



FREEDOM OF EXPRESSION AND RELATED ISSUES

Position paper of the EUROPEAN HUMANIST FEDERATION

The European Humanist Federation (EHF) represents over 40 humanist and secularist organisations in over 20 countries throughout Europe and is particularly concerned with issues of human rights, freedom of religion or belief and related issues. EHF fully respects all faiths and the right to believe and recognises that religions can valuably contribute to general and individual well-being. However, EHF is concerned that conservative religious groups seek to influence domestic and European policies in ways that undermine the legitimate rights of others.

EHF wishes to underline that freedom of thought, conscience and religion also includes the right *not* to believe, as the European Court of Human Rights (ECtHR) and the United Nations Human Rights Committee have made clear on several occasions. In this respect, EHF regrets that the documents introducing the May 2010 Cordoba conference and the present Lisbon conference refer only to “religious freedom” (Cordoba) and “freedom of religion” (Lisbon) and fail to mention the right not to believe, especially since surveys suggest that at least one third of the European population has no religion.

Freedom of expression

Freedom of expression is protected by all major international human rights instruments, such as the Universal Declaration of Human Rights (1948), the European Convention on Human Rights (1950) and the International Covenant on Civil and Political Rights (1966). Since its famous *Handyside* decision in 1976, the ECtHR has stressed on numerous occasions that freedom of expression constitutes “one of the essential foundations of [a democratic] society”, and that “it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population”.

Yet, like freedom to manifest religion or belief, freedom of expression is not without limits. These limits may vary from State to State but they usually include defamation, incitement to hatred, to violence and to discrimination against a person, a group or a community. In the system of the ECHR, these limits must be prescribed by law, have a legitimate goal (protection of public order, safety, reputation, etc.) and be necessary in a democratic society (proportionality test). This still leaves room for borderline cases where a balance must be found between the right of expression and the right to be protected. However, over the years, due to the pressure of Churches or conservative religious groups, there has been a move to protect not only groups or individuals but also religions *per se*. EHF underlines that human beings are the subjects of Human Rights, not religions.

Recent issues

The famous cartoons equating Islam with terrorism, first published in Denmark in 2005, triggered huge and violent reactions around the world. Although these cartoons were indeed shocking and offensive, they remained within the boundaries of freedom of expression, as a court ruled in France in 2007. But there are many smaller incidents involving film premieres, shows, exhibitions, books, etc. To take but two examples, in 2009 in Belgium, an exhibition placing red high heel shoes among men's shoes next to prayer carpets was cancelled due to pressure and threats of violence. In France, in 2005, a catholic group sought the interdiction of a commercial poster picturing twelve (perfectly decent) women in similar positions as the Twelve Apostles in the *Last Supper*, the famous Leonardo da Vinci's painting. The request was eventually turned down but went up to the French supreme court.

Freedom of expression also includes the right of access to pluralist information. In 2009, despite international protests and a clear European Parliament [resolution](#), Lithuania adopted a law on the "Protection of Minors against the Detrimental Effect of Public Information" suppressing from schools and any other places accessible by young people the publication of information related to homosexuality and bisexuality. It classes information on homosexuality alongside materials such as the portrayal of physical or psychological violence and information that arouses fear or horror, or encourages self-mutilation or suicide. EHF, along with numerous NGOs, has called for this law to be repealed.

Conscientious objection

Freedom of a conscience is at the heart of human nature and is therefore one of the few human right which is absolute. However, the right to refuse to perform certain actions contrary to one's conscience is not. EHF stresses that the right to conscientious objection should be protected provided that it does not violate the rights of others and should be limited to the persons performing the act, not the institution. In this respect, it is of utmost importance that public services, and especially medical services, remain available to all at all times. It is equally important that persons providing services – especially in healthcare – who invoke conscientious objection should be obliged to refer the patient to another practitioner who is ready to provide such services. This may lead to a prohibition of invoking the right to conscientious objection in specific circumstances such as late night emergency services, in remote areas, etc. This is of utmost importance since in certain countries like Italy, up to 70% of gynecologists of public hospitals refuse to perform abortion (which is legal).

In this respect, EHF is deeply concerned by the recent resolution adopted by the Parliamentary Assembly of Council of Europe "The right to conscientious objection in lawful medical care" (Resolution 1763 (2010)) which states that "*No person, hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion, the performance of a human miscarriage, or euthanasia or any act which could cause the death of a human foetus or embryo, for any reason*".

Blasphemy

With the secularisation of Europe, the offense of blasphemy tends to disappear from criminal law in most countries. In others, it remains in the law but is hardly applied, as in Austria, Denmark, Italy, Greece and the Netherlands. Ireland passed a controversial law on blasphemy in 2009 which makes it a crime punishable by a €25,000 fine. Blasphemy is defined in this law as “matter that is grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion”. EHF deeply regrets such law and supports local NGOs campaigns to repeal it.

International pressure

Since 1999, several resolutions on combating “defamation of religions” have been adopted by various United Nations bodies. In particular, the Organisation of the Islamic Conference (OIC) has been very active over the years on this issue. However, while defamation is necessary to protect the reputation of persons against false statements, it does not apply to religions: human rights protect people, not religions. In a [joint statement](#) issued during the Durban Review Conference in Geneva in 2009, three United Nation Special Rapporteurs – respectively on freedom of religion or belief, on the right to freedom of opinion and expression and on contemporary forms of racism, racial discrimination, xenophobia and related intolerance – underlined that:

“(…) the difficulties in providing an objective definition of the term “defamation of religions” at the international level make the whole concept open to abuse. At the national level, domestic blasphemy laws can prove counter-productive, since this could result in the de facto censure of all inter-religious and intra-religious criticism. Many of these laws afford different levels of protection to different religions and have often proved to be applied in a discriminatory manner. There are numerous examples of persecution of religious minorities or dissenters, but also of atheists and non-theists, as a result of legislation on religious offences or overzealous application of laws that are fairly neutral.”

In fact, churches and religious groups should accept criticism, just as every group in society. In a 2008 [report](#) on the relationship between freedom of expression and freedom of religion, the European Commission for Democracy through Law (Council of Europe's advisory body on constitutional matters, better known as the Venice Commission) recommended that “the offence of blasphemy should be abolished (which is already the case in most European States) and should not be reintroduced”. EHF fully endorses such recommendation.

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