

# THE ACCOMMODATION OF RELIGION IN THE WORKPLACE: DIGNITY AND PRODUCTIVITY

Professor Mark Hill QC

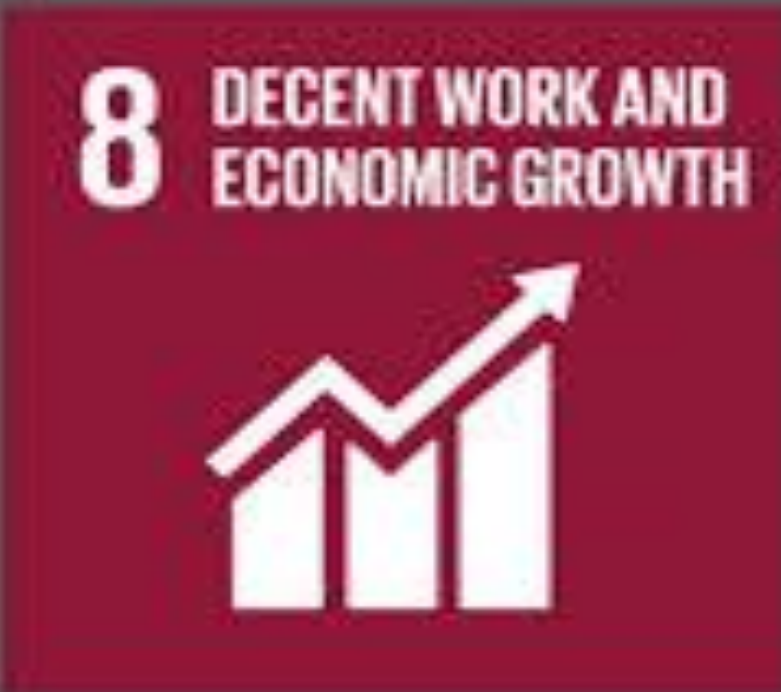
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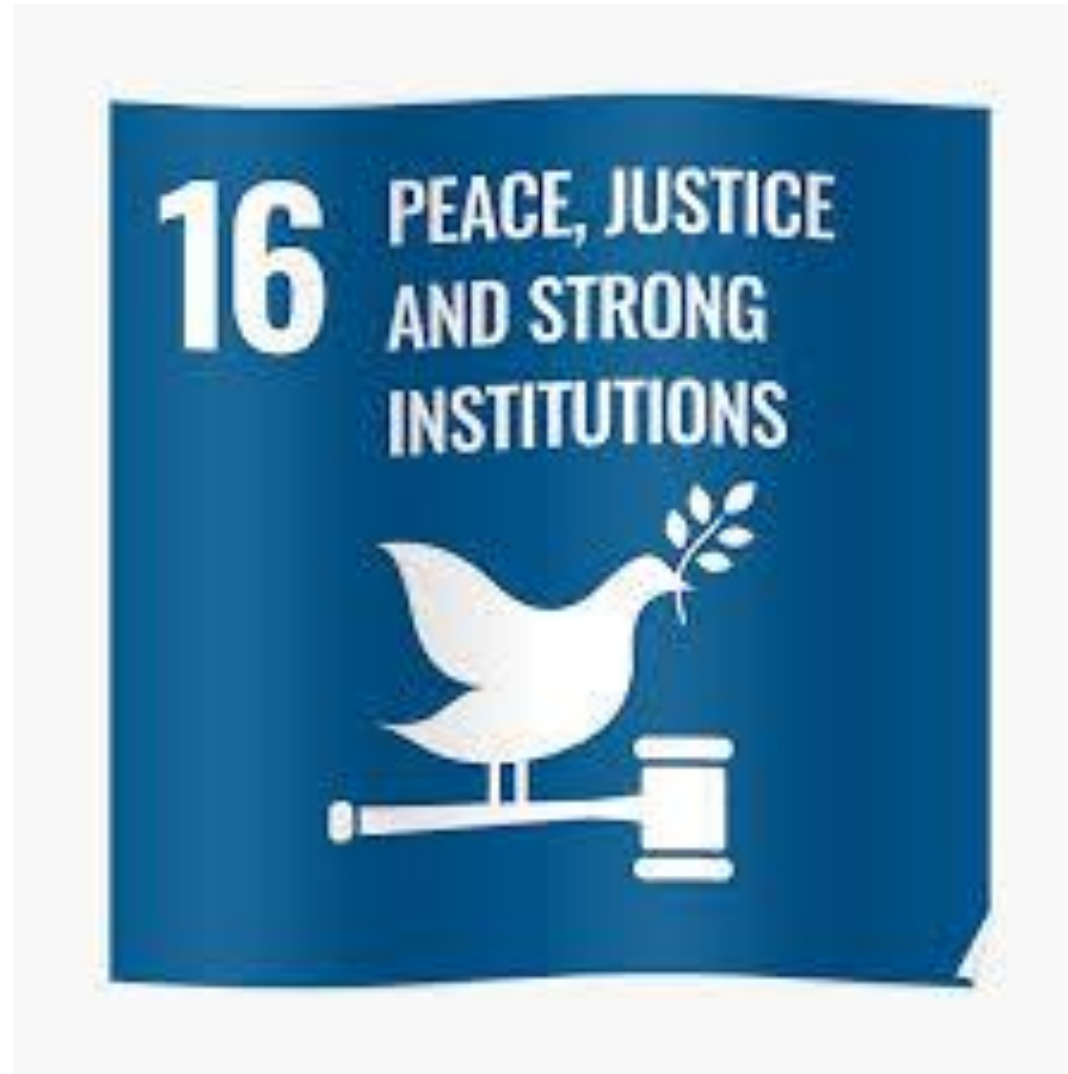
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# Dignified Work

In association with other streams including:

“Religion and Anti-Discrimination Norms”

“Innovation and Why Religious Voices Matter”

# The Accommodation of Religion in the Workplace: Dignity and Productivity

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### **The Presenting Issue**

- religious identity travels with us
- not just the home or the place of worship
- percentage of time spent in office, factory, etc.
- a workforce that feels respected and that it is afforded dignity is a productive workforce
- division, argument, unhappiness and dissent has the potential to compromise the effectiveness of any business or organisation
- denial of religious accommodation is a form of religious discrimination

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*‘Faith is not a garment to be slipped  
on and off; it is a quality of the  
human spirit, from which it is inseparable’.*

His All Holiness Bartholomew I,  
Ecumenical Patriarch of Constantinople



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## **The Covid Factor**

- Working from home
- Mental health
- The sociability of work
- Collaborative functioning
- Return to normality or .....
- ..... Build back better

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## **When is accommodation needed?**

- Non-discriminatory hiring and firing
- Religious dress
- Dietary requirements
- Washing and praying
- Holy days
- Performance of duties that conflict with religious beliefs and practice

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- Employers need to be religiously literate
- Government or other guidance
- Input from local faith leaders
- Engagement with employees
- Reasonable accommodation of religious beliefs and practices
- No undue hardship to the organisation
- No undue negative impact on fellow employees

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## **Employers with a religious ethos employers**

- A right to recruit personnel whose beliefs and conduct are consistent with the ethos of the organization.
- Limited scope
- Core leadership positions
- State funding
- Public servants
- Churches and similar bodies

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**Law?**

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## **UNIVERSAL DECLARATION ON HUMAN RIGHTS (1948)**

### **Article 18**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in **public or private**, to **manifest** his religion or belief in teaching, practice, worship and **observance**.

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### **INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1976)**

Art. 18 (1): "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and **in public or private**, to **manifest** his religion or belief in worship, **observance**, practice and teaching."

Art. 18 (3): "Freedom to manifest one's religion or beliefs may be subject only to such **limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.**"

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# Equality Legislation Anti-Discrimination Legislation Protected Characteristics

age

disability

gender reassignment.

marriage and civil partnership

pregnancy and maternity

race

religion or belief.

sex

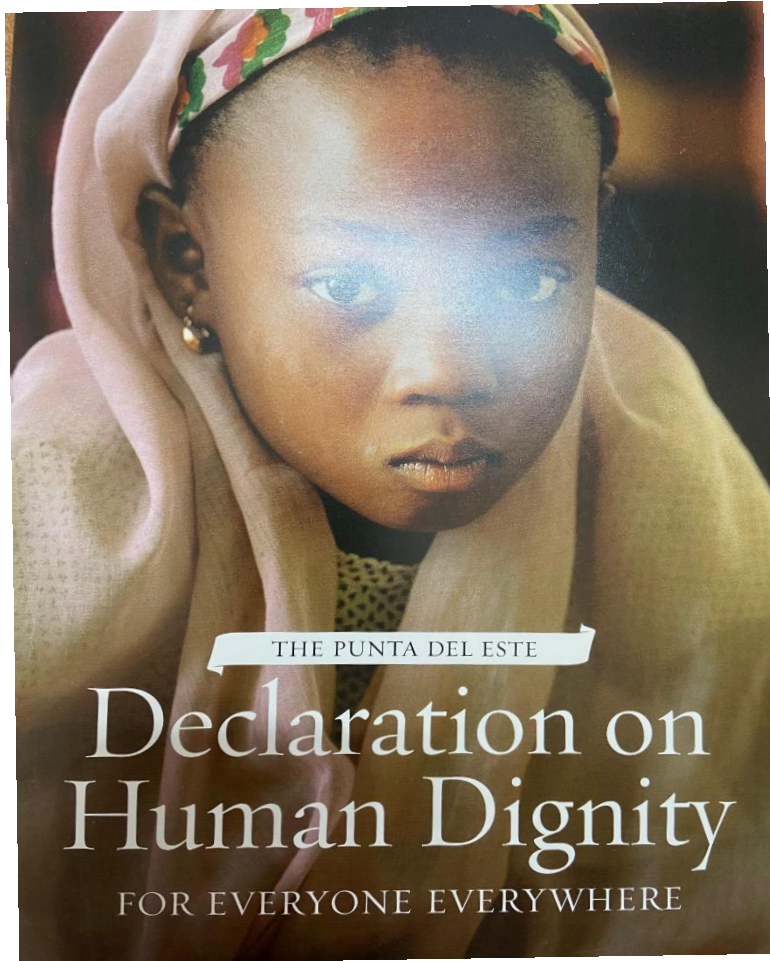
sexual orientation



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# Dignity?

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# Punte del Este Declaration on Human Dignity For Everyone, Everywhere (2018)

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*“To only stand up for the rights of  
Christians is an act of self harm.”*

Rt Revd Nick Baines  
Anglican Bishop of Leeds, UK  
General Synod, April 2021

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## *Punte del Este Declaration (2018) – Preamble*

Recalling that in spite of all of their differences, nations of the world concurred that **the dignity of all people is the basic foundation of human rights** and of freedom, justice, and peace in the world;

Recalling that **human dignity is the wellspring of and underpins all the rights and freedoms recognized in the UDHR as fundamental**;

Recalling that the UDHR has served as the **inspiration for an array of international and regional covenants** and other instruments, as well as numerous national constitutions, bills and charters of rights, and legislation protecting human rights;

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## *Punte del Este Declaration (2018) – Article 6*

### **6. Seeking Common Ground**

Focusing on human dignity for everyone everywhere encourages people to search for ways to find common ground regarding competing claims and **to move beyond exclusively legal mechanisms for harmonizing, implementing, and mutually vindicating human rights and finding solutions to conflicts.**

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*Punte del Este Declaration (2018) – Article 9*

## **9. Potential Difficulties Involving Competing Human Rights Claims**

Respecting the human dignity of everyone everywhere supports effective human rights advocacy. **Recognizing the universal and reciprocal character of human dignity is a corrective to positions claiming rights for some but not for others.** It helps to defuse the hostility that is often associated with human rights controversies and to foster constructive dialogue. It also helps mitigate the distortion, avoidance, and selective recognition of human dignity

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# Productivity?

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“And where you have religious freedom in a business, where people are free to bring their whole soul to work, you create stronger teamwork, more investment in the company, more retention and greater motivation.”

***Brian Grim***

Founding President, Religious Freedom & Business Forum



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# Recommendations

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### **6.1** Governments should promote and facilitate an interactive process in which:

- an employee advises the employer of the need for the accommodation of a religious practice;
- the employer must engage in genuine and sympathetic discussion of whether and how such accommodation may be provided;
- the employer has an obligation to make an affirmative and bona fide effort to provide a reasonable accommodation;
- an independent adjudicator/mediator system should be established to give effect to the above

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6.3 In considering whether a contemplated accommodation constitutes an undue hardship, the following factors may, without limitation, be taken into account:

- the identifiable cost of the accommodation, including the costs of loss of productivity and of retraining or hiring employees or transferring employees from one facility to another;
- the overall financial resources and size of the employer involved, relative to the number of its employees; and for an employer with multiple facilities, the geographic separateness or administrative or fiscal relationship of the facilities; intersection with civil rights laws and other pertinent legislation.

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- 6.5** Employers shall not impose upon an employee an obligation to participate in religious or sectarian observance, including prayers or Bible/holy book studies, as a condition of employment.
- 6.6** Governments should refuse to enter into procurement and other contracts unless the contracting party has a policy in place that complies with the foregoing.
- 6.7** Governments should undertake a public education campaign directed at both employers and employees/job applicants, reinforcing the principle that religion is an aspect of a person's essential identity as much as race, national origin, sex, sexual orientation, etc., and that religious identity encompasses religious practice as well as belief.
- 6.8** Religious organisations should disseminate information concerning their doctrines and beliefs, and how those are manifested in particular practices and manifestations.

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### Guidance and Resources

Guidance from UK Equality and Human Rights Commission and US Equal Employment Opportunity Commission

<https://www.equalityhumanrights.com/en/religion-or-belief-workplace>

[https://www.eeoc.gov/eeoc/publications/qa\\_religious\\_garb\\_grooming.cfm](https://www.eeoc.gov/eeoc/publications/qa_religious_garb_grooming.cfm)

Resources for promoting religious literacy

<https://berkleycenter.georgetown.edu/resources/christianity-traditions>

<https://adfinternational.org/resource/christianity-in-the-workplace-an-employers-guide-to-christian-beliefs/>

<https://rlp.hds.harvard.edu/our-approach/what-is-religious-literacy>

<http://religionandprofessions.org/religious-literacy-toolkits/what-is-religious-literacy/>

<https://www.vox.com/first-person/2017/1/5/14166366/religious-illiteracy-conservative-liberal>

The End