

# **'Intolerant Secularism and its Impact on Modern Britain'**

**Lord Carey of Clifton**



I am delighted to be with you today as we discuss a topic that has major implications for the future of our country.

Earlier this year I made a personal plea on behalf of Gary McFarlane to have his case heard before the Court of Appeal. You may remember the circumstances. Gary McFarlane was a senior Relate marriage guidance Counsellor who was sacked because he refused to give private sex counselling to homosexual couples because of his Christian beliefs. In my plea, backed by other Christian leaders, I asked for the appointment of a specialist panel of five judges with a proven understanding of religious issues, headed by the Lord Chief Justice, to hear McFarlane's case and future cases. It was clear from previous rulings that the courts were neglecting important issues of religious liberties which are themselves protected by the Human Rights Act. And it seemed to me that to break the impasse in the promotion of other rights over religious ones, the training of judges to understand religious issues could be a way forward.

I was well aware that this would be a contentious argument, and I was not the slightest surprised when Lord Justice Laws rejected it completely. What was more surprising were the arguments used by Lord Justice Laws. He acknowledged that laws in Britain have been influenced by the Christian faith, saying: 'The Judaeo-Christian tradition, stretching over many centuries, has no doubt exerted a profound influence upon the judgment of lawmakers as to the objective merits of this or that social policy'. But then he issued a stinging attack on my argument stating that it would be 'deeply unprincipled' to confer 'any legal protection or preference upon a particular substantive moral position... however long its tradition'. Lord Justice Laws went on to state – rather than argue – that 'in the eye of everyone, save the believer, religious faith is necessarily subjective, being incommunicable by any kind of proof or evidence... it lies only in the heart of the believer, who alone is bound by it. No one else can be so bound, unless by his own free choice he accepts its claims. The promulgation of law for the protection of a position held purely on religious grounds cannot therefore be justified. It is irrational, as preferring the subjective over the objective. But it is also divisive, capricious and arbitrary'.

The extremely strong and opinionated language used by Lord Justice Laws goes to the core of today's Conference- it is about the place of the spiritual, and particularly Christianity, at the heart of our nation. Faith, according to this distinguished Judge is 'necessarily subjective', 'incommunicable by any kind of proof or evidence'. It is irrational and even more sweeping 'capricious and arbitrary'.

Now, I could spend the rest of my time in debating this issue, but I won't because I am sure that others will go into some of these matters in greater depth. But what Lord

Justice Laws has misunderstood is that I was not merely intervening on behalf of a fellow Christian whom I believe has been dealt with harshly and wrongly by the law. My concern was, and is, broader than that: my concern focuses on an attack on human rights that concerns everyone. In one sense it is irrelevant that Gary McFarlane made his decision as a Christian. There are a huge number of people - people without faith as well as those with faith - who would similarly refuse to give sex-therapy to homosexuals, because this ethical matter is still highly contested and because they believe that the legal requirements set up by the law constitute an invasion of people's basic freedom to act according to their conscience. I argue that in a democratic society the State has no right to impose legislation on such a matter, least of all on an experienced counsellor who has helped many couples through marital difficulties. The more serious aspect of this is that religion is being increasingly swept in a private area of life which gives believers no protection or jurisdiction in the public domain.

What we need to note is how recent is this understanding of law in our land. It is only within the last ten years or so that we have witnessed the rise of a militant form of secularism which places itself deliberately in confrontation with all mainstream faiths. Once the focus was on philosophical debates about the existence of God; now the focus has shifted to issues of lifestyle and conduct.

Quite recently, the British Humanist Society published a leaflet celebrating the 150<sup>th</sup> Anniversary of J.S.Mills' celebrated book **On Liberty**. In this well-known book, Mills offered a reasoned argument for toleration and, in particular, resisted what he called 'the tyranny of the majority'. For Mills, and I quote: 'Over himself, over his own body and mind, the individual is sovereign'. This argument caused great controversy at the time and ever since. I am grateful to Professor Brenda Almond of the University of Hull for drawing my attention to the resistance given to Mills' thesis by the famous Judge and legal theorist, Patrick Devlin, who in the late 50's opposed the Wolfenden Report<sup>1</sup>. Against Mills, and a growing minority opinion at the time, Devlin insisted that the law existed for the protection of society in the first instance. He argued that a society's existence depends on the maintenance of shared political and moral values. Violation of the shared morality loosens one of the bonds that hold society together and thereby threatens it with disintegration. 'What makes a society of any sort is community of ideas about the way its members should behave and govern their lives, these latter ideas are its morals, without shared ideas on politics, morals, and ethics no society can exist'. As is well known, Devlin's emphasis was on the Judaeo-Christian framework of moral thinking, and especially its focus on marriage as a historic institution which up to quite recently, was the backbone of British civic life. As Devlin saw it, religion, law, and marriage are inseparably linked and marriage was as much binding on non-Christians as Christians because it was an institution of this society.

That was a mere sixty years ago. What a different world we live in now and what a different Judge as compared with Lord Justice Laws! If the welfare and happiness of the individual is the measure we bring to morality, marriage as the central building block of society is bound to suffer.

---

<sup>1</sup> B. Almond, The Journal of Moral Education. Vol 39. No 2. June 2010. 131-144

As it happens, in last weekend's *Body and Soul* section of 'The Times', there is an article about two women who were married in a civil ceremony. They are now embarking on having a child which the younger woman is carrying - the sperm of which is donated by an anonymous father. This sort of story is becoming more familiar, but missing from the article is any awareness on the part of the women of the ethical issues raised: the separation of sex from a relationship, the missing father and, indeed, whether or not the child is deprived of anything important in not having a male figure in the home. What seems to matter for the women is an assumption that as they are 'married' by such a civil ceremony, they are entitled to children. There is film on current release, *The Kids are All Right*, which explores a similar relationship and reveals how much western society has changed, and how sadly it reveals even more starkly the collapse of marriage as traditionally understood. What I am arguing is that behind these changes lurks an influential and militant form of secularism that, in the words of Brenda Almond: 'seeks to conceal its fundamentally anti-family ideology under a newly constructed language of parenthood and relationships that omits any reference to gender or biology'.

In conclusion, one can see that the transition from pre-Wolfenden attitudes on marriage and sex to today, is a journey from a time when society punished as a crime private conduct of which it disapproved, to where, today, disapproval of that former life style has itself become, if not quite a crime, but certainly a 'sackable offence'. I am not for one moment arguing that homosexual conduction should be criminalized, but is it necessary to stigmatize a person's disapproval? Has not the pendulum swung too far? The irony is that in the changed situation we find ourselves in today, because McFarlane disapproved of sexual relationships between same-sex consenting adults, he has been sacked from a job he had been doing well.

In most of such examples, it is those with Christian belief who have been targeted and it is noticeable that other faiths are accorded rather more tolerance than Christian believers<sup>2</sup>. Whether this suggests that Christians are an easy target, well, we may have different views on that question! But many of us are bemused that when Lord Justice extols the great contribution that Christianity has made to our nation, and which is claimed by 72% of our nation, the effect of his rulings is to drive the same faith from the public arena.

Today's conference will enable us to go deeper in these issues. What is clear to me is that we must resist being marginalised by aggressive secularism and faith treated as nothing of consequence. Edmund Burke said memorably long ago: 'No man has made a greater mistake than he, who because he could do so little, did nothing'.

© Lord Carey 2010

---

<sup>2</sup> Lucy Vickers, Religious Discrimination in the Workplace: An emerging Hierarchy? Ecclesiastical law Journal. Sept 2010. P.280 ff