Religious freedom in a secular society

Roger Trigg[1]

Abstract

Secularism in Europe tends to look for a society free from religion rather than free for it. The result is that as examples from recent jurisprudence in Europe, and the United Kingdom in particular, indicate, "equality", and the right not be discriminated against, too often simply trump claims to a right to freedom of religion. In addition, freedom of religion is too often truncated to mean freedom of worship. What is needed is a reasonable accommodation between the demands of competing rights, so that the needs of all can, if possible, be properly met.

Keywords European Court of Human Rights, religious freedom, discrimination, equality, human rights, reasonable accommodation, conscience, secularism.

1. The impact of secularism

The chill winds of secularism are blowing in many countries, despite the fact that religion, as a force, is in the ascendancy across the world. Nevertheless in Europe, in particular, a form of secularism is becoming more pronounced that is understood as being in opposition to public religious influence. There are many kinds of secularism, some merely indicating the separation of "church and state." Others, particularly those with roots in the later Enlightenment as evidenced in Revolutionary France, see religion as a threat to public order, and regard it as a personal choice only fit for the private sphere.

In my new book (Trigg 2012), with the title of *Equality, Freedom and Religion,* I am especially concerned with the way in which in many Western jurisdictions, secular ideas of equality are judged so important that they can eclipse claims to religious freedom. One can see this dynamic at work in pronouncements of the Council of Europe in 2007. The Council represents the parliaments of the whole range of European countries, including Russia and Turkey, and is the body underwriting the European

[1] Roger Trigg (*1941) has submitted an application for appointment as Research Associate which is pending with the Department of Constitutional Law and Philosophy of Law, Faculty of Law, University of the Free State, Bloemfontein, South Africa. He is Emeritus Professor of Philosophy, University of Warwick; Academic Director, Centre for the Study of Religion and Public Life, Kellogg College, Oxford, OX2 6PN. Article received: 16 March 2012; Accepted: 22 April 2012. UK spelling. Private contact: R Trigg, 17 Manor Green, Stratford-upon-Avon, Warwickshire, CV37 7ES, UK, Tel. (0)1789-204699, Email: roger.trigg@theology.ox.ac.uk.

Court of Human Rights. In a Recommendation concerning State, *Religion, Secularity and Human Rights* the Council asserts: "States must require religious leaders to take an unambiguous stand in favour of the precedence of human rights, set forth in the European Convention of Human Rights, over any religious principle" (Council of Europe 2007, para. 17). The Assembly even wanted to "require human rights training for all religious leaders" (para. 24.1). This is all highly controversial throughout Europe, and it is an attitude that has not found favour in more recent debates in the Parliamentary Assembly of the Council. Even so, this Recommendation comes from a clear train of Enlightenment thinking that sees human rights as essentially secular, and opposed to the obscurantism of religion. The flaw in such arguments is that religious freedom must itself be a basic human right and is recognised as such in all human rights charters. The European Convention on Human Rights itself, in Article 9, gives an absolute right to "freedom of thought, conscience and religion." It does, however, qualify the manifestation of such beliefs by such limitations as "are necessary in a democratic society" and, in particular, "for the protection of the rights and freedoms of others." That gives an opportunity for those who wish to champion other rights and freedoms to insist not just that they are equally taken account of, but that they trump any right of religious expression.

That is what has been happening, and I argue in my book that all too often a right to equality, and freedom from discrimination trumps the right to show one's conscientiously held religious beliefs in action. Instead of a balance being sought between different human rights, so that everyone's interests are catered for if that is possible, some insist that one right overrules another. The idea of reasonable accommodation, so that a religious conscience can be respected, seems anathema to some. It involves recognising in public what some feel has no right to a place in public life at all. There must be one law for all, and that must, it seems, be avowedly secular. This both circumscribes the freedom of individuals to live as they would wish, and also hampers religious institutions in their attempt to operate according to their ethical beliefs stemming from their religious outlook.

It may be argued that ethics must be firmly rooted in one's views of what is conducive to human flourishing, and not, say, in arbitrary edicts from religious texts or religious authorities. Reason, not blind obedience to authority, should prevail. That is a typical Enlightenment response to religious claims, but it forgets that the idea of what constitutes human flourishing, and what is good and bad for us, is itself heavily influenced by one's view of human nature, and that is partly formed by one's religious views concerning the place of humans in the wider scheme of things. Even the idea that *humans* matter particularly and that *human* rights are of particular importance could be said to stem from the Judaeo-Christian belief that humans are made in the image of God. The ideas of equality and freedom could themselves be argued to depend on theological ideas

that we are all equal in the sight of God, and that we should be free because we have all been given free-will by God. That certainly was the assumption that undergirded the thought of American Enlightenment thinkers, and explains the assertion in the United States Declaration of Independence that "all men are created equal", and that "they are endowed by their Creator with certain inalienable rights." It was not the view of a more materialist and atheist culture in late eighteenth century France, and the latter is influencing Europe at the present time. Even mentioning the Christian heritage of Europe in the recent Lisbon Treaty of the European Union became controversial. There is now merely a bland reference to the "cultural, religious and humanist inheritance of Europe" in the Preamble. Even the word "Christian" is proscribed.

This leaves a problem about the basis of human rights, and their philosophical justification. Human rights cannot just be what "we" (whoever "we" are) may happen to believe in at the present moment. Their whole moral force comes from their presumed objectivity and universality. Yet a more pressing problem is that without some basis for rights we have nothing to help us balance one against the other. If our beliefs in effect create the rights, strong beliefs about the importance of one may be allowed simply to eclipse another. That is now happening in many Western societies. As campaigns gather force for the removal of discrimination against this or that group, and for equal treatment for all, "equality" comes to overwhelm claims to religious freedom, when these seem to involve actions that may be accused of "discrimination."

2. Freedom from religion?

All religions run the risk of their freedom being constrained. For instance, in one of the first cases heard by the new United Kingdom Supreme Court in 2009, Jews were themselves convicted of racial discrimination, because the Court could not accept the traditional Orthodox definition of who counts as Jew. As Lord Rodger, one of the Justices, said in his opinion, (R. v. JFS para. 225) "the decision of the majority means that there can be in future no Jewish faith schools which give preference to children because they are Jewish according to Jewish religious law and belief." The alleged fact of racial discrimination had to trump any consideration of respecting the internal rules of a religion.

The oddity in all this is that discrimination on grounds of religion always seems explicitly to be outlawed. Yet other forms of discrimination, on grounds of race, gender or sexual orientation, seem to be guarded against at the expense of discrimination on grounds of religious belief. The anti-religious strain in this is obvious. In many Western societies, the aim is to achieve freedom *from* religion, rather than freedom *for* religion. It could be argued that despite culture wars in the United States, there is still a greater desire to protect religion there than in some European countries.

Two contrasting legal cases illustrate this. Within weeks of each other, courts in the United Kingdom and the United States came to radically different conclusions about the status of ministers of religion. In a much trumpeted case, the United States Supreme Court unanimously upheld what is termed the "ministerial exception." Although the case concerned only ordained ministers and not everyone employed by churches and religious institutions, an important line was drawn. The Chief Justice said (Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Opportunities Commission, 565-U.S 2012 [slip. op. at 13]): "Requesting a church to accept or retain a minister … intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the church, depriving the church of control of those who will personify its beliefs."

Government interference with the appointment of ministers, and their conditions of employment would be an unwarranted intrusion into the free exercise of religion, as proclaimed in the First Amendment to the Constitution of the United States. Justice Alito commented in his opinion (slip. op. at 3), this is no small matter in the protection of freedom as "the autonomy of religious groups … has often served as a shield against repressive civil laws." They were, in his words, "critical buffers" between the individual and the power of the state. Throughout the history of the United States he insists (slip. op. at 2) religious associations have been the pre-eminent example of private associations fulfilling that function.

The situation is seen very differently by the courts of the United Kingdom. It has long been the custom to view ministers of religion as not employees but "office-holders." For example, the relation between a minster and the British Methodist Church was regarded as non-contractual, and a matter of "spiritual discipline." Clearly once ordinary employment law comes into the picture, and contracts are enforceable by secular criteria, ministers may have gained some protection, but at the cost of the State in effect being able to control the appointment and employment of ministers in a way the United States Supreme Court saw as dangerous.

A significant feature of the British case (President of Methodist Conference v. Preston 2011) is that the three judges of the Court of Appeal in London explicitly accepted that they were changing traditional understandings. Lord Justice Kay (para. 25), quoting another judge about a former case, claimed that this is an example of the courts "fulfilling their time-honoured role of updating the common law and making it more suitable for modern circumstances." Contemporary courts are thus at liberty to change deep-rooted understandings even about the relations between the State and religious institutions to suit contemporary fashion, or even the prejudices of modern judges. The Court insisted that the relation between minister and church was contractual and therefore enforceable by the courts.

Appeals to freedom of religion, as set out in the European Convention of Human Rights, were summarily dismissed as having nothing to do with "the domestic law of unfair dismissal." Yet it is apparent that with the courts having the power to decide what constitutes unfair dismissal, the power of discipline over recalcitrant ministers has been removed from all churches. Secular standards of appropriate behaviour may differ from religiously inspired ones. The role of institutions such as churches to act as buffers between State and individual, alluded to by Justice Alito, is summarily removed.

The subtle secular stance of English courts in recent years is underlined by the recent insistence by Lord Justice Laws in the England and Wales Court of Appeal that "in the eyes of everyone save the religious believer religious faith is necessarily subjective, being incommunicable by any kind of proof and evidence."[2] It follows that it must be a private and personal matter, with no role in public life, and certainly no role in the law. In a few sentences the foundation of the English common law on Christian principles for more than a thousand years is summarily dismissed. More serious than that perhaps is the way in which he merely asserts, without argument, an understanding of religion that is philosophically controversial, namely that religion in general, and Christianity in particular, cannot be rationally discussed. The whole idea that religious assertions are "subjective", without recourse to proof or evidence, would be denied by many (e.g. Trigg 1973, 1998). Even atheists may want to argue rationally that religion is making claims to objective truth, but they are false. It should not be the role of the courts to become involved in matters of dispute within the philosophy of religion, particularly when there is a suspicion that they are based on outmoded understandings of what "proof" and "evidence" consists, themselves the subject of much debate within the philosophy of science (see Trigg 1993).

These remarks of a judge, straying way beyond his remit, are being quoted as a part of case law in subsequent cases, and go to set the scene for the way in which religious claims are now treated in English courts. For example, in a case about public prayer at the start of a Town Council meeting in Bideford, an ancient port in the South-West of England, the High Court judge quotes further remarks by Lord Justice Laws to the effect that "the precepts of any one religion, and belief system, cannot by force of their religious origins, sound any louder in the general law than the precepts of another" (National Secular Society v. Bideford Town Council 2012, para. 31). In other words the public space is to be neutral and devoid of any religious influence. It is to be free from religion, rather than free for it.

The idea that somehow secularity and neutrality are equivalent can be assumed without question. Yet the result is that people without religious views can speak and

[2] McFarlane v. Relate para 23.

behave as normal in the public square, whereas those with religious convictions have to put what they think most important in life on one side. Indeed if it consists of private, subjective prejudice that cannot be rationally justified, it would be right for them to do so. If, though, what they believe can lay claim to truths about the human condition, they ought to be able to express those views and be listened to, particularly if they are involved in debates about what constitutes the common good.

3. The public square

The issue concerns what is the default position in public life. Is the public square "naked" and neutral concerning religion? (see Trigg 1997). The arguments of the later Enlightenment are seldom far from the surface here. Is religion a constant threat or an aid to the conduct of public affairs? Is it intrinsically divisive and a source of conflict, or can it be part of the shared assumptions that bind a society together? This kind of argument can perhaps never be decisively settled, and the watchword must be freedom. Yet what does that mean in practice? Should people, as in this case, be free to manifest their belief in public, or should genuine freedom proscribe such activity?

The Judge in the Town Council case (National Secular Society v. Bideford Town Council 2012) chose to decide the case on the narrow grounds of the rights of the Council under a 1972 Act. It said amongst other things (para. 20) that "a local authority shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of these functions." The issue was whether that could include public prayer. The Judge, perhaps not surprisingly, said (para. 29) that "it is not for a Court to rule upon the likelihood of divine, and presumptively beneficial, guidance being available or the effectiveness of Christian public prayer in obtaining it." That was a proper observation, but the conclusion he drew from that was that the Council was not entitled to offer public prayer. In other words, the secularist view was the norm. If you cannot prove the beneficial effects of prayer, you cannot have public prayer.

Yet it could be easily argued that the presumption was the opposite. Prayers had been said in Bideford Town Council since at least the reign of Elizabeth I in the sixteenth century. Why if a Court did not feel qualified to rule in the matter did the judge automatically assume the practice should cease rather than continue? The settled custom was that prayers be said, and the reiterated, democratic will of the Council was that this should continue. Yet secularism won the day, though only for a moment, because the British Government then stepped in with Parliamentary action to clarify the powers of local councils, so that they could if they wished, continue to have prayers. The Secretary of State for Communities and Local Government said in a public statement that "the right to worship is a fundamental and hard-fought Bri-

tish liberty, and the right for religious freedom in British history is deeply entwined with political freedom.''

The secularist would, of course, maintain that the right to religious freedom supports their case. Yet this brings us back to the idea of a neutral state, which all citizens enter on an equal footing. The claim is that public acts of worship cause discrimination between believers and unbelievers, so that the latter feel that in some way they are second-class citizens. As the Judge claimed, praying ''turns the Council meeting from one in which all Councillors are entitled to participate equally on all matters, qualified equally through being elected, into a partial gathering of those councillors who share a particular religious outlook.'' Yet turning the issue round, so that there are no prayers and everyone is treated apparently equally, we find that in fact the right of religious believers to manifest their beliefs in acts of public worship is curtailed. Religion is made a private matter of no relevance in the public sphere.

What is most important in the face of competing claims to religious freedom is that there is no coercion. The demand that equality of citizenship entails that the public square is stripped of any religious symbol or manifestation may reduce everything to the lowest common denominator, but it is clearly creating a substantial burden on those who consider their religious beliefs have a public relevance and resonance. In the case of public prayer, stopping it in the face of a majority wish seems coercive and an assault on long established freedoms. Yet the consciences of those who do not wish to participate must be respected. In practice, there is not a problem in pausing after such prayers so that latecomers, and others, may enter. There need be no feeling of embarrassment. In the Westminster Parliament prayers are said daily at the start of the session in both Houses. Attendance is voluntary. The prayers are private, and the public galleries are not opened until their conclusion. Members may have many reasons for not arriving in time, and there is no feeling of anyone being ''second-class.'' It is a matter of personal choice, and that is surely how it should be. No-one is coerced, although if the practice were to be stopped by the Courts against the wishes of the majority of Members of Parliament that would surely be an assault on freedom and democracy itself.

The Judge was wise in the case of Bideford Town Council not to get involved in theology, but that does not prevent other courts making rulings about what are and are not core beliefs. A favourite ploy of English courts at the moment (and it can be seen in other jurisdictions too) is to pare down the idea of what it is to manifest a religious belief. Freedom of religion can often be seen as mere freedom of worship. This was demonstrated in an important case, where having been to the Court of Appeal in London, it was then taken to the European Court of Human Rights, along with three other cases concerning religious freedom.

This particular case concerned a civil registrar who did not wish to register civil partnerships, when they were introduced. She lost her job, and her claim to freedom of religion was overruled by the right not to be discriminated against on grounds of sexual orientation. One right simply eclipsed the right to manifest one's religious beliefs, and a salient feature of the case was that the London Borough of Islington made no attempt to accommodate her. Colleagues could have taken the ceremonies, while she remained with more traditional ones. Her employers though wanted to make the point that discrimination on grounds on sexual orientation was totally unacceptable. "Reasonable accommodation" was not part of the Council's vocabulary.

The issue is not whether one agrees with her stance. Freedom of religion is all the more precious in a democratic society if one disagrees with a religious outlook. Not everything can be allowed, but there ought to be a presumption that one can live by what one considers most important in life. Democracy itself cannot flourish if people are not free to express their most deeply held beliefs and also to live by them.

In this instance, however, the Court (Ladele v. London Borough of Islington, para. 52) states: "Ms. Ladele's objection was based on her view of marriage, which was not a core part of her religion; and Islington's requirement in no way prevented her from worshipping as she wished." Thus her freedom of religion was in no way circumscribed, because the beliefs she was manifesting were not part of her religion, and anyway freedom of religion in the Court's eyes, seems to consist only in being able to worship as one wishes. This, though, shows a misunderstanding of the nature of Christianity, which certainly sees marriage as being a crucial element in its beliefs, indeed in the eyes of some a "sacrament." It also sweeps aside the way in which Christians and adherents of other religions, such as Islam, would see their religion as encompassing much more in their life than mere public rituals.

It is ironic that despite the admission that "public worship" is a central part of freedom of religion, there is little attempt in the European Court of Human Rights to safeguard that by allowing workers to choose not to work on Sundays so they can worship. The doctrine of the Court is that freedom of religion is upheld by the idea of freedom of contract. In other words, if one does not like some of the conditions of a job, one is free to give it up, or not take it on in the first place. Yet the freedom to be unemployed is a dubious freedom, and, particularly in some countries at the present time of financial stringency, giving up a job on grounds of conscience can be a heroic, not to say foolhardy, act.

It is true that, for example, a Muslim unwilling to serve alcohol should not take on a job as a bartender. That though does not the meet the case of a Muslim worker in a large supermarket required to sell alcohol, when it would be easy to give him or her other duties. Once again, the idea of reasonable accommodation, and of the

balancing of rights, should come to the fore. Sunday working (or for that matter Friday and Saturday working for Muslims and Jews) certainly provides an example where even freedom of worship is rated as secondary to the rights of employers.

4. Is religion special?

A common thread running through many European cases, which sometimes distinguishes them from the United States, is a reluctance to see religion as special, or religious freedom as such in need of particular protection. From a secularist perspective, this is intelligible. Even if human freedom is celebrated, and freedom of conscience upheld, there will be a reluctance to see "religion" itself as worthy of any attention. Indeed, if religion is regarded as a threat to social cohesion, it will only be tolerated if freedom of religion is viewed as a species of something that is regarded as important, such as freedom of conscience. The same implicit reasoning can be seen in the move to appeal to freedom of contract, as that might be seen as desirable from a secularist point of view. Indeed the European Convention of Human Rights (Article 9) concerns the importance of freedom of religion, and the right to manifest it, but even in that Article it is only part of a wider context. One has freedom to manifest "one's religion or beliefs." This follows the statement of the absolute right to "freedom of thought, conscience and religion." "Religion" is put within a wider grouping, and is not given special attention.

This is in clear contrast to the First Amendment to the Constitution of the United States, which, as is well known, states clearly that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." It goes on to refer to other freedoms, including the freedom of speech and assembly, but they are listed separately. Religion is seen as of special importance, and, given the history of eighteenth century Virginia, the home of the main drafters, one can see why. In that Colony, an increasingly diverse population with several denominational allegiances came up against a hide-bound Established Church (the Church of England), dominated in Virginia by the local gentry, and without adequate episcopal oversight. The responsible bishop was far away in London. There was a lack even of the toleration supposedly guaranteed even in the Colonies by the English Act of Toleration of 1689.

The result was an understanding in the infant United States that religious freedom was a fundamental part of proper democracy. If one cannot live publicly according to what one thinks is most important in life, one cannot be truly a free citizen, but hampered by orthodoxy of belief and practice imposed from outside, that one may not accept. In the Virginia of the eighteenth century, that had involved an Anglican ascendancy, with its roots in the class structure of the colony. Baptists, Presbyteri-

ans and others found this increasingly irksome. Today, the imposed orthodoxy is more likely to be of a secular origin, but can be at least as oppressive.

In the United States many see religious freedom as "the first freedom", and do not consider it a coincidence that reference to it is placed first in the Bill of Rights. There is good reason for this order. Religion has always been particularly vulnerable, since, by definition, it poses an alternative source of authority to that of the State (significantly often given that capital letter), or even to the "will of the people" and hence the fashions and prejudices of the day. Totalitarian governments invariably find it a threat, and it is no coincidence that the presence or absence of freedom of religion has often been seen as a reliable indication of the presence or absence of other freedoms.

The tendency, though, has been for secularists of various descriptions to deal with freedom of religion by subsuming it under some other freedom or freedoms. We have already mentioned the invocation of freedom of contract, but it can also be held that freedom of religion is covered by freedom of conscience. Then religion need not be given any special status, or thought worthy of particular protection. It is covered by something else. Yet is it? An obvious lacuna is that religion is not just a personal and individual pursuit. The conceit that it is a subjective phenomenon, perhaps valid only for the individual believer, does not do justice to the undoubted fact that it is also a communal affair, even something one may be born into.

The Protestant stress on the importance of individual commitment, which is often taken for granted in discussions about freedom of religion, sometimes fails to give due weight to the corporate nature of religion. Religious institutions are themselves important as buffers between the individual and state, as we have already seen. As a consequence, true freedom demands not just freedom for individuals but also freedom for institutions. Otherwise, with nothing between the individual and the state, the tendency will be for the state to gather ever more power to itself in an attempt to act as referee between the competing interests of individuals. The danger of this explains the importance of the American "ministerial exception", guaranteeing some independence to religious institutions.

Freedom of assembly is sometimes invoked as an adequate protection for public worship, and hence for the existence of churches, but, as with individuals, churches and similar institutions need a wider canvas on which to work than that presented by the mere right to gather for worship. Attacks on the rights of Catholic institutions to operate within their own ethical standards are a case in point. Catholic adoption agencies in Britain have had to close down because they were unwilling to go against their Church's teaching by offering children for adoption by same-sex couples. They have had to conform to the fashionable secular standards of the day, no matter that they clashed with basic religious principles as they saw them.

The response, however, will still be made that that there is nothing about religion that is worthy of special protection. Other beliefs can also form part of worldviews, and moral judgments, that are of immense importance to the people making them. Pacifism, environmentalism, and vegetarianism offer examples of causes that can demand great commitment on the part of those who support them. Should not they also be respected? That is presumably the thinking behind the coupling of religion and belief in European documents about freedom of religion, and indeed there is now a long tradition of respecting the rights of conscientious objectors in time of war, irrespective of whether their prime motivation is religious, as it often may be.

Nothing that is said here implies that respect for the individual conscience is not important, but that does not mean that religion does not warrant particular protection. Unfortunately, the more the category of protected beliefs is widened, the more qualifications will be written into that protection. Everyone's sincere beliefs cannot be accommodated all the time. Even if, as one must, one includes the right to criticize any religion, and to deny the truth of all religions, as an integral part of religious freedom, there is still a vast hinterland of beliefs individuals may rate highly, but which, by any definition, are far from a religious or specifically anti-religious outlook. In a free society they deserve protection, all things being equal. The question still remains whether we can discard the category of religion, and simply talk of rights to other freedoms, such as freedom of conscience.

5. Human nature

A new discipline, the cognitive science of religion, casts some light on human nature. In *Equality, Freedom and Religion* (Trigg 2012:18ff), examples are given from contemporary research in psychology and anthropology, which suggests that characteristically religious ideas are intimately linked with what may be called our "cognitive architecture." In other words the way people think, and have always tended to do so, is already biased in certain directions. We find, as humans, that it is easier to think in some ways than others. A simple example might be things that go bump in the night, or sudden rustlings in the forest. We all know how easy it is to jump to the conclusion that this is the result of some agent. There must be someone or some animal making that noise, it seems. There are good reasons why we should think so, as in the past we needed to be alert for predators. Nevertheless it is surprisingly simple to visualise an unseen agent when there is no obvious one, and we are then well on the way to believing in the power of supernatural agency. Similarly, we are natural dualists, it seems, finding it easy to separate minds from bodies and to think of minds existing in a bodiless state. We may find stories of looking down from above on our own body at a time of medical crisis hard to accept on a rational basis, but it is remarkably easy to understand them, and seem to

visualize the scene. Similarly, as humans, we seem inclined to look for purpose in what may be sheer accidents. The question "why?" keeps recurring. So one could go on, but the point is that all of these facets of human understanding, apparent from early childhood, help to build up a picture of the world that is highly religious (see Barrett 2004, 2011).

This scratches the surface of a major line of contemporary research in cognitive science, and does nothing to show the truth (or falsity) of any religion. What it does show is that the characteristic signs of religion, belief in the supernatural, in purpose in events, in life after death, and so on, are intimately linked with our ordinary ways of thinking. We are, it has been said "natural theists", in that the basic impulses that help to form religion are at work everywhere, and have always been present in human life. Belief in God (or gods) has always been the default option, and a truly secular attitude might be said to go against the basic grain of human nature.

Two researchers ask us to imagine a generation that grows up without any religious teaching. They predict that even so, the people in it "would believe in supernatural agents, that natural events had meaning and purpose … and that they would successfully curb their ancient primeval selfishness for fear of greater forces observing and judging their actions" (Johnson and Bering 2009). Religion, it seems, has both always been with us and is likely to emerge again even if repressed. The resurgence of religion in many countries after the demise of Communism might seem to support this idea. It is "natural" to think in a way conducive to a religious vision of the world.

This is not to give a rational justification for all religion, or any particular one. Rational argument about religion comes in at a higher level than our initial responses to the world around us. We may find it important to control them, and not follow them, but they are typically part of what we are as human beings. They are there, an intrinsic part of our shared human nature. Secularists are wrong if they imagine that we all start off devoid of all religion, and that it is merely the product of social influence. Religion cannot be dismissed as just the idiosyncratic response of individuals, and is more deeply entrenched than that. It is perhaps not surprising that it is identified with what we think important in life. If, indeed, our deepest impulses are thwarted or ignored in society, it is unlikely that we, or our society, can properly flourish.

Given our basic nature, we should be free to follow our impulses and exercise our religion in whatever society we belong to, in whatever ways we see fit. There must, of course, be proper limits. Human sacrifice cannot be tolerated just because some religion practises it. Indeed it is because there are pathologies of religion, and religious impulses can be twisted to perverse ends, that it is important they be out in the open in any given society, and can be subjected to free, rational examina-

tion and criticism. Private religion is all the more dangerous because it cannot be publicly challenged.

The presumption, however, should be in favour of freedom of religious belief and its proper expression, in a wide sense. Practices which can be seen as part of religion, go far beyond the mere forms of public worship, and must include significant moral stances, which are often bound up with a religious vision of the world. Morality and religion cannot easily be separated. As a result, there should be greater willingness than shown at present, particularly in Europe, to accommodate sincerely held religious beliefs and practices. The right to religious liberty should not be simply trumped by other rights, such as a right not to be discriminated against on whatever ground. The European Convention of Human Rights itself explicitly forbids discrimination on grounds of religion (Article 14). All rights should be balanced against each other, so that they can all be taken equally seriously. A reasonable accommodation should be reached, which so far as is possible meets the needs of everyone. The right to religious freedom is too important to be overshadowed by other rights.

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