

CONFERENCE REPORTS

Ecclesiastical Law Society Day Conference: Freedom of/from Religion

St Bride's Institute, London, 12 March 2016

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A good day conference was preceded by a geographical test in actually finding the excellent facility of the St Bride's Foundation, Bride Lane, Fleet Street. As far as we know, all attendees eventually found the venue. The vice-chairman of the Society, Mark Hill, chaired the AGM in the understandable absence of John Rees, who that very week was undergoing stem cell treatment. Mark Hill paid tribute to John Rees's fortitude and inspirational blogs. All remembered John and continue to do so as he continues therapy. The vice-chairman dispatched the business of the AGM with an alacrity approved of by the previous chairman – and all there attending. He drew commendable attention to the new working parties. Mark Hill was himself elected chairman for the ensuing year and John Rees was elected vice-chairman.

After the necessary business, Baroness Hale of Richmond gave the keynote address. She listed the relevant legislation, both UK and European, to the subject of freedom of/freedom from religion. Overall, she gave a picture of a changing scene. She spoke of freedom of religion once being 'more straightforward' than it is now. Strasbourg and UK law embodied a 'tolerant pluralism'; the state could not – or, she added significantly, used not to – assess religious legitimacy. The *manifestation* of religion was a qualified right; it could be subject to other rights, such as safety, security and freedom of speech. There were 'liminal consequences' in, for example, the Counter-Terrorism Act, the Scottish Parliament's recent law on the upbringing of children and the Family Court decisions. So questions were now asked as to 'what sort of religious beliefs' were compatible with a liberal democracy. Lady Hale parried questions skilfully, sometimes throwing back to the questioner their own question and judiciously avoiding conflicting herself in terms of issues likely to come before the Supreme Court.

In the light of her address and recent decisions of the Supreme Court, the questions I was left with were whether the older Strasbourg neutrality can

still be done and whether there ever was such a thing as neutrality. Is not state neutrality a construct of secularism: all religions are equally true or equally false. It seems that the law must now discriminate acceptable and non-acceptable manifestations of religion. I think that this is more honest and frankly acceptable to a faith which does assert that some things are true and others false, that some actions are good and others bad or even evil.

Lady Hale graciously presented the Eric Kemp Dissertation Prize for 2014/15 to Richard Nicholl, for his essay entitled 'Paved with good intentions: trends towards disestablishment of the Church of England in judicial review'.

Professor Mark Hill followed with a characteristically thorough survey of recent cases: UK, European and international. He drew proper attention to Lord Toulson's definition of religion. He, too, spoke of matters such as doctrine or liturgy being non-justiciable but then went on to touch on Lady Hale's questions and exceptions. He stressed the principle of 'reasonable accommodation', against which recent French cases against veils seemed to vie. Above all there should be a local reconciliation of problems wherever possible. Employment issues (for clergy and ministers) were addressed. The outcome of the recent Methodist case was decided on the facts and he predicted that more cases would come on such a 'case to case' basis. He encouraged members to look out for a forthcoming Hungarian case and opined that Luxembourg could be more significant for the future than Strasbourg. There followed a good series of questions from the floor, all responded to with humour as well as detail. One reflection I had was that, despite the acknowledged difficulty of defining religion in law, the valiant and important attempt of Lord Toulson would not be the last and that this fitted in to the scenario hinted at by Lady Hale on the death of the older legal neutrality.

David O'Mahoney, speaking from a Catholic perspective, looked at the history of religious freedom, its philosophical and theological basis and recent hierarchical statements. He began with Tertullian and ended with the Second Vatican Council, and especially the key influence of the Jesuit John Courtney Murray on the latter, whose thought was having a significant influence on the decisions of the US Supreme Court. He argued for a 'good' kind of secularism and pluralism but not secularism or religion as an ideology. Fanaticism could be found in both religion and atheism. He noted that where there was least religious freedom there was also infringement of other human rights – an observation I reflected could be seen today in contemporary Russia. I also pondered on the need for the Christian Church to have due humility in regard to religious freedom. 'Dissenters' and 'recusants' were only given full toleration and acceptance in England from the eighteenth to nineteenth centuries and the vote on the (excellent) Decree on Religious Freedom at Vatican II had to be taken in the last session because of the implacable opposition of a tiny minority for whom 'error had no rights'. These included the afterwards schismatic Archbishop Marcel Lefebvre.

David Burrowes MP reminded us dramatically that freedom of religion was not just a theoretical question. He explained the admirable work of the All-Party Parliamentary Group on Religious Freedom and its important role in monitoring and speaking about the persecution of Christians. He concentrated on Pakistan but I could also speak of the north of Nigeria and Boko Haram. In spite of an impressive international legal architecture for religious freedom, there were increasing levels of persecution, especially of Christians – arguably now the most persecuted group. It was commented that even where there was theoretical religious freedom there were sometimes no sanctions against its infringement. I was particularly interested when David Burrowes turned to the home front and spoke not of religious persecution as such but of the effects of religious illiteracy among officials in relation to migration and asylum. I referred to the work of Nicholas Coulton and others in the Society in this regard.

The Society therefore enjoyed a rich but also questioning day. Are the days of supposed religious neutrality in law over? How does the law continue to define religion? What wisdom is there from international law and new cases? Meanwhile, what is happening to faith groups on the ground, not least Christians? The Committee, Will Adam and Andy Male are to be congratulated on a very stimulating day.

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Law and Religion Scholars' Network: Cardiff Festival of Law and Religion

School of Law and Politics, Cardiff University, 5–6 May 2016

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The Law and Religion Scholars Network (LARSN) held its annual conference at Cardiff University on 5–6 May 2016. Approximately 125 scholars and students gathered in the Welsh capital for the event, with delegates coming from across the UK and from as far afield as Qatar, Canada and Australia. Cardiff proved worth the journey: delegates were met with blue skies, bright sunshine and a city in full bloom. The conference formed the core of the Cardiff Festival for Law and Religion, which marked the twentieth-fifth anniversary of the University's LLM in Canon Law.