

Brexit and its Implications on the Freedom of Religion and Belief in the UK

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Abstract

This article examines what the implications of Brexit might be on the freedom of religion and belief, one of the most significant freedoms for social identity, in light of the ongoing debate concerning the political, economic, social and cultural effects of Brexit on the United Kingdom (UK). There is particular anxiety over increasing religious hate crime since the European Union (EU) Referendum of 23 June 2016, with people wondering if the tradition of tolerance in Britain will be affected. Consequently, in this article the following questions will be asked: Will Brexit seriously undermine the existential conditions of this freedom? Will Brexit enable the UK to present itself as a haven for people suffering because of restrictions on religious symbols introduced in Continental Europe? Are Government plans to prevent a rise in Brexit-related religious hate crimes sufficient? How should such hate crimes be combatted?

Keywords: *Freedom of Religion and Belief; United Kingdom; European Union; Brexit; Religious Hate Crime*

Introduction

The freedom of thought, conscience and religion is a cornerstone of fundamental values in a democratic society.² Its religious aspect is a key element for both believers and those who are not religious, such as atheists, agnostics and sceptics. This freedom is a broad one, extending to traditional religions and to faiths and beliefs with similar practices to these religions. It is also central to the concept of pluralism, tolerance and open-mindedness, essential principles of a democratic society.³

In recent years in Europe, public manifestations of religion or freedom of belief have usually involved the use of religious symbols, in particular the headscarf, leading to heated debate (Evans, 2009: 12). For instance, in a referendum in Switzerland recently, people voted to ban face coverings in public, affecting Muslim women who wear the burka or niqab (BBC, 2021). Similar bans have also been introduced in Belgium, France and Germany. This issue does not only involve the headscarf, as there has also been debate over Christians wearing a crucifix at work or Sikhs wearing a turban or having long hair and a beard.⁴ The question regarding the right of individuals to worship during working hours has also been discussed by academics, politicians and non-governmental organisations in addition to national and international judicial bodies (Silvestri, 2017).

The UK is in the international spotlight on account of Brexit, which finally materialized a day after the European Union (EU)-UK Trade Agreement was signed on 31 December 2020. While debate continues over the political, economic, social and cultural effects of Brexit, what effect it will have on freedom of religion and belief has not received the attention it deserves. Religious communities

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² *Kokkinakis v. Greece*, (1993) 260/A EHRR 20, para. 31.

³ *Arrowsmith v. United Kingdom*, Application no 7050/75 (ECtHR, 1978), para. 126.

⁴ See *Eweida and others v. United Kingdom*, (2013) EHRR 37; *Mann Singh v. France*, Application no 24479/07 (ECtHR, 2008).



in the UK are concerned that long-established traditions of tolerance and respect for free speech may be threatened, particularly given the rise in religious hate crimes following the EU Referendum of 23 June 2016. Hence, this article will ask the following questions: Will Brexit seriously undermine the existential conditions of this freedom? Will Brexit enable the UK to present itself as a haven for people suffering because of restrictions on religious symbols introduced in Continental Europe? Are Government plans to prevent a rise in Brexit-related religious hate crimes sufficient? How should such hate crimes be combatted?

A Brief History of Religious Belief in the UK

The population of the UK is multi-national, holding a wide range of beliefs. The census of 2011 found that 59.3% of the population of England and Wales defined themselves as Christian, 4.8 percent as Muslim, 1.5 percent as Hindu, 0.8 percent as Sikh, 0.5 percent as Jewish and 0.4 Buddhist. There are also around 137,000 Jehovah's Witnesses. Additionally, twenty-five per cent of the population stated they had no belief. In Scotland 54 per cent of the population described themselves as Christian, 1.4 per cent as Muslim and one per cent as belonging to other faiths, while 36 per cent of the population were without belief. In Northern Ireland 82.5 per cent described themselves as Christian, 17 per cent as without belief, while less than one per cent of the population were members of other faiths (Religion Data from the 2011 Census). Due to this multi-national and multi-faith society, the state obviously has an obligation to take the protection of the freedom of religion and belief seriously.

In addition, it should be noted that the freedom of religion and belief is an important aspect of human rights as it plays a role in the forming of individual and social identity by creating an environment where individuals can live in accordance with their conscience (Demir, 2011). However, legislation by itself will not safeguard such an important human right. It is necessary that social tolerance and political impartiality be encouraged.

This freedom is in the same category as the concepts of pluralism, tolerance and open-mindedness, concepts that have been established after long struggles. The origins of religious tolerance in the UK date back to the third century Christian Tertullianus, who put forward the idea that no person should be coerced into having a particular faith (Helgeland, 1985; Arnold, 1940: 60-62).⁵ In the Middle Ages, there was a long conflict between Church and State over jurisdiction, with the Church attempting to limit the authority of the state (Blough, 2000: 36). In this era all over Europe there was a gradual erosion of tolerance towards other religions. Although at the end of the 12th century Inquisition Tribunals were set up in many countries to prosecute those who were considered heretics, such courts were not established in England (Hill et al, 2014).

However, with the coming of the Renaissance in the 15th and 16th centuries, ideas concerning ethics started to change. Philosophers like Erasmus, by concentrating on the humanitarian principles of religion, paved the way for future scholars to consider the concept of conscience in contexts other than that of theology (Maneli, 1984: 85-86; Hammer, 2001: 12). By the 16th century, when the Reformation took place, the idea that individuals could themselves make decisions regarding what was right and wrong and what their faith meant, instead of the Church deciding for them, became more popular. The Treaty (Union) of Utrecht of 1579 is an example of this new perception of belief, in that it allowed total personal freedom of religion, setting out that no one should undergo investigation due to their beliefs (Article XIII) (Evans, 1997: 49). England and the Netherlands were

⁵ See 'Concerning Idolatry' (*De idololatria*) (in 198-202 AD) and 'Concerning the Soldier's Garland' (*De corona militis*) (in 211).



pragmatic in this respect, as they realised that showing tolerance towards the Jewish community would allow them to make a contribution to the economy, leading to economic and social-cultural prosperity (Kamen, 1967: 224-225; Hammer 2001: 13-14).

During the Age of Enlightenment (17th and 18th centuries) the concept of tolerance continued to evolve. Following the Thirty Years' War (1618-1648) the "Treaty of Westphalia" was drawn up as part of efforts to reduce tensions between Catholics and Protestants (Corxton, 1999: 569-591). This long conflict led to the emergence of secularism, in which writers such as John Locke, Voltaire, Jean Bodin, David Hume and James Harrington played a major role. In 1689, John Locke wrote an article titled "A letter concerning Toleration", which stressed the need for the state to protect all religious beliefs (Locke, 1796: 61-62). Prior to that, in 1647, the 'Levellers' (an English political movement) issued "An Agreement of the People" calling for freedom of religion and recognition of the right to conscientious objection to military service. The document also demanded that laws "apply equally to everyone: there must be no discrimination on grounds of tenure, estate, charter, degree, birth or place" (Vernon et al, 2010: 39-59).

In the 18th century, with the American (1765-1783) and French Revolutions (1789-1799), freedom of belief began to be provided with firm safeguards (McDougal et al, 1980: 666-667/Krishnaswami, 1960: 4-5). For instance, the French Revolution ensured that Calvinists and Jews had the same right to worship as that of Catholics. The 1789 Declaration of the Rights of Man and of the Citizen safeguarded freedom of expression for religious opinions in Article 10. Around the same time, Thomas Paine, a philosopher, activist and writer born in England who supported the French and American Revolutions, called for Britain to have a republic without a state church. He advocated the freedom of religion and secularism in the country of his birth (Paine, 1791).

In the 19th century national constitutions that protected the rights of minorities, whether or not they were faith-based, were drawn up. One of these was The Vienna Treaty of 1815.⁶ After World War I, Article 22(5) of the League of Nations' Mandate System introduced protection for the freedom of conscience and religion stating "responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion." Further emphasis was given to secular views regarding individual belief in the context of freedom of religion and belief following World War II (Eide et al, 1983: para 21). In the present day, the freedom of thought, conscience and religion is recognised by all international human rights conventions (e.g. Article 9 of European Convention on Human Rights -ECHR- and Article 18 of International Covenant on Civil and Political Rights -ICCPR-). The UK and other Western countries have been prominent in the framing of these conventions (Hammer, 2001: 24; Evans, 1997: 83-103).

Recent history demonstrates that the UK has been at the forefront of efforts to guarantee the freedom of religion and belief. However, in particular after the EU Referendum and with the increasing popularity of extremist ideas, respect and tolerance for other faiths appears to be under threat. David Isaac, the former Chair of the Equality and Human Rights Commission, is on record as saying that "some people used the Referendum result to justify their deplorable views and promote intolerance and hatred" (Weaver, 2016).

⁶ The 1815 Treaty of Vienna was signed by Austria, Great Britain, Prussia, Russia and France.

Post-Brexit: Religious Hate Crime

The Home Office states that “Any crime that is motivated by hostility on the grounds of race, religion, sexual orientation, disability or transgender identity can be classed as a hate crime.” (Home Office, 2016: para. 14). Green, McFalls and Smith list five reasons ‘why people commit [religious] hate crime’: a-) Psychological; b-) Social-psychological; c-) Historical-cultural; d-) Sociological; e-) Economic and political (Green et al, 2001: 479-504). While it will not be possible to elaborate on all the reasons here, religious hate crimes are undoubtedly motivated by a variety of reasons, including family influence, educational factors, media or political opinion. Recent terror attacks and an increasing number of asylum seekers both here in the UK and all over the world have also led to a rise in religious hate crimes (European Union Agency for Fundamental Rights, 2016; O’Neill, 2017).

In April 2016, the Home Office began to collect police data on the perceived religion of people who were targeted by religious hate crime. However, this data-gathering was only carried out on a voluntary basis in 2016/17 and only became mandatory in 2017/18. Hence, the data since March 2017 is more reliable. Home Office data indicates that between April 2016 and March 2020 there were 24,317 incidents of religious hate crime, a large rise in these offences (Home Office, 2020).

In particular, politicians making irresponsible statements before the Referendum exacerbated the situation. For example, UKIP (United Kingdom Independence Party) produced a poster in which Nigel Farage held a picture of Syrian refugees above the caption: ‘Breaking Point: The EU has failed us all.’ The same party also published a poster of Turkey, an overwhelmingly Muslim country, saying: ‘Turkey (a country of 76 million) is joining the EU: Vote Leave’. Such posters are merely examples of the kind of provocative language used during the Referendum campaign. Furthermore, the media was also guilty of using such unacceptable language and this was echoed on social media (examples of this include: ‘refugees not welcome’, ‘defend Europe’, ‘send them home’, ‘f.. Islam’, ‘get out, we vote leave’, ‘white power’...) (Merali, 2017).

Such an atmosphere was created that, only a week before the Referendum, the Labour Party MP Jo Cox, who worked with refugees and was anti-Brexit, was murdered by a person who held racist views.⁷

The UN Committee on the Elimination of Racial Discrimination stated that:

The Referendum campaign was marked by divisive, anti-immigrant and xenophobic rhetoric, and that many politicians and prominent political figures not only failed to condemn it, but also created and entrenched prejudices, thereby emboldening individuals to carry out acts of intimidation and hate towards ethnic or ethno-religious minority communities and people who are visibly different (UN Committee on the Elimination of Racial Discrimination, 2016).

Since the Referendum, political figures have continued to use similar divisive language. For instance, Prime Minister Boris Johnson was accused of Islamophobia after saying Muslim women in burkas “look like letter boxes”. (BBC, 2018). While former Labour Party leader, Jeremy Corbyn, has been accused anti-Semitism (The Telegram, 2019), Tory MP Jacob Rees-Mogg shared a video of a speech made by a leader of the far-right Alternative for Germany (AfD) party. Labour MP for Tottenham,

⁷ Helen Joanne Cox (22 June 1974 – 16 June 2016) was the Member of Parliament for the Batley and Spen constituency from May 2015 until her murder in June 2016. She was killed by Thomas Mair, a man associated with far-right organisations. He was found guilty of her murder in November 2016 and sentenced to life imprisonment.



David Lammy, accused Mr Rees-Mogg of “promoting Germany's overtly racist party, AfD” (BBC, 2019). Such examples of prejudice have undoubtedly been disturbing for the British public.

Discriminatory language and accompanying prejudice of this sort have clearly caused an increase in cases of religious hate crime. An example of such attacks was the incident at London's Finsbury Park Mosque on 19 June 2017, where a man drove his van at worshippers coming out of the mosque, killing one and injuring eleven (BBC, 2017). Attacks on other religious minorities have also been increased rapidly. The Community Security Trust, a charity, has stated that more than 100 anti-Semitic incidents are being reported every month in Britain (The Community Security Trust Report 2020, 2021). In February 2018 the words: “Adolf Hitler was right” were painted on a fence in Liverpool, and, after the issue was debated in Parliament in April, some MPs received anti-Semitic abuse. In May of the same year in an 11-year-old schoolboy was attacked in Sussex after being abused by other children who shouted insults such as: “death to all Jews”, “Hitler was the f**king greatest” and “burn all Jews” (Dearden 2018). Sikhs, Hindus, Buddhists and other groups also suffer religious hatred on a daily basis in the UK. The British Sikh Report of 2017 reports that 13% of British Sikhs have been the target of hate crime since the EU Referendum (The British Sikh Report Team, 2017).

The examples above are clearly the cause of distress for the public. As Amnesty International stated, “[h]ate crimes may cause lasting physical and emotional damage. They can evoke despair, anger, and anxiety in victims. They spread fear and mistrust in communities and weaken the social glue that binds a society together” (Amnesty International, 2018).

Recommended Solutions

As extremist -ultranationalist or religious- ideas gain in popularity, the UK's reputation for respecting and tolerating other religions is under threat. Hence, the Department of Education issued instructions to all schools to actively promote ‘Fundamental British Values,’ that incorporate respect and tolerance for those who have different faiths and beliefs. These values also emphasise the importance of the rule of law, democracy and individual freedoms. The purpose of teaching these values is to prevent young people from being attracted to extremist ideas. Schools must encourage pupils to respect all religions and cultures and people of all ethnic groups. Pupils should be taught that everyone has to comply with the law, even if people have different concepts of ‘right’ and ‘wrong’. Schools are expected to provide instruction that provides information on English civil and criminal law, with parents being kept informed, and nothing should be taught that undermines it. In the event of schools teaching religious law, it is vital that the relationship between religious law and the state be explained. Pupils should be made aware of the difference between the country's laws and those of religion (Department of Education, 2014).

Efforts by schools to combat extremism may be effective over time, but other issues need urgent action. For instance, the UK's approach to [religious] hate crimes, according to ‘the Hate Crime Strategy’ announced by the Home Office in August 2016, is to protect everyone equally (Home Office, 2016). Former Home Secretary Amber Rudd claimed in October 2016 that the Government's plans were working (Weaver, 2016). However, both Liberty and Amnesty International are of the opinion that the Government's efforts are not sufficient to combat the rise in hate crimes (Liberty, 2016/Amnesty International, 2017).

If the religious hate crime statistics are considered, it is clear that the Government's policy is not having the desired effect. Consequently, the Government should step up its efforts to counter religious hate crime. These crimes must be effectively investigated and appropriate sentences imposed

as a matter of urgency. Existing legislation and other protective mechanisms should also be implemented effectively and impartially. The Law Commission's recommendations regarding a review of the existing [religious] hate crime legal framework should be implemented by the Government in order to establish whether the present system is bringing justice for victims (Law Commission, 2014).

The Home Office and the Ministry of Justice have a duty to ensure that police officers and local government staff and other organisations are trained so that they can identify religious hate crime, and provide the necessary support to victims, as recommended by Amnesty International (Amnesty International, 2018: 10). Public bodies also have an obligation to listen to members of communities that are affected. Such engagement will lead to better awareness of this issue (Hardy et al, 2016). Additionally, it is essential that no one, neither the media nor politicians, tolerate racist or other discriminatory language (Amnesty International, 2018).

How will Brexit affect freedom of religion and belief in the UK?

Besides the measures that must be taken to deal with religious hate crimes both in the short and long term, the question as to whether EU rules have proved effective in tackling these offences also needs to be asked. That is, will leaving the EU constitute a real obstacle to religious hate crimes?

James Standish argues that leaving the EU will not affect religious freedom, but that, on the contrary, it will improve it. His argument is based on four points:

- When it comes to the track records on freedom of religion and belief of the EU states that are the most influential regarding interpretation and implementation of EU instruments, the records of these countries are a lot worse than the UK's.
- The EU's stance on religious freedom is influenced by the values and politics of member states, and is not inspired by statements of international organisations;
- The human rights policy of the EU is more likely to have an adverse effect on religious freedom in the UK than to improve it;
- Following Brexit, the UK will still to be a member of the Council of Europe (CoE), of which the European Court of Human Rights (ECtHR) is a part. The CoE is a separate organisation from the EU (Standish, 2016).

Not everyone agrees, however, as was made clear by the President of the Conference of European Rabbis, Pinchas Goldschmidt, who said:

One voice which was a very strong voice for religious freedom in a very secular Europe, was the voice of the United Kingdom. Today, after Brexit, that voice is not being heard anymore inside Europe, which I also think is having a negative impact on freedom of religion issues in Europe. Maybe for Britain it's better, but for us in Europe it has made life more difficult (Sugarman, 2017).

Liberty states that the UK's exit from the EU will adversely affect the freedom of religion and belief. Firstly, it points to uncertainty as to the effect Brexit may have on the Data Protection Act of 1998 and the Equality Acts of 2006 and 2010; secondly, it mentions a diminution of human rights safeguards provided by the Court of Justice of the European Union (CJEU), in particular with regard to the EU Charter of Fundamental Rights. At the moment, the status of CJEU case law is unclear.



Finally, it points out that the increase in religious hate crimes before and after the Referendum will affect liberal attitudes in the UK (Liberty, 2016).

Is it possible to protect freedom of religion and belief without the EU?

EU Law has without doubt influenced UK law, in particular in the fields of data protection, equality rights, victims' rights and workplace discrimination (Equality and Human Rights Commission, 2017). As an example, the UK Parliament has adopted the Equality Act 2010, which protects both religious belief and a lack of religion or belief.⁸ In this Act the word 'belief' is interpreted in accordance with international law, incorporating religious and non-religious beliefs (Equality and Human Rights Commission, 2010). The Act also prohibits all manner of discrimination in the workplace, education and in public services, which goes further than the EU, which only intends this prohibition to be implemented in the work environment (Çinar, 2014: 19).⁹

The Racial and Religious Hatred Act of 2006 was also inspired by EU law. This Act makes incitement of hatred against a person on the grounds of their religion an offence.¹⁰ In fact, hate speech towards any religious group carries a maximum sentence of 7 years in prison in England and Wales (United Kingdom International Religious Freedom Report, 2015: 3).

The above-mentioned Acts comply with Article 10 of the EU Charter of Fundamental Rights, which safeguards the freedom of religion and belief of all those who live in the EU.

Now Brexit has gone through, the EU Charter of Fundamental Rights and other EU laws are no longer legally binding in the UK, although a White Paper published by the Government on 30 March 2017 regarding the European Union (Withdrawal) Act, declared that existing legal sources such as the Equality Acts of 2006 and 2010 will remain in force (White Paper, 2017). In other words, this legislation constitutes a significant safeguard in that all legal provisions that were introduced while the UK was a member of the EU will remain in force. It is therefore clear that all victims of religious hate crimes will still be able to defend their rights in line with EU standards.

It is also true that other effective legal sources exist in the UK. For example, Article 9 of the Human Rights Act (HRA) protects the freedom of religion and belief. Article 14 of the HRA also bans discrimination based on an individual's religious beliefs. The mentioned rights are the same in the ECHR. It should be noted that the HRA was introduced in 1998 by incorporating the rights set out in the ECHR into domestic British law. It means that as a founder of the Council of Europe (CoE), the UK introduced the HRA to give further effect to the ECHR in national law. As a result, the UK remains a member of the CoE, meaning that the case law of the ECtHR still applies in the UK effectively.

Apart from these general provisions, British case law in line with the ECtHR's case law is a constitutional and fundamental source, as it is a common law country. Courts have made important judgments in recent years regarding the manifesting of religion or faith and discrimination on the basis of religion. Courts have tried in these cases to ensure a balance is struck between the rights of individuals or groups acting in accordance with their religious beliefs and the rights of other people

⁸ See Equality and Human Rights. Religion or Belief Discrimination. <<https://www.equalityhumanrights.com/en/advice-and-guidance/religion-or-belief-discrimination#h1>> accessed 24 March 2021.

⁹ According to the Directive of 2000/78/EC of 27 November 2000, people must not be discriminated in the workplace because of their religion or belief, disability, age and gender. See <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>> accessed 24 March 2021.

¹⁰ This Act came into force on 1 October 2007.

to not be discriminated against.¹¹ In line with this, the courts have made judgments that permit religious activities in public, with the proviso that they do not endanger public order or health and safety (Bacquet, 2008: 127-134; Barnett, 2011: 8; Bernatchez et al, 1999: 167; Equality and Human Rights Commission, 2012: 321).

Furthermore, in 2007 the Equality and Human Rights Commission (EHRC) was set up to prevent discrimination towards religious beliefs in spheres beyond the jurisdiction of the courts. The main reason for the establishment of the EHRC was for it to look at complaints of discrimination on the basis of religion and other types of discrimination in England, Scotland and Wales. This body is publicly funded, but acts independently of government. A similar body, the Equality Commission, exists in Northern Ireland. After the case of *Eweida and others*¹², the EHRC published two reports that gave a clear message: in public services no discrimination on religious grounds towards other employees or towards customers could be tolerated (Equality and Human Rights Commission, 2014-A; 6/ Equality and Human Rights Commission, 2014-B; 4-6). In these reports the EHRC declared that public bodies would be able to allow employees to take leave on religious grounds as long as the institution in which they worked was not adversely affected and as long as services to the public were maintained (Çınar, 2014: 21).

Therefore, no longer being a member of the EU is not an impediment to tolerance, nor does it threaten multi-culturalism. There is abundant legislation and case law to combat religious hate crimes. The question is whether the Government really wants to deal with this issue. It is incumbent on the Government to realise that their obligation to tackle religious hate crimes is something enshrined in international law and part of being a member of the international community, not a member of the EU. However, as pointed out above, it unfortunately cannot be said that the government has fulfilled all its obligations or demonstrated the necessary intentions, which has seriously damaged the UK's image as a country that is multicultural and tolerant. Having said that, considering that restrictions on the freedom of religion and belief in other European countries are stricter, it is possible that with Brexit the UK, as regards religious freedom, could find itself in an advantageous position.

Indeed, apart from Belgium, France, Germany and Switzerland banning the burka and niqab, recent judgments of the CJEU concerning the use of religious symbols in the workplace have been controversial. In its first judgment regarding whether employers were permitted to ban employees from wearing visible symbols of a political, philosophical or religious nature in the workplace, the CJEU reached the conclusion that religious symbols/garments could be prohibited.¹³ The judgments have led to the opening of Pandora's Box (Silvestri, 2017).

The cases in question involved court cases brought by two female workers in Belgium and France, with the ECJ being asked whether employers could ban employees from wearing visible political, philosophical or religious signs in the workplace. One applicant, Samira Achbita, was a receptionist. Her employer, G4S in Belgium, dismissed her on account of her insisting on the wearing of an Islamic headscarf at work. The other applicant, Asma Bougnaoui, was a design engineer who lost her job with an IT consultancy firm, Micropole, following a complaint by a client who told the Company that her wearing of a veil had embarrassed a number of its employees. This client also requested that

¹¹ See *Ladele v. London Borough of Islington*, (2010) ICR 532; *Ahmad v. United Kingdom* (1981) 4 EHRR 126; *R. (S.B.) v. Head Teacher and Governors of Denbigh High School* (2007) 1AC 100; *Eweida v. British Airways* (2010) ICR 890; *Chaplin v. Royal Devon and Exeter NHS Foundation Trust* (2010) ET no. 1702886/2009; *R. (Watkins-Singh) v. The Governing Body of Aberdare Girls' High School* (2008) EWHC Admin 1865, (2008) 3 FCR 203.

¹² See *Eweida and others v. United Kingdom*, (2013) EHRR 37.

¹³ See *Samira Achbita v. Belgium*, 14 March 2017, No. C-157/15; *Asma Bougnaoui v. France*, 14 March 2017, No. C-188/15.



there should be “no veil next time”. The Belgian and French Courts took the cases to the ECJ for the Court to decide how EU rules on equality in the workplace should be applied. In the case of Achbita the ECJ decided that:

The Court therefore concludes that the prohibition on wearing an Islamic headscarf, which arises from an internal rule of a private undertaking prohibiting the visible wearing of any political, philosophical or religious sign in the workplace, does not constitute direct discrimination based on religion or belief within the meaning of the directive. By contrast, such a prohibition may constitute indirect discrimination if it is established that the apparently neutral obligation it imposes results, in fact, in persons adhering to a particular religion or belief being put at a particular disadvantage. However, such indirect discrimination may be objectively justified by a legitimate aim, such as the pursuit by the employer, in its relations with its customers, of a policy of political, philosophical and religious neutrality, provided that the means of achieving that aim are appropriate and necessary. It is for the Belgian Court of Cassation to check those conditions (para. 45).

In the case of Bougnaoui, The ECJ also ruled that “the willingness of an employer to take account of the wishes of a customer no longer to have that employer’s services provided by a worker wearing an Islamic headscarf constitutes a genuine and determining occupational requirement within the meaning of that provision” (para. 25).

This joint judgment disheartened religious and human rights groups. For example, the Church of England pointed out that the judgment would enable employers to ban the wearing of crucifixes in the workplace (Rudgard, 2017). Amnesty International also said: “Today’s disappointing rulings by the CJEU give greater leeway to employers to discriminate against women - and men - on the grounds of religious belief. At a time when identity and appearance has become a political battleground, people need more protection against prejudice, not less” (Amnesty International, 2017).

In sum, given ongoing developments in Europe and the recent above-mentioned judgments of the CJEU, the UK could soon be the only country in Europe where Muslims or other religious minorities could go to work wearing their religious garments or symbols without fear that they might be asked to remove them. Hence, the UK could become a destination for people whose freedom of religion and belief is under threat in the EU member states. In the 16th century England welcomed Jewish people and enabled them to participate in the country’s economy. This in turn increased social-cultural and economic prosperity. It is thus possible for the British government to repeat history by combatting religious hate crime and standing up for the freedom of religion and belief. This would pave the way for the UK to repair and enhance its reputation internationally as a country that is multicultural and tolerant of other faiths and cultures.

Conclusion

It is broadly recognised that the freedom of thought, conscience and religion is one of the most fundamental freedoms in international human rights law, being a cornerstone of a democratic society. This freedom depends on the principles of pluralism, tolerance and open-mindedness, otherwise it cannot exist. During the Referendum campaign some circles used the cause of Brexit to promote intolerant and hateful views. Unfortunately, following the Referendum, these circles have continued to use discriminatory, malign, anti-immigrant language.

As a matter of fact, the UK has all the legislation it needs to combat religious hate crimes. However, there is a serious enforcement issues in practice. Public bodies, including courts, should bear in mind that while membership of the EU has ensured substantial progress in human rights, it does not follow that leaving the EU necessitates turning our backs on existing rights and freedoms. Secondly, it is essential that public institutions enforce existing legislation in a fair and equal manner. Thirdly, adequate training must be provided to all relevant public servants so that they are able to identify religious hate crime and give victims the necessary support. It is also important for state institutions to listen to members of minority communities. Such protective mechanisms need to be fully implemented in order to improve social and political conditions. Fourthly, a more inclusive education system that embraces different faiths is required. In this context it is important that under the heading of Fundamental British Values universal values are taught to all students. Last of all, it is essential that everyone, in particular the media and politicians, are careful regarding their language. If all these measures are implemented religious hate crime can be countered and the UK could present itself as an ideal destination for people who are concerned about their freedom of religion and belief in Europe or elsewhere in the world.

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