

## Transcript

### Sacred and secular

*Brett Scharffs*

#### **Brett Scharffs:**

My name's Brett Scharffs and I'm a law professor at Brigham Young University Law School, associate director of our centre there on international protection of religious freedom, and also an associate dean.

#### **Interviewer:**

Could you describe a little bit more broadly how you're involved with religious freedom issues?

#### **Brett Scharffs:**

Yes. So our centre, the International Center for Law and Religion Studies, was founded in January of 2000. And its mission is to try to engage in the scholarly study of law and religion and to engage in supporting law reform movements relating to religion and the rule of law.

And more broadly, to try to promote religion as a human right, religious freedom as a human right for all people in all places.

#### **Interviewer:**

Could you explain what we mean when we talk about corporate social responsibility?

#### **Brett Scharffs:**

Well, that's another of my fields. I teach business law as well, and corporate social responsibility is a reaction to the traditional idea that corporations exist for one and only one purpose and that is to make profits for their shareholders.

And that is undoubtedly one of the important things that corporations do, but the more modern view is that corporations have multiple constituencies, constituencies other than just shareholders. And they owe responsibilities to those other constituencies as well.

So we might think most directly of employees, of customers, of the communities in which they operate. But more broadly, responsibilities to the environment, to society, and to the well-being of human beings. From a religious freedom perspective, the important connection is that freedom of religion and belief is an important human right. And as corporations are expected to be respectful of human rights, one of those rights that they're expected to be mindful of is freedom of religion.

#### **Interviewer:**

And could you give some examples, perhaps talk about a case to do with freedom of religion in a corporate context?

**Brett Scharffs:**

Well, one interesting clash, if you will, between religious freedom and corporate conscience is playing out right now in the United States in the Hobby Lobby case. In that case, you have a claim by a conservative Christian owned arts and crafts store. It's actually a big store. It began in the 1970s, but now they have over 50,000 employees and hundreds of stores.

But the owners try to operate their business according to Christian principles. They close on Sunday. They pay their employees about 1 and 1/2 times the minimum wage as starting employees. They have a very good health plan, but they also have a religious conscientious objection to abortion.

And when the contraception mandate came out as part of Obamacare, there were about 18 contraceptives that were listed as things that were listed as things to be provided by all employers who fell under the plan. And they objected to two or three of those on the grounds that they were abortifacants, that they resulted in the termination of a pregnancy after an embryo had been created.

And so that's what the case is about, and what's interesting in that case from a corporate social responsibility point of view is that the government took the position that Hobby Lobby as a for profit corporation had no religious rights or interests at all. They said no, a corporation is just supposed to be about making money.

And for the corporation to say we have religious freedom rights is to make a category mistake. Well, this was a little bit ironic, because right while the case was pending, one of the nation's big pharmacy chains, CVS, the largest pharmacy chain, announced that they were going to stop selling cigarettes because of their harmful effects.

And this is something that is going to result in the company losing sales. They estimated it would result in the price of their stock going down, and nevertheless, they were met with universal praise, near universal praise for this decision to put health ahead of profits. And that would be viewed as a classic example of corporate social responsibility.

And indeed, President Obama, Secretary Sebelius, the Secretary of Health and Human Services issued press releases on the day of CVS's announcement praising them for their conscientious attention to values other than making profits. The irony, though, is that at the very same time in the Supreme Court, Secretary Sebelius was taking the position that Hobby Lobby as a for profit corporation did not have any conscientious interests at all.

And so the worry is that there is a little bit of a double standard that some conscientious concerns for health, for perhaps the environment, are things that will be embraced. But when a corporation expresses a conscientious concern for another value, such as human life, that that is viewed not just as being outweighed by other important values but somehow out of bounds or out of lines, that somehow the corporation is behaving inappropriately.