

GENERAL SYNOD**BACKGROUND PAPER FOR PRIVATE MEMBER'S MOTION****The Reverend Stephen Trott (Peterborough) to move:**

'That this Synod express its conviction that it is the calling of Christians to order and govern our lives in accordance with the teaching of the Holy Scripture, and to manifest our faith in public life as well as in private, giving expression to our beliefs in the written and spoken word, and in practical acts of service to the local community and to the nation.'

1. In recent years it has become apparent that the Christian beliefs which lie at the heart of our history, our legal system, and our way of life over many generations in this country, beginning with the arrival of the Christian faith here during the Roman Empire, are no longer simply a feature of the familiar intellectual landscape but have been made increasingly controversial by the course of developments in British society.
2. Perhaps the most influential change has been the rise to prominence of the theory and practice in law of the concept of human rights, and its implementation by Parliament and the courts, especially in recent equality legislation.
3. At the same time there have been rapid changes to our culture, which has steadily eroded the shared moral fabric inherited by society from its Christian roots, in favour of materialism in both economics and human life issues, driven by the powerful publishing and broadcasting media which continue to gather force as the digital revolution takes hold of our world.
4. The virtues of respect for human life and dignity, public service, social responsibility and justice, are now weighed in an economic balance which wants to know the price rather than the value; not exemplified by models of heroism but measured against the lives of celebrities; and increasingly bypassed in daily public discourse in favour of status, wealth, mere hedonism and the pervasive sexualisation of life from birth to death.
5. The church is not only experiencing a loss of influence in an age whose values are not only very different to our own but often antithetical to those of the gospel, but there is a developing sense of being deliberately marginalised in the public sphere which in turn has an impact upon the lives and ministry of individual Christians. It would be very premature indeed to speak in terms of *persecution*, but open hostility to religious belief has gained considerable currency in the media, partly through the publishing success of opponents of religion such as Richard Dawkins, and a climate is being created in which naturally diffident Christians become even more reluctant to speak openly about their faith or to be guided publicly by its teaching.
6. The silencing of Christian witness is being reinforced by over-zealous interpretation at all levels of human rights and equality legislation, in directives issued by the European Commission, in Parliament and in the courts, in policies developed by local councils and by employers, and in the increasingly common perception that it is not only wrong to maintain traditions stemming from our Christian "past" but potentially illegal.
7. There are some ludicrous examples - such as the reluctance of some retailers to stock Christmas cards or Easter eggs with explicitly Christian themes - and some examples which indicate that society as a whole is taking an unwelcome direction which needs to be challenged, both for the sake of political liberty as well as religious freedom. Attempts to ban prayer on public occasions, or to prohibit the display of the principal symbol of the Christian faith, the cross, may well ultimately lead to the effective privatisation of religion, in which it can only be manifested in one's own home - or worse, only within one's own private thoughts. There are already those who wish to prevent us from teaching our faith to our children.

Human Rights and recent legislation

8. One of the most significant modern achievements in international law was the European Convention on Human Rights which was signed in Rome in November 1950. The Convention set out to secure the rights of minorities by establishing fundamental principles for the rule of law amongst signatory nations. There were high hopes that the incorporation of the principles of the Declaration into UK law, by way of the Human Rights Act of 1998, would give permanent effect to the fundamental rights and freedoms established by those principles within our own society.
9. In an extremely diverse world, in which there are many competing interests, beliefs and philosophies, at some point the law will be invoked in order to establish the boundaries between those which clash directly. Those who created the ECHR, and those who welcomed the Human Rights Act, held by and large to the optimistic expectation that where there are conflicts of legitimate rights, a proper balance would be struck.
10. Article 9 of the ECHR states in s. 1 that:

‘Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.’
11. A growing number of Christian organisations and individuals in the UK are, however, finding that their right to the “practice and observance” of their faith - in a country with a long history of law framed according to Christian concepts of justice - has effectively been disqualified by appeal to an unbalanced understanding of s. 2 of Article 9, which states:

‘Freedom to manifest one’s religion or 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 the protection of the rights and freedoms of others.’
12. Nobody in 1950, or even in 1998, foresaw that the “protection of the rights and freedoms of others” would result in the imposition of legal constraints upon the freedom of Christians to live according to a faith which is not even a minority view, or a private and subjective opinion, but the established religion of both England and Scotland, and shared according to the last census by some 72% of the population of the UK.

The courts and their interpretation of the law

13. On 29 April 2010, Lord Justice Laws handed down his verdict in the case of Gary McFarlane¹, a Court of Appeal judgement which therefore represents the current state of the law in England concerning the rights of conscience of Christians in public life. Whatever view one takes of the specific circumstances of that case, the principles set out in this judgement ought to be of great concern both to Christians and to all who wish to uphold the right of religious conscience in a pluralist society - the very heart of the argument developed by Neville Figgis in *Churches in the Modern State*, first published as long ago as 1911.²

¹ *McFarlane v Relate Avon Ltd* [2010] EWCA Civ B1 (29 April 2010)

² J N Figgis CR, *Churches in the Modern State* (1911)

14. The Laws judgement is perhaps the most substantial example of the growing trend towards the restriction of religious liberty, amply justifying the growing alarm which has been expressed in various quarters that the Human Rights Act is being interpreted and enforced in a Procrustean fashion in order to secure what de Tocqueville called “the tyranny of the majority” - the creation of a homogeneous conformity in place of a genuine pluralism which affirms the rights of all communities to live according to their conscience and beliefs.
15. The judgement has turned on its head the very principle of the ECHR which was to secure the rights and freedoms of minorities. Those who do not comply, however historically and morally legitimate their difference of belief or religion, must now eventually either conform or face exclusion from the public realm, or even suffer punishment in a state whose Parliament has not sought a mandate for such a dramatic change to our rights and freedoms.
16. Lord Justice Laws’ judgement about religion currently stands as the law governing the place of religious conscience, put forward to justify his dismissal of the place of the Christian religion - and indeed of all forms of religion - within the State. He claims that
- ‘In the eye of everyone save the believer religious faith is necessarily subjective, being incommunicable by any kind of proof or evidence. It may of course be true; but the ascertainment of such a truth lies beyond the means by which laws are made in a reasonable society. Therefore it lies only in the heart of the believer, who is alone bound by it. No one else is or can be so bound, unless by his own free choice he accepts its claims.’
17. Accordingly, in spite of the requirements of Article 9 of the ECHR, he held that
- ‘The promulgation of law for the protection of a position held purely on religious grounds cannot... be justified. It is irrational, as preferring the subjective over the objective. But it is also divisive, capricious and arbitrary.’

“Divisive, capricious and arbitrary”

18. Leaving aside the philosophical arguments for the subjectivity of religious belief or the validity of its doctrines (upon which a judge is not normally considered to be qualified to pronounce definitively) there is a massive and indisputable body of evidence for the existence of the Church and other religions throughout many centuries. In the Royal Courts of Justice witnesses take oaths upon the Bible, beneath the Coat of Arms of the Crown whose motto is *Dieu et Mon Droit* - a Royal Coat of Arms which is surmounted by a cross.
19. As they converted to Christ, the rulers of the Anglo-Saxon kingdoms issued new legal codes, beginning with Æthelberht who had invited St Augustine in AD 597 to found his mission in Kent. These codes frequently refer to the role in society of the Church, which became thereby established in the laws of England, and were increasingly modelled on biblical principles of justice, morality and equity. Many of the principles of English law are thus directly derived from the Hebrew and Christian scriptures, principles which are not generally considered divisive, capricious or arbitrary, or purely subjective.

The English Bible and the Book of Common Prayer

20. The Christian faith is not only to be found to be tightly woven into our legal principles and philosophy: the greatest works of English literature, including Chaucer and Shakespeare reflect the profound influence of Christianity on the landscape of the English mind. From the time of the English Reformation, perhaps the two most influential books of all have been the English Bible and the *Book of Common Prayer*. Our vocabulary and our grammar are dependent upon religious texts which have shaped our wisdom, our proverbs and our identity. These things do not lie “only in the heart of a believer” but are the common inheritance and possession of our society. We suffer them to be dismissed in a snap judgement at our peril.

What can the General Synod do about this situation?

21. The General Synod has a unique role in English society as a legislative body empowered to pass Measures which are in effect Acts of Parliament, in addition to Canon Law and other instruments. It has the authority to speak for members of the Church of England, and should not be afraid to do so, both for their sake and for the sake of religious liberty as a whole.
22. It certainly has the expertise and religious authority to state, for the avoidance of doubt in any court or tribunal, that the Christian faith, far from being a subjective and internal opinion, is founded objectively upon a body of Scripture which has been in existence for almost all of the history of the Church, and many of its books for very much longer. The Bible has been tested and scrutinised more than any other book, and its English translations have been put forward with the authority of the Crown. It is the written basis of the common life shared by Christians including the Church of England, whose Supreme Governor is The Queen. Our laws and our lives are and should be modelled upon the Law and the Gospel which are contained in its pages.
23. The General Synod is also ideally placed to make a declaration of the kind envisaged in this Motion, for the support and encouragement of Christians in this country who may wrongly feel that they no longer have the right to manifest their faith, in the light of the growing pressure from society to privatise what they believe - to accept consciously or subconsciously that they have no right to be Christians outside the privacy of their own home, no right to read the scriptures in public or to bear witness to the teaching which they contain. Far from being silenced, we have a duty to strengthen one another in our public witness and in our ministry as the people of God.
24. It is fundamental to our own self-perception as a Synod that the Church of England exists to serve the whole nation: something which it cannot do if it is increasingly forced out of the public domain and into private or even hidden places and ministry. Who can say how long it will be before the most precious symbol of our faith, the Cross, is explicitly banned from any public place, let alone worn around the necks of Christians? Growing numbers of employers and the courts have already taken it upon themselves to assert that there is no "requirement" for us to wear the Cross and therefore it can be excluded from various workplaces and from public buildings.
25. The General Synod can place on public record its view that it is a *right* for any Christian to wear the Cross in public, and to discuss openly our faith in God without fear of prosecution or discrimination. It could also, if it chose to do so, following debate on this motion, create a new Canon along the lines of this motion, for inclusion in section A of the *Canons of the Church of England*. We should leave no doubt either in public opinion or in the courts that the representative assembly of the Church, which is established in the laws of this realm, holds firmly to the view that the Christian faith belongs in the public domain, the faith which is uniquely revealed in the Holy Scriptures and to which the Church of England bears witness.

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