

**EQUALITY,
FREEDOM, AND
RELIGION**

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Introduction

Is religious freedom a right?

The tug between the demands of equality and those of freedom goes to the heart of modern life.¹ Many find deep, and growing, inequalities in modern society unjust. If all are of equal worth, is it right that some cannot afford proper health care, and could even die prematurely? Economic inequalities in society, it is alleged, lead to great disparity in standards of health, and even normal life expectancy, in different areas of the same city. Similar complaints arise about education. Some may seem trapped in a disadvantaged area, reflected in poor local schools, while others can buy for their children the very best education. Moreover, just growing up in some homes, where education is valued, and children encouraged, can give a lifetime advantage. What can be done to create equality of opportunity so that some are not born with advantages that others can never have access to? Yet, whatever the perceived injustices, the problem is that curing them inevitably involves a growth in the power of the state, and a restriction on individual freedom. It may merely be through taxation. Some, though, want to pass coercive laws to prevent unfair advantages, perhaps banning all private education. The end of that road could be a totalitarian state, and the excesses of Communism. Individual freedom may produce, or reinforce, inequalities, but the determined attempt by a state to achieve greater equality can undermine liberty. This is the very stuff of much modern political argument. The removal of the disadvantage of some can restrict the freedom of others.

These arguments arise not just about economic matters, but in arguments about how far people's most basic beliefs and commitments must be respected, and whether all beliefs should receive equal respect.

Should people have equal freedom to manifest their most basic commitments in their lives? Does that mean that perceived privilege be attacked, and disadvantage aided, in the name of equality? The state may have to be prepared to use the coercion of the law in the name of the common good to control beliefs that may be regarded as harmful. We then have to consider whether the beliefs that are most important to individuals should be respected and even protected, in the name of freedom. Yet, if those beliefs challenge some basic assumptions about equality, should that disqualify them from having any privileged position? This changes the question from policy issues to more fundamental philosophical questions such as what our fundamental beliefs in equality rest on. How is it that we now believe in Western democracies in the equality of all, when many in the contemporary world still do not? It may be a constituent belief of democracy, but what justifies it? Jeremy Waldron, Professor of Social and Political Theory at Oxford, distinguishes between 'equality as a policy aim, and equality as a background commitment that underlies many different policy questions'.² It is all too easy to accept that equality is a 'good thing' without stopping to question what supports that belief.

Why does religious freedom matter, if other freedoms, such as freedom of conscience and of assembly, are adequately protected? This may depend on how far we think religion itself matters, and how religion is to be defined. The First Amendment of the United States Constitution, in the Bill of Rights, makes the 'free exercise of religion' its priority, along with a prohibition on the federal establishment of religion. It is listed before rights of freedom of speech, and of the press, of free assembly, and of the right to petition the government for redress of grievances. Many believe that this order of rights is no accident. James Madison, one of the prime moving forces behind the Bill of Rights, was in no doubt, because of his experience of Anglican Establishment in Virginia, that religious freedom was pivotal for all democratic freedoms.³

This is in contrast to the European Convention on Human Rights. It is only in Article 9 that we reach freedom of religion, and there, in language echoing the United Nations Declaration of Human Rights, we read: '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 and private, to manifest his religion or belief, in worship, teaching,

practice and observance.’ A second clause then spells out limitations on the manifestation of beliefs, ‘such 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 for the protection of the rights and freedoms of others.’

The contrast between the unqualified right to hold religious beliefs and the carefully defined scope for limitations on religious practice is striking. If we compare this with the US Constitution, it is significant that ‘religion’ has been widened in an indeterminate way to include ‘religion or belief’. The reference to the need for the protection of ‘the rights and freedoms of others’ is also important, as this immediately raises the question of how different rights and freedoms can be weighed against each other. All this is important, as the European Court of Human Rights has jurisdiction, in applying the Convention, over the countries belonging to the Council of Europe, not just the European Union, and deals with cases from countries such as Russia and Turkey. Furthermore, from 1998, the people of the United Kingdom were given direct access in their own courts to the rights of the Convention. The effects of this are still being played out, and are becoming more noticeable with the establishment of the United Kingdom Supreme Court in 2009. Suddenly, a written constitutional document, as interpreted by the courts, has become important, in contrast with the practice of the common law, as it has developed over many centuries. The language of rights has become a more familiar part of jurisprudence in Britain because of these developments.

The question has to be faced of how important the right to freedom of religion is compared with other rights and freedoms. The age-old tug between freedom and equality reappears in a new guise. Liberal philosophers are fond of talking of people being ‘free and equal’, or referring to ‘equal liberty’. Both are crucial for the idea of democracy. Any democratic state must treat its citizens equally, so that it cannot deem some more important than others, more worthy of respect, or having greater dignity. The law can have no favourites, and must be impartially administered. In a democracy, the rule of law is paramount, and the justice it conveys embodies the idea of equal treatment.

We may fully believe that everyone is of equal worth, but for that reason see the possibility of treating different people differently according to circumstance. Even in the administration of justice in the courts, genuine justice might consist not in automatically handing out identical

sentences for similar offences but in being guided by the facts of a case. Acknowledgment of equality need not imply uniform treatment. How far should the courts, or even perhaps the legislature (parliament, congress or whatever), be willing to make allowances when confronted with religious conviction? Should there be a deliberate attempt to accommodate such beliefs? The idea of reasonable accommodation—for instance, for the needs of disabled people—is often accepted in some areas of British law. Things become much more controversial when it appears that religious beliefs, or religious people, are obtaining privileges.

The clash with equality

In recent years, considerations of equality have come into conflict with religious beliefs of various kinds. Once we allow different treatment of different groups, that seems to mean discriminating between the groups. Yet, in a democracy, if all are equal, how can some be given more attention than others? In moral arguments, the mere accusation of ‘discrimination’ is well calculated to bring the argument to a halt. Discrimination in favour of religious views will seem as unacceptable as discriminating against some other group. Yet, although ‘discrimination’ has become a powerful label for unacceptable behaviour, it is worth remembering that every rational judgement, and indeed every moral judgement, involves discriminating between relevant and irrelevant factors.

The drive to equality has at times led people to believe that any judgement on the part of the state must never imply that some views are preferable to others. All beliefs must be viewed equally. Any other position involves unfair discrimination. Citizens, it seems, are not being treated equally if their views are not being affirmed by the state, or if some are singled out for special attention. They are not being treated with respect. Their intrinsic human dignity is being questioned. Their human rights are being undermined.

Yet, although equality can seem to mandate the neutrality of the state, the fact of state neutrality is an impossibility.⁴ In the context of religious freedom, no state can abdicate all responsibility to the extent of refusing to make judgements about the character of any religious belief. As the European Convention on Human Rights itself makes clear, a state has to decide when such freedom has to be restrained. Just because human sacrifice is religiously motivated does not make it socially acceptable.

Even the idea of neutrality towards religion is unclear, as it is bound to be infected by the general fuzziness of the concept of religion. When, for instance, is a moral position also a religious one? A judgement in favour of equality appears to be a quintessentially moral position, but may itself be based on religious belief.

The demand for state neutrality can lead to the view that there is no place for religion of any kind in the public sphere. The state can then be even-handed precisely because it ignores them all equally. This is, in the minds of some, what a secular state should by definition do. Yet secularity, and neutrality can come in many guises. The secularism of *la laïcité* in France is different from the secularism of Muslim Turkey, and both are different from the separation of church and state much vaunted in the United States, but significantly not mentioned explicitly in the Constitution.⁵ Secularism is never neutral, but always takes a view about the proper place of religion.

To revert to the European Convention on Human Rights, part of the absolute right granted by the first clause about religious freedom is precisely to have freedom to manifest religion 'either alone or in community with others and in public or private'. This echoes the words of Article 18 of the UN Declaration. Human rights documents themselves, therefore, do not support the idea of religion as something that from a governmental point of view should be out of sight and out of mind. Human rights are in the public sphere. The issue of religious freedom is too, and so must religion itself be.

Particular issues concerning the clash between freedom and equality come over issues of equality between the sexes, and equality between people of different sexual orientation. In both areas, contemporary attitudes arising in liberal, democratic societies are liable to clash with more traditional views, often linked closely with religious views. They may often have a wider rationale than the religious. Issues concerning the treatment of women can be linked with deep cultural attitudes, which are not essential for religion. An obvious example concerns female dress. Some Muslims demand a full-face veil for women, and others different forms of covering, including a simple headscarf. Yet others do not see the need for special dress at all. To a lesser degree, similar customs can be observed in some parts of Christianity, with some sects demanding head coverings for women.

The ensuing battles can easily be portrayed as a battle between human rights and religion, with rights being on the side of a perceived

emancipation of women. Yet, at times, this may appear simply as an unwarranted intrusion into others' ways of life, and it may be seen by non-Westerners as imperialist. The clash between individual rights and those of a community can appear stark. Indeed, the ideology of rights can find it hard to find its way through the demands of equal rights for both sexes, and the right of cultures, perhaps especially minority cultures, to follow their own traditions. Even liberal thinkers can find this difficult to resolve.

A similar problem occurs for religion. The rhetoric of individual rights, and equality between individuals, can sit uncomfortably with a wish on the part of religions to abide by the traditions of a community. Should a Western state be prepared to challenge religious doctrine, so that women have to be admitted into the Roman Catholic priesthood? What about female bishops in the Church of England, about whom there has been prolonged controversy? Current practice is to recognize that religious institutions like the Catholic Church have a right to order their own affairs according to their own collective beliefs. However, there has also been an issue within churches, as to how far objectors should be able to continue within a church, without signing up to the changes. Could room be found within the Church of England for those who still cannot accept a woman bishop? This question is a microcosm of a much wider question. Can dissent be still allowed and contained within a wider community holding different standards? When states introduce new legislation, whether about women, homosexuals, or whoever, and some object to this, can they allow exceptions on religious grounds to the operation of the law? This is a question that can be applied about both religious institutions and individuals, and the law courts in many countries are getting caught up in litigation on precisely these points. At the same time, many may query why a religious conscience should be given priority over other forms of conscientious objection.

Some feel that, when questions of basic human dignity are at stake, there can be no room for exceptions or special accommodation. If it is collectively felt in a democratic country that women ought to be treated equally in all respects with men, some will see it as unprincipled to compromise with those who want to treat them in some way as second-class citizens. The law, it will be said, is the law, and must apply to all impartially. There cannot be one law for one group and another for another. We would not allow racial discrimination, the

argument goes, so why should we tolerate other forms of discrimination? The shadow of Islamic *sharia* law falls on the discussion. If the law quite properly decrees equality between the sexes, how can religious groups claim exemptions so as to treat women, particularly in family matters such as divorce, in what is regarded as a flagrantly unjust way? The law should not make accommodation for injustice, it will be said. Further, the very idea that society can be split up into different groups abiding by different legal standards challenges the unity and cohesion of a country. So the arguments will go, and they can be very persuasive.

Democracy and dissent

Must individuals, and groups, always be coerced to act against their consciences, if that is the democratic decision of a country? Put like this, it becomes apparent that the very ideal of personal freedom must at times be at stake. Democracy is itself built on the free judgements of its members and would not be necessary if everyone always agreed. It is a system not just for making decisions, but for containing, and even respecting, disagreement. Without the possibility, and the fact of disagreement, there can be no political freedom. There can be no choice between alternative views. Democracy needs the free expression of the conscience of all its members, even when they pose an uncomfortable challenge.

The idea of democracy includes both the reality of dissent, and the need for equal respect of all its citizens. What happens when the imperative to respect one group appears to preclude respecting another? A prohibition of discrimination on grounds of sexual orientation often collides with deeply held moral views about homosexual practices, which can be grounded in religion. Many Christians, Muslims, and others cannot accept that homosexual relationships are morally on a par with heterosexual ones. These arguments are often portrayed as being between religion and a conception of human rights, although it is possible to have a rational discussion about the morality of homosexuality without depending on any religious assumptions. Whatever the status of people's objections, however, the question remains. Should they be accommodated in some way, so as not to be forced to act against their conscience?

These questions come up in many contexts. The basic argument for not accommodating those who object to homosexuality comes from basic ideas of human dignity and equality. When religion is pitted against rights, religion is often sidelined. The argument is well summed up by one Canadian professor of law, who says: 'If gay or lesbian sexual orientation is ... felt by the individual to be part of his or her personal identity, so that failure to affirm its equal worth (in relation to heterosexuality) is experienced as denial of respect, or exclusion from full community membership, then affirmation is a matter of justice.'⁶

The writer applies this in the context of education within state schools, advocating 'affirmation' of homosexuality in that context. This brings him to the conclusion that, 'if an individual manifests religious views that are contrary to the values of the civic curriculum, then she or he may be excluded from teaching... because she or he is unable to affirm, in good faith, the values of the curriculum'.⁷ Thus teachers may be expelled from their profession because of beliefs conscientiously held.

What is noticeable is that, when two apparent rights are pitted against each other in this way, there seems little appetite from the standpoint of law for any reasonable accommodation. The views of the state have to be applied regardless of any conscientious dissent. Yet the issue of freedom of conscience, and freedom of religion, arises in its most acute form when unpopular, or unfashionable, minority positions are in question. Freedom is safeguarded only when the majority allows beliefs to be manifested of which it disapproves.

Rights, in this instance those of homosexuals, often appear to trump any claim to a right of religious freedom. When such rights clash, it seems, the solution is for one to win, and not for any attempt to be made to satisfy both sides. It sometimes becomes very difficult to abstract the issue of religious freedom from the particular arguments of one impassioned debate. Yet the morality or otherwise of, in this instance, homosexuality is irrelevant to the dispute. Similar problems can arise when the argument is transposed to many other contexts, say in medical ethics. It is easy to imagine situations when the law allows a procedure (even euthanasia, or assisted suicide) that many doctors would want to avoid on conscientious, and perhaps specifically religious, grounds. Yet it might be justified on the rounds of the equal right of everyone over their own lives. Is doctors' only choice then to obey the law or to give up practising medicine? Once again the issue

is what happens when religious freedom is balanced against other apparent rights.

It is easy to champion the freedom of those who wish to act as we do. The problem comes when we fervently disagree with the stand being taken. It may still be important for the future of democracy, and the cherishing of human freedom, that we defend their right to disagree with us. Apart from anything else, we might one day find ourselves in a minority position, and find our rights challenged in a similar way. The question must be asked whether laws themselves should be drafted so as take account of conscientious objection. Further, should courts be more ready to find room for accommodation? If we really value religious freedom, including the right to deny all religion, we should be concerned if its claims are simply overridden.

Talk of exemptions, or accommodation, is never going to appeal to governments, unless they grasp the importance of the principles at stake. Simplicity in the law, and in its administration, will always be preferred, and a consistent application of a law will be assumed to be fairer. Yet, without exceptions, an unreasonable burden can be placed on religious believers unable to practise their faith. The example of the sensible law in the United Kingdom requiring motor cyclists to wear crash helmets is a stock example. It is a neutral law, not targeted at any group, and to be fair it should apply to everyone equally. Yet for Sikhs, with their requirement to wear a turban, it is unduly burdensome, and the law has granted an exception to them.

Much depends on how highly we rate individual freedom, and the freedom of institutions, particularly religious ones. When the issue of equality is to the fore, bringing in its trail appeals to human dignity, and human rights, it may be tempting always to override such considerations. Whether, and how far, that is justified is the subject of this book.

I

Does Religious Freedom Matter?

Is consent alone important?

It seems that, at least in the West, we are all liberals now. Liberalism is in the very air we breathe. The term can be ambiguous, although it is derived from the Latin *liberalis*, with its links to the idea of freedom or 'liberty'. We all tend to believe in the importance of the freedom of the individual. We respect the autonomy of others and find any form of coercion repugnant, particularly that of belief. We recognize that there have to be limits in the ability of the state to interfere with the lives of its citizens. As the political philosopher John Rawls held, liberalism sees all social cooperation as ideally taking place between persons who are both free and equal.¹ Such liberalism has deep roots going back to such philosophers as John Locke, one of the architects of the Glorious Revolution of 1688 in England, and an influence intellectually on the founding of the United States.

Some forms of liberalism, increasingly taken for granted in ordinary life, see individual autonomy, coupled with a respect for the rights of the individual, as the whole basis for any moral order. All obligations have to be consciously chosen. Institutions can be only validated through the consent of their members. Under this type of view, nothing is an obligation, unless freely and consciously chosen. Consent is all important. There is no given moral order into which we enter. One of the sources for the contemporary stress on the idea of moral autonomy is the eighteenth-century philosophy of Kant,² and his influence lives on strongly in both moral and political philosophy, not least in the work of Rawls.

The more the role of the individual is extolled, the more powerful the state has to become, since the role of any protective institutions, even that of the family, to act as buffers between the state and the individual is eroded. The picture is of equal individuals who can be motivated only by secular, and egalitarian, reasons, acting under the watchful eye of a supposedly benevolent state. Individual freedom is seen as the absolute precondition of democracy. It is what makes sense of any doctrine of human rights. As one philosopher, A. C. Grayling, points out, echoing a long line of such claims, 'if any idea of rights is to have content, the basic one must be liberty, for without it none of the others apply'.³ Grayling himself, as a humanist, is contemptuous of any idea that 'nature or a deity has somehow magically endowed people with rights to life, liberty, property and happiness, when in fact the idea of these things is a human invention'. Indeed, he argues that their existence as right is simply 'the result of *decisions* to regard them as such'.⁴

A problem is that what we decide one year can clearly be changed another. Are basic human rights, whatever is to be included in them, simply the result of arbitrary convention? If so, those who dismiss them as Western constructions, inapplicable to countries such as China, would be proved right. Yet rights, for their potency, have surely to be seen as built into the very scheme of things. They are discovered, not constructed. At the very least, they have to be seen as being connected with our most basic nature as human beings.

Interestingly, Grayling himself rapidly moves away from the idea that rights are purely arbitrary conventions, such as which side of the road we derive on. He argues that 'experience and rational reflection show what is required to give individuals the best chance of making flourishing lives for themselves, and these framework requirements we institute as rights in order to make the chance of such flourishing available'.⁵ Having therefore questioned the idea of natural rights, as instituted by nature or a deity (or 'nature's God'), he gets back in a few sentences to basic questions of what makes humans flourish. Since the answers may lie in the kind of beings we are, or in other words in human nature, it is apparent that we are quickly reverting to something approaching a view of natural law.⁶ That would suggest that it is not totally under our own control what makes us flourish. Despite the stress on 'decisions', we are all subject to the constraints and opportunities given us by human nature. Rights depend on how things are, not on how we would like them to be.

Just as we cannot choose whether we need to eat or drink or find shelter, so there are many deeper needs that typically characterize our nature as humans. We can thwart those characteristics and fail to fulfil those needs or desires. Others may thwart them despite our wishes. Nevertheless, if we are each to fulfil our potential as a human being, we have to go with the grain of human nature rather than against it. This carries important implications for morality, but it also traces the importance of a concept such as that of freedom back to our basic nature. The very precondition of morality, and of rational thought—namely our freedom as individual human beings—has to be traced back to our basic human nature. We have the capacity to be free, and that capacity must be nourished if we are truly to function as the rationally responsible agents that all normal human beings should be. Slavery is wrong precisely because it ignores this.

Is religious freedom special?

The autonomy of individuals is clearly important, and many would question whether any special attention should be given to religious freedom, except as a species of a more general right to freedom of thought and conscience. Perhaps the importance of freedom of assembly should also be added to do justice to the undoubted fact that religion has a collective, as well as an individual, dimension. Freedom of belief implies also a right to freedom of worship, a much more public activity. The tendency, particularly marked in Europe, to widen the idea of religious freedom to that of ‘freedom of religion or belief’ suggests a reluctance to concentrate on religion, or the specifically religious conscience. The phrase ‘religion or belief’ is picked up in many contemporary pieces of legislation, for instance in the United Kingdom, but it leaves unanswered just what precisely is covered by it. It is generally agreed that it is difficult, if not impossible, to define religion in a way that does not already reflect particular prejudices. Reference to a belief in God, for instance, tilts the definition against polytheistic beliefs. As a result, courts across the world are always reluctant to get drawn into discussions about what constitutes a religion for fear that they will themselves get involved in overtly theological disputes. Yet adding ‘belief’ to the repertoire is not much better than hand waving. Not every belief can be protected in the way it is clear that human rights documents want religious beliefs to be.

One reason for adding ‘belief’ to the idea of freedom of religion is to make it clear that the protection of religion also applies to the protection of anti-religious views. Freedom of religion must protect those who reject all religion, as well as those who are committed to one. Humanists should be as free to argue publically against religion, as any evangelical to preach it. The problem is that ‘belief’ in these contexts will either continue to gain its salience from the meaning of ‘religion’, or be so stretched that it collapses into meaninglessness. Any strongly held belief might appear then to be a candidate for protection. That process seemed to be set in train when an English judge in 2009 held that environmental beliefs, about climate change, including beliefs about carbon emissions, should have the same status as religious beliefs. The case arose under the Employment Equality (Religion or Belief) Regulations of 2003 (themselves stemming from a directive of the European Union), and illustrates the vagueness of the phrase ‘religion and belief’. The Regulations themselves explain it as ‘any religion, religious belief or philosophical belief’.

Many wish to avoid this whole dispute by simply refusing to characterize ‘religion’ as something that needs to be given special protection. Why should religious (and quasi-religious) stances be given any more respect than any other conscientiously held beliefs? There are many who would wish to accord them less respect precisely because they regard religion as harmful, or irrational, or both. In societies that place so much emphasis on the value of individual autonomy and see that as the cornerstone of religious freedom, the stress is usually on individual belief. Much less attention is given to the corporate, or collective, aspects of much religion. It is very easy, given this background, to elide religious with other forms of personal belief, and to see religion as a particular case of the operation of the individual conscience when faced with basic questions about the ultimate meaning of things.

Once one treads this path, it can quickly appear impossible to defend religious freedom as such. One book on this theme is boldly called *The Impossibility of Religious Freedom*.⁷ The writer, Winnifred Sullivan, drew on her experience of a Florida case concerning the kind of monuments to be permitted in a public cemetery. There were arguments about the religious symbols that families wanted to erect, and inevitably the case was drawn into reviewing how far a particular religion demanded certain symbols, and whether they were intrinsically ‘religious’. Her own conclusion was that, simply because the court was

drawn into individuals' idiosyncratic understandings, which were nonetheless important to them, it became impossible to make any meaningful distinction between the religious and the non-religious.

This may overstate the case, as there is a difference between an inability to make sharp distinctions and draw clear lines, and the lack of all distinctions. Different colour reds may shade into oranges, but that does not mean there is no colour red that we all can recognize. Sullivan points out: 'When law claims authority over religion, even for the purpose of ensuring its freedom, lines must be drawn.'⁸ When law attempts to protect religion, it begins to enclose 'religion' with definitions that are often imposed from outside. Religion may be judged by external, and distorting, criteria. Realizing the danger, many jurisdictions lapse into vagueness, and are tempted by the references to 'religion and belief'. Yet that is to fall into the trap of assuming that, because distinctions can at times be difficult, the whole project of identifying religion becomes impossible.

Sullivan makes a more serious accusation about the effect of laws guaranteeing religious freedom. She points out that they mean that 'religion must prove itself as a social fact in court', and she sees the process as involving 'the subordination of religion to a secular legal authority'.⁹ Her conclusion, given what she terms the 'anarchic folkways of US religion',¹⁰ is that 'religion' can no longer be coherently defined for purpose of American law.¹¹ Given the prominence of the term 'religion' in the First Amendment, this is a conclusion with profound constitutional implications, and Sullivan pinpoints a major concern of many when she writes that the privileges given to religion are increasingly 'seen to violate the higher American principle of equality'.¹² Her argument continues: 'Unless "religion" is to be broadened to include everyone, to give legal protection to religion is to privilege those who understand themselves to be religiously motivated over those who understand themselves to be motivated by equally deeply held secular values.'¹³

This is an important challenge to anyone who feels that there is anything distinctively important about religious freedom. The assertion that the principle of 'equality' is 'higher' than that of religious freedom will also need justification. To decide which, out of religious freedom and equality, is more important, or indeed why either matters, demands considerable examination. In contemporary pluralist societies, where many religions, and many beliefs, have to coexist, it is not very persuasive simply to appeal to the obvious truth of a particular

religion. Too many people in any given society will refuse to see it as true at all.

Does 'religion' matter?

Things are very different now from the eighteenth-century background against which the Constitution of the United States was drawn up in Philadelphia in 1787. Christianity, and Protestant Christianity at that, provided the backdrop, and was the major influence, whatever the differences of personal belief, and denominational differences. It cannot be taken for granted now in most Western countries that there is even a residual Christian belief, or even a general respect for Christianity, among all citizens. The advent of mass immigration by adherents of other religions in many countries has altered the situation further, and encouraged many to demand that religion should be regarded as a purely private matter and not a matter for any form of public recognition.

All this makes the question why, or whether, religion matters all the more crucial. 'Religion' is itself a blanket term, which covers myriad beliefs and practices. Not all of them will be acceptable in a civilized society, no matter how tolerant we wish to be. The extreme case of human sacrifice is an example. Nevertheless, just because some harmful practices arise from some religion, not all religion should be regarded as dangerous. Many identify religion as a source of division and strife in societies, and the history of the Western world can provide plenty of examples, as does the contemporary world. Yet the very fact that religion, in many forms, still presses itself on us in many parts of the world as a force to be reckoned with in the twenty-first century should give us pause for thought.

In the 1960s theories about inevitable 'secularization' were the rage in sociology. The idea was that, particularly because of the influence of scientific ways of thinking, religious belief would wither away, and secular norms would everywhere rule. The later Enlightenment's idea of rational progress would be brought to fruition. 'Superstition' would be vanquished. As people in the nineteenth century thought, human knowledge would bring 'improvement'. The natural sciences came to be seen as the best expression of autonomous human reason, and the idea of a supernatural authority came to be rejected by many.

Science, and secularism, were seen by many as liberating us from the restrictions of religion. For A. C. Grayling, secularism, freedom, human rights, and science still come as a package deal.¹⁴ Yet religion appears resurgent in many parts of the world, and Western Europe, together with countries such as Canada, seem exceptions to a worldwide trend. It is not just Islam that is newly assertive in many countries. Christianity is on the increase in many parts of South America and Africa. Religion cannot be ignored. Its existence as an influence on human behaviour, for good and ill, is obvious in the present-day world. Decades of aggressive atheist government could not begin to eradicate it, as the experience of countries in Eastern Europe shows. After suffering persecution and coercion for over a generation, churches have been resurgent, and indeed, as in Poland, were often instrumental in the overthrow of Communism. Whatever the regime and official ideology, and however oppressive it may be, its role in human life cannot be removed permanently. Outward expression of religion may be prohibited, but the basic impulses remain, and eventually are manifested again.

Politicians have to take account of this. Any idea of freedom in the context of human society has to take a realistic view of what it is that drives all humans. Just as no policy can ignore the fact that people need food, drink, and shelter, it will be critically important to face up to the force of religion in human lives. If religious impulses are deeply embedded in our common human nature, the apparent universality of religion in all human societies will not be surprising. The Enlightenment prejudice in favour of science may still live on in some quarters, and anything that cannot be verified by science may be dismissed. In substance, this is the doctrine of logical positivism, long superseded in the philosophy of science. Science is made the arbiter of both meaning and truth, and everything else is dismissed as merely 'emotive', or completely meaningless (as A. J. Ayer, the Oxford philosopher of the mid-twentieth century, once used to do¹⁵). Old philosophical theories still echo in real life, as is shown by the remark that Thomas F. Farr makes. A former American diplomat, he has been particularly concerned with issues concerning religious freedom. He points out that a central aspect of the secularization theory that has been resilient among foreign-policy practitioners is 'the idea that religion is inherently irrational and emotive'.¹⁶ It would follow from this view, he points out, that religious beliefs should have no greater influence on public policy than, say, alchemy. Once they are regarded as being merely personal, and private,

aberrations, they can be ignored in understanding the policies of foreign countries.

The question is not, though, just about the pervasive influence of religion. It is about the consequence of its being a central component in human nature. Thwarting religious impulses could be as wrong as thwarting any other basic human need or interest. If they form part of what it is to be human, the simple act of blocking them for political or other reasons does harm at a fundamental level. The argument is that, given we are religious by nature, we have a natural right to follow our impulses. Following our nature contributes to our well-being and enables us, individually and collectively, to flourish. Not being able to express the deepest yearnings of our nature is harmful. The idea that we have, in this way, natural rights certainly influenced those who drew up the Constitution of the United States. Farr himself puts forward a similar view in defence of religious freedom, and says that 'to assert a right of religious freedom in this fashion is to affirm a claim about human nature and on behalf of human beings'.¹⁷

The idea is that religious freedom is a moral and political good, because the right to hold religious beliefs and put them into practice must be at the centre of what it is to be human. That does not mean that we cannot equally come to reject such beliefs. If we cannot live according to our judgements about what is most important in human life, and our part in some greater scheme of things, we are not really free to live our lives as we wish. Any doctrine of what it is for humans to be free has to take into account what it is to be human. Democracies have to accommodate disagreements even about this most basic of judgements.

The roots of religion in human nature

How can we say confidently that religion is part of human nature, if it is impossible to say clearly what religion is? Some think that the natural world is all there is, and others see the need to think of a realm of reality that somehow goes beyond, or transcends, our ordinary world of sights and sounds. Whether that encompasses all that can reasonably be called religious can be put on one side. An idea of God, or gods, existing apart from the natural world is crucial for much religion, and, when atheists call themselves 'naturalists' or 'materialists', it is this idea

of the supernatural, or immaterial, that they are trying to resist. Coupled with it is the idea that we each as individuals matter so much that this life is not all that there is, but that there is some form of post-mortem existence. That in turn implies that, as humans, we are more than our bodies. Infused in such views is clearly the notion that there are deep underlying purposes in the world, perhaps emanating from outside the physical world, and that the world is not simply a blind process of cause and effect. Religion typically looks for meaning, and often claims to find it.

Can we move from vague generalizations about human nature, and learn from contemporary scientific research in this area? The so-called cognitive science of religion is a young discipline, drawing on insights in both psychology and anthropology. It is currently throwing light on the undoubted centrality of many of the impulses that help to form the foundation of religion. There can be arguments about why they are there, and how far they have been produced by the mechanisms of evolution. That is a different question from the contention it is a central part of human nature to possess certain cognitive tools that form the foundation of religious belief in every human society. They lead to common impulses that even atheists will share, even if they come to different higher level judgements from religious believers about their significance.

Alvin Plantinga, a leading contemporary philosopher of religion, claims that humans have a natural apprehension of the divine. He says that the basic idea is 'that there is a kind of faculty or cognitive mechanism, what Calvin calls a *sensus divinitatis*, a general sense of the numinous, which is a starting-point, and not the conclusion of reflective argument'.¹⁸ The belief in the transcendent is thus as natural a part of our understanding as the perception of the trees outside my window, or my memory of what I had for breakfast. I can be mistaken about the reliability of the experience, but the experiences are basic, and not arrived at by reason, nor based on further evidence. In many ways, the cognitive science of religion provides backing for this kind of view, though a general sense of the numinous is less specific than an experience purporting to be of the presence of the Christian God. There is still plenty of room for the religious diversity that is an undoubted fact about humans. Cognitive science would also tend to suggest that the various cognitive tools that go to make up religious belief are not special to religion and typically develop as a part of a wider cognitive repertoire.

A basic substratum of understanding, which is built into us, makes it very easy to think of supernatural minds and supernatural agency. Stories and doctrines about gods and spirits are very easy to disseminate among human beings. Their minds are ready to seize on them. Cognitive science sees itself as providing evidence for the mental tools that humans characteristically possess. One such tool has received the acronym of HADD—the hypersensitive agent detection device. Justin Barrett, a leading researcher in the field, describes this as a ‘crude and non-reflective system for detecting agency’.¹⁹ As he says: ‘If you bet that something is an agent and it isn’t, not much is lost. But if you bet that something is not an agent, and it turns out to be one, you could be lunch.’²⁰ In everyday experience, we all know how easy it is to jump at the rustle of leaves in a dark wood, or a bump upstairs in an apparently empty house. It is natural to wonder who or what is there, and assume the noise has been produced by an agent. What has this got to do with experience of the non-natural and the transcendent? The theory would be that this tendency to look for agency can result in unseen agents being posited, where there are no obvious agents. Angels, spirits, ghosts, and demons are some of the alleged beings that humans find it remarkably easy to conceive of, and to transmit stories about.

Pascal Boyer points out that we have the cultural concepts we have because ‘the way our brains are put together makes it very difficult not to build them’.²¹ For instance, the cognitive science of religion points out that religious concepts typically are ‘minimally counter-intuitive’. The idea is that they are a class of concepts that are particularly memorable, and for that reason easily transmitted from person to person. They are for the most part familiar, but grab our attention because they suddenly depart from normal intuitions in some respect. It is easier to remember fairy stories about a frog that talks than about just any old frog. A frog, though, that departed from our expectation too much would not be *minimally counter-intuitive*. If it drove a car, walked through walls, had flapping wings, and was bright purple, it would be hard for our minds to grasp. A slight deviation from the norm is memorable. Too much deviation becomes hard to track.

Another important element in the building blocks for religion comes from what is called ‘theory of mind’. We all have developed an understanding of other people’s perspectives. A child has to learn that the perspective of others has to be taken account. Children have to come to be able to predict and explain action in terms of other people’s

beliefs and desires. Young children of 3 or so find this difficult, but a year later will be able to do so. At the earlier age they find it obvious that, if they know something, so will their mother. If an apple is placed under a cup while the mother is present and then moved to under another cup when the mother has left the room, 3-year-olds will be sure that their mother will know where the apple has been moved to when she comes back. A year or so later, however, they will understand that she will not have seen the apple moved and will still think it is under the first cup. They will have come to understand that she is not infallible.

As Justin Barrett suggests, if children see God anthropomorphically, one would assume that ‘children begin by assuming that God’s beliefs are infallible just like their mother’s, and shift to claiming that God’s beliefs are fallible just like their mother’s’.²² Instead, what is characteristically found is a continuing, and firm, belief in God’s infallibility. At the age of 4 or so, children realize their mother’s perspective is limited, but go on assuming that God’s knowledge is not limited in that way. They say such things as that ‘God sees everything’, or even simply that ‘God is God’.²³ Obviously young children’s beliefs are influenced by those of parents and teachers. The point is not how they acquire a belief or whether it is true, but what they find easy to believe. As Barrett, together with other researchers, holds: ‘For children to “get God right” all they had to do is to keep answering like a three-year old.’ As they say, ‘God’s beliefs are much like the pre-representational child’s understanding of beliefs’, because they match the world.²⁴ The idea of omniscience, or something like it, is not a sophisticated philosophical achievement, but the natural result of the thinking of young children.

Ideas of infallibility, leading to those of omniscience, are not so surprising, given the way children’s minds naturally appear to work. The conclusion of Barrett and his collaborators is that, ‘in some respects, God concepts (and some other nonhuman agent concepts) may be more conceptually primitive, in part accounting for why such God concepts are so widespread’.²⁵ They are easy to grasp, just because they are a natural part of our conceptual framework. This is not an obvious conclusion. Philosophers have thought concepts of gods are produced by analogy with human beings, and then concepts of omniscience seem hard to account for. If our notions of the divine are built on projections from the human condition, and gods are moulded in our image, talk of the divine seems forced and unnatural.

The idea of disembodied minds, divine or human, appears curious if our basic experience is that of bodies. Dualism, the view that minds and bodies, or mental events and physical ones, are distinct and separable, may be unfashionable in many philosophical and scientific circles, but it is strongly suggested that we all naturally think like dualists. It is easy, for instance, to continue imagining the mental states of the deceased. Emma Cohen, an anthropologist, looking at spirit possession in Brazil, considers that the idea of migrating minds is 'catchy and memorable' (in other words, minimally counter-intuitive).²⁶ She adds that it is 'supported by a fundamental cognitive tendency to view ourselves and others as immaterial minds, or souls, occupying bodies'.²⁷ None of us normally identifies ourselves completely with our bodies without the benefit of philosophical argument. Dualism appears common sense, just because that is how humans naturally think.

The psychologist Paul Bloom draws a connection between a belief in life after death and what he terms our 'intuitive dualism',²⁸ seeing belief in an afterlife as 'a natural consequence of our intuitive Cartesian perspective'.²⁹ Because we start off with the assumption that body and mind (or soul) can each persist without the other, it is easy to think of ourselves existing in a non-physical state. Further, whatever is to be said ultimately about 'near-death' experiences, where people are typically ready to describe conscious states apart from their body, one striking feature is the ease that everyone has in finding such experiences intelligible. The idea of someone floating near the ceiling of an operating theatre looking down on his or her body may evoke different responses, but incomprehension is not normally one of them, except in a sophisticated philosophical sense. The idea of a spiritual, non-physical world, coupled with an idea of post-mortem survival, gives an important foundation for religion. Without a vision of human existence stretching beyond this life, the core of religious views of human nature has been removed.

Current theories about the social benefits of religion, coupled with evolutionary reasons for its persistence, point out that a belief in supernatural agents who know what we do, and can punish us, can be a powerful influence inhibiting cheating and deceit.³⁰ Clearly belief in a God who knows everything could be particularly influential as a method of social control, a reinforcement for altruism, and an encouragement for us to keep our obligations. 'Pure' altruism, contributing to the good of others at a cost to oneself, poses an apparent problem for

evolutionary theory,³¹ but it is an indispensable component of a properly functioning society. People have to be willing to keep to their obligations even when it is not in their own immediate interest to do so. Religion is clearly a force that encourages this, and some see evolutionary influences at work that support the persistence of religion.

The 'naturalness' of religion

The cognitive science of religion attempts to trace the cognitive structures of the human mind, conscious and unconscious, which make it easy for us to understand and to notice some things, and more difficult to believe others. Teleology, the identification of purpose, seems deeply ingrained in human beings, and this may explain why science sometimes finds it difficult to make headway against 'creationist' accounts. Our 'natural' impulses may not be infallible guides to truth, but they are the ones we are most comfortable with.

The American psychologist Deborah Keleman has produced evidence for what she terms an 'early emerging "promiscuous" teleological tendency to explain all kinds of natural phenomena by reference to a purpose'.³² She continues: 'From preschool, children attribute functions to entities like lions, mountains, and icebergs, viewing them as "made for something"'.³³ She reports that, confronted with questions about why rocks are pointed, 'children prefer teleological explanations over physical-causal ones, endorsing that rocks are pointy "so that animals won't sit on them", not because "bits of stuff piled up over time"'.³⁴ This is not just something we grow out of, and she presents evidence that 'when tested using subtler measures, adults . . . reveal a tendency to broadly explain living and non-living natural phenomena by reference to a purpose'.³⁵ In other words, as she says, it seems that humans keep to teleological explanation 'as a default' as they grow up. It is easier for us all to think that things exist and events happen for a purpose than to believe everything is arbitrary and pointless. A readiness to see purpose, or to look for an explanation, even in apparently random, tragic events speaks of the same trait. It is a natural tendency that makes a search for explanations in terms of gods, or God, very intelligible.

Concepts such as that of an all-knowing God, of disembodied minds, and of supernatural agency arise naturally from the way our minds work. As Scott Atran asserts, 'for better or worse, religious belief

in the supernatural seems here to stay'.³⁶ Barrett comments that 'belief in gods in human groups may be an inevitable consequence of the sorts of minds we are born with in the sort of world we are born into'.³⁷ He goes on more controversially to speculate that belief in one God may be 'selectively privileged'.³⁸ Whether a vague 'religious' belief in the supernatural agency is ingrained within us, or whether we are more receptive to the idea of a single all-knowing, all powerful Being, the fact remains that such tendencies to believe seem to be the very stuff of human nature.

Religion, or at least the impulses that help to produce the characteristic features of so-called religious belief, is a basic component of humanity. Denying religious truth in an atheist manner is as sophisticated as any theological reflection on the significance of our impulses. We may not be able to demarcate religion with precision, but we can recognize common features, and 'family resemblances'. 'Religion', not atheism, is the default option that we begin with, and this explains the near universality, and the persistence, of religion in one form or another. This is not an argument about the truth (or falsity) of any, let alone all, religion, but one about its central role in much human life and understanding. In any case, religious freedom does not mean tolerating beliefs that are generally recognized to be true. The test of such freedom is always to allow religious practices that one does not share and may believe profoundly mistaken. They will still be of central importance for those holding them.

The basic impulses that help to form religion are at work everywhere. There will always be pressures inclining humans towards religious views of the world, as the impulses are inherent in human nature. With reference to the cognitive science of religion, Johnson and Bering ask us to imagine a generation that grows up without any religious reading or teaching. They predict that even so 'they would believe in supernatural agents, that natural events would seem to have meaning and purpose...and that they would successfully curb their ancient primeval selfishness for fear of greater forces observing and judging their actions'.³⁹ The building blocks of religion would be back in place, because they can never be removed. The writers could have added that their empirical studies indicate that the secularization hypothesis has to be false. Religion will always be resurgent in any society. Contemporary Western Europe is untypical of the general experience of humanity.

We can all reason about religion, and even question the reliability of some of our basic impulses as guides to truth. That will involve free, public, debate. Arbitrary attempts to stifle basic religious impulses by restricting people's religious freedom will come up against basic facts of human nature. It is like starving people, or refusing them shelter. They are stopped from functioning as they would wish as human beings. In this sense, religion must be regarded as a basic human good, even if some of its manifestations are not good. Some may wish the world was free of all religion. They must be free to argue their case, but should not impose this view on others, or achieve part of their purpose by pretending that religion is a wholly individual matter of no concern in the public sphere.

We cannot pretend that religious concerns are just like any other form of conscientious belief. That is not the message of empirical studies, and it goes against all historical and anthropological fact. As Johnson and Bering assert, many modern institutions with their founding norms 'are in fact deeply rooted in local traditions that are essentially religious'.⁴⁰ They point out that religious traditions continue to underlie fundamental aspects of law and political discourse. Indeed one might add that those who forget this will misunderstand the significance of many social practices. The basic facts of human nature will always be expressed in any properly functioning society.