushdie's *Satanic Verses*; they have recently denounced someone in the UK who – in the argument about the proper extent of freedom of speech – cited as legitimate speech a putative claim that Mohammed was a paedophile because he married a girl of only nine. Indeed, some Muslims in Britain see criticism of their religion as on a par with racist speech.

But it is heard sometimes even from the bien pensant liberal establishment, on the basis that such protection of beliefs from criticism is a desirable way to protect vulnerable minorities in society and prevent victimisation and discrimination.

We must without doubt reject protection of beliefs from criticism or 'vilification'. But this brings us to the interesting current debate in the UK over a law the Government has been trying to introduce for more than three years. This would make it illegal to stir up hatred of a group of people on the basis of their religion or belief.

The origin of this proposal is that racists have undoubtedly been using religious language as a way to avoid liability under the established law against stirring up racial hatred. The Government wishes therefore to extend the ban to stirring up religious hatred. Is it not after all the duty of government to ensure the safety of its citizens?

The argument has been confused in the extreme, with both sides exaggerating wildly what the law says and what its impact will be. The British Humanist Association, along with at least one human rights organisation, approves of the principle but wants to narrow the wording of the Government's Bill so as to build in strong safeguards for freedom of expression.

Against us is ranged almost the whole liberal establishment, along with the evangelical Christians and many other religious groups, including some Muslims. They cite a law to ban religious vilification in the Australian state of Victoria, which has resulted in religious groups spying on each other and suing each other, so exacerbating the ill-feeling between communities the law was meant to overcome.

The BHA stands firm on the principle that there is a significant difference between stirring up hatred of people because of their beliefs and stirring up hatred of those beliefs themselves. We see the former as corrosive of good community relations and social cohesion, the latter as fair exchange. But it has to be admitted that it is not always easy to distinguish the one from the other, and we have from the start disputed the alleged parallel between religion and race:

Unlike races, religions make extensive and often mutually incompatible claims about the nature of life and the world – claims that can legitimately be appraised and argued over.

Unlike races, religions set out to and usually do influence their members' attitudes and behaviour, often in ways which can be similarly controversial.

Unlike races, religions are in principle and often in practice in competition with each other: evangelists come to our front doors, set up television and radio stations and run crusades to make converts.

Unlike races, religions are expressed through organizations that are often wealthy and powerful. They exercise that power in the name of their faith far outside the realm of religion – in influencing social attitudes and national and international policies (e.g. on AIDS, contraception, and limits on freedom of speech).

Unlike races, religious believers often feel bound by a duty to react strongly to any criticism or insult offered to their deities, prophets or beliefs, however mild or reasonable.

Hence any law about religion needs to include much stronger safeguards for freedom of speech, and since the Government has refused them we have now joined those opposing the law outright.

The principle anyway is clear: there can be no constraint on criticising religious or other beliefs or the behaviour of their followers, but there may be grounds for rules to protect vulnerable groups of followers from having hatred or persecution incited against them.

(b) Believers' freedom of behaviour

My second example concerns how far if at all the state may dictate the individual behaviour of believers. In France, schoolgirls have been banned from wearing the hijab or headscarf at school.

The European Convention on Human Rights guarantees the freedom to manifest our beliefs. This freedom is qualified – but only in a very limited way:

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.

The view was widely shared among European humanists that, whatever one might say about the display of religious symbols by teachers and others who might be seen as representatives of the state in its schools, it was an infringement of individual human rights to ban pupils from wearing the hijab. They are required to attend the school, they attend as individuals, not in any official capacity, they have the human right to manifest their religion, and it is impossible to see how any of the Convention's exceptions is engaged: neither public safety nor protection of public order, health or morals, nor protection of the rights and freedoms of others.

This view was of course vehemently rejected by the French supporters of laïcité. So far as I could understand their case, they argued partly on historical grounds that this is the French tradition – but that does not justify a position that amounts to imposing state atheism – and partly pragmatically that many young girls were intimidated into wearing the hijab – but the ban equally infringes the rights also of the devout who positively wish to cover their heads. Moreover, compulsion to conform is no secure foundation for religious belief – in fact, it is quite likely in longer term to engender dissent – whereas compulsion not to comply with what they see as a religious imperative may well engender a feeling of persecution that leads instead to greater religious commitment.

However, the real objection is one of principle: in an open society, the public space – including publicly maintained schools – is a neutral arena for a contest of beliefs. If we put limits on freedom of religion or belief when we are in power, we implicitly sanction religious indoctrination when our opponents are in power. It is a dangerous model to set up for a government to use – it reminds you of North Korea.

Summary

To sum up: what have I been saying?

Humanism, agnosticism, atheism are contestable philosophies of life or lifestyles just as much as religions. We may see Humanism as self-evident and superior to any other position, but it is self-evident only to us.

Humanism is one among many rival world-views. Neither it nor any religion should be legally privileged; both its followers and those of other religious and non-religious beliefs should enjoy legal protection of the freedom to believe and to manifest belief and not to suffer discrimination. Proper exercise of the human rights of freedom of conscience is incompatible with legal privileges for any one world-view – or indeed any selected few world-views.

The open society is necessarily a secular society – but we must not confuse a secular society with an atheist society. The open society we favour is secular in the sense of providing a neutral public space: the shared official institutions of society are not committed to any particular religion or belief, but the society provides a market place or arena in which rival views can contest for followers.

We should not be afraid of this contest. Instead, we should rely on the persuasiveness of our arguments, on the attractiveness of our position & on our willingness energetically to promote our cause.