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Asylum-seekers and religious conversion: TF and MA

By Frank Cranmer

Law and Religion UK (03.09.2018) - <https://bit.ly/2CkUg0a> - When an asylum-seeker claims fear of persecution as an apostate if returned to his or her country of origin, how should a tribunal evaluate the genuineness of a claimed religious conversion?

In TF and MA, Appeals by Against the Secretary of State for the Home Department [2018] ScotCS CSIH 58, the appellants were both Iranian nationals whose claims for asylum had been rejected by the Secretary of State and whose subsequent tribunal appeals had been unsuccessful [1]. Both appellants worshipped at the Tron Church, Glasgow – an Evangelical congregation that had seceded from the Church of Scotland in 2012 – and both produced evidence from a number of individuals with connections to the church that they had become Christians. Both claimed that they had a well-founded fear of persecution arising out of their conversion to Christianity after their arrival in the UK; however, the tribunals did not believe that their conversions were genuine and refused both appeals on that basis [2]. It was not disputed on behalf of the Secretary of State that converts from Islam to Christianity do, in fact, face a risk of persecution if compelled to return to Iran [4].

When the appeal came before an Extra Division of the Inner House, the crucial issue was that the FTT judge had found both TF and MA to be lacking in credibility [36] and, by implication therefore, that the FTT and the UT had also dismissed the evidence of the minister and elders of the Tron Church as to the genuineness of the appellants' conversions.

On the weight to be given to such evidence, the Court (per Lord Glennie) said this:

"[W]e have no doubt that expert evidence – both opinion evidence and expert evidence of fact – is admissible on these matters and can be given by the individuals we have mentioned. However, there is a separate question as to the weight to be attached to such evidence. It is trite law that an expert witness must explain the basis of his or her evidence; mere assertion or 'bare ipse dixit' is worthless: *Kennedy v Cordia* (supra) at paragraph [48]. But, as was recognised in the first sentence of that paragraph, there is a certain type of expert evidence – expert evidence based on personal observation or sensation – which is difficult to substantiate in this way. Such evidence may relate to questions of quality of goods or materials, or the quality of workmanship, or the artistic or literary merits of a work of art, a book or a play. In such circumstances it may be that all the expert can do is give his opinion based upon his long and varied experience. That, in our opinion, is the type of evidence that we are concerned with in cases such as this" [59].

As to how such evidence should be assessed:

"The witnesses have observed many people undertaking courses with a view to baptism and becoming members of the church. They have seen some succeed and some fail. They will have been able to assess individuals over time as a result of those individuals taking part in activities within the church. They will have seen the intensity of their participation and will have heard the questions they ask and the interest in understanding that they show as matters are explained. Their evidence will be of the impression that that individual has made on them. They will be able to say that, in their opinion, based on their experience of this individual and many others, the individual in question is or appears to be genuine (or in other cases, they are not satisfied, or not yet satisfied, of the genuineness of their self-proclaimed faith). This, in our opinion, is admissible opinion evidence which is entitled to respect. Of course, it remains for the court or tribunal to make the final decision, and nothing in the expert evidence can take that away from the court or tribunal. To this extent, it is legitimate to question the experts on their opinions and as to the basis upon which they have reached those opinions. In some cases, it may be appropriate to question the objectivity of the assessment made by the witness or to suggest that there may be an element of wishful thinking, given the evangelical mission of the particular church. But, as we have already made clear, that exercise should not start with any predisposition to reject the evidence because it does not fit in with some a priori view formed as to the credibility of the appellant. The evidence should be considered on its merits and without any preconception, based upon an assessment of the individual appellants, that it is suspect or otherwise falls to be disregarded" [59: emphasis added].

The Inner House disagreed with the conclusion of the UT that, in each case, there had been no error of law in the decision of the FTT and no lack of adequate reasoning [63]. It concluded that the FTT and the UT had erred in law in both cases and had failed properly to take account of the independent evidence relating to the genuineness of the appellants' conversions to Christianity – and had failed to give adequate reasons for, in effect, disregarding that evidence. The two appeals were allowed, the decisions of the FTT and the UT were set aside, and the appeals against the decisions of the Secretary of State were remitted to the FTT for rehearings in each case before a differently-constituted tribunal. The issue of expenses was reserved [65].

Restrictions lifted on Dartford nurse who gave Bible to patient

A nurse sacked from a hospital and then placed under restrictions for imposing her religious beliefs on patients has been told she is fully fit to practice.

BBC (08.08.2018) - <https://bbc.in/2vuEDNU> - Sarah Kuteh was dismissed from Darent Valley Hospital in Kent two years ago after giving her Bible to a patient.

The Nursing and Midwifery Council (NMC) said it was now in the public interest for her to return to practice.

Ms Kuteh told BBC South East she was absolutely elated at the decision because nursing was her passion.

She said: "I didn't expect to be sacked so I was shocked. This means so much to me because I can go back to the profession I love."

Dartford and Gravesham NHS Trust said it was pleased she could continue her career as a nurse unrestricted.

Patients' faiths

It said her case had never been about religion and she was dismissed for gross misconduct after she was made aware of several complaints from patients and asked to refrain from preaching to them.

"We took no satisfaction in having dismissed Sarah but must always act in the best interests of our patients and in accordance with professional codes of conduct," a statement said.

The mother of three had worked at the hospital in Dartford from 2007 and had 15 years of nursing experience when she was sacked in August 2016.

Her job had involved asking patients about their faith as part of a pre-operative assessment questionnaire.

She said that although she had no intention of imposing her beliefs on others, she would sometimes tell them about how her own faith had helped her overcome adversity.

Ms Kuteh launched legal action in December 2016, supported by the Christian Legal Centre, and in a statement at the time she said: "How could it ever be harmful to tell someone about Jesus?"

Her dismissal was ruled as fair by an employment tribunal in April 2017.

Ms Kuteh subsequently found a new job in a nursing home, but was only allowed to work as a nurse subject to a range of conditions imposed by the NMC.

At a hearing before an NMC panel last month, her supervisor praised her as "a kind, caring, honest, friendly nurse" and "a valuable member of the team".

Ms Kuteh conceded that giving her personal bible to a patient was "going too far" and "crossing professional boundaries", and she should have used a bible from the hospital chaplaincy instead.

The NMC unanimously ruled the restrictions should end.

Lord Ahmad appointed as PM's Special Envoy to promote religious freedom

Lord Ahmad given role as Prime Minister's Special Envoy on Freedom of Religion or Belief.

UK Prime Minister's Office (04.07.2018) - <https://bit.ly/2z6Orli> - Lord Ahmad has today been appointed as the Prime Minister's Special Envoy on Freedom of Religion or Belief.

The role, which supports the Prime Minister's commitment to religious tolerance in the UK, will allow Lord Ahmad to demonstrate the country's commitment to religious freedom by promoting inter-faith respect and dialogue internationally.

Lord Ahmad, who is also Minister of State for the Commonwealth and the UN at the Foreign & Commonwealth Office, will promote the UK's firm stance on religious tolerance abroad, helping to tackle religious discrimination in countries where minority faith groups face persecution.

The appointment underscores the Prime Minister's commitment to tackling religious prejudice in all its forms and follows the government's recent announcement of a further £1 million funding for places of worship that have been subjected to hate crime attacks.

Prime Minister Theresa May said:

"Religious discrimination blights the lives of millions of people across the globe and leads to conflict and instability. Both here and abroad, individuals are being denied the basic right of being able to practise their faith free of fear.

"Tolerance for those of different faiths is fundamental to our values, and is an issue I know is already of great importance to Lord Ahmad, who is constantly looking for fresh ways to promote religious liberty in his role as Minister for Human Rights at the Foreign Office.

"I look forward to supporting him in this new role as he works with faith groups and governments across the world to raise understanding of religious persecution and what we can do to eliminate it."

The PM's Special Envoy for Freedom of Religion or Belief, Lord Tariq Ahmad of Wimbledon said:

"In too many parts of the world, religious minorities are persecuted, discriminated against and treated as second class citizens. As a man of faith, I feel this very keenly.

"Freedom of Religion or Belief is a human right enshrined in the Universal Declaration of Human Rights. It must be respected. People from all faiths or none should be free to practise as they wish. This respect is key to global stability, and is in all our interests.

"I am delighted to have been appointed as the PM's Special Envoy. I shall use the UK Government's global network to reach across religious divides, seek the elimination of discrimination on the basis of religion or belief and bring different communities together."

Church bells protected from noise complaints under new planning laws

[Harry Farley](#)

Christian Today (21.01.2018) - <http://bit.ly/2EgeW76> - Church bells will be protected from noise complaints under new planning laws to be introduced.

Ministers are changing planning guidance in England for new houses after parishes whose bells have chimed for centuries were forced to comply with noise abatement orders by disgruntled neighbours who had recently moved to the area.



St Peter's Church, Sandwich. The village church has been ringing its bells for 900 years through the day and night.

The updated guidance shows the government is 'standing up for churches', ministers said, and it means vicars will not have to put up with 'unreasonable restrictions put on them because of changes in nearby land uses since they were established' because new houses are built near them.

Becky Clark, the Church of England's director of Churches and Cathedrals, said: 'We welcome these planned changes, which will help ensure that the distinctive sound of church bells continues to ring out well into the future.'

'The Church Buildings Council – the body which helps dioceses maintain church buildings - supports the continued use of church buildings as places of worship, including proclaiming their presence through the ringing of bells.'

'We maintain a register of historic bells, some of which date back to the 13th century, and provide grants to help with their care and conservation. Bell ringing has been part of Christian worship for a thousand years.'

National planning policy already stops unreasonable restrictions being placed on businesses but ministers will change the National Planning Policy Framework to emphasise the point. The changes will not just apply to churches but also music venues.

Housing Secretary Sajid Javid said it was 'wrong' that churches and entertainment sites were having to make expensive changes to their business arising from developments outside their control.

'I have always thought it unfair that the burden is on long-standing music venues to solve noise issues when property developers choose to build nearby,' he said.

'I am pleased to finally have an opportunity to right this wrong and also give more peace of mind to new residents moving into local projects.'

It comes after St Peter's Church, Sandwich, was forced to silence its bells after a handful of complaints from new neighbours. A Save Our Chimes campaign started, and a local survey organised indicated that 85 per cent of residents wanted the chimes to continue.

Local MP Craig Mackinlay told The Daily Telegraph: 'Church bells have tolled for centuries across the country and it is vital that they can continue to be heard.'

'This started off as a local issue in Sandwich and I am delighted that ministers have listened and are now going to act nationally.'

'The bell has tolled for local meddlers who want to silence the chimes and local councils who too frequently put commonsense and centuries of tradition aside to come to decisions that are held in respect by local people.'
