

Building Religious Pluralities at the Intersection of Law and Culture

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This short paper explores the dynamics of building cultures of religious plurality within institutions that increasingly find their ways of working compromised by the combative, litigious relationship of the individual citizen with the state. It begins by exploring the notion of religious freedom in English history, introducing the thought of the Victorian political thinker and monk John Neville Figgis. These considerations are then applied to the negotiation of various freedoms within the troubled context of the contemporary university. To conclude, insights are drawn from Figgis's own monastic tradition, the Rule of St Benedict, to consider how intermediate institutions like universities can resist the trend of becoming places that exchange grievance and reparation to build stronger cultures of encounter and inclusion across difference.

Freedom and the State in the English Tradition

It is well known that England has one of the most formally established national churches in the world. The Queen, as Supreme Governor of the Church, plays a unique role in its governance, approving the nomination of bishops and receiving an oath of allegiance from every cleric at their ordination and at their licensing to any post in the Church. Bishops continue to sit in the British legislature and the Archbishop of Canterbury holds the title of First Peer of the Realm, meaning that formally he ranks above the Prime Minister in the hierarchy of the state.

You might think, therefore, that religious expression in England is a tightly controlled area of life, imposed by the state on its individual subjects. Historically, of course, that happened. In the sixteenth and seventeenth centuries, the state forced the conversion of Roman Catholics and many who refused were executed. That was followed by waves of state persecution of Protestant dissenters, many of whom famously fled to practice their faith in America. Yet from as early as the settlement under Elizabeth I, the diversity of religious expression within the Church of England was an acknowledged reality and the project of the national church became essentially one of the containment of religious pluralism rather than one of rigid homogeneity.

Over time a succession of Toleration Acts and the Catholic Emancipation Act were passed legitimising other Christian denominations. But even within the Church of England itself, a much broader spectrum of Christian expression was always tolerated, and even began to be celebrated, than in other reformed national churches. It can be argued that it was this *internal* spirit of robust plurality that built momentum for the *external* toleration that later emerged. Whilst Catholicism, was regulated and scrutinised for its possible loyalties to Rome, a ritualised high church style of worship was not only tacitly allowed as an expression of Anglican life but adopted by many monarchs. High Church Anglicanism was never fully suppressed and experienced a dramatic renaissance in the nineteenth century in a movement that originated among Catholic-leaning thinkers at the University of Oxford. It overcame English cultural suspicion of Catholicism and successfully challenged laws that prohibited such basic catholic practices as placing candles on the altar and the priest wearing vestments at mass.

Given this history, it is unsurprising that this movement gave birth to one of England's most interesting philosophers of religion and political theory. John Neville Figgis was a priest and a monk at the Community of the Resurrection in Mirfield, Yorkshire. He lived from 1866 to 1919 and so witnessed the great political turbulence across Europe that culminated in the First World War. Figgis believed that an attractive feature of English polity was that it was not based on a "false conception of the state as the only political entity apart from the individual" which he saw as the dominant understanding of citizenship in France and Germany. This kind of social contract exclusively mediating the relationship between the state and the individual citizen was, he believed, at variance "with the freedom of all other communal life, and ultimately with that of the individual."¹ He saw an extremely important role, therefore, for intermediate institutions: multiple micro-societies that make up the larger society of the nation. These include, of course, religious institutions like the Church or monastic communities like his own. But they extend to any institution that forms a collective belonging between members such as universities, which of course had their European origins in monastic communities too. Defending this plural understanding of society was, he believed, essential to the pursuit of freedom: "Our first aim, then, must be to endeavour to induce men [sic] by persuasion and all means morally legitimate to admit the positive right of societies to exist."²

Such intermediate institutions are not, of course, outside of the law. Indeed, Figgis acknowledges a "rightful government control"³ to ensure they function in accordance with the good of wider society. It is more the case that these institutions mediate the statutory legal entitlements of their members through codes and conventions of their own. "Except in a small and highly-undeveloped society, very many transactions must take place which depend for their validity on the character of men [sic], and not on any legal instrument."⁴ In other words, there are principles of transparency, accountability and freedom that need to be enshrined in law. Since Figgis's time, many of these principles have come to be articulated in terms of the human rights of the citizen: to free speech, to private life, to freedom of personal expression, and so on. But for intermediate institutions to flourish, these human rights must be received and exercised within the context of a shaped ethos, shared values and aspirations which extend beyond the law.

Regulating Freedoms within the University

This situating of intermediate institutions within the English definitions of freedom and its religious considerations sets the scene for understanding the contemporary challenges of the university as a complex diverse society within the broader context of the national community. Universities are fundamentally places of learning. But they are also sites of social integration and social contestation. Their task is one of integration because they gather students and faculty from diverse backgrounds and origins. This is not simply a modern phenomenon. Part of the "universality" of the university has been in drawing together people from different nationalities

¹ John Neville Figgis, *Churches in the Modern State* (London: Longman Green and Co., 1913), p.100

² *Ibid.*, p.100-101

³ *Ibid.*, p.103

⁴ *Ibid.*, p.105

and social groupings to pursue universal knowledge and wisdom. As such, difference is integral to the university's identity. My own university, for example, draws students from 150 countries; 60% of students are from outside of Europe. But universities are also sites of social contestation because they are profoundly symbolic institutions within wider society. They represent the form of values and citizenship in which we wish to induct our most able young people. Thus the values and ethos that should characterise them are hotly debated and those who want to argue that something is fundamentally wrong with wider society will often blame universities as the engine of that social decline. Those who believe that their worldview or politics is under attack in wider society will suggest it is illegally suppressed in universities. Those who believe their social grouping is oppressed in wider society will suggest it is illegally discriminated against in universities.

These external pressures and projections are one of the principal reasons why universities have been hampered in their ability to fashion their own micro-society, in the manner Figgis describes, and have been left exposed to the worst excesses of the state/citizen dichotomy to which he is opposed. Resolving individual student complaints or campus disputes through internal processes and negotiation is far less possible as individuals have increasingly appealed to the law as the guarantor of their freedoms and external bodies (including government) have intervened for their own purposes. And since reconciling diverse and often opposing human rights is a conundrum in wider society, these legal battles are also inclined to be fought out on university campuses.

Religion has featured prominently in these debates in recent times. Government has identified universities as places where Muslims are radicalised into terrorism and has imposed requirements on universities to monitor such students.⁵ In response, student and faculty organisations have opposed what they perceive as an infringement of civil liberties.⁶ Jewish groups and government have argued that universities are not doing enough to combat antisemitism.⁷ Others have argued that this is being weaponised to suppress pro-Palestinian activism on campuses. Some staff and students argue that their religious freedoms are denied by their university⁸ and others (such as LGBTQ+ groups and atheist groups) have suggested that religious freedom inhibits freedoms of their own.⁹

⁵ The Counter-Terrorism and Security Act 2015 imposes on universities the statutory duty to have 'due regard to the need to prevent individuals from being drawn into terrorism', the so-called "Prevent" duty.

⁶ Universities UK argue that the Prevent duty goes against universities' legal obligation to promote freedom of speech within the law. The National Union of Students is campaigning to have the Prevent duty repealed.

⁷ In 2020, the Secretary of State for Education wrote to all British universities requesting that they formally adopt the International Holocaust Remembrance Alliance's definition of antisemitism which is illustrated by examples which opponents claim inhibits legitimate criticism of the state of Israel. The government has warned that the Higher Education regulator, the Office for Students, could be instructed to take action against those universities refusing to adopt the definition.

⁸ Universities, like many public institutions still struggle to interpret their legal obligations to religious people under the Equality Act 2010 in areas such as the timetabling of lectures and examinations when they may clash with religious festivals.

⁹ In 2014 two atheist students began legal proceedings against the London School of Economics when they were asked to remove t-shirts showing cartoons of the Prophet Muhammad at a student welcome event.

Insofar as all these areas require some censorship – either voluntarily embraced or imposed by the institution – new legislation reinforcing obligations to free speech and, for the first time, extending them to Students Unions, can only intensify these challenges. The government cites examples of the security costs charged by Bristol university for a visit from the Israeli ambassador and opposition among academics at Oxford University to a project challenging prevailing post-colonial assumptions as evidence for the need to further regulate.¹⁰ But while this appeals to a Conservative government’s electoral support base, it does nothing to help universities address issues that provoke strong reactions on campuses with any sensitivity.

To navigate a course through these legal challenges, and avoid a growing and costly recourse to litigation, universities have a dwindling armoury of non-legally enforceable ethics codes and student charters. These articulate the values and commitments that intermediate institutions need for their members to recognise mutual interest and the personal sacrifices they may need to make for the common good. But in a society marked more by individualism than a thick civil society, and with a heightened scrutiny of universities by external actors (including government), the task of building cultures of robust religious plurality between the individual citizen and the state seems ever more challenging.

Building Religious Pluralities

The kind of ethics codes or student charters that universities need will not contradict the law or remove legal entitlements from members of the university community. But rather they will set out the commitments and responsibilities voluntarily entered into by those wishing to benefit from membership of that community. They are the equivalent of Figgis’s own monastic vows, of which he writes: “These are not now a legal obligation, but that they have a very practical effect is not doubtful. Certain exceptions do not prove the contrary, any more than the existence of criminals proves the law to be of none effect.”¹¹ The Community of the Resurrection at Mirfield to which Figgis belonged follows an adapted version of the Rule of St Benedict, the list of instructions and social codes that binds together a community in the Benedictine tradition. It was compiled by St Benedict of Nursia who founded the first such communities in the sixth century and came to have enormous reach and influence in shaping hundreds of monasteries and convents throughout medieval Europe, including at the heart of London’s legal and governmental life through the Benedictine foundation of Westminster Abbey. Aspects of the Rule have influenced secular legal frameworks, including, for example, the democratic election of leaders.¹² But its purpose is not the same as law in setting the boundaries for permissible behaviour. Rather it reaches far more deeply into interpersonal dynamics. It sets out to provide “‘tools’ for living

¹⁰ <https://www.gov.uk/government/news/universities-to-comply-with-free-speech-duties-or-face-sanctions>

¹¹ John Neville Figgis, *Churches in the Modern State* (London: Longman Green and Co., 1913), p.105

¹² It should be observed that Chapter Sixty-Four sets out a democratic process for the election of abbots which was counter to forms of leadership in the rest of society and may well have influenced the formation of European democratic constitutions more than the often cited legacy of the Greeks.

accountably alongside others, for learning how to pay attention to others, for identifying and rectifying your own unthinking self-centredness.”¹³

In his analysis of the Benedictine Rule, Rowan Williams suggests that this can be understood by the analogy of a “currency”. The intention is to promote the circulation of virtues such as accountability, attention to others and selflessness within the community: “what you receive is what you give, what you put into circulation”.¹⁴ The peace that the Rule envisages and promotes is not, therefore, one litigiously policed by the balancing of legal entitlements, but rather “a habit of stable determination to put into the life of the body something other than grudges.” On the question of the promotion of freedoms he writes:

The denial of rights is a terrible thing: what takes time to learn is that the opposite of oppression is not a wilderness of litigation and reparation but the nurture of concrete, shared respect. The Rule suggests that if concern with right and reparation fills our horizon, the one thing that we shall not attain is unselfconsciousness – respect as another of those worn-smooth tools that are simply an extension of the body.¹⁵

It is not hard to recognise something of the contemporary university in this combative exchange of rights and reparation. So how can fractious and religiously plural institutions of learning incorporate something of the Benedictine principles in order to promote harmony and cohesion? Today’s university contrasts with a Benedictine community in two fundamental respects. First, the centrality of prayer and worship as the binding force of community is no longer applicable to secular or religiously plural institutions. Second, and perhaps most challengingly, the Benedictine formula is predicated on long-term stability. Relationships have to be worked at because they cannot be walked away from. Such stability is rare in the modern university. In my own the majority of students are only enrolled for one year masters courses and even faculty move posts more rapidly than would have previously been the case.

Nonetheless, university ethics codes or student charters can learn from the Rule of St Benedict in at least two respects. First, they need to go beyond simply rearticulating the rights and freedoms that are the concern of the law and, therefore, merely serve to further police the boundaries of acceptable speech and action within the university. Rather they should focus on the manner of people’s engagement with one another so as to ensure the flourishing of plural community, including healthy and respectful disagreement. Williams alludes to the “tools” for community life which Benedict sets out in Chapter Four of his Rule. Some are clear moral injunctions such as the Ten Commandments of the Old Testament with which they begin. But most are concerned with our modes of interaction with others and the cultivation of a self-awareness that makes room for difference. Humility is particularly prominent (not desiring to be called holy, rejecting pride, acknowledging the wrong things that we do) and many are principles

¹³ Rowan Williams, *The Way of St Benedict* (London: Bloomsbury, 2020), p.4

¹⁴ *Ibid.*, p.17

¹⁵ *Ibid.*, p.18

that promote generosity and forgiveness in community life (not speaking ill of those who speak ill of us, making peace with our adversaries before the setting of the sun).

Although not directly translatable, the same principles apply. What is the manner in which we want to navigate intellectual and cultural disagreements? How will we react to those who say or do things that offend us? And all the while, how can we cultivate a sense of individual freedom that is not at the expense of the freedom of others but is willing to bend and make room for ideas and practices that challenge me?

Second, taking up William's analogy of "currency", serious thought needs to be given to the mechanisms by which these values and habits "circulate" within the university community. Too many ethics policies are documents that are brought into play when incidents occur and relationships have broken down. For some years the centre I lead has been running programmes to promote religious literacy and interfaith leadership across diverse cohorts. Our mission is to equip young people with the knowledge and skills to lead across difference. On the face of it this is about religious diversity, but we have repeatedly seen how religion intersects with all manner of cultural polarisations, which young people need structured support and leadership formation in order to address.

In 2018 we took a group of religiously diverse students on an educational visit to Israel and the Occupied Palestinian Territories, a programme we have run a number of times. It includes preparatory workshops on navigating difference before we leave and some follow up activities when we return. This cohort included an American student who had previously participated in the 2017 "Unite the Right" rally in Charlottesville, USA, but had since expressed regret about attending and renounced white supremacy. There had been a campaign to have him removed from the university and, despite his statement of remorse, his presence in the community was seen as a violation of the security and freedom of various minority groups. The trip was not easy and our usual preparatory workshops were supplemented with various forms of mediation and opportunities for listening and encounter. But the programme proved a remarkably effective mechanism for integrating this student with black, Muslim and Jewish students in a manner that contributed to the stability of the whole community upon return to campus. This and similar programmes, workshops, trainings and so on facilitate the circulation of a currency of listening, openness, compassion and meaningful respect that enables an intermediary institution like a university to become an effective cohesive entity in between the poles of the individual citizen and the state.

Conclusion

Law will be central to the promotion of human freedom within states and around the world, including the area of religious freedom. But the negotiation of diverse and sometimes opposing freedoms located in individual citizens and guaranteed by the state is fuelling a combative and resentful discourse in society which increasingly undermines the work of universities. Recalling their European origins as monastic communities, John Neville Figgis's account of the role of intermediate institutions gives us insight into how we might resist this grievance culture. Agreed

codes of moral conduct and accountable behaviour, oriented towards the flourishing of diverse community and facilitated by practical mechanisms, can mediate rather than detract from legal provisions and provide the context for healthy, respectful religious plurality.