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Religious Offence, Public Order, and the Law

By Paul Hedges

Synopsis

A recent public order court case in the UK raises important conceptual questions about the limits of freedom of speech and religion, especially when expressing religious views others may find offensive.

Commentary

A TRIAL at Bristol Magistrate's Court, in the United Kingdom in February 2017 had garnered national and international publicity in Christian media outlets. Two men were found guilty of religiously aggravated public disorder, in what one source labelled a "modern day heresy trial".

While a minor local case, it raised wider concerns including over many important conceptual issues. Using this case as a backdrop we can consider a number of key points that are important in looking at when and where expressing religious views may become a legal issue.

The Case: Public Order, Not Heresy

The defence argued the men were simply preaching the traditional language of the King James Bible (KJB). They understand their arrest as a breach of freedom of speech, freedom of religion, and a pushback against Christianity in the public space. However, what they were preaching was not actually from the KJB, but rather seemed to have been abuse and insults that left many hearers shocked.

They spoke out against Islam, Buddhism, and the Jehovah's Witnesses, suggesting founders and followers were "thieves" and "liars". They also described sex before marriage and homosexuality as depraved and perverted. In passing judgement the

magistrates stated: “This case revolves around whether the behaviour crosses the threshold from their right to free speech to the realms of public order.”

Public order informed the prosecutor’s case and was the reason for the arrest. Video footage released by the police showed the men in the middle of a crowded shopping street amongst a clearly irate crowd. When asked by the police to move on, their spokesperson refused, and when warned they would be arrested for public disorder if they did not, he still refused. The arrest and prosecutor’s case did not address the men’s theological views: it was not a heresy trial. Theological views are not a court’s concern.

Nevertheless, the magistrates did find the offence “religiously aggravated”, with the way the men spoke of other religions being important. But the men’s religious beliefs per se was not the issue. The magistrates believed they were intent on deliberately provoking people in the course of their day to day lives. Notable was their refusal to move on when first asked and then warned by the police.

Human Rights and the Manifestation of Religion

Most countries recognise freedom of religion, which in human rights terms includes the right to believe, or not believe, and to manifest that belief. That is to say, to act it out in the public space and not simply have private and personal beliefs. The right to manifest is normally where legal processes and other rights and equality legislation potentially come into conflict with freedom of religion.

The defence noted such views would readily be heard in a place like London’s Speaker’s Corner. The right to believe others are wrong and to state it openly is part of the freedom of religion. However, we need to consider a range of further factors that may be invoked.

In this case, the men’s activity took place in a busy shopping street and the magistrates took the view that the men knew very well that they were provoking hostility, and potentially even violence, in the crowd. Further, while setting up in a public street and shouting through megaphones is not unusual, it can very readily cause a public nuisance.

While common in electioneering, it would at other times and for other purposes still possibly lead to you being asked to move on by the police, especially at busy times. As noted, this would not have been questioned in Speaker’s Corner, nor is there reason to believe that, in the UK, one could not say similar things within a church or similar space. However, the place is significant.

Limits of Free Speech: The Right to Preach, the Right to Offend?

Stating that others are thieves and liars is certainly bordering on slander, though the prosecution stated that none of the remarks “amounted to threatening”. Advocates of pure free speech may see their words as being legitimate, but no legal jurisdiction allows pure free speech: hate speech, provoking violence, libel, and slander are criminal offences. Whether this preaching crossed that line is key to it being a religiously aggravated public order offence or not.

In jurisdictions like Singapore, legislation such as the Maintenance of Religious Harmony Act exists which prohibits denigrating the religion of others and stops aggressive proselytising. In the UK, freedom of religion and speech are interpreted differently. However, freedom to express religious disagreement, even animosity, does not mean everything is acceptable: proclaiming one's own religion is true is one thing; actively denigrating others, calling them thieves and liars, something else. Some may even suggest their behaviour was unchristian.

A growing multicultural and multireligious context made it likely that expressing such views meant the speakers would be directly insulting their listeners. Again, a changing public stance on sexual/moral issues meant what would have been mainstream 30 years ago is now offensive. Indeed, the prosecutor noted that just because something was in the KJB did not mean it was still acceptable in 2017. Certainly such factors played a part in the decision.

The defendants are appealing the case and so further legal debate will certainly follow. It would be wrong to suggest here the merits or demerits of this legal decision. However, the issues seen in this case are ones that many societies need to debate in terms of what is acceptable and what crosses the border into criminal behaviour.

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