European Humanist Federation

2008: Symposium on Secularism and Human Rights – Athens
17 May 2008

This one-day conference was held on 17 May in association with the 2008 General Assembly. The programme was:-

10.00 David Pollock: Humanism and Human Rights

Address by David Pollock, EHF President, to the symposium on secularism and human rights held in Athens on May 17 2008

Rowan Williams, the Archbishop of Canterbury and head of the Church of England, gave a lecture on May 1 at LSE. He was looking for a foundation or basis for human rights – quoting the philosopher Alasdair McIntyre's concern that the language of human rights amounts to no more than assertion and he was seeking a basis for human rights that is more than simple declaration.

He elaborated a semi-theological argument based on the uniquely personal nature of the human body – an argument that need not detain us here – but he ended by asserting:

. . . the fact is that the question of foundations for the discourse of non-negotiable rights is not one that lends itself to simple resolution in secular terms . . .

I want to do two things in this talk.

Mainly, I will examine the secular basis for human rights.

In closing I want to look at some of the practical implications for us as humanists of our commitment to freedom of religion or belief.

To start with the basis or foundation for human rights.

Human rights were of course preceded by legal rights.

The concept of Rights seems to have arisen historically by a change of meaning of Latin ius from a disinterested concept of 'what is right' to the interest of someone who benefits in some way from what is right.

Hobbes & Rousseau saw rights as freedoms that attached to people in a mythical state of nature – before they formed communities – and that they surrendered in a social contract.

John Locke reversed this. He saw people as having rights as a fact of nature – natural rights. And he saw the community as an arrangement to better defend those

rights – rights that carried with them a reciprocal duty to others. He was the first to regard natural rights as inalienable, being in his view based on our nature as God's creatures. Rights became an aspect of natural law, with more or less religious underpinning.

Thus in the US Declaration of Independence we read:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness

and so on.

Tom Paine in his Rights of Man took a different line – equally based on natural law but a secular version of it. He asserted that men are not endowed with rights by any god or creator but have them simply by virtue of being men.

And he deplored ascribing them to any declaration or charter because that suggested that they can be repealed as easily as declared.

"It is a perversion of terms to say that a charter gives rights. It operates by a contrary effect – that of taking rights away . . . Rights are inherently in all the inhabitants . . . [I]ndividuals themselves, each in his own personal and sovereign right, enter[ed] into a compact with each other to produce a government: and this is the only mode in which governments have a right to arise, and the only principle on which they have a right to exist."

In Paine's view, the sole purpose of the government is to protect the inalienable rights inherent to every human being.

I will not pursue further a historical account of the dev of the concept of human rights. What was early established as a consensus was on these lines:

that individuals had to consent to any political authority over them

that the primary function of government is to maintain & protect the natural rights of citizens

and hence that natural rights limit the freedom of government.

But there is also an inherent difficulty in understanding the concept of rights (outside a legal context). What does it mean to say "I have a right to life" as a bandit attacks me? Do we expect the answer "Oh yes – I'd forgotten: run away then"?

What sort of language is talk of rights? It is variously the language of political theory or of moral philosophy or of theology.

This may seem problematic.

Christians may be persuaded by a theological argument – but followers of other religions will not, nor will we. Political theory is a weak basis for any grand prescription. And moral philosophers may be satisfied with their own accounts but there are as many different moral philosophies as there are moral philosophers, each finding flaws in the others!

For example, there is

- the idea that morality is inherent in the way things are and that we can discover what is right and wrong by intuition,

- or (like Kant) that we can discover the universal moral laws by the use of reason

- or that morals depend on a social contract

- or that morals are a matter of virtue or character – a matter of intentions, not consequences

- or (the absolute opposite) that morality is based on consequences, as with utilitarianism

and so on…

So many great minds have struggled with the problem over thousands of years. They have provided wonderful insights but have not come up with a definitive answer.

Does it matter? Not really: all the time people have continued to live decent lives and to have some idea of what they mean by right and wrong, even when they act wrongly.

And so it is with human rights.

There is no definitive syllogism leading to a conclusion that “therefore all humans have these rights”.

There is no conclusive ‘knock-down’ argument that is inescapably persuasive to everyone.

In other words, sadly for the Archbishop and for Alasdair McIntyre, it does all come down to assertion or proclamation – and aspiration.

The language of human rights is the language not of reason and logic but of struggle and politics.

This should be evident even from a brief look at the Universal Declaration of Human Rights whose 60th anniversary we are celebrating this year. Look at the range of rights it deals with – they fall into a hierarchy from the most fundamental to the still controversial: rights -

1. to life itself and freedom from murder or assault – the right to the material essentials of life & minimum health
2. to freedom – of thought, expression, belief, association, movement &c
3. to property
4. to democratic rights, nationality
5. to rule of law, justice, fair trial, freedom from arbitrary arrest
6. to social and economic and cultural goods – education, work, leisure &c

This range of types of right raises problems for any view that they are based on natural law or are inherent in our existence as human. Is it "self-evident" that every individual has a "right" to work and leisure, to education and social security? What sort of "right" do third world citizens have to goods that simply cannot be provided?! Do people have different rights according to where they live?

Human rights derive for some from respect for human agency and autonomy – a Kantian view. And they are plainly rights held by virtue of being human.

But they are not rights that adhere to us in a state of nature. In a state of nature – a fictional concept, of course – we may have unlimited freedom but we have no rights.

Rights are essentially a social arrangement.

They start with rules and law imposed by those who have the power.

But such rules are often arbitrary or selfish and risk offending people's inherent sense of fair play, and those in power will soften the rules rather than risk revolt and loss of power.

Out of this, encouraged by moral reasoning, develops the language of rights – but the language of rights is about describing and seeking to change social relations.

It is the language of aspiration.

The idea of human rights appears only when society has reached a certain stage of progress – when there is sufficient stability and devolution of power for a focus on the individual to be possible.

And the idea of human rights is not without its critics or its difficulties.

Human rights are seen by some as bourgeois. Those concerned with big political movements – class struggles, national liberation movements and so on – are willing to accept that individuals may become casualties, their freedoms may be curtailed or denied. They may see concentration on human rights as not just liberal but effete.

And certainly there is nothing in human rights to protect us against the tragedy of commons – the sub-optimal or even disastrous result of each individual acting in logical pursuit of his or her own best interests.

Not only that, but the rights as formulated can clash with each other. Notoriously, freedom of religion often clashes with the rights of women or of the LGBT community.

So we are left with a deeply valued idea of human rights that

1. do not address the big political picture
2. clash with each other and
3. are underpinned by no compelling argument.

So are we back with Alasdair McIntyre as quoted by the Archbishop of Canterbury:

Rights which are alleged to belong to human beings as such and which are cited as a reason for holding that people ought not to be interfered with in their pursuit of life, liberty and happiness' are a fiction: 'there are', he says, 'no such rights, and belief in them is one with belief in witches and in unicorns. – ?

Or with Jeremy Bentham who talked of human rights as "nonsense on stilts"?

I think not.

Indeed, to think that there might have been a definitive argument that would persuade all-comers to agree is actually quite unreasonable.

For although for us as humanists human rights are fundamental – a basic part of our lifestance – it would be incompatible with our basic beliefs as humanists to expect that human rights were the locus for some privileged manner of discourse.

Let us look for a moment at our humanist beliefs.

For us as humanists everything follows logically from the way we look at the world.

We observe and make sense of the world by using evidence and reasoning.

We learn to observe ourselves and to understand the limitations of our methods – but we also observe that all other approaches are far inferior.

So we start pragmatically from a naturalistic outlook, rejecting the alternative of transcendental hypotheses of some kind.

We observe that as humans we are by nature endowed with a moral sense and we reason that this derives from our evolutionary history as social animals – that is, that, once we as humans became self-aware and acquired language and the power of abstract thought, we adapted what started as rules or patterns of behaviour conducive to the survival of the social group into precepts of behaviour that took on a moral nature and were often backed by religious sanctions.

We also believe on all the evidence that this is our only life.

So the combination of this and our moral nature leads us to believe not just that we should make life as good as possible for ourselves, but because of our evolved morality and instinct for social cooperation, that we should make it good for others also.

And pragmatically we observe that this is the best way in general to make life good for ourselves too.

We also observe that, whatever the actual power structure around us, there are no grounds in nature for accepting any particular external authority, natural let alone supernatural, but that we can live best if in our societies we cooperate in self-government.

We observe that individuals have very different beliefs & views and hence have devised the idea of plural democracy – not just unfettered majority rule, which would promote conflict and be unstable – but collaborative decision-making limited by respect for those vital interests of others that we recognise should be infringed only with reluctance or not at all.

What are those vital interests of others – and of ourselves – that we try to protect?

Some are procedural – to do with freedom – and some are substantive – to do with well-being. They are about having the ability & conditions to achieve one's purposes.

They started as pragmatic limitations on the unfettered exercise of power and have ended relatively recently by being elevated to the level of "human rights".

Is this a reductive account? In one sense it is – but it also is magnificent.

It is a structure of thought and behaviour that we human beings – we extraordinarily evolved cousins of the apes – have created for ourselves for our own well-being and thriving.

So we can happily accept that the language of human rights is that of assertion, of declaration, of aspiration.

We can accept that they as a human creation are subject to revision and development.

Others who do not share our lifestance will not be attracted by this sort of argument. They will look for some transcendent basis – and they will talk (as with morality) of

- values immanent in the universe

- or of the fatherhood of God & brotherhood of mankind

looking for some secure foundation but only finding argument and disagreement.

So what is wrong with human rights being declaratory? aspirational? persuasive?

Nothing , I think. Our assertion of human rights sets standards of behaviour for governments.

They have effect through

(a) setting an international agenda,

(b) raising the ambitions of governments &

(c) informing the demands of the people,

and if necessary

(d) arraigning governments at bar of world opinion.

So mere talk has its value.

But in practice we go further.

We have made many human rights a matter of treaties in which states commit themselves to upholding them, which lends force to protests when they breach their self-imposed standards.

And in some places we have made them justiciable – a matter of law, as with the European Convention on Human Rights.

This may reduce them to courtroom argument but it does make them enforceable by the individual by recourse, ultimately, to the international European Court of Human Rights.

In some cases we can use the courts – or the threat of the courts – to enforce our own rights.

For example, consider Article 9 of the ECHR.

This guarantees freedom of religion or belief – but that freedom is not limited to freedom to believe: it includes freedom to reject belief. Article 9 is (as was stated by the European Court of Human Rights in a 1994 case) not just valuable for the religious but is also “a precious asset for atheists, sceptics and the unconcerned.” – Kokkinakis v Greece: (1994) 17 EHRR 397, para 31

And note that little word ‘or’ – Religion or Belief. Belief is differentiated from religion. Of course, beliefs may be religious, but the UDHR, the ECHR do not limit themselves to religious beliefs. Our humanist beliefs are equally protected – our beliefs

1. in a naturalistic interpretation of the univers
2. in the natural origins of morality
3. in the virtues of cooperation and mutual caring

4. in the right of each of us to determine the meaning she or he will find in life.

These are positive, attractive beliefs that we should acknowledge and make much of: we should not let the religious portray us as negative, lacking a dimension in life, unable to provide meaning beyond consumerism or support morality beyond a fading inheritance from Christianity. Those frequent accusations are libellous and must be rebutted.

We must not just deny that we have a religious faith – we must assert and defend our positive Humanist beliefs and values.

Indeed, we are not talking about two things here – religious beliefs and non-religious beliefs. There is a single spectrum, ranging from the most dogmatic and fundamentalist cults through to the liberal churches and a wide range of semi-religious people more concerned with enquiry than assertion, or with practice and culture rather than belief – people who call themselves religious but without a belief in God – and on to the softer fringes of agnosticism and Humanism and eventually to the hardline atheists who do not acknowledge the legitimacy of asking 'ultimate questions' about life and meaning, even in secular terms.

And Article 14 of the ECHR extends protection from freedom to hold beliefs or reject them to protection from discrimination based on religion or belief, providing us with an immensely powerful legal route to force Governments to respect our rights just as they have to respect those of the religious.

This is a topic Andrew Copson will be exploring later today.

Lastly I want to look at some of the practical implications of human rights today.

First, the need to be scrupulous in respecting other people's rights – especially religious people's rights. We hear increasingly of Christianophobia, of alleged persecution – not perhaps being thrown to the lions in a literal sense but "excluded from the public forum".

I can quote most easily from UK sources. The Anglican Archbishop of Wales in his Christmas message a few months ago said:

A new phenomenon has arisen in our country however, what can be called atheistic fundamentalism. It advocates that religion in general and Christianity in particular have no substance and assumes that most people will accept their premise that the religion in general and the Christian faith in particular, has no value and is superstitious nonsense.

The Anglican Bishop of Durham, in a sermon about a current Bill to set rules for research involving human embryos, criticised the Government for "pushing through, hard and fast, legislation that comes from a militantly atheist and secularist lobby. . .This secular utopianism is based on a belief . . . that we have the right to kill unborn children and surplus old people…"

You will know of many similar allegations in your own countries.

What is happening, I am sure, is that the established churches are feeling under increasing pressure.

They are losing their congregations – either to Pentecostalist-type fervour or to atheism or more likely to apathy.

They need to find a reason for this that they can live with and they find it in what they choose to see as unfair criticism by secularists and by the so-called New Atheists – Hitchens, Dawkins, Dunnett and co.

Almost all their complaints are exaggerated nonsense.

But we need to be careful that we do not offer any genuine cause for complaint against us, or we will never hear the last of it.

We must recognise that the religious have human rights too.

Now it sounds silly to state that.

But while I am sure no-one would want to deny believers their right to believe, there is in Article 9 a second part that deals with the freedom to manifest beliefs.

Manifesting is all the sorts of public behaviour that the beliefs require or lead to – preaching, worshipping, observing festivals, wearing particular forms of dress and so on.

It is a conditional right – but the conditions under which it can be limited are narrow: they relate to

“the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

So when we consider bans on religious dress at school or elsewhere, we need to think hard about the question “what harm are we trying to remedy? does it meet the criterion of endangering public safety, or public order, health or morals, or the rights and freedoms of others?

When employees ask for concessions at work related to their religion, we need to look at their requests in terms of human rights.

If we are tempted to reject their case, we must check if this amounts only to a payback for the oppression we or people like us have suffered in the past, because that is not good enough.

And we must recognise that when we assert our rights, sometimes there may be a genuine clash of rights. We may be fervent about the rights of women or gays, but if

freedom of religion is to mean anything at all it must mean that religious rights must be conscientiously weighed against those of others whose rights may be affected.

We need to put ourselves in their shoes and see how it seems from their point of view.

Consider the matter of schools. Now, we may be indignant at the treatment we receive or have received in the past.

An Anglican priest in the UK recently denounced schools teaching about religions as "atheism by decree".

And the Roman Catholic bishop of Lancaster, in instruction to Catholic schools, wrote: "It is not to be expected that a school or college library would stock non-fiction or fiction that contains polemic against the Catholic faith [or] religion in general."

Now, we may – or may not – prefer to bring up our children to make up their own minds when they reach an age to do so.

But parents do have the right to bring up their children as Christians or Muslims or whatever, and Article 2 of the 1st protocol to the ECHR reads:

"In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

That does not mean that the state has to pay for such education – but it cannot discriminate between those it will pay for and those it won't – paying for Christian schools and not for Muslim, for example.

More generally, the complaint from the churches is that we are trying to force them out of the public space.

Now if we adopt a strong version of secularism – if we say that there should be total separation between the state and the church, religion and politics, we risk seeming to deny freedom of speech to at any rate church leaders as representatives of their institutions – in a way, that is, that we would not seek to silence trade unions or professional associations or learned societies.

Is that what we are doing?

Of course, no such attempt would have the least chance of success, but is it what we intend?

I suggest it is not, although I think some of us may have come close to saying something like it.

It would not be healthy in a democracy to try to ban selected voices.

And we have to allow that, however pernicious religious preaching may be at times, at other times the churches have led the field in championing the interests of the poor or in denouncing wars and in other valuable causes.

So what are we saying?

Not that the churches should trample over our rights with their demands and threats – as when the Roman Catholic church threatens Members of Parliament who do not obey the Catholic line on legislation touching matters of Catholic doctrine and commands their Catholic constituents not to vote for them – or when the Vatican threatened to and then did drop its backing of Amnesty International over its very mild policy on abortion after rape – or when Cardinal Cormac Murphy O'Connor demands that the BBC should not be impartial but biassed in favour of Christianity.

What we are saying is, I think, this:

that in our communities, in public affairs, everyone and every organisation is entitled to express their views but questions must settled on the merits of the argument – and religious arguments are often expressed in terms that are incomprehensible to those with no or other beliefs.

So if our bishops argue for a general law – for example, against voluntary euthanasia – on the basis of some religious belief, they should be ignored in that public debate. They can address their followers in those terms, but other people have no need to give their arguments any weight.

The churches need to enter public debate with contributions framed in language and concepts that can be generally understood.

Nor are the churches due any more respect than they earn by the depth of their thinking and experience. For example, they may through their pioneering work with hospices have something to add to the euthanasia debate that is relevant and is not based simply on religion.

And in the crude measure of numbers of followers – that is, in nakedly electoral consideration by politicians – scepticism is due about whether the claimed number of followers are actually following.

So we are happy to see Christian contributors is the public forum

- if they contribute from relevant experience
- with comprehensible arguments
- offered on their merits & not on the basis of demanding obedience
- &/or as representing a substantial body of people & not just a long list of baptisms.

The religious are welcome in the public arena, in other words, on equal terms with everyone else and their institutions on equal terms with other organisations, if they accept being judged on their merits and do not expect privilege and deference.

Sadly that is not the basis on which many religious bodies are currently trying to contribute to our debates.

We know how the churches plotted and schemed behind the scenes for the special privileges in the European Union that they now have.

And in this 60th anniversary year of the UDHR the foundations of Human Rights are sadly under attack not just in the form of abuses by those in power but by insidious undermining with deceptive arguments calling the whole concept of human rights into question.

1. In Britain the Archbishop of Canterbury has called for sharia law to be recognised alongside (or perhaps under and within) the civil law of the land – an ill-judged speech that was more concerned with finding a defence for his own church's anomalous privileges (seats in Parliament and so on) than with advancing Islam.

2. More importantly, the Holy See last year aligned itself with the Islamists at the annual OSCE human rights meeting, demanding protection for religious beliefs – not religious believers. In effect they were seeking group rights – rights, that is, for the leaders of religious communities to dictate to their members and to deny them their individual Human Rights.

3. Most importantly still, on the international stage, largely unnoticed by the general public, the UN Human Rights Council, like its predecessor the Human Rights Commission, has fallen under the sway of the Organisation of the Islamic Conference (OIC), with its Declaration of Islamic Rights that subordinates all rights to Islamic religious duties.

As president of the EHF I have written to President Barroso on this issue, suggesting that the EU consider quitting the Human Rights Council so as to reveal it starkly as a sham and setting up a genuine human rights body in its place. We shall hear more about this sad situation in a paper by Keith Porteous Wood later today.

So the 60th anniversary of the Declaration sees Human Rights under siege. It must be a high priority for us to protect Human Rights from their enemies – not just of course the conservative religious lobby (and the liberal religious are our staunch allies in this fight) but also the governmental and other authorities for whom Human Rights are an infringement of their power to rule as they wish regardless of the rights and interests of unfortunate individuals.

11.00 Panayote Dimitras (Greek Helsinki Monitor): Greece, a religious state – on the Alexandridis vs. Greece judgement in the European Court of Human Rights and beyond.

Example of litigation against Greece by Greek Helsinki Monitor in European Court of Human Rights

Panayote Dimitras spoke of numerous cases the Greek Helsinki Monitor had taken and won against Greece for a legal system that assumed Greeks were members of the Greek Orthodox Church and made it difficult for people to be recognised as having other – or no – beliefs. This notice of one of their victories gives an example of the sort of case involved.

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Press Release

21 February 2008

Greece's religious oath violates freedom of religion European Court of Human Rights rules

Greek Helsinki Monitor (GHM) expresses great satisfaction with today's European Court of Human Rights (ECtHR) unanimous conviction of Greece in the Case of Alexandridis v. Greece. The application No. 19516/2006 was submitted to the ECtHR by GHM and concerned GHM's legal counselor Theodore Alexandridis. According to the ECtHR, Greece violated Articles 9 (freedom of thought, conscience and religion) and 13 (right to an effective remedy) of the European Convention on Human Rights concerning the fact that the applicant had had to reveal to the court that he was not an Orthodox Christian in order to take a non-religious affirmation rather than an oath to the Gospel and there was no remedy to offer redress for the violation of his freedom of religion. The ECtHR awarded the applicant 2,000 euros (EUR) for non-pecuniary damage. The ECtHR press release with a link to the full judgment follows.
EUROPEAN COURT OF HUMAN RIGHTS

126

21.2.2008

CHAMBER **JUDGMENT**
ALEXANDRIDIS v. GREECE

The European Court of Human Rights has today notified in writing its Chamber judgment in the case of Alexandridis v. Greece (application no. 19516/06).

The Court held unanimously that there had been

- a violation of Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights; and,
- a violation of Article 13 (right to an effective remedy) of the Convention.

Under Article 41 (just satisfaction), the Court awarded the applicant 2,000 euros (EUR) in respect of non-pecuniary damage. (The judgment is available only in

French.)

1. Principal facts

The applicant, Theodoros Alexandridis, is a Greek national who was born in 1976. He was admitted to practise as a lawyer at Athens Court of First Instance and took the oath of office on 2 November 2005, which was a precondition to practising as a lawyer.

The main issue in the case was the applicant's allegation that when taking the oath of office he had been obliged to reveal that he was not an Orthodox Christian.

The facts are in dispute between the parties.

Mr Alexandridis alleged that, in accordance with usual practice, the court secretariat had provided him with a form containing a standard text to the effect that he swore the oath "after having placed his right hand on the Holy Bible". On 2 November 2005, at a public hearing, he had given the form, duly completed, to the president of the court and informed her that he was not an Orthodox Christian and wanted to make a solemn declaration, which he had been allowed to do.

The Greek Government, for their part, confirmed that the president of the court had granted the applicant's request. However, in their initial observations the Government had indicated that the applicant had not complied with standard practice because he had presented himself directly before the president on 2 November 2005 and sought permission to make a solemn declaration. He had then gone to the secretariat and filled in the form for religious oaths, whereas there were two different forms, one for the religious oath and the other for a solemn declaration.

In their observations in reply to those of Mr Alexandridis the Government mentioned, however, that the applicant had indeed taken a form for religious oaths with him when he went before the president of the court. He had then asked the secretariat to provide him with copies of the form, but had not taken any steps to have the document rectified.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 3 May 2006.

Judgment was given by a Chamber of seven judges, composed as follows:

Loukis Loucaides (Cypriot), President,
Christos Rozakis (Greek),
Nina Vajić (Croatian),
Khanlar Hajiyev (Azerbaijani),
Dean Spielmann (Luxemburger),
Sverre Erik Jebens (Norwegian),
Giorgio Malinverni (Swiss), judges,

and also Søren Nielsen, Section Registrar.

3. Summary of the judgment

Complaints

Relying on Article 9 and Article 13, the applicant alleged that he had been obliged to reveal his religious beliefs when taking the oath of office.

Decision of the Court

Article 9

The Court noted that the parties' submissions diverged as to certain factual elements. It pointed out that the Greek Government had submitted two versions that were inconsistent with each other, and added that none of the documents showed that the applicant had not followed the standard procedure for taking the oath. Indeed, the record of the hearing before the Athens Court of First Instance of 2 November 2005, which was the only official document that had been drawn up following the proceedings in question, corroborated the applicant's version of events.

The Court observed, further, that the freedom to manifest one's beliefs also contained a negative aspect, namely, the individual's right not to be obliged to manifest his or her religion or religious beliefs and not to be obliged to act in such a way as to enable conclusions to be drawn regarding whether he or she held – or did not hold – such beliefs.

In the present case the Court considered that when Mr Alexandridis went before the court he was obliged to declare that he was not an Orthodox Christian and, consequently, to reveal in part his religious beliefs in order to make a solemn declaration. The Court observed that this procedure reflected the existence of a presumption that lawyers going before the court were Orthodox Christians. The record of the hearing, which was the only official document certifying that the oath had been taken, did indeed present the applicant as having sworn a religious oath, contrary to his beliefs. In that connection the Court also noted that, under Greek law, the oath that any civil servant was invited to take was in principle the religious oath (first paragraph of Article 19 of the Civil Service Code). In order to be allowed to make a solemn declaration, the applicant was obliged to state that he was an atheist or that his religion did not allow him to take the oath.

Regarding the existence of two different forms, the Court noted that the copies produced by the Greek Government in support of their submissions dated from 2007. Consequently, the Court could not conclude that the two forms existed at the relevant time. In any event, even supposing that there had been two different forms the Court considered that the applicant could not be blamed for failing to obtain the correct one. The president and registry of the court should have informed him that there was a specific form for solemn declarations.

The Court held that the fact that the applicant had had to reveal to the court that he was not an Orthodox Christian had interfered with his freedom not to have to manifest his religious beliefs. There had therefore been a violation of Article 9.

Article 13

The Court considered that the Greek Government had failed to show the existence of any effective remedy by which the applicant could have sought redress for the violation of his freedom of religion. Accordingly, there had been a violation of Article 13.

11.45 Werner Schultz: Preserving Human Rights while Combating Terrorism

The following declaration was agreed by the Board on 5 October 2007 in the light of discussion at the General Assembly in Torino in June.

Faced with the threat of terrorism a legitimate and democratic government has a dual responsibility to its citizens: not only to protect them from death, injury or other detriment but also to maintain democratic freedoms and the rule of law.

The European Humanist Federation (EHF) is gravely concerned that, since the terrorist outrage in New York in September 2001, governments, in putting emphasis on measures aimed at physical protection, have given too little importance to maintaining civil liberties and human rights.

Indeed, it appears that the need for safeguards against terrorism has furnished the pretext for undermining many fundamental principles of penal justice and police practice in favour of government power and intrusion. We refer, for example, to detention without trial, house arrest, highly oppressive forms of detention and interrogation, and novel legal or extralegal procedures.

As a result, suspects, including many people proven or plausibly argued to be innocent of any offence, are deprived of the right to an appropriate defence, the evidence against them being kept secret to protect informants whose motives are often suspect, and judgements are handed down by special tribunals whose function and composition do not respect the elementary principles of impartiality. In certain cases sanctions have been imposed by administrative or political authorities without any possibility of appeal or recourse.

These procedures manifestly violate international norms regarding the right of individuals to a fair trial, as guaranteed by the provisions of the International Covenant on Civil and Political Rights and the European Convention on Human Rights. They are disproportionate to the threat to life and limb posed by terrorists and undermine the values of liberal democracy in a way the terrorists can only dream of.

When fighting terrorism democratic societies need to demonstrate that, unlike the terrorist, they value and respect human rights and democratic procedures. History

shows that it is in times of war and instability that it is most dangerous to adopt special measures limiting freedom and granting excessive powers to the State.

Besides, conducting a "war on terrorism" outside the framework of international law, in disregard of human rights and established legal procedures, risks not only stigmatising and punishing vulnerable minority groups owing to the behaviour of a few aberrant individuals among them but actually alienating many from both government and society and motivating a few even to support and engage in terrorism.

EHF invites all governments to re-examine their policies of maintaining civil liberties in the light of these principles.

At our colloquium in Athens in May 2008 Werner Schultz explained the background to our adopting this policy:

Last week I read in the biggest magazine in Germany, called "Der Spiegel", about the book "Torture Team" by Philippe Sands. He wrote about torture at Guantanamo and he proved that not the soldiers in the ranks that start tortures. We know today of the memo of William Haynes, the legal adviser of Donald Rumsfeld, with the permission for fifteen illegal interrogation methods.

Orders for torture come from the top!

It sounds ridiculous, when we hear that this decision was influenced by the television series called "Twenty four", as we are told by Diane Beaver, a Guantanamo lawyer.

And against the international laws all Americans who are part of this torture system get immunity under the Military Commissions Act 2006.

In the same magazine you can read about the European Court in Luxemburg. There we have eleven cases involving fifty-four persons and forty-eight organisations. All of them have been called terrorists by the authorities of the European Union. The judges are proving critical, because the accused have had no chance to defend themselves and they didn't get information about the accusations.

It is aganist this background that the European Humanist Federation has published a document with the title: "Preserving Human Rights while combating terrorism". [See above]

12.05 Baard Thalberg: Marriage Laws – the EHF Policy

14.00 Keith Porteous-Wood: How Universal is the Declaration of Human Rights? – the situation in the UN Human Rights Council (paper read for him by Vera Pegna)

Paper by Keith Porteous-Wood, Executive Director, National Secular Society (UK)*

I want today, though, to talk about Human Rights, the essential bedrock of all civilisation and all secular democracies. And I want to talk about the particular and precious human right of free expression.

Alarm bells rang for me when I attended a session of the United Nations Human Rights Council in Geneva. To my dismay, it turned out not to be the High Temple of Human Rights that I had imagined. Indeed, some of the delegates sitting around the Council table are the agents of some of the world's worst abusers of Human Rights.

I shared my concerns briefly with those of you who attended EHF's impressive meeting in Brussels last month to commemorate the 60th Anniversary of the Universal Declaration of Human Rights.

Those of us in Europe should count our good fortune for being under the protection of the European Convention on Human Rights and having the European Court to enforce it. The majority of the world has no such protection.

But even in Europe, we have no grounds for complacency, and I will give just one example. Shockingly, freedom of religion is rapidly deteriorating in Russia, especially for Protestants, thanks to the near fusion between the State and the Orthodox Church.

But the scale and degree of Human Rights abuses in other parts of the world are far worse, and, generally, the UNHRC is their only protection. Unfortunately, the UNHRC is, in my opinion, less than effective. It could even be argued that in some cases it serves as a decoy to distract the world from examining major abuses. Let's examine some of the problems.

1) To set a context, let's look briefly at the circumstances in which the UNHRC came into being, around two years ago. It was formed because its predecessor body, the UN Commission on Human Rights, had lost all credibility. Former UN Secretary General Kofi Annan let it off rather lightly by saying it had "become too selective and too political in its work". It was clearly hoped that the new Council's members would genuinely support, and be prepared to defend, the principles of the UDHR even-handedly and transparently. Unfortunately, that has not turned out to be the case.

2) The roots of the problem lie in the power balance within the UNHRC. There is not time here to go into the complications of how states get a vote and how long they can stay members before retiring. We need instead to look at the current realpolitik in the chamber.

3) I realise what I am about to lay myself open to charges of Western imperialism. In mitigation I would like to put on record that there are many people in Muslim countries and also many in Muslim communities or from a Muslim background in Europe who fully support human rights and freedom of expression; indeed many who have come to Europe to escape abuses of human rights and freedom of expression.

4) However, a majority on the present Human Rights Council are, in my opinion, energetically impeding freedom of expression, on occasions frustrating the exposure

of Human Rights abuses and acting in a partial manner. The 14 countries on the UNHRC that are affiliated to the Organisation of the Islamic Conference (OIC) often ally themselves with sub-Saharan African countries and with Russia, China, Cuba and Sri Lanka to force through measures that are inimical to the concept of universal human rights.

5) My initial concerns about the UNHRC arose from its failure to protect freedom of expression. This applies particularly to an excessive focus on what is described as Islamophobia. I am convinced, for example, that the Danish cartoon crisis was manufactured (probably not in Europe), for political ends by Islamist leaders, and long after the original publication of the cartoons. I am not alone in this view and my statement to this effect at the Council of Europe drew no detractors. At least one respectable British website makes a well argued and well supported case that the incidence of Islamophobia is greatly exaggerated. The clear intention of the exaggeration is threefold: (a) to create a climate of victimhood (b) to create a climate of fear which reduces freedom of expression much lower than has been enjoyed in most of Europe in recent decades and (3) distract attention from the examination of blatant Human Rights abuses by directing attention to Western countries by attacking them for the victimless offence of defamation of religion.

6) And the strategy works. The series of crises on freedom of expression such as the Rushdie affair, the Van Gogh murder, the pursuit of Hirsi Ali, the Danish cartoons, and now Fitna has resulted in self-censorship on a previously unimaginable scale. Governments weakly condemn the writers for “provocation” rather than those who threaten them, or worse. The UNHRC, driven by the voting bloc I’ve just referred to, passes motions calling for defamation of religion legislation throughout the world, a kind of dangerously undefined super blasphemy law – which will consign our hard-fought-for freedom of expression to oblivion.

7) Indeed, freedom of expression in the UNHRC itself is deteriorating. A motion was passed in March requiring the Special Rapporteur on Freedom of Expression to report in future on abuses of freedom of expression, rather than focus only on cases where freedom of expression had been denied. Similarly, NGOs are finding it increasingly difficult to get their voices heard at the UNHRC. These increasing restrictions on NGOs seem to be applied more harshly to the few outspoken ones, of which I am pleased and proud to say one is your international umbrella body, IHEU. Our principal IHEU delegate in Geneva, Roy Brown – to whom we all owe an immense debt – has sometimes spent days on end in the chamber trying to make just one intervention which, even if he is successful, can be limited to just three minutes and then subjected to constant interruptions from those who do not wish any opposing voices to be heard.

8) You would imagine that the UNHRC would be the perfect place to explore and condemn the issue of the death penalty being imposed for apostasy or homosexual acts. And yet attempts to raise it are met with hostility. As far as I am aware, the only countries (a handful of them) for which these supposed “offences” remain as capital crimes, are all members of the Organisation of the Islamic Conference.

9) A further concern relates to the considerable and growing status being accorded in the UNHRC to the Cairo Declaration on Human Rights in Islam and the Arab Charter

on Human Rights. The former explicitly mentions that its provisions are subject to Shariah and the latter permits the execution of minors in certain circumstances, so both instruments fall short of the standards in the Universal Declaration of Human Rights (UDHR). It seems to me that regional charters and ideologically- or religious-based instruments deflect attention from whether activities fall short of the UDHR or the International Covenant on Civil and Political Rights ICCPR. Some might even suggest that this is their purpose.

10) An innovation of the new UNHRC was to be Universal Periodic Reviews (UPR). These were heralded as the key to making the UNHRC work where its predecessor had failed. The UPRs are a review of every country on a cyclical basis over several years, and every other country is open to make observations on those being reviewed. Amnesty International pleaded with countries to play the game by being open and even-handed.

11) The first round of reviews has taken place and the reverse has happened. Notorious Human Rights-abusing countries mounted vicious attacks on relatively compliant countries. On the other hand, countries with appalling Human Rights records have been the recipients of gentle reviews from countries presumably seeking a favourably biased review or some other advantage in return.

The Council has only been in operation for two years, and I can understand those who say that it is too early to form a judgment. Nevertheless, as I said before, this is itself a second attempt, and the new Council seems to be no better than its discredited predecessor. We cannot blame teething problems, one bad judgment from which we can learn in future, or a close vote which went the wrong way. If only we could.

The problems seem fundamental, and are reminiscent of the UN of the cold war era. You will remember Kofi Annan's description of the predecessor Commission, that it has "become too selective and too political in its work". Sadly, the description applies equally today. I do not pretend to have a solution. And I am certainly not going to use the phrase "road map", but I do have some ideas. And they involve you.

First of all, we must fight to retain freedom of expression. I do acknowledge that some legitimate limitations can be provided for by law where necessary for respect of the rights or reputations of others, protection of national security or of public order, public health. Be on your guard if anyone tells you your freedom "must be used responsibly". Generally, they mean "do not say anything that I might find offensive". Freedom that our detractors tell us must be used "responsibly" is no freedom at all, and no one has the right not to be offended. So, let's renew our fight against threats to freedom of expression. Let's stand up for people who say the unsayable – provided it is not hate speech against individuals, of course. We should fight for their right to speak out, pointing out we do so in principle, regardless of whether or not we agree with what they say. And let us never forget that human rights are for humans, not institutions or organisations.

The other task I have for you is to raise awareness of the shocking situation at the UNHRC. It is astonishing that so few people–even Human Rights experts–know about that this ship in international waters has been hijacked.

It is the instinct for diplomats to seek to pour oil on troubled waters, especially where super powers and major trading blocs are involved. But the ineffectiveness (to put it most gently) of the UNHRC is a disaster for people whose Human Rights are being abused in the most dreadful way in so many countries. We, who by accident of birth, live in a place where human rights protections are recognised as important and generally observed, owe it to those living under tyrannies and dictatorships to try to help.

So, I suggest you talk to those in the media and also to politicians. Working with colleagues in IHEU we have managed to increase awareness around the world to some extent. I have raised the issue at a high level in the UK Government and intend to keep exerting as much pressure I can on politicians.

And if you watch the IHEU website we intend to post materials shortly that you will find helpful in making your representations.

In winding up I would exhort all of us of the need to be on our guard for restrictions to our human rights like never before. There is, for example, a climate of increasing restrictions on Freedom of expression. Pressure from the Catholic Church has recently resulted in the curtailment of freedom of expression in Italy. It is not long since we only just managed to curtail another threat in the UK Parliament. Despite putting in a massive effort over five years, we only won by the narrowest of margins in Parliament – one vote.

Might I conclude on a happier note with some domestic news from the UK? Last week, an amendment to abolish the UK blasphemy law passed its final hurdle in Parliament and it is now consigned to the dustbin of history. I am proud to say that associates and staff at the National Secular Society played a major part in the demise, but we were just fortunate to have found an opportunity not available to our predecessors who fought for that abolition over the last 140 years. Above all, we wish to pay tribute to the deprivations of those who suffered as a result of this iniquitous law, including one of the Society's presidents who went to prison, and pay our respects to the many victims in past centuries who have been murdered by the state or the church in the name of blasphemy. Nor should we forget that, elsewhere in the world, blasphemy remains a capital offence.

* *In Keith Porteous-Wood's absence, his paper was read for him by Vera Pegna.*

15.30 Andrew Copson: Using Human Rights Laws – the English Experience

Address by Andrew Copson, Director of Education and Public Affairs, British Humanist Association

In my remarks today, I want to say that the legal framework of human rights can be used by humanists to advance secularism, where secularism is the impartiality of the state and public institutions in matters of religion or belief and give a few examples from experience in Britain where this has been done with some success.

In 2001 the UK's Human Rights Act made the European Convention on Human Rights enforceable against public authorities in domestic courts and also aimed to ensure that public authorities acted consistently with human rights. Also relevant is the non-discrimination legislation in the UK which flows from human rights principles – the Employment Equality (Religion or Belief) Regulations of 2003, which prohibit discrimination on these grounds in employment and training and the Equality Act 2006 which prohibits discrimination on these grounds in the provision of goods, facilities and services.

I'd like to give a few examples mainly from education where humanists have used human rights to advance secularism. What I want to illustrate is that the use of human rights law as law, and not just the use of human rights principles as the basis for political lobbying or attitudinal change in society, can be a successful mechanism for humanists to advance secularism.

In 2004 the Human Rights Act was used by humanists in Britain to successfully achieve the first ever government recommendation that teachers should teach about Humanism when they teach about religions in public schools. Since 1944 the subject called 'Religious Education' has been required to be taught in all public schools in England and Wales and in the last sixty years it has moved from being mainly Christian instruction to being mainly teaching about world religions. This has been an advance, but the goal of humanist lobbying for many years has been the equal inclusion within the curriculum of teaching about non-religious beliefs in a broader syllabus – a difficult task to achieve through lobbying alone. The case for inclusion of Humanism in 2004 made by the British Humanist Association was made on the basis that the Human Rights Act made official discrimination between those with religious and those with non-religious beliefs unlawful in matters engaging the right to education. The case was accepted and Humanism was recommended to be taught about, demonstrating that what might seem difficult to achieve by lobbying – the repeal of the primary legislation requiring education about religions only – was more easily achieved by invoking the legal requirement that existing legislation should be interpreted to be compatible with human rights, removing along the way the principle of privilege for religion which is contrary to secularism.

Two years later, the invoking of human rights law helped to secure the support of the UK Parliament's Joint Committee on Human Rights, after submissions from the British Humanist Association and National Secular Society, for striking a blow against compulsory religious worship in public schools in England and Wales. Every public school in England and Wales is obliged by law to hold a daily act of collective worship that must be wholly or mainly of a broadly Christian character. Although this requirement is ignored by many schools and widely condemned by teachers and educationists, it is one of those laws which it is difficult to repeal, vested as it is with a great deal of symbolic status by defenders of religious privilege. Repeal is also difficult to build popular activist support for, unappealing as the principle of secularism as neutrality can appear to the public in the abstract. Far more appealing and effective in practice proved to be the human rights based case that emphasised the right of the individual child to choose. The case was built on the argument that the forced participation of anyone in any form of religious observance violates her right to freedom of religion or belief as protected by article 9 (1) of the European Convention on Human Rights and article 14 of the Convention on the Rights of the Child, and the

case was successful to the extent that the law was changed to allow children of a certain age to withdraw themselves from worship, in part because the Government wished to avoid human rights based legal action.

This year the British Humanist Association has used human rights principles directly in court, making an intervention in a case brought by parents whose children were denied admission to a Jewish public school. A third of all public schools in England – so-called 'faith schools' – are controlled by religious groups, and many of them have the legal right to give preference to children or parents of a particular religion. This is a clear violation of secularist principles in that it privileges citizens by virtue of their religion. In the particular case now awaiting judgement, the claimant made his challenge under the UK's Race Relations Act by arguing that the matrilineal descent required by the Jewish school is direct ethnic discrimination and therefore cannot be justified under law. The British Humanist Association made its intervention on the basis of the Human Rights Act, inviting the court to devise a general legal framework for assessing admissions criteria under the European Convention on Human Rights and provide a basis to challenge 'faith school' admissions arrangements as being discriminatory on religious grounds in the context of religious requirements not being a proportionate means of achieving a legitimate aim as required by tests evolved under human rights law. We are waiting for judgement on this case, but it may well offer future possibilities of using human rights law to challenge the public funding of religious schools.

There is room for a far more extensive use of human rights law in secular education campaigning in Britain across the board. Since 2002, in the education policy document 'Better Way Forward', the British Humanist Association has placed a human rights approach at the centre of its argument for a secular education system, and also made use of the related concept of 'reasonable accommodation' from discrimination law. This use of human rights principles has been particularly successful, leading to large parts of the policy to be adopted by two of the UK's major teaching unions – the National Union of Teachers and the Association of Teachers and Lecturers – as well as the policy against collective worship being adopted by organisations such as the Children's Rights Alliance and religious groups such as the Hindu Council UK or the Bahais of the UK.

These examples drawn from education illustrate a number of the advantages of using human rights to advance secularism. The application of legal arguments based on human rights can dissolve many of the problems that arise if cases for reform have to be made by political lobbying alone: the law, after all, is the law and its invocation always carries the threat of legal action. Human rights law can also be employed in more than one context – not just in court as in the case of school admissions, but also in cases such as the introduction of Humanism into the curriculum, where the use of human rights law was in the legal obligation that public authorities have to act in compliance with it. Finally, the appeal of humanist arguments is broadened when human rights principles are employed, as we can see in that their use here has meant that teaching unions, NGOs and religious groups have been caused to support advances of secularism on the basis of human rights principles.

These same advantages can be perceived in the many other uses to which human rights have been put by humanists in Britain, from the legalisation of humanist marriages in Scotland (though not yet in England) to the use of human rights based anti-discrimination law in fighting discrimination in public services. I can give one example here of an employment tribunal case which the British Humanist Association has financed to support the former employee of a publicly funded Christian social care provider who was instructed to hire only evangelical Christians to new jobs. This discrimination on religious grounds in publicly funded employment is a clear anti-secularist phenomenon, and through the use of law, we can look to the courts operating on human rights principles, to strike it down, when lobbying may be unfruitful or be of little use to the individual. In fact, we heard this morning that the case had been entirely successful.

The use of human rights law in achieving secularism has a bright future in Britain, and one of the chief focuses for the British Humanist Association in the near future will be actions which will extend the application of domestic human rights laws not just to public authorities but to religious organisations which provide public services. There is a drive towards marketisation of public services in the UK, and as part of this reform, religious organisations in particular are being targeted and included by Government as public service providers. The religious organisations that the Government wishes to contract with, at both local and national levels, are often those which have a strong religious ethos whose motivation is to a significant extent the manifestation of their devout beliefs, which leads them to discriminate against employees and potential employees and against clients. For example, in one case which the British Humanist Association has already taken up, a resident of a Christian care home had his gay relationships forbidden under rules which did not apply to heterosexual residents.

The application of human rights laws to these services will ensure that recipients of services are not discriminated against because of their lifestyle, relationships, personal beliefs and so on. And as they protect freedom of belief, human rights law can be used further than equality legislation alone, by disallowing participation in religious activities such as prayer being made a condition of receiving a service, for example, and banning proselytising.

By extending protection of the human rights of individuals to dignity and respect for family life, including the right to form and maintain personal, including sexual, relationships of their choosing, to freedom of thought, conscience and religion or belief, to freedom of expression, we can move closer to secularism, even in those public services provided by religious organisations.

Political lobbying by humanists and others will always be an important means of advancing secularism, of course, but the potential benefits for secularism from using human rights law are very great and domestic human rights law in the UK has proved to be a highly effective tool. In Britain, the use of human rights law will certainly increase now that we have a dedicated Equality and Human Rights Commission, operating since October last year. The chief executive of the British Humanist Association served on the steering group for this Commission and the Association is already a recognised stakeholder to it, being involved now in the Commission's legal strategy plan, consultation programme, and bilateral engagement on various topics

from the national census to education policy. The British Humanist Association has also been awarded funding from the Commission to carry out major work on freedom of belief, human rights and equality.

The advancement of human rights principles will always be of benefit to humanists, not just because they embody basically humanist values, but because a state that is increasingly based on these principles, will be by its nature increasingly secular.

The use of laws based on these principles is to be encouraged because it is putting human rights laws to the use for which they were intended – as engines of change for the greater equality and dignity of all people. As humanists we believe that the best framework to guarantee that equality and dignity is a secular one and human rights law can be the engine of secularism to just as great a degree.

16.15 Kristin Mile (Norwegian Humanist Association): Folgero vs. Norway – the European Court of Human Rights Judgement

Speech by Kristin Mile, Norwegian Humanist Association, to the symposium on secularism and human rights held in Athens on May 17 2008

On June 29th 2007 we found good reasons to celebrate in The Norwegian Humanist Association. More than 10 years of fight throughout the Norwegian court system ended with a sweet victory in the Grand Chamber of European Court of Human Rights in Strasbourg.

The background of this case was the establishing of a new obligatory subject in Christianity, Religion and Philosophy (the KRL subject) in 1997. The subject was to be taught during the 10 years compulsory schooling in Norway.

The subject of KRL replaced the former subject of Christian faith. This former subject granted exemption from the lessons for children of parents who were not members of the Church of Norway. These pupils who had been exempted could be offered alternative lessons in philosophy (life stance).

The school reform of 1997 established the KRL subject as a compulsory subject. Pupils having different religious and philosophical convictions should meet each others and gain knowledge about each other's thoughts and traditions. The subject should give knowledge and insight but should not be a tool for religious preaching. The right of exemption was very limited and only granted if the parents could give specified reasons for exemption and only for religious activities.

The implementation of the KRL subject has to be seen in the view of the long tradition of State schools in Norway. There are very few private schools existing, and the vast majority of the Norwegians are in favor of the State school system. The KRL subject should also be seen in the view of the long time established state Church of Norway. More than 80% of the population are members. The Norwegian Constitution provides:

Everyone residing in the Kingdom of Norway shall enjoy freedom of religion. The Evangelical Lutheran Religion remains the State's official religion. Residents who subscribe to it are obliged to educate their children likewise.

Our Education Act has an object Clause which states that:

- Primary School shall, with the understanding and co-operation of the home, assist in giving pupils a Christian and moral education.

There were made no changes in these legal documents prior to the implementation of the school reform in 1997.

In connection with the preparations of the KRL subject, associations representing minority convictions expressed strong objections. They claimed that the new subject was dominated by Evangelical Lutheran Christianity and contained elements of preaching.

The NHA finally decided to reject the new subject. NHA, together with eight sets of parent, who were members of NHA, brought proceedings before the Oslo City Court I 1998. The claim was rejected and an appeal first to High Court and then to the Supreme Court of Norway was rejected as well (2001).

In 2004 three sets of the parents lodged their complaint to the European Court of Human Rights (October 2004) while four sets of the parents lodged their complaint to the Un Human Rights Committee (November 2004).

The main focus in both complaints was the limited possibility of exemption from the subject.

The UN Human Rights Committee criticized Norway and concluded that The KRL subject, including the regime of exemptions constituted a violation of article 18 of the Convention of Civil and political Rights.

The Covenant secure the parent's right's to secure the religious and moral education of their children in conformity with their own conviction. And The Committee's General Comments expresses a tolerance for subjects in general history of religions and ethics only if it is given in a neutral and objective way.

Otherwise a provision should be made for a non-discriminatory exemption.

The criticism related to the fact that both the constitution of Norway and the Education Act gave preference for Christianity. The Committee also pointed out that the partial exemption is impossible to implement in practice and imposes a considerable burden on persons in the positions of the complaining parents.

The Norwegian Government decided to make modifications of the KRL subject. I will not give you details on these modifications. In the view of NHA these modification were not satisfactory and did not eliminate the major critics of the subject, and the reason for continuing the process was still there.

The hearing of the Grand Chamber of the European Court of Human Rights took place on December 6th 2006. And at the end of June 2007 the decision of the Court was published.

The Court concluded by nine votes to eight that there has been a violation of The Human Rights Convention, protocol 1, Article 2.
No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions.
This article is followed up by principles from case-law, and the Court highlights the right of parents to respect for their convictions, the safeguarding of the possibility of pluralism in education, and that there should be no distinction between State and private teaching..

The Court highlights that the KRL subject does not meet the demands of being objective, critical and pluralistic. The Court also focuses on the problematic situation in Norway concerning the weight and the tradition of the majority, combined with the existence of the State Church and the Christian objective clause of the Education Act.

In the Court's opinion, the limited possibility of exemption does not secure the rights of the parents, and establishes difficulties for parents who want to ask for exemptions. They still have to have good knowledge of details in the education as well as they risked exposure of their convictions and private life to the school and the teachers.

The Court also point out both quantitative and qualitative differences between the education in Christianity and the education in other religions or philosophies.

Finally the Court considers that the existence of a possibility to seek alternative education (that is private schools), could not dispense the State from its obligations to safeguard pluralism in State schools which are open to everyone.

What has happened since the Court's judgment?

At first, the Government and the Minister of Education was very unwilling to give comments to the judgment. In August last year his announced that the Norwegian Government regarded the critics from the European Court of Human Rights very seriously, and that there were to be taken action in order to eliminate all grounds of criticism and to establish an obligatory subject that fully complies with human rights.

During the winter the Ministry presented proposals both for changes in our Education Act as well as changes in the school curriculum. The proposals are not as extensive as we hoped for. But there will be some positive changes.

The Government proposes a change in the name of the subject – from KRL to RLE (religion, philosophies and ethics). The Education Act will point out that the subject

shall be taught in an objective, pluralistic and neutral way. And there will also be presented some changes in the School Curriculum.

We have two parallel law reforms going on in Norway that influence the KRL-reform.

Our State Church, as laid down in the Constitution is debated through many years. And this spring the Government presented a final draft, presenting a modified State Church.

The demand on State Church parents to give their children a Christian upbringing seems to disappear in the future.

The other reform concerns the Education Act and its objective clause. The Government has presented for Parliament a proposal to remove the duty for schools to give children a Christian and moral upbringing, and to replace this with a broader and more pluralistic objective clause.

The NHA is of course very satisfied with the European Court's judgment. We are however a bit more skeptic to the proposals from our Government. The Government will have to report to the European Council on its follow- up of the judgment. In this procedure, our enduring parents and their lawyer, including NHA will give their opinion on the follow-up. The report is not yet made, so we are still waiting for the final.

Thank you.