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Dr Amanda van Eck Duymaer van Twist

Amanda, a sociologist, is the deputy director of Inform, a non-profit information centre specializing in minority religious movements, spiritualities, and fringe political movements, based at the London School of Economics and Political Science (LSE) in London, UK.

Religion in England

Governance

England and Wales form a jurisdiction covering two of the four countries of the United Kingdom (UK), the others being Scotland and Northern Ireland. England and Wales together follow a single legal system, known as English law. This paper will focus on religion in England, yet will occasionally mention Wales due to the shared jurisdiction in some matters.

The Church of England is the officially established Christian Church in England; it is within the Western Christian tradition, dating its formal establishment from the mission to England by Saint Augustine of Canterbury in AD 597, which brought it under the authority of the Pope. The Church of England separated from the Roman Catholic Church in 1534 and became the established church by an Act of Parliament.

Her Majesty Queen Elizabeth II, the British Monarch, is the 'Supreme Governor' of the Church of England (CoE); she officially appoints archbishops, bishops and deans of cathedrals on the advice of the Prime Minister. Two archbishops and 24 senior bishops sit in the House of Lords and contribute to Parliament's work. The Church in Wales separated from the CoE in 1920 and is now an autonomous church in the Anglican Communion, an international association of churches consisting of the Church of England (its mother church) and of national and regional Anglican churches in full communion with it.

The General Synod (est. 1970) is the national assembly of the Church of England. It meets to decide doctrinal and organizational matters within the CoE but also can consider matters of religious or public interest. This is significant because it has the special legal status of being able to pass 'Measures' which, if approved by resolution of each House of Parliament, receive Royal Assent and thereby become part of the law of England (i.e. it can propose legislation on religious matters subject to Parliamentary approval).

There is no central register of religions in England, nor is there any official body which could formally recognize a group or individual as a 'religion.' The British government does not distinguish between religious and non-religious organizations and requires both to follow any relevant laws of the country. There are, however, some measures through which some religious organisations can gain a certain status or advantage – these include registering as a religious charity, and being able to engage in official matters with the CoE (which recognises nine faiths it will engage in inter-faith discourse with).¹

¹ These are Judaism, Christianity, Islam, Buddhism, Hinduism, Sikhism, Jainism, Baha'is and Zoroastrians.

The Department of Communities and Local Government (DCLG) is responsible for national policy on local government in England. Within this department, religions come under the remit of Integration and Community Rights, which works with other government departments towards integration in local communities, and tackling extremism and religious hate crime.

Charitable Status

As the law in England and Wales does not define 'religion', any organization or religion is expected to declare their income to Her Majesty's Revenue & Customs. However, registering as a charity provides significant tax benefits which many religions find attractive.² The Charity Commission (the regulator for charities in England and Wales) does not recognize religions as such, but allows for the 'advancement of religion' as a charitable purpose. Over the years it has fine-tuned its concepts, uses and demarcations of religion; where initially it had a Judeo-Christian centric concept of deity, it has adapted this (see below). The Charity Commission is primarily concerned with ensuring that charities are financially accountable and that the money they raise is used towards their declared aims. The Commission will investigate if it is informed that accountable and charitable financial procedures are not followed, and occasionally will remove charitable status if it finds serious breaches of charity law.

The general principle of the Charity Commission is that legally, charities are for the benefit of the public, or a significant section of the public, and not for select individuals. Hence, religious charities must demonstrate how they will work towards advancement of religion for the public benefit.³ Historically charity law was used to support approved forms of religion, and a purpose was deemed religious if it was in accordance with the Church of England. Over time charity law sought to engage with religious plurality, ideally so that 'the law does not now favour one religion over another' (*Varsani v Jesari* [1998] 3 All ER 273 (UK)). Since the nineteenth century the courts accepted that religion can include non-Anglican forms of Christianity (for example, *Thornton v Howe* (1862) 21 Beav 14 (UK)), and non-Christian religions such as Judaism (for example, *Re Michel's Trust* (1860) 28 Beav 39 (UK)). The Charity Commission also registered, for instance, Hindu, Sikh, Bahai, Zoroastrian and Jain groups (Edge 2006: 107). They also registered some Buddhist groups as charities – which is interesting, as previous decisions had stressed a need for theistic belief systems in order to qualify for charitable status, hence excluding atheism from accepted forms of religion (see, for example, *Re South Place Ethical Society* ([1980] All ER 918 (UK)). The Charity Commission made significant changes in the Charities Act 2006 in order to engage with contemporary religious plurality, and religion came to include religions that involve a belief in more than one god and religions which do not involve belief in a god.⁴

In the case of an application from the Church of Scientology, the Charity Commission argued in 1999 that the central practices of auditing and training did not qualify as worship (defined then as conduct which indicated reverence or veneration for the supreme being and submission to the object worshipped), and therefore Scientology was not a religion for charitable purposes.⁵ Yet since the

² Not all religious groups want to register as a charity, and there is no requirement for them to do so. For those who do, charities can claim relief from tax on most income or gains and on profits from some activities. They are exempt from tax on most income and gains from investments, estates, land and property so long as that income/gain is used for charitable purposes. When individuals make donations, registered charities can also re-claim the amount of Basic Rate income tax paid by an individual to the government on the amount donated, effectively increasing the amount of the donation by 20%, a scheme known as Gift Aid.

³ <http://www.charitycommission.gov.uk/detailed-guidance/charitable-purposes-and-public-benefit/charities-and-public-benefit/the-advancement-of-religion-for-the-public-benefit/> (accessed July 2014).

⁴ <http://www.charitycommission.gov.uk/detailed-guidance/charitable-purposes-and-public-benefit/guidance-on-charitable-purposes/the-advancement-of-religion/> (accessed July 2014).

⁵ <http://www.charitycommission.gov.uk/media/100909/cosfulldoc.pdf> and Edge (2006: 107-108). In 2000 the Church of Scientology took its case to HM Revenue & Customs (the tax-collecting body in the UK) which agreed that it was a

change in what religion is considered to include in the Charities Act 2006, and the registration of a Scientology chapel as a place of worship (see below), there may be future changes in Scientology's status in this country. Furthermore, Scientology's application was also rejected in 1999 because the Commission deemed that its benefit was for elected members rather than the public as a whole. Similarly, "...a benefit will not be recognised for the public as a whole if it relies upon metaphysical causation, for instance prayers by cloistered nuns to benefit the world as a whole" (*Gilmour v Coates* [1949] AC 426 (UK), in *Edge* 2006: 110-11). However, public benefit may be recognised where the religious benefit is directly available only to a small group, as the Commission appear to work on the basis that advancing any religion is *prima facie* beneficial, and then look for an element of interaction with the public to ensure that this benefit is of a public nature (*Edge* 2006, 110-11).

Religions may also choose to register aspects of their organisation as a business with Companies House (<http://www.companieshouse.gov.uk/>) which provides legal protection for those who invested in any part of the religious organization that behaved like a business (e.g., taking money for services, employing workers, publishing books, producing education materials, and so forth). An important advantage of registering as a company would be the limiting of individual liability in the case of financial problems, i.e. bankruptcy protection. It is possible and also common practice to register simultaneously as a charity and a company, in order to limit the personal financial liability of the trustees of registered charities.

Places of Worship

Local government authorities (counties and London boroughs) maintain registers of 'places of worship'. There are benefits to registering a building as such: it is technically illegal for over 20 people to worship in a building other than a private residence unless that building is registered as a Place of Worship (Places of Religious Worship 1812s.2 (UK), and registration is necessary to hold religious marriage ceremonies (although the latter, unless held within the CoE, are only valid alongside the appropriate civil paperwork). Buildings registered as a place of worship are exempt from the planning controls that are usually imposed on buildings which are listed as being of special value for conservation purposes (Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 art. 4).⁶ Those religious organisations that are not exempt, however, have to seek government guidance in any changes affecting their place of worship, such as change in congregation size, change in activities, and so forth (*Edge* 2006; 124).

In some cases claims for the registration of places of worship are rejected. For example, in 1970 the Registrar General refused to certify a chapel on the headquarters of the Church of Scientology as a place of worship (*ex parte Segerdal* ([1970] 3 All ER 886 (UK)). The Church of Scientology contested this decision, but the Court of Appeal upheld the decision, arguing that Scientology is a philosophy rather than a religion, hence its Chapels were not places of Religious Worship. This was a traditionalist Christian-centred attitude that was overturned in 2013 when the Supreme Court in *Hodkin v Registrar-General of Births, Deaths and Marriages* ([2013] UKSC 77) decided that Scientology is to be regarded as a religion and that its Chapels can be registered under the Places of Worship Registration Act 1855. Lord Toulson gave the Judgment of the Supreme Court and noted the problems with the previous 1970 definition:

not-for-profit body and was exempt from paying VAT (Value Added Tax of (usually) 20%). Any business or organisation with revenues of over £60,000 is expected to either register for this tax or be able to demonstrate why they should be exempt http://www.hmrc.gov.uk/vat/index.htm?nfpb=true&pageLabel=pageVAT_Home (accessed July 2014).

⁶ Hence the Church of England may alter its listed places of worship without government consent; similar exemptions are also enjoyed by the Church in Wales, the Roman Catholic Church, the Methodist Church, the Baptist Unions of Great Britain and Wales, and the United Reformed Church.

Unless there is some compelling contextual reason for holding otherwise, religion should not be confined to religions which recognise a supreme deity. First and foremost, to do so would be a form of religious discrimination unacceptable in today's society. It would exclude Buddhism, along with other faiths such as Jainism, Taoism, Theosophy and part of Hinduism. The evidence in the present case shows that, among others, Jains, Theosophists and Buddhists have registered places of worship in England. Lord Denning in *Segerdal* [1970] 2 QB 697, 707 acknowledged that Buddhist temples were "properly described as places of meeting for religious worship" but he referred to them as "exceptional cases" without offering any further explanation. The need to make an exception for Buddhism (which has also been applied to Jainism and Theosophy), and the absence of a satisfactory explanation for it, are powerful indications that there is something unsound in the supposed general rule (51).

The decision of the Supreme Court to recognise Scientology as a religion for the purposes of the Places of Worship Registration Act 1855 will undoubtedly have repercussions for recognition of other groups as religions for the purposes of Charity Law and also for discrimination claims under the Equality Act 2010.

Freedom of Religion

England and Wales have been gently secularising and diversifying over the last few decades. An example of this is the Sunday Trading Act 1994,⁷ an act to reform the law of England and Wales relating to Sunday trading which allowed shops to open and trade on Sundays, previously restricted due to established Christian mores. Religious groups have the right to settle and operate in England and Wales as long as they abide by the laws of the land. Recent legal acts have been passed to encourage (and regulate) peaceful coexistence. Some examples include the Human Rights Act 1998 c. 42,⁸ to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights. Notable is, among other points: freedom of thought, conscience and religion (13). The Employment Equality (Religion or Belief) Regulations 2003 followed to further the rights of individuals within their workspace.⁹ The Racial and Religious Hatred Act 2006 was created with the purpose to make provisions about offences involving stirring up hatred against persons on racial or religious grounds.¹⁰ The Equality Act 2006 explicitly defines and prohibits religious discrimination.¹¹

The Terrorism Act 2000 was added to in 2006 to delineate and regulate terrorism.¹² Interesting here is 'Grounds for Proscription' (21), which has been expanded from the Terrorism Act 2000 to include 'unlawful glorification of the commission or preparation (whether in the past, in the future or generally) of acts of terrorism' or encouraging the emulation of such acts of terrorism. The addition of the clause led to the inclusion of Al-Gubaara and the Saved Sect (previously known in this country as Al Muhajiroun, among other names) as 'Proscribed Groups' in the UK.¹³ The list of formally proscribed groups numbers 60 as of 20 June 2014.¹⁴

Census

⁷ http://www.opsi.gov.uk/acts/acts1994/ukpga_19940020_en_1 (accessed July 2014).

⁸ <http://www.legislation.gov.uk/ukpga/1998/42/contents> (accessed July 2014).

⁹ http://www.opsi.gov.uk/si/em2004/uksiem_20042520_en.pdf (accessed July 2014).

¹⁰ <http://www.legislation.gov.uk/ukpga/2006/1/contents> (accessed July 2014).

¹¹ http://www.legislation.gov.uk/ukpga/2006/3/pdfs/ukpga_20060003_en.pdf (accessed July 2014).

¹² <http://www.legislation.gov.uk/ukpga/2006/11/contents#pt2-pb1-l1g21> (accessed July 2014).

¹³ http://www.opsi.gov.uk/si/em2006/uksiem_20062016_en.pdf (accessed July 2014).

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324603/20140627-List_of_Proscribed_organisations_WEBSITE_final.pdf (accessed July 2014).

The Census (Amendment) Act 2000 amended the Census Act 1920 to enable particulars to be required in respect of religion.¹⁵ Consequently there has been information about religious diversity for 2001 and 2011, and a way to chart the changes in that decade. Christians remained the largest group in England and Wales in 2011 (59%), but had declined since 2001 (72%). The second most common category was 'no religion' (25.1%), up from 14.8% in 2001. The Muslim population grew from 3% to 4.8%, Hindus from 1.1% to 1.5%, Sikhs from 0.6% to 0.8%, and the Jewish population remained stable at 0.5% of the population.¹⁶ The 'no religion' category contained interesting data as well, including a rise in the number of agnostics (from 19,909 in 2001 to 32,382 in 2011), atheists (from 10,357 to 29,276) and humanists (from 8,297 to 15,067) - although Jedi Knights dropped from 390,127 to 176,632.¹⁷ The category of 'any other religion' contained some significant minority communities; 56,620 Pagans (as well as 11,766 who specified Wicca, 4,189 Druids, 1,958 Heathens, 508 Celtic Pagans, and other groups some might consider Pagan), 39,061 Spiritualists, 20,288 Jains, and 11,058 who identified as Ravidassia, among other groups. The 'any other religion' category shows that the religious scene is diverse - ranging from Animists (541) to Rastafarians (7,906) and Zoroastrians (4,105) - and that these categories (both the numbers of them and the numbers within each) have grown between 2001 and 2011.¹⁸ England and Wales are religiously fragmented, and this fragmentation is increasing.

It is important to keep in mind that the census does not have full coverage (not everybody answers all the questions) and does not measure the full range of religious activity and diversity. There are new forms of religiosity, alternative ways of belonging and non-belonging, holistic perspectives, new age initiatives and other forms of alternative spirituality that are not easily represented in census results. Inform has, as of 30 July 2014, 2028 groups on the database that have been classified as new religious movements, of which 913 are currently active in the UK.¹⁹ Of course these numbers are not exhaustive, and may change depending on what definition of religion we choose, but it does tell us there is a much larger variety out there than the census results suggest. Furthermore, the results do not tell us anything about the variety or conflicts within the traditions. Some of those who self-report as 'Christian' or 'Muslim' on the census may be considered 'cultic' or not even within the traditions by others within that tradition.

Religion and Schools in England

The majority of children in England are in education in state funded schools (which means they are funded by public taxation) without charge.²⁰ Some form of education or (vocational) training is compulsory until the age of 18.²¹ State funded schools (generally referred to as maintained schools,

¹⁵ http://www.opsi.gov.uk/acts/acts2000/ukpga_20000024_en_1 (accessed July 2014).

¹⁶ See <http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/rpt-religion.html> and <http://www.bbc.co.uk/news/uk-20677321> (both accessed July 2014).

¹⁷ See <http://www.brin.ac.uk/news/2012/census-2011-any-other-religion/> (accessed July 2014).

¹⁸ See <http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/rpt-religion.html> and <http://www.brin.ac.uk/news/2012/census-2011-any-other-religion/> (accessed July 2014).

¹⁹ Inform is an independent charity based at the London School of Economics. The primary aim of Inform is to help people by providing them with information that is as accurate, balanced, and up-to-date as possible about alternative religious, spiritual and esoteric movements. See <http://inform.ac/> (accessed July 2014).

²⁰ I shall focus on schooling in England here for reasons of brevity.

²¹ I shall focus on schooling here rather than higher level education, although there is religious higher education. The Higher Education Funding Council for England (HEFCE) was set up by the Government in 1992 as a 'non-departmental public body'. It supports higher education in partnership with other funding bodies. Churches can provide another avenue for funding. For example, while the Church of England funds the majority of the cost of training its clergy, HEFCE funding represents an important element of the package that enables higher education institutions to offer training for ministry. As part of its higher education landscape, the UK has a large number of theological colleges and Bible schools from a variety of denominations (e.g. Anglican, Roman Catholic, Pentecostal, Methodist, non-denominational, among others), as well as higher education institutions within other religious traditions (e.g. orthodox Jewish and Islamic higher education institutions, among others.)

to denote that they are maintained by the local authority) can also be partly funded or otherwise supported (through provision of buildings and/or land) by private, religious or charitable bodies. All schools have a duty to offer an act of daily collective worship and offer a religious education class to teach about faith. Maintained schools can be religious in character, which means that they may have a faith-based ethos that is written into the school's governing documents, but most are not. Hence, all maintained schools should teach about faith, and those maintained schools that are faith schools may teach through the faith dimension. Maintained schools are inspected by the Office for Standards in Education (Ofsted) and have to teach the national curriculum.²² A small minority of pupils attend privately run fee-paying independent schools. These schools do not have to follow the national curriculum, and teachers are not required to have official teaching qualifications.²³ Parents are also allowed to educate their children at home, in which case there are no requirements for curriculum, lessons or schedule, and parents do not have to pass any qualifications. They do have to notify their local authority of their choice, local authorities will offer guidelines regarding curriculums, and there are charities that offer support.²⁴ In the case of home schooling, there is no financial support from the state.

The school system established in England was largely a product of church initiative with a lead being taken by the Church of England at the beginning of the nineteenth century. Today religious schools make up a third of all schools in the maintained sector in England, the two main providers being the Church of England and the Catholic Education Service.²⁵ Maintained faith schools (those who are religious in character) have additional freedoms and flexibilities. To varying degrees (depending on the percentage of their income coming from the state) they may hire staff of their particular faith and apply a faith test for appointment of support staff. Maintained faith schools may give priority in admissions to the school to applicants who are of the faith of the school, although they must admit other applicants if they cannot fill all of their places with children of the faith. Admissions policy is determined by the school governors, but in many cases the local education authority is also involved. A school can insist children come from a particular faith background but it is bound by the Race Relations Act. Popular schools may insist on proof of baptism and regular church attendance. All maintained schools, whether secular or associated with a particular faith, are required to teach Religious Education and offer daily acts of collective worship, as dictated by the Education Act 2005 (chapter 18) and the Provisions for the inspection of religious education in schools, and School Standards and Framework Act 1998.²⁶ For religious education, around 57% of

²² For details on the national curriculum, see <https://www.gov.uk/government/collections/national-curriculum> (accessed August 2014).

²³ Parents may also send their children to supplementary schools (such as madrassas or Sunday schools) alongside their regular schooling. These supplementary schools are formally unregulated, but may employ forms of self-regulation.

²⁴ <https://www.gov.uk/home-education> (accessed July 2014).

²⁵ <https://www.gov.uk/government/publications/maintained-faith-schools/maintained-faith-schools> (accessed July 2014).

²⁶ See Education Act 2005 (Chapter 18) (http://www.opsi.gov.uk/acts/acts2005/ukpga_20050018_en_1); Provisions for the inspection of religious education in schools, and School Standards and Framework Act 1998 (http://www.opsi.gov.uk/acts/acts1998/ukpga_19980031_en_1). Of particular interest here is section 69: 'Duty to secure due provision of religious education'. Subject to exceptions and special arrangements (section 71), in relation to any community, foundation or voluntary school— (a) the local education authority and the governing body shall exercise their functions with a view to securing, and (b) the head teacher shall secure, that religious education is given in accordance with the provision for such education included in the school's basic curriculum by virtue of section 352(1)(a) of the [1996 c. 56.] Education Act 1996: 70. Subject to section 71, each pupil in attendance at a community, foundation or voluntary school shall on each school day take part in an act of collective worship. 71. If the parent of a pupil at a community, foundation or voluntary school requests that he may be wholly or partly excused— (a) from receiving religious education given in the school in accordance with the school's basic curriculum, (b) from attendance at religious worship in the school, or (c) both from receiving such education and from such attendance, the pupil shall be so excused until the request is withdrawn.

faith schools may teach religious education according to their own faith, the remaining 43% teach the locally agreed religious education syllabus, which has a more multi-faith approach.²⁷

In 2010, just before major restructuring of the formation of new schools (more on this below), there were approximately 20,000 maintained schools in England; of this total, about 7,000 were faith schools (35 per cent). Of these 7,000 schools, 68 per cent of maintained faith schools were Church of England schools and 30 per cent were Catholic.²⁸ As of 2014, all but 79 of the maintained faith schools are associated with the major Christian denominations. The 79 schools not associated with one of the major Christian denominations included: Jewish (48), Muslim (18), Sikh (8), Greek Orthodox (1), Hindu (1), Quaker (1), Seventh Day Adventist (1) and United Reform Church (1) schools.²⁹

A number of religious schools in Britain choose to be in the independent sector. The state does not directly subsidise their running costs, although many are registered charities (see above). Part 10 of the Education Act 2002 requires that all independent schools must be registered with the Department for Education, and for action to be taken where schools do not meet the required standards.³⁰ There has been a rise in the number of Muslim schools (most of which currently are independent schools), and as such an Association of Muslim Schools was created, which is officially recognised by the Department of Education as representing the interests of Muslim schools and acting as an umbrella body for the increasing number of Muslim schools in the UK.³¹ While most independent schools follow the national curriculum, it is not an obligation. Some schools, such as Steiner Waldorf schools (based on the educational philosophy of Rudolf Steiner, the founder of Anthroposophy) offer the national curriculum exams as options for children to take when they want as part of guided independent study. Christian Schools Trust schools, Accelerated Christian Education schools and Bruderhof schools also offer some interesting pedagogical differences; the Bruderhof schools offer a modified American curriculum, The Christian Trust Schools tend to be charismatic, and Accelerated Christian Education schools provide a 'God-centred curriculum'. Schools under this category include schools from a number of minority and new religious movements (NRMs), e.g.: The St James Schools (School of Economic Science, also known as the School of Philosophy, founded by Leon MacLaren and based on Advaita Vedanta teachings);³² Osho Ko Hsuan School (based on the teachings of Osho, also known as Bhagwan Shree Rajneesh),³³ Greenfield's School in East Grinstead and the Cadet school at Saint Hill Manor (who both use Applied Scholastics, based on the teachings of Ron Hubbard, the founder of

²⁷ The former are voluntary-aided schools (where the church involved contributes towards the capital costs and appoints the majority of school governors), the latter voluntary-controlled or foundation schools (where the church owns the land and buildings, and local authority employs school staff and has responsibility for admissions). For under 16 year olds, parent have the right to withdraw their children from collective worship and RE. For over 16, the individual student can exercise the same rights as parents for under 16s.

²⁸ <https://web.archive.org/web/20131124105501/http://www.education.gov.uk/schools/leadership/typesofschools/b0066996/faith-schools/maintained> (cached from November 2013, accessed on web.archive.org August 2014).

²⁹ See <https://humanism.org.uk/campaigns/schools-and-education/faith-schools/> and <https://www.gov.uk/government/publications/maintained-faith-schools/maintained-faith-schools> and for the 2014 data <https://www.gov.uk/government/statistics/schools-pupils-and-their-characteristics-january-2014> (accessed July 2014).

³⁰ <http://www.dfes.gov.uk/reg-independent-schools/> (accessed July 2014). The Independent Schools Inspectorate (ISI) is the agency responsible for the inspection of schools in membership of the Independent Schools Council Associations. ISI is a body approved for the purpose of inspection under Section 162A of the Education Act 2005. As such, they report to the Department for Education (DfE) on the extent to which schools meet statutory requirements. The quality of its service is monitored by the Office for Standards in Education, Children's Services and Skills (Ofsted) on behalf of the DfE.

³¹ <http://ams-uk.org/> (accessed August 2014).

³² <http://www.stjameschools.co.uk/> (accessed July 2014).

³³ http://www.education.gov.uk/cgi-bin/schools/performance/archive/dfex2x1_00.pl?Code=&Mode=&School=8786041 (accessed July 2014).

Scientology),³⁴ 38 schools for Exclusive Brethren Children,³⁵ and 35 Steiner Schools (in the latter case this number is for the UK and Ireland).³⁶

In 2010 the government introduced ‘free schools’, a new type of state-funded school, to allow parents, teachers, charities and businesses to set up their own schools. Founding groups must submit applications to the Department for Education. Free schools do not have to follow the National Curriculum and are responsible directly to the Secretary of State for Education, rather than local authorities. Free schools may be faith schools, and schools with this designation have the right to select all their teachers and up to half their pupils on the basis of their religion.³⁷ However, in 2014 the government put measures in place to restrict the teaching of creationism and require schools to teach evolution.³⁸ Among the faith-based free schools that have opened by 2014 are schools within the main faith traditions (CoE, Roman Catholic, other Christian denominations,³⁹ Muslim, Hindu and Sikh schools), Steiner schools,⁴⁰ as well as a Transcendental Meditation school - The Maharishi School of the Age of Enlightenment was an independent school that became a free school in 2011.⁴¹ There is likely to be a larger variety of applications as free schools become more established (a look at the amount and variety of applications that have been submitted so far is interesting – many were not accepted but they may re-apply).⁴² Critics argue that the creation of faith schools is increasingly fragmenting an already diverse society. The British Humanist Association is campaigning against all faith-based schools, stating: “We want pupils from all different backgrounds educated together in a shared environment, rather than separated according to the religious beliefs of their parents”.⁴³

Religion and the Law

There are no special laws regulating religion, but in 1998 Parliament legislated to provide mechanisms for enforcing the European Convention on Human Rights (ECHR) in the United Kingdom, which is what essentially provides religious rights in the United Kingdom. (Parliament is still sovereign.) The 1998 Human Rights Act seeks to incorporate the guarantees of the ECHR into English law by providing mechanisms by which English law can be brought into line with the ECHR. The Equality Act 2010 prohibits unlawful harassment, victimisation and direct and indirect discrimination at work based on religion or belief.

³⁴ <http://www.appliedscholastics.org/> (accessed July 2014).

³⁵ <http://www.tes.co.uk/article.aspx?storycode=2122723> (accessed July 2014).

³⁶ <http://www.steinerwaldorf.org.uk/> (accessed July 2014).

³⁷ Established ‘maintained sector’ faith schools can select all of their students on the basis of faith. For free schools there are two types of faith options, faith designated and faith ethos. Faith ethos schools can’t have faith based admissions, can’t teach religious education or deliver communal worship according to their faith, and can’t recruit teaching staff by faith unless there is a genuine occupational requirement.

³⁸ <https://humanism.org.uk/2014/06/18/victory-government-bans-existing-future-academies-free-schools-teaching-creationism-science/> (accessed July 2014). As a further safeguard, the model Funding Agreement for new Free Schools and Academies will prohibit the teaching, as an evidence-based view or theory, of any view or theory that is contrary to established scientific and/or historical evidence and explanations. This requires the teaching of evolution as a comprehensive, coherent and extensively evidenced theory. Biblical or other faiths’ creation stories can, however, be covered as part of religious education classes.

³⁹ Which includes three schools run by the Christian group, the Plymouth Brethren Christian Church, also known as the Exclusive Brethren.

⁴⁰ The Steiner free schools have to comply with different regulations than the independent schools, over, among other things, admissions, and restrictions on Anthroposophy teachings.

⁴¹ <https://www.gov.uk/government/publications/free-schools-successful-applications-and-open-schools-2014> (accessed July 2014).

⁴² The DfE have had to publish details about applications made for opening free schools after a Freedom of Information request, see the data here <https://www.gov.uk/government/publications/free-schools-wave-5-application-information> and <https://www.gov.uk/government/publications/free-schools-wave-6-application-information> (accessed August 2014).

⁴³ <https://humanism.org.uk/> (accessed July 2014).

Regulating outward manifestations of religious beliefs

In January 2013, the European Court of Human Rights published its judgment in four UK cases about religious rights in the workplace: *Eweida and Chaplin* as well as *Ladele and McFarlane v. the United Kingdom*. The *Eweida and Chaplin* cases were brought by Christians who were both (in different cases) prevented by their employers' dress codes from wearing a visible cross/crucifix when in uniform at work. The European Court of Human Rights decided that their religious rights at work needed to be balanced against other considerations. In the case of *Eweida* her right to manifest her belief was breached by the employers' desire to project a particular corporate image, in the case of *Chaplin*, her rights were justifiably breached for health and safety grounds.⁴⁴ In a previous and similar case a teacher was banned from wearing a *niqab* (full face veil) at work, a decision that was upheld by the Employment Appeal Tribunal, which deemed it justifiable under the circumstances, to raise educational standards.⁴⁵ In contrast, Sikhs have successfully obtained the necessary rights to wear their religious symbols; turbans instead of motorcycle helmets on motorcycles and hard hats on construction sites, a *kara* (bracelet) in a school with a no jewellery policy (Weller 2007: 57).⁴⁶

In the two other European Court of Human Rights cases, *Ladele and McFarlane v. the United Kingdom*, both objected to carrying out certain work duties in respect of same-sex couples, due to their religious beliefs about marriage and sexual relationships. The European Court of Human Rights found against both of them. *Ladele*, a registrar who refused to perform civil partnerships (for same sex couples), was dismissed from her employment. The European Court agreed with the employer that the right for people to have a civil partnership trumped her conscientious objection as a civil servant, and her employer did not have to accommodate her conscientious objection. In *McFarlane*, a counsellor who refused to offer psycho-sexual therapy to same-sex couples contrary to his employer's non-discrimination policy was dismissed. The European Court decided that a fair balance was struck between the competing interests at stake, as the employer's action executed its policy of providing a service without discrimination.⁴⁷

Conscientious Objection to Military Service

The Military Service Act 1916 introduced conscription and included an exception for conscientious objectors (Military Service Act 1916 s.2(1)(d)(UK)). Exemption options were partial exemption (excluding claimants from combatant duties only), conditional exemption (requiring claimants to undertake 'alternative work of national importance'), and absolute exemption (requiring no substitute work) (Edge 2006, 87-88). Since the use of volunteer soldiers after conscription was ended, there have been volunteer soldiers who have developed a conscientious objection, and for whom procedures have been devised.

The Religious Use of Entheogens

The UK does not allow for the religious use of proscribed drug. For example, a Rastafarian was arrested when found carrying cannabis (see *Taylor* [2001] EWCA Crim 2263 (UK), and *Andrews* [2004] EWCA Crim 947 (UK)). He argued that the cannabis was part of his religion, that his acts should be interpreted as a manifestation of religion under ECHR Article 9, and that the criminal

⁴⁴ http://www.equalityhumanrights.com/sites/default/files/documents/RoB/religion_or_belief_in_the_workplace_an_explanation_of_recent_judgments_final.pdf (p 3-4, accessed July 2014).

⁴⁵ *Azmi v Kirklees Metropolitan Borough Council* [2007] IRLR 434 available at http://www.bailii.org/uk/cases/UKCAT/2007/0009_07_3003.html (accessed August 2014).

⁴⁶ See Audrey Gillian 'Proud to be Welsh and a Sikh'. Schoolgirl wins court battle to wear religious bangle' 30 July 2008 available at <http://www.guardian.co.uk/education/2008/jul/30/schools.religion> (accessed August 2014).

⁴⁷ http://www.equalityhumanrights.com/sites/default/files/documents/RoB/religion_or_belief_in_the_workplace_an_explanation_of_recent_judgments_final.pdf (p 4, accessed July 2014).

proceedings needed to be justified under Article 9(2). At the trial the prosecution conceded without argument that Rastafarianism was a religion, and that the drugs were designated for religious purposes. However, the Judge found that Article 9(2) justifies the prohibition as there was an international consensus on public health and safety dangers arising from the drug (Edge 2006, 84-5). For a more detailed discussion on the religious use of entheogens, see Sarah Harvey in this volume.

Religion, Defamation, and Litigation

London has long had a reputation for being the litigation capital of the world due to its tough libel laws.⁴⁸ In a case revolving around the trusteeship of two Gurdwaras (Sikh places of worship), *Shergill v Khaira* [2014] UKSC 33 and [2012] EWCA Civ 983,⁴⁹ the dispute fanned out and initiated a libel case. In the original case the claimants asserted that the successor of their holy saint was not the ‘third holy saint’, hence did not have the authority to remove them as trustees of the Gurdwara. Eventually it went to the Court of Appeal, which issued a judgment that this case was non-justiciable as it would require the court to adjudicate on matters of religious belief or doctrine – i.e. who is the ‘right’ successor of the holy saint. In a related case, a journalist for a Sikh publication had reported on this case and described the disputed successor of the holy saint, Sant Baba Jeet Singh Ji Maharaj, to be a cult leader, and his followers a cult. The Sant Baba Jeet sued for libel from India in a case that went to court in England.⁵⁰ Again, libel proceedings were found to be non-justiciable as they would require the court to adjudicate on issues of Sikh doctrine and belief (i.e. is the label ‘cult’ justified?). The latter cases, and the defendant Mr Hardeep Singh, were important forces in arguing for changes in libel law that have been initiated since (The Defamation Act 2013) designed to strike a fair balance between freedom of speech and the protection of reputation.⁵¹

The Problem with Beliefs

There have been other notable cases, involving small minority religious groups, charismatic leaders or alternative healers. Some of these cases have been difficult to categorise, yet have been successfully dealt with using existing laws. Recent examples are the conviction and imprisonment of Michael Lyons (aka Mohan Singh) on charges of rape and sexual assault.⁵² He claimed to be a Buddhist, healer, chiropractor, osteopath, and teacher of meditation and yoga. He had (and likely still has) a small but very loyal following. The court case involved much commentary on beliefs, ritual practices, abuse of power, misuse of trust, coercion, and more – yet the case eventually hinged on consent, and only a minority of claims on the indictment garnered a conviction. In another case, Mehdi Zand, a martial arts teacher who had developed spiritual teachings, had garnered a following who regarded him as a spiritual master. A serious altercation with ex members saw him charged with violent disorder (and other followers with several counts of grievous bodily harm and grievous bodily harm with intent) and imprisoned for two years.⁵³ Although there were religious elements

⁴⁸ See, for example, <http://www.blogs.findlaw.co.uk/solicitor/2009/09/london-libel-capital-of-the-world.html> (accessed July 2014). Interestingly, this didn’t work out for the Unification Church in England in 1981. The Daily Mail, one of the tabloid newspapers, accused the Unification Church of brainwashing its members. The then leader of the England branch of the Unification Church initiated a libel suit on behalf of the church, but lost.

⁴⁹ See <http://www.bailii.org/uk/cases/UKSC/2014/33.html> and <http://www.bailii.org/ew/cases/EWCA/Civ/2012/983.html> (both accessed July 2014).

⁵⁰ *Sant Baba Jeet Singh Ji Maharaj v Eastern Media Group & Anor* [2010] EWHC 1294 (QB) and *Shergill v Purewal & Anor* [2010] EWHC 3610 (QB). (EWHC is the legal citation for the High Court of Justice of England and Wales.) See <http://www.bailii.org/ew/cases/EWHC/QB/2010/1294.html> and <http://www.bailii.org/ew/cases/EWHC/QB/2010/3610.html> (both accessed July 2014).

⁵¹ See <http://services.parliament.uk/bills/2012-13/defamation.html> and <http://www.out-law.com/articles/2013/november/defamation-law-reforms-to-take-effect-from-the-start-of-2014/> (accessed July 2014).

⁵² [http://www.thelawpages.com/court-cases/Michael-Lyons-\(AKA-Mohan-Singh\)-5258-1.law](http://www.thelawpages.com/court-cases/Michael-Lyons-(AKA-Mohan-Singh)-5258-1.law) (accessed July 2014).

⁵³ http://www.watfordobserver.co.uk/news/4650554.Trio_jailed_for_vicious_restaurant_attack/ (accessed July 2014).

within the culture of the small group, the court case revolved around one specific violent event, which made for a clear-cut case and conviction. In another case, in 2014 a self-proclaimed faith healer and shaman, Juliette D'Souza (who also used several aliases), was convicted of 23 counts of obtaining property by deception and fraud by false representation between 1998 and 2010. Victims reported she had claimed spiritual powers and healing skills, yet in court D'Souza denied she had ever made such claims. However the prosecution had a strong case and she was sentenced to 10 years imprisonment. HHJ Karsten QC noted this was one of the worst cases of confidence fraud he had encountered, and that a maximum term of ten years is insufficient.⁵⁴ Although courts do not like to adjudicate on issues of religion, faith or belief, these cases were successfully prosecuted by focusing on the areas of criminality – be it, in these cases, sexual abuse, physical abuse or confidence fraud.⁵⁵

Conclusion

The religious landscape in England has evolved in many ways. Throughout the 16th and 17th Centuries there were a number of Parliamentary Acts of Uniformity designed to establish the English church as the legal form of worship. The late 18th and 19th Centuries saw a gradual process of Catholic emancipation, where a number of Parliamentary acts reduced and removed many of the previous restrictions on Roman Catholics.⁵⁶ The 1871 Universities Test Act extended civil and political rights to then minority religions by allowing Roman Catholics, 'non-conformists' (Protestant Christians who did not conform to the governance and usages of the established Church of England) and non-Christians to take academic positions at the Universities of Oxford, Cambridge and Durham.⁵⁷ This trend continued steadily; the non-conformists were eventually called 'free churches', signifying that they were free from state control, and the religious landscape continues to change to this day. Religion in England is diverse and vibrant, and whereas increasing secularisation means that religion has less input in the political and legal discourse, religious belief and participation is still a valued aspect of civil society, and faith education is growing and diversifying.

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⁵⁴ <http://www.tbchambers.co.uk/Latest-News/confidence-trickster-jailedfor-10-years.html> (accessed July 2014). HHJ and QC stand for His Honourable Judge and Queens Counsel respectively; QCs are jurists appointed (on merit) to Her Majesty's Counsel, and have the privilege of sitting within the Bar of court.

⁵⁵ It must be said, however, that there are likely to be many more problematic cases where individuals have been unduly coerced, defrauded or abused that have not gone to court. Religion can be used as an explanatory frame or as a motivator in ways that do not always represent well as an explanatory argument in court. Furthermore, victims may feel vulnerable and embarrassed, and unwilling to put themselves in a position to be examined in court (van Eck Dymaer van Twist 2014).

⁵⁶ The last of which is the Roman Catholic Relief Act 1829 <http://www.legislation.gov.uk/ukpga/Geo4/10/7/contents> (accessed July 2014).

⁵⁷ <http://www.legislation.gov.uk/ukpga/Vict/34-35/26> (accessed July 2014).

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