

Veganism as a protected belief in UK human rights and equality law: some thoughts on the proposal for a British Bill of Rights and Brexit

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I'm going to talk about how veganism is a protected belief for the purposes of human rights and equality law. I'm going to start with the statement from the Equality and Human Rights Commission, that human rights protect a wide range of non-religious beliefs, including veganism.

Contrary to the sensationalist media reports you may have seen over the years, this statement is not the result of crazy politicians trying to invent radical new human rights and equality measures. It actually represents the statutory duty of the Commission to oversee and monitor human rights and equality law and disseminate information across wider society. In this regard, the Commission is interested in the case outcomes of the European Court of Human Rights that hears applications about alleged violations of the European Convention on Human Rights. The Commission is also concerned with evolving equality law within the European Union. On this basis, I think it is fair to say that if the Commission makes such a statement, it must have credibility and strong foundations.

When we talk about veganism as a protected belief in human rights, we are referring to a specific area of human rights law known as the right to freedom of thought, conscience and religion. The origin of this right within the European system of human rights is Article 9 of the European Convention. This provision is in two parts. It grants an absolute right to think and believe; to work out and develop our own moral orientation, and it grants a qualified right to manifest in everyday life associated practical ethical convictions.

Article 9 of the European convention has no explicit, concrete definition. Though it has become customary to reduce the long title "freedom of thought conscience and religion" to the shorter version "freedom of religion and belief", neither the Convention nor the European Court of Human Rights provide an absolute definition for the expression "freedom of religion and belief". Instead, to explain what this right protects, we must take into account the legal reasoning developed in cases presented to the Court. In this regard, the meaning of "belief" for the purposes of granting a protected status to the manifestation of ethical convictions is particularly well developed.

What this legal reasoning explicates is that for the purposes of Article 9 of the Convention, a qualifying non-religious belief will be a philosophical belief that attains a certain level of cogency, seriousness, cohesion and importance. In addition, a qualifying belief will be worthy of respect in a democracy, not be incompatible with human dignity and reflect a weighty and substantial aspect of human life and behaviour.

On the basis of such reasoning, an application to the Court for the protection for a belief in fox hunting has been rejected. On the other hand, the Commission of the Court found in 1992 that veganism was within the scope of Article 9. In this case, it is notable that the UK Government did not contest that veganism was within the scope of protection.

So, what does it mean in the United Kingdom to observe that veganism has been held to be within the scope of the European Convention of Human Rights? The provisions of the European Convention are made available through the UK Human rights Act 1998. This Act concerns an individual's relationship with the government. It

is legislation that restrains the state from undue interference of individual liberty. This legislation, thus, explicitly states that a Public Authority must not act in contravention of a Convention right. This is because public authorities are state representatives who must conduct the business of the state with due regard to the rights and freedoms provided by the Convention. As such, public authorities such as the prison service, health care organisations, schools, the fire service or the police force, must take into account the fact that veganism comes within the protection of the Convention. This means that in schools, a request to be exempt from compulsory dissection must be given due consideration, a request for vegan food in prison, school, hospital or care homes should not be ignored. It means that the request of a vegan police officer for vegan friendly uniform items should be taken seriously. Under this legislation, vegans should not be dismissed and ignored or required to assimilate into dominant regime of speciesist prejudice. Any such requirement would be to interfere with the manifestation of vegan ethical convictions and could amount to unlawful coercion.

But it is not only our human rights when in relationships with government bodies that are influenced by the fact that veganism comes within the scope of protection of the Convention. This is because the provisions of the Convention ground the evolving equality provisions of the European Union. For example, the Employment and Occupation Equal Treatment Directive 2000/78/EC of 27 November 2000 (commonly known as the principle of non-discrimination) explicitly states that its provisions are written with respect for the principles of the European Convention of Human Rights. As such, provisions for the equal treatment of those wishing to manifest ethical convictions in their daily lives according to their non-religious beliefs should be consistent with Article 9 Convention rights. In this regard, the UK has developed its compliance with this obligation. For example, the 2003 Employment Regulations define “religion and belief” as “any religion, religious belief or similar philosophical belief.” The 2006 Equality Act extends the principle of non-discrimination to the provision of goods and services and drops the word “similar”. A qualifying “belief” for the purposes of this Act means “any religious or philosophical belief.” Under the Equality Act 2010, “belief” means “any religious or philosophical belief or reference to belief, including a reference to a lack of belief.”

These positive developments indicate the breakdown of a hierarchy of what constitutes a qualifying belief for the purposes of equality law. There is now acceptance that protection for ethical convictions should not be limited to religious beliefs only. In support of these developments, there have been some consistent tribunal case outcomes. For example, a belief in man-made climate change has been accepted as permissible, vegetarianism as a manifestation of regard for the moral standing of nonhumans, the sanctity of life and a belief in anti-fox hunting have all been accepted as non-religious philosophical beliefs that must be given due regard and not be unduly interfered with.

So, we can see that the evolution of the European system of human rights and equality measures has significant benefits for vegans. But the implication of leaving the European Union or the development of a specific British Bill of rights does not mean that vegans no longer have a voice. This is because if we look at the structure of human rights obligations we see that in addition to being obliged by the European Convention and the equality regulations that emerge from the European Union, the UK is also a signatory to the International Bill of Rights.

The International Bill of Rights is the Universal Declaration of Human Rights and the two Covenants that give legal effect to its terms. One of these Covenants is the International Covenant on Civil and Political Rights. This Covenant and its advisory notes offer some insights on what the right to freedom of belief means.

The Covenant protects beliefs that are non-religious in nature. The right to freedom of belief must be broadly construed and not limited in its application to traditional religions or beliefs with institutional characteristics or practices. Protecting non-religious beliefs includes accommodating dietary requirements, parental moral liberty and making provisions in education, medicine and employment. This right is to be protected not only in relation to laws that are developed, but also in the development of practices and policies that might limit an individual's right to manifest ethical convictions. Of paramount importance is that no one shall be subject to

coercion. In this regard, the Covenant makes it very clear that interference in an individual's manifestation of ethical convictions will be permissible only if there is an existing law that is required in a democracy for the protection of public safety, order, health or morals, or for the protection of the fundamental rights and freedoms of others.

To conclude, though the UK is obligated by human rights and equality measures from its membership of Europe (Council of Europe) and the European Union, the development of a specific British Bill of Rights and Brexit do not remove the obligation to recognise and accommodate qualifying, non-religious beliefs that require practical manifestation. The right to freedom of belief in international law is sufficiently defined and explained to support the recognition and protection of veganism.

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