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## **Blasphemy and the control of spirituality. Censorship, and Secularization in Britain and the West between the 16<sup>th</sup> and 20<sup>th</sup> Centuries**

This chapter is self-consciously a ‘think piece’ which, for the first time considers one fundamentally important religious concept with a traceable and recently investigated history, namely blasphemy, alongside the foremost explanation for the long term historical trajectory of Christian belief, namely secularisation. As such it relates the facts of the former to many of the theoretical ideological assumptions of the latter. Blasphemy was a manifestation of sacred and religious ideas being taken seriously within society. Its history, and its eventual fate, should readily provide the historian with much of the material which should speak to the wider secularisation debate. Unpacking the historical evidence in this area and holding this up to the mirror of secularisation theory ought to contribute significantly to this latter wider debate. This is especially important because in recent years work has elaborated significantly upon blasphemy which was previously a little-known area of investigation.<sup>1</sup> Linking this with the phenomenon of secularisation is also important since this concept and its continued relevance to social and religious history has likewise been the subject of intensified debate in recent years.<sup>2</sup> Fundamentally at issue are two questions which potentially take our historical

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<sup>1</sup> The main studies of Blasphemy are Nash, D. (1999) *Blasphemy in Modern Britain 1789 – Present*. Aldershot (Ashgate); Nash, D (2007) *Blasphemy in the Christian World*. Oxford, Oxford University Press and Levy, Leonard, (1993) *Blasphemy from Moses to Salman Rushdie*. Knopf (New York).

<sup>2</sup> The term ‘secularisation’ seeks to describe and analytically explain the diminishing importance of religion to societies and individuals over an extensive period of history. The matter is confused further by the fact that ‘secularisation’ is also the term used to describe the catalogue of facts that suggest the fading of religious adherence. Thus some describe it as a process and some as an observation over the *longue durée*. The work of Peter Berger in his classic statement of secularisation (Berger, Peter (1967) *The Sacred Canopy: Elements of a Sociological Theory of Religion*. New York Anchor Books) produced a widely accepted definition of the secularisation process that displayed modernist rational yearnings for active liberation from religion’s influence. For an examination of this context and its lasting effects see Nash, D (2004) ‘Reconnecting Religion with Social and Cultural History – Secularisation’s Failure as a Master Narrative’. *Cultural and Social History* 1:

interpretation in opposing directions. Firstly how far does a history of blasphemy, which can chart its erosion from a central place to a peripheral place, justify and bear out versions of the secularisation thesis? In looking at this we may also be prepared to assert a fragmentation of the theory whereby its relevance seems assured for certain periods of the recent past, but seemingly not for others.<sup>3</sup> Secondly we may be prepared to consider the persistence and stubborn presence of blasphemy in a secular, or even post secular, world as evidence that the crime and its history undermines many versions of secularisation. Alternately we may conclude that the contemporary retention of blasphemy (in whatever form) says much about the fact that populations at large see the law as an interface between religion, the state and morality - a further series of challenges to the more orthodox arguments about the importance, or supposed waning importance, of religion and Christianity in the West.

Blasphemy is normally considered to be a crime which both shapes and is shaped by the religious and theological climate within the societies in which it is taken seriously. It defines the limits and boundaries of orthodox practice every bit as much as it highlights species of heresy or forms of dissidence. Likewise as many critics of blasphemy laws since the 1790s have commented it appears to be an anachronism and at odds with the spirit of the age. These laws themselves were in their zenith during the later early modern period, where developing government bureaucracies saw them as essential tools for the management and control of the

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302–25. Other versions of the secularisation thesis in various forms that should be consulted include McLeod Hugh (2000) *Secularisation in Western Century Europe 1848–1914*. London, Routledge) and Bruce Steve (2011) *Secularization: In Defence of an Unfashionable Theory*. Oxford: Oxford University Press.

<sup>3</sup> For the most recent critiques of secularisation see Garnet, Jane et al (2006) *Redefining Christian Britain: Post 1945 Perspectives* London, SCM Press: Taylor, Charles (2007) *A Secular Age*. London: Belknap Press: Clark, J. C. D. (2012) 'Secularization and Modernisation: The Failure of a "Grand Narrative"'. *Historical Journal* 55, 1: 161–94: Morris, Jeremy (2012) 'Secularization and Religious Experience: Arguments in the Historiography of Modern British Religion'. *Historical Journal* 55, 1: 195–219: Morris Jeremy (2003) 'The Strange Death of Christian Britain: Another Look at the Secularisation Debate'. *Historical Journal* 46, 4: 963–76 and Erdozain, Dominic (2012) "'Cause is Not Quite What it Used to be": The Return of Secularisation'. *English Historical Review* 127, 525: 377–400 and Callum Brown (2001). *The Death of Christian Britain: Understanding Secularisation 1800-2000*. Routledge, Abingdon.

population within these states and the enforcement of conformity.<sup>4</sup> Their existence, and consent for their existence and imagined use, might conceivably be seen as a strong and active part of the Christian world and its internal integrity. It might then be argued that the respective dilutions of these regimes of discipline conceivably constitute a version of secularisation. However as we shall see the apparent simplicity of this proposition is qualified and actively destabilised by a number of salient facts.

Blasphemy in England, for example, since the sixteenth century had been an offence at both Common and Statute Law - but it remains interesting what precisely the law and legal philosophies surrounding this thought they were protecting. Generally speaking most concur that throughout Europe blasphemy (as an offence) was deemed to be protecting the renaissance confessional state. Such an arrangement was convenient because it was a manifestation of the Renaissance confessional state's claims to protect and legislate for the religious settlement and lives of its subjects.<sup>5</sup> Confessional states during the Renaissance and Reformation period also took power for themselves as part of the logic of their own growing sophistication and also as a means of ensuring their own security. This extension of power meant their bureaucracies grew in a commensurate level of complexity and policing aspects of religion was a major function around which these imperatives grew. One sense in which the populace gave consent for this was in its reaction over issues around blasphemy.

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<sup>4</sup> For more on this aspect see Nash, *Blasphemy in the Christian World*. Chapter two. See Also Levy, *Blasphemy* chapters 5-12.

<sup>5</sup> For case studies of this in action see Watt, Jeffrey R 'The Reception of the Reformation in Valangin, Switzerland, 1547-1588'. *Sixteenth Century Journal*, 20:1 (Spring 1989), 89-104; Nicholls, David J., 'The Nature of Popular Heresy in France, 1520-1542. *Historical Journal* 26:2 (June 1983), 261-75 and Loetz Francisca (2009) *Dealings with God: From Blasphemers in early Modern Zurich to a Cultural History of Religiousness*. Aldershot, Ashgate Publishing.

As I have written and discussed elsewhere the concept of ‘passive blasphemy’ was inherently important.<sup>6</sup> The category of ‘passive blasphemy’ involves the expectation, and subsequent desire for action, of individuals who were exposed to blasphemous words and actions of others. Readily, within the mediaeval and early modern period, such individuals regularly reported blasphemy to forms of authority because they sought to protect themselves from the consequence of ignoring it. Certainly we can see many instances of this power in early modern Western Europe. In such instances individuals nurtured and carried the expectation that the authorities would take action. This expectation existed because much literature around the action of blasphemy demonstrated that harm would come to those who perpetrated this crime or neglected to punish it.<sup>7</sup> Likewise numerous campaigns against blasphemers in the early modern period were produced as part of the wider dialogue with providentialism. A God who was perceived to intervene in the world could readily be imagined to exact vengeance upon those who blasphemed. In this respect blasphemy was deemed to be an offence with many different components which could all be identified, potentially, with the active perpetration of a crime against society and the universe.

The offence of blasphemy was conceived as a challenge to the natural order, whereby those who committed the crime were considered to have set themselves above Almighty God. Thus the offence of blasphemy in much of continental Europe turned around issues associated with doubting the power of the Almighty. This could take the form of chiding, belittling or mocking the deity for His lack of intervention in the world – generally the failure to grant favour to those who sought it in ventures involving forms of extreme risk. Similarly it also

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<sup>6</sup> Nash, D ‘Placing Blasphemy in Social History. Analyzing theoretical approaches to the history of religious crime.’ *Journal of Social History* (September 2007) 5-29.

<sup>7</sup> See Schwerhoff, Gerd (2005) *Zungen wie Schwerter: Blasphemie in alteuropäischen Gesellschaften 1200-1650*. Konstanz: Universitätsverlag Konstanz; and Cabantous, Alain, (1998) *Blasphemy: Impious Speech in the West from the Seventeenth to the Nineteenth Century*. New York, Columbia University Press.

follows that such behaviour instead could follow the Almighty's unfavourable intervention of the world. Another very closely related definition of the offence was to actively command the Almighty, in truth this was a version of some early modern Europeans seeking to take control of Providence and its effects. Thus in much of continental Europe the waning of blasphemy laws and their use is also a history of the waning influence of the concept of Providence.<sup>8</sup>

What is certain here is that the existence of such laws and their connection with early modern states and their government was fundamentally important to the place of religion in society. States which passed blasphemy statutes were making it plain that the defence of Christianity's role as the state's fundamental ideology was enshrined in the laws governing behaviour. In a sense the action of those who witnessed blasphemy and reported such incidents to the authorities served to strengthen the idea that the population was itself God-fearing. In turn this also created an enhanced outsider status since those accused of the crime found that when they received punishment this very strongly emphasised that they had stepped beyond the conventions and protection of orthodox society. Thus a range of punishments which emphasised shame and shaming alongside, where possible, varieties of recantation were regularly brought to bear upon the blasphemer.<sup>9</sup> These individuals had said something that simultaneously harmed the public peace, questioned the ideology of government and placed individuals in peril from the providential judgement of the divine.

This characterised precisely how blasphemy was regarded in England between the seventeenth and nineteenth centuries. The law in England was primarily Common Law indicating its meaning and interpretation were shaped by the decisions of the judiciary, especially in high profile cases. In an important case in 1675 the renowned judge Sir Matthew

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<sup>8</sup> See Nash, D 'To prostitute morality, libel religion, and undermine government' Blasphemy and the strange persistence of Providence in Britain since the seventeenth century.' *Journal of Religious History* Autumn 2008 32 (4), 439-56.

<sup>9</sup> See Dülmen, Richard Van (1990) *Theatre of Horror: Crime and Punishment in Early Modern Germany*. Cambridge, Polity Press. 26.

Hale passed sentence on an individual, John Taylor, who had verbally abused the identity and status of Christ. In England this particular case should be contextualised alongside the English Civil War, the subsequent Commonwealth and its religious background. The New Model Army and the Commonwealth itself had implemented qualified forms of religious tolerance and the period was notable for the range of independent and antinomian sects who launched everything from petty assaults upon authority (Quakers and Muggletonians) to those seeking to actively engage in seditious activity to hasten the arrival of God's kingdom on earth (Fifth Monarchy Men).<sup>10</sup> Taylor's irreverence and enquiring mind belongs to this context just as much as does the earnest desire of monarchical authority to restore discipline after the religious anarchy of the Commonwealth. In passing sentence Hale described Christianity as being inextricably linked with the sanctity and coherence of government, theorising that an attack upon religion constituted a calculated attack on good and secure government – even if the intention of the miscreant could be difficult to establish openly.<sup>11</sup> The attack itself was presumed to establish intention and this short circuiting of the legal principle of *Mens Rea* was to remain a major criticism of blasphemy laws and their application into modern times.

At the end of the century the philosophy surrounding Common Law caselaw was strengthened by a Statute which came into force in 1698. Known thereafter to lawyers as the '9&10 William III c32' this arrived alongside other legislation intended to deter and prevent threats to the security and prosperity of the kingdom.<sup>12</sup> This had outlawed polytheism and anti-Trinitarian views, although paradoxically this left those born outside Christianity free from harm. This perhaps reinforced the fact that such legislation was still seen as a disciplinary measure preventing the population sliding into religious error and the unruliness

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<sup>10</sup> Hill, Christopher. (1991) *The World Turned Upside Down*. Harmondsworth, Penguin. Passim.

<sup>11</sup> See Nash, *Blasphemy in Modern Britain*, 32-7.

<sup>12</sup> See Nash, *Blasphemy in the Christian World*, 60-61, 161-162.

this provoked. Again this saw religion propping up an edifice which, if disturbed, would come crashing down.

Ideas of freedom of conscience were themselves practical and ideological products of the Reformation. Indeed Protestantism itself placed a greater emphasis upon the conscience of the individual and the various ways that religious conviction and belief were realised.

Likewise important elements of enlightenment thought also advocated the new sanctity of the individual conscience. Similarly the enlightenment was also a critique of forms of authority and hierarchy that had previously been accepted at face value. Thus aspects of the enlightenment problematized both the idea and contemporary nature of state control of religiosity and opinion. Religious diversity had been an increasingly obvious truism as the Reformation was followed by later periods of evangelicalism which further splintered and individualised reformed religion. Ideas of freedom of conscience simultaneously saw such freedoms as social goods in themselves, but also as guarantors of social and philosophical progress. The obverse of this was a consideration that state attempts to regulate such opinion were retarding and damaging such progress, and were thus social evils. One consequence of this was the arrival of what I have termed elsewhere 'active blasphemy'.<sup>13</sup> This was a condition in which the state did all it could to abrogate responsibility for using its blasphemy laws. This, eventually, produced a retreat from the action of policing religious opinion.

Where such offences of blasphemy occurred, increasingly after 1880, the state increasingly retreated arguing it was up to individuals to use the civil areas of the law themselves to seek redress against the blasphemer. No longer was society at stake when blasphemy occurred, even if the sensibilities of individuals were the agency which took over from this. We should also remember here that what appears to be a transfer of religious authority from institutions

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<sup>13</sup> Nash, D 'Placing Blasphemy in Social History'.

to individuals would be deemed by pure forms of secularisation theory to be an obvious species of progress, inevitably on the route to a final form of secularisation.

It is currently little appreciated in descriptions of secularisation that throughout most western societies such rights to punish and police religious offences were significantly undermined by the end of the eighteenth century. Indeed this fact serves to explain why many 19<sup>th</sup>-century trials (evident in England, the United States and Germany for example) were about forms of freedom of conscience rather than protecting society from dangerous individuals who had strayed or lost discipline – the traditional form of medieval ‘passive blasphemy’ case.

Nonetheless there remained occasions, such as the trials in England of Richard Carlile and his shopmen and women during the 1820s and 1830s, where the authorities would still see individual religious dissidents as dangerous to wider society. In reality these cases in England were something of a hybrid crossover point. Older languages and assumptions which sought to control dangerous social menaces confronted enlightenment sensibilities. Although each of these individuals was convicted and imprisoned the result was scarcely a victory for the authorities or indeed these older ways of thinking about blasphemy as something of a social and political menace. The defendants in these cases successfully argued that Christianity’s defence of its position within wider society was both partial and profoundly corrupt. In contrast they argued that promulgating their views was serving the purpose of the enlightenment, this was inflected by numerous appeals to reason and the suggestion that revealed truth rather than revealed religion was the greatest benefit to society. Within these critiques it is possible to see at work, in the early 19<sup>th</sup> century, something of a conscious application of what would later become sociological secularisation style arguments. Richard Carlile and his compatriots, motivated by enlightenment ideals, were prosecuted in the 1820s for selling Thomas Paine’s *Age of Reason* as well as subsequent commentaries. Individually and collectively they argued that religion was outmoded, and merely held onto its privileged



position within the early 19<sup>th</sup> century state through exercising and ruthlessly guarding its own privileges. Carlile pulled no punches in his indictment of religion arguing:

‘The nature of ancient institutions, instead of forming a reason against the activity of mind, should be considered as constituting a double stimulus; these institutions are such a complete abandonment of every just and correct principle; they have been so destructive in their operation and effects, that nothing but the strong and energetic movement of the human understanding will be capable of subverting them. The whole earth has been made the wretched abode of ignorance and misery – and to priests and tyrants these dreadful effects are to be attributed. These are the privileged (sic) monsters who have subjugated the earth, destroyed the peace and industry of society, and committed the most atrocious of all robberies – that have robbed human nature of its intellectual property, leaving all in a state of waste and barrenness.’<sup>14</sup>

These individuals could also attack the work of private agencies (such as Carlile’s hated Society for the Suppression of Vice) who demonstrated interest in similarly maintaining this and useful fiction.<sup>15</sup> Likewise they could also point to the very fact that they stood in the dock accused of, what they relentlessly argued was, an anachronistic crime appeared proof self-evident that Christianity’s attempts to hang onto its powerful position were swimming against the tide.

By the end of the nineteenth century, whereas individual blasphemers in the mediaeval and early modern eras had previously been in religious error, or had blasphemed as a result of pressure situations, the new individuals who found themselves in the dock accused of blasphemy were writers and artists. In this sense the phenomenon of ‘active blasphemy’ created the idea of the cultural (rather than purely religious) dissident which would become a facet of twentieth century blaspheming identity. In this respect writers such as August

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<sup>14</sup> See Carlile, R. (1819) *A Letter to the Society for the Suppression of Vice, On their Malignant Efforts to Prevent A Free Enquiry after Truth and Reason*, London.

<sup>15</sup> See Ibid..

Strindberg and Oskar Panizza and the Leipzig Realists (all prosecuted for blasphemy) ventured opinions upon religion and what they saw as the logical consequence of many of its beliefs.<sup>16</sup> In reaching these consequences such individuals readily discarded what orthodoxy wanted to believe and instead indulged the application of rational thought to such problems. Thus in Oskar Panniza's *Das Liebeskonzil* the papacy was brought down from its elevated position as a promoter of faith and as a result was portrayed as a cynical and ruthless business. Although not primarily a literary figure George William Foote's portrayal in England of numerous Bible episodes in ribald, satirical and ridiculous fashion demonstrated a gulf between belief and very cold hard criticism.<sup>17</sup> In this respect the ability to think, respectively, both artistically and critically about the Bible, Christianity and its institutions would seem to irrevocably demonstrate a step forward on the road to fulfilling orthodox definitions of secularisation. What had previously been accepted unquestioningly by faith was now subjected to the powerful scrutiny of reason and rationality and it could now equally be satirised.

Thus far this is looks like a progressive history of the state gradually absolving itself of responsibility for advancing laws regulating the sacred nature of religious orthodoxy - what Hypatia Bradlaugh Bonar called 'Penalties Upon Opinion'. Likewise it also demonstrates the realisation of many individuals, and populations at large, that authoritarian control of religious opinion and statements about religion were becoming markedly less tenable as time went by. Given what appeared to be, certainly in comparison with later liberal attitudes, to be a somewhat rigid and unbending regime of control it is not surprising that any gradual relaxation of this position would be likely to be described as part of the process and apparent fact of secularisation. This relaxation of laws against open, and even closet, religious dissidence ought to be an indicator of secularisation in practice. Certainly within this area

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<sup>16</sup> See Nash, *Blasphemy in the Christian World*, 84-85.

<sup>17</sup> For the Foote case see See Nash, *Blasphemy in Modern Britain*, 107-166.

there has been plenty of attention lavished upon the phenomenon of religious toleration which, it could be argued, constituted a similar dilution of the necessity of religious orthodoxy and its maintenance.

The conventional definition of secularisation outlined that it was charting and observing the process by which attitudes around religion, as well as its practices and the institutions which support these, progressively lose their social significance over time. This ought to have produced a commensurate trend in which prosecutions for blasphemy in many countries obviously decline over time. Certainly this is partly justified by looking at a number of Western countries. Similarly revised definitions of secularisation, which saw religion remain buoyant whilst its centrality to everyday life diminished, also had some relevance here. Laws against profaning religion or blaspheming against its sacred individuals, words or objects should have been removed as Christianity stepped back from enforcing itself as a state prescribed belief system. Yet action in this area was slow, piecemeal and in some instances, arguably, ineffective.

There are also other ways in which blasphemy's distant and contemporary history both prove problematic for those seeking to explain the trajectory of religious history with close reference to the process and ideal of secularisation. It is worth remembering how closely conventional versions of secularisation narratives are interested in social change and, given this, ought to find a more accessible and welcoming place for the history of blasphemy within them. It remains surprising that the apparent relaxation of religious laws is far more frequently assumed than actively demonstrated or discussed. On the face of it this should be the story of increasing liberalisation, whereby the centrality of religion linked to the state is undermined in a linear measurable manner. This undermining occurs as laws seem to become less draconian and, less likely to be enforced by a range of different societies with many such laws eventually falling into decay. Nonetheless there was equally an observable progression

in European countries whereby individuals were empowered by evolving legal philosophies. The United States Constitution similarly protected the First Amendment rights of individuals with quite far reaching religious freedoms which states and localities regularly sought to see qualified.<sup>18</sup> However the more revisionist approaches to secularisation that doubt ideas progress in teleological manner, doubt the triumph of modernity, doubt linearity, and likewise doubt versions of the triumph of the secular conceivably have something different to say about blasphemy's place within the modern world. Within this perspective it is possible to argue that 'passive blasphemy' appears to be returned, whereby states are increasingly being asked to protect citizens under the guise of hate crime legislation and the state's new 'duty' to provide equal opportunities. The imposition of hate crime and equal opportunities agendas could equally be seen as a reappropriation by the state of powers it relinquished to instil 'passive blasphemy' style discipline upon populations with a new agenda and new tools.

Likewise the apparent 'victories' of blasphemers against attempts to defend orthodoxy might describe the subsequent acceptability of what was previously blasphemous. This could readily appear as some sort of progressive 'cheapening of the sacred'. Nonetheless we can also see this phenomenon from another direction and considered that it potentially demonstrates the coming of still greater levels of pluralism. Blasphemers and the secular agenda never actively triumphed (as both so often predicted) instead they were provided with a place (they would argue an unequal place) alongside religious ideas and institutions that still could benefit from historical, cultural and financial positions of privilege.

Arguably the imperatives to repeal blasphemy laws in Britain and elsewhere are conceivably a step forward akin to widening freedoms. However this is clearly not the whole story since

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<sup>18</sup> For the recent history of censorship in the United States taking in blasphemy and many other apparent assaults upon community morality see Heins, Marjorie (1993) , *Sex, Sin and Blasphemy: A Guide to America's Censorship Wars*. New York, The New Press.

such repeal has almost always occurred against the backdrop of a pressing need to provide protection to religious minorities from actual harm. As such 'passive blasphemy' ideas are arguably at the heart of hate crime legislation. The state is given back its role as arbiter and agent of the public in this scenario and fear of the hate filled (irrational) actions of others fuels the construction of such laws. Blasphemy laws also are an occasion for dialogues about the place of religion in modern societies to be reactivated. Thinking about blasphemy literally enables thinking about Christianity and wider forms of the religious to take place within the public sphere. It provides an occasion for such thoughts and a resolution of such discussions invariably provokes a settlement of some kind between the religious and non-religious imperatives. Those who often liked to see their own brand of religion 'in crisis' have likewise chosen (very often) to grasp hold of and use blasphemy as a method of indicting religious hierarchies which seem to have gone soft and actively betrayed their congregations. This in itself rejuvenates grass-roots religiosity and quietist forms of religious belief and observance. Again these are forms of religion secularisation theory is less successful at tracking and evaluating. Yet equally it is possible to argue that rejuvenation of interest in hate crime would appear to be a piece of anti-secularisation. Religion has become an enhanced part of individual rights, but further still has moved on to become a central and protected part of individual identity. This would appear to combine together elements of religious imperatives and the urge to be secular into a single condition that is not very easily explained as an outcome or ongoing stage of secularisation.

Likewise the re-acquisition of blasphemy by communities appears as a further symptom of the erosion of confidence in centralising forms of government justice. In some countries, such as the United States, this tension between local standards of what is acceptable and national (in this case federalising) standards has become increasingly evident. The twentieth century

witnessed individual states in the United States seek to prosecute individuals for blasphemy as elements in their midst that were dangerous to the public peace and good order of the community. Quite regular such decision would be struck down by federal law which saw such intrusions upon First Amendment rights as unconstitutional. Secularisation arguably provides the opportunities and places to think differently about the sacred. However the limits of these opportunities ebb and flow according to fluctuating sensibilities - likewise to fluctuating standards of morality and America's culture wars.

We should also not underestimate how aspects of Christianity in various ways has reacted buoyantly to the ideas initially proposed by thinkers like Paul Tillich and Dietrich Boenhoffer with the assertion that religion is not necessarily central to man. This view has been echoed in the belief amongst many theologians, and religious practitioners that seeking to make such dissident individuals see God in their own activities would be a successful method of reclaiming the dissident. Thus dissidence from orthodox religion can be made a tool viable for the use of branches of Christianity. Blasphemy did not indicate indifference to religion but rather a dialogue that could be potentially exploited. The profane has thus always been a closer ally to the sacred than indifference or ignorance.

The retreat from statutory codified forms of religious belief to religious feelings may equally, at a superficial level, seem to be an agent of secularisation. Yet a closer analysis suggests that these developments have made life more difficult for atheists and secularists to challenge what are much more inchoate beliefs. At an earlier age it was possible to refute religious beliefs in a modern age it is impossible to refute more amorphous feelings' Likewise this is more likely to fall foul of the modern states 'passive blasphemy' approach to protecting the rights of minorities. Secularisation, in various ways, argues that individuals (at large) no longer care about religion (and increasingly will fail to do so). Blasphemy laws and the

history of their re-activation by those at the grass roots indicates otherwise. Some forms of lobby and pressure groups obtained quite loud and influential voices from the position and status of being the offended party. We might here argue that these constitute the remaking of forms of religious authority in a post secular world- a phenomenon which secularisation theory argued was impossible.

One other area with secularisation theory falters is its consideration, on the ground, of what actively supplants religion. This is not to argue that religion is in some sense a necessity or otherwise hard wired into the human mind or otherwise into human existence. It is a more historically grounded way of noting that alternative moral codes have regularly been offered (since the latter stages of the 19<sup>th</sup> century) to seek to replace religion. In Britain one such, at least partially influential, intellectual movement to attempt this was inspired by the ideas of August Comte. These English positivists sought to revere the contribution of humankind's to its own progressive place in the universe.<sup>19</sup> We might also consider how ideas associated with individuals such as Karl Popper and Bertrand Russell did offer alternative moral codes these were affirmative and permissive. Blasphemy, and the application of laws preventing it, gives us the opportunity to consider how far aspects of unofficial morality as late as the end of the twentieth century rely heavily upon ideas associated with religion and the discipline previously associated with this. The *Gay News* case of 1977-78 witnessed a concerned lay individual Mary Whitehouse actively pursuing a moral crusade. What was crucial in this instance was that Mrs Whitehouse was utterly convinced that her work to reactivate the law of blasphemous libel in Britain, from nearly a century of slumber, was necessary to restore her own conception of Christian Britain. This she deemed necessary because she believed her simple grassroots Christianity was in the process of being betrayed by an array of distorted

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<sup>19</sup> See Wright T.R. (1986) *The Religion of Humanity: The Impact of Comtean Positivism on Victorian Britain*. Cambridge, Cambridge University Press.

establishment interests. Moreover her activities brought the transgression of previously upheld establishment religious orthodoxy to the public arena. Her suspicious gaze fell upon politicians, but increasingly upon the senior figures in the Christian churches who she argued had allowed, and perhaps even encouraged, transgression against what she saw as a purer form of faith. These individuals, (liberal churchmen, misguided modernisers and those without courage to resist) had allowed Christianity and the Christian message to be debased, diluted and cheapened. Whitehouse saw in this a threat to a whole way of life and her outlook was echoed in her organisations such as the Festival of Light and the National Viewers and Listeners Association.<sup>20</sup>

Her decision to press ahead with the *Gay News* prosecution was made in the wake of her success in preventing the Danish filmmaker Jens Jørgen Thorsen from entering Britain in pursuit of his desire to make a film entitled *The Sex Life of Christ*. In Mary Whitehouse's shoes it was possible to believe that the forces of pagan permissiveness were massing to overrun and destroy the Christianity that had seen the preceding generation through the trauma of the Second World War. When the defence offered in the *Gay News* case focused upon other works critical of Christ and Christianity these were intended to show how being creative with the deity had become an established fact of modern 20<sup>th</sup> century British life. To the liberal mind this was reassuring but for the Conservative mind of Mary Whitehouse and her ilk this was further proof that the enemies of Christianity were at the gates. However assaults on simple Christian sensibilities were not just conducted by the forces of pagan hedonism but also by the liberal churchmen who had flocked to applaud popularising and cheap diversions such as the West End theatrical productions of *Jesus Christ Superstar* and *Godspell*. The *Gay News* poem and its themes had shocked Mary Whitehouse and this

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<sup>20</sup> Mary Whitehouse is best initially approached through her own autobiography *Quite Contrary* (1993) London, Pan Books.



episode reinforced the fact that the machinery of the modern media (radio, television, wide circulation newspapers and periodicals) were all capable of providing a casual encounter with the blasphemous - a phenomenon which has been a regular part of the offence's history.<sup>21</sup> As we are aware Mary Whitehouse's invocation of a seldom contemplated and seldom used law was spectacularly successful resulting in the editor of the newspaper, Denis Lemon, receiving a fine and a suspended sentence. As such this episode reminds us how blasphemy and its legal existence was still uppermost in the minds of those who sought to prevent what they saw as the further encroachment of secular society and secular ideals.

It is also possible in other instances to detect how blasphemy similarly functions as a touchstone of morality - as though populations shudder and quake at the thought of its disappearance. The leading motivation behind the House of Lords Select Committee on Religious Offences of 2003 sought to provide protection for besieged religious minorities in the shape of incitement to religious hatred laws. This approach wanted to create a remedy for those suffering at the hands of racist leafleting and campaigning. Nonetheless, despite considerable effort to offer evidence to the contrary (offered by secularist and civil liberties organisations) , blasphemy laws were not condemned in the committee's final report.<sup>22</sup>

Whilst many expected blasphemy to be repealed in favour of incitement to religious hatred laws, these latter provisions were installed before repeal of blasphemy was even contemplated. When such repeal did occur this was instigated by a secularist backbench MP in the wake of an amendment to the Criminal Justice and Immigration Bill in 2007-8.<sup>23</sup> Thus, for a time, blasphemy laws in Britain co-existed with incitement to religious hatred laws where most legal opinion believed that the correct way forward would have been for the latter

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<sup>21</sup> See Nash, David S. (1999), *Blasphemy in Modern Britain*. 251.

<sup>22</sup> House of Lords Select Committee on Religious Offences (2003) Report. Chapter 10 Conclusions.

<sup>23</sup> See postscript to 2010 paperback edition of Nash, D.S. (2007/10) *Blasphemy in the Christian World: A History*.

to replace the former. The persistent failure of individual political parties to consider the repeal of such laws indicates the political sensitivities behind such a stance.<sup>24</sup> Seeking to repeal these laws potentially suggested an over liberal attitude to social issues and the pandering to metropolitan intellectual opinion. This indicates an enduring emotional attachment to these blasphemy laws, as though they constituted some guarantor of the limits of the secular and potentially of secularisation itself.

Further evidence for this view can be gleaned by a close examination of blasphemy's history in 20<sup>th</sup> and 21<sup>st</sup> century Ireland. When the Republic of Ireland was constructed it inherited much of English Common Law precedent. Its inheritance of a viable culture of blasphemy was recast within its new constitution whereby a provision was created requiring a statement about the crime and its meaning to Irish society (Article 40.6.1.i. of the 1936/7 Constitution). Where many countries had seen such laws eroded in the years since this constitution was created, this provision was substantially untouched in Ireland since this time. Thus it was something of a real surprise in 2010 when Ireland recast and radically strengthened its laws, ostensibly on the grounds that its population now represented more than simply Christian interests. Certainly it was plausible that the country's Justice Minister, Dermot Ahern, believed such a measure would ostensibly be politically popular. Although the Parliamentary opposition considered the law potentially dangerous and unworkable, arguing that it should be removed, the situation left a relatively draconian blasphemy law on statute book in a Western country for the foreseeable future. Though some in government privately argued the law had been made deliberately unworkable this served to reinforce the fact that the law was of significant symbolic importance - potentially a comfort blanket for those who believed their religious beliefs to be under threat in a modern democratic state. The state had

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<sup>24</sup> See Nash, David S. (1999), *Blasphemy in Modern Britain* chapter six.

apparently risen up again from its slumber to become anew a guarantor of the sacred and inviolable nature of religious belief.

This interpretation gained further credence when the first systematic re-examination of the law took place in the context of Ireland's 2013 constitutional convention. This considered a range of measures and constitutional alterations likely to be put before the Irish population in the form of a referendum. One of these was a reconsideration of the 2010 blasphemy law in which all opinions would be canvassed and heard. Members of the convention heard the arguments of both sides at a meeting in November of 2013 and were asked to make recommendations about what should happen to this legal provision. In examining the evidence of both sides of the argument it is again possible to notice a tension between religious hierarchies and motivated lay people and the different courses of action they might choose. One written statement from an Irish interfaith organisation (which included the Catholic Church) argued for repeal of the law. Opposing repeal was a lengthy and erudite submission from a powerful Catholic lay organisation – The Knights of St. Columbanus.<sup>25</sup> Blasphemy again here appeared to be a touchstone which divided the aspirations of the faithful in two very different directions.

However when the arguments were over the members of the convention were instructed to answer a range of questions about the choices the convention wished to put before the Irish government. On the face of it blasphemy would either be retained within the Constitution or removed and superseded by incitement to religious hatred laws. But a redrafting of the questions to be put to members of the Convention produced some interesting results when

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<sup>25</sup> See respectively for the Irish Council of Churches, Irish Interchurch Meeting submission see <https://www.constitution.ie/AttachmentDownload.ashx?aid=2d5ac5af-2342-e311-8571-005056a32ee4> for the Knights of St Columbanus submission see <https://www.constitution.ie/AttachmentDownload.ashx?aid=d41e4103-e542-e311-8571-005056a32ee4> both accessed 2/1/2014.

this was voted upon. The first question put to them in the vote involved asking whether they wished to see the need for blasphemy provision to be removed from the Irish Constitution altogether. The answer to this affirmed that 61% of the Convention members wanted to see the provision for blasphemy removed from the Irish Constitution. This was followed, unsurprisingly, by a majority of 53% who wished to see an incitement to religious hatred law ostensibly take over from the blasphemy provision. However beyond this an element of confusion was introduced by subsequent question which asked Convention members if they nonetheless wished to retain a blasphemy law, albeit beyond the stipulations of the Constitution. Ambiguity appeared when the constitution members voted on this provision with 49% (an overall majority once 'undecideds' were factored in) seeking to retain the law outside the Irish Constitution.

One reading of this suggests that the Convention recognised international pressures to remove blasphemy from Ireland's Constitution. However some of those same members likewise voted to retain blasphemy as a concept within Irish law and culture. This, it might be argued, presents a picture of an enduring quasi-emotional attachment to blasphemy. This goes further than simply saying retaining an old symbolic law is acceptable, arguing that it can do no harm - secularisation so frequently argued it could sweep such casual sentiments aside.

Instead this indicated that legal provisions against blasphemy were important as a signifier of morality and sentimental attachment to a symbolic religious present, perhaps even a symbolic religious past. Such arguments were not about protecting religious minorities otherwise there would have been a greater focus upon laws against incitement to religious hatred.

As noted above objections to blasphemous words and images and the desire to proscribe them indicates enhanced power, and more importantly respect, for the potential private religious

lives of others. Dilution of the laws against blasphemy, and blasphemous utterance, saw them move from protecting doctrines and the primacy of religious establishments to protecting a perceived personal piety and what laws and pronouncements increasingly termed 'the religious feelings of others'. On the face of things this looks like secularisation of a sort. But here, more readily than in many other instances this appears frozen in time. In the creation of incitement to religious hatred laws the identity aspects of religion are enshrined in legal definition and thus less exposed to social and ideological change. Thus the status of religious belief and influence – once so fluid under most forms of secularisation theory – is given potentially petrified solidity. Enshrined in legal definition one agent of change removes religion from the impact of motivated criticism. Society and its protection of religious identity potentially isolates religious belief from social interaction and its exposure to forms of criticism and the opinion of others.

Linking blasphemy to secularisation fits comfortably with an orthodox history of the acquisition of rights against the tyranny of orthodoxy. As such this would be an active contributor to any conventional history of secularisation – provided that the author were to stop writing in 1975 – as the first generation of secularisation advocates actually did! Insights, events and theoretical challenges after this date served to make the secularisation paradigm more qualified and more problematic. As such events around the reactivation of blasphemy (particularly after 1990) proved the history of this offence would no longer provide unequivocal evidence for the triumph of free speech and the triumph of the secular.