

Annual Lecture 2015

Freedom of Expression and Freedom of Religion

Baroness O'Neill of Bengarve

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Freedom of Expression and Freedom of Religion

Baroness O'Neill of Bengarve

The following is a transcript of the
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freedom of expression and freedom of religion

1. introduction

Rights to Freedom of Expression (Art 10) and to Freedom of Religion and belief ('thought, conscience and religion' in ECHR Art 9) have long pedigrees, and are taken to have high importance in the contemporary world.¹ This is not to say that they are universally respected, let alone that it is obvious what either demands. The evidence that they are not respected is all too plain in the persistence of intolerance and intimidation, of outright censorship and religious persecution of those of other faiths, and in the criminalisation of apostasy in some states.² However, I shall not have much to say about the patterns and persistence of violation—many others are active in that space. What interests me, and seems to me important, are the reasons we can give for taking these rights seriously, for interpreting them in specific ways but not in other ways; for institutionalising them in some ways but not in other ways.

Before I begin I would like to set aside one point that I see as no more than distracting. There are some who argue that provided we have rights both to freedom of expression and to freedom of association (the latter is Art 11 in EHRC; Art 20 in UDHR), then religion and belief and their expression will be adequately protected, and there will be no need for any further or specific right to freedom of religion and belief. Believers of various sorts will have rights to come together, rights to express or manifest their beliefs 'alone or in community with others' and rights to change their religion or belief, and a further right that covers only religion and belief will be redundant.

I am not going to spend time on this thought because it seems to me both unhelpful and potentially risky. It is unhelpful because both the very abstract way in which rights are specified in Declarations and Conventions, and the more determinate forms in which they may be protected or realised by the legislation of a particular jurisdiction, cover a variety of protections and restrictions, a variety of permissions and requirements. There are no doubt *some* interpretations of rights to freedom of expression and of association that will cover everything that *some* interpretations of rights to freedom of religion and belief will cover—but there are *other* interpretations of rights to freedom of expression and of association that will not cover all of the protections and restrictions, permissions and requirements that *some* interpretations of rights to religion and belief would cover.

More practically, I see little point in shrinking the list of human rights to what are thought to comprise a minimally adequate set (and, of course, there might be a plurality of such sets). Given that each listed right is indeterminate, reduced lists too will be interpretable in multiple ways, and the real task of working out how rights are to be interpreted and institutionalised will still need a lot of further thought and work, as well as legislation. In interpreting the abstract rights of the Declarations and Conventions we cannot proceed one-right-at-a-time. We always need to frame institutions and laws in ways that allow for protecting, respecting and realising the range of rights.

Indeed, a concern to minimise the number of rights might be taken to suggest that we should seek to expand Art 5, the *Right to Liberty and Security*, to absorb or replace all other rights, leaving everything more specific to be settled in the course of interpreting and of institutionalising this overarching right. I do not think such a yen for tidiness would be valuable, not to mention its political perils. A proposal that some rights should be absorbed into or included under others, if it could be shown that under some interpretation there would be no substantive loss, would understandably provoke fears and concerns that important rights were in fact being given or likely to be given short shrift. Rights to freedom

of expression and to freedom religion and belief are both entrenched; both have a degree of specificity; revisionism is likely to have costs and to rouse many fears.

2. freedom of expression

Nevertheless these two rights have only a *degree* of specificity. Many different configurations of rights to freedom of expression and of religion and belief are conceivable, and some of these take very extensive views of speech rights and of speech wrongs, or of the religious and other beliefs and expressions of belief that are to be protected. This is unsurprising, given that discussion of these rights has a long history, going back to arguments first put forward during the Reformation and the Enlightenment.³ But despite the fact that many of these arguments have a long history, it is notable that until the C20 the term *freedom of expression* was (I think) rarely if ever used. But this is not the only way in which discussions of speech rights have changed: other changes which are more than a matter of terminology seem to me more fundamental, and I shall mention three.

The first is that many of the classical arguments were not about rights—let alone about universal rights—but about duties, and in particular about duties to tolerate others' speech *even if it was false or wrong*, and even if others had *no right* to speak or publish in certain ways. (That, I suggest, is why the duty of toleration seemed so difficult in the early modern period, and also while we now find it hard to follow some of the older arguments, and why some contemporary writing dismisses toleration as an easy duty, that requires no more than indifference).

Secondly, and quite separately, many of the classical arguments for speech duties (including duties required in order to protect speech rights) are arguments for the protection only of speech of *specific* sorts. It has been conventional to distinguish a range of more specific freedoms such as freedom of speech, freedom of the press, and freedom of worship,

not to mention artistic freedom and academic freedom. Although the broader term 'freedom of expression', is now well-established, there are still reasons to differentiate its operation in specific contexts.

Thirdly, some of the best known classical arguments for speech freedoms—many of them still current—cover only speech that makes truth claims, and stress the importance of protecting and fostering the discovery and communication of truth. These classical arguments remain important, especially in discussions of the expression of religious and scientific claims, but are now seen as inadequate to cover the full range of forms of expression.

There are I suggest very good reasons why this older terminology and the distinctions it drew are now seen as too narrow. The more obvious reason is that new technologies have transformed ways in which expression, and more specifically communication, can be mediated. The last century has seen the development of film, telephony, radio and television; the last 40 years the rise of the internet and mobile telephony; the last 20 years the wider penetration of these communication technologies, and the rise of globalised marketing and social media. The impact of these technologies is constantly being reconfigured by further technological innovations, such as advances in encryption and interception, as well as by wider changes, such as the reconfiguration of boundaries and of their porosity that we speak of as globalisation, which allow some powerful agents and agencies to insulate themselves – not to mention their money– from the rule of law and from the enforcement of others' rights.

This is where we have got to, and I think it is no coincidence that a remarkable number of the most intractable current disputes about policy and legislation are about ways in which speech rights, including rights to religion and belief, should be shaped or reshaped, and about their protection and implementation by law and regulation. For example, in the UK there has been (and will no doubt be more) legislation on surveillance and privacy; on copyright and open access; on transparency and encryption; on data protection and freedom of information; on open

data and intellectual property; on online privacy and online anonymity; on defamation and trolling; on cyber fraud and identity fraud of countless ingenious varieties. There also has been (and will no doubt be more) legislation that bears on religious freedoms, including legislation that bears on proselytising and radicalisation, or that seeks exemptions from certain educational, safety or other requirements in the name of freedom of religion and belief.

It is tempting to wade into a discussion of the new technologies and of the policies to protect freedom of expression and freedom and religion and belief now required. But I think it may be more useful to start by reconsidering the underlying arguments for specifying what may and may not be done with words and symbols. Which speech rights should people have? Where may speech rights be restricted, and for which reasons? When should religious activity and their manifestation be protected by special arrangements, and when should they not? What are the proper limits of freedom of expression and of freedom of religion?

3. lawful, necessary, proportionate

To understand the shape that any adequate interpretation of these rights requires it is helpful to look at clause 2 of articles 9 and 10 in *ECHR*. Both of these rights are qualified rights, not absolute rights, and certain restrictions on their exercise are not merely permitted, but (as the Convention makes explicit) required.

In Art 9 we read that freedom of thought, conscience and religion may be

...subject only to such limitations 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**

There we can already see the phrases that recur constantly in debates about the proper ways in which rights not merely *may* but *must* be shaped to allow for other rights of the same person, for others' like rights, and for discharging the counterpart duties that are necessary if rights are to be respected and realised.

Similarly in part ii of Art 10 we read that freedom of expression

...may be subject to such formalities, conditions, restrictions or penalties as are **prescribed by law** and are **necessary in a democratic society**, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the **protection of the reputation or rights of others**, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

The acceptable shape of these two rights, it is clear, is legitimately constrained in many ways. There is some asymmetry, in that Art 9 refers explicitly to the **protection of the rights and freedoms of others**, while Art 10 refers to the **protection of the reputation or rights of others**. I take it that this asymmetry of phrasing reflects a particular concern about the fact that defamatory speech may harm others, although it is worth noting that the reference in 10.2 is nevertheless to *all* the rights that others hold, and not only to their speech rights, and so to the *full* range of ways in which speech rights not merely may but must be restricted.

It might seem that the ECHR gives some reasonably explicit guidance about ways in which either right may be legitimately be restricted. And yet we are in a terrible muddle about the shape that rights of either sort may take. For example there are repeated, some would say interminable, discussions about whether offensive speech is a permissible use of freedom of expression or whether it should be prohibited; about whether displays of religious symbols in the workplace or the classroom are permissible exercises of freedom of religion and belief, or should be

prohibited. Was Charlie Hebdo's publication of material that some found highly offensive an abuse of freedom of expression, and should the fact that some found it so offensive be taken as a reason for prohibiting it? Is wearing a cross at work impermissible because the workplace must be in some way neutral? Do we understand which sets of beliefs are to count as 'religion or belief' and which are not? I will come back to some examples, but want first to cover some more abstract and basic points.

4. speech acts and speech content

Human rights documents and the various speech rights they declare or assert bear on *action*. What they protect are types of *speech act*, rather than types of *speech content*. In the past some jurisdictions and some cultures sought to control speech acts by prohibiting and regulating speech content. In some cultures certain words were taboo; in our own, legislation on blasphemy and obscenity—now largely repealed or obsolete—aimed to regulate some sorts of speech content. But legislation has to operate by requiring or prohibiting, sanctioning or rewarding, certain types of *action*, and it is rarely feasible to do so by proscribing or regulating all uses of specific types of speech content or specific words.⁴ Attempts to regulate speech content have repeatedly foundered because parody and euphemism, satire and pseudonyms, allow people to convey ostensibly prohibited content, while keeping within the law.⁵ The Censor's life is not a happy one.⁶

Individuals and institutions enjoy determinate speech rights when permitted and prohibited types of *speech act* are distinguished, and interference with permitted speech acts, whether by prior restraint or by retrospective sanction, is prohibited, and (if well institutionalised) effectively prevented and sanctioned. In drawing this line, certain types of speech act will be classified as *speech wrongs* and be prohibited (think of speech acts that *defraud*, *intimidate*, *incite violence*, *defame*, or *abuse*, for starters), and others will be permitted and protected.

However, freedom of expression is not the same as freedom of *self-expression*. Self-expression, as John Stuart Mill pointed out, is generally innocuous, and need not be restricted, except in the rare cases where it is likely to harm others or indeed to violate their rights.⁷ The phrase *freedom of expression* by contrast is a relatively new term of art that is intended to cover all uses of speech, most of which are not merely a matter of self-expression. Self-expression may indeed, as Mill put it, be largely self-affecting, and have little or no effect on others: but most uses of freedom of expression seek to communicate, and many communicative acts have huge and complex effects on others.

A right to freedom of expression is nothing without the counterpart prohibitions and requirements that are needed to define and secure the right. It is above all a right that shapes communication, and thereby action, by permitting and protecting, alternatively limiting and prohibiting, various types of speech act. We are not usually much concerned about the rights of individuals who mutter dreadful things to themselves, but do not communicate them to others, although these forms of self expression are also protected. We are concerned to protect communication between persons and institutions. 'Freedom of expression' is now used as a generic term for rights that protect a wide range of speech acts, both individual and institutional (in many cases the specific interpretation of individual and institutional speech rights will be differentiated). These rights may protect speech that is spoken or written, imaged or enacted (gesture, dance, use of symbols); that is face-to-face or technologically mediated; that reaches or fails to reach intended audiences.

It seems to me that the two terms 'freedom of self-expression' and 'freedom of expression' are what are known as 'false friends': arguments that bear on one cannot simply be transferred to the other. In particular the frequent contemporary reliance on Mill's arguments for freedom of self-expression (not to mention the equally frequent neglect of his writing on liberty of discussion) do not support a useful account of freedom of expression in its contemporary, generic sense.

5. interpreting speech rights: the demands of coherence

How then should rights to freedom of religion and of belief and of rights to freedom of expression be interpreted? Any adequate interpretation will, we know, be constraining; but it must constrain in coherent and justifiable ways. The human rights of each person must be understood in ways that are compatible with one another, compatible with others' enjoying the same rights, and compatible with the action needed to respect or realise those rights.⁸

The task of interpreting human rights, other than the few that may be absolute, is sometimes described as a matter of *balancing* one right against others.⁹ This metaphor misleads. Its proper use is in characterising judicial decision-making about *particular* cases, where balancing considerations is a matter of taking the multiple facts of a case into account. In considering how we should select among possible interpretations of human rights we are not dealing with particular cases, but with principles, with their interpretation in legislation and with their implementation by the courts and public policy. Since no particular case is under consideration, there are no facts of the case to be balanced. There is no *metric* for rights, analogous to the metrics used for physical balances. What is actually required is in the first place *an interpretation of each right that adjusts* it to the other rights of the *same* individual, to the fact that all others are to have like rights, and thirdly takes into account the need to ensure that the action needed to secure respect for and realise that right or other rights not be obstructed or made impossible. For unless an interpretation of rights leaves room for performance of the counterpart duties needed to make a reality of them, rights will not be realisable.

Difficult questions must be decided. For example, what line should be drawn between rights to freedom of expression and rights to privacy? May rights to freedom of religion be interpreted in ways that are others

find intrusive or that disrupt normal working practices? If so, how are the rights of those affected to be interpreted? These topics are enormous, and rather than trying to say a little about a large number of issues, I shall discuss one topical example from debates about freedom of expression (Section 5), and one topical example from debates about freedom of religion and belief (Section 6).

6. offending speech

There are many cases in which the interpretation of rights to freedom of expression, although much disputed, is in fact not particularly difficult, and one of those has been prominent recently. In discussions of the Charlie Hebdo case, and of the earlier case of the Danish cartoons, it has often been claimed that there those who drew or published these cartoons had no right to express themselves as they did, because this was offensive, indeed deeply offensive. Many fewer people have claimed that direct action (let alone violent direct action) by those so deeply offended was a permissible response.

However, offence is a subjective matter, and what offends A may not offend B. There is no way of securing freedom of expression if we also maintain that there is a right not to be offended. Speech acts that incite hatred, or that intimidate, or that defraud, or that abuse, can be regulated without putting freedom of expression at the mercy of others. But if there were a right not to be offended, this would put everyone's freedom of expression at the mercy of others. Our legislation, I think correctly, does not restrict freedom of expression merely because some speech act offends some others, or even offends some of them gravely. Any supposed right not to be offended would founder on the fact that offensiveness is subjective, and would put others' freedom of expression wholly at the mercy of the sensibilities of possible audiences, including audiences who may include some who are hypersensitive, paranoid or self-serving—or worse.

But while there can be no **right** not to be offended, there can be many reasons not to offend others. Sometimes we choose not to speak in ways that are permissible but likely to offend others for good reasons (kindness, or good manners), and sometimes for bad reasons (currying favour, condescension, political correctness). But reasons not to speak in ways that may offend some others cannot invoke a supposed right not to be offended, since there can be no such right.

What then should one do if one hears, reads or sees something that one considers offensive, perhaps deeply offensive? The basic thing is to remember is that unless the offending speech act was *wrong in some further way* (e.g. it was defamatory, or incited hatred, or was fraudulent), no right has been violated, and no remedy of the sort that respect for rights requires is needed.

However, in cases where a speech act is not merely offensive (to some, even to many) but also violates others' rights, there is a legitimate basis for restriction and sanction. A speech act (whether or not it was felt to be offensive by some) may in the actual context in which it was uttered or published have constituted incitement, or have been fraudulent, or have been defamatory. In such cases the reasons for seeing the offensive act as one that should not be permitted or protected hinge not on the fact that some people found it offensive, but on these other features.

There are clear limits on what it is permissible to do if one is offended: Any unlawful act of retaliation for offensive speech is just that: unlawful. In particular, killing a person whose speech offends is not martyrdom: it is just killing, and may be murder. Killing a person whose speech offends *and oneself* (e.g. by suicide bombing) is also not martyrdom: it may be murder and is certainly suicide. Killing oneself for a cause without killing others (self-immolation, hunger striking) is also not martyrdom, but rather suicide to make a political or other point. Martyrdom is a matter of suffering for one's beliefs, or being killed for one's beliefs, —and there are good reasons to use the term correctly and carefully. George Orwell was, I think, right about the dangers of newsspeak. The noble army of

martyrs must be turning in their graves as they read some current religious, political and journalistic uses of the term.

But there is a more practical point to remember. The most effective action to take if one feels offended, and there is no breach of one's rights, is nearly always not to take offence, or to cold shoulder the other party, let alone to attack those who are thought to have spoken offensively, by taking the law into one's own hands. It is to speak to those whose speech offended. They may not have wished to offend. Even if they aimed to offend, speaking to them may educate them, or make them more cautious, and may allow those who were offended to reaffirm a reasonable feeling of self-respect, in that they do not, as we say, 'take it lying down'.

I give you an example: last year Mary Beard, the Cambridge classicist, was viciously trolled in ways that many of us would find deeply offensive. She spoke with her troll, gained his attention, and after some discussion helped him get back into employment... In general more speech is the best way to deal with disagreement, including that expressed in speech to which one takes exception or finds offensive.

7. freedom of religion and belief

I now turn to a difficulty—there are various other difficulties—with current interpretations of the right to freedom of religion and belief, which centres on the meaning to be given to the term *belief*. The interpretation of this right by UK courts has generated confusion. On the one hand courts have held that “a belief must be a belief and not an opinion or viewpoint based on the present state of information” but on the other they have held that any belief that is to be protected by this right should “attain a certain level of cogency, seriousness, cohesion and importance”¹⁰ Peter Edge and Lucy Vickers conclude in their recent *Review of Equality and Human Rights Law Relating to religion and belief* that the “broad definition of belief currently being applied by the courts

is unclear, and some rulings appear inconsistent with others". Their view is widely shared.

It is puzzling to find opposition to fox hunting classified as a 'religion or belief', but support for fox hunting not classified as a 'religion or belief'. There may be some clarity to be achieved by noting that Art 9 yokes 'religion and belief' together, suggesting that the sorts of belief that count must be *life-orienting* rather than bearing on a single aspect of life, a *Weltanschauung* rather than a specific political or ethical position. However, this troubling ambiguity can only be made settled either by further legislation, or by the (probably slow) accumulation of further court decisions that do not point in contradictory directions.

8. summary of justifications and constraints

In solving problems, such as interpretation of rights to freedom of speech or freedom of religion and belief, it often helps to face more rather than fewer constraints in order to narrow down the range of possibilities. We are all familiar with equations that can be solved once one knows enough constraints, and with crossword puzzles, where solving each clue constrains possibilities and makes it easier rather than harder to complete the puzzle. Justifications of specific interpretations of human rights such as those set out in Arts 9 and 10 of ECHR can, I have been suggesting, make headway by focusing on the indispensable constraints on interpreting rights in ways that are compatible with all rights being rights for all.

The power of requirements for coherence is easily missed if one tries to think about rights or their interpretation one-right-at-a-time. A requirement that the several rights of a given individual be mutually consistent cannot be resolved by thinking about an individual's rights one-by-one. If we consider rights one-at-a-time it would be tempting to imagine that the best interpretation of each right would be a *maximal* interpretation. However, this would overlook what is required for

individuals to enjoy other rights, and for others to enjoy like rights. If A had a maximal right to freedom of expression, B could not enjoy any right to privacy since A would be entitled to express and publish whatever she chose; if B had a maximal right to freedom of a form of religion and belief that claimed that other religions or beliefs were heretical and should not be expressed, B could not enjoy a like freedom.

The second consistency requirement sets further and tighter constraints on any adequate interpretation of rights. Human rights are *rights for everyone*—for all human beings, not merely for some privileged or special ones. So no interpretation of rights can endorse supposed rights could be held only by some, but not by all: if rights are universal, it must be possible for others to hold like rights. There cannot, for example, be universal rights to positional goods: there can be no universal right to win, to be the richest or the best or to have one's religion or belief protected and other forms of religion or belief persecuted. If rights are universal we must reject as spurious any interpretation of a right under which it *could* not be held by all.

Nor can any adequate interpretation of rights endorse supposed rights whose successful exercise would prevent others from enjoying like rights: there can therefore be no rights to coerce, to destroy, or to control others, and no rights not to be offended or not to encounter religions or beliefs that we do not share: any of these supposed rights would evidently undermine others' like rights. The fact that rights are not to be considered one-right-at-a-time filters out many possibilities: A's right to privacy must be construed in ways that are compatible with B's right to freedom of religion and belief; C's right to freedom of expression must be construed in ways that are consistent with D's right to manifest a specific religion or belief, and so on and on.

A *third* powerful consistency constraint on any adequate interpretation of rights arises from the fact that rights cannot be respected or realised unless some others—individuals or institutions, depending on the case—are required to discharge the counterpart duties that can realise

that right. No way of adjusting rights to one another can guide action unless it also leaves room for the action and forbearance required if rights are to be respected or realised. So any adequate interpretation of and legislation for human rights (for a given society at a given time) has to take a clear view about whose action is required to respect and realise those rights, and cannot prescribe requirements that obstruct or undermine those rights.

In thinking about these questions we have to ask not only which rights can consistently be held by all, but also which counterpart duties on others (themselves right holders) are compatible with everyone's rights. It is not enough merely to *assert* or *assume* that everyone has each listed right: rights shorn of counterpart duties will be no more than rhetoric and gesture, and the fundamental task of justifying rights is to find an interpretation under which each person can coherently have all of a range of rights, and these rights are not mere rhetoric because they can be matched to and secured by a pattern of duties that would respect and realise those rights.

european convention on human rights

ARTICLE 9

Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change one's religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations 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.

ARTICLE 10

Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

references

- 1 The right to *freedom of expression* is proclaimed in the *Universal Declaration of Human Rights (UDHR, 1948)* Art 19 as the 'right to freedom of opinion and expression' and in the *European Convention on Human Rights (ECHR, 1950)* Art 9 simply as the 'right to freedom of expression'. The right to freedom of religion and belief is set out in both documents as the 'right to freedom of thought, conscience and religion'.
- 2 Hanibal Goitom et al, *Laws Criminalizing Apostasy in Selected Jurisdictions*, The Law Library of Congress, Global Legal Research Center, 2014. Although apostasy is criminalised in 23 states, a capital offence in Afghanistan, Brunei, Mauritania, Qatar, Saudi Arabia, Sudan, the United Arab Emirates, and Yemen, and a serious offence in many others, apostasy laws are often used to inflict less than maximal penalties and controls.
- 3 It is the term used both in UDHR and ECHR. Everyone has the right to freedom of opinion and expression; the right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers (*UDHR, 1948: Art 19*)
- 4 That does not stop people trying. Cf. the data protection approach to privacy protection which assumes that it is possible to separate personal from non personal content.
- 5 For examples consider *Private Eye*, or the C18 publishers who printed forbidden books outside France, and sold not only political but erotic literature under the useful euphemism 'livres philosophiques', Robert Darnton, *The Great Cat Massacre and Other Episodes in French Cultural History* 1984
- 6 Robert Darnton, *Censors at Work; How States Shaped Literature*, NY 2014.
- 7 Mill argued for strong *individual* rights of self-expression as essential in order to recognise 'the permanent interests of man as a progressive being', and to respect individuals' 'sovereignty over their own minds and bodies'. Respect for this 'sovereignty', he argued, requires that harmless self-expression not be restricted, even if (for example) unintelligible, untrue, or cavalier about evidence, or about the other disciplines of truth seeking. Rather "...the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of any of their number, is self-protection"
- 8 It is common to speak of some non-absolute rights as *limited* and others as *qualified*. Some human rights may be *limited* by statute, as the right to liberty is *limited* by legislation that specifies when a prison sentence or detention for reasons of mental health is permitted. Other human rights may be *qualified* for wider reasons than those set out in statute, such as the need to protect the rights of others or wider society.
- 9 It is sometimes pointed out that rights to freedom of thought (conscience, religion, belief) can be unconditional or absolute if disconnected from their manifestation. This point loses the focus on action rather than content which respect for human rights requires. It is obviously true that what is confined in *foro interno* will not bear on others—but saying so does not advance the argument.
- 10 Peter Edge and Lucy Vickers *Review of Equality and Human Rights Law Relating to religion and Belief*, for EHRC, 2015

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