

Scientology and the need for a clear definition of religion under English law

As the new Louis Theroux documentary on Scientology is released, **Dr Russell Sandberg** argues that both the definition of religion under English law and the legal status of the Church of Scientology is unclear and in need of reform.



Louis Theroux's My Scientology Movie

There is no single definition of religion under English law. Instead, various definitions exist in different areas of law. These definitions are important given that financial and other advantages can only be gained if it can be shown that the activity or setting meets the definition of what is considered to be religious.

Most notably, the **Places of Religious Worship Registration Act 1855** provides that 'places of meeting for religious worship' can be registered. Religious groups can be registered as charities under the **Charity Act 2011** provided that they have the purpose of being for 'the advancement of religion'.

However, these Acts do not provide a definition of what constitutes 'religious worship' or 'religion'. The 2011 Act does state that a belief in more than one God or no God is included but this hardly constitutes a definition. The matter has been left to the judges. Unfortunately, however, their decisions have proved to be inconsistent and this incoherence is especially evident when it comes to the **Church of Scientology**.

In ***R (on the Application of Hodkin) v Registrar General of Births, Deaths and Marriages*** [2013] UKSC 77 the Supreme Court held that a church within the Church of Scientology could be a 'place of meeting for religious worship' under the 1855 Act. Although this was a step in the right direction, it did not go far enough as there remain a number of unresolved issues and contradictions in the law.



The decision in *Hodkin* overruled the case of *R v Registrar General, ex parte Segerdal* [1970] 2 QB 679. That case, heard by the Court of Appeal of England and Wales in 1969-70, upheld the decision by the Registrar General not to register a chapel of the Church of Scientology as a place of meeting for religious worship under the 1855 Act.

The case was appealed to the Court of Appeal, where it was heard by Lord Denning who held that there was no evidence of 'religious worship' which he defined as involving 'reverence or veneration of God or of a Supreme Being' while the other judges were content to hold that there was no 'worship' given that the definition required 'some, at least, of the following characteristics: submission to the object worshipped, veneration of that object, praise, thanksgiving, prayer or intercession'.

The *Segerdal* case, therefore, did not actually decide the question of whether Scientology was a religion and it did not provide a definition of religion. However, subsequent cases relied upon the definitions of 'worship' and 'religious worship' to craft a definition of religion.

In *Re South Place Ethical Society, Barralet v AG* [1980] 1 WLR 1565, it was held that 'two of the essential attributes of religion are faith and worship; faith in a god and worship of that god'. It was held that the South Place Ethical Society was not a charity for the advancement of religion because there was no worship.

This was questionable. No explanation was given as to why worship ought to be a definitional aspect of the term 'advancement of religion'. Yet, the courts and the Charity Commission continued to use this definition to exclude any religions where there was no evidence of worship. The **Charity Commission** refused to register the Church of Scientology as a charity for the advancement of religion.

Yet, in *Hodkin* the Supreme Court held that Scientology was a religion. Lord Toulson, who gave the leading judgment, held that the question of whether there was religious worship 'is inevitably conditioned by whether Scientology is to be regarded as a religion'.

His Lordship stated that for the purposes of the 1855 Act, a religion could be described as: 'a spiritual or non-secular belief system, held by a group of adherents, which claims to explain mankind's place in the universe and relationship with the infinite, and to teach its adherents how they are to live their lives in conformity with the spiritual understanding associated with the belief system'.

The Supreme Court decision means that the Church of Scientology is now considered to be a religion for the purposes of the Places of Religious Worship Registration Act 1855. However, Scientology is not currently considered to be a charity for the advancement of religion even though the definition of religion under charity law is based on the now overruled decision in *Segerdal*. This is illogical.

The description provided by Lord Toulson in *Hodkin* was not intended to provide a definitive definition of religion under English law. Indeed, it would be difficult for it to apply outside the context of registering buildings given its reference to 'a group of adherents' and given the exclusion of non-secular belief systems (which are protected alongside religious ones under human rights and discrimination law).

There are other problems with the new definition. Lord Toulson commented that confining religions to beliefs concerning a deity would lead the courts into 'difficult theological territory' in a way that 'is not appropriate'. Yet, his description still invites courts to make that type of judgment.

Although it would be helpful for *Hodkin* to be applied under charity law, this would still not completely remove the confusion as to the definition of religion under English law. A preferable approach would be to adopt a very generous approach to the definition of religion, allowing judges

to decide whether to allow the benefit on the merits of the claim rather than on questions of definition.

The confused case law shows that the changing definitions of religion have led to changing but still contradictory approaches to the legal status of the Church of Scientology. Claims are, of course, fact specific and succeed or fail on their own merits. However, it is time for a consistent approach to be taken to the definition of religion and the question of whether Scientology can be seen as a religion.

About the author



Dr Russell Sandberg is Head of Law and Reader in Law at the School of Law and Politics at Cardiff University where he specialises in Law and Religion and Legal History. Researching at Cardiff's [Centre for Law and Religion](#), he is the author of *Law and Religion* (Cambridge University Press, 2011) and *Religion, Law and Society* (Cambridge University Press, 2014). He is the Managing Editor of the [ICLARS Series on Law and Religion](#), published by Routledge. His most recent work on religious courts is his edited book *Religion and Legal Pluralism* (Ashgate, 2015).

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