

Christians' rights trampled on by 'obsessive political correctness', say dissenting European judges

Christians' rights of conscience are being sacrificed on the altar of "obsessive political correctness" contrary to the values of a democratic society, two European human rights judges have claimed.



Rulings: Lilian Ladele, left, and Nadia Eweida Photo: JANE MINGAY/HEATHCLIFF O'MALLEY

The claims were contained a vocal dissenting judgment by two of the seven European Court of Human Rights judges who sat in a landmark case on religious freedom in Britain.

In an eagerly anticipated ruling, the court in Strasbourg upheld the right of workers to wear crosses as a visible manifestation of faith – as long it does not fall foul of health and safety policies.

It concluded that the UK had failed to protect the rights of Nadia Eweida, a British Airways check-in clerk who was sent home because the small cross she wore contravened the airline's uniform policy – a policy which has since been changed.

But it rejected claims by three other Christians who said that their right to religious freedom had been ignored.

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They included Shirley Chaplin, a nurse from Exeter, who was forbidden from wearing a cross at work on "health and safety" grounds.

The court also threw out challenges by two Christians who lost their jobs for taking a stand on what they saw as a matter of conscience.

Gary McFarlane, a former Relate counsellor, and Lillian Ladele, a marriage registrar from Islington, north London, both resisted performing tasks at work they believed would amount to condoning homosexuality which they believe is against the teaching of the Bible.

Miss Ladele asking to be excused from conducting civil partnership ceremonies and Mr McFarlane indicated he would be uncomfortable providing sex advice to a same-sex couples on account of his beliefs.

The court said that where there is a clash of rights – such as between freedom of conscience and protecting gay people from discrimination – states should have a “wide margin of appreciation” to strike the balance.

It found that the British courts had not acted beyond this margin in rejecting legal challenges by the pair.

Employment lawyers claimed it meant Christians could now be “lawfully excluded” from some jobs.

Paul Lambdin, a partner at Stevens & Bolton said: “Those with religious faith will take scant comfort from the ECHR's decision to allow the wearing of a religious symbol at work (when there is no health and safety risk).

“It appears that those Christians, Muslims and others who disagree with same sex marriage and/or civil partnerships will be excluded from certain jobs.

“These cases demonstrate the difficulty of divorcing a belief from its practice.

“The practical effect is that Miss Ladele, Mr McFarlane and others with similar religious convictions may be lawfully excluded from certain jobs.”

Christian campaigners claimed that “millions” of people who hold “politically incorrect” views could now face new restrictions on expressing their opinion.

They argued that the judgment increases the risk that those who oppose same-sex marriage – due to become law later this year – could lose their jobs if they express reservations.

They claimed that it meant that people liable to express traditional views on marriage would be unofficially barred from working as teachers, council staff and hospital chaplains or acting as foster carers in some cases.

Mike Judge, of the Christian Institute, which supported Miss Ladele, said: “Christians with traditional beliefs about marriage are at risk of being left out in the cold.”

Andrea Williams, whose Christian Legal Centre backed Mr McFarlane and Mrs Chaplin, added: “This judgment will make it increasingly difficult for Christians to participate fully in society.”

But Keith Porteous Wood, executive director of the National Secular Society, said: “If they had won these cases, it would have driven a coach and horses through the equality laws.

“The rights of gay people to fair and equal treatment would have been kicked back by decades.”

Rabbi Dr Jonathan Romain, of the Movement for Reform Judaism, said: "This has been a victory for common sense, allowing freedom of religious expression, but not at the expense of other people's rights."

The court rejected Miss Ladele’s case by a majority of five to two.

In an annexe to the main ruling, Judges Nebojša Vučinić and Vincent De Gaetano, issued a scathing rejection of the reasoning behind the decision as “at best irrelevant and at worst a case of inverted logic”.

They said Miss Ladele was a “genuine and serious” conscientious objector whose freedom of conscience the state “is obliged to respect”.

“Freedom of conscience has in the past all too often been paid for in acts of heroism, whether at the hands of the Spanish Inquisition or of a Nazi firing squad,” they said.

They said her case was that she was a victim of “back-stabbing” and “blinkered” thinking by the council adding: “Instead of practising the tolerance and the ‘dignity for all’ it preached, the Borough of Islington pursued the doctrinaire line, the road of obsessive political correctness.

“It effectively sought to force the applicant to act against her conscience or face the extreme penalty of dismissal – something which ... cannot be deemed necessary in a democratic society.”

Miss Eweida said her victory meant that “Christians can hold their heads up high and wear their cross without recrimination or retribution from their employer”.

But she added that she “gutted” for Shirley Chaplin and “mystified” at what the difference between their cases was.

Mrs Chaplin warned David Cameron against a “broken promise” as Downing Street signalled that a change to the law to protect the right of workers to wear crosses is now unlikely despite the ruling against her.

“I still expect David Cameron to change the law and anything else would be a broken promise,” she said.

The Equality and Human Rights Commission urged the Government to continue looking at the need for a change in the law and said the differing decisions in the two cases left employers and employees alike facing “confusion”.

It is planning to issue to guidelines on crosses to avoid any more “divisive, lengthy and expensive court cases”.

John Bingham - The Telegraph