

HOW CAN THE LAW EXCUSE DISCRIMINATION ON RELIGIOUS GROUNDS?

How can the law excuse discrimination on religious grounds?

The reason this might be done is when religious rights and other rights are in conflict so the law must decide which side matters most. That is unworkable for one judge cannot agree with another - with a religious or secular judge there is a risk of bias.

It might be done for some people treat religious beliefs and thus religious believers as mattering more than any other kind of belief and by logical consequence believer. That is the problem with religious belief if it is made-up or man-made - it gets an honour and status it does not deserve at the expense of other beliefs. That results in the preachers and leaders and servants of the faith looking for and getting special treatment. You cannot treat one belief system differently from another without having a discriminatory attitude towards some people. The attitude leads to the question: should people get exemptions on religious grounds that is to say on the grounds of religious belief?

There are three different exemptions to talk about.

1 Specific religious exemptions

This applies to appointments that are strictly internal to the religion such as who it employs as Church staff or chooses as ministers. The Catholic Church is allowed to discriminate against transmen who want to become priests. It will discriminate against somebody who thinks that Jesus became gender fluid at the resurrection. A Mormon cannot get a job as spiritual director or chaplain in a Catholic school even if that person far exceeds their Catholic counterpart as a people person and has better potential to inspire. People are discriminated against. Ideas are discriminated against which means resolving to discriminate or discriminating against those who have the ideas. It is only luck that these problems do not arise more and more. We could just as easily waken up to a world that is crippled with such issues. We have to care about the principle or else it can or will happen.

2 Educational religious exemptions

Teachers who are polyamorous or LGBT or gender neutral may be unable to get work in a religious school. Teachers who speak of gay rights may be sacked for contradicting the ethos of the school.

3 General religious exemptions

The biggest controversy is usually over general religious exemptions. The exemption will only be considered if it is about

a letting the religion be true to its beliefs so the beliefs must not be offended or undermined. An example is banning pro-gay films in cinemas in Christian areas.

b Fitting in with the religious beliefs. For example, letting Seventh Day Adventists have Saturday off work for it is the Sabbath day. Letting Catholics ban alcohol on Good Friday. Letting Muslim areas ban displays of the Catholic communion wafer which they consider to be idolatry.

The dangers of these exemptions is in the case is in how the Christian Brethren Church could have banned a LGBTI suicide prevention group from a campsite in Victoria used by its organisation: Christian Youth Camps.

The denial of access was not upheld by the law. The reasons were that the camp failed to prove it was really all about religion or a religious body. It was about camping more than religion in the eyes of the law. And also, their argument that LGBTI lifestyles were gravely sinful was dismissed as most people identifying as Christians would not agree. For that reason, declaring them a sin was not an essential or fundamental teaching of the Christian faith.

We cannot expect the law to investigate whether a doctrine truly came from Christ and therefore is Christian. It has to go along with what many self-declared Christians say. It is true that Mormonism is not Christianity but for the purpose of the law it has to be treated as Christianity. It has to take the Mormon's word for it. That raises problems. The content of the belief does not matter enough to justify discrimination. Thus a Catholic school cannot really have the right to oust a teacher who becomes Mormon and starts preaching that God is a polygamous man and not a universal spirit.

Another danger of the exemption is that there is more to a religion than just praying and believing. Religion for Christians is about the whole of life so they offer even their eating and drinking to God. Thus even a janitor who hates the idea of God but who says nothing can be a problem in a Catholic school as he is seen as blocking God from acting in him.

FINALLY

Nothing changes the fact that the law has no right to punish anybody for holding a belief be it religious or otherwise. But it does have the right within limits to stop you acting on your belief. The right to live by a belief be it religious or whatever is qualified. If people would become secular and stop getting involved with organised religion there would be no problem.

APPENDIX

Here are two reasons why religiously based discrimination is intolerable and dangerous.

First, giving a right to discriminate is as arbitrary as giving a right to murder in certain circumstances. It is on the level of allowing women to be raped if they wear green skirts. The insult alone is astronomical. If the religion's required teaching endorses discrimination then the discrimination needs to be compulsory before the law. If it can get around that teaching then its right to discriminate must be removed forever and those who want it back have to be discriminated against. You cannot have religion discriminating at whim scot-free.

Second, religious and spiritual views feed off people being biased and they make the biased worse. You don't get the same squabbling over food additives as you do over sacred foods such as kosher. Nobody wants to have you silenced or punished for insulting Princess Diana but if you insult Jesus or Ganesh or Muhammad or Joseph Smith they will be queuing up baying for your (hopefully metaphorical!) blood. Letting religion discriminate only lets it discriminate more and more. The atheist publisher who will not print a T Shirt saying, "Atheists will join demons in Hell" may be forced to do so while the Christian one will get a free pass to print that same message. A secular school may be forced to employ a militant faith head while a religious one may be given the right to get rid of a teacher outed as an atheist. The secular nurse who is against abortion may be forced to assist at abortions which would not happen if she cited religious grounds for holding that abortion is wrong.

A question: Most Christian bodies oppose LGBT rights and will not attend a gay wedding. Take a religion like Catholicism which expends a unique amount of energy trying to dismantle LGBT rights. Should we say that the law must judge that LGBT rights must be upheld and there is no religious freedom to deny them for the religion has many members who approve of LGBT rights? Yes. The people are voting and that overrides what the religious authorities think the religion stands for.