

## Religious Freedom and the challenges to Human Rights for all: the example of the advocacy for same sex marriage

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### Introduction

When I first became aware of the work of the Common Good Forum I was intrigued. I liked the words used; “reconsider”, “empower”, “re-think”, “shape” – all action-orientated towards change with, of course, an emphasis on the common good. To be Bridge-Builders and to promote cross-cultural understanding and cooperation among local and global communities is certainly to be valued along with the concept of dialogue between seniors, the young, and those in middle years. These principles certainly found an echo in my Unitarian values and heritage. Unitarians have been at the forefront of religious, social and indeed political changes in all the countries where we have managed to establish a presence. We have faced persecution and challenge from dominant religious and political forces defending power and privilege. The purpose of this paper is to look at how British Unitarians have engaged with the controversial issue of same sex marriage in the context of our commitments to “civil and religious liberty” and human rights. Same sex marriage in England and Wales was approved when the Marriage (Same sex couples) Act was given Royal Assent on 17 July 2013.

### The importance of religious freedom

Unitarians in Great Britain in July 2013 marked the 200<sup>th</sup> anniversary of the passing of what is known as the Unitarian Relief or Toleration Act. It was only in preparing a worship pack (1.) on these events for the General Assembly that the significance of the long-standing Unitarian commitment to religious freedom and opposition to laws on blasphemy became clear to me. The legal penalties against those holding Unitarian views were grounded in the Blasphemy laws. The Blasphemy Act of 1698 explicitly held the denial of the Holy Trinity by someone who had made profession of the Christian religion as a crime. This was repealed by the 1813 Unitarian Relief Act.

William Smith MP, the great Dissenting leader who promoted the legislative change said that the Act enabled every denomination of Christian to preach their respective tenets without let or hindrance, “none, legally daring to make them afraid” (2). He publicly acknowledged that his religion did not need the protection of blasphemy legislation; “let Truth stand or fall as she is able to support herself”.

Religious Freedom remains under threat in many parts of the world. Laws penalising Blasphemy, Apostasy and Defamation of Religion, are widespread and are regularly in the news. Pakistan, India and Greece have in the past year pursued prosecutions. For example, the Pew Research Centre’s Forum for Religion and Public Life has found that in 2011, 32 (16%) of the countries and territories of world have anti-blasphemy laws (3.).

Religious freedom is, of course, guaranteed under article 18 of the United Nations’ Universal Declaration of Human Rights. I recently attended the launch of a report by the British All Party Parliamentary Group on Religious Freedom. “Article 18 : an orphaned right” argues that “While the UN has declared that everyone has a right to freedom of religion or belief, it has done relatively little to make this a reality”(4.).

An Enlightenment ethos underpins the approach of mainstream opinion North America and Europe to religious freedom and tolerance. However, as noted in “On Liberty” by John Stuart Mill:

“Yet so natural to mankind is intolerance in whatever they are really about, that religious freedom has hardly anywhere been practically realized, except where religious indifference, which dislikes to have its peace disturbed by theological quarrels, has added its weight to the scale. In the minds of almost all religious persons, even in most tolerant countries, the duty of toleration is admitted with tacit reserves. One person will bear with dissent in matters of church government, but not of dogma; another can tolerate everybody, short of a Papist or Unitarian; another everyone who believes in revealed religion; a few extend their charity a little further, but stop at the belief in a God and a future state. Wherever the sentiment of the majority is still genuine and intense, it is found to have abated little of its claim to be obeyed.” (5.)

Such is the challenge faced by religious liberals. The public choice economist Dennis C Mueller has argued that “the growing strength of the pious, godly and devout poses a threat to liberal democracy” (6.). His view is that the extent to which religious beliefs are incompatible with liberal democracy and more generally with rational thought depends upon both the nature of those beliefs and the intensity with which they are held. (7.). If this is the case how do we promote respectful approaches to faith that support the tolerant society that we desire – surely a major contribution towards the common good - when high levels of religiosity can threaten the basis on that very society?

In so many ways this relates to the slippery concept of identity. I grew up in Northern Ireland where “identity” was carefully defined and indeed “policed”; Protestant or Roman Catholic as shorthand for British or Irish. Of course, we all have a personal identity comprising multiple elements and it is gross over-simplification to reduce these to one characteristic or factor. Clearly time, space and circumstance determines what is given priority. It can be national origin, language, religion, colour, ethnic origin, class, sexuality or other characteristic. It is important that identities are cross-cutting, ie they do not always reinforce one another, if we are to prevent division and polarisation between people but to build the common good.

### **Advocacy for same sex marriage**

One area of tension in the development of human rights has been the relationship between religious freedom and the rights of lesbian, gay, bisexual and transgender people. These are often seen to be in conflict. Chris Stedman, has argued in relation to interfaith dialogue that it should be “an opportunity to challenge commonly held stereotypes about different groups of people – stereotypes that frequently serve to reinforce the narrative that we cannot find common ground, that serve as barriers to dialogue and collaboration”. (8.). I think this is the case for all forms of dialogue between people of faith and those of none or of belief.

For example, there is a widely held view that people of faith are anti-gay and most certainly opposed to same-sex marriage. Yet a YouGov poll commissioned for the Westminster Faith Debate found that half of all religious people in Britain were in favour of allowing same-sex marriage, and that those who identify as Anglican and Catholic now support it by a small margin – yes, Christians support gay marriage in Great Britain. Even amongst active churchgoers, support for allowing same-sex marriage is slightly lower, but still high. Forty percent of Anglicans are in favour and 47% against. Forty-two percent of Catholics are in favour, 48% against. “It remains the case that the more you believe in God, the less you support same-sex marriage and that there is a small ‘moral minority’ of strict believers, which amounted to almost 9% of the population, and is spread across religious traditions, with a greater concentration among Baptists and Muslims” (9.)

In discussing gay rights more generally it is clear that placing people of faith on one side of the debate and LGBT people on the other fails to take account of the complexities of individual identity. Equalities

legislation – in the UK the use of “protected characteristics” can sometimes obscure these; for example, opt-outs from equality law in appointments for religious groups can enable them to discriminate against religious people who may be lesbian or gay.

Unitarians have taken a broad and progressive approach to human sexuality. Retired Unitarian Minister Cliff Reed has written:

“Unitarians see human sexuality as a perfectly natural and healthy dimension of our existence. Although it is fundamentally the means of pro-creation, Unitarians recognise and value its role in bringing intimacy, tenderness, and pleasure to loving relationships. We do not insist that sex is for procreative purposes only, but its primeval purpose is a source of wonder, reverence, and awe.

For the most part, Unitarians take the view that the natural spectrum of sexuality includes both homosexuality and bisexuality. For this reason we would affirm the right of gay, lesbian, and bisexual people to give full emotional and physical expression to their sexuality. In all matters relating to sexuality, however, Unitarians stress the absolute necessity of responsibility and respect.” (10.)

For these reasons Unitarians have at the forefront of campaigns for LGBT equality placing us rather out of step with the institutional leadership of many faith groups; a not unusual position I must say from our history of commitment to progressive social and political reform.

The General Assembly has expressed its support for full equality for Lesbian, Gay, Bisexual and Transgender people making it clear in 1977 that ministry in the denomination was open to all and expressing abhorrence of discrimination on the basis of sexual orientation. In 1984 an equal age of consent was supported. In 2000 the repeal of Clause 28 of the Local Government Act, which prohibited a local authority from intentionally promoting homosexuality, and a call for equal acceptance of lesbians and gay men in all walks of life were approved.

In 2008 the General Assembly called upon the Government to introduce legislation permitting civil partnerships to be performed in any place of worship or other premises licensed for the celebration of marriage. Little work was, however, undertaken to implement the Resolution; it was purely aspirational.

We gave our full support to the amendment to the Equality Bill proposed by Lord Waheed Alli in 2009, I admit coming rather “out of the blue” to permit civil partnerships to take place in a religious premises. This was incorporated into the Equality Act of 2010 as Section 202 and was followed by Regulations approved in December 2011 after public consultation. There was an attempt to derail implementation at the final hurdle by Baroness O’Cathain utilizing a legal opinion that the regulations would result in “a curtailment of religious freedom” (11.). This was refuted by the Lord Bishop of Oxford, who argued that this was not the case and reaffirmed the view that for “religious liberty reasons” if denominations wished to hold civil partnerships in their premises they should be able to do so. In a joint statement with the Quakers and Liberal Jews I stated that the Unitarians believed in “the freedom to say no as well as yes” (12.). Cross Street Unitarian Chapel in Manchester was the first such religious premises to take advantage of the new provision. I understand that the first such registration took place in May 2012 at Ullet Road Unitarian Church in Liverpool.

On September 2011, in a speech to the Liberal Democrat Conference, Lynne Featherstone announced that, in March 2012, the Government would begin a formal consultation on how to implement equal civil marriage for same sex couples by 2015. The Opposition Equalities Minister welcomed the announcement. In October 2011 the Prime Minister told his Conference that:

“Conservatives believe in the ties that bind us; that society is stronger when we make vows to each other and support each other. So I don’t support gay marriage despite being a Conservative. I support gay marriage because I am a Conservative”.

The consultation was explicitly on equal civil marriage and did not include religious marriage, a position we could not accept and argued should be changed. In the UK marriage can be legally registered in both civil and religious premises; indeed marriages for Jews and Quakers are not limited by location and Scotland and Northern Ireland have different laws than England and Wales.

Nationally the General Assembly has been active in developing a coalition of faith groups to support same sex marriage. We worked closely with the Religious Society of Friends, popularly known as the Quakers, and Liberal Judaism and latterly then the Movement for Reform Judaism. Although small in number, it is clear we have had an impact far beyond our size. Indeed we were recently attacked by a Coalition for Marriage spokesperson who claimed that Liberal Judaism, the Unitarians and the Quakers had been given “a disproportionate amount of time” in the debate for equal marriage at the expense of “mainstream Christian people”. (13)

We have also been very active in supporting the Cutting Edge Consortium, a coalition of faith and non-faith groups working to tackle faith-based homophobia and transphobia. Their policy statement made clear their view that religious freedom is not an excuse for reducing human rights:

“We reject the activities of certain religious leaders, seeking exemptions from equality legislation, and attempts to base this on the right to freedom of thought, conscience and religion, such a right being for all, not just for some. We deplore the internalised homophobia and transphobia within religious institutions that fails to confront prejudice and hate. We encourage and support those faith organisations, which express their commitment to diversity and equality in practice and policy. We believe that full civil rights for LGBT individuals are not only consistent with the right to religious freedom, but are rooted in the best and fundamental teachings of all major faiths, religions, or beliefs, including non-religious world-views; love, justice, compassion, and mercy, such values being shared by all who seek the common good.” (14)

The Consortium includes major trade unions, faith and belief organisations, including the British Humanist Association, the LGBT groups within the main political parties and other campaigning groups. It includes people from all religious traditions. It is an eclectic mix with exciting opportunities for partnership working. Three national conferences have brought together activists and speakers from a range of backgrounds.

We may be small in number but I am convinced we speak for a constituency that is far and wide. On 4 July 2012 the Government’s consultation period on equal marriage ended. In July I attended with other religious leaders a meeting in Parliament convened by Yvette Cooper, Opposition Home Secretary. Later the same week the Deputy Prime Minister wrote to me and the leaders of Liberal Judaism and the Quakers indicating his personal support for those religious bodies who wished to do so to host same sex marriages.

“It is not the place of government to mandate religious organisations to conduct gay marriages. But nor is it the place of government to ban them” (15.)

In December 2012 the Prime Minister indicated his support for same sex marriages in churches which was followed by the formal response that religious organisations could opt-in to perform same sex marriages – a major change in policy. The legislation was then introduced into the House of Commons. I appeared before the Commons Public Bills Committee on 14 February 2013 as part of the legislative scrutiny and in response to a Democratic Unionist Party MP emphasised our commitment to the principle

of religious freedom. (16.) The Bill passed the Commons in May 2013 and then the Lords in July 2013. It received the Royal Assent on 17 July 2103; a truly historic day.

It has been a roller-coaster with some bruising and sometimes offensive debates. The opposition came mainly from backbench conservative MPs and Peers. What has been distinctive is that the debate has not become one of identity; of people of faith against LGBT people. Indeed it is interesting to note that as recently as 2009 the leading LGBT lobbying organisation, Stonewall, was not giving a priority to gay marriage. On the other side there have been no mass rallies of those opposed to change as happened in France and Spain. The larger churches have seemed unable to mobilise their flock in opposition. Perhaps this is a case where identity politics simply gained no traction; where religious identities could not be simply tagged as anti-gay. I think this reflects the change in attitudes towards gay people in general which has affected churches as well as secular society. Ironically the political leadership seems to be more in touch with grassroots religious opinion than the formal leaders of the major churches. It has left the small liberal progressive churches such as the Unitarians to articulate a widely held view that a gay identity is not incompatible with a religious one. If one adds the modern British commitment to religious freedom we can see how and why the terms of the debate was changed.

### **Conclusion**

In conclusion and in thinking about any wider implications for the common good from this campaign I am particularly struck by the comments of writer and anthropologist Margaret Mead:

“Never doubt that a small group of thoughtful, committed, citizens can change the world. Indeed, it is the only thing that ever has.”

As I said when the Royal Assent was given this is a remarkable step. Same sex marriage has been controversial. With our friends in the Quakers, Liberal and Reform Judaism and in other faith groups; we have prevented this from becoming a "culture war" between faith and secular society that is so evident in for example the United States. There is clear support for same sex marriage across people of many faiths and none.

I will end by quoting Amin Maalouf, the Lebanese writer and author about identity who lived in Paris:

“We must act in such a way as to bring about a situation in which no one feels excluded from the common civilisation that is coming into existence; in which everyone may be able to find the language of his own identity and some symbols of his own culture; and in which everyone can identify to some degree with what he sees emerging in the world around him, instead of seeking refuge in an idealised past”. (17.)

LGBT people have for so long been amongst the marginalised and the excluded. Same sex marriage is now legal in countries with a combined population of 641 million (18.). Religious freedom should not be used as a tool to oppress others; but to liberate. Identities should not be abused to create division. I have tried to promote the common good in all that I and we have done throughout this debate. I am sure that the years ahead will see a more integrated and inclusive community and I, and our small Unitarian community, are glad to have contributed to this change.

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Notes

1. (2013) McAuley, Derek, "200<sup>th</sup> Anniversary of the Unitarian Toleration Act 1813", General Assembly of Unitarian and Free Christian Churches, London [http://www.unitarian.org.uk/docs/publications/2013\\_200\\_Aniversary\\_of\\_the\\_Unitarian\\_Toleration\\_Apr13.pdf](http://www.unitarian.org.uk/docs/publications/2013_200_Aniversary_of_the_Unitarian_Toleration_Apr13.pdf)
2. Norfolk Chronicle, 24 July 1813 quoted in Davis (1971), Davis, Richard W. "Dissent in Politics 1780 – 1830", Epworth Press, London p.194
3. (2102) Pew Forum "Laws Penalizing Blasphemy, Apostasy and defamation of Religion are Widespread", 21 November

<http://www.pewforum.org/Government/Laws-Penalizing-Blasphemy,-Apostasy-and-Defamation-of-Religion-are-Widespread.aspx>

4. (2013) All Party Parliamentary Group on Religious Freedom, "Article 18: an orphaned right"
5. (1859) Mill, John Stuart "On Liberty"
6. (2009), Mueller, Dennis C. "Reason, Religion and Democracy", Cambridge University Press, New York, p. 366
7. (2009) Mueller, p. 419
8. Huffington Post, 14 May 2013
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[http://www.religionandsociety.org.uk/events/programme\\_events/show/press\\_release\\_do\\_christians\\_really\\_oppose\\_gay\\_marriage](http://www.religionandsociety.org.uk/events/programme_events/show/press_release_do_christians_really_oppose_gay_marriage)
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13. Pink News <http://www.pinknews.co.uk/2013/06/24/coalition-for-marriage-quakers-unitarians-and-liberal-jews-have-unfairly-dominated-the-equal-marriage-debate/>
14. Cutting Edge Consortium <https://sites.google.com/site/cuttingedgeconsortium1/about-us>
15. Personal correspondence from Nick Clegg MP
16. House of Commons Public Bill Committee: Marriage (Same Sex Couples) Bill, 14 February 2013 p.10
17. (2000) Maalouf, Amin, "On Identity", the Harvill Press, London p. 132
18. (2013) Cohen, Benjamin "How the Battle for Gay Marriage was finally won", London Evening Standard, 19 July