

Conflicting rights

Somehow, when people mention equality and human rights and 'conflicting rights', they always seem to be talking about religion.

Religious people are not of course the only people who discriminate, but religions can bring extra dimensions, e.g. justifying discrimination on the basis of their teachings. And religion is unlike the other 'equality strands' – race, gender, disability, age, sexual orientation.

This is because ones religious or non-religious beliefs – ones world view and the core beliefs that determine how we view the world, do affect the judgements we make about other people and about society.

Religions generally define for their followers what is acceptable and unacceptable behaviour and in many cases lay down rigid rules.

Religious leaders preach about what is right and wrong, and how the religion's followers should behave.

And some religions believe they have the right to impose their beliefs, and the rules about behaviour, on other people, and on society as a whole.

And – while this is not true of all religions - many religions are not completely committed to human rights or equality. And that includes the Church of England, which (despite its claims that human rights are based in the dignity of man, which they claim is itself based on man being made in the image of god,) is adamant that the Church could never be bound by the Human Rights Act.

And there are certainly a number of religious groups that are not committed to equality on grounds of sexual orientation (and a frightening number that teach that sexual orientation is a 'lifestyle choice' and/or that gay and lesbian people can be cured)

Many religions have serious issues around trans people, and many are not fully committed to gender equality either.

And many religious people make claims that because they have a right to manifest their religious beliefs (many are perfectly happy to claim these human rights for themselves), they must be allowed to discriminate against people on these various grounds.

For example by not employing or refusing to work with gay or trans people

Or claiming the right to encourage work colleagues who are gay to come to their church and be 'cured'.

Or by not providing adoption services for gay people,

Or not conducting civil partnerships

Or not hiring out the church hall to a GLBT group,

Or not selling contraceptives or the morning after pill.

Some religions also insist that they have a right, or indeed a duty, to proselytise – including in the work place - and that this does not constitute harassment.

Or that they must have the right to proselytise when delivering services, including statutory public services (like the nurse who invited her patients to pray).

All of these can result in difficult situations, for employers, for work colleagues or for service users, and for anyone who sees their own human rights or their right to equal treatment being compromised by other people's religious beliefs.

So it isn't surprising that there have been a number of high profile, and difficult, tribunals and court cases.

It is important to remember that conflicts of rights don't only occur between 'equality strands', there are also conflicts within the 'religion or belief' equality strand – and these can be just as difficult.

Take the right of parents to have their children educated in a way that is consistent with their religion.

That's an important human right – but the argument is often used to justify the creation of state-funded faith schools – and that's not what it means.

That human right is there to protect parents from having their children indoctrinated in another religion by the state – for example a religious minority in a country with a 'state religion'.

There is no obligation on the state to provide religious instruction in schools – only an obligation not to force a particular religion on children who do not, or whose parents do not share that religion.

But if you look at the UK education system with a growing number of faith schools that do provide religious instruction in one particular faith, and where parents often have no choice but to send their children there, and that's a negation of parents' rights.

And consider the legal requirement for collective worship of a broadly Christian nature in all schools, including ordinary community schools.

There are some real issues here for non-religious parents and children, and for parents and children of other faiths.

Parents do have the right to withdraw their children from collective worship and from religious education – but children under 16 do not have the right to withdraw themselves and of course in faith schools, the religion can, and often does, suffuse the entire curriculum – and parents cannot withdraw their children from that.

So the growing number of faith schools – often demanded as a right by certain faiths, can certainly undermine the human rights of parents and children who do not share that faith.

But there are also conflicts of rights within religions – and it is perhaps here that really serious oppression of people's human rights are most likely to occur.

There can be no doubt that LGBT people within some faith communities can suffer the most appalling oppression,

But so can people who are not religious enough – from the extreme example of people who demand the death penalty for apostasy (bear in mind that people have a right to change their religion), to the enormous pressure there can be – from faith leaders, from the community as a whole, and even from their own families – on individuals who do not wish to practise the faith of those around them.

And finally, just a quick comment about various issues in the workplace.

I am all for accommodating requests from the religious – for the right to wear particular clothes required by their religion, or for time out to pray, or to leave early on a Friday, or take leave for religious festivals, etc – where that can be provided without it impacting adversely on the business or on other employees.

But this quite often does impact on other employees – e.g. when a group of people demand not to work on Sundays, and someone else ends up working 3 Sundays in 4, where they used to work only 1 in 4.

And we also hear from people who used to see the workplace as a place where they could ‘escape’ from religion but now find enormous pressure on them from colleagues to use the prayer room, in the same way as they are pressurised outside the workplace to go to the mosque or temple.

Those are some of the problems. What about the solutions?

It is difficult when some very vociferous religious groups are encouraging people to ‘stand up for their rights’ and to bring legal cases to assert their rights, but the answer has to be education – and in particular education about the need to balance conflicting rights.

Human rights legislation has that balance built in:

Article 9 – Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one’s beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, **or for the protection of the rights and freedoms of others.**

That doesn’t necessarily make it easy to apply – but it does mean that people can be encouraged to consider the impact on other people’s rights and freedoms – and it should help when people are trying to mediate between conflicting rights.