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THE BULLETIN

News and Reports from the Social issues Team

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Tighter state control of education in England

New regulations took effect in September which will give the government a greatly increased influence over the management and curriculum of independent schools in England.

There are fears that the way the new regulations are being enforced will prevent faith schools, for instance, from being able to teach in accordance with their ethos.

Since the definition of an independent school now includes free schools and academies, the new regulations will affect the education of a large number of pupils. In January 2014, for instance, it was estimated that 57% of state-funded secondary schools were academies and that almost 30% of all school pupils in England were enrolled in academies and free schools.[1]

The new regulations, an update of requirements of Independent School standards already in place, have been rushed into effect after a short and hastily-put-together consultation in the aftermath of the "Trojan Horse" scandal in Birmingham, where an inquiry found that hard-line Muslims had embarked on a campaign to take over the governance and teaching appointments in a number of schools and to introduce sectarian practices.

The government is right to take a serious view of the practices which came to light in the course of Birmingham's "Trojan Horse" controversy. What was happening in a number of Birmingham schools represented a hijacking of the education provision generally available to everyone, and the replacement of it with a narrower style of education provision based on a strict agenda desired by an unrepresentative minority.

Determined to remove the threat of the "Trojan Horse" kind, and every other kind, of extremist influence over schools, the government has incorporated into the new required standards much tighter regulatory control over the curriculum and management of schools, and has given Ofsted the power to impose sanctions on schools which are deemed to fall short of the new obligations.

The new standards consist of eight parts, but Parts 1 and 2 are those which give Ofsted the right to challenge the teaching programme in schools. Part 2 was implemented on 29 September, having been laid before Parliament on 8 September, and Part 1 is expected to follow suit any day now.

Prescription

As its chosen solution to the problems raised by the "Trojan Horse" controversy, the government has decided to introduce a system of regulation which is doctrinaire and prescriptive and is directed indiscriminately at all schools. What this means, once the system of regulation beds in, is that all schools will be judged on the basis of a box-ticking exercise, irrespective of all the other factors which create a good school – such as excellent teaching, happy and motivated pupils, contented and supportive parents.

Ofsted will enforce the new standards through its system of school inspections. Ofsted – an acronym for Office for Standards in Education, Children's Services and Skills – purports on its own website to be "independent and impartial", reporting directly to Parliament. However, Wikipedia describes it as "a non-ministerial department of government" Its remit is stated to be "to uphold standards in education".

In connection with the new regulations, however, Ofsted appears more to be the servant of the state. It has the power to develop its own interpretation of the vague terminology of the new

standards, and to impose its conclusions on schools. It will be able to invent what might be described as "socially acceptable norms" and then insist that schools adopt them.

Under its present inspection system, Ofsted can inspect all schools and can judge them to be outstanding, good, requiring improvement or inadequate. If a school judged to be inadequate is felt to be incapable of improving without outside help, it can be placed in "special measures". In the worst cases, however, senior management and teaching staff can be dismissed and governing bodies replaced.

Any large-scale system of regulation will have its flaws and weaknesses, and lead to occasional erroneous and damaging conclusions in respect of individual schools. Taken as a whole, however, Ofsted's present remit, and the sanctions available to it, can be said to be logical and beneficial. It is fair to say that Ofsted's decisions and recommendations have been a significant contributory factor in the transformation of many previously failing schools. However, any effectiveness attributable to the Ofsted system of regulation has depended on the fact that the issues which Ofsted has been addressing in its relationship with schools have been matters directly related to "upholding standards in education".

The new standards, however, will take Ofsted into territory which stretches far beyond "upholding standards in education". Ofsted will be judging schools on the extent to which they have adopted the politically-correct conduct which Ofsted believes is appropriate to the dogma it is required to promote in schools.

What is our justification for saying this? The evidence so far, given that the new standards only took effect on 29 September, is not encouraging.

On 25 October 2014, *The Daily Telegraph* reported that a Christian primary school in Reading, Trinity Christian School, was being downgraded by Ofsted, not on the basis of educational factors, but as a result of its failure to "demonstrate compliance with the new standards". Ofsted is quoted as finding that the school "had further work to do to prepare pupils for life in modern Britain".

The most constructive and effective government response to the problems raised by the "Trojan Horse" scandal would have been to put in place regulations which provide appropriate powers to intervene in schools on a case-by-case basis, either in response to a complaint, or to investigate evidence or suspicions, from whatever source these arise, of misconduct.

Instead, the catch-all approach which the government has adopted risks the gradual development of a list of specific requirements, reflecting politically-correct interpretations of the Equality Act 2010, which in time will become the central box-ticking test of a school's qualities and acceptability. The function of an education regulator is to judge schools on the basis of their educational strength and value, and to encourage flair and inspiration in education, and high standards of achievement. It is not the function of an education regulator to engage in social conditioning and engineering.

Vagueness

At first glance, it might seem that Part 2 of the new standards, which is quoted in full on page 6 of this *Bulletin*, contains nothing particularly threatening. Trite expressions are found there of the kind which have spewed out from government wordsmiths for decades – *fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance.* Values such as these have been so readily assumed to be inherent characteristics of "the British way of life" that issues

such as what they mean and whether they are actually practised have not tended to be subjected to much scrutiny.

Increasingly, however, this type of vague terminology is being used to justify the imposition of politically-correct requirements in all areas of the corporate life of current British society, including schools.

In the new regulations, there are several combinations of wording which can be used to impose specific requirements on schools. It is easy to see, for example, how the reference to *fundamental British values of… tolerance*, when coupled with the reference in (b) (vi) to *the protected characteristics set out in the Equality Act 2010*, given that religion and belief and sexual orientation are *protected characteristics*, could appear to justify requiring a school to give equal validity to non-Christian faiths and to same-sex marriage in their teaching material and programme. Who can know what *tolerance* means in this context? Ofsted can make it mean what it likes, and can justify whatever definition it selects by the presence of the word *tolerance* in the new regulations.

Paying particular regard to the protected characteristics set out in the Equality Act 2010 also seems a form of words sufficiently vague to accommodate within it almost any requirement which Ofsted might feel inclined to impose in connection with a school's teaching on two of the protected characteristics – religion and belief, and marriage and civil partnership.

In its submission to the government consultation on the new standards, held in the summer, Affinity argued that the proposals were "too crude and too open to abuse and misunderstanding" and bemoaned the absence of guidelines which would "properly regulate and decide on how, for example, intolerance, in this context, will be identified and measured".

Affinity warned that under the proposals, it would not be at all clear what amounted to "extremism". For example, it would not be surprising if, in a Christian faith school, pupils learned about the Christian view of creation. However, Affinity submitted, the Christian teaching of creation is judged by some to be "extreme". In the context of the new school standards, such a judgment would be nonsense, since the teaching of creation does not undermine British values or breach the Equality Act 2010. However, there are words in the new regulations which could be used to justify declaring it to be unacceptable.

As Affinity contended in its submission to the government consultation: If (the requirements) put in place (have) a low threshold for the definition of "intolerance" or (are) ambiguous as to where the bar is, it will give scope for public administration departments which wanted to establish a doctrinaire approach to their regulatory duties, or prejudiced or pedantically politically-correct individual public servants, to hassle schools unreasonably, unjustly and even unlawfully. Guidance (is needed) which effectively distinguishes between the teaching of unacceptable extremes and teaching which some find unacceptable because of, say, a secularist outlook".

Historic freedoms

In addition to the risks resulting from the vagueness of much of the terminology in the new standards, there is a specific threat arising from one expression which is anything but vague. The new standards require schools to "actively promote" whatever it is that Ofsted determines to be *fundamental British values.*

In the past, values of all kinds could be passively accepted, and recognised to exist, without this requiring anyone to do anything to support or promote them, or without them even being

specifically defined. This will no longer be the case. Schools will be required to take positive steps to *promote* – meaning *to support and actively encourage* (dictionary definition) – those ideals listed in 5 (a) of the *Standards*, as interpreted by Ofsted. Acceding to this requirement could bring a Christian faith school, for instance, into conflict with its own religion and belief.

This potential conflict between Ofsted and the ethos of a faith school could also put in jeopardy the promises made by Mrs Maria Miller, MP, then Secretary of State for Culture, Media and Sport and Minister for Women and Equalities, during the House of Commons debate on the Marriage (Same Sex Couples) Bill in February 2013.

During that debate, Mrs Miller was specifically asked by Mr David Wright, MP for Telford, about the implications for schools of the Bill: "How will this be handled in the school curriculum, particularly in faith schools?"

Mrs Miller, who was speaking on behalf of the government, answered: "We would expect teachers, as professionals, to explain these issues to the children they teach, but we would in no way require them to promote something that did not accord with their belief – their faith."

Later in that same debate she put that guarantee even more clearly: "No teacher will be required to promote or endorse views that go against their beliefs."

In a Christian faith school, Christian teachers would not object in principle to stating, as a fact, that the current definition of marriage, under the laws of England and Wales, includes marriages between same-sex couples. However, to "promote" same-sex marriage is an altogether different matter, and is likely to "go against the beliefs" of all the school's teaching staff and governors. How, in such a school, can marriage, under its new definition, be "actively promoted", while the school's teaching staff is free from any obligation to "promote" it? Calling a supply teacher in to do the "promoting" would still be "promoting something that did not accord with their belief" and would represent an impossible contradiction.

Quite apart from how the new standards will affect individual Christian teachers, there is a more fundamental conflict for Christian schools. In the case of Trinity Christian School, Reading, mentioned earlier, it was reported by *The Daily Telegraph*, that the chairman of the school's governors, John Charles, had written to Nicky Morgan, Secretary of State for Education, stating: "The comments made by Ofsted… undermine our aims and would prevent us from teaching in accordance with our Christian foundation."

At the heart of this conflict is the issue of freedom of religion, and two other freedoms – freedom of expression and freedom of conscience – which are also at risk of being undermined. These freedoms are not token gestures, but are basic freedoms enshrined in the European Convention of Human Rights and many other historic declarations.

If schools are policed in a way which undervalues these three freedoms, the irony is that this will represent a far greater attack upon "fundamental British values" than anything which Ofsted will unearth during its inspections of the schools of England today.

Rod Badams

[1] Family Education Trust, *Bulletin,* November 2014, page 1

The Education (Independent School Standards) (England) (Amendment) Regulations 2014

PART 2

Spiritual, moral, social and cultural development of students

5 The standard about the spiritual, moral, social and cultural development of pupils at the school is met if the proprietor –

(a) actively promotes the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs;

(b) ensures that principles are actively promoted which –

(i) enable pupils to develop their self-knowledge, self-esteem and self-confidence;
(ii) enable pupils to distinguish right from wrong and to respect the civil and criminal law of England;
(iii) encourage pupils to accept responsibility for their behaviour, show initiative and understand how they can contribute positively to the lives of those living and working in the locality in which the school is situated and to society more widely;
(iv) enable pupils to acquire a broad general knowledge of and respect for public institutions and services in England;
(v) further tolerance and harmony between different cultural traditions by enabling pupils to acquire an appreciation of and respect for their own and other cultures;
(vi) encourage respect for other people, paying particular regard to the protected characteristics set out in the Equality Act 2010(a); and
(vii) encourage respect for democracy and support for participation in the democratic process, including respect for the basis on which the law is made and applied in England;

(c) precludes the promotion of partisan political views in the teaching of any subject in the school; and

(d) takes such steps as are reasonably practicable to ensure that where political issues are brought to the attention of pupils –

(i) while they are in attendance at the school;
(ii) while they are taking part in extra-curricular activities which are provided or organised by or on behalf of the school; or
(iii) in the promotion at the school, including through the distribution of promotional material, of extra-curricular activities taking place at the school or elsewhere;

they are offered a balanced presentation of opposing views."

LIFE ISSUES

Abortion

Premature baby survival rates

New figures show that during the last four years at least 120 babies born in the UK during week 23 of a pregnancy have survived. The upper limit for most abortions is 24 weeks. These new data have prompted a call for the limit to be reduced. In 2013, 519 babies were aborted at 23 weeks and another 190 at over 24 weeks.

Fiona Bruce MP has said, "I do not understand why there is not more outcry about the fact that viable babies are being aborted. The new figures support what we have known for a while; that advances in prenatal care make a mockery of our 24-week abortion limit."

Dawkins and Down's

Richard Dawkins has long been a foe of evangelical Christians, pro-lifers and everyone else who disagrees with him. He is the man who has declared that: "Unless you are a vegan (most pro-lifers are not), you are in no position to object to abortion." Now he has managed to antagonise another section of the general public – Down's syndrome sufferers and their carers and advocates.

On 20 August, Dawkins made a comment on Twitter that "Ireland is a civilised country except in this one area", referring to Ireland's strict anti-abortion policy. Aidan McCourt tweeted back: "994 human beings with Down's Syndrome deliberately killed before birth in England and Wales in 2012. Is that civilised?" Dawkins replied: "Yes, it is very civilised. These are foetuses, diagnosed before they have human feelings." Another Twitter user, known as InYourFaceNewYorker, joined the conversation and wrote: "I honestly don't know what I would do if I were pregnant with a kid with Down's Syndrome. Real ethical dilemma." In reply, Dawkins advised: "Abort it and try again. It would be immoral to bring it into the world if you have the choice."

Dawkins continued to reveal his true neo-eugenic nature: "The question is not 'is it human?' but 'can it suffer?' Suffering should be avoided. Cause no suffering. Reduce suffering wherever you can." In other words, the issue of who should be allowed to live is determined by the perceived degree of suffering they experience.

Thus, according to Dawkins, parents have a moral responsibility to abort babies diagnosed *in utero* with Down's. According to Dawkins, it is "civilised" to abort Down's babies, and it would be "immoral" not to abort babies diagnosed with the condition. These are weasel words that display a new callousness from the Renaissance man. Yet his nasty remarks are echoed by many others. For example, in England and Wales during 2010, of the 1,188 pregnancies prenatally diagnosed with Down's syndrome, 943 were terminated – an abortion rate of almost 80%.

Let no-one underestimate the difficulties of raising a child with any major disability, including Down's. Suffering is inevitable. And if the unborn child is really a human being, and although abortion may be legal, is it really a licit act?

Thousands joined the debate. Some called Dawkins "sick and twisted". A more measured response came from Carol Boy, chief executive of the Down's Syndrome Association: "We at the Down's

Syndrome Association do not believe Down's syndrome in itself should be a reason for termination. People with Down's syndrome can and do live full and rewarding lives; they also make a valuable contribution to our society." Indeed, it is time to counter that old wives' tale that people with Down's syndrome and their carers are doomed to a life of suffering. In 2012, the *American Journal of Medical Genetics* reported results from three large surveys which showed that 99% of respondents with Down's syndrome described themselves as "happy" and 99% of parents said they loved their Down's child, with only 4% regretting having a Down's baby.

By late August, even Dawkins recognised that he had overstepped the mark. He tweeted: "I apologise for impugning the morality of the approximately 10 per cent of women who deliberately choose not to abort a Down's foetus."

Abortion in Ireland

On 1 January 2014, the Protection of Life During Pregnancy Act 2013 came into force in Ireland. It permits an abortion if the mother is judged to be "at risk of suicide". This vague criterion was always going to be unsatisfactory. And so it has proved.

A young and vulnerable woman recently asked for an abortion. She was assessed by a panel of three medical experts as being "at risk of suicide". Nevertheless, her request was refused. She went on a hunger strike, but later agreed to a Caesarean section at about 25 weeks and gave birth to her child. The details of the case are sketchy, not least because a court order is protecting the mother's and child's identity. It seems that no-one is satisfied with the outcome.

Dr Ruth Cullen of the Dublin-based Pro Life Campaign said: "Reports that an unborn baby was recently delivered at 25 weeks, citing provisions in the new abortion Act, underlines the horror and deep-seated flaws of the government's legislation. To induce a pregnancy at such an early stage inevitably puts the baby at risk of serious harm, such as brain damage, blindness or even death." And the pro-abortion organisation Doctors for Choice also expressed concern. It said this current case highlights problems with the expert panel system which assesses the mental health of suicidal pregnant women. The inclusion of an obstetrician to adjudicate on mental health matters, with no training, was a deep flaw in the system. Their website states: "It appears that the obstetrician, in line with the Protection of Life During Pregnancy Act 2013, was allowed to veto the woman's request for an abortion despite two psychiatrists certifying a risk of suicide as a ground for abortion."

Abortion continues to divide, wherever it is practised. Whatever the legal position, it satisfies nobody. Ireland is no exception.

Abortion in France

On 5 August, France embraced abortion-on-demand. A new law scrapped the remaining requirement that a woman seeking an abortion during the first 12 weeks of a pregnancy must be in a "state of distress".

The original French abortion law of 1974 included several stipulations to protect the life of the unborn child. These included counselling and advice about publicly-available help for the mother to keep her child. For many years, the "distress" requirement has become merely a token restraint, but the women's rights minister, Najat Vallaud-Belkacem, has campaigned for its removal from the French legal code. So while its removal was a symbolic gesture, it was also a sign of the French socialist government's priorities.

This repeal of the abortion "distress" element is but one aspect of a new French "law for real equality for women and men" aimed at banning "sexist stereotypes" and "unfair distribution of domestic and parental tasks", enforcing equal pay, women as company directors, and so on. This is not primarily about inequality and injustice – the overall aim is to eradicate any differences between men and women. Such a policy is doomed simply because we *are* different – "… male *and* female he created them" (Genesis 2:17). In other words, God created men *and* women to be similar, but forever different in identity, purpose and function. No law can abolish that.

IVF and Assisted Reproductive Technologies

Three-parent IVF

Discontent is still raging at the Government's determination to legalise the procedure of three-parent IVF (aka mitochondrial donation, MD) despite both its unproven safety and its efficacy. It might, or might not, ensure that would-be parents can avoid having offspring with mitochondrial diseases. Yet, whatever the outcome of any such future clinical trials, the big bioethical issue is that three-parent IVF would cross that previously-unassailable, internationally-agreed Rubicon, the point of no return, of germ-line therapy – the point beyond which any genetic changes would become inheritable by future generations.

On 1 September, as Parliament returned from the summer recess, it debated the issue. Fiona Bruce MP told the House of Commons that there was scientific evidence of abnormalities in embryos produced by this technique. She said: "Two peer-reviewed articles in *Nature* have suggested that mitochondrial transfer is inherently risky, one of them citing a figure of 52 per cent of embryos created through MST [maternal spindle transfer – one of two MD techniques] having chromosomal abnormalities." She maintained that: "More research ought to be undertaken and a full assessment conducted of the potential risk to children born as a result and that the UK Government should not approve it until further research had been carried out."

According to a ComRes poll, commissioned by CARE and published to coincide with the Commons debate, the public is becoming less supportive of the idea. It found that only 19% of the general population now supports the creation of three-parent IVF babies, representing a significant drop from the 35% who backed the idea in a similar poll in February this year. Opposition to the draft legislation has grown to 46%, while another 35% remain as "don't knows".

Now comes news that a US fertility clinic has seemingly already carried out three-parent IVF. Apparently some 15 years ago, 17 children were born using similar controversial techniques at the Saint Barnabas Medical Center in New Jersey. It is only in 2014 that the hospital has decided to check if these children, who were born using cytoplasmic transfer, have had any adverse health problems. It is estimated that around 30 babies worldwide have been born as a result of this technique, which is similar, but also different, from the proposed UK procedures of maternal spindle transfer (MST) and pro-nuclear transfer (PNT). The US examples of cytoplasmic transfer were carried out simply in the hope of improving the success rate of IVF treatment, possibly by boosting the mitochondrial content of the ovum.

The US technique involved taking a small quantity of cytoplasm, including mitochondria, from a healthy donor ovum and injecting it into an ovum of the mother, producing a mix of mitochondria from the two women. The ovum was then fertilised with the father's sperm using standard IVF methods. The US government banned the technique in 2002, as it involves transferring genetic material "by means other than the union of sperm and egg".

Though no long-term studies have followed the 17 teenagers, it is known that there were two pregnancies where embryos had a missing sex chromosome – a condition known as Turner's syndrome – one miscarried and the other was aborted. There was also a case where one of the babies developed a "pervasive developmental disorder" in the first year of life. As with all IVF procedures, it is not known if these anomalies were related to the procedure per se, or to the parent's infertility.

The three-parent IVF issue returned to Westminster on Wednesday 22 October when the House of Commons Science and Technology Select Committee hosted a one-off evidence session to consider the science of mitochondrial donation. Witnesses included experts in the field and the Parliamentary Under-Secretary of State for Health, Jane Ellison.

Surrogacy and Down's

Surrogacy is often thought of as a peculiar, but tolerable, sort of assisted reproductive technique (ART). At least, it is argued, there is no primary intention to destroy another human being. But think again. Yes, surrogacy does exploit vulnerable women. Yes, it is womb-renting. Yes, it does demean children as items to be traded.

An example of this malevolence is seen in yet another case of surrogacy gone wrong. This time it involved an Australian couple, David and Wendy Farnell and a Thai surrogate, Mrs Pattaramon Chanbua, a 21-year-old food vendor. Incidentally, David Farnell has spent several years in jail for 22 sex offences against young girls – but that is not the issue here. The issue here is that the surrogate became pregnant with twins. On learning that one of the babies was Down's, the couple asked the surrogate to abort him. She refused. The pregnancy continued to term. When the twins were born, the couple took the little girl, Pipah, back to Australia but rejected her twin brother, Gammy, and left him in Thailand.

Amid accusations and denials by all the adults, the Thai government has responded by imposing new restrictions on taking children born to surrogates out of the country. It has also banned commercial surrogacy. Horses and stable doors come to mind.

Whatever the true facts about this complex and sad episode, one trend is becoming obvious – all ARTs are increasingly not about having just a baby, but rather about having a baby of the right sort. To put it another way, if the product is deemed to be defective, it can either be returned to the supplier or destroyed.

IVF adverse incidents

All ART procedures involve risks of a biological nature, such as multiple pregnancies, malformations and manifest failure. These are recorded in the UK by the Human Fertilisation and Embryology Authority (HFEA). It also records mistakes caused by human error. Its July 2014 report, *Adverse incidents in fertility clinics: lessons to learn*, showed that 1% of women undergoing IVF experienced some form of "adverse incident", though most were considered to be of minor consequence.

For the three years from 2010 to 2012, there were 1,679 such adverse incidents reported to have occurred in UK fertility clinics. The HFEA has warned all clinics that too many mistakes are being made and that avoidable errors should be eradicated.

Three of the incidents were in the most serious, grade A, category. In one case a woman, using donor sperm in order to have a genetically-related sibling, was provided with sperm from a different donor,

resulting in a child with a different genetic father. In another, embryos of 11 patients were observed to be contaminated with cellular debris, possibly sperm. And in the third incident a member of staff removed frozen sperm from storage while it was still within the consent period for storage.

There were 714 grade B incidents, which included the loss of embryos or equipment malfunctions affecting embryo quality. The 815 grade C errors involved, for example, ova left unusable, women's ovaries being "over-stimulated" to produce ova, and breaches of confidentiality.

We all commit and experience human errors. Car accidents, banking slip-ups, mis-dialled telephone calls, missed appointments, and so on. They can be serious but mostly they are annoying and can be corrected. Errors in ARTs are in a different category – they are dealing with matters of life and death.

A perk at work?

Human biology dictates that human ova have a limited shelf life, whereas sperm tends not to. Women are not men. Hence a woman's fertility clock has a restricted tick. How is she then to cope in the frenzied, demanding world of top women at work? Facebook and Apple and other hi-tech industries are now offering the solution – they will pay for their talented women employees to freeze and store their ova so they can keep on working for the said companies.

An Apple spokesman (note the gender) said: "We want to empower women to do the best work of their lives". So, instead of seeking to control their workers' pregnancies, at the same time offering to diminish their fertility, why don't these corporations create career structures and working practices that encourage women to have babies at the peak of their fecundity, in their late 20s and early 30s?

Before signing up to any such freezing perks, women should study the dismal success rates of IVF for those in their late 30 and early 40s – we are talking single figure percentages. There is no empowerment there. But why target only women? Reversible vasectomies for male employees would also help to keep the workforce child-free and job-focused.

Womb transplants

And when such cryopreservation of ova schemes fail – and they are often far from effective – why not have a womb transplant? It has been tried before, but in early October, a woman in Sweden became the world's first person to give birth after a womb transplant. The 36-year-old woman received a womb from an unrelated 61-year-old donor last year. The recipient's first menstruation occurred 43 days after transplantation. The woman conceived via IVF and gave birth to a healthy baby boy by Caesarean section after 32 weeks' gestation.

This woman is one of seven to have undergone successful womb transplants, mainly donated by their mothers, at the University of Gothenburg in Sweden. Following IVF treatment, the rest of the group is now more than 28 weeks pregnant. The details of this work have been reported in *The Lancet* under the title *Livebirth after uterus transplantation.* Already doctors at Queen Charlotte's & Chelsea Hospital in London are hoping to offer the procedure to five women early next year. Such women typically lack a uterus because of genetic defects or because of removal due to cancer or other medical conditions.

This new procedure has its limitations. Administration of strong immunosuppression drugs is required to prevent the transplanted womb being rejected; and because of the dangers posed by the long-term use of such suppression medication, the womb has to be removed after birth. In other words, the transplant is temporary.

Stem-Cell Technologies

The STAP cell story continued

The saga of the stimulus-triggered acquisition of pluripotency (STAP) cells has been a real disaster for science. And now the personal cost is becoming evident. First, there was Dr Haruko Obokata, the lead author of the two discredited papers published in *Nature* in January 2014. They were retracted on 2 July. Despite protesting her innocence, Obokata was found guilty of misconduct. Her scientific career has crashed.

Second, there was Professor Yoshiki Sasai, the 52-year-old and highly-regarded stem-cell scientist, who supervised the now disgraced work. The investigating panel cleared Sasai of direct involvement, but criticised him for his lack of oversight. In August, he was found dead in his laboratory at RIKEN's Centre for Developmental Biology at Kobe, in an apparent suicide. A bag found at the scene contained three letters – one addressed to the RIKEN management, one to his laboratory members and one to Obokata.

What are the lessons to be learned? There are areas of science where the competition is extremely fierce and the temptation to be "the first" can be excessively compelling. Stem-cell technology is one of these areas. Science is about truth. Novel and surprising results can be thrilling, but they need hard-headed, not emotional, assessment and verification. The rush to publish needs the restraining reins of integrity and responsibility. When truth goes out of the window, it is not just science that loses, or even just the scientists – we all do.

Adult stem cell success – positively

Though stem-cell technologies have now been tainted by several scandalous studies, successes using adult stem cells are still astonishingly bright. It is not difficult to find them – several appear in print each month. Here is just one, almost unbelievable, example.

Stem Cell Translational Medicine has published details (on-line on 8 August 2014) of a pilot study conducted at Imperial College London, whereby researchers harvested stem cells from the bone marrow of hips of five people who had recently suffered acute ischemic strokes. It is a quite simple procedure to collect patient-specific adult stem cells. These cells were then infused into the brains of each individual – again, a relatively simple procedure.

The patients were then monitored for six months. By the end of the trial, most patients were able to walk and look after themselves, despite having suffered serious strokes. Four of them had experienced particularly severe strokes, resulting in loss of speech and marked paralysis down one side of their bodies. Such strokes have a high fatality and disability rate, but three of the four patients were able to walk and look after themselves independently by the end of the six-month period. With some help, all five were mobile and able to take part in everyday tasks. It is thought that much of the success of this trial was because the patients were treated early, within one week of their stroke occurring.

The therapeutic mechanism is unclear but the stem cells probably encouraged new blood vessels to grow in the parts of the brain damaged by the stroke. It has been previously established that the particular type of stem cells isolated, and known as CD34+, have the ability to stimulate such growth. The simplicity of the trial and its positive results are most encouraging. The lead scientist of the study, Dr Soma Banerjee, has stated: "Now we need to look at a larger group of patients and hope eventually to develop a treatment based on this approach."

Embryonic stem cell success – perhaps

Embryonic stem cells – harvested with the inevitable destruction of the embryo – have long been regarded as the "gold standard" of stem cells, considered to be superior both to adult and iPS cells. Yet, despite their surrounding hype and substantial funding, their successful therapeutic use in human regenerative medicine is still awaited. Perhaps that wait is over.

Here is a possible "maybe". A report in *Nature Cell Biology* (**16**: 902-908, 2014) by researchers at the University of Edinburgh described the first production from embryonic stem cells of a whole functional organ, a thymus, inside an animal. Some are hoping that this kind of technology might one day be used as an alternative to current organ transplantation procedures, but any such human therapies are recognised to be years away.

There are at least three caveats: One, this current work was done in a mouse – and mice are not men, neither nominally nor biologically; two, because the stem cells were embryonic the developing thymus would not be a tissue match to the patient. Three, there are already healthy patients with lab-grown blood vessels, windpipes and bladders produced by seeding bio-scaffolds with the patient's own adult stem cells. Why cannot a functional thymus be constructed with a similar injection of adult or iPS cells?

Embryonic stem cell success – possibly

Now, at last, comes what may be the long-awaited and first real therapeutic success using embryonic stem cells. Details of two joint clinical trials were published in the 15 October 2014 on-line edition of *The Lancet* as *Human embryonic stem cell-derived retinal pigment epithelium in patients with age-related macular degeneration and Stargardt's macular dystrophy: follow-up of two open-label phase 1/2 studies.*

The US research team, headed by Robert Lanza of Advanced Cell Technology, had transplanted different doses of retinal pigment epithelial cells, derived from human embryos, into one of the eyes of nine young patients with Stargardt's macular dystrophy and another nine elderly patients with age-related macular degeneration. The untreated eyes had served as controls. The patients were followed up for approximately 22 months.

The team found "…no evidence of adverse proliferation, rejection, or serious ocular or systemic safety issues related to the transplanted tissue". In other words, the treatments appeared to be tolerated and safe – this had been a major concern because previous studies with embryonic stem cells had reported tumour formations, immune rejections and differentiation into unwanted cell types. However, there were some adverse events, such as four of the eyes developing cataracts and two becoming inflamed – perhaps because of the patients' ages and continued immunosuppression – but visual acuity improved in the treated eyes of 10 of the patients, remained the same in seven, and decreased in one.

The researchers concluded that "Our results suggest that hESC-derived [human embryonic stem cell-derived] cells could provide a potentially safe new source of cells for the treatment of a variety of unmet medical conditions caused by tissue loss or dysfunction." A larger clinical trial is already planned.

This reversal of partial blindness in about half of the treated patients might be sufficient to awaken renewed interest in the therapeutic use of human embryonic stem-cell technologies. On the other hand, doubts remain about the efficacy and ethical nature of using human embryos in these ways.

The outcome of a Japanese clinical trial, to start in 2015, using iPS cells to treat similar eye diseases will be eagerly awaited.

Embryonic and iPS cell success – probably

On 9 October came yet another significant breakthrough. The paper was published in the journal *Cell* under the title of *Generation of Functional Human Pancreatic β Cells In Vitro.* The scientific team, lead by Doug Melton at Harvard University, had, after years of tedious application, managed to create mature insulin-secreting β-cells from human stem cells, that can be grown in unlimited quantities, and that behave like the real thing.

This work is bioethically bad and good, since they used both embryonic and iPS cells. And so far, it has been tested only in diabetic mice, though, of course, human clinical trials are expected soon. The expectation is that these manufactured β-cells could be implanted into type-1 diabetic patients – of which there are an estimated 400,000 in the UK alone – and so make the daily trauma of insulin injections a thing of the past. But the realisation of that hope is still years away.

First, there is a more immediate technical hurdle to overcome – how to shield the β-cells from immune attack thus freeing patients from the repetitive taking of immunosuppressant drugs. One solution might be to encapsulate the cells in some sort of resistant packaging. Another might be to use iPS cells which would obviate the problem because the reprogrammed β-cells would be patient specific.

Moreover, this work raises a novel bioethical issue. Imagine that the above protocol comes to therapeutic fruition. Imagine it employs not iPS cells but only human embryonic stem cells. Image you are a type-1 diabetic. Would you use it? Now there's a test of your bioethical fortitude.

Failed Geron trial resurrected?

Way back in 2010, a biotech company called Geron Corp. of Menlo Park California started a phase 1 human trial of its spinal cord injury treatment. It was the world's first human study of a possible embryonic stem-cell therapy. In November 2011, Geron suddenly halted the trial. Financial issues were the given explanation, but some suspect it was biological failure.

Now on 27 August 2014, Asterias Biotherapeutics Inc. also of Menlo Park received clearance from the US Food and Drug Administration to proceed with a 13-person trial using oligodendrocyte progenitor cells (OPCs) derived from human embryonic stem cells. The idea is to stimulate the growth of new nerve cells around the spinal cord and thus help paralysed patients regain movement. Haven't we been here before?

Indeed, it is notable that Michael West, founder of the Geron Corp., is currently vice-president of technology integration at Asterias Biotherapeutics. Nevertheless, Asterias' trial differs in detail from Geron's. For example, patients will be given doses up to 10 times greater than the Geron patients. It also will focus on patients with complete spinal cord injuries originating in the neck, rather than in the back, as in Geron's trial. Asterias' patients will be treated with the cells 14 to 30 days after the injury, whereas in Geron's study, patients were treated more quickly. It is expected that patients will start to be enrolled in early 2015. As before, the world will be watching.

Olfactory ensheathing cells (OECs)

Tuesday 21 October must have been a glum day for the scientists at Asterias Biotherapeutics – they were probably wondering if their proposed embryonic stem-cell treatment is a complete waste of time. The news media were full of the story of Darek Fidyka, a 38-year-old Bulgarian fire-fighter, who had been paralysed from the chest down after a knife attack in 2010 had completely severed his spinal cord.

His pioneering treatment, published in *Cell Transplantation*, involved harvesting olfactory ensheathing cells (OECs) from his nasal cavity and transplanting them into his damaged spinal cord. After a year, the man could walk with the aid of a frame and even drive his car!

The surgery was carried out by a team led by Dr Pawel Tabakow, from Wroclaw Medical University, in collaboration with Professor Geoffrey Raisman, whose group at University College London's Institute of Neurology first proposed the technique. Raisman said, that for him, what had been achieved was "more impressive than man walking on the moon".

OECs cover the nerves that convey the sense of smell to the brain. They are *not* stem cells, but similarly they can continually regenerate themselves, in fact, they are the only part of the nervous system with this property. An initial operation removed one of the patient's olfactory bulbs and its OECs were harvested. Two weeks later these, together with nerve cells taken from Fidyka's ankle, which acted as a scaffold, were grafted to his spinal cord injury site allowing nerve cells, guided by the OECs, to grow and join together to form a bridge across the damaged gap.

Before this remarkable story of recovery, severed spinal cord injuries were regarded as permanent and unrepairable. This work could herald a new era in the treatment of paralysis. It offers hope to millions of people disabled by either partial or complete cord damage. Of course, this is just one report with one patient. Full clinical trials are needed before this protocol becomes a proven therapy and that will take another estimated five to ten years.

Fraud seems to pay

Remember the disgraced Korean stem cell scientist, Woo Suk Hwang, who in 2004 and 2005 claimed to have cloned human embryos and harvested embryonic stem cells? This golden boy of human cloning was eventually declared to be a charlatan. Now a film, a fictional version of this tragic episode of scientific fraud and Hwang's downfall, has been produced. It is entitled *Whistleblower*, and is in Korean only, but apparently it has been a roaring success at the box office, making about $4.3 million on the first weekend of its release.

Meanwhile, Hwang continues in gainful employment at his Seoul-based laboratory, most famously bringing comfort to bereaved (and rich) pet owners by cloning about 15 puppies each month. His appetite for publicity also persists unabated. In 2012 he claimed he would attempt to clone a woolly mammoth from ancient tissue found in Siberian permafrost. Nothing yet, but then that's the very basis of propaganda.

Euthanasia and Assisted Suicide

The Assisted Dying Bill 2014-15

Friday 18 July was the day set for the Second Reading of Lord Falconer's Assisted Dying Bill in the House of Lords. The debate lasted 9 hours and 37 minutes – my TV was switched to the BBC's

Parliament Channel, but I cannot say I listened to all the speeches. In all there were 126 speakers, a record for a debate in the House of Lords, and 64 spoke in support of the Bill, three were neutral and 59 spoke against it. The entire proceedings can be read at:
http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/140718-0001.htm

In the end, no vote was taken and the Bill now moves to a Committee of the Whole House, which is a line-by-line examination of its content. This started in the Lords on Friday 7 November.

Proponents of the Bill continue to argue that because it is based on Oregon's Death with Dignity Act 1997 it would be kind-hearted, workable and infrequently used; and because the Bill includes some supposed safeguards, they sneer at any warnings of "slippery slopes". Their ideological drivers are a false compassion and an overbearing autonomy.

Opponents of the Bill fear that, if enacted, it would put vulnerable citizens, including the aged, lonely and bereaved, at risk. It may even escalate to a Netherlands-style euthanasia epidemic. One such doomster is Professor Theo Boer, a bioethicist at the University of Utrecht. He worries that euthanasia deaths in the Netherlands have doubled in the past six years, and may reach a record 6,000 during 2014. He is concerned that, as in the Netherlands, proposed changes to UK law will be manipulated and that any degree of suffering will become a common criterion for assisted suicide. He has said: "I used to be a supporter of the Dutch law; but now, with 12 years of experience, I take a very different view. Pressure on doctors to conform to patients', or in some cases relatives', wishes can be intense." He warned the UK government: "Don't do it."

The Assisted Suicide (Scotland) Bill

Since the death of its sponsor, Margo MacDonald, in April, this Bill has been taken on by Patrick Harvie MSP as the "member in charge" The call by the Health and Sports Committee for written evidence closed on 6 June. It received a total of 894 submissions. Of these, 467 were unique, 419 were identical "templates" submitted by individuals in support of the *My Life, My Death, My Choice* group and eight were duplicates. Not surprisingly, because of the "template" responses, the results were skewed – 73% of respondents supported the Bill, 24% were opposed and 3% were either neutral or made no comment.

Interestingly, though a majority of individuals appear to support the Bill, it is doctors' organisations and the like that largely oppose it. Still more interestingly, while a massive 82% of private individuals appeared to be in favour, when the "template" individuals are removed, that figure fell to only 35% supporting the Bill.

The next step for the Scottish Parliament is the taking of oral evidence at the end of 2014. Then, perhaps in late February 2015, the Health and Sport Committee will debate and vote at the Bill's crucial Stage 1.

One every two weeks

Research from the University of Zurich has recently shown that between 2008 and 2012 a total of 126 Britons travelled to Switzerland's assisted suicide "clinics" to die. That is equivalent to about one every fortnight.

During this five-year period, 611 people from 31 countries died there. Britons formed the second largest group of European residents travelling to Switzerland to die – Germans were the most numerous. There are six so-called "right-to-die" facilities in Switzerland, but all the Britons, except

four, went to the Dignitas “clinic” on the outskirts of Zurich. Dignitas is said to charge between 9,000 and 10,500 Swiss francs (about £6,000 to £7,000) for its services.

Pro-euthanasia campaigners, like Dignity in Dying members, may opine the fact that Britons are “forced” to travel abroad to die and that therefore British law, specifically the Suicide Act 1961, needs amending. But some context is needed. There are about 25 Britons dying in Switzerland each year. How many people die each year in Britain? The figure is well over 0.5 million – to be precise, in 2013 it was 506,790 in England and Wales and 54,700 in Scotland, making a grand total of 561,490.

Put another way, the Dignitas argument affects only a tiny, tiny minority. It is being irresponsibly used as a lever in an attempt to achieve greater autonomy and choice, namely the legalisation of full-blown euthanasia.

UK doctors and assisted suicide

If Lord Falconer’s Bill were to succeed, it would set up huge practical obstacles. Not least among these would be the question of who will do the dirty deed. The task would inevitably fall to doctors, but most doctors want no part in assisting their patients to kill themselves.

A recent poll of 600 doctors conducted by Medix Consultancy, showed that only 19% – less than one in five, would be willing to assist. Moreover, 58% of these doctors oppose the legalisation of assisted suicide. Significantly this latter figure represents a 17% increase from the answer to the same question in a similar poll in 2004.

Opposition among the medical profession seems to be hardening. Most of the Royal Colleges, in particular the Royal College of Physicians and the Royal College of General Practitioners, are opposed to a change in the law. Tellingly, it is their members who would be at the “coalface” of assisted suicide. Dr Tony Calland, chairman of the British Medical Association’s ethics committee, said: “Many doctors have first-hand experience of caring for dying patients and believe that rather than deliberately ending a patient’s life, we should instead be focusing on building the very best of palliative care for those in distress.” As Alistair Thompson, a spokesman for Care Not Killing, stated: “Doctors know that this is not needed, will take money away from palliative care, and it will damage the relationship they have with their patients. The fact that so few doctors want to have any part in this macabre change in the law shows it is unworkable and would lead to the slippery slope we have seen in other countries.”

How many unethical, maverick doctors would it take to implement a policy of assisted suicide? As Sarah Wootton, the chief executive of Dignity in Dying has noted: “If one in five doctors was willing to assist, that would provide around 7,000 registered GPs willing, within the legal safeguards, to help a patient.”

UK public and assisted suicide

The dominant statistic in the assisted suicide debate is that used by Dignity in Dying. It promotes the finding, derived from its 2010 survey, that “80% of the British public support a change in the law on assisted dying for the terminally ill”.

This datum has now been seriously challenged. A poll in July, commissioned and published by the Christian charity CARE (Christian Action Research and Education), showed that public opposition to assisted suicide rose from 12% to 43% when those surveyed were presented with additional information about the nature of assisted suicide.

In other words, opposition to assisted suicide grows dramatically when people are more informed about the arguments. The survey also showed that many of those who initially expressed support for assisted suicide switched to opposing it when presented with evidence from places where the practice has already been legalised. One in five changed their minds when informed that there had been a steady annual increase of assisted suicide cases in countries like Belgium, the Netherlands and Switzerland and also a widening of the net to include people with chronic but not terminal illnesses.

The poll, undertaken by ComRes, found that 28% of British adults who had supported the proposals switched to opposition when informed that vulnerable people may feel pressurised to end their life so as not to be a "burden". The need for informed education is obvious.

Australia and euthanasia

Every country has its own Dr Death – its own euthanasia champion. In Australia it is Dr Philip Nitschke. He has tempted the medical and legal authorities in his homeland and around the world to prosecute him for his hideous activities. Recently he got his just desserts.

Though Nitschke has had a string of complaints filed against him it is the specific case of Nigel Brayley that has stuck. Brayley was a healthy 45-year-old man, who was depressed after apparently being harassed by police following the suspected murder of his wife, Lina Suria Brayley, who was found dead at the bottom of a high cliff in Perth on 27 February 2011. In May 2014, Brayley died after taking a euthanasia drug he had illegally imported from China. It is alleged that Nitschke had instructed Brayley how to commit suicide.

In July, an ABC TV programme triggered the Brayley-Nitscke link. The Medical Board of Australia investigated and determined that Dr Nitschke posed "a serious risk" to the health and safety of the public and promptly suspended his medical registration. Investigations are continuing but the Board's current recommendation is that Nitschke's interim suspension should become permanent.

Meanwhile, Nitschke has said that the case against him has led to increased interest in his Exit International organisation, unprecedented numbers signing up to his suicide workshops and sales of his euthanasia handbook reaching "an all-time high". In October, he opened the UK's first Exit International office or "suicide club" in London.

As a grand gesture of support for Philip Nitschke, up popped fellow-Australian and professor of bioethics at Princeton University and uber-utilitarian, Peter Singer. He declared: "I think suicide can be rational in the absence of terminal illness and I think I could find you dozens or hundreds of philosophers who would think that." The solution, according to Singer, is to legalise euthanasia and assisted suicide, so that Nitschke will no longer be forced to go over the head of the law.

Euthanasia in the Netherlands

The latest Dutch figures bring no comfort. Apparently, during 2013, there were 4,829 reported cases of euthanasia – an increase of 15% over the previous year. Most of these cases involved patients with cancer, but there were 97 cases of dementia and 42 psychiatric cases. Euthanasia now represents just over 3% of all Dutch deaths. But these official figures are certainly underestimates, because of significant under-reporting by doctors, Holland's ambiguous definition of euthanasia, the use of terminal sedation and several other euphemistic reasons.

Make no mistake – once any dubious bioethical issue is legalised, the floodgates open. In Holland, voluntary euthanasia has inevitably led to non-voluntary euthanasia. As Lord Carlile of Berriew QC has stated: "Laws aren't like precision-guided missiles. Once a Statute, they can quickly be used to encourage acts they were designed to enable and control."

Softening on assisted suicide

Right on cue with regard to Lord Carlile's comments about slippery slopes, comes news on 17 October that the Director of Public Prosecutions (DPP), Alison Saunders, has unilaterally amended the UK's guidelines on assisted suicide so that doctors and nurses will now be less likely to be prosecuted for assisting.

Back in 2010, the then DPP, Keir Starmer, issued guidelines that those assisting another to die "wholly out of compassion" would be less likely to face prosecution. Those same guidelines also stated that all healthcare professionals who assisted would face a greater likelihood of prosecution. This was challenged by "Martin", the man suffering from locked-in syndrome, who wanted prosecution exemption for such professionals who assisted his case. On 16 August 2012 "Martin" lost his legal challenge.

However, on 31 July 2014, the Court of Appeal upheld "Martin's" case and instructed the DPP to clarify the role and degree of support that healthcare professionals might play. Now, that sensible 2010 stipulation has been dropped. This new guideline applies only to those doctors and nurses who are *not* directly involved in a person's care. In other words, my caring family GP must not kill me, but some unknown locum or a pro-euthanasia maverick doctor can do the dirty deed and probably get away with it.

According to the DPP, these changes have been precipitated by the recent "right-to-die" cases of Tony Nicklinson, "Martin" and Paul Lamb that went before the Supreme Court. That Court insisted that it was Parliament, and not the judiciary, that must resolve such issues. This makes it even more worrying that the DPP has now decided to step in and relax the law – an action seemingly well "above her pay grade" – at the precise time that euthanasia is officially being debated within Parliament.

All this must be music to the ears of pro-euthanasia doctors like Michael Irwin and Philip Nitschke – now they can take people to Dignitas, supply the drugs for suicide, run euthanasia classes and websites without having to look over their shoulders for fear of the long arm of the law. All this raises serious question about Alison Saunders' motives, judgment and impartiality. Vulnerable people in our society deserve the safeguards of the Suicide Act 1961, a law against assisted suicide that offers them strong and unambiguous protection. The new guidelines have weakened this a little further, just as Lord Carlile said.

USA and Elsewhere

Pro-life sentiment

In July, the pro-choice Guttmacher Institute issued its regular half-yearly report on abortion policies across the 50 US states. It noted that only 21 pro-life state laws had been passed during the first six months of 2014 and suggested that this indicated that the nation's pro-life ambitions were slowing down. This is probably not the right interpretation.

First, a number of state legislatures have not been in session so far this year. Second, the years between 2011 and 2013 were exceptionally productive in pro-life activities – more so than the entire previous decade. Highlights so far this year include Mississippi becoming the 13th state to pass a 20-week abortion ban and the governor of Louisiana requiring abortionists to have hospital "admitting privileges". The pace of reform may have slowed but protective laws are still being enacted.

Everyone knows that pro-life sentiment is greater in the US than in the UK. A recent poll has confirmed that abortion remains a hot issue, both personally and politically, in America. A national telephone survey of 1,000 people was conducted by Rasmussen Reports and its findings were published in July. It found that 48% of likely US voters now consider themselves pro-choice, while 44% self-identify as pro-life – this latter figure being an all-time high. Pro-life sentiment was found to be somewhat higher among men, the elderly and low-income earners.

The annual poll conducted by Gallup, and published in May 2014 showed a similar split – 47% pro-choice with 46% pro-life. The national trend had been a clear pro-choice majority up until 2009. But since then the swing has been towards pro-life, so that for the last few years the figures have been roughly evenly split. The 44% figure from the Rasmussen poll may seem unremarkable, but the organisation's figures consistently show lower pro-life sentiment than Gallup polls. This is partly because Gallup surveys all adults, whereas Rasmussen surveys only likely voters. On average, voters earn higher incomes and are better educated than non-voters, so this likely skews Rasmussen's results in a more "pro-choice" direction.

What is the overall conclusion? Simply this, despite having the US government, the media and academia against them, it is the pro-life camp that is winning the war for US hearts and minds.

The Hobby Lobby case

The momentous decision by the US Supreme Court on 1 July, when it pronounced in favour of Hobby Lobby by a 5 to 4 margin, is still reverberating across the USA. The Court's majority said that a federal law protecting religious liberty requires the government to find another way to provide free birth control for employees and dependents insured by closely-held companies with religious objections. Late in August, the Obama administration proposed similar relief for other closely-held, for-profit companies with religious objections to all or some forms of contraception. This should mean other companies will not have to go through the protracted exercise of suing the federal government to avoid paying for government-mandated coverage that violates the religious beliefs of these companies' owners. Much of the outcome will depend upon the definition of "closely-held".

The Court's decision to side with the evangelical Christian business owners against the Obama administration has apparently boosted the Court's image in the eyes of many Americans, especially among "swing voters" – those who will determine the outcome of the next US presidential race in November 2016. As many as 53% of them say they are pleased with the Court's performance, compared to just 37% who expressed displeasure.

On the whole, 47% of Americans say they approve of the Hobby Lobby decision, while 41% oppose it. While Republicans and Democrats are split largely along party lines – 80% of Republicans support the ruling, while 63% of Democrats oppose it – political independents, the so-called "swing voters", say they support the ruling by a margin of 53% to 36%.

Obituaries of three pro-life champions

Sandra Cano (1948–2014)

Though few have heard of her, Sandra Cano, aka Mary Doe, changed history and the practice of abortion – at least, the American version. In 1970, aged just 22, Cano had gone to see a lawyer in order to divorce her husband and regain custody of her children. At that time, she was nine weeks pregnant with her fourth child.

According to Cano, her lawyer, Margie Pitts Hames, twisted her wish to take back her children into a crusade to legalise abortion. One afternoon, her mother and Hames announced that her bags were packed ready for an abortion the next day. Cano was so alarmed that she fled her home state of Georgia to live in Oklahoma. Yet the legal case continued. Eventually it arrived at the Supreme Court as Doe v Bolton. The defendant was Arthur K. Bolton, the Attorney General of Georgia.

The Supreme Court pronounced on January 22, 1973 – the same day as the better known case of Roe v Wade. The latter, by a majority of 7 to 2, overruled all US State regulations and allowed abortions before viability. In the Doe v Bolton case, the Court found Georgia's existing "procedural requirements" – which stipulated, for example, that abortions must be performed in certain hospitals and only on residents of Georgia – to be unconstitutional. It also declared that a woman could obtain an abortion after viability, if necessary to protect her health.

In practice, the Doe ruling allowed abortions until the moment of birth on the grounds of maternal "health", a definition so subjectively broad that it justified any and all abortions. In other words, while Roe v Wade struck down all State restrictions on abortion pre-viability, Doe v Bolton extended the right to abort throughout all nine months of pregnancy. In effect, Roe v Wade and Doe v Bolton together declared abortion to be a constitutional right and transferred abortion from the numerous restrictive laws of individual States into one big, liberal, federal law.

Both Norma McCorvey (Jane Roe) and Sandra Cano (Mary Doe) believed that they had been "set up" by the pro-choice movement and especially by their female lawyers. Both women came to regret their part in legalising US abortion. Norma McCorvey subsequently stated: "I think abortion is wrong… I just have to take a pro-life position." Sandra Cano also declared: "I am against abortion – abortion is murder." Furthermore, in 1997, Sandra Cano avowed: "I pledge that as long as I have breath, I will strive to see abortion ended in America." Sadly, she did not live long enough to see that great day – she died of cancer on 30 September.

Jim Dobbin (1941-2014)

Jim Dobbin was a Labour MP driven by his devout Roman Catholicism, his Scots mistrust, his scientific thirst for proof and his left-leaning socialism. He became a leader of a group of politicians at Westminster who wished to maintain their Roman Catholic heritage and stance against the tide of social reform and secular humanism.

As such he bravely defied the Labour whip and voted against his party's leadership on issues like abortion, embryonic stem cell technology, euthanasia, gay marriage and so forth. While frequent refusal to toe the party line may have angered some, he earned the respect of many at Westminster for his principled stand and courteous engagement with those of opposing views. Even John Bercow, the Speaker, had to admit that Dobbin was "a deeply principled and independent-minded parliamentarian".

For 12 years, he was chairman of the All Party Parliamentary Pro-life Group (APPPLG). Though he was neither a particularly charismatic spokesman, nor an inspiring leader, he was tough and persistent. His core belief was that human life demanded protection from conception to natural death. He was a tireless supporter of the pro-life cause.

Born in Scotland, the son of a coal-miner, James Dobbin completed his National Service before studying bacteriology and virology at Napier College, Edinburgh. He then moved south and worked as a microbiologist at the Royal Oldham Hospital. His life in local politics began in Rochdale and in 1992 he narrowly missed election as MP for Bury. In 1997, he was elected as Labour MP for Heywood and Middleton with a majority of 17,542. He held this seat until his sudden death on 6 September while on a visit to Poland.

Rev Ian Paisley (1926 – 2014)

Everyone has heard of Ian Richard Kyle Paisley, Baron Bannside, Member of Parliament for North Antrim, founder of the Democratic Unionist Party (DUP), Member of the European Parliament, Member of the Northern Ireland Assembly, Protestant evangelical minister and co-founder of the Free Presbyterian Church of Ulster. He died on 12 September. He had been a gospel minister for 60 years.

Ian Paisley was a big man (he was 6’ 5’’ tall) with a big voice (with that scouring rasp of vowels). He never failed to share his opinions with his audiences. He provoked both allegiance and hatred. Though he appeared forthright and resolute on all matters, politically, the bigot eventually became the peacemaker. Whatever one’s judgment of the man, none could doubt his pro-life credentials. His Parliamentary speeches and voting record on bioethical issues such as abortion, embryo experimentation and euthanasia, as well as other matters such as same-sex marriage, Sunday trading and gambling, were second to none.

And though his aversion to all things Roman Catholic was legendary, it was abortion that somewhat softened his posture. For instance, in 2007, when some Ulster politicians were hoping to introduce the 1967 Abortion Act into the Province, Ian Paisley met for the first time with the leader of Ireland’s Catholics, Archbishop Sean Brady, and they gladly expressed their united opposition to abortion. Paisley, as First Minister, pledged to continue the fight to exclude the Act. In that same year, he reversed his opposition to the Ulster peace process and entered into a power-sharing administration with his previous Sinn Féin enemy, Martin McGuiness. Because of their jovial friendship they were nicknamed the Chuckle Brothers. Paisley had learned to “love his enemies”. Indeed, many, both Protestants and Catholics, can recall his personal kindness to them as their MP.

Speaking in 2008 about his Christian faith, he declared: “I am a sinner, saved by the grace of God. I have my faults, which are many, which I lament. I want to do the best for my country.”

The current political moves to introduce abortion legislation into Northern Ireland and eventually to extend the Abortion Act into the Province would have received that same old staunch Paisley rebuff, “Never, never, never!” We shall miss “Honeybunch”, as his wife always called him.

John R Ling

BOOK REVIEW

Reviving the culture of life

A review of *Bioethical Issues: Understanding and responding to the culture of death*, by John R Ling; Day One Publications 2014, ISBN 978-1-84625-427-7; £10.00

During the couple of weeks in which I was reading this book, the following stories were in the news headlines:

- Two multinational companies offer an egg freezing facility to female staff.
- Stem cell treatment offers hope to type 1 diabetes sufferers (using embryonic stem cells).
- The practice of euthanasia in Belgium (in the light of Lord Falconer's Bill reaching its next stage in the House of Lords).

John Ling's volume serves as an excellent "*primer, yet also a principled manual*" (from his preface) for these and associated issues. I felt enabled to understand and react to these stories with greater confidence and clarity, having read the book.

In terms of what I'll call the reading "experience", the book is well-bound and easy to handle and the print is comfortable to read. A dictionary was a necessity on a number of occasions – *ersatz, endogenous, sequelae, ineluctable, exigent* being just a few examples I noted down. However, I personally don't think that's a bad thing, as reading should involve expanding our vocabulary and that's what dictionaries are for! The meaning of Latin phrases which appear was always clear from the context, something useful for any like myself who were denied the joys of learning the language at school.

Helpful revision

The clearly-numbered subdivisions of the text were a real benefit, enabling the reader to know where he was and where he was being led to in each section (Has anyone else completely lost their way reading the Puritans?). The "conclusion" to each section was both helpful revision and reinforcement. There are questions at the end of each chapter that check comprehension of the information imparted and stimulate thought as to what to do with it.

I really enjoyed Dr Ling's style of writing. It seemed at times as if someone was sitting across the table conversing with me rather than standing at a distance lecturing to me. There is plenty of engaging alliteration and an appropriate sprinkling of wit and humour. By and large I found the book an easy read, which is quite something given the subject matter that focuses largely on "the culture of death".

In terms of the contents, following a helpful introduction, the book sets out:

- biblical principles that have a bearing on the subject
- a lengthy discussion of the primary bioethical issues of our day
- an introduction to matters that affect the debate of these issues and the direction the debate takes
- an analysis of the various schools of thought regarding the beginning of human life
- the history of the Abortion Act of 1967

- a glance into what the future might hold
- an agenda for what evangelical Christians and the evangelical church should do

I was pleased to be able to recall the following day Dr Ling's six major *Themes from the Scriptures* which serve as a foundation for dealing with bioethical issues. I have done so again now, a few days after reading that chapter. However, I wonder if some alliterative mnemonic might be useful in the next edition to ensure these principles stick in our minds – something I'm sure Dr Ling would be equal to. The themes delineated are clearly established from Scripture and are the right ones to serve as our foundation. A reference to man's constitution as body and soul (or body, soul, and spirit for trichotomists) would be a helpful addition somewhere within this chapter, I think.

The chapter that covers *Some of the primary issues* is substantial and thorough. Dr Ling deals with abortion, in vitro fertilisation, surrogacy, human embryo experimentation, human cloning, stem cell technologies, human genetic engineering, genetic disabilities and screening, gene therapy, infanticide, and euthanasia and assisted suicide. Each section is packed with enlightening explanations, informed analysis, and sometimes depressing statistics.

While footnotes point to research that substantiates claims made, these were not always present: For instance, on page 72 we are informed: *"There is also increasing confirmation of a positive association between induced abortions and subsequent births occurring prematurely",* and later on the same page, *"abortion can be the cause and result of failed relationships. For example, it is estimated that between 40 and 50 per cent of couples break up following an abortion…"* I don't doubt these facts, but it would have been useful to have a pointer to material that confirms them. There again, perhaps a "mere primer" is not the place for such information – I need to go and find it myself.

On your doorstep

You will be disheartened as you learn about some of the things which are happening in our society and "on your doorstep" as a consequence of the growing culture of death; but being ignorant of these facts will not help. We need this information disseminated if we are to see the culture of life revived.

I personally would have liked a section on organ donation (one of a cluster of topics Dr Ling notes but does not discuss). I think this is an area that has not been addressed adequately and I believe it warrants inclusion alongside Dr Ling's eleven chosen topics, particularly as it is a matter we may well have to face.

The chapter dealing with *Some of the secondary issues* is vital if we are to make any headway in rolling back the culture of death. It helps us understand where the "movers and shakers" are coming from and how we can begin to tackle the arguments they present. It also introduces various factors that feed into the debate that we need to consider.

The "slippery slope" argument appears in this chapter and this was confirmed in the Radio 4 news report regarding the practice of euthanasia in Belgium which I heard while reading the book. A commentator in Belgium observed that "The door is now wide open" – the safeguards established at the beginning were insufficient to prevent a slide further into the culture of death.

When does human life begin? is a thorough Ofsted-like inspection of the four schools of thought regarding the beginning of human life. Suffice it to say that three are clearly shown to be failing. As a subsequent chapter summarises the matter: *"All subdivisions of a pregnancy are biologically artificial*

and thus bioethically insignificant" (page 239). Here is excellent ammunition to defend the position that life begins at conception.

In *How did we get the Abortion Act 1967?* Dr Ling traces for us the history preceding and subsequent to the 1967 Act. This is important information and must be used to alert us to developments within legislation of bioethics, especially regarding euthanasia at the moment. We must learn from history or else!

The author looks through his "bioethical binoculars" in *What of the future?* His cautious observation that *"fundamentally there is a one-way flow… towards the pro-life position"* (page 260) has perhaps been dealt a blow with George Carey's recent journey in the other direction on the issue of euthanasia. But, then again, maybe he's just one high-profile figure going against the prevailing current that Dr Ling observes. I for one certainly hope so.

Realistic picture

Dr Ling paints a realistic picture as he peers into the future, which could be depressing until he helpfully reminds us in conclusion that thinking things will only, always, get worse *"is unbiblical defeatism, non-Christian pessimism, which can lead to spiritual depression."* (page 278).

...thinking things will only, always, get worse *"is unbiblical defeatism, non-Christian pessimism, which can lead to spiritual depression"*

The final chapter addresses the question *So what must we do?* Here we have set out five biblically-grounded, practical and eminently achievable actions of principled compassion. That they are achievable is important, because the preceding chapters may leave some readers feeling overwhelmed: Don't despair, here are things you – whoever you are – can do that, under God, can make a difference. This not only applies to individuals – church leaders should also be stimulated to incorporate and encourage these activities in the life of their churches – I certainly have been!

The observant reader will have noted that I did not delineate either the six biblical principles undergirding our interaction with bioethical issues (from the opening chapter) or Dr Ling's five agenda items about what we must do (from the last chapter). That's because I think people should read the book rather than just my review of it! So, no cheating – buy or borrow this book, read it, digest it, pass it on, put it in your church library, and then act on it. May God yet have mercy on us!

Peter Rush

Questions for personal reflection and group discussion:

1 What will you do now to further the culture of life?
2 Why do so many Christians respond so poorly to the culture of death?
3 How can you encourage others – family, friends and churches – to join the struggle?
4 When do you plan to meet your MP or representative? What will you say to him or her?
5 How can the Christian begin to discuss these issues with the secular humanist?
6 If there is one thing that would help you respond more effectively, what would it be?
7 What, for you, has been the take-home message of this book?

From page 300 of *Bioethical Issues: Understanding and responding to the culture of death*

How everyone might be branded an extremist

In her recent Conservative Party Conference speech, the Home Secretary, Mrs Theresa May, outlined proposals to introduce new anti-extremist measures.

The proposals to introduce "Extremist Disruption Orders" (EDOs), set to be included in the Tory manifesto at the General Election in May 2015, are no doubt well-intentioned, but are so broadly defined that they could catch all manner of innocent behaviour.

Of course, it is right to support government efforts to combat the Islamist threat, but these proposals are not the answer.

What is the issue?

The proposed new counter-extremism strategy seeks to go "beyond terrorism" and aims to "eliminate extremism in all its forms".
One person's peaceful community protest may be seen as "extreme" by someone else. Christians are often labelled "extreme", just for proclaiming simple biblical truths. Trying to prevent "all forms" of extremism will do huge damage to free speech.

In addition to the counter-extremism strategy, the Conservative Party has outlined plans to introduce EDOs. These are intended to "restrict the harmful activities of extremist individuals who spread hate but do not break laws".

Under the plans, the police will be able to apply for a court order to restrict "harmful activities". What constitutes such activity is wide open to interpretation.

...the issue of "extremism" is not simply about bad law. It is also about a lack of political will to implement *existing* laws.

Furthermore, the issue of "extremism" is not simply about bad law. It is also about a lack of political will to implement *existing* laws. There are already extensive powers available to the authorities, but they are not being fully used. For example, the law already protects against incitement, harassment, encouraging violence and glorifying terrorism.

For a court to impose EDOs, it would need to be persuaded that an individual was "participating in activities that spread, incite, promote or justify hatred against a person or group of persons on the grounds of that person's or group of persons' disability, gender, race, religion, sexual orientation, and/or transgender identity".

It is not difficult to see how such broad, vague concepts could be misused. Some might think it is appropriate, for example, to place opponents of same-sex marriage in the category of "spreading hatred on the grounds of sexual orientation". Even the mere risk of causing "distress" would be enough to trigger the new powers (Guardian online, 30 September 2014). In effect, EDOs set up State gagging orders, which can be triggered by anything deemed to breach the tenets of the Equality Act 2010.

This will be a civil order and, according to press reports, the authorities would only have to show that the individual had fulfilled the above criteria "on the balance of probabilities" rather than on the criminal standard which requires proof "beyond reasonable doubt" (Daily Mail, 30 September

2014). The combination of such vague terms, coupled with this civil standard of proof, risks catching all manner of innocent behaviour.

Hand a judge a file of a thousand Twitter postings accusing this atheist or that evangelical of "spreading hatred" and he or she could easily rule that an EDO is needed.

What are the implications?

The proposed EDOs are even worse than Tony Blair's notorious religious hatred Bill and Section 5 of the Public Order Act that were so detrimental to freedom of speech:

Religious Hatred Bill campaign 2001-2006

The Labour Government's original proposal for an incitement to religious hatred law would have seriously harmed freedom of speech and had the potential to criminalise ordinary religious debate. Thankfully, following a hard-fought and protracted campaign by Christians and others, Parliament eventually backed amendments that dramatically narrowed the scope of the law and introduced a broad protection for free speech.

Reform Section 5 campaign 2011-2014

The misuse of Section 5 of the Public Order Act by over-zealous police officers and prosecutors led to several instances of Christians being detained and – in some cases – prosecuted simply for expressing their religious beliefs. And it wasn't just Christians who were affected. Other peaceful and lawful protesters were being unjustly arrested by police under Section 5.

A campaign was mounted to reform the law by removing the word "insulting" from the scope of Section 5. After being defeated in the Lords, the government backed down and the change was finally made in February 2014.

Reform Clause 1 campaign 2013-2014

More recently, the government sought to outlaw "nuisance or annoyance" in a public place. The government's suggested injunctions to replace Anti-social Behaviour Orders (ASBOs) were widely criticised as being too vague, leading to fears that anyone from street preachers to buskers could be caught.

In January 2014 the House of Lords voted by a massive majority for an amendment to protect free speech. The government conceded defeat, meaning that behaviour will now have to breach the higher "harassment, alarm or distress" threshold in order for one of the new injunctions to be granted.

After these three high profile free speech campaigns, which united opposition across the philosophical spectrum, and resulted in embarrassing headlines and parliamentary defeats for successive governments, one would have thought that the Home Secretary would have been more sensitive to concerns about free speech. But Theresa May defended her new proposals by saying: "Of course we want to maintain free speech but we do not want to see incitement." As we've said, there are already laws against incitement. It is astonishing that the Home Secretary is proposing a new law to fill a gap that does not, in fact, exist.

There is real concern that the broad powers of the proposed EDOs could be abused. Take, for example, the following hypothetical cases:

- A Christian street preacher is approached by a member of the public and asked for his opinion on homosexuality and same-sex marriage. He answers gently and biblically. He is asked whether his answer means that gays go to hell. He explains that every person is a sinner and faces a just judgment in hell unless they trust in Christ. His interrogator calls the police, alleging that the preacher "said all gays will burn in hell". This is not the first time the officers have had complaints about this preacher from activists opposed to the gospel. The street preacher is issued with an EDO for inciting, justifying or spreading hatred on the grounds of sexual orientation.

- A controversial Islamic group applies to build what would be the country's largest mosque. Local residents hold a public meeting to oppose the application. Some community leaders accuse the meeting organisers of hatred against Muslims and the police apply for an EDO, claiming they are spreading hatred on the grounds of religion.

- Members of an atheist student group wear T-shirts with the slogan: "All Religion Is Evil". Claiming that this promotes a form of hatred against minority faith groups on campus, the police threaten to apply for a court order.

- Each week a group of animal rights protesters meet in the city centre to demonstrate against seal culling. As part of the protest they cover toy seals with red food dye to simulate blood. Following complaints that some people find this '"distressing", the police consider applying for a court order to restrict what could be seen as "harmful activities".

- A church-run holiday club organises a series of events on their local estate, teaching children stories from the Bible. Some members of the community start a campaign against the church and contact the local press about their "extremist teaching" on heaven, hell, sin and salvation. They even produce a video "secretly filmed" inside the club, and describe it as being "like some kind of Madrassa". The campaign accelerates, culminating with the police seeking an EDO against the holiday club.

- Following a series of angry public meetings organised by protesters opposed to fracking in a nearby town, an environmentalist leads a seminar in which he strongly criticises his MP's support for the plans. He condones negative media coverage and encourages delegates to deluge the MP with mail. The MP contacts the police, describing the man as an extremist, and claiming he is putting his safety at risk. The police apply for an EDO.

What can be done in response to this proposal?

The Conservative Party says that it will include EDOs in its election manifesto for the 2015 General Election. It is important therefore that Conservative MPs in particular hear from constituents opposed to the plans.

If you don't know who your MP is, find your postcode and go to: http://findyourmp.parliament.uk/

Tell your MP that you oppose Theresa May's plan to introduce Extremist Disruption Orders because of the risk to free speech for everyone, especially those whose opinions are regarded as controversial or unfashionable.

If your MP is a Conservative, you might like to remind him or her that the Conservative Party opposed the religious hatred Bill and ask how it can now endorse a manifesto commitment that proposes something far worse.

Alongside this action, Christians throughout the country need to pray that the Conservatives would drop this disturbing proposal, and that gospel freedom will be protected.

Simon Calvert

Guidance to public authorities following the redefinition of marriage

As a consequence of the Marriage (Same Sex Couples) Act 2013, a variety of public authorities have responsibilities in connection with the administration of the revised marriage arrangements, or in the course of which they need to take into account issues connected with, or consequential to, the new legislation.

On 27 June 2014, the Equalities and Human Rights Commission (EHRC) published comprehensive guidance aimed at helping all these public authorities to act lawfully and appropriately in the decisions they make and the procedures they follow.

A significant proportion of the published guidance relates to the measures which have been put in place to protect the right of churches not to participate in same sex marriages; not to be discriminated against for their views on same sex marriage; and to exercise freedom of expression.

In view of the relevance of this guidance to procedures and issues which churches may face, we have decided to publish the entire guidance, verbatim, in *The Bulletin,* so that churches can check whether any public authority decisions and actions which affect them have been carried out in accordance with the guidance.

The full text of the guidance is as follows:

Introduction

The Marriage (Same Sex Couples) Act 2013 (the Act) extends marriage to same sex couples in England and Wales. This guide explains how the Act affects public authorities when they are exercising their functions. This document is useful for central and local government, prisons, hospitals, education institutions, and any other organisation exercising public functions.

Rights under equality law protect against unlawful discrimination and harassment based on various protected characteristics, including marriage and civil partnership, religion or belief, sexual orientation and gender assignment.

Human rights law also provides protection against discrimination in the enjoyment of certain rights, and protects the rights to freedom of thought, conscience and religion, freedom of assembly and freedom of expression. Our accompanying guidance on marriage and the law covers these rights in greater detail.

Key points

• All register offices have been designated to carry out civil marriages of same sex couples.

• The Registrar General, superintendent registrars and registrars in England and Wales have statutory duties in relation to authorising, conducting and registering marriages of same sex couples in much the same way as they have for opposite sex couples.

• The Act protects religious organisations and their officials from being compelled by any means to conduct or participate in marriages of same sex couples.

• Public authorities must act in accordance with the Equality Act 2010 (the Equality Act) so as not to discriminate unlawfully in the exercise of their functions – whether as an employer, a service provider or in exercising public functions. The prohibitions on discrimination because of religion or belief, gender reassignment or sexual orientation are particularly relevant in the context of marriage of same sex couples.

• Public authorities must act compatibly with the Human Rights Act 1998 (the Human Rights Act), including in protection of freedom of thought, conscience and religion, freedom of assembly, freedom of expression and protection from discrimination.

• The employment, services and public functions provisions of the Equality Act have been amended by the Act specifically to protect religious organisations and their officials who do not wish to marry same sex couples.

• A public authority will be acting unlawfully if it tries to rely on the public sector equality duty to subject an individual or organisation to a disadvantage or detriment due to their beliefs about marriage, where this is not a relevant consideration. The equality duty cannot be used to justify an unlawful act.

• An individual's or organisation's position on same sex relationships and the marriage of same sex couples may sometimes be relevant to the decisions a public authority takes when this affects the rights of others. This could include, for example, when the authority is acting in the best interests of children and protecting service users from unlawful discrimination.

Definition of a public authority in equality and human rights law

Under the Human Rights Act 1998, the general definition of a public authority includes all public bodies directly exercising public functions. It also covers others who, while not public bodies themselves, perform public functions – but only when they are exercising functions of a public nature.

The same general definition applies for the purposes of section 149 of the Equality Act (the equality duty) but a public authority (for the purposes of this provision) specifically includes those listed in Schedule 19 to the Equality Act.

Marriage services as public functions

The issue of whether or not a religious organisation is performing a public function when conducting a religious marriage recognised by the law of England and Wales was debated extensively during the parliamentary passage of the Act. Such a religious marriage has both civil elements (the authorised

person registering the marriage) and religious elements (the religious ritual performed by the official).

The opt-in and opt-out activities set out in section 2 of the Act are not functions of a public nature; rather they are private functions (this is discussed more fully in the guidance on marriage and the law). For example, the decision by a proprietor or trustee of a building to apply for the building to be registered for marriage of a same sex couple is an internal decision, not a public function. It is therefore not covered by the Human Rights Act or the public functions or other provisions of the Equality Act; nor could it be subject to judicial review in the opinion of the EHRC and the government.

It is for the courts to interpret the legislation and finally determine these points in the event that they are pursued and considered through litigation.

Protecting religious freedom

Equality and human rights law cannot be used to compel religious organisations or their officials to participate in religious marriages of same sex couples. There is sufficient protection in the Act and under equality and human rights law to prevent such compulsion.

Specific religious protection to take account of the rights under the European Convention of Human Rights (the Convention) is provided in section 2 of the Act, which makes clear that no religious organisation or official of a religious organisation can be compelled by any means to conduct or participate in marriages of same sex couples.

Individual and collective religious freedom is protected by the Convention. The most notable Convention rights in this respect are Articles 9 (freedom of thought, conscience and religion), 10 (freedom of expression), 11 (freedom of peaceful assembly and freedom of association) and 14 (prohibiting discrimination in the application of Convention rights).

Furthermore, the right to marry under Article 12 does not require States to provide marriage for same sex couples. However, if a State does provide marriage for same sex couples, it must do so without unjustifiable discrimination under Article 14.

Those rights, taken individually (where possible) and collectively, present formidable obstacles to any attempt to force unwilling religious organisations or their officials to conduct or participate in religious marriages of same sex couples. Any attempt to force religious organisations and their officials to do so would almost inevitably fail.

Freedom of expression

Public authorities have direct and enforceable duties to protect human rights, which includes acting compatibly with the right to free expression. The Act protects the right to freedom of expression as set out in Article 10 of the Convention. So individuals may express positive or negative views about marriage of same sex couples. Our guidance on marriage and the law explains this in detail.

Freedom of expression is explicitly protected under the Public Order Act 1986 (POA) provisions concerning the offences of inciting hatred on the grounds of religion or sexual orientation (see Part 3A and sections 29J and 29JA POA). Under the Act, Parliament has further protected the rights of individuals to express their views on marriage of same sex couples through discussion or criticism

without facing any criminal sanction under the POA, by inserting a new sub-section into section 29JA.

In order to guarantee that simply giving a view on marriage of same sex couples is not caught by the offences of threatening behaviour and hate speech on the grounds of sexual orientation, the new Section 29JA (2) of the POA specifies that: "any discussion or criticism of marriage which concerns the sex of the parties to marriage shall not be taken of itself to be threatening or intended to stir up hatred". It mirrors the existing sub-section (1) which makes clear that "the discussion or criticism of sexual conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred".

For conduct or behaviour in public to violate criminal law, the POA requires proof beyond reasonable doubt that the behaviour is threatening and is intended to stir up hatred on the grounds of religion or sexual orientation. The investigation, prosecution and determination of potential offences under the POA and criminal law more generally must be carried out in accordance with an individual's right to freedom of expression.

The Act specifically amends the services and employment provisions contained in Parts 3 and 5 of the Equality Act, so that it is not unlawful discrimination for a religious organisation or its officials to refuse to conduct, consent to or otherwise participate in a religious marriage for the sole reason that it concerns a same sex couple. An employment or service-related discrimination claim under the Equality Act challenging such a refusal is bound to fail. This is discussed further in our guidance on marriage and the workplace and service delivery.

However, outside the marriage itself, the Equality Act limits the extent to which organisations relating to religion or belief may operate restrictions relating to sexual orientation where the organisation is providing services on behalf of, and under contract with, a public authority.

An individual's or organisation's position on same sex relationships and/or the marriage of same sex couples will sometimes be relevant to how it is treated by a public authority. On most occasions, it should not be relevant to decisions to provide access to public facilities available for hire. However, it could be relevant to decisions on public funding, for example in the form of grants; or procurement contracts to deliver public services, where the rights of others are engaged. This will need to be determined on a case-by-case basis, taking account of the particular circumstances and relevant factors to consider in each case.

Public authorities should avoid making unwarranted assumptions that the rights of others will be breached simply because an individual or organisation agrees or disagrees with marriage of same sex couples. Where there are relevant concerns, they should be explored to aid understanding, to establish evidence of potential adverse impact, and to enable public authorities to make well-founded and lawful decisions.

The Equality Act does not require public authorities to adopt a "one size fits all" approach to exercising public functions. Such an approach could result in indirect discrimination. Public authorities are not prevented from providing services in different ways to different groups, so long as this does not result in any prohibited discrimination based on a protected characteristic.

For example, the Equality Act permits public authorities to take lawful positive action to address disadvantages experienced by people sharing a protected characteristic, to meet different needs and to encourage greater participation for such groups. Other provisions of the Equality Act also permit

services targeted towards people sharing a particular protected characteristic subject to certain requirements (for example, in providing single-sex services or services relating to religion).

Impact of the equality duty

The equality duty places a general duty on public authorities and those exercising public functions to have "due regard" when exercising their functions to three matters: (a) eliminating conduct (such as discrimination, harassment and victimisation) that is prohibited by the Act; (b) advancing equality of opportunity between people who share a protected characteristic and those who do not; and (c) fostering good relations between people who share a protected characteristic and those who do not.

The second two matters apply to the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. They do not apply to the protected characteristic of marriage and civil partnership.

The duty to have "due regard" is not a duty to deliver prescribed or particular outcomes. It is not a duty, for example, to prioritise one aspect of equality over another. The equality duty could not be used to disadvantage unjustifiably religious organisations or their officials who choose to exercise their right under the Act not to conduct or participate in religious marriages of same sex couples.

The Commission's codes of practice on the equality duty provide more guidance on how this aspect of equality law operates, including further details about the meaning of each protected characteristic and the contexts in which they do, or do not apply.

More information

The EHRC has published a series of complementary guidance documents:

• The Marriage (Same Sex Couples) Act 2013: The Equality and Human Rights Implications for Marriage and the Law in England and Wales

• The Marriage (Same Sex Couples) Act 2013: The Equality and Human Rights Implications for Religious Organisations

• The Marriage (Same Sex Couples) Act 2013: The Equality and Human Rights Implications for the Provision Of School Education

• The Marriage (Same Sex Couples) Act 2013: The Equality and Human Rights Implications for the Workplace and Service Delivery

• A Quick Guide to the Marriage (Same Sex Couples) Act 2013

See also the following statutory codes of practice:

• Equality Act 2010 Code of Practice: Employment Statutory Code of Practice
http://www.equalityhumanrights.com/uploaded_files/EqualityAct/employment_code.doc

• Equality Act 2010 Code of Practice: Services, Public Functions & Associations
http://www.equalityhumanrights.com/uploaded_files/EqualityAct/services_code.doc

The above guidance is entitled *The Marriage (Same Sex Couples) Act 2013: The Equality and Human Rights Implications for Public Authorities* (Equality and Human Rights Commission publication GD.13.103-2, last updated 24 March 2014)

"Marriage in this country means the union of two people, voluntarily entered into for life, to the exclusion of all others."

The Registrar-General's new official definition of marriage, in the light of the new marriage legislation

BOOK REVIEW

Light on the family from an old Dutch master

The abiding value of Herman Bavinck's work on the Christian family

With so many recent publications on Christian marriage and family life on the market, it would be easy to overlook or dismiss a title first published a century ago (1912) – all the more so when the book in question was written in Dutch by a theologian who is not widely known among 21st century British evangelicals. However, if that were to be the fate of Herman Bavinck's slim volume on *The Christian Family*, the loss would be ours, since in the space of its 168 pages we find pure gold.[1]

In contrast to the superficiality and worldly philosophy that characterises too many modern titles on family life that bear a Christian label, with Bavinck there is a rare theological depth and biblical richness. This is not a slick, quick-fix guide to a successful family life; it is rather the fruit of several decades of reflection on the place of the family in the purposes of God from one of the finest theologians in the history of the church. J I Packer has ranked Bavinck alongside Augustine, Calvin and Edwards as "a man of giant mind, vast learning, ageless wisdom and great expository skill".

Herman Bavinck (1854-1921) served as Professor of Dogmatics at Kampen Theological Seminary for 20 years, before succeeding Abraham Kuyper as Professor of Theology at the Free University in Amsterdam in 1902. A number of his writings have been reprinted in recent years, including his magisterial four-volume *Reformed Dogmatics*, but he is perhaps best known as the author of *Our Reasonable Faith*, a single-volume synopsis of the larger work.[2] Following the recent translation of his work on the Christian family, English readers will, for the first time, be able to appreciate the profound, yet accessible, way in which this early 20th century Dutch theologian expounds and applies the teaching of the word of God on marriage and family life.

In the opening five chapters, Bavinck traces the role of the family from its origin at creation, through the disruption of the fall and its subsequent place among the nations and in Israel, to its reformation through the coming of Christ and the teaching of the apostles. Having laid this foundation, he proceeds to identify the dangers confronting the family, before framing a biblically-informed Christian response in terms of the relationship between husband and wife, the nurture of children, and the role of the family in society. The final chapter considers the future of the family and concludes on a positive note, looking forward to the consummation of all things.

[1] Herman Bavinck, *The Christian Family*, Christian's Library Press, 2012, xvii+168pp, ISBN 978-1-938948-14-5.
[2] For more information about Herman Bavinck and a list of his titles currently available in English, see http://hermanbavinck.org/

Here and there, the issues addressed may sound dated to the modern Western reader. There are, for example, references to domestic servants, co-education and women's suffrage, but they are relatively few and far between. For the most part, Bavinck's observations are fresh and pertinent to the lives of 21st century readers. Writing before the outbreak of the First World War, Bavinck showed tremendous foresight in his identification of dangers to the family which were only just appearing and in his recognition of where they would lead if left unchecked. He discerned the root of the evils which are only now coming to fruition. Unlike many Christians, in both his generation and in our own day, he correctly recognised the pernicious nature of evolutionary thought and the devastating and far-reaching effect that it would have on the family and on wider society.

The Christian Family is noteworthy not only for its penetration and insight, but also for the sheer beauty of the manner in which Bavinck expresses biblical truth. In commending this slim volume, I therefore make no apology for quoting several extracts at some length.

For Bavinck, "The essence of the Christian religion consists in this: that the creation of the Father, devastated by sin, is restored in the death of the Son of God, and re-created by the Holy Spirit into a kingdom of God." [3] It is within this framework that he addresses the subject of the Christian family.

1. The family in God's plan and purpose from creation

Bavinck is clear that the union of a husband and wife is the primary and most intimate relationship of all. He comments:

> A man separates from his parents, forsakes father and mother, and cleaves to his wife; but he never abandons his wife! Love for parents is surpassed in both intensity and extent by love for one's wife. Such love is stronger than death. No other love resembles God's love so closely, or reaches such height. (page 7)

As James Eglinton explains in his introductory essay: "Bavinck's work is essentially one giant effort to develop a world-view centred on the Triune God: marriage and the family included." Although Bavinck insisted that the three-in-oneness of God is unique and cannot be replicated elsewhere, he nevertheless believed that "everything created by the Triune God somehow referred back to this divine unity-in-diversity. The universe is, after all, the general revelation of its Triune Creator. So, while we can only find the Three-in-One formula in God himself, we find pointers to God's triunity everywhere." [4]

Bavinck notes that the man and the woman together were created in God's image and likeness, and were called to unfold the image of God as, with the blessing of God, they fulfilled the creation mandate to be fruitful and to exercise dominion (Genesis 1:26-28). Thus he writes:

> Upon this fellowship of love, then, God has bestowed his blessing in a special way. He is the Creator of man and of woman, the Inaugurator of marriage, and the Sanctifier of matrimony. Each child born is the fruit of fellowship, and as such is also the fruit of divine blessing. The two-in-oneness of husband and wife expands with a child into a three-in-oneness. Father, mother, and child are one soul and one flesh, expanding and unfolding the one image of God, united within threefold diversity and diverse within harmonic unity.

[3] Herman Bavinck, *Reformed Dogmatics*, Vol 1, Baker, 2003, p.112.
[4] James Eglinton, 'The Christian Family in the Twenty-First Century', Introduction to Herman Bavinck, *The Christian Family*.

> This three-in-oneness of relationships and functions, of qualities and gifts, constitutes the foundation of all of civilised society. The authority of the father, the love of the mother, and the obedience of the child form in their unity the threefold cord that binds together and sustains all relationships within human society. Within the psychological life of every integrated personality this triple cord forms the motif and melody. No man is complete without some feminine qualities, no woman is complete without some masculine qualities, and to both man and woman, the child is held up as an example (Matthew 18:3). These three characteristics and gifts are always needed in every society and in every civilisation, in the church and in the state. Authority, love, and obedience are the pillars of all human society (pages 7-8).

2. The family in a fallen world

Bavinck notes how the very first sin not only *affected* the family, but, in its very nature, constituted rebellion against God's created order:

> The first sin… immediately involved a reversal within the family order. Rather than following her husband, the wife took the lead. Rather than being obedient, she took charge. Rather than being a helpmeet for him, she assumed the roles of mistress and regent. Adam and Eve sinned not only as individuals, as persons, but they sinned also as husband and wife, as father and mother; they were playing with their own destiny, with the destiny of their family, and with the destiny of the entire human race (page 10).

The early chapters of Genesis demonstrate that the devastating effects of this first sin upon relationships within the home were not slow to manifest themselves, and yet in his kindness God has preserved the institution of marriage, the importance of the family and the distinction between male and female. Bavinck observes:

> But now we see the miraculous arise in this sad history. Despite all those grievous sins that besieged and disrupted the home for century after century, generation after generation, among all peoples and in every land, despite this entire stream of evils, the home has been preserved and maintained everywhere and in every age in more or less pure form. The advocates of the teaching of evolution claim otherwise, and they argue that there was no evidence of home and family life at the beginning of the human race and even today among many tribes and peoples. But this is pure fantasy; a careful study of reality teaches something entirely different, and acquaints us with the surprising fact that the fundamental ordinances of family life still appear even among the peoples who are the most undeveloped… It is a miracle of God's grace and of the leading of his providence…
>
> Furthermore, the distinction between man and woman was always known among all people groups, and taken into account by all of them in terms of practice. Nature teaches this distinction, and no science or philosophy is needed to acquaint oneself with this. Man and woman differ in physical structure and physical strength, in psychological nature and psychological strength; thereby they naturally enjoy different rights and are called to different duties; no single people was unfamiliar with this and did not organise the practical matters of life accordingly. From the very beginning there existed a kind of division of labour both before marriage and within marriage. In the main, that division of labour came down to this, that the man took care of obtaining food from the animal world while the woman took care of obtaining food from the plant world... The man performed his work by going away from home, occasionally far away, and the woman performed her work in the home or in the neighbourhood of her dwelling (pages 23-24).

In spite of frequent and serious perversions of God's design for family life, Bavinck writes that:

> After the fall, God did not abandon humanity; within the heart of husband and wife, of parents and children, he preserved the natural love that he had planted in that heart, and thereby opened a fountain of pure happiness and inestimable blessing for earthly life (page 27).

3. The reformation of the family in Christ

The chapter on the family in the New Testament opens with a reflection on the fact that the Son of God was born of a human mother and brought up in a human family, followed by a reflection on the regard of the Lord Jesus Christ for women, marriage, parents and children. Although Bavinck recognises that, for some, the cost of Christian discipleship will involve conflict within the family and even, in some cases, the severance of close family ties, he notes that the advent of the gospel brought peace to many a heart and returned love to many a home:

> Christianity did not overthrow the natural ordinances and institutions, but infused a new spirit in them, reforming them from within. It did not liberate wives from their husbands, or children from their parents, or servants from their masters, or workers from their vocations, or subjects from the State. But Christianity made for better wives and children, manservants and maidservants, workers and citizens, and led them back to their respective relationships. Christianity provided spiritual liberation, and precisely in that way recreated earthly relationships (page 48).

The idea of grace restoring nature is central to Bavinck's theology. As he expressed it in a lecture on common grace in 1888:

> Christianity does not introduce a single substantial foreign element into the creation. It creates no new cosmos but rather makes the cosmos new. It restores what was corrupted by sin. It atones the guilty and cures what is sick; the wounded it heals.[5]

The Lord Jesus Christ did not, therefore, create a new way of regulating human relationships; neither did he institute a new provision for the care and nurture of children. It is rather his plan, by grace, to restore marriage and family life to the original divine purpose and thus to reflect the character of God. Bavinck writes:

> The sacredness of marriage comes to fullest expression in that it serves as an image of the covenant of fidelity between God and his people (page 35).

Or again:

> Earthly marriage images the heavenly, and serves to prepare for this heavenly marriage; for the ultimate goal of history is that a humanity may emerge of which Christ is the Head and in which God is all in all (Ephesians 5:32) (page 44).

[5] Herman Bavinck, 'Common Grace', translated by Raymond Van Leeuwen, *Calvin Theological Journal 24,* 1989, cited by John Bolt, 'Editor's Introduction' in Herman Bavinck, *Reformed Dogmatics*, Vol 1, Baker, 2003, p.19.

4. The family and the final consummation

The ultimate purpose of marriage will not be realised in the present age, however. For that we await the consummation of all things when Christ shall return and finally and for ever make all things new. As Bavinck expresses it:

> Marriage was instituted so that the glory of the King would come to light in the multitude of his subjects. Once it has attained this goal, marriage itself will pass away. The shadow will make way for the substance, the symbol for the reality. The history of the human race began with a wedding; it also ends with a wedding – the wedding of Christ and his church, of the heavenly Lord with his earthly bride (page 161).

Dangers confronting the family

Bavinck's emphasis on the kindness and providence of God in preserving marriage and family life in the midst of a fallen world does not blind him to all the abuses and distortions that have blighted the domestic scene in every age. Similarly, while he rejoices in "the incalculably rich blessing deriving from the Christian confession for family life", he is not oblivious to the "various aberrations and evils that have appeared repeatedly in this area and that served to undermine and destroy marital life", even where Christ has been named (page 52).

While recognising that the family has always been under attack to some degree, he considered that his own generation in the early 20th century faced an unprecedented threat:

> There has never been a time when the family faced so severe a crisis as the time in which we are now living. Many are not satisfied with remodelling; they want to tear things down to the foundation (page 61).

In terms that sound all-too-familiar to readers a century on, Bavinck noted the hostility of popular culture to God's design for marriage and family life:

> Poets, artists, novelists, and playwrights compete with each other in denigrating marriage and in surrendering to the hostility of the public. In thousands of hearts they stifle faith in the ideal and extinguish pure and virtuous love (page 74).

He identifies four particular dangers:

- ***Eugenics*** – "Artificial breeding, which until now has yielded favourable results with plants and animals, will in the future also be used with people" (page 59).
- ***Sexual liberation*** – the view that "No institution can ever be good… that binds two people to each other for their entire lives by the marital bond, compelling them to live together even when passion has disappeared and love has been displaced by coldness… Liberation must be the watchword! The State and the church must retreat entirely from this arena; no law, no rule, no bond… Let the entire business be left to human inclinations! Let them unite together freely, according to passion and whimsy, in love" (page 59).
- ***Feminism*** – the view that the inability of woman to develop herself freely and independently according to her nature has hindered her in terms of physical strength, intellectual capacity and scientific prowess. "But all of that will change when the woman becomes completely independent of the man in and outside of marriage, and when she is viewed and treated as an equal. Let every profession and job, every position and office be opened to women" (page 60).

- ***Egalitarianism*** – "Suppose society were organised in such a way that everyone would enjoy rest and relaxation at the appropriate time, in such a way that everyone received from the public treasury an equal wage or a subsidy equal to their needs, then the reason for all envy and hatred, for all sin and wickedness, would disappear. People would live together like brothers and sisters; complete equality would be the guarantor of harmonious brotherhood" (page 60).

The theory of evolution and the growth of the State

At several points in *The Christian Family*, Bavinck refers to the damaging influence of the theory of evolution. Not only was it contributing to a distorted view of history in which monogamous marriage was viewed as the latest stage in an ongoing evolutionary process, but it was creating a climate in which men and women no longer regarded themselves as morally responsible beings. Bavinck foresaw that evolutionary thinking would lead to an expansion of State power and limitations being placed on personal freedom:

> The theory of evolution… teaches that on its own, nature is chaotic, a disorderly situation, a battle of everyone against everyone else, and that in such a situation order is created only through the legislation of the State. The man is viewed essentially as a wild animal that is tamed and turned into a man only by the State. The State becomes the great domesticator and nurturer of humanity, the source of all rights, the creator and shaper of society. But this perspective is pervasively false, for it fails to take into account the rational and moral nature of human beings, their reason and conscience, their heart and soul – in short, the creation and providence of God (page 32).

He warned that the feminist agenda would have serious implications for family life and for the care and nurture of children. In order to liberate women from their family duties, the State would come to be regarded as the "true family":

> For the ideal that must be realised is equality; the woman must be relieved as much as possible from the burdens of motherhood and from the servitude of the home. She ought to enjoy the same rights and duties as the man, and to participate in the same privileges of citizenship. The State is the one true family, and all the citizens are members of that family with equal rights. These theories are gradually making their way out of the academy into the practice of life itself (page 139).

Bavinck recognised that children present a major obstacle to the fulfilment of the egalitarian dream, and he foresaw the State increasingly assuming responsibility for the care and education of children. Commenting on the ambition of some in his own day to create "complete equality" as the "guarantor of harmonious brotherhood", he wrote:

> The freedom of individuals and of families would indeed suffer some damage; perhaps parents would have to hand over their children soon after birth to the State for communal education. But the equality and fraternity are well worth this small sacrifice of freedom! (pages 60-61).

Another damaging consequence of the theory of evolution was its tendency to make people think that there is an inevitability about the direction in which social trends are moving and that nothing can be done about it. Bavinck observed:

> There are not a few who see the struggle for the family as hopeless and abandon it in advance because they think that evolution, to which today's society is subject, will lead inevitably to the dissolution and destruction of family life of a prior period… (page 135).

> There is nothing to be done, as someone recently stated, since antiquated marriage can no longer be maintained; evolution is quietly and unnoticeably paving the way for open marriages and open love (page 139).

Bavinck fundamentally rejected such fatalism and the passivity into which it was leading many. He declared: "It is completely false to view history as a process of evolution where everything moves involuntarily and powerlessly" (page 140).

Norman Wells

A further article will appear in the March 2015 issue of The Bulletin. *It will consider Bavinck's response to the dangers that confronted the family in his day and continue to confront it today.*

Latest news of significant individual cases

The following are summaries of the story so far in some of the significant recently-resolved or still unresolved cases involving Christians responding to a wide range of legal, police or disciplinary action against them. Seeking a remedy by means of litigation can be a lengthy process – sometimes taking several years for a closure to be reached. The Christian agency handling these cases is indicated in brackets at the end of each item.

Ashers Baking Company

Ashers Baking Company is a Christian-run bakery in Northern Ireland which is facing legal action after it declined to produce a pro-gay marriage campaign cake.

The McArthur family, who own Ashers Baking Company in the Belfast area, said that they could not fulfil the order because it conflicted with their Christian beliefs about marriage being between a man and a woman.

In May, volunteer LGBT activist Gareth Lee asked for a cake to be decorated with the slogan "Support Gay Marriage". He also wanted a logo of his campaign group QueerSpace and a photo of Sesame Street's Bert and Ernie in an embrace to be printed on the cake. When the order came through to the head office, the manager and directors decided to decline the request on conscience grounds, and offered Mr Lee a full refund.

On 26 June the Equality Commission for Northern Ireland wrote to Ashers on behalf of Mr Lee claiming that the bakery had acted unlawfully by refusing to decorate the cake and threatening legal action for discriminating on the grounds of sexual orientation, contrary to the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Online photographs of a QueerSpace event in May show that the group managed to get a cake decorated in the way it wanted from a different bakery.

Ashers deny that it has discriminated on the grounds of sexual orientation. The manager of the business, Daniel McArthur, said that the company is happy to bake cakes for anyone, but could not fulfil that particular order as it clashed with the ethos of the business. "We are Christians and our Christianity reaches to every point of our lives, whether that's at home or in the day-to-day running of the business."

Explaining why the company decided not to fulfil the order, Mr McArthur said: “We thought that this order was at odds with our beliefs, and was certainly in contradiction with what the Bible teaches.”

Ashers Baking Company takes it name from a verse of Scripture which says “Bread from Asher shall be rich and he shall yield royal dainties” (Genesis 49:20, NKJV).

The Christian Institute has retained lawyers to act for the bakery and to engage with the Equality Commission for Northern Ireland. It remains to be seen whether the Commission will issue court proceedings. [*The Christian Institute*]

Nohad Halawi

The case of a Christian worker who lost the job at Heathrow airport which she had held for 13 years, on the basis of false rumours that she was “anti-Islam”, was heard at the Court of Appeal in London on 25 and 26 June.

Nohad Halawi, who worked in a duty free shop at Heathrow’s Terminal 3, had defended a fellow Christian employee who was mocked by fellow Muslim workers for wearing a cross. Despite unsubstantiated complaints by the Muslim workers that she had behaved in an “anti-Islam” manner, the management took away her “airside” pass which meant that she was no longer allowed to work at the airport.

Mrs Halawi claimed unfair dismissal and religious discrimination at an Employment Tribunal in 2012 but it ruled that she had no protection under employment law as she was technically not an employee, despite significant evidence to the contrary.

At an Employment Appeal Tribunal in October last year, Mrs Halawi’s barrister, Paul Diamond argued that Mrs Halawi was an employee under European law, and as such should be protected from discrimination. He also argued that the Employment Tribunal should have considered the relationship which existed between Mrs Halawi and World Duty Free and Caroline South Associates, who controlled her working arrangements, as the basis for allowing her to be deemed an “employee”, or a “worker”, under European law.

Twenty-two of Mrs Halawi’s colleagues at Heathrow, including other Muslim workers, signed a petition which stated: “We are shocked and saddened by the recent dismissal of our colleague and friend, Nohad, as a result of malicious and unfounded allegations made against her.”

Andrea Williams, CEO of the Christian Legal Centre, which is providing legal support for Mrs Halawi, said: “This is a clear case of a Christian worker being subject to an injustice which was obvious to many of Nohad’s colleagues – including some Muslim colleagues – who signed a petition protesting against her dismissal. In order for us to challenge Nohad’s unfair dismissal, and the unequal treatment of Christians in the workplace, we need a judge to rule that she was, in fact, employed.”

On 28 October, the Court of Appeal ruled that Nohad has no employment protection. The case raises vital issues about whether employers can effectively sidestep important employment protections (including non-discrimination and religious freedom regulations) through the use of complex contract arrangements. It also highlights a potential clash between UK and EU understandings of “employment”. The case could have implications for thousands of workers in the UK who use employee controlled companies.

Nohad is liasing with her legal team to see how to respond. *[Christian Legal Centre]*

Aisling Hubert

In what is believed to be the first case of its kind to come to court in the UK, a summons has been issued to a doctor accused of offering to authorise an illegal "gender-abortion". The case is being supported by the Christian Legal Centre.

Dr Prabha Sivaraman has been ordered to appear before Manchester and Salford Magistrates' Court in December to face an accusation of conspiracy to procure an unlawful abortion. She was caught offering abortion on the grounds of gender, during an undercover investigation by a national newspaper in 2012.

However, after a lengthy police investigation, the Crown Prosecution Service took the surprising decision not to proceed with the case – despite finding that there was sufficient evidence to provide a realistic prospect of conviction.

The decision not to prosecute attracted widespread criticism from across the political spectrum.

But last month, 21-year-old Aisling Hubert, supported by the Christian Legal Centre, launched a rare private prosecution of Dr Sivaraman and of a second doctor in Birmingham.

The Magistrates' Court in Manchester has ordered the doctor to appear next month to face a charge of "conspiracy to procure poison to be used with intent to procure abortion, contrary to section 59 of the Offences against the Person Act 1861".

"Gender-abortion is a horrible practice. I took this dramatic step because those who should have done so were effectively turning a blind eye", said Aisling. "Again we have seen the establishment stand silent in the face of the abortion industry, hoping that the horrors will be swept under the carpet and the problems go away. But justice demands that something is done and that people are held to account for their actions. The law can only protect if it is enforced", she explained.

The CPS announced its decision not to prosecute last year, saying that there was sufficient evidence to prosecute the doctors, but claiming that doing so would not be in the public interest. The decision provoked cross-party concern. The Health Secretary, Jeremy Hunt, said: "This is a concerning development and I have written to the Attorney-General to ask for urgent clarification on the grounds for this decision."

Labour's Shadow Attorney General, Emily Thornberry, wrote to the Director Public Prosecutions (DPP), saying: "As you will know, the GMC is a regulator and cannot bring criminal proceedings. The provisions of the Abortion Act 1967 are crystal clear. The conduct of abortions for reasons not stated in that Act is a criminal offence, not just a regulatory one. To decide not [to] prosecute because a regulator can hear the matter instead is to disapply the law and undermine the will of Parliament." *[Christian Legal Centre]*

Margaret Jones

A Christian registrar who was sacked for indicating she would not be willing to conduct same-sex weddings has been reinstated after a successful appeal.

Margaret Jones (54), a Senior Deputy Registrar at Bedford register office, was asked by her employers in 2013 whether her Christian beliefs would prevent her from conducting same-sex weddings in light of the passage of the Marriage (Same Sex Couples) Act.

On 28 March 2014, just one day before the first same-sex "marriages" were due to be performed in the UK, Margaret had a meeting with management and confirmed that, as a Christian, she believed marriage can only be between one man and one woman. She said she would be unwilling to conduct same-sex weddings as she "would not be able to say the words and be sincere". At the meeting, Margaret was told the council's position was that she either perform same-sex "marriages" or resign.

In April 2014, a formal investigation was launched after Margaret was accused of "gross misconduct". It was alleged that her refusal to conduct same-sex weddings was in breach of her role and amounted to a failure to follow management instruction.

Margaret went through an internal disciplinary process and explained that while she could not perform same-sex weddings, she would be willing to register the marriages and deal with administrative tasks. She explained that since every marriage ceremony requires two members of staff – one to conduct and one to register – she could simply register the marriage, with the result that no couple would be denied a service.

In May 2014, Margaret was dismissed on the basis that her refusal to perform same-sex weddings breached equality laws and "brought the council into disrepute". At the time of her sacking, Margaret's shifts did not coincide with any pre-booked same-sex weddings, which meant she had not refused to perform the same-sex wedding of an actual couple.

"As I have not done anything wrong, I am being sacked for my belief, not my actions", she said.

In August, however, Margaret's appeal against her dismissal was upheld unanimously by a panel of Central Bedfordshire council members. The panel decided that the council had not fully investigated ways of accommodating Margaret's religious beliefs and that evidence had been found that in other cases "informal custom and practice arrangements had been developed in order to accommodate individual staff situations".

In a letter reversing Margaret's dismissal, the Council said that its appeal panel had decided that further consideration could have been given at the disciplinary hearing to ways of accommodating her "deeply-held religious beliefs". The letter informed Margaret that she would be reinstated with no financial loss and that any reference to gross misconduct would be "expunged from all records".

Paul Diamond, Standing Counsel to the Christian Legal Centre (CLC), which has supported Margaret over the issue said: "All good employers should follow this precedent, and practising Christians should no longer fear expressing their beliefs." *[Christian Legal Centre]*

Mike Overd

Mike Overd, who has been a street evangelist for more than five years, was asked to attend Taunton police station for questioning over six complaints received about his preaching in the town centre. He says that since a new town centre sergeant arrived some months ago, who urged local traders to use mobile phones to video him making potentially "offensive remarks", he has felt harassed.

"The sergeant also gave an interview to BBC Points West and the Somerset County Gazette, urging people to film me in order to show that my preaching is offensive. It is clear that this officer is determined to stop me preaching the gospel, which is a terrible attack on freedom of speech. I find it extraordinary that the police are trying to make it illegal to preach the gospel in the streets of our country, simply because the gospel at times confronts the sinner. It is also wrong for a police sergeant to incite local traders to seek out video evidence that my preaching causes offence and to

go on TV and speak to the press to encourage people to film me for evidence of potentially offensive preaching."

Mike films all of his street preaching and has provided the police with film recordings covering the six occasions which led to the allegations. "I do this to prove I have done nothing wrong. I simply preach gospel truth. I gave the police two DVDs covering all the events that led to their inquiry."

He preaches the good news of the gospel in various places where he sees groups of people gathered together, and he has evangelised in Glasgow, Sheffield, Manchester and currently in Taunton, near where he and his wife now live.

"My preaching is challenging because I tackle sin head on but I take care not to be offensive and I use a small amp box hung around my neck so I can be heard but don't have to shout loudly", explains Mike.

Mike feels that a number of the six complaints received were frivolous, with complainants failing to remember what he had said, or forgetting when the alleged offensive remarks had taken place.

A former Paratrooper, Mike is being represented by Christian Legal Centre lawyer, and has received a date for a hearing next year. *[Christian Legal Centre]*

Contributors to this issue of *The Bulletin*

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