

BHA BRIEFING 2010: Equality Bill Lords Committee Day 1

Monday 11th January

Briefing from the British Humanist Association:

Amendment to change the meaning of the protected characteristic 'religion or belief'

An amendment has been tabled to the Equality Bill by the Conservative Party which seeks to amend the definition of the protected characteristic 'religion or belief', by removing 'philosophical' from the definition of a belief.

The British Humanist Association (BHA) has serious concerns that the amendment, if passed, would create deep inequalities between religious and non-religious people in the UK. Humanism is a recognised philosophical belief as defined in European case law and as understood in UK equality and human rights legislation. By removing 'philosophical' from the definition of belief, millions of ethically concerned, non-religious people in the UK would lose the protection they currently enjoy under our equality laws.

Further, the BHA believes that the amendment is regressive, and therefore cannot be made to the Equality Bill.

It is our firm position that this amendment be opposed:

Amendment to Part 2, Chapter 1, 'Protected Characteristics'

Baroness Warsi, Baroness Morris of Bolton

Clause 10, Religion or belief

Page 6, line 11, leave out "or philosophical"

Our concerns:

The amendment would change the definition of the protected characteristic 'religion or belief' in the Equality Bill to:

- 1) Religion means any religion and a reference to religion includes a reference to a lack of religion.
- 2) Belief means any religious ~~or philosophical~~ belief and a reference to belief includes a reference to a lack of belief.

Amendment would change the meaning of 'religion or belief' in a way that is regressive, incompatible with human rights law and reductive.

'Religion or belief' refers to both religious and non-religious beliefs and is the term used in both national and European legislation. Article 9 of the European Convention on Human Rights refers to freedom of religion or belief, and 'belief' has been consistently interpreted by the European Court of Human Rights as covering philosophical beliefs.

Taking out 'or philosophical' from the definition of belief not only renders the term 'belief' meaningless in effect; it represents regression from the European Equal Treatment Directive and becomes incompatible with the European Convention on Human Rights and therefore with our own Human Rights Act 1998.

Amendment would mean that humanists are not specifically covered under UK equality law.

Humanism is the view that we can make sense of the world using reason, experience and shared human values and that we can live good lives without religious or superstitious beliefs. Humanists seek to make the best of the one life we have by creating meaning and purpose for ourselves. We choose to take responsibility for our actions and work with others for the common good.¹

Humanism is a recognised philosophical belief as defined in European case law. It has also been cited in a recent Employment Appeal Tribunal judgment² as a specific example of a philosophical belief which fits the following, defining criteria³:

- the belief has to be genuinely held
- it has to be a belief and not an opinion or viewpoint
- it has to be a belief as to a weighty and substantial aspect of human life and behaviour;
- it has to attain a certain level of cogency, seriousness, cohesion and importance and had to be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with the fundamental rights of others.
- it is necessary for the belief to have a similar cogency to a religious belief but it need not be shared by others.⁴

Research suggests that up to 36% of the UK population share humanist beliefs on morality and the nature of the universe⁵. At least 15.5% of the population is non-religious, even according to the low figures in the 2001 census, already making this the second largest 'belief' group in the UK. Other surveys on religious belief in Britain find between 30-65% of the population identify as non-religious.

Changing the definition of the word belief would mean that people with humanist beliefs would no longer have equity with people with religious beliefs in equality law. This is a serious step backwards for UK equality law and achieves no positive outcomes.

Amendment creates risk of discrimination and unequal treatment.

Discrimination by 'public authorities' on grounds of religion or belief is outlawed by the Human Rights Act 1998 (see section 6, read with Articles 9 and 14). Removing 'philosophical' from the definition of belief would leave millions of people who share a positive philosophical belief unprotected against discrimination and unequal treatment in the provision of, and access to, public services, employment, education, funding and elsewhere.

The BHA strongly recommends that the amendment is not supported.

About us

The British Humanist Association (BHA) is the national charity representing and supporting the non-religious and campaigning for an end to religious privilege and discrimination based on religion or belief. Our expertise lies in the 'religion or belief' equality strand, which includes non-religious beliefs such as Humanism, and how that strand relates to and intersects with other protected characteristics.

For more detail and evidence on our position, please contact us:

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¹ <http://www.humanism.org.uk/humanism>

² See Employment Appeal Tribunal, Grainger plc & others vs. Mr T Nicholson, November 2009

³ The five criteria are drawn directly from a case heard in the European Court of Human Rights Campbell and Cosans v. UK: (1982), 4 EHRR 293 p304, para 36 and p305, para 36)

⁴ By reference to the jurisprudence in the European Court of Human Rights.

⁵ Ipsos MORI, 2006, <http://www.ipsos-mori.com/researchpublications/researcharchive/poll.aspx?oltemId=190>