

The *Gay News* Blasphemy Case – 25 years on

The *Gay News* case in 1977 was a private prosecution brought by Mrs Mary Whitehouse. The paper had published a poem by James Kirkup entitled 'The Love that Dares to Speak its Name'. The Law Commission description is: 'The poem recounted the homosexual fantasies of a Roman centurion as he removed the body of Christ from the cross, in which he described in explicit detail acts of sodomy and fellatio with the body of Christ immediately after His death and ascribed to him during his lifetime promiscuous homosexual practices with the Apostles and other men'. The defendants were convicted by 10-2. On appeal to the House of Lords the conviction was upheld 3-2. The principal points of law established were (1) it was irrelevant whether the defendants really intended to blaspheme, (2) it was irrelevant that there was no 'attack' on the Christian religion.

I was incensed at this state interference with debate on a vital matter. Although as a barrister I was required to observe the law, I decided to break it in this instance. At a 1977 protest meeting in Brighton I read out Kirkup's so-called blasphemous poem. This attracted widespread publicity, but the state took no steps against me.

In 1985 the Law Commission published a report recommending that the common law crime of blasphemy be abolished and not replaced. The impact was marred by the fact that of the five commissioners two (including the Chairman of the Commission, Mr Justice Ralph Gibson) dissented. The minority wished to replace the present law by a new offence modelled on a provision in the Indian Penal Code which prohibits the deliberate outraging of the religious feelings of any person. There is no definition of 'religious', but this has caused no difficulty during the century or so for which the provision has been law in India.

In a lecture I delivered at the Ross McWhirter Foundation's Dicey Conference on Religion and the Rule of Law at St Edmund Hall Oxford on 13 March 1990 I tried to spell out what all this meant for humanists. I said that humanists are campaigning against the current use of the human rights concept of freedom of religion to undermine the democratic ordering of society. Article 9 of the European Convention on Human Rights, which embodies freedom of religion, is now taken to mean that individual choices must be allowed to override the democratic ordering of society if they are prompted by the teaching of some 'religion' or other. It is also taken to mean that no religious precept must be challenged by the organs of society. This denies the right of society to decide that the teachings of a particular religion or so-called religion are anti-social, and to combat them. For example in Britain the state finds itself compelled to finance the running of exclusively Roman Catholic schools, even though (as events in Northern Ireland demonstrate) such educational segregation is clearly against the public interest.

Some religious systems purport to regulate every aspect of life. Thus a Muslim parent said on the 'Everyman' BBC 1 television programme on 28 January 1990 'without Islam, life is meaningless. Islam tells you everything; how to eat; how to sit, how to stand'. The freedom of religion principle gives a licence to any actual or purported religious system to override every aspect of the law and other arrangements laid down for the individual by the democratic state.

Humanists believe that an unlimited freedom of religion principle, though having an apparent validity, is in fact dangerous to the health of society. It licences teaching of falsehoods to

children, brainwashing of adolescent converts, bizarre exceptions to a just law (such as that requiring the wearing of crash helmets by motor- cyclists), and other anti-social practices.

The freedom of religion principle is against the nature of religion itself. By demanding that all actual or so-called religions be accorded equal respect it runs counter to claims of religious truth. The Christian religion, for example, insists that it is the only true faith: 'No one comes to God except by me' (John 14.6). The Koran makes similar claims.

The danger continues. Blair recently tried to introduce a law under which a religious motivation would increase penalties for civil unrest. I attacked this in a letter the Times published on 19 November 2001-

The Blair Government's Anti-Terrorism, Crime and Security Bill, introduced on 12 November 2001, punishes religious hatred. This it describes as hatred against a group of persons 'defined by reference to religious belief or lack of religious belief'. The Bill does not define 'hatred' or 'religious belief', which are both notoriously inexact. It will be punishable 'religious hatred' to criticise a bunch of atheists. Is this really what we want our laws to do?

The penalty for this newly-invented thought crime will be imprisonment for up to seven years. That might be inflicted on a comic who jeers at so-called religions that chop off a thief's hand or stone to death a woman caught in adultery. Is this really what we want?

Or an earnest do-gooder might be imprisoned for criticising so-called religions that prevent a desperately ill child being given a blood transfusion. Again, is that what we want?

I myself am an agnostic, with no desire to defend atheists who presume to have greater knowledge of the Universe than is given to mankind. I claim the right to criticise them. Do I really deserve to be locked up?

The same goes for the multitude of people who endlessly debate faith, and argue for ever about our place in the cosmos. It is what humans have done from time immemorial, so far without challenge.

Will Mr Blair kindly get off our backs?

This letter, with similar objections, appeared to do the trick. Blair was frightened, and dropped his iniquitous proposal from the Bill. But that is not quite the end of the story. Somehow there was left behind, and crept on to our statute book, a provision, in what became Blair's Anti-terrorism, Crime and Security Act 2001, which adds greater penalties to various offences, such as assaults and criminal damage, which are what it calls 'religiously aggravated'. This is defined as prejudicial to a group of persons defined by reference to religious belief or lack of religious belief. So we are almost back where we started.

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