

IN THE MATTER OF:-

Recent Cases on Christian Human Rights (and Background Cases)

INTRODUCTION:

1. The following cases illuminate some of the cases on religious liberty from the position of the United Kingdom. The list is neither conclusive, nor does it represent a definitive statement on the law.
2. National law does not have primacy; thus there must be consideration of the decisions of the European Court of Human Rights and international tribunals.

BACKGROUND CASES:

3. The European Court of Human Rights (Strasbourg) has manifested resistance to religious rights.
4. **Konttinen v Finland** of 3rd December 1996, Seventh day Adventist denied right to Saturday Sabbath, despite been prepared to work extra hours and the employer could have accommodated his religious right.
5. **Stedman v United Kingdom** (1997) 23 EHRR CD 168, Mrs. Stedman denied right to rest on Sunday by employer, despite fact that employer was acting unlawfully. Decision effectively says that Christians have no employment rights.
6. **Kalac v Turkey** (1997) 27 EHRR 552, Government can interfere with religious rights, on no cognitive basis. Not a reliable decision as Islam is problematic.
7. **Jewish Liturgical Society Cha'are Shalom Ve Tsdeek v France** (2000) EHRR. Jews denied rights to special Kosher meat by France on the basis of the test of 'impossibility' as the Jewish people could still import meat. This is the most disturbing decision as close to abrogation of all religious rights.
8. **Smith & Grady v United Kingdom** (1999) Homosexuals in Armed Forces granted full employment rights despite legitimate restriction for combat effectiveness.
9. **Darby v Sweden** (1991) Mr. Darby objected to State Church tax; great deference by Court to secular view and law had to be changed.
10. **Troxel v Granville**¹, (2000) The United States Supreme Court grants highest respect to family and religious rights. The decision is applicable in US only and rejected by UK courts.

¹ (2000) 530 US 56.

RECENT CASES:

11. I shall attempt to proceed by means of chronological date order and merely list relevant cases.
12. February 2002: **Parry v Vine Christian Fellowship**: Transsexual sue Church for refusal to accept him as a woman. Loses, but considerable legal difficulties caused.
13. May 2002: **Re: Hammond v DPP**: Mr. Hammond is a street Preacher who spoke against homosexuality. Attacked by homosexuals and prosecuted. Subsequently dies and court says homosexuals need special protection: *I am taking this case to Appeal shortly.*
14. July 2002: **Re: Peter Thatchell**: Mr. Thatchell reads calling for homosexual sex with the Lord Jesus in central London. Police refuse to prosecute as freedom of speech. CPS determining decision and funds needed to challenge a failure to prosecute (contrast with **Hammond** above).
15. July 2002: Lord Chancellor changes definition of Family Law Act 1996 from the 'institution of marriage' to the 'adult couple'. Unlawful act, but no funds to challenge.
16. August 2002: Numerous Christian Unions face expulsion from University campuses. A direct threat to freedom on the University campuses.
17. October 2002: Mental Incapacity Bill considered (euthanasia) and Homosexual adoption introduced. Social Workers face dismissal.
18. December 2002: **Williamson v Secretary of State**: Court of Appeal determines that Christians do not have right to establish private schools and bring up their children according to their faith. *Currently I am on Appeal to the House of Lords.*
19. January 2003: **Re: Copsey**: Mr. Copsey refused by employer to have Sundays for religious purposes. Decision attempting to reverse **Stedman** (above) and Working Time Directive 1993. *Currently I am on appeal.*
20. March 2003: Court permits creation of designer babies'.
21. April 2003: **Re: Pinto v DPP** Arrest of two Pro-life Election Candidates in elections to Welsh Assembly. The portrayal of an aborted foetus was contrary to the Public Order Act 1986 (as the standards on national television are so high! !). *I am seeking to clarify law in Divisional Court.*
22. EC Directives on Religion and repeal of Section 28.

STATUTORY PROVISIONS:

23. These are the main over-arching provisions.

24. Article 9 of the European Convention states:-

(1) 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 or in private, to manifest his religion or belief, in worship, teaching, practice or observance.

(2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as 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.

25. The Human Rights Act 1998 has introduced the principle of Human Rights as a 'norm' into national law. Section 13 of HRA reads:

(1) If a court's determination of any question arising under this Act might affect the exercise by a religious organisation (itself or of its members collectively) of the Convention right to freedom of thought, conscience and religion, it must have particular regard to the importance of that right.

26. If I can be of any further assistance, please do not hesitate to contact me.

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