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**Proposals by the
International Humanist and Ethical Union,
jointly with the (UK) National Secular Society**

**to the European Union
Agency for Fundamental Rights (FRA)**

**for inclusion in its
Annual Work Programme 2009
and Annual Report 2008**

August 2008

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Section A Executive Summary

This paper makes around 40 recommendations for inclusion in the FRA's 2009 Work Plan. They cover all but two of the FRA's thematic areas: f) Visa and border control; and h) Information society. Inevitably, some items fall into more than one thematic area. They form the kernel of the report and are given in Section B. The support for and rationale of the recommendations is contained in section F.

Our studies unexpectedly uncovered matters of pressing immediate concern. We found evidence to demonstrate that certain attitudes and practices of the Roman Catholic Church have had the effect of concealing child abuse and shielding both perpetrators and those who protected them, even to the extent of transferring them to positions where the abuse could continue unchecked. This also means that some victims have been denied the compensation they deserve. These attitudes are prevalent, systemic and ongoing. Our most important concerns relate to the plethora of legal obstacles that have resulted in perpetrators and suspected perpetrators of child abuse, and those who have shielded them, escaping liability to prosecution in EU member countries. Our recommendations in this area are mainly focussed on the legally ambiguous inter-relationship of the domestic criminal law in member states with Roman Catholic canonical law, which carries greater weight because the Holy See is technically a sovereign state. We have also asked key questions about the robustness of criminal justice in the Vatican City.

In cases of sexual abuse by clergy, employees and agents of the Roman Catholic Church and associated bodies absolute confidentiality is imposed over citizens of other countries through the instruments of *Crimen Sollicitationis* (1962) and *Sacramentorum sanctitatis tutela* (2001). The effect of these instructions has most often been to cause them to act in a way that is clearly contrary to the laws on child abuse of most if not all member states. It seems to us to raise vital questions of international law, about which we make proposals in Recommendation Group 2, below.

Of next most serious concern is that in the course of this work we have uncovered circumstantial evidence that the Holy See is in breach of Article 34 of the Convention of the Rights of the Child (“take all appropriate national, bilateral and multilateral measures to prevent: ... The inducement or coercion of a child to engage in any unlawful sexual activity”).



Given the foregoing, the repeated institutional failure of the Holy See to conform to its obligations under Article 44 the Convention of the Rights of the Child (reporting to the UN Convention on the Rights of the Child Committee) is of no surprise. Its failure to produce the last three five-yearly reports or even give undertakings to produce them late is a matter of public record. (Recommendation Group 3 and the following up of worrying concerns raised in 2004 by Catholics for Choice is the subject of Recommendation Group 4.)

Such legal ambiguity and failures to report in accordance with their own international obligations would be unacceptable even if the behaviour of the Holy See relative to child abuse had always been beyond reproach. But it is necessary also to take into account: the long-term, widespread and seemingly ingrained institutional tendency to child abuse on the part of the Roman Catholic clergy, employees and agents; the manifest failure of the Holy See and its bishops not just to police themselves and be accountable to police and prosecutors; and the sustained attempts to actively obstruct accountability, even to UN Committees.

Nor is this a historical problem of a past papacy. We will leave the recipients of this report to draw their own conclusions about the current attitude of the Holy See from the actions of the present Pope. As recently as 2001, it became ever clearer that the scale of child abuse was alarming. The then Prefect of the Congregation for the Doctrine of the Faith, now Pope, issued under the aegis of the then Pope the secret instruction *Sacramentorum sanctitatis tutela* which arguably had the effect of limiting the financial and reputational damage to the Holy See, and probably of shielding perpetrators and those who shielded them from justice. A further consequence of this policy was that the victims of the abuse were seemingly treated with indifference or even contempt, yet further compounding the original abuse. And it was under his stewardship that the latest deadline for five-yearly reports to the UN Committee on the Rights of the Child came and went.

It seems to us an indictment of both international and European institutions that the Holy See's institutional intransigence over its part in allowing widespread child abuse has gone largely unchecked for decades in the very heart of Europe. We suspect that in part at least the abuse has been able to continue on the level it has because the Holy See is able to claim the privileges of being a sovereign state, yet is regarded as being beyond international sanction because of its *alter ego* as an international religious body.



We call on both international and European institutions to:

- 1. Carefully consider the issues raised and proposals made in this report**
- 2. Act in concert to investigate the treatment of incidents of child abuse or suspected child abuse involving the Roman Catholic Church in general and the role of the Holy See in particular. The aim must be to subject the culpable to secular justice and to maximise support of all kinds for victims.**
- 3. Act in concert to pressurise the Holy See to conform to its obligations on the Convention on the Rights of the Child including submitting its ten-year backlog of reports to the UN Committee,**
- 4. Establish an action plan to address, in the most effective way possible, damage limitation for the past and prevention for the future**
- 5. Put in place robust, independent and enforceable mechanisms for regular monitoring and open reporting of performance relative to the action plan.**
- 6. Acknowledge that, unless they take control, no one else will – and victims, past, present and future, will suffer.**

7. We have also set out in Recommendation Group 1 some proposals for actions that the Holy See could make to restore its reputation in this area. Support for the recommendations on child abuse is given in Section G: 1.1 for the Catholic Church and 1.2 for other denominations and minority religions. Recommendation 9 deals with associated compensation issues; there is evidence that victims have received inappropriately low levels of compensation, often through a variety of actions by the Church identified in this Paper. Section G 2.12 and 5.2 raises major issues of international law and democratic accountability in respect of Vatican Concordats with member states, which of course have the status of international treaties. We suspect that many of the concordats are discriminatory; a recent draft one for Slovakia was unquestionably highly discriminatory. We are seeking more information in Recommendation 10.

This report started out to enumerate the discrimination suffered by the non-religious in society. It is to this that much of the remainder of the report is devoted. Section E gives an overview of what we believe amounts to religious discrimination against the *majority* – the non-religious and the religiously unconcerned. We believe that the non-religious are the only group against which discrimination seems any longer acceptable, and ironically it is probably the biggest single group. The remainder of the report gives example after example of this problem, and in



most cases the religious are the perpetrators or beneficiaries. Section F sets out some additional general recommendations in this area. Perhaps the most concerning outside education (shown immediately below) relates to faith-based welfare. The scale of discrimination in Germany is at an alarming level, but faith-based welfare is likely to become much more widespread in other member countries. (Please see Recommendation 12, with support shown in Section G 2.211 and 2.212.) More generally please see recommendations 14 and 15 and the general recommendations in Section F.

Recommendations 4 -7 also relate to children, mainly over educational matters. These relate to: recognising children's maturity, including the right of older pupils to decide for themselves whether to attend worship or religious education classes; our concerns about religious indoctrination of children at school; the pressing need for objective sex education and the need to take action against creationism being taught in science lessons. Examples and supporting information is shown in Section G 1.3 - 1.6)

We have major concerns about those in minority ethnic and/or religious communities. The fundamental freedoms of those not in tune with the often fiercely patriarchal, religiously authoritarian communities are often at risk. Women, the young and sexual minorities are especially vulnerable. Recommendations 13, 14 and 17 deal with caste, fundamental freedoms, "honour" killings, forced marriages and female genital mutilation and religious "law", for example sharia. References are made at the end of each recommendation to specific examples and support in Section G. These are major issues that are shied away from because of misplaced cultural sensitivity, often the cultural sensitivities of men. The majority community is betraying a not insignificant minority in these communities who live lives very much more akin to that in rural Pakistan or Kurdistan than in Europe.



Section B

About the IHEU

Founded in Amsterdam in 1952, International Humanist and Ethical Union (IHEU) is the world umbrella organisation for Humanist, atheist, rationalist, secularist, sceptic, laique, ethical cultural, freethought and similar organisations.

Our vision is a Humanist world; a world in which Human Rights are respected and everyone is able to live a life of dignity. The mission of IHEU is to build and represent the global Humanist movement that defends Human Rights and promotes Humanist values world-wide. IHEU sponsors the triennial World Humanist Congress.

Based in London, IHEU is an international NGO with Special Consultative Status with the UN (New York, Geneva, Vienna), General Consultative Status at UNICEF (New York) and the Council of Europe (Strasbourg), and maintains operational relations with UNESCO (Paris).

About the NSS

Founded in 1866, the National Secular Society fights for equality for all regardless of religion or belief. Promoting the separation of Church and State, it campaigns both at home and in the EU against the undue influence of religion in public affairs and education. The NSS defends scientific rationalism, freedom of speech and Human Rights.

The NSS sees secularism, that is, the position that the state should promote no religious view and that the religious should have no special privileges based on their religious beliefs, as an essential element in promoting equality between all citizens. We therefore take a keen interest in such causes as social cohesion and the fight against all forms of discrimination.

We are concerned that religious influence, much of it rooted in the social fabric many centuries ago, still informs current social attitudes even among those who no longer practise a religion. Such a mindset, reflexive rather than critical, traditional rather than analytical, affects all citizens when it shapes legislation or motivates those seeking to obstruct changes to our laws.

In particular, traditional religious attitudes have prompted opposition to legislation on equality, such as that concerning sex and sexual orientation and more widely on reproductive ethics



and end of life issues. In our campaigns for equality, we are frequently able to make common cause with groups campaigning against unfair discrimination in these other areas in opposition to the demands of religious organisations.

We acknowledge that the followers of all religions include the liberal and relaxed as well as the orthodox and authoritarian. We recognise that many religious people play a laudable role in society, in some cases despite the prescriptions and proscriptions of their religious hierarchy.

We absolutely support - and fight for - everyone's right to manifest their religion or belief, and to change it, something not all religions accept.



Section C

FRP Work Plan 2009 - Recommendations for inclusion

Thematic area d) *The rights of the child, including the protection of children*

Our use of the term “child abuse” should also include where the context so allows those accused of or guilty of any offence which would call into question the suitability of that person to work with children, for example possession of indecent images of children which would give rise to reasonable concerns that the possessor was likely to offend. In some examples, e.g. d) below, the action would need to go wider than dealing only with those who had actually perpetrated sexual or physical abuse.

1. Suggest a framework for a joint EU and international organisations initiative to persuade The Holy See to:

a) commit to co-operating with national legal, prosecuting and welfare authorities to provide evidence and assist with the prosecution of clergy, employees and agents of the Catholic Church and associated bodies involved or accused of the abuse of children and adolescents, regardless of time limits whether contained in Canon Law or other instructions from the Church.

b) suspend those accused of or thought likely to have abused children pending resolution of their cases by the civil authorities.

c) agree to implement a revision to Canon Law that states expressly that those under its control are obliged to follow the criminal law in member states and that national criminal law and acts and procedures required under it take precedence over Roman Catholic Canon Law, and

d) agree to extradition treaties for citizens of (and if possible also those resident in) Vatican City wanted for trial by courts in other countries in accordance with the norms of EU countries and, unless already possible, the use of the European arrest warrant.



- e) commit to lifting its requirements of secrecy in child abuse cases as far as is possible without breaching any obligation of secrecy imposed by national law in the interests of the victims of abuse. Undertake to do all possible in good faith to defend the victims in all judicial and related processes, both internal and external.
- f) to the extent permitted by Data Protection regulations, completely open the totality of their archives on child abuse to all relevant authorities including international organisations, representatives of the European Union and Council of Europe, judicial and police authorities, as well as child care organisations and officials.
- g) co-operate in the building and maintenance of a database available to relevant authorities of those known to be convicted or suspected of child abuse, in accordance with EU data protection laws
- h) establish a central child-protection policy (we have been unable to discover that there is one, although such policies now exist locally as a result of the abuse scandals).
- i) adopting the criminal law of another EU sovereign state and establishing a mechanism for fair trial under its jurisprudence

Comment - If the Holy See were not a sovereign state, it would be obvious that the church would not have the privilege of investigating the criminal behaviour of its employees, and would have to refer such cases to the police like every other organisation. The recommendations above would not then be so detailed.

(Please refer to Section 1.1 below for all subsections of this recommendation.)

2. Contract a group of legal experts such as FRALEX to provide, through a variety of reporting tools, judicial and legal data to establish the legal and practical implications in matters related to child abuse of Roman Catholic Canon Law (and where relevant any other laws in force in the Holy See) in theory and in practice relevant to:

- a) to clarify the implicit claim by the Holy See that RC Canon Law has precedence over national and international criminal law, civil law and other regulations, and to prepare a statement clarifying the correct position and to circulate this to the relevant authorities including the Holy See and Roman Catholic officials.
- b) the withholding of information from police and judicial authorities - and what remedies (including legislative and EU procedural ones) could productively overcome this problem. The use of the European Arrest Warrant to be considered.
- c) the legal position in domestic and international law of persons in the EU illegally



withholding information from police and judicial authorities apparently because of Roman Catholic Canon Law - and what could be done (including legislative and EU procedural ones) to materially increase the power of the secular law in this respect.

d) the legal position in domestic and international law of those countries in the EU which are withholding information that they are obliged to provide under international obligations because they are unable to do so due either to the information being withheld, or illegal acts being “excused” under Roman Catholic Canon Law - and what could be done to materially increase the legal power of the EU states to overcome these obstacles to complying with their international obligations

e) the legal powers for requiring information on child abuse to be released to EU national police and judicial authorities from insurance companies’ offices and Roman Catholic organisation’s offices in EU countries and from offices in the Holy See – and how such powers could be productively increased including using all EU powers

f) the opportunities for criminal prosecution of or civil action against those believed to have or to be continuing illegally to withhold information or who are subsequently found to have done so, in national courts, the European Court of Justice (and if appropriate) the International Criminal Court – and how those opportunities could be materially improved

g) the legal options open to pursue anyone in criminal or civil proceedings in the EU or elsewhere now resident in, or a citizen of, Vatican City who is suspected on reasonable grounds to be guilty of a criminal act in connection with child abuse, whether directly or indirectly by withholding information and how those options could be materially improved. The use of the European Arrest Warrant to be considered.

h) the availability of funds at all levels of the Church to settle liabilities arising from child abuse – and what legislative or other steps could be taken to minimise shortfalls in payments arising from bankruptcies or the inability to sequester by legal means any assets of the Church in settlement of such liabilities.

i) the opportunity for recommending prosecutions against those who have been responsible for moving perpetrators of child abuse (whether convicted or not) to other positions where they have had access to children.

j) the status relative to extradition of those resident in, or citizens of, Vatican City wanted by judicial authorities elsewhere when they are in EU states, such as Italy.

k) the extent to which the Holy See’s law and judicial process and practices concerning what would be criminal matters in other member states but occurring in the Vatican City



are effective – and to make recommendations about any serious shortcomings.
(Please refer to Section 1.1 below for all subsections of this recommendation.)

3. Contract a group of legal experts such as FRALEX to provide, through a variety of reporting tools, judicial and legal data to establish the legal and practical implications in connection with the Holy See's obligations under the Convention on the Rights of the Child, in particular Articles 34 and 44:

a) to establish and report on the extent to which the Holy See's Initial Report submitted on 2 March 1994 appears to be correct and complete, with the benefit of the latest knowledge available and after having made all reasonable enquiries, and report any deficiencies

b) to examine the Concluding observations of the Committee on the Rights of the Child on the Holy See's Initial Report, Sections C and D (Principal subjects of concern Suggestions and recommendations)¹ to establish if they are still relevant and whether they have been fully implemented and if not to make recommendations as to appropriate action

c) to establish the apparent reasons and justification for the Holy See's reported failure to lodge mandatory periodic reviews with the UN Committee on the Rights of the Child and to ascertain what, if any undertakings are given by the Holy See to provide overdue reports and to undertake to produce future reports on a timely basis.

d) To establish what action has been taken in respect of the three overdue reports of the Holy See and whether the UN Committee has acted appropriately in the circumstances

e) to examine future submissions as in a) above reporting accordingly

f) to examine future Concluding observations of the Committee on the Rights of the Child and make recommendations as in b) above

(Please refer to Section 1.1 below for all subsections of this recommendation.)

4. Contract a group of legal experts such as FRALEX to provide, through a variety of reporting tools, judicial and legal data to establish the legal and practical implications in connection with Catholics for (a Free) Choice reports examining the extent of the Holy See's compliance with the Convention on the Rights of the Child

a) as to how the negative comments and recommendations in their reports should be best taken forward, including recommending which other agencies should be engaged on particular issues

¹ Concluding observations set out in full in Appendix to section 1 (below)



b) whether in the light of current knowledge there are additional issues which arise and should be addressed as in a) above

c) whether there are other sources of information that can or can be expected to yield additional relevant information on child abuse, for example in EU countries other than Austria or France. This will include at least Catholics for Choice and reports of bodies set up in EU countries under the auspices of the Church to examine child abuse issues, such as the Cumberlege Commission the UK.

d) review reports of the bodies set up in EU countries to monitor protection against child abuse in the Church and establish whether they appear to be working satisfactorily and independently (including in appointments) and are covering all areas of activity, both geographically (including the Vatican City itself) and at all levels and types of work as enumerated in section 1 of this Paper. Compile a list of shortcomings and consider whether periodic meetings between chairpersons of such bodies and qualified EU officials or Committee on the Rights of the Child officials could be expected to improve child protection measures, and if so to recommend them.

(Please refer to Section 1.1 below for all subsections of this recommendation.)

5. Conduct a study in all member states on children's rights to freedom of thought, conscience and religion, bearing in mind the obligation to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, and to give those views due weight in accordance with the age and maturity of the child. In short, the level of compliance in the above respects under both Article 9 of the European Convention on Human Rights and Article 14(1) of the UN Convention on the Rights of the Child. In particular we refer to **the rights of older pupils to withdraw themselves from religious worship and education**. (Please refer to Section 1.3 below.)

6. Conduct a study in all member states on the extent to which children's rights to **objective religious education** are respected under the First Protocol, Article 2 of the European Convention on Human Rights (ECHR). We believe a large number of schools do not teach about other denominations, religions and beliefs (including non-religious perspectives). The study should identify them as much as is practical to do so.

Examples are given below of schools thought to be in breach.

(Please refer to Section 1.4 below.)

7. Conduct a study in all member states on the extent to which children are taught **sex education** objectively, for example teaching about modern contraception, sexual



diseases and secular attitudes to homosexuality and relationships. We understand that sex education is not contrary to First Protocol, Article 2 of the European Convention on Human Rights (ECHR) – and therefore there is no right of withdrawal so long as the education is not conveyed with any particular moral attitude to sexual relations. We believe a large number of schools do not teach sex education objectively or effectively, with serious adverse implications for the children concerned.

(Please refer to Section 1.5 below.)

8. Conduct a study in all member states on the extent of the teaching of **creationism** in science classes, and in particular where evolution is not taught. We respectfully draw attention to the excellent work done in this area by the Council of Europe whose concerns we endorse.

(Please refer to Section 1.6 below where comprehensive details are given.)

Thematic area c) Compensation of victims;

9. Conduct a study in all member states on levels of compensation over child abuse in respect of abuse committed by those connected the Roman Catholic Church:
a) to establish and report the levels and assess whether they appear to be fair and reasonably consistent and to the extent that they are not what the obstacles to such fairness appear to be, and

b) to establish and report whether there is genuinely open and fair access to claimants and whether they are treated sensitively and appropriately and where not what the obstacles to such appropriate access and treatment fairness appear to be.

(As noted elsewhere we acknowledge that other religious organisations have child abuse problems, but none – as far as we are aware – remotely on the scale of the RC Church.)

Thematic area b) *Discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination);*

10. Prepare a report akin to “Discrimination and Victimisation in EU Member States: Experiences and Attitudes of Immigrants and Other Minorities” but dealing with the non-religious and exploring as many as possible of the **areas of discrimination**



and privilege dealt with throughout this Submission. (Please refer to this entire submission for relevant areas.)

11. Contract a group of legal experts such as FRALEX to provide, through a variety of reporting tools, judicial and legal data to ascertain relevant information about all **concordats in force between the Holy See and EU Member States**, concentrating on their impact on fundamental rights and discrimination. (Please see 2.12 and 5.2 below.)

12. Initiate a project to study the implications for fundamental rights, discrimination (and if permissible, competition), of the expected substantial increase in **Faith-Based Welfare**. A particular focus should be the impact on the non-religious and sexual minorities both as potential service users and employees. The Study should include a detailed examination of the current position in Germany where the scale of such welfare is already very substantial and we understand religious organisations have been accorded privileges or exemptions in the operation of faith based welfare which are denied to other agencies. These privileges or exemptions particularly apply in relation to employment laws. (Please see 2.211 and 2.212 below.)

Thematic area a) Racism, xenophobia and related intolerance;

Thematic area b) *Discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination);*

Thematic area d) *The rights of the child, including the protection of children; and*

Thematic area e) *Asylum, immigration and integration of migrants;*

13. In view of the great numbers of immigrants from the Indian sub-continent to Europe, we recommend that a research program be initiated to examine how **widespread caste discrimination** is in the immigrant community, and in bodies tackling discrimination, the degree of awareness of this issue and commitment to tackle it. Also to make recommendations for any further action appropriate in the light of the findings of the study.



Thematic area b) *Discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination);*

Thematic area d) *The rights of the child, including the protection of children; and*

Thematic area e) *Asylum, immigration and integration of migrants;*

14. Collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data in all EU Member States about the extent to which women, young people and members of sexual minorities in minority ethnic and **minority religious communities have freedom of movement, freedom of association, freedom to work, freedom of family life** – and to the extent that these freedoms are limited, the source of the limitation. (Please see 2.23, 2.31 and 4.1 below.)

Thematic area b) *Discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination);*

And g) *Participation of the EU citizens in the Union's democratic functioning;*

15. Collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data on public opinions in all EU Member States on the areas where religious pressure is being applied to by them to influence nation states and EU social policy, such as – but not limited to – discrimination against sexual minorities, reproductive rights, the start and end of life, and other areas discussed in this Submission. The objective of the collection of such data would be to **better inform policy makers on the views of the population on social policy, which are likely to differ from that promoted by religious organisations.** (Please see 5.5 below.)

Thematic area g) *Participation of the EU citizens in the Union's democratic functioning;*

16. Collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data in all EU Member States about the **extent to which**



citizens belong to religious organisations and the extent to which they agree with the major policy thrust of their leaders who speak on their behalf to policy makers. We note that ideally this information would not be necessary if states were, as we believe should be the case, blind to the religion or belief of citizens and did not give undue influence to the perspectives of religious organisations. We would also like to put on record our concern, for the same reason, about individuals' religious affiliations or beliefs being recorded against individuals on identity documents or databases. (This could perhaps be combined with the work on Recommendation 5 above.) (Please see 6.1 and 5.5 below.)

Thematic area i) Access to efficient and independent justice;

17. Collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data in all EU Member States to establish a reliable estimate of the levels of “**honour killings**”, **forced marriages**, **female genital mutilation** and additional data to better inform measures to identify them and prevent them in future. The study should also examine the relationship between the estimated prevalence, the level of complaints, the numbers of prosecutions and convictions, and draw conclusions about the reasons for the very low proportions each bears to the estimated prevalence and seek to make recommendations as to how these rates could be materially improved. (Please see Section 2, in particular 2.3, below.)

18. Contract a group of legal experts such as FRALEX to provide, through a variety of reporting tools, judicial and legal data to establish all relevant information about **religious law** in use and about the extent of developments in religious law contemplated by members of the relevant religious communities in EU Member States, concentrating on their impact on fundamental rights, and discrimination. The Study should include a detailed examination of the circumstances that led to the banning of any legal recognition of faith-based tribunals in the State of Ontario, Canada²³ in respect of Family Law matters. The reports should concentrate on Human Rights,

² <http://www.guardian.co.uk/world/2005/sep/14/worlddispatch.annemcilroy>

³ <http://www.nosharia.com/McGuinty%20rejects%20Ontario's%20use%20of%20Sharia%20Law%20and%20all%20religious%20arbitration.htm>



equality of treatment, and the impact on, and implications for, vulnerable members of society, including family members. (Please see Section 2 below.)

We have no suggestions at this stage on FRA's remaining thematic areas:

- f) Visa and border control;
- h) Information society and, in particular, respect for private life and protection of personal data.



Section D

FRP Annual Report 2008 - Feedback on methods and relevance of research topics

We have no specific feedback on methods and relevance of research topics of the FRP Annual Report 2008, as the suggestions we have made for the Work Plan for 2009 break new ground and it is not realistic to expect this to be reflected in a report of work planned historically.

Nevertheless, we make some broad opening suggestions:

1. we invite some recognition that the position of the non-religious and religiously unconcerned has been considered,
2. a recognition that minority faith and/or ethnic communities contain those who do not necessarily subscribe to group values and may be oppressed by them, and that Human Rights are individual rights and not collective rights.
3. that careful consideration of the wider implications for all are given before acceding to religious or cultural requests. In particular it should be borne in mind that privileges granted, such as religious exemptions from equality provisions, have a counterpart in creating victims, for example those denied employment as a result of the exception.



Section E Overview

Religious discrimination against the majority – a summary

Despite the declining interest of most Europeans in religion, the influence of religious bodies has grown rapidly in the last decade. This Submission examines some of the areas where levels of concern have been heightened by this phenomenon. These also serve to form the background from which the recommendations for inclusion in the FRP Work Plan have been developed.

This submission makes suggestions for the Work Plan 2009 and also provides the basis of evidence for the suggestions. It also seeks to demonstrate the extent to which the non-religious, the religiously unconcerned (and to a progressively lesser extent religious liberals and moderates) represent a very substantial and growing proportion of the population, who, to a greater and greater extent, are being disenfranchised and suffering unfair discrimination as a result of pressure from religious bodies on national and international institutions. Not only that, there is an increasing tendency for religious leaders to misrepresent and even vilify the secular world view.

This pressure is growing despite a continuing decline in belief in, and observance of, Christianity. The new-found interest of governments and international organisations in consulting religions arises to some degree from the sensitivities engendered by a multicultural society and the need to address security issues.

In doing so, a pattern is emerging, in which the following tendencies can be identified.

- It is falsely assumed that everyone in minority religious communities is a willing member of the faith and also shares the orthodox views of the faith or its governing body.
- In the hope of reaching these communities, there is a new urge on the part of government to consult religious leaders, which gives these leaders more power and influence to call for changes in laws and customs with the intention of imposing their incompatible world views on the population as a whole, the majority of whom do not



share their beliefs. As part of this phenomenon, religious leaders have a near-monopoly on such consultations, however unrepresentative they are. It should also be noted they are almost always men.

- The non-religious and religiously unconcerned elements of civil society are largely un-consulted even though they are often affected, directly or relatively by the demands of religious groups. The non-consultation is partly because they are not part of any religious community, do not have hierarchical or “community” leaders to speak up for them, are not regarded as being as a disadvantaged minority and are not regarded as at risk.

- As a result, secular civil society is grossly underrepresented in consultations to which religious leaders are invited to contribute: in these, the voice of civil society is overwhelmed by the voices of multiple religions and denominations requiring to be represented, and by the strength of the historic links that many have with the institutions.

- Religion and race are being conflated, and hence criticism of religion is often labelled as racism (this particularly relates to “Islamophobia”).

- Ethnic/cultural dress and appurtenances are being regarded as either solely cultural or solely religious obligations, depending on whether they are being distanced from a religion or claimed as an unquestionable right. A similar ambiguity applies to a lesser extent to female genital mutilation and honour killing, for which unambiguous widespread criticism is by no means the norm in the communities where they are most prevalent. Excessive deference to cultural and religious norms, by social workers, police and prosecuting authorities and possibly in some cases intimidation by relatives, are all negative factors which need to be addressed.



Section F

Overview - Additional General Recommendations

1. We recommend a much more secular approach by the EU where:
 - a. all are equally valued whatever their religion or belief;
 - b. there is an acknowledgement that religious exemptions to equality legislation should be minimised in strict conformity with the HR conventions, especially in activities funded from the public purse.
2. We recommend that the EU acknowledge that the non-religious, the religiously unconcerned (and to a progressively lesser extent religious liberals and moderates) now represent a very substantial and growing constituency of the population, and because of their heterogeneity will always be at a disadvantage compared to the adherents of religious power structures with influential spokespersons, either for historical or other reasons.
3. We recommend that efforts are made to compensate for this structural imbalance by making sure that:
 - a. when religious views are sought, care is taken by the institutions to ensure that these views are balanced by non-religious perspectives;
 - b. those offering non-religious perspectives are given no less prominence than those representing the religious;
 - c. much more corroborative evidence from surveys of randomly-chosen individuals is sought to aid the collecting of information and formulation of policy, especially on matters such as sexual ethics, start- and end-of-life debates. The areas of concern are considerable as will be seen from even a cursory glance at the index on discrimination, and growing.



4. We recommend that the same laws and the same taxation be applicable to all, regardless of religion or belief. This does not preclude religion-sensitive taxation, but does mean that all tax regimes are open to all, avoiding the necessity for the state to enquire into any taxpayer's religion or belief.
5. We propose the following contribution to the debate on finding solutions to the problems of religion in public services:

Some suggested solutions relating to religion in public services

The conflation of religion and race is matched by a conflation of culture and religion, leading to misconceived decisions by the authorities in granting public money to voluntary groups:⁴

The result is a shift from a 'multicultural' to a 'multi-faith' society: one in which civil society is actively encouraged to organise around exclusive religious identities, and religious bodies are encouraged to take over spaces once occupied by progressive secular groups and, indeed, by a secular welfare state.

In the process, a complex web of social, political and cultural processes are reduced by both state and community leaders to purely religious values, while concepts of Human Rights, equality and discrimination are turned on their head.

The problem with the state accommodation of religion – even so called moderate religious leaderships – is that they work against and not for equality and justice.

<http://www.newstatesman.com/uk-politics/2008/08/religious-state-secular>

A secular solution in France to such problems

The above problems have led to the French moving to reinforce a secular state, which seems the best solution to this less-than-ideal situation.

A panel appointed by the French Government has produced a charter that aims to keep public institutions, including hospitals, the armed forces, schools and government offices, free from religious influence. The document comes in the wake of an assault on a doctor by a young Muslim who objected to his wife being examined by a man when she developed complications after childbirth.



The High Council on Integration recommended that rules protecting the nation's secular society be even more strictly enforced. The Council is recommending that France recognise a proposed charter that would clearly indicate how church and state should be kept separate in such public spaces. The proposed charter on secular life attempts "to define the rights and obligations of public servants as well as those of users of such government-provided services".

Plans to draw the line on what is considered unacceptable behaviour in hospitals – behaviour that put patients at risk – were first raised three years ago during the debate over Muslim head scarves. The then-Prime Minister Jean-Pierre Raffarin said that hospitals would be the next target.

The statement affirmed that male and female doctors would treat patients "whatever their sex," and that a woman has the freedom "to determine contraception, abortion, sterilisation without the permission of her husband."

The recommendation affirms the rights of patients, but stresses the need for a "balanced approach." The report said there was no need to legislate on the issue, but highlighted that respect for the functioning of the hospital was vital. It suggested a charter laying out the constitutionally guaranteed principle of secularism be adopted and that pertinent sections be put on display at the relevant institutions.

The charter will remind government-agency employees that while "freedom of conscience is guaranteed" while they are on the job, the "constitutional principle of secularism requires [of all citizens] the obligation of [maintaining] strict neutrality" and "equal treatment of all individuals" and the "respect of the freedom of conscience" of others. In other words, no religious proselytising at work, even in subtle ways.

The proposed charter adds that, when a public servant "manifests" his or her "religious convictions during the carrying-out of his or her functions," in effect that employee's behaviour "constitutes a dereliction of his or her obligations."



Similarly, the text of the proposed charter also reminds those who use government agencies' services that they "must abstain from all forms of proselytising" if or when they avail themselves of such services.

The proposed charter advises members of the public to be cooperative when public servants need to verify a person's identity. The clear implication of this is that anyone who has their head or face covered will have to uncover if identification is required. The charter would also be distributed at key events, including ceremonies where immigrants are granted French citizenship.

In an editorial, *Le Monde* said that it was useful to reaffirm the basic principles of the republican agreement that all French citizens are supposed to share in, which establishes their secular way of life. But "to be obliged to codify some of the rules of communal life in society that should come naturally in a document that comes from the state [itself] – even if it is not a law – reveals the limits of integration policies in a country that [has become] more and more multicultural."

The fact that the High Council on Integration's proposed charter has emerged at all, *Le Monde* concludes, suggests "a failure of 'living together,' a sort of civic fracture that a charter, however useful, will not be enough to diminish."



Section G

Detailed support for recommendations

**Can the majority suffer from
religious discrimination?**

**Is civil society in danger of retreating from democratic secular
values?**



1 Children

1.1 Child abuse⁵

This matter is also dealt with more generally Section 2.5: Religious bodies acting outside the law.

This remains very much a live issue. The Catholic Church has become notorious in recent years for the scale of the abuse by its clergy⁶, and many other categories of personnel in many types of Church-related organisations. In the small country of Ireland around 15,000 victims are to receive compensation, as shown below. For others, the process of claiming will have been too painful, or they have been too infirm to do so. Many of course have died.

The Church has been complicit in covering up⁷ such cases throughout the world⁸ but less well-known is that the church routinely investigated such crimes in great secrecy without reference to the temporal legal authorities, dealt with further below. Victims were often intimidated into secrecy as a condition-precident to any compensation. Perpetrators and those who shielded them were major beneficiaries.

Pope John Paul II apologised for clerical sex abuse, but personally intervened to resist fiercely calls for Cardinal Archbishop of Boston, Bernard Law, to resign following the uncovering of child abuse in his archdiocese on a large scale. Even the Pope had eventually to give into pressure, so he transferred him to a prestigious position in Rome. The current Pope has also apologised to victims generally, but is this just lip service? How far has he gone to atone for the damage done, not just by the perpetrators but by the Church hierarchy in its institutionally callous treatment of victims and through its negligence (putting at its most charitable)? Evidence is clear that this has allowed, or even facilitated continued to abuse, sheltering , perpetrators to from investigations by national police or prosecuting authorities.

⁵ We are grateful to and pay tribute to Catholics for Choice for their work in this area, which has been of considerable assistance in compiling this Paper, especially their work on France and Austria.

⁶ Child abuse at the hands of RC clergy is examined forensically in *Sex, Priests, and Secret Codes: The Catholic Church's 2,000-Year Paper Trail of Sexual Abuse* by Thomas P. Doyle, A. W. Sipe, Patrick J. Wall

⁷ This term is justified from the effects of long-standing ecclesial secrecy – see appendix at the end of this section under Thomas Doyle

⁸ <http://www.theage.com.au/news/world/church-agrees-to-us660m-payout/2007/07/15/1184438147746.html> and http://news.bbc.co.uk/1/hi/english/world/europe/newsid_1945000/1945848.stm



Some clues to the answer to the question are that the Pope has not reduced⁹ the Vatican secrecy requirements (more details given below), nor opened up the Vatican, national church or insurance company files to investigators, nor released victims from the gagging orders. And the Church has gone to inordinate lengths to limit its liability, as shown in the “Limiting compensation and other financial issues” subsection below.

Below are some relevant facts from a small sample of countries, followed by some more general points. These form the basis of the numerous recommendations for the action plan.

France and Austria

In the course of our work in preparing this Paper, we have become aware of two reports that appear highly relevant and were published by the respected, NGO Catholics for Choice – to which we are pleased to pay tribute. They were published in 2004 but we believe that most if not all of the questions they raise are still valid and, as we demonstrate below, that have largely gone unanswered. The two papers are:

*Sexual Abuse of Children by Members of the Roman Catholic Church in the Republic of Austria: An NGO Report on How the Holy See’s Laws Impact Austria’s Compliance with the Convention on the Rights of the Child*¹⁰.

The Holy See and the Convention on the Rights of the Child in France:

An NGO Report on how the Holy See’s laws impact on France’s compliance with the Convention¹¹

Both raise very serious – and as far as we are aware – unresolved issues about the status of the Vatican’s compliance with its obligations.

An extract from the Document on Austria; from Annex A (we have attempted to reproduce their footnotes, and have added our own emphasis):

¹⁰ <http://www.catholicsforchoice.org/topics/international/documents/2004shadowreportaustria.pdf> published August 2004

¹¹ <http://www.catholicsforchoice.org/topics/international/documents/2004shadowreportfrance.pdf> published April 2004



New Law Requires Secrecy and Centralized Review

In 2001, the Holy See issued a document entitled *Sacramentorum sanctitatis tutela*,¹² instituting a little publicized but important change in the law. In this document, which supersedes the law in the codes, the Holy See directs all the bishops of the world to inform one of its offices, the Congregation for the Doctrine of the Faith, if they receive an allegation of child sexual abuse by a cleric. **This same law prohibits the bishops or other church authorities from taking any action beyond a preliminary investigation of the allegation without further direction from the Holy See's delegate**¹³.

According to the new law, this office of the Holy See may, at its discretion, conduct an inquiry itself, or transmit norms to the local ecclesiastical authority explaining how to proceed. **These cases, the law states, are "subject to the pontifical secret."** This is the Holy See's highest level of confidentiality—just short of the absolute secrecy required by sacramental confession—and provides that the Holy See reserves the right to punish any party who reveals information about clerical sexual abuse of children once an investigation has started. **Furthermore, the document mandates that no one but a priest may be involved in the proceedings concerning sexual abuse of minors by clergy and other religious. These provisions raise questions about the integrity of the internal processes as well as questions of how this law might conflict with laws of the geographically defined jurisdictions in which the subjects of the Holy See find themselves.**

The new legal requirements make clear two facts: (1) the Holy See has overtly claimed responsibility for managing these cases, and (2) the Holy See does not intend to comply fully with the Convention on the Rights of the Child. The latter is shown by the Holy See's desire to skirt the reporting requirements of Article 44 through its own secrecy requirements and to frustrate legitimate efforts of other States party to the Convention, like Austria, by advocating circumvention of their laws in favour of the Holy See's new secret procedures.

Overall, the Holy See's law does provide redress and some protection for children in cases of sexual abuse and also provides for punishment of clergy and religious who sexually abuse children. The existence of law, however, is of little use if the law is not enforced. **The Canon**

¹² John Paul II, Apostolic Letter *motu proprio*, *Sacramentorum sanctitatis tutela*, April 30, 2001, sent by letter of the Congregation for the Doctrine of the Faith to all Catholic bishops in the world on May 18, 2001 (*Epistula ad totius Catholicae Ecclesiae Episcopos aliosque Ordinarios et Hierarchas interesse habentes de <<delictis gravioribus>> eidem*

Congregationi pro Doctrina Fidei << reservatis >>), *Acta Apostolicae Sedis* 93 (2001) 737–739 and 785–788 respectively.

See http://www.vatican.va/roman_curia/congregations/cfaith/doc_dis_index.htm

See also appendix under Doyle

¹³ The Congregation for the Doctrine of the Faith (commonly abbreviated CDF) ...



Laws which touch on this issue are many and have been consistently ignored, inadequately applied, or wrongly applied in favour of the church authorities and its institutional image.

The following is just a sample from pages 10 and 11 of the French study recommendations:

The Holy See, a State party to the Convention on the Rights of the Child, is delinquent in its obligations, as it has not yet submitted its 1997* and 2002* reports to the Committee.

The Holy See should commit to cooperating with local civil authorities by providing evidence and assisting with the prosecution of Catholic church officials involved in the abuse of children and adolescents.

The Holy See must furthermore commit to rescinding its requirements of secrecy in these cases, and should comply with its own law in creating accessible opportunities for children and adolescents, or their representatives, to vindicate and defend their rights, and must guarantee procedural integrity in internal judicial and non-judicial processes.

The Holy See must also prohibit those clerics who have abused children from affiliation with activities and organisations which would allow them access to children, including, but not limited to: parishes, schools, day care facilities, leisure groups and activities (such as Catholic Youth Organisations or those affiliated with World Youth Day), hospitals, mentoring groups, missionary activities to children and youth, seminaries, and convents.

To assist in fulfilling these ends, the Holy See should create and maintain a publicly accessible database of proven child-abusing clergy and religious so that these people cannot merely relocate to avoid the consequences of their crimes.

United Kingdom

A similar issue is raised in the conclusion of the report on the Catholic Church in England and Wales by the UK's Baroness Cumberlege:



Recommendation 72 The Bishops' Conference of England and Wales, in consultation with the Conference of Religious, should make the appropriate decreta generalia and secure canonical recognition of them (c. 455), so that there will be a special territorial law (c. 13§1) for England and Wales which would both give juridical authority to the Church's most important safeguarding rules for children and vulnerable adults and also secure a right of recourse to the Holy See against a diocese, religious congregation or other juridical person which failed to fulfil the obligations laid down in that law.¹⁴

We acknowledge the sincerity of the Cumberlege Commission's attempt to grapple with this problem in the UK. However, the evidence given elsewhere in this section suggest that it has not reached the kernel of the matter and the sense of the inadequacy of the solution is compounded by the sentence that follows the above recommendation: "It is, of course, entirely a matter for the Conference of Bishops and Conference of Religious whether they accept the recommendations and findings of this report and, if they do, how they will chose to implement them."

We do however acknowledge the Church's religious freedom, to make whatever recommendations they wish about Canon Law and the bishops' decision whether or not to heed them. The key point must be to ensure that secular laws in force in the relevant state and all powers necessary to enforce its international obligations are obeyed and acknowledged and represented as overruling Canon Law where there is any conflict. A problem may arise with the operation of this principle in Vatican City itself and we have endeavoured to address these in our recommendation group 2 above.

Ireland

By the latest calculations, the Church ended up paying less than ten percent of the cost of compensation for conduct that was its fault, and this is despite concerns that payout levels have been too low.

... the final official number of applicants is now about 14,700... Joe Costello, Irish Labour's justice spokesman, ... called on the Church to increase massively its contribution to the final bill. 'From a moral viewpoint the religious institutions should revise their position on this question. Its orders

¹⁴ <http://www.cumberlegecommission.org.uk/> Click on Cumberlege Report and Conclusions and recommendations, which we recommend are read in their entirety.



ran these industrial schools, orphanages, hospitals and homes for deaf and blind children and so on. The abuse happened in places under their control, so it is only right that, given the enormity of the cost of compensating the victims, the church should pay a far greater proportion into the final bill,' he said.

Costello also claimed the Irish government was 'guilty of more than just terrible incompetence'. He said: 'It was very clear back in June 2002 that there was a sweetheart deal with the religious orders. They gained an absolute indemnity and walked away paying only 10 per cent of the overall bill.

[A victim, Patrick] Walsh, the UK spokesman of Irish Soca, said that, when the indemnity deal with the church was drawn up, the government never took into consideration other Catholic-run institutions such as hospitals for sick children or homes for deaf and blind children. Victims at church-run hospitals and homes for disabled children were only included after the 2002 deal was signed. Walsh referred to the recent abuse cases in the US and said: 'If the American government suggested taxpayers pick up the tab for crimes against children committed by priests and nuns, there would be a revolution in the United States.'

<http://www.guardian.co.uk/world/2006/jan/01/childprotection.children>

1.1.2006

And even that low proportion of compensation may be materially overstated as, according to a study by Australian lawyers: "The churches handed over portfolios of land in lieu of the money. Allegations are that the land is not worth the valuation accepted by the Minister in charge at the time. Recent anecdotal evidence suggests there no visible signs of church land being sold and certainly not in any prominent locations."¹⁵

Australia

During the Pope's visit to Australia in July 2008, a couple called Anthony and Christine Foster drew attention to the death of both of their daughters indirectly as a result of being raped by a Catholic priest in Australia. The degree of contrition of Bishop Anthony Fisher for this can be

¹⁵ www.nswclc.org.au/State_Conf_08/Wednesday/Simpson_paper.doc (page 9)



judged by his chiding them publicly as "dwelling crankily ... on old wounds"¹⁶. The nation was naturally outraged. Some further financial details about Australia appear below.

Allegations against, and admissions by, Catholic clergy of child abuse were not new in 2005, and yet, it seems, no obstacles were put in the way of the appointment described in the following quote, although the church had been aware of accusations against the appointee for years:

A five-week Sunday Mail investigation has revealed Australia's highest-ranking Catholic, Cardinal George Pell, was aware of the allegations concerning at least one victim prior to Father Fleming being appointed to head Sydney's Campion College, a Catholic liberal arts facility, in 2005.

The Sunday Mail investigation has also revealed that former Catholic Archbishop of Adelaide, Leonard Faulkner, and one of his officials knew Father Fleming was the subject of serious misconduct allegations prior to ordaining him a Catholic priest in 1995. ...

The disturbing revelations come six weeks after Pope Benedict XVI apologised to Australian victims of sexual abuse and promised that the church would treat them with care and compassion.

In an April 2004 letter obtained by the Sunday Mail, Cardinal George Pell acknowledges the complaint against Father John Fleming from one female victim. Cardinal Pell wrote back the next day and advised the victim to contact police herself.

"The allegations you make against Fr Fleming are of a very serious nature. They should be investigated by the police and I would encourage you strongly to pursue your complaint with them," Cardinal Pell wrote in his response.

<http://www.news.com.au/adelaidenow/story/0,22606,24268233-2682,00.html>

Although the Cardinal at least recommended recourse to the police, the whole affair is further evidence of a rigid mind-set among the hierarchy that works against the exposure and removal of abusive priests and religious. Only now (August 2008) has the Archbishop initiated a church enquiry.

Some general observations not related to specific countries

Secrecy

The fact that the current Pope as Prefect for the Congregation for the Doctrine of the Faith, issued the papal instruction *Sacramentorum sanctitatis tutela*,¹⁷ similar to the

¹⁶ <http://www.theage.com.au/national/stop-dwelling-crankily-on-sex-abuse-bishop-20080716-3frz.html> 16.7.08



1962 document *Crimen Sollicitationis* mentioned in section 2.5 below, at the height of the child abuse crisis, inevitably led to the conclusion that there was a cynical cover-up. We reproduce here a quote from the Doyle appendix to this section:

The cover-up happened whether or not bishops were aware of the 1962 document. It was and remains grounded in a culture of secrecy, clericalism and institutional self-preservation. The 1922 and 1962 documents did not create this culture. They arose out of it and gave legal force to the culture of secrecy

and

The obligation of secrecy only went into effect once a case had been initiated. Nothing prohibited a bishop or religious superior from notifying civil authorities of an allegation prior to the initiation of the canonical process.

As noted below in 2.5:

Pope Benedict XVI faced claims last night he had 'obstructed justice' after it emerged he issued an order ensuring the church's investigations into child sex abuse claims be carried out in secret.

The order was made in a confidential letter, obtained by The Observer, which was sent to every Catholic bishop in May 2001.

...

Ratzinger's letter states that the church can claim jurisdiction in cases where abuse has been 'perpetrated with a minor by a cleric'.

The letter states that the church's jurisdiction 'begins to run from the day when the minor has completed the 18th year of age' and lasts for 10 years.

<http://www.guardian.co.uk/world/2005/apr/24/children.childprotection>

This had the effect of requiring that child abuse cases be kept secret, regardless of the laws in place where the offences were committed and the Convention on the Rights of the Child. The implications of this could hardly be more far-reaching. Among other things, it means that many cases of child abuse dating from about 2000 are likely to escape investigation because the victims are considered too old. Before congregants' eyes were opened to the real possibility of child abuse by the religious, they had been conditioned by a traditional Catholic upbringing not to challenge the priesthood: those victims, too, are less likely to bring charges.

One is driven to conclude that the ultimate authority in this area is in practice the Holy See - notwithstanding national law or the Convention on the Rights of the Child.

But notable in all this is the omission of any reference to the duty of reporting such crimes to the civil authorities, nor can we find any instance of this happening. Not only that:

The Ratzinger letter was co-signed by Archbishop Tarcisio Bertone who gave an interview two years ago in which he hinted at the church's opposition to allowing outside agencies to investigate abuse claims.

¹⁷ [footnote in CfC document (above) on Austria: John Paul II, Apostolic Letter *motu proprio*, *Sacramentorum sanctitatis tutela*, April 30, 2001, sent by letter of the Congregation for the Doctrine of the Faith to all Catholic bishops in the world on May 18, 2001 (*Epistula ad totius Catholicae Ecclesiae Episcopos aliosque Ordinarios et Hierarchas interesse habentes de <<delictis gravioribus>> eidem Congregationi pro Doctrina Fidei<< reservatis>>*), *Acta Apostolicae Sedis* 93 (2001) 737–739 and 785–788 respectively. See http://www.vatican.va/roman_curia/congregations/cfaith/doc_dis_index.htm



'In my opinion, the demand that a bishop be obligated to contact the police in order to denounce a priest who has admitted the offence of paedophilia is unfounded,' Bertone said.

[URL as above]

While the child abuse cases that have dominated the headlines have mostly concerned the Roman Catholic Church, the Muslim Parliament of Great Britain has thought it wise to issue guidelines on child protection. See under 1.2 below.

Breadth of organisations involved

It is clear that the abuse was not confined to clerics but to all organisations connected with the Church, for example but not limited to, industrial schools (e.g. in Ireland) orphanages homes for deaf and blind children. These categories were cited as ones excluded from the calculations of potential liability prior to the Irish Government agreeing to indemnify the Church.

We would also remind all concerned that schools, nursing and other caring orders and religious orders of all kinds should also be added to the list of culpable organisations under the control of the Church.

The Irish compensation scheme covers “orphanages, industrial schools, reformatory schools, hospitals, children's homes and day or boarding schools. It also includes foster care”¹⁸.

Limiting compensation and other financial issues

The Church has been very successful in limiting its liabilities. The standard line for years was to deny any accusation, often resulting in the victim being ostracised by the family and community. The Church in Ireland has escaped with paying below 10 per cent of the compensation, and perhaps a fraction of even that according to other credible reports. Australia's Cardinal Pell was responsible for an individual compensation limit there of only Australian \$ 50,000 (less than Euros 30,000), even for rape¹⁹ and subsequent premature death, according to the father of two victims Anthony Foster, referred to below.

Just three Roman Catholic archdioceses in the USA have been forced to settle child abuse claims for over one billion US dollars in cases that go back fifty years. Several dioceses in the USA have filed for bankruptcy as a result of, or in anticipation of, large child abuse

¹⁸ <http://www.childabusecommission.ie/fags.htm>

¹⁹ <http://www.abc.net.au/lateline/content/2008/s2304686.htm>



compensation settlements. Predictably, archdioceses have argued that the Catholic Church is a single entity, protecting parish assets, school money and trust funds. Yet near-absolute control is exercised by the archdioceses and indeed by the Vatican/Holy See over the archdioceses. That control includes the power to instruct to remit money up the chain, ultimately to Vatican City, rather like corporate HQ directing branches, yet the passage of money upwards is non-refundable in marked contrast to any commercial situation.

In many cases, the liabilities arising from accusations of child abuse have been underwritten by insurance companies.

The Vatican Documents

A full English version of the principal document featuring in the matters discussed above, namely, *Crimen Sollicitationis* is available at

<http://www.secularism.org.uk/uploads/criminales.pdf>, with a clearer version and some comment at <http://www.secularism.org.uk/uploads/criminesollicitationis.pdf>.

One of the co-authors of the book *Sex, Lies and Secret Codes*, to which we have already referred, has written some observations available at http://www.secularism.org.uk/uploads/sexliessecretcodes_extract.pdf, from which we have already quoted.

Sacramentorum Sanctitatis Tutela is translated at

<http://www.bishopaccountability.org/resources/resourcefiles/churchdocs/SacramentorumAndNormaeEnglish.htm> (para 3 is the reference to *crimen sollicitationis*)

Conclusions drawn from the above

Any suggestion that the concerns over child abuse are “finished business” can be dispelled simply by seeing the scale of applications, many made recently, to the Irish Child Abuse Commission. These names were not handed over by the Catholic Church or the Holy See. This appears to us to be strong *prima facie* evidence of contravention by the Holy See at least of Article 34 of the UN Convention on the Rights of the Child²⁰:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

²⁰ <http://www2.ohchr.org/english/law/crc.htm>



- (a) *The inducement or coercion of a child to engage in any unlawful sexual activity;*
- (b) *The exploitative use of children in prostitution or other unlawful sexual practices;*
- (c) *The exploitative use of children in pornographic performances and materials.*

Particularly for child abuse, it is unsustainable to argue that “*all appropriate national, bilateral and multilateral measures to prevent*” do not include doing everything reasonable in their power to bring perpetrators and suspected perpetrators (and probably those who shield them) to the attention of the police and/or prosecuting authorities in the appropriate member states.

Also, according to the UN and UN Convention on the Rights of the Child Committee’s website documentations, all signatories undertake in Article 44²¹ to provide an initial report and one every five years. The initial report was filed, albeit over a year late, in 1994. The latest UN Convention on the Rights of the Child Committee documentation we found, dated 26 November 2007, showed not only that the Holy See’s mandatory periodic reports due in 1997 and 2002 had still not been filed, but that the 2007 one was also overdue²².

There is an “exceptional measures” column on the Committee’s monitoring reports to record states’ renewed undertakings or agreements to file overdue reports by new dates, but there is no entry for the Holy See in the column for any of these three reports.

This raises a disturbing question as to whether the Holy See considers itself to be able to overrule national law in other sovereign states, as appears to be the case from the evidence above, and that it is simply beyond accountability to a United Nations agency whose function is to administer a Convention to which it was a voluntary signatory.

Multiple recommendations concerning the above have been made at the start of this Paper.

1.2 The Church of England, schools of smaller denominations and minority faiths (e.g. madrasas)

As acknowledged above, the Roman Catholic Church is far from having a monopoly on clerical abuse. Abuse in religious environments is a particular concern because clerics are likely to be able to exert greater pressure on victims than abusers in other situations, and the

²¹ <http://www2.ohchr.org/english/law/crc.htm>

²² UN Convention on the Rights of the Child *CRC/C/47/2 Submission Of Reports By States Parties dated 26 November 2007* www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRCC472.doc



possibilities of cover up are often greater.

We show below an extract from a letter written to the head of the Church of England in 2007 by an organisation concerned with clerical abuse:

“... It is very unfortunate that, despite the introduction of such policies and training in the 1990s, those who have been involved in failing to report such matters were not able to reflect on past decisions and discuss such matters with the statutory authorities. However, it is never too late to act in these sorts of cases and I trust that as Primate you will now do all within your power to persuade diocesan authorities to address this issue, specifically re-opening old files, re-examining any historic instances where cases of abuse have possibly been hushed up - and reporting such matters to the police as soon as practicable.

“This is the only way to obtain justice for those who have been abused and to help them come to terms with what happened to them.

“It will also send a clear signal to any others tempted to abuse children within a Church of England setting that senior Anglican clergy will not tolerate such behaviour - and will ensure that all allegations of abuse, no matter how long ago they took place, will be properly and fully investigated.”

<http://www.ccpas.co.uk/Press%20releases/30%20April%202007.htm> 30.4.07

In view of the large number of recommendations already made, we will not table any more on the above or what follows below on this topic, but wish also to place on record our concerns about minority faith schools or madrasas:

- a) excessive time spent on religious education, especially learning texts by rote
- b) routine physical punishment of pupils failing to reach the required standard
- c) dwelling on xenophobic texts, and teachers encouraging separation rather than involvement with the wider community
- d) girls being denied access to some subjects
- e) sexual abuse of children.

As a result of a seminar held in 2006 the Muslim Parliament of Great Britain issued some child protection guidelines, from which we quote:

The Muslim community is at present in a state of denial – denial of the fact that child abuse takes place in places of worship including in mosques, madrasas (mosque schools) and families. It is a taboo subject.

...

To protect the integrity of these valued institutions it is important that all madrasas across the United Kingdom put in place transparent and accountable policies and procedures as a matter of urgency. To protect children from harm is a legal obligation for all those who deal with children in any capacity. The madrasas have to recognise that this is not a matter of choice that could be ignored.

...

Out of some 150 local authorities in England and Wales only a handful have taken positive initiatives, involving their local mosques and madrasas, to put in place guidelines to meet their legal obligation as required by the Children Act 1989. This reluctance to engage with faith communities in general and Muslim communities in



particular has left a large portion of some 100,000 children who attend madrasas, at any time, vulnerable. In our view this is simply not acceptable. It is also not acceptable for the local authorities and the police not to take this challenge seriously for fear of being accused of cultural insensitivities.

[This subject is developed further below in Section 2.5]

www.muslimparliament.org.uk/Documentation/ChildProtectionReport.pdf

1.3 Recognition of children's maturity, including their right not to attend worship or religious education classes

We note that few schools recognise that many of their older pupils, even if they have not reached the age of majority have the Human Rights of self determination, for example over whether to be able to opt out of religious worship and religious education at school. We cite the UK Parliament's Joint Committee on Human Rights report of 28 February 2006 report ²³

In part, the report reads:

2.2 Children enjoy the right to freedom of thought, conscience and religion under both Article 9 of the European Convention on Human Rights and Article 14(1) of the UN Convention on the Rights of the Child. The UK is also under an obligation to assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, and to give those views due weight in accordance with the age and maturity of the child.²⁴ The latter obligation finds expression in UK law in the concept of "Gillick competence", according to which a child should be treated as legally competent to make their own decisions if they have "sufficient maturity and intelligence" to understand the nature and implications of their decision.²⁵

They conclude in 2.3 ... **the current legal framework²⁶ is incompatible with these obligations in so far as it fails to guarantee a child of sufficient maturity, intelligence and understanding the right to withdraw from both compulsory religious education and collective worship ...**

and recommend in 2.4 ... **granting a right to withdraw from religious education as well as collective worship; and ... by affording the right to withdraw from both religious**

²³ <http://www.publications.parliament.uk/pa/jt200506/jtselect/jtrights/247/24705.htm> 28th Report publ 28 February 2006, Section 2

²⁴ UN Convention on the Rights of the Child, Article 12(1).

²⁵ *Gillick v West Norfolk and Wisbech Area Health Authority* [1986] AC 112, in which the House of Lords held that a girl under the age of 16 had legal capacity to consent to medical examination and treatment, including contraceptive treatment, if she had sufficient maturity and intelligence to understand the nature and implications of the proposed treatment.

²⁶ UK School Standards and Framework Act 1998 S. 71(1)



education and collective worship to any pupil of sufficient maturity, understanding and intelligence to make an informed decision about whether or not to withdraw ...

We recommend that education authorities be required to display openly the opportunity to withdraw from worship and religious education and that this option should be open at least to pupils of sufficient maturity, intelligence and understanding.

We would also place on record that it is inappropriate to label children as “Muslim” or “Christian” or “Hindu” for example, unless they have reached sufficient maturity to decide for themselves and have been consulted about it. We suspect to do so may also be a violation of their rights under the UNCRC. They are the children of parents who may (as adults having made an informed judgment) be of a particular religion or belief. As expressed above we also have concerns about the recording of such details on identity papers or databases.

A revealing example of this issue was the case of a Sikh family who has been prepared to allow their four-year-old daughter to become Roman Catholic on being refused a place at an RC primary school:

But Mr Singh said: "At the moment she has not got a religion. She follows Sikhism because we are Sikhs".

<http://news.bbc.co.uk/1/hi/england/tees/6955889.stm> 20.8.07 in which
the more liberal attitude of Sikhism to a child's religion is contrasted with that of the Catholic Church.

1.4 Indoctrination of children at school

We refer the lay reader to the second part of First Protocol, Article 2 of the European Convention on Human Rights (ECHR)

"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."

Religious indoctrination of children, including compulsory attendance at assembly, when it ignores parental wishes, violates the First Protocol, Article 2 and may violate Article 9 for



Gillick competent children whereas the exposure of pupils to conflicting ideas and beliefs in a balanced way does not violate that right.

We believe that many Voluntary Aided schools (publicly funded schools controlled by a religious organisation) in England, especially Roman Catholic ones, indoctrinate children. There are approximately 2,000 of these in England. **Unlike other schools, Voluntary Aided schools are under no obligation to teach anything about any other denomination, religion or belief. This does not give pupils a sufficient grounding for their future life.**

As evidence for our assertions we offer a document entitled “Fit for Mission”²⁷. published in 2007 by the Roman Catholic Bishop of Lancaster, whose diocese includes many Voluntary Aided schools under his leadership. The document raises disturbing, wider issues strongly suggesting indoctrination.

It says: “I would be failing in my duty as bishop if I did not point out that we **may not condone or encourage lack of practice of the faith in our schools and colleges.**” (“Fit for Mission” Page 12) and “Therefore, it is expected that the Word of God is proclaimed at all collective worship. **It must never be replaced by another secular or religious text.** (Page 40 – our emphasis)

We consider that children’s rights are being violated by them being indoctrinated in the manner prescribed in the bishop’s instructions. We call on the EU to undertake a study of schools to ascertain the extent of indoctrination in publicly-funded schools, whether opportunities are made public and respected for withdrawal from worship and at what age, and to make recommendations.

We note that the First Protocol, Article 2 of the ECHR is frequently, but incorrectly, cited as an obligation on relevant states to provide religious schools. Our advice is that as a result of the judgment in *Belgian Linguistic Case (No 2) judgment of 23 July 1968, (1979-80) 1 EHRR 252* there is no obligation on States to establish or subsidise education of any particular type.

Parents are becoming more assertive in insisting, often on religious grounds, on single sex or selective schools. We note for the record that they have no right to do so under *W and DM and M and HI v. United Kingdom* (1984).

²⁷ The document can be seen on-line here: <http://www.lancasterrcdiocese.org.uk/mission%20review/school-report.pdf>



1.5 Sex education

We understand that sex education does not contravene the First Protocol, Article 2 ECHR, provided it is not conveyed with any particular moral attitude to sexual relations²⁸. Parents cannot insist on pupils being exempted from sex education.

As an example of how overbearing, and on occasion injurious to the rights of the child, sectarian schools can be, one need look no further than the schools envisaged by the Roman Catholic Bishop of Lancaster, in the UK, in which no teaching about safe sex will be allowed, in fact, little in the way of useful sex education:

UK Catholic Bishop to Schools: Lessons on Sex, Contraception Etc May Not be Presented as "Neutral Info"

<http://www.lifesitenews.com/ldn/2007/dec/07121202.html> 12.12.07

His stance has reportedly been endorsed by the Vatican

<http://www.telegraph.co.uk/news/main.jhtml;jsessionid=FDIBPPQLPO4Y3QFIQMFCFFWAVCBQYIV0?xml=/news/2008/01/05/nsex105.xml>

The above report also refers to the document referred to above entitled "Fit for Mission"²⁹ Reacting to government plans to make sex education a compulsory subject, Bishop Donoghue writes that he is "concerned" that students are being given mixed messages about sexual activity. The instruction specifically instructs schools to "always teach sex within the sacrament of marriage". He writes that it is "paramount" to teach about sex only within the context of "the Church's teaching on sexuality and the sacrament of marriage". ... "The secular view on sex outside of marriage, artificial contraception, sexually transmitted disease, including HIV and AIDS, and abortion may not be presented as neutral information".

Bishop Donoghue decrees that schools in his diocese must follow principles set out by Church documents. The instruction says, "No material of an erotic nature must be presented either individually or in a group and sexual instruction must respect modesty and pupils own sensitivity or sense of privacy."

However, even community schools in the United Kingdom permit sex education to be dictated by parents. As the most conservative in such matters are likely to be the most vocal, this is

²⁸ <http://www.jisclegal.ac.uk/pdfs/humanrightsjxk.pdf>

²⁹ The document can be seen on-line here: <http://www.lancasterdiocese.org.uk/mission%20review/school-report.pdf>



likely to result in sex education of a bland and inadequate nature. We believe this is a major weakness leaving youngsters completely unprepared for life and in danger of exposure to unwanted pregnancies and disease that could virtually destroy their life chances.

Sex education 'leaves teenagers clueless' - Sex education lessons are so poor that most teenagers have no idea about sexually transmitted diseases or pregnancy, according to new research ...

<http://www.telegraph.co.uk/news/uknews/1571442/Sex-education-'leaves-teenagers-clueless'.html> 6.12.07

1.6 Creationism in science lessons

As noted in Section 3.2 above, we share the concerns expressed by the Council of Europe about the growing pressure to present creationism as equivalent to or even instead of evolution, especially in schools and Museums. We commend their excellent paper document 11297 dated 8 June 2007

<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc07/EDOC11297.htm>

Under the heading “Creationism and Education: The main creationist initiatives in Europe, overviews and reactions of the scientific and religious communities”, the paper details creationist initiatives in Belgium, France, Germany, Greece, Italy, Netherlands, Poland, Serbia, Spain, Sweden, Switzerland, Turkey, and the United Kingdom as well as Russia.

They remind us that “Alongside Christian creationism there is now Muslim creationism: the creationist arguments of Christian origin became popular among the Muslims with the rise of the Islamist movements at the beginning of the 1980s.” (para 39)

They conclude that: “**the denial of evolution is particularly harmful to children’s education**” (para 79)

This led to the adoption by The Council of Europe’s Parliamentary Assembly of Resolution 1580 (2007) on 5 October 2007 entitled “The dangers of creationism in education”, part of which reads:

19. The Parliamentary Assembly therefore urges the member states, and especially their education authorities to:

19.1. defend and promote scientific knowledge;



19.2. strengthen the teaching of the foundations of science, its history, its epistemology and its methods alongside the teaching of objective scientific knowledge;

19.3. make science more comprehensible, more attractive and closer to the realities of the contemporary world;

19.4. firmly oppose the teaching of creationism as a scientific discipline on an equal footing with the theory of evolution and in general the presentation of creationist ideas in any discipline other than religion;

19.5. promote the teaching of evolution as a fundamental scientific theory in the school curriculums.

Given the seriousness of this threat to education, its large and growing scale, we have proposed action points above to address this issue.



2 Religious Privilege, Attitudes and Discrimination

2.1 Attitudes

Religious leaders have held privileged positions in their societies for so long that there is no appreciation of the inherent unfairness of their influence or the immorality of their doctrines and practices on matters such as the following: the unequal treatment of women, the ritual slaughter of animals contrary to the law obeyed by everybody else, the opposition to women's reproductive rights and to contraception, the attempt to control the minds of children in sectarian schools and to conceal, as a religious right, their abuse, the persecution of homosexuals and of those not of the faith, topics to be mentioned in more detail below.

2.11 The Non-Religious Distanced from Civic Life

We take as an example the UK as it is by many measures, some shown above, one of the least religious countries in the world. Yet it is particularly insensitive to the exclusion or alienation of the non-religious in formal public fora, perhaps because it retains an established church. The UK head of state is installed in a coronation which is in effect a religious service. The UK Parliament starts all sessions with prayers and those not attending them can find difficulty in securing favourable seats. Memorial ceremonies for public figures or for the war dead are almost invariably church services, and even council meetings are expected to start with prayers. These religious elements potentially alienate not only the non-religious, but those of other faiths. Some orthodox Jews, for example, believe they are not permitted to enter churches. If it is desired by some to have a religious element it should be free-standing so that others can participate in the main event without being involved in it.

Coun. Parker said he had been at meetings where five Muslim councillors had been 'excluded' by the saying of the Lord's Prayer.

He said: "It is a secular event and I don't think prayers are appropriate."

http://www.manchestereveningnews.co.uk/news/s/1025659_fury_at_council_prayers_ban



and <http://www.canterbury.gov.uk/buildpage.php?id=205>

And in the EU there are sixty missions (including two from the RC Church), but only one non-religious one.

2.12 Religious Conscience Given Priority over All

A particularly egregious example of this is the long-established habit of the Vatican/Holy See of making concordats with national governments. We quote one example here, with others, including an explanation of concordats with the Holy See.

This case concerned the newly-established state of Slovakia:

The Vatican attempted to elevate the "right to conscientious objection" far beyond anything it had ever done before, that is to say, far beyond the level of a concordat clause which exempts priests from military service. It extended the claims of "Catholic conscience" to make this the subject of a whole concordat, which even the submission report admits is "unprecedented". This would have allowed Catholics to refuse to do or to authorise on the job anything which conflicted with Canon (Church) Law.

http://www.concordatwatch.eu/showsite.php?org_id=849

Activities such as this on the part of the Vatican are of a kind undertaken throughout its history to maximise its power and persecute, or more latterly discriminate against, those outside its ranks. What is disturbing in the twenty-first century is the readiness with which some countries accommodate the ambitions of the prelates.

The religious have had, and continue to have, hugely more influence within government than any individual civil society interest group. This influence in many European countries including the UK is becoming increasingly disproportionate as the number of believers reduces. It falls to secularists to raise awareness of this disproportionality and seek to combat privileged religious influence on government legislation. The areas where privileged religious influence is most prevalent are in government, public policy, legislation, state education, social services, law, even public health, freedom of expression and in access to public funds.

Even accepting the exemptions on the grounds of conscience for medical staff performing abortions, there is an increasing tendency on the part of some pharmacy assistants to refuse



on the grounds of religious conscience to dispense contraceptives properly prescribed. This is a refusal expressly permitted in several countries including the UK. Those refusing are supposed to return the prescription to customers and direct them to another pharmacy, but there is growing doubt whether this always happens. To us this appears to elevate the pharmacist's conscience, formed through one kind of religious upbringing, above the conscience of the customer, formed by the doctrines of a different religion or by clear moral parenting. We believe that there should be notices in pharmacies warning customers that the pharmacists may reserve the right to refuse to dispense contraception prescriptions.

The pharmacy and the Royal Pharmaceutical Society for Great Britain have defended such exercise of conscience in their regulations giving pharmacists the right to refuse in this way as long as an alternative source for the pill is given.

Father Liam Slattery, 42, Dean for Catholic churches in the Swindon area, has also supported the locum in question.

http://www.manchestereveningnews.co.uk/news/c/1050688_morningafter_pill_its_against_my_religion?page=2 22.5.08

This conflict is illustrated by this quotation:

Most Catholics use modern contraceptives and believe it is a moral choice. They are good Catholics and many wish the Catholic hierarchy would respect their decisions, taken in good conscience, about what is best for themselves, their relationships, families and children.

<http://www.timesonline.co.uk/tol/global/article4541090.ece> 15.8.2008

We agree with the perspective given in the following text concerning conscience voting in parliament:

In this context the demand that elected representatives should be free from party discipline on the abortion question is not a demand for freedom of conscience. It is a demand for freedom to impose the representative's religious views on electors who may have voted for the representative in the



belief that they were voting for a pro-choice, not an anti-abortion, party. It is, in other words, directly opposed both to liberty of conscience and to political democracy.

<http://www.cpgb.org.uk/worker/527/08conscience.html>

The International Planned Parenthood Federation is unequivocal on this point:

*5.2 All persons have the right to **protection against restrictions** on grounds of thought, conscience and religion to their access to education and information related to their sexual and reproductive health.*

<http://www.ippf.org/en/Resources/Statements/The+Right+to+Freedom+of+Thought.htm>

[This paper's emphasis]

From a discussion website on whether one can opt out of parts of one's job on the grounds of religious conscience:

saver asked, "If one can object to certain aspects of one's job on religious grounds who decides which religions are covered?... Atheist vegans have just as strong and deep conscience about animal maltreatment. Can they refuse to accept meat deliveries at Safeway and not get fired?"

http://blog.washingtonpost.com/dot.comments/2008/07/redefining_abortion.html?hpid=topnews

In the case of pharmacists and their staff we consider that dispensing contraceptives is a fundamental aspect of the job to which they should not be able to object. If this position is not taken, patients will be seriously disadvantaged.

Food intolerance

Many Jews and Muslims believe that their conscience requires them to eat their religion's ritually-slaughtered meat. In halal and kosher ritual slaughter, animals are generally not pre-stunned as is the requirement for the slaughter of other meat. Much of it finds its way to be sold without being labelled as ritually-slaughtered. Canteens and restaurants are increasingly serving only dishes made from halal meat, and often without any indication that this is the



case. Customers are therefore forced to eat it, often unknowingly. This shows much greater respect for religion and no-respect for those not wishing to eat such meat.

We recommend mandatory labelling to identify meat originating from non pre-stunned slaughter and the EU seeking to persuade religious authorities to adopt pre-stunning as is done for ritually slaughtered meat in other countries³⁰.

2.13 Thought Crime

It is a principle of secularism – and indeed, of Human Rights conventions (European and UN) - that all should be free to believe what they wish, to change or abandon their religion without penalty, and to manifest their religion, providing in doing so they do not infringe the Human Rights of others.

This stands in stark contrast to those religions for which non-belief, heresy or apostasy has been, or continues to be, forbidden and subject to appalling punishment.

If we turn to the Qur`an and authentic ahadith after freeing ourselves from the extraneous influences of the type I have mentioned above, the situation becomes crystal clear: there is no legal punishment for apostasy in Islam, whether death or any other. The Qur`an and authentic ahadith teach us to treat apostates like other kuffar, whose treatment varies from kindness to killing depending on the circumstances and on the degree of hostility they show towards Islam and Muslims.

<http://www.islamicperspectives.com/Apostasy1.htm>

"If a Muslim says, 'I have embraced another religion instead of Islam,' he -- before he is called to repentance -- will be brought before a group of medical specialists, so that they can examine him to see if he is still in his right mind...

<http://www.light-of-life.com/eng/ilaw/>

"CAN a person who is Muslim choose a religion other than Islam?" When Egypt's grand mufti, Ali Gomaa, pondered that dilemma in an article published last year, many of his co-religionists were shocked that the question could even be asked.

http://www.economist.com/world/international/displaystory.cfm?story_id=11784865

³⁰ <http://www.secularism.org.uk/32753.html>



2.2 Discrimination

2.21 Discrimination in Employment and Services

2.211 Germany

Faith-based welfare

The employment rights of employees of confessional organisations in Germany, even when publicly-funded do not enjoy rights otherwise guaranteed by the state, for example over wage rates and the rights to form unions. The scale of such organisations is huge, with approximately **2.5 million** employees, so this licensed discrimination has an impact on the ability of non-believers and in many cases those who are not regarded as obedient Catholics, to obtain work. It also creates an almost monopoly situation where other organisations are in effect excluded because they would not have the privileges granted to religious organisations and would therefore be unable to compete.

http://www.concordatwatch.eu/showtopic.php?org_id=858&kb_header_id=32561

http://www.concordatwatch.eu/showtopic.php?org_id=858&kb_header_id=32531

http://www.concordatwatch.eu/showtopic.php?org_id=858&kb_header_id=2901

German law opts for "church autonomy", rather than "separation of church and state". This has been interpreted by the Constitutional Court to mean that the churches are free to run huge enterprises (at public expense) where the state's employment laws do not apply, and the churches are free to make their own. This can mean that their employees can legally be fired if their personal lives don't conform to the church ethos.

http://www.concordatwatch.eu/showtopic.php?org_id=858&kb_header_id=12971



Ever since the [Weimar Republic](#) (1919-1933), the Christian churches in Germany have enjoyed great privileges. [The Constitution guarantees them the right to self-determination in their conditions of employment.](#) As a result for 1.3 million people who work in church offices, in graveyards, in day-care centres of the Diakonisches Werk, or hospitals of Caritas (the Catholic charity), the Work Constitution Act (Betriebsverfassungsgesetz) doesn't apply — and therefore they are not allowed to elect factory committees and public employees' staff councils (Betriebs- und Personalräte). For labour legislation conflicts, ones which may also involve more than individual workers, the churches have the jurisdiction.

After the state increasingly emphasised competition in care for the elderly and in hospitals, the Diakonisches Werk tried to fund a competitive advantage from providing poorer working conditions. In 1998 it introduced low wage categories for unskilled workers and apprentices. Then, by not following the new wage agreements in the civil service, the church completely disconnected itself from the public sector wage scale. Throughout Germany, church commissions for employment law are being formed, which often draw up their own unique basis for contracts. As the Secretary of the large German Union called [ver.di](#), Renate Richter, describes the situation, "The fragmentation is increasing at a roaring rate."

http://www.concordatwatch.eu/showtopic.php?org_id=858&kb_header_id=32531

Needless to say, confessional compliance is expected:

The job offer for a business manager suggests politely, that "your profile" should include "a positive attitude to the tasks and aims of Caritas". The job offer for a part-time child minder, on the other hand, states baldly, "We expect active membership in the Catholic Church".

One woman worked as a clinical psychologist for a Church-run clinic. This meant that she had to remain a Church member, even though she wasn't a believer. It was only when she was finally in a position to set up her own private practice that she dared to leave the Church ...

Nor can one opt out of supporting a church that one rejects:



... And in Germany church membership does not come cheap. The tithe is collected by the Government as part of her income tax. If she didn't pay her church tax, she feared that the state would charge her with tax evasion. Since church tax is coordinated with the Inland Revenue, the church knew how much she earned, from all sources and tithed her accordingly.

http://www.concordatwatch.eu/showtopic.php?org_id=858&kb_header_id=2901

The belief assiduously cultivated by the churches that they pay for these services is quite false:

How much do the churches contribute to finance all the activities of Caritas and the Diakonisches Werk? The churches' share amounts to 1.8 percent. In monetary terms, this means that of the 44.5 billion euro costs of the facilities of Caritas and the Diakonisches Werk the two churches contribute only 828 million euros. This means that a mere 4.8 percent of the money of the churches is used for social purposes.

http://www.concordatwatch.eu/showtopic.php?org_id=858&kb_header_id=32561

In spite of the near-total state subsidy,

... the overwhelmingly church-run homes for the aged are tempted to tap another source of income. In 2001 Germany had to change a [law](#) to try to protect residents from pressure to leave the home a legacy.

http://www.concordatwatch.eu/showkb.php?org_id=858&kb_header_id=32561&order=kb_rank%20ASC&kb_id=31401

Our work plan recommendations deal with this area of gross privilege and discrimination.



2.212 The UK

Faith-based welfare

In the UK, faith-based welfare is in the pipeline but the Government presses on, oblivious of the likely adverse consequences of expanding the role of religious bodies in welfare work, if the German model (above) is any guide:

'I think that many organisations feel that there was a lack of understanding from funding and commissioning bodies about the services provided by faith organisations, and that some felt that there was a 'nervousness' from some contractors in funding these groups.'

Jim Murphy, Minister for Employment and Welfare Reform 19.2.08

http://www.care.org.uk/Mobile/default.aspx?group_id=17149&article_id=68208

Religious groups are offering themselves as suitable partners with the state in providing services such as health care and working with the homeless. Yet their attitudes and practices show that they cannot be trusted to have an objective, non-confessional approach.

The Catholic adoption society said it will shut up shop if it has to allow gay couples to apply. Churches say they will never let out a hall to a gay organisation. Christians running soup kitchens say they want to refuse gays shelter and soup. (Soup!)

<http://www.guardian.co.uk/commentisfree/2007/jan/09/comment.politics1>

A gay Christian has won a discrimination claim against the Church of England after it was found to have blocked his appointment on the grounds of his sexuality.

<http://www.24dash.com/news/Communities/2007-07-18-Gay-Christian-wins-Church-of-England-discrimination-claim>



Schools in Great Britain

The Employment Equality (Religion or Belief) Regulations 2003

(<http://www.opsi.gov.uk/si/si2003/20031660.htm>) allow organisations or employees of a religious nature to favour candidates who are fellow-believers for positions where their belief can be described as “a genuine occupational requirement.” So, as an obvious example, it would be legal not to offer the post of rabbi to a vicar. This accords with Employment Directive 2000/78/EC.

But schools, including publicly-funded schools “of a religious character” are also allowed to discriminate on grounds of religious belief in the employment of teachers, and even in some cases in respect of their lifestyle and religious attendance. Some Christian charities want to keep out non-Christians.

Mark Sheridan, a churchgoer of 20 years standing, is at an employment tribunal in Abergele, Wales this week, ... claiming religious discrimination against him and constructive dismissal by his employers, [Prospects](#). He says he was forced as a manager to tell non-Christians they could not be promoted because of their lack of faith, and this made his job impossible.

<http://timescolumns.typepad.com/gledhill/2007/12/christian-claim.html>

In England around a third of publicly-funded schools and in many rural areas the majority of primary schools are religious schools. Teachers of the wrong faith or none can therefore find it difficult to obtain jobs; they are discriminated against. Given that whatever their beliefs, they are required to support the ethos of their employer, there is no justification for them not being eligible for practically all jobs in such schools.

The paradox is that while sectarian schools are allowed to, and do, discriminate on the grounds of religion, there is such a shortage of teachers of the required level of belief that in some subjects schools have to make do with those not of the faith – but circumscribe their roles.

As a teacher, I feel my greatest strength is my relationship with pupils and thought the role of guidance teacher would suit me. However, I couldn't



pursue this path as it is a role reserved by the Catholic Church for teachers it has approved.

<http://www.guardian.co.uk/education/2007/dec/04/faithschools.schools>

4.12.04

Needless to say, the Scottish Catholic Education Service was exultant at a decision over this legal power to reject non-Catholics, atheists, homosexuals and people cohabiting outside of marriage.

<http://www.secularism.org.uk/scotsteachingunionacceptscatholi.html> Its

director, Michael McGrath, said: "We have been encouraging all parties to recognise the law and make the system work and we are happy that the EIS (the major Scottish teachers' union) are showing that recognition," he said.

<http://www.humanism->

[scotland.org.uk/phpBB/viewtopic.php?p=9222&sid=78b87aedc6c7a67dcae3a88af69d5b26](http://www.humanism-scotland.org.uk/phpBB/viewtopic.php?p=9222&sid=78b87aedc6c7a67dcae3a88af69d5b26)

These employment regulations do not find favour with teachers' unions, for example the Association of Teachers and Lecturers:

"Faith schools must become far more accountable if they are to continue getting the current level of tax-payers money. In a country which is becoming increasingly secular and multi-faith it is hard to justify public taxes being used to fund schools which discriminate against the majority of school children and potential staff on the grounds of their religious belief.

http://www.atl.org.uk/atl_en/news/Media_office/archive/archive07/March_2007/faith_school.asp

The sticking point is, of course, the fact that sectarian schools are publicly funded. Not only that, it is the policy of the Government to increase their number.

The funding for these posts comes entirely from public funds, and in large areas religious schools form the majority of (at least primary) schools.

Non-religious teachers are therefore at a substantial disadvantage in obtaining employment. Some are tempted to dissemble about their beliefs in order to obtain a job, thus favouring the dishonest over the honest.



It is questionable whether the UK law on teachers' employment in publicly funded religious schools (under s 58-60 of the School Standards and Framework Act, especially as amended in 2006 by the Education and Inspections Act 2006, Section 37) complies with EU Directive 2000/78/EC. The amendment materially reduced the discrimination protection for certain head teachers in ways which could even impinge on their private and family life³¹.

The Church of England has adopted a 'three-tier' discrimination policy, aimed at continuing to give preferential treatment in school admissions for those linked to churches.

<http://www.ekklesia.co.uk/news/uk/070117churchschools>

In the UK about a third of schools are run by religious bodies though maintained by the state. Here again we see the state acting as an agent of the churches, as indicated elsewhere. Even in the case of so-called community schools the state carries out this role, by requiring schools to lay on acts of mainly Christian worship. This point is developed further in section 4.

The Scout Association

A final example is the Scouting Association, which in the UK and elsewhere makes strenuous efforts to collect donations from the general public, but not as a religious organisation. Yet it insists (except we imagine in France) on administering the Scout's Promise which commits the initiate to a belief in a god, so excluding the children of a large number of their contributors, or at the very least encouraging them to lie. And, it seems, the movement did not start out with this bias, but rather was hijacked by the church.³² As a result of such discrimination against unbelievers, the Woodcraft Folk came into existence in the UK.³³ The first draft of the Equality Bill (Now Equality Act 2006) for the UK would have outlawed religious oaths as a condition of membership of such organisations, but following considerable pressure an exception was made for organisations currently requiring them. The majority of British teenagers do not have a religious belief and the Scouts are the largest youth organisation, often the only one in many places, so this makes the condition for joining for many to be one of hypocrisy. This is a further example of equality legislation not delivering equality.

³¹ With the amendment permitting Voluntary Controlled school Headteachers to be restricted to Reserved Teachers.

³² <http://www.secularism.org.uk/38060.html> and www.secularism.org.uk/uploads/3547a0623e9142d307919993.pdf

³³ <http://www.woodcraft.org.uk/aboutus/who.php>



2.22 Discrimination against women

It is not contentious to say, in Europe at least, that the religious oppression of women remains widespread³⁴.

In Europe not so long ago it was deplorably the case that the moral paradigm, one that was assiduously taught and supported by the Christian churches, assigned to women the status of second-class citizens, and earlier, even non-citizens. They were denied rights to education, to suffrage, and to equal pay, and even as married women from owning property. They were excluded from the professions and from some scientific work, in some cases on becoming married.

Even today, religious organisations (practically all entirely dominated by men) seek authority to prevent women from making their own choices about childbearing. Provided that civil law operates sensible, consensus restraints (for example on age of sexual consent, and on abortion) then such choices are for women to make, and should not be subject to the dictates of those promoting (often absolutist) religious doctrine.³⁵

Calling for equal opportunities, Adlah Al-Essa, a Saudi woman journalist, said women should not be discriminated against when Islam itself gives them equal rights. "I drive in other countries, but here I can't. Why should I use a chauffeur-driven car in which I am seated along with someone who is not my relative? What happens if there is an emergency at home and the driver is not available?" she asked.

http://www.arabnews.com/?page=1§ion=0&article=89336&d=30&m=11&y=2006_30.11.06

The interpretation of the Holy Qur'an, Adlah pointed out, was left to the whims and fancies of some people. "We are not asking for freedom," he said. "What we are asking for is our legitimate right given by Islam."

While the last example is from Saudi Arabia, it should be remembered that its government is pouring huge sums of money into Europe to fund the more extreme versions of Islam.

³⁴ Examples at http://www.concordatwatch.eu/showsite.php?org_id=11701

³⁵ "I permit no woman to teach or to have authority over men; she is to keep silent" I Timothy 2:12



Extremist ideas are being spread by Islamic study centres linked to British universities and backed by multi-million-pound donations from Saudi Arabia and Muslim organisations, a new report claims.

<http://www.telegraph.co.uk/news/uknews/1584954/%27Extremism%27-fear-over-Islam-studies-donations.html> 14.4.08

http://www.salaam.co.uk/news/my_news/233842.txt 18.4.05

Hasidic Jews, in the guise of "protecting" women, insist on segregated transport.

"They've already cancelled higher education in the ultra-orthodox world for women. They have packed the religious courts with ultra-orthodox judges.

"In some places there are separate sides of the street women have to walk on."

http://news.bbc.co.uk/1/hi/world/middle_east/6584661.stm 24.4.07

The above example is from Israel, but the attitude is not confined to that country.

The Sikhs appear to be an exception:

There is no separate code for women in Sikhism, they are on par with men in all respects and can become the priest and empowered to give Amrit.

http://www.punjabilok.com/faith/sikh/religion_of_humanity.htm

2.23 Discrimination against Homosexuals

Practically all religions in the last two thousand years have condemned homosexuality. They have encouraged cruel penalties (even the death penalty) and have in some cases been responsible for carrying them out. They have also been responsible for forming the attitudes behind much of the hostility meted out by others to homosexuals.³⁶

Even today, religious leaders oppose the law being made any more liberal to approach some degree of equality with heterosexuals. All religious spokespersons who spoke in the debates opposed (albeit unsuccessfully) legislation giving equal access to goods and services on the grounds of sexual orientation in the UK in 2006. That these advances have been made is

³⁶ <http://www.iwgonline.org/docs/persecution.html> a refreshing acknowledgement of this from an American Christian



largely thanks to developing European Human Rights jurisprudence. When accused of discrimination, the churches claim that they are not being discriminatory because they oppose all sexual acts outside “holy matrimony”. In effect, they want the state to enforce religious beliefs, to act as an agent for the church in suppressing adultery and sexual activity of which they disapprove.

"The legitimate powers of government extend to such acts only as are injurious to others."

-- **Thomas Jefferson**, "Statute for Religious Freedom"

What religious opponents of homosexual activity fail to acknowledge is that they do not recognise any legitimate equivalent of matrimony for homosexuals, so if they are to escape the disapproval of most churches and minority faiths, they are condemned to a life without sexual expression.

In some places church schools have the right not to employ gay teachers, and the idea of one being permitted in an Islamic school is unthinkable.

Trade union groups in the Republic of Ireland have expressed their dismay at a ruling by the European Commission confirming that church schools can sack teachers who are openly gay.

<http://www.pinknews.co.uk/news/articles/2005-7598.html> 9.5.08

Complaints about homophobia are treated as an attack on religious freedom,³⁷ and Catholic adoption agencies shut down rather than stop discrimination against gays³⁸

Attitudes to homosexuality in most minority religions are less enlightened and even less tolerant than that of the churches.

"Homosexuality is a moral disorder. It is a moral disease, a sin and corruption." – Dr [Muzammil Siddiqi](#) of the [Islamic Society of North America](#).

Homosexuality "is utterly contrary to every natural law of human and animal life." – [Ahmadiyya Muslim Jama'at, Canada](#).

"Homosexuality is unlawful in Islam. It is neither accepted by the state nor by the Islamic Society. Quran clearly states that it is unjust, un-natural,

³⁷ http://www.galha.org/press/2006/07_20.html



transgression, ignorant, criminal and corrupt. [...] Muslim Jurist agree that, if proven of guilt, both of them should be killed.” – [Jamaat-e-Islami Pakistan](#).

http://www.galha.org/briefing/2003_03.html

And it is religious organisations that still manage to prevent all but a few European states from opening up marriage to same-sex couples. The current civil partnership laws are welcome, but are a patchwork quilt of non-transferable arrangements, even within Europe.

Although welcome progress has been made towards sexual equality for ages of consent and for civil partnership and marriage, similar progress has not been made in the lives of homosexual young people and children. Bullying of young homosexuals (or those thought to be homosexual) is rife, even in some cases with the complicity of schools³⁹. Rates of self-harm and even suicide are materially higher than for heterosexual children. This is confirmed in a report released in the UK in 2007. Even more vulnerable are homosexual children in minority religious communities.

For a number of years, researchers have known that one-third of all teenagers who commit suicide are gay. In one sense, this statistic is incredibly shocking because, according to the Kinsey Report, gay teens only comprise one-tenth of the teen population.

http://www.healthyplace.com/Communities/Gender/gayisok/stopping_suicide.html

<http://www.sciencedaily.com/releases/2007/09/070924140326.htm>

It is difficult not to conclude that religious attitudes will have encouraged the bullies and undermined the self-confidence of victims. The RC Church in Britain has even refused to cooperate with initiatives aimed specifically at curtailing anti-gay bullying in publicly-funded schools⁴⁰. Yet, “Seventy five per cent of young gay people in faith schools experience homophobic bullying and are less likely than pupils in other schools to report it” according to UK campaigning group Stonewall, The School Report 2007⁴¹

38 <http://www.pinke.biz/news/152/Catholic-Adoption-Agencies-Shut-Down-Rather-than-Stop-Discrimination-Against-Gays/> 10.6.08

39 http://www.galha.org/press/2007/03_27.html and http://www.galha.org/press/2007/06_27.html

40 [UK House of Commons report HC85 published on 27 March 2007 para 30](#)

41 http://www.stonewall.org.uk/education_for_all/research/1731.asp



2.24 Discrimination Based on Caste

The caste system is one of the most primitive ways in which Humanity can be divided. There are periodic reports about discrimination on caste lines from various parts of the UK. An article in the UK's New Statesman in 2008 is headlined; "Caste-ridden Britain ... the challenges that exist because of the caste system in parts of the UK's Asian community." The UK Government's insensitivity to untouchability seems so absolute, it appears to be complicit in compounding the dalit/caste discrimination. Action is therefore needed at an EU level. In view of the great numbers of immigrants from the Indian sub-continent to Europe, we recommend that a research program be initiated to examine how widespread caste discrimination is in the immigrant community. Further information is available from www.castewatchuk.org⁴²

2.3 Religious Interference over Secular Democratic Law

We are particularly concerned about the introduction of parallel systems of religious justice, something long ago abandoned in Europe for general citizens. We regard the existence of separate religious legal systems as a major cause of inequality but do not have a remedy. In theory, the recourse to religious authorities is a private matter of free will: the problem remains that the religious, cultural and family pressure to submit to them is so strong. Sanctions of not doing so include ostracism, loss of family, loss of livelihood, loss of freedom of movement or association, and possibly even of life. Moreover, the judgments are not in accordance with modern jurisprudence or subject to Human Rights obligations and are frequently discriminatory on grounds of sex. Others can be affected by the judgments, such as future children being regarded as illegitimate.

The facts that there are wide variations in the many schools of Sharia law; that it is not codified; that it may be interpreted by scholars of widely-differing competence, all serve to increase concern.

2.31 Sharia, mainly affecting family life (and also cultural pressures affecting family life)

More than seven in ten marriages involving an English citizen and a spouse born in Asia could have an element of 'force or coercion' about them,



according to [document published today](#) that contains some of the strongest language used by community leaders to date....

'Young Muslims in Britain are under siege from their elders and parents because of the generational and cultural gap. They are alienated from the Mosques because these Mosques are mainly controlled by the elder generation. There is no comprehensive fusion for them in society as a whole because there remain signs of mistrust, prejudice and discrimination. Coerced and forced marriages are a reality for many young Muslims directly or indirectly, through someone they know. As stated at above the incidence of the vast majority of these marriages occurs when the British citizen is coerced into marrying someone from the original homeland of their parents or family.'

<http://timescolumns.typepad.com/gledhill/2008/06/seven-in-ten-ma.html>

12.6.08

working from a report of the Muslim Arbitration Tribunal

http://www.matribunal.com/initiative_matreport.html

found in <http://www.fulcrum-anglican.org.uk/forum/thread.cfm?thread=6070>

where this article extract is also found: <http://www.fulcrum-anglican.org.uk/page.cfm?ID=284>

16.3.98

There is significant resistance to Muslims following the same civil law as all other religious groups.

Proposals were published in the UK in August 2008 for a new Muslim marriage contract. Religious discrimination barrister Neil Addison commented: 'With Government members approving it, it gives pseudo-legitimacy to Islamic marriage and to Sharia by the back door, without giving any real reason why this contract is necessary and what's wrong with civil marriage.'

http://www.theasiannews.co.uk/news/s/1061862_muslim_marriage_contract_revolutionary_for_uk_women

⁴² A.Iso <http://www.bbc.co.uk/dna/mbreligion/F2213233?thread=3862690>



A week later, the Muslim Council of Britain dissociated itself with the contract agreement which was later the subject of a bitter dispute⁴³, apparently with resistance to women and non-Muslims being able to be marriage guardians – although it is not clear why they remain necessary - and resistance to the possibility of requiring the man not to marry another wife. Of course woman marrying again is not possible under Islamic law.

On minority faith marriages we are disturbed to read a Muslim-sourced document that stated that **“More than seven in ten marriages involving an English citizen and a spouse born in Asia could have an element of 'force or coercion' about them”⁴⁴.**

The recent suggestion by the Archbishop of Canterbury about incorporating aspects of Sharia Law into UK law has its dangers:

Nor was "Civil and Religious Law in England: a Religious Perspective" complex or obscure, as was widely suggested. It is an argument for a "higher-level" legal system that respects religious identity and communal rights. In particular, it seeks to redefine the relationship between law and conscience.

<http://www.newstatesman.com/religion/2008/02/sharia-law-archbishop-needs> 14.2.08

We believe the British family solicitor, John Bolch, raises some valid, but little ventilated, concerns about the putsch to introduce Sharia law into the UK.

[No, we do NOT want sharia law](#)

Written by John Bolch on Monday, June 18, 2007:

Thanks to [Family Law Week](#) for pointing out [an](#) article in Asian News⁴⁵ about Sharia Law in Britain, particularly its use for resolving marriage disputes.

There are those who see no problem with Sharia Law. Its use is purely voluntary they say (similar to agreeing to be bound by the decision of an out of court tribunal), and its judgments have no weight under English law - there can therefore be no harm. I disagree. I can think of a number of reasons to

⁴³ <http://www.guardian.co.uk/commentisfree/2008/aug/21/islam.religion>

<http://www.guardian.co.uk/commentisfree/2008/aug/20/islam.religion>

⁴⁴ http://timescolumns.typepad.com/gledhill/files/microsoft_word_mat_forced_marriage_final.pdf (page 9)

⁴⁵ http://www.theasiannews.co.uk/community/heritage/s/529/529128_in_the_name_of_the_law.html



be worried about the spread of Sharia Law, including:

- 1. The use of Sharia Law is not always purely voluntary. Many parties will be pressurised by their families to submit to its 'jurisdiction'.*
- 2. As with all religious texts, there are widely differing interpretations of the 'Islamic law', as pointed out in the article, making its use a lottery.*
- 3. Use of an alternate system of law can show a lack of respect for the real law.*
- 4. Like 'faith schools', the use of a religious system of law perpetuates segregation on the basis of religion, when we should be promoting integration.*
- 5. Increased use of Sharia law is bound to give rise to calls for its decisions to be recognised by English law - something which is obviously wrong, but which may be increasingly difficult to resist, especially in these politically correct times.*

The Asian News article includes:

But the overwhelming majority of cases are to do with divorce - 95% of the roughly 7,000 cases the council has dealt with since opening its doors in 1982 - and, specifically, with releasing women from bad or forced Islamic marriages. When he worked at the Leyton council, Bux used to get about 40 letters and emails a day from women asking for divorces. "People don't understand the scale of the epidemic," he says.

The flood of applications stems from husbands' misuse of Islamic laws on marriage. Under Islamic law, a man is allowed to have up to four wives and has the primary right to call for divorce, known as talaq. As a result, it is possible for a husband to leave his wife and re-marry, refuse to give his first wife a divorce, and still consider himself living in accordance with his faith. In the eyes of the Muslim community, his first wife is still married, and because women are only allowed one husband at a time, she is stranded. "She is left



hanging in midair," says Najma Ebrahim, a coordinator with the Muslim Women's Helpline, which receives 2,000 calls a year, 70%-80% of which are from women with marital problems. And with divorce comes stigma from the community. "To them, the woman is a failure: she couldn't keep her husband."

http://www.theasiannews.co.uk/community/heritage/s/529/529128_in_the_name_of_the_law.html 14.6.07

John Bolch later commented (on January 21, 2008):

For the last couple of days I've been resisting the temptation to post about this article that appeared in the Telegraph on Saturday (since updated), but it seems that everywhere I look I am reminded of it - I even got an email from MBL Seminars this morning advertising, inter alia, a seminar entitled 'Islamic Family Law - The Practicalities'! So, now I can resist the temptation no longer.

I have posted previously about sharia law. As I said there: "Increased use of Sharia law is bound to give rise to calls for its decisions to be recognised by English law - something which is obviously wrong, but which may be increasingly difficult to resist, especially in these politically correct times." Well, it seems my little prediction is coming true. According to the article, the number of British Muslims using sharia courts is increasing, and now we are getting calls for sharia to be given legal authority.

I do not intend to go through the reasons why we should not adopt sharia law in this country, whether for divorce or anything else, as they should be self evident to any reasonable person. Even if it were accepted to be a perfectly fair system, which it patently is not, you obviously cannot have two different systems of law working alongside one another.

By way of example of the problems that could ensue, take the following scenario. A Muslim woman wants to divorce. She wants to use the English



divorce system, as she knows that she will achieve a more favourable settlement. However, her Muslim husband has already instigated a divorce under sharia law (perhaps by text message). If sharia law has legal force then presumably she must submit to it, unless she renounces Islam. However, one of the particularly nasty features of the Islamic form of religious delusion is its treatment of apostates. As the article mentions, even in Britain 36 per cent of young Muslims believe that a Muslim who converted to another religion (or, presumably, simply renounces Islam) should be "punished by death". Would she risk her life just to obtain a better financial settlement?

John Bolch added on February 3, 2008:

I have just watched Divorce Sharia Style on Channel 4, the programme referred to in the Telegraph article mentioned in this post.

The programme emphasised that many of the people who use Sharia courts in this country seek clarification from the residing sheiks as to what is Islamic Law and what is 'merely' culture. There certainly seems a lot of confusion amongst the Muslim community as to where the dividing line lies. The problem, of course, is that the sheiks have to interpret Islamic Law. Now, this isn't the same as a judge interpreting the law of the land. A judge has a set of rules set out specifically to codify the laws, whereas religious laws are gathered from religious texts dating from antiquity, and are notoriously subject to conflicting interpretations. To suggest that such a system should be used in a modern democracy is utter nonsense.

I don't want to comment upon the specifics of Sharia Law, as that has been done elsewhere, although I did notice with concern that in 'extreme cases' three sheiks have the power to dissolve a marriage without even hearing from the other party.

What concerns me most of all though is whether there is a thinly hidden agenda in the calls for Sharia Law to be adopted in this country. Its proponents talk of 'making the government's burden lighter' and turning this country into a 'haven of peace', but go on to threaten that we will need even



more prisons if Sharia, with its strict rules and punishments such as flogging, stoning and amputation, is not accepted. If that prospect were not abhorrent enough, one of the sheiks featured in the programme has been secretly filmed declaring that Sharia will turn this country into a Muslim state, which will then launch jihad against the 'infidels', or unbelievers. Hardly any reasonable person's idea of a 'haven of peace'.

2.32 Cultural/religious pressures on sexual and family matters

We request the EU to make it clearer that Human Rights abuses in the following areas are not made acceptable or any less unacceptable because they are or are claimed to result from religious dogma or cultural customs. We believe that deference to such dogma or customs results in the most vulnerable in society being denied the most basic and desperately-needed protection. Examples include:

- a) so-called honour killings;
- b) female genital mutilation (FGM),
- c) forced marriages,
- d) the subjugation of women, and lesser education for girls

(In the UK, for example, cultural and religious sensitivities have led to a very low rate of prosecution for “honour” killings and forced marriages and to no prosecutions for FGM, even though it is acknowledged that these abuses do occur regularly.)

Although we expect it to be rare in the EU, it cannot be ruled out that there may be torture and other cruel, inhuman or degrading treatment or punishment for apostasy and homosexuality. Social workers and prosecuting authorities should be open to such possibilities and trained to deal with them without regarding anyone to be above the law. Surveys should seek to establish the prevalence of any such activities.



2.33 Christian and Jewish law relating to family life

RC Canon Law may interfere with rights to divorce:

Under Canon Law wife beating is no ground for divorce -- in fact, nothing is. Therefore those who have been married in a Catholic Church, which means under Canon Law, may find that a concordat has deprived them of your right to a civil divorce. The Polish concordat phrases it with great delicacy ([1993, Article 10.2](#)), calling for the state to put in place the enabling legislation which would enforce "concordat marriage". But the Dominican one ([1954, Article 15.2](#)) says explicitly that people married in a Catholic church, and therefore under Canon Law, may never file for a divorce.

<http://www.concordatwatch.eu/>

Spouses in Jewish marriages cannot be divorced without the agreement of their fellow spouse. This problem only affects *religious* divorce. The women do not need a get for a civil remarriage. This is an internal religious problem that only affects those who live within Jewish law and customs. We oppose cultural attitudes that discriminate between men and women, but do not seek to mitigate the effect of religion on people who have voluntarily assumed it. The inability to obtain a get does not prevent the agunot women from obtaining a civil divorce or remarrying in a civil ceremony, solely from having religious divorce and remarriage, and the access to Jewish society that that entails. An attempt to resolve this with UK statute law has apparently failed. Without such consent the partner remarrying after only a civil divorce is not regarded as married in religious terms and any children will be regarded as illegitimate in Jewish "law" but this is a religious not a civil issue.

http://www.agunot-campaign.org.uk/civil_law.htm

2.34 Religious calls for special taxation or investment provisions

We are similarly concerned about calls for separate taxation systems aimed at those of a particular religious adherence, unless they are made available to all.

A government amendment to a UK finance bill (see reference below) was included to cater for the religious objections of the Plymouth Brethren to annuities and to allow for other forms of financial instruments. The wording of the statute itself was non-discriminatory, in stark contrast to the remarks



of the Treasury which made it clear that they intended only the Exclusive Brethren to use this provision, and they castigated those who chose ASPs for other reasons as misusing or taking unfair advantage of the provision, which would lead to its removal.

<http://www.publications.parliament.uk/pa/cm200203/cmstand/c/st030702/pm/30702s02.htm> July 03

See our general recommendation in Section F, number 4.

2.4 Dangers to public health of religious privilege

Problems of religion in public services

We are also concerned about calls for separate publicly funded health arrangements entirely segregated between males and females. Such calls have been made in a number of Western countries and our objections centre on grounds of integration, cost and resources. Once a religious demand – say for segregated treatment - has been conceded to one religion, it is likely to spark demands from another religion. It simultaneously becomes almost impossible to justify why the demand should not be similarly granted for other religions.

Plans for a Muslim-only hospital in Holland have sparked a heated debate over its separate all-male and all-female wings, halal food and roster of duty imams.

<http://www.telegraph.co.uk/news/worldnews/1530660/Anger-in-Holland-over-%27apartheid%27-Islamic-hospital.html> 5.10.06

Other, less organisational, dangers have emerged:

We are alarmed by a report of female Muslim medical students refusing to scrub up properly. Some would answer that reasonable accommodation must always be made, but is there a point where this is a step too far?

<http://www.telegraph.co.uk/news/uknews/1577426/Female-Muslim-medics-%27disobey-hygiene-rules%27.html> 4.2.08



There are many examples of religious or religio-cultural discrimination by individuals, who in some cases have been granted the right to choose how they do their jobs according to their protected religious conscience as in the case of supplying contraceptives.

A Muslim dentist made a woman wear Islamic dress as the price of accepting her as an NHS patient, it is alleged.

<http://www.dailymail.co.uk/news/article-482112/Muslim-dentist-told-patient-wear-headscarf-elsewhere.html> 18.9.07

Violence in French hospitals

Male doctors, particularly in maternity wards, say they are increasingly subject to insults and physical attacks. These are perpetrated mostly by men opposed to nudity or physical contact with their wives and daughters. The conviction in January 2007⁴⁶ of Fouhad Ben Moussa highlighted the issue. He had attacked Dr Jean-Francois Oury, the head of the maternity ward of Robert Debre Hospital in Paris after the doctor manually examined his wife, who had haemorrhaged after giving birth.

“In my religion, a man doesn’t touch a woman,” Ben Moussa screamed, as he slapped and pulled the doctor, according to the testimony. In court, Ben Moussa then claimed his real motivation was modesty, not religion. He was sentenced to a six-month jail term which can be served in part at home.

“I think the Oury case was the straw that broke the camel’s back,” said Emile Darai, secretary general of the National Congress of French Gynaecologists and Obstetricians. The group, unusually, issued a statement in October asking, “Do gynaecologists and obstetricians now need police protection to practice?”

⁴⁶ http://www.lemonde.fr/web/recherche_breve/1,13-0,37-974381,0.html (in French)



Animal health with human health implications:

An example of public health being endangered by religious demands made under the guise of freedom of religion. For example, by UK Hindus seeking to prevent the culling of a “sacred” bull which tested positive for TB and was found in a post mortem to be infected,

<http://www.timesonline.co.uk/tol/comment/faith/article2084229.ece>

2.5 Religious bodies acting outside the law

The Catholic Church has become notorious in recent years for the abuse by its clergy⁴⁷ of children. Just three Roman Catholic archdioceses in the USA have been forced to settle child abuse claims for over one billion US dollars in cases that go back fifty years. The Church has been complicit in covering up such cases throughout the world⁴⁸ but less well-known is that the church claimed the right to investigate such crimes in great secrecy without reference to the temporal legal authorities.

Pope Benedict XVI faced claims last night he had 'obstructed justice' after it emerged he issued an order ensuring the church's investigations into child sex abuse claims be carried out in secret.

The order was made in a confidential letter, obtained by The Observer, which was sent to every Catholic bishop in May 2001.

<http://www.guardian.co.uk/world/2005/apr/24/children.childprotection>

We believe this document, issued by The Holy See in 2001 under the authority of the current Pope, is almost certainly one entitled *Sacramentorum sanctitatis tutela*,⁴⁹ in effect requiring child abuse cases to be kept secret,

⁴⁷ Child abuse at the hands of RC clergy is examined forensically in *Sex, Priests, and Secret Codes: The Catholic Church's 2,000-Year Paper Trail of Sexual Abuse* by Thomas P. Doyle, A. W. Sipe, Patrick J. Wall

⁴⁸ <http://www.theage.com.au/news/world/church-agrees-to-us660m-payout/2007/07/15/1184438147746.html> and http://news.bbc.co.uk/1/hi/english/world/europe/newsid_1945000/1945848.stm

⁴⁹ John Paul II, Apostolic Letter *motu proprio, Sacramentorum sanctitatis tutela*, April 30, 2001, sent by letter of the Congregation for the Doctrine of the Faith to all Catholic bishops in the world on May 18, 2001 (*Epistula ad totius Catholicae Ecclesiae Episcopos aliosque Ordinarios et Hierarchas interesse habentes de <<delictis gravioribus>> eidem*

Congregationi pro Doctrina Fidei << reservatis >>), *Acta Apostolicae Sedis* 93 (2001) 737–739 and 785–788 respectively.

See <http://www.vatican.va/roman_curia/congregations/cfaith/doc_dis_index.htm>



regardless of the laws in place where the offences were committed and the Convention on the Rights of the Child.

*...absolutely all testimony is to be kept as a "secret of the Holy Office."
Oaths are to be taken from all involved under the pain of automatic
excommunication which the Pope alone can forgive.*

*Since all was to be kept secret, victims who speak out later give scandal to
the Church, and should be thus automatically excommunicated as well. No
wonder they have been treated so poorly. **Victims are treated as enemies**
by the Roman Church because that is how the hierarchy sees them.
...Moreover, the bishops were required to keep the policy secret as well
under the pain of excommunication. So they have lied, and lied, and
continue to lie, under the direct orders of the Vatican.*

<http://freetruth.50webs.org/D1.htm>

A similar document *Crimen Sollicitationis*, was ratified by the Holy See in 1962 a translation of which appears at

<http://www.priestsofdarkness.com/CrimenSollicitationes.pdf>

We have a text version available on request.

According to *Sexual Abuse of Children by Members of the Roman Catholic Church in the Republic of Austria: An NGO Report on How the Holy See's Laws Impact Austria's Compliance with the Convention on the Rights of the Child*⁵⁰, a disturbingly similar "**law prohibits bishops or other church authorities from taking any action beyond a preliminary investigation of the allegation without further direction from the Holy See's delegate**". (their emphasis)

Please refer to Section 1.1 where this is considered further in the context of the Rights of the Child.

⁵⁰ <http://www.catholicsforchoice.org/topics/international/documents/2004shadowreportaustria.pdf> published August 2004, page 13



3 The Re-writing of Science to fit Dogma

Religions have traditionally stood in the way of scientific progress. Among the most striking historical examples are the ruthless suppression of the concept of the earth as a globe and later the heliocentric understanding of the solar system. But such obstruction is not just historical; it is prevalent today and arguably becoming more intense.

3.1 Creationism

We share the concerns expressed by the Council of Europe about the growing pressure to present creationism as equivalent to or even instead of evolution, especially in schools and museums. We commend their excellent paper document 11297 dated 8 June 2007

<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc07/EDOC11297.htm>

The paper details creationist initiatives in Belgium, France, Germany, Greece, Italy, Netherlands, Poland, Serbia, Spain, Sweden, Switzerland, Turkey, and the United Kingdom as well as Russia.

Even the European Parliament has played host to a seminar on creationism:

Even the European Parliament it seems has been infected by creationism. In October 2006, a Polish MEP hosted a seminar at the European Parliament entitled “Teaching Evolution Theory in Europe – Is your child being indoctrinated in the classroom?”

<http://www.iheu.org/node/2768>

We consider that attempts to insinuate creationism and other faith-based explanations of the natural world into science lessons are an intellectual abuse of children.

Needless to say, these initiatives are also taking place throughout the world.

In Kentucky USA a creationist theme park has opened, calling itself a “museum”, presumably in the hope of conveying a sense of authenticity. Among other things it shows human children coexisting with dinosaurs in a world it claims is only a few thousand years old. Such contrivances are merely new methods for the traditional religious obstruction of the progress



of science and the understanding of the natural world, with such obstruction being aimed primarily at children. As physics professor Lawrence Krauss has said of the Kentucky museum

They make such a point of trying to make it appear scientific. Instead of shying away from those things that clearly disprove what they're trying to say, they use those things for deception.

http://www.usatoday.com/news/nation/2007-05-26-creationmuseum_N.htm

3.2 Other Scientific Concerns

The main opposition to stem cell research, with its huge potential for treating previously intractable diseases, comes from religious sources. According to the Australian Broadcasting Company

The Catholic Primate of Australia and Archbishop of Sydney, George Pell, is threatening to deny communion to Catholic politicians who vote for an expansion of stem-cell research. Archbishop Pell's intervention may not be totally unprecedented but it's bound to shock many Catholics and perhaps a few politicians too.

<http://www.abc.net.au/pm/content/2007/s1943215.htm> 5.6.07

Similarly, the Vatican maintains for its own doctrinal purposes that condoms are pervious to HIV, despite repeated correction by the World Health Organisation⁵¹. The effect of such misinformation is likely to have caused thousands of unnecessary deaths.

In 2003, the president of the Vatican's Pontifical Council for the Family, Cardinal Alfonso Lopez Trujillo claimed that the Aids virus is roughly 450 times smaller than the spermatozoon – a sperm cell - and thus can easily pass through the 'net' that is formed by the condom.

www.guardian.co.uk/world/2003/oct/09/aids

Not one scientific organisation has supported this claim.

The United Nations AIDS organizations UNAIDS has stated emphatically that: “The rapid spread in Latin America of the virus that causes AIDS is made worse by the Roman Catholic Church's stand against using condoms”.



UNAIDS Coordinator for Honduras, Nicaragua and Costa Rica, Alberto Stella, stated:

"In Latin America, the use of condoms has been demonized, but if they were used in every relation I guarantee the epidemic would be resolved in the region. The fact [that] young people start to be sexually active between 15 and 19 without sex education contributes to the spreading of the virus, as well as the fact that the evidence shows abstinence is not working."

www.reuters.com/article/healthNews/idUSN2222015720071023

The Vatican has been joined by Islamic leaders in condemning condom use. For example, in Kenya, a Muslim leader stated:

"A lot of money is being wasted to poison our community ... a huge amount of money is spent on buying condoms, buying immorality."

<http://wluml.org/english/newsfulltxt.shtml?cmd%5B157%5D=x-157-561599>

The [UK] Christian Institute has opposed the use of vaccines such as Gardasil to prevent the spread of the human papilloma virus (HPV) in the first year of secondary school. According to *The Daily Telegraph* (London) "More than a third of around 3,000 women diagnosed with cervical cancer each year in Britain die from the disease". Yet the UK Christian Voice went so far as to describe it as a "tart's jab"⁵², clearly seeking to discourage its provision. If they are successful, thousands will die unnecessarily.

In Scotland, the Catholic Church originally raised objections to the vaccine on the grounds it could encourage promiscuity, but made a U-turn after reaching an agreement with health and education bosses. The deal means girls getting the HPV vaccine will not receive any accompanying advice on the need to use condoms to protect themselves from other sexually transmitted diseases.

Many sexual health experts believe it is essential to give out safe sex advice alongside the vaccine to make it clear they will remain at risk from other STIs including HIV, chlamydia and gonorrhoea. More than half of the 5,000 female chlamydia patients in Scotland last year were under the age of 20.

51 <http://news.bbc.co.uk/1/hi/health/3176982.stm> 9.10.03

52 <http://www.telegraph.co.uk/news/uknews/1555198/Cervical-cancer-jabs-for-all-young-girls.html> 21.6.07 and <http://www.telegraph.co.uk/opinion/main.jhtml?xml=/opinion/2007/06/21/do2105.xml>



Health campaigners and parents' groups reacted angrily to the deal, warning that the sexual health of thousands of young Scottish women was being put at risk to avoid a moral backlash from the Catholic Church.

<http://news.scotsman.com/health/Catholic-leaders-block-contraceptive-advice.4398680.jp>



4 Self-censorship: free speech endangered

Often there need be no complaints from religious bodies before someone over-interprets some aspect of equality legislation, or imagines religious sensitivities where there are none. This amounts to self-censorship. While some examples of this are still comical, others are much more worrying for their implications for freedom of expression.

4.1 Over-sensitivity to religious “sensitivities”

Functionaries in schools, prisons and hospitals are often too ready to give in to what they imagine are religious sensitivities, or give in to complaints even when the complaints are unfounded⁵³. They are trained in “faith awareness issues”⁵⁴, but seemingly not trained in the exercise of discretion or of common sense.

Muslims convicted of sex offences could opt out of treatment programmes intended to stop them offending because open discussion of their crimes is against their religion.

<http://www.timesonline.co.uk/tol/comment/faith/article3708850.ece>

9.4.08

The sensitivities of some religious groups, or perhaps the readiness to affect sensitivity and stir up otherwise unaware believers into “spontaneous” demonstrations (see section below on cartoons) have been so widely publicised that functionaries everywhere – even advertisers – are willing to compromise the principle of free speech and throw common sense out of the window. Often a little research would show that either the sensitivity did not exist (for example the depiction of pigs or dogs is not generally upsetting to Muslims), or in many cases it should be ignored.

But Scottish Muslim leaders dismissed the counselor's [sic] comments, affirming that religious sensitivity has nothing to do with a picture of a dog.

<http://www.muslimdirectory.co.uk/viewarticle.php?id=295>

53 <http://news.bbc.co.uk/1/hi/england/london/6326277.stm> where a supply teacher was sacked for speaking an unwelcome truth

54 For example

www.pat.nhs.uk/uploads/20071115_20070821_Questions%20to%20ask%20during%20a%20EgIA.pdf



It has become commonplace for people to claim to be 'hurt' or 'offended' in their religious sensitivities by what others say or do. It is important for the sake of free speech as a fundamental value that this effort at silencing others should not be conceded. In the two or three years before these words were written, different religious groups – evangelical Christian, Muslim, Sikh – variously attempted to shut down theatre productions, or to stop the publication of printed matter, or to have cartoonists punished, because something was said, acted or drawn that 'offended' the sensibilities of activists among these groups.

http://83.137.212.42/sitearchive/cre/anthology_03.html

Just over two years ago, a primary school in Batley, West Yorkshire made national news after the head-teacher sent a memo to her staff instructing them to not use books featuring pigs when teaching the under-seven classes in her school where two-thirds of the children came from a Muslim background. The reason the head-teacher gave for her action was that she believed the books "might have caused offence to religious sensitivities."

<http://www.mcb.org.uk/library/07-06-05.php>

When it becomes clear that the outrage is manufactured as a means of attacking free speech, as in the case of the Jyllands-Posten cartoons of Mohammed, we may reasonably treat with scepticism many of the more shrill complaints in the headlines. Let us not forget that during the tours of Islamic countries by the Danish imams people died in the ensuing riots.

However, at this stage, nothing happened on the streets. There was no public outcry.

It took concerted action by the Danish Muslim leaders to effect a change.

They decided to take their complaints both about the cartoons and about the position of Muslims in Denmark to other audiences. In December, encouraged by an imam well known in Denmark, Abu Laban, a delegation went to the Middle East where they saw leading Islamic scholars and political leaders.



They took along the cartoons as evidence but they also included in a 43-page dossier three other drawings which were even more insulting and which had not been published in Jyllands-Posten.

<http://news.bbc.co.uk/2/hi/asia-pacific/4708216.stm> 13.2.06

<http://www.timesonline.co.uk/tol/news/world/article728757.ece> 9.2.06

Furthermore, as each religious group hits the headlines with its complaint, another one alleges that it is being ignored.⁵⁵

Meanwhile vulnerable people are the ones being ignored, as in the experience of a secular organisation, the Southall Black Sisters (the only specialist provider of domestic violence services to black and minority women in Ealing, west London). In an article about them, headed “Defending secular spaces” the *New Statesman* concluded:

“In the rush to be tolerant or sensitive to religious difference, the space is created for the most reactionary and even fundamentalist religious leaders to take control”

<http://www.newstatesman.com/uk-politics/2008/08/religious-state-secular>

In this context, the sentiments recently expressed by the Archbishop of Canterbury and the Lord Chief Justice concerning sharia law are very telling: in the rush to be tolerant or sensitive to religious difference, they create the space for the most reactionary and even fundamentalist religious leaders to take control of minority communities, and they enable a climate which allows religion to define our roles in both private and public spaces.

<http://www.newstatesman.com/uk-politics/2008/08/religious-state-secular>

In some schools teachers are reluctant to present evolution properly if at all for fear of upsetting Muslim parents or pupils:

‘Most devout Muslims are creationists - so when you go to schools, there are a large number of children of Islamic parents who trot out what they have been taught.

⁵⁵ <http://www.asiansinmedia.org/news/article.php/television/808>

10.2.05



'Teachers are bending over backwards to respect home prejudices that children have been brought up with...

<http://www.dailymail.co.uk/news/article-1041089/Atheist-Richard-Dawkins-blames-Muslims-importing-creationism-classrooms.html> 5.8.08

Unless religion – Islam or any other – is to be regarded as just another ideology whose main purpose is thought control, it has to be subject to investigation and criticism.

Insulating a religion from criticism – surrounding it with an electric fence called "respect" – keeps it stunted at its most infantile and fundamentalist stage. The smart, questioning and instinctively moral Muslims – the majority – learn to be silent, or are shunned (at best).

<http://www.independent.co.uk/opinion/commentators/johann-hari/johann-hari-we-need-to-stop-being-such-cowards-about-islam-894361.html>

4.2 Hypersensitivity to religious sentiment undermines free speech

Hypersensitivity of this kind erodes the basis of free speech.

We would do well to keep in mind the comments of Soli Sorabjee SC, until recently the distinguished Attorney General of India, who wrote that:

"experience shows that criminal laws prohibiting hate speech and expression will encourage intolerance, divisiveness and unreasonable interference with freedom of expression. Fundamentalist Christians, religious Muslims and devout Hindus would then seek to invoke the criminal machinery against each other's religion, tenets or practices. That is what is increasingly happening today in India. We need not more repressive laws but more free speech to combat bigotry and to promote tolerance." We should heed that advice.

www.odysseustrust.org/lectures/274_Hungarytalk.pdf (Lord Lester of Herne Hill)



Only three years ago, angry Sikhs forced Gurpreet Kaur Bhatti's 'blasphemous' play Bezhti off the Birmingham Rep's stage. Peter Whittle, director of The New Culture Forum – a centre-right association 'to challenge the liberal-left cultural orthodoxy' – recently compiled a dossier of examples, many from the London arts scene, when nervousness about Islam has led to self-censorship.

http://www.timeout.com/london/features/3960/Religion_and_free_speech.html

A teenager is facing prosecution for using the word "cult" to describe the Church of Scientology. The unnamed 15-year-old was served the summons by City of London police when he took part in a peaceful demonstration opposite the London headquarters of the controversial religion.

<http://www.guardian.co.uk/uk/2008/may/20/1>

20.5.08

Even the BBC handcuffs itself:

It has just been reported that the BBC has dropped a big-budget docu-drama, The London Bombers. A team of journalists had spent months researching it in Beeston, Leeds, home of some of the 7/7 terrorists, and a top writer was preparing the final draft, when it was scrapped. The journalists were reportedly told by BBC executives that it was Islamophobic and offensive.

http://www.timesonline.co.uk/tol/comment/columnists/mick_hume/article4509698.ece

Although it is the duty of democratic governments to maintain and support the general right of free speech...

But whatever the reaction, the UN, the EU and western governments are duty-bound to uphold, not condemn, freedom of expression. More importantly, it is impossible that the application of two opposite standards for two different religions will work in parallel for long in the same society. ...

In the end, the liberal western democracies will end up losing the most treasured achievement of civilised societies - freedom of expression - which



was achieved after two millennia of struggle ... and at the cost of immense sacrifice and suffering.

<http://www.onlineopinion.com.au/view.asp?article=7242>

... some governments are willing to compromise: in the UK, a move in Parliament to introduce a wider blasphemy law was narrowly defeated in January 2006.⁵⁶

What is at stake here is the right to be insulting and cause offence. Many Muslim groups think it will protect their religious sensitivities - and so it will, by shifting the cultural balance away from free speech towards a sanctimonious right to feel offended.

The West Midlands Police and prosecuting authorities sought to prosecute UK TV Channel, Channel 4, for screening a TV programme exposing extremism in mosques. Unable to succeed, they forwarded a joint complaint to a regulatory body OFCOM, which rejected the complaints entirely adding that they clearly had been orchestrated. Eventually, the police and Criminal Prosecution Service admitted what they had done was entirely wrong, apologised and paid substantial damages.⁵⁷

5 Religious influence over citizens of other countries, including EU citizens in the Union's democratic functioning

5.1 Supranational Privileges

Roman Catholic Church influence on the democratic and legal process

The Holy See's status of a Sovereign state, largely results from the Lateran Treaty, 1929.

http://en.wikipedia.org/wiki/Lateran_Treaty.

The holding of such status confers huge privileges, such as serving as a refuge for fugitives from justice. The status of this synonym of the Catholic Church as a sovereign state may be used as a precedent to accord similar privileges to other religions or denominations.

⁵⁶ <http://www.guardian.co.uk/politics/2006/jan/31/religion.politicalcolumnists>

31.1.06

⁵⁷ http://www.cps.gov.uk/news/pressreleases/channel_4.html



The Holy See has the status, in international affairs, of a state, with a foreign policy, ambassadors (papal nuncios) and the ability to make treaties with other states.

It is the Holy See – not the Vatican City State – which has the right to send and receive Ambassadors. Currently, the Holy See has full diplomatic relations with 173 countries, the EU, and the Sovereign Military Order of Malta. About half of these countries have resident ambassadors in Rome. Most non-resident missions are based in Paris, Berlin, Berne or London. Ambassadors to Italy cannot be jointly accredited to the Holy See. In addition to establishing diplomatic relations, the Holy See has signed concordats with many countries.

<http://www.fco.gov.uk/en/about-the-fco/country-profiles/europe/holy-see?profile=intRelations&pg=4>

5.2 Platform for undue influence over other democracies - concordats

The Pope does not seem to feel bound by long-established international protocols as a Head of State of a Sovereign state in intervening in the internal affairs of other countries.

The head of state, the Pope, is the only absolute monarch in Europe. The Vatican is not party to either the Universal or European Declarations on Human Rights. As a sovereign state the Holy See enters into international treaties called concordats for the benefit of the Catholic Church and which are frequently agreed or modified secretly as international treaties, and even if not secret, normally without being subject to the rigours of the democratic process. The wording of many extant concordats is not in the public domain.

http://www.concordatwatch.eu/showtopic.php?org_id=871&kb_header_id=823

The last attempted concordat of which we are aware at the time of writing (August 2008), on freedom of conscience with Slovakia

http://www.concordatwatch.eu/showkb.php?org_id=849&kb_header_id=755&order=kb_rank%20ASC&kb_id=1227, was considered by an independent group of experts to be highly questionable on Human Rights grounds, privileging Catholics above other citizens on matters of conscience, such as participation in military service, specifically mentioned. Exemptions on



abortion and contraception were considered likely to lead to their non-availability in large areas of the country, thereby impinging on the Human Rights of those wishing such facilities or supplies. This is the only concordat or draft concordat which, as far as we are aware, has been subjected to such an examination and this raises serious question about the many hundreds of concordats.

www.concordatwatch.eu

5.3 Direct intervention of the papacy in politics in EU countries

In Italy, with a short history as an independent state, the influence of the church is more than residual:

This little piece of modern Machiavelliana exposes the true reason for the chronic weakness of Italian governments. Italy is not one state but two: the unified Italian state, created in 1870; and the papacy coiled in the heart of the capital, the ultimate legatee of the original Roman empire, which surrendered temporal power over the papal states but has never relaxed its grip on Italians' hearts and minds.

<http://www.independent.co.uk/opinion/commentators/peter-popham-blame-the-vatican-for-italys-latest-crisis-437953.html> 26.2.07

In January 2003, the Vatican's Congregation for the Doctrine of the Faith published a series of guidelines for Catholic politicians underscoring their call by God to pass laws for the common good and reaffirming their duty as Catholics to adhere to the Church's stance on abortion, euthanasia, embryonic research, and other hot-button political topics. One might expect that Italian leaders, serving an overwhelmingly Catholic population, would be some of the few politicians to take such a document to heart.

<http://www.harvardir.org/articles/1147/>

In Spain, where for many years the church had the unquestioning compliance of previous governments, not least under Franco's dictatorship:



The Vatican, under the new leadership of Pope Benedict XVI, has condemned a Spanish government bill allowing marriage between homosexuals.

The bill, passed by parliament's Socialist-dominated lower house, also allows gay couples to adopt.

....

Interviewed in the Italian newspaper, Corriere de la Sera, Cardinal Lopez Trujillo said the Church was making an urgent call for freedom of conscience for Roman Catholics and appealing to them to resist the law.

He said every profession linked with implementing homosexual marriages should oppose it, even if it meant losing their jobs.

<http://news.bbc.co.uk/1/hi/world/europe/4473001.stm> 22.4.05

Spain's ambassador to the Vatican met with Church officials over the weekend to protest about interference in the country's elections by the country's bishops.

<http://www.pinknews.co.uk/news/articles/2005-6739.html> 4.2.08

José Luis Rodríguez Zapatero plans to tell Monsignor Manuel Monteiro de Castro, the Papal Nuncio, that the Church must respect the elected Government and refrain from campaigning for the opposition before the March 9 general election.

<http://www.timesonline.co.uk/tol/news/world/europe/article3365886.ece>

14.2.08

Spanish bishops have caused a huge political row in the run-up to elections in March by issuing a controversial statement which effectively tells the faithful which party to vote for - the conservative Popular Party (PP). President Jose Luis Rodriguez Zapatero, of the Socialist Party (PSOE), has responded by telling them to stay out of politics.

<http://www.catholicherald.co.uk/features/f0000229.shtml> 7.3.08



In the United Kingdom, pressure from Catholic MPs and Cabinet Ministers is growing, following meetings with Cardinal Murphy O'Connor, to permit them to follow the Vatican line against the party whip even though this is a different line from the one held by the vast majority of Catholics (around three quarters), and an even larger proportion of the population. (Please see 5.4 below.)

The UK Guardian article "Scientists say Catholic clergy inflaming embryo debate" refers to a move by Roman Catholic members of Parliament to vote against their party's line but in favour of a Vatican line which is not the majority stance of even Roman Catholics, far less their constituents.
<http://www.guardian.co.uk/science/2008/mar/25/ethicsofscience.medicalresearch1>

5.4 Direct intervention of the papacy in North American politics

In North America, where the constitution forbids religious tests for office, yet candidates for office are expected by the electorate at large to offer sound Christian credentials:

Only last month, Pope Benedict took the opportunity to castigate Roman Catholic politicians in Canada for voting for gay rights.

The meddling Pontiff feels that the views of their constituents should be subservient to the views of the Vatican on matters of social policy.

In the 2004 US Presidential election, the Catholic Church refused Kerry communion and said he was not welcome at Mass because he supported abortion, effectively sabotaging John Kerry's campaign. This created in the minds of religious voters the idea that Kerry was somehow less of a Christian than the evangelist Bush.

<http://www.pinknews.co.uk/news/articles/2005-2743.html> 16.10.06

Democratic presidential hopeful for the 2004 election John Kerry – a Catholic – has already pledged to keep his faith and his politics separate. Unlike John F Kennedy, who had to convince Protestants that his policies in the White House would not be dictated by the Vatican, Kerry has been



criticised by heavyweights in his own church and the conservative media for not toeing the Pope's line, instead supporting abortion rights, civil marriages and stem cell research. Some Catholic bishops have even said they would deny him communion.

http://www.channel4.com/culture/microsites/C/can_you_believe_it/debates/bornagain1.html undated

Running mate for the Democratic hopeful for the 2009 election, Senator Biden, has already been the subject of pressure from the RC Church for his less-conservative-than-the-Vatican position on abortion.

<http://www.latimes.com/news/opinion/sunday/commentary/la-oe-rutten27-2008aug27,0,4923460.column> 27.08.08

(Fundamentalist protestants, it must be admitted, also ignore the US constitution in this respect.)

And the Catholic hierarchy is not the only source of interference:

*Opus Dei pursues the Vatican's agenda through the presence of its members in secular governments and institutions and through a vast array of academic, medical, and grassroots pursuits. Its constant effort to increase its presence in civil institutions of power is supported by growth in the organisation as a whole: . . . **their work in the public sphere breaches the church-state division that is fundamental to modern democracy.***

[emphasis in original: from a report researched and written for Catholics for a Free Choice by Gordon Urquhart, author of The Pope's Armada: Unlocking the Secrets of Mysterious and Powerful New Sect. in the Church (Bantam Press, 1995).]

<http://www.population-security.org/cffc-97-01.htm> undated



5.5 Vatican seeks to subvert the democratic process and the public duty of officials

The foregoing examples demonstrate in practice the operation of a disturbing principle: that of the Vatican in applying pressure on politicians and public officials to toe the Vatican line rather than what they think to be in the best interests of those they are elected or appointed to serve. As a matter of principle this would in itself seem to us to be in danger of subverting the democratic process, for three reasons:

(i) we have yet to hear of a politician who has been elected on a platform of saying they would do whatever the Vatican bid, regardless of the consequences or wishes of their electorate, wider constituency, or governing body. Yet, requiring politicians or other officials subject to this pressure directly or indirectly from the Vatican to declare their religious allegiance would be regarded as an invasion of their privacy, even though it could be regarded as crucial to establishing the way in which they would vote or otherwise act. This reticence also applies when they are thought to be members of organisations requiring a considerably greater than normal adherence, for example *Opus Dei* in the case of Rt Hon Ruth Kelly, MP a UK Government Minister who has refused to confirm or deny whether she is a member.

... a Catholic politician [should] be first of all ready to become better informed in conscience by further study and discussion of what the Church's moral principles are and what the magisterium has taught about their proper application.

*When there is no more time for study and one must act, for example, **by casting their votes in their roles as legislators, they need to observe the principles of divine law as superior to their own theories and opinions in matters of moral principle.***⁵⁸

(ii) The Catholic Church (and not necessarily it alone) is prepared to coerce those public officials not doing its bidding, for example by withholding communion, and quite possibly in the case of Senator Kerry of the United States, to act in a way that may have directly resulted in his losing the presidency, and

⁵⁸ <http://www.zenit.org/english/visualizza.phtml?sid=87632> (our emphasis added). Conscience and Catholic Politicians (Part 2): Interview with Fordham's Father Koterski reported approvingly by Zenit, the papal news agency. Other similar statements have been made by the current and previous popes.



(iii) that the position taken by the Vatican on such matters as abortion, contraception and homosexuality is the opposite to that of the vast majority of those in the pews on behalf of whom the Vatican purports to speak. (Evidence shown below.)

5.6 Vatican hard line only shared by a minority of Catholics in the pews.

As evidence of the claim that the churches and other religious bodies may make the headlines but do not really represent the views of the majority of their supposed adherents, it is useful to recall that Italy has one of the lowest birth rates in Europe, showing that at least one Catholic teaching is being widely ignored, and that the Spanish government largely prevailed against the strictures of the church. Furthermore, in the United States, a survey⁵⁹ carried out among Catholics on behalf of Catholics for Choice asked two questions:

Do Catholic politicians have an obligation to vote on issues the way Catholic Bishops recommend?

(73% of US Catholic voters say “no”)

Do you believe Catholic voters have a religious obligation to vote against candidates who support legal abortion?

(69% of US Catholic voters say “no”)

<http://www.catholicsinpubliclife.org/pdfs/executivesummary.pdf> page 7

A smaller survey in the UK echoed this result.⁶⁰ In it, the Catholic bishops' stance on abortion law was supported by only 27% of Catholics and 14% of the population. It is generally accepted that the bishops' views on contraception or homosexuality are even less representative of their flocks or the public at large.

Unfortunately undemocratic pressures on the part of the church and other religious bodies are still widespread and often successful, as demonstrated in this paper.

⁵⁹ Secular and Security-Minded: The Catholic Vote in Summer 2008

⁶⁰ YouGov Survey for Catholics for Choice. Fieldwork: 14th - 16th November 2007. Percentages given for those who strongly agree or agree with the statement “It should be legal for a woman to have an abortion when she has an unwanted pregnancy”



6 The Context: Society and Religion today

6.1 The extent of religious faith today

We set out below some statistics and quotations that show a much lower, and indeed declining interest in and adherence to, religion than might be supposed from the well-publicised pronouncements and demands of religious leaders. It must be remembered that they are not neutral bystanders; they have a vested interest in promoting their ideologies. The continuance of their hierarchies and indeed their institutions depends on maintaining an impression of a much greater support than is warranted by objective statistics of decline and forecasts of further decline. Some minority religions, especially Islam are increasing, but by high rates of immigration and births, rather than conversions.

Only a third of Western Europeans believe in a personal God. More than 80% of Europeans do not regularly attend a religious service. Religiosity has been in decline for nearly a century.

<http://www.gallup-international.com/ContentFiles/millennium15.asp>

When Europeans were asked what values they "cherish above all", religion came bottom of list of 11 – with a meagre 7%. Eurobarometer 66, conducted in 2006, showed "Public opinion is divided about the place of religion in society". On average, a significant 46% of respondents agree with the proposition that it is "too important".

http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_highlights_en.pdf

Taking the United Kingdom as an example of the religious decline in (especially northern) Europe, survey after survey, even those carried out on behalf of religious organisations, indicate the acceleration in the loss of faith.

In the report John Sentamu - the Archbishop of York (second most high ranking cleric in the UK's established Church) - said:

"The research suggests young people are happy with life as it is, that they have felt no need for a transcendent something else and regard the Church as boring and irrelevant."



The report also found:

“...Instead, the data indicated that they found meaning and significance in the reality of everyday life, which the popular arts helped them to understand and imbibe.”

The authors began their work believing that even if the young had little knowledge of Christianity they would still have religious or spiritual yearnings. They were shocked to find that they did not.

<http://www.timesonline.co.uk/tol/news/uk/article714328.ece> and

<http://www.tearfund.org/webdocs/Website/News/TAM%20Final%20Version%208.5.07.pdf>

6.2 The future for the churches – taking the UK as an example

In Britain, for example, normal Sunday Anglican and Catholic church attendance has been in significant decline since before WWII and dropped from 11% of the population in 1980 to less than 7% in 2005 and is forecast by Christian Research to drop to 2% in 2040.

[UK Christian Handbook Christian Trends No. 5, 2005/2006 Publ Christian Research Ed Peter Brierley ISBN1-85321-160-5, Table 12.13](#)

This projection is confirmed by a greater decline in church attendance by young people compared with older people and a steadily rising proportion of young people (currently two-thirds) regarding themselves as non-religious. Religion ranked just ninth in a list of characteristics regarded as important to their identity.

Young People in Britain: The Attitudes and Experiences of 12 to 19 Year Olds, Research Report No. 564 published in 2004 by National Centre for Social Research (Extract from page 10)

<http://www.dfes.gov.uk/research/data/uploadfiles/RR564.pdf> (Home Office Research Study 274 Religion in England and Wales: findings from the 2001 Home Office Citizenship Survey) publ 2004



According to the latest issue of Christian Research's journal *Religious Trends*, "the churches may be heading for extinction by 2040 – with just two per cent of the population attending Sunday services and the average age of congregations rising to 64. Its special report, 'The Future of the Church', says "total membership of all the denominations will fall from 9.4 per cent of the population to under five per cent by 2040, and 18,000 more churches will close." The Bishop of Manchester, Dr Nigel McCulloch, said in response: "We have to face the facts, and we are not always good at that." The article continues: "Bishop McCulloch is not the first senior church leader to use the word 'extinct' in talking about the scale of the problem facing Christianity in Britain. In September 2001 the head of the Roman Catholic Church in England and Wales, Cardinal Cormac Murphy O'Connor, told a conference of priests in Leeds that traditional Christian faith could be vanquished unless they took their vocation seriously".

Source of whole paragraph: Religious Trends 2005/2006 Publ Christian Research (Section 12)

http://www.ekkleisia.co.uk/content/news_syndication/article_05095cro.shtml

Church attendance in Britain is declining so fast that the number of regular churchgoers will be fewer than those attending mosques within a generation, research published today suggests

<http://www.timesonline.co.uk/tol/comment/faith/article3890080.ece> 2.5.08

We believe that figures such as these preclude any case being made for any one religion, far less any denomination, to be able to claim it speaks on behalf of the people in member states (as the Catholic Church has so claimed).

6.3 Unequal representation and regard

The Fundamental Rights Platform is commendably keen to collect the perspectives of civil society. We have described the counterpart of this as "organised religion", which includes Islam with its lack of centralisation, and "religious organisations", which include churches with their hierarchies, and smaller bodies such as the Christian Institute. In the UK and in the EU generally (thanks to the Treaty of Lisbon, unratified but implemented in some respects), religious bodies have the unquestioning ear of governments.

By contrast, the large numbers of people, probably the majority, who are variously atheist, secularist, secular humanist, secular Christians, believers of other faiths with more liberal or secular attitudes, are not represented to anything like the same extent.



This is partly because freethinkers are by their nature individualists and are therefore less likely to be “joiners”, and partly because such organisations as there are that campaign for a society free of religious privilege are small and badly funded. Believers on the other hand are obliged to join and fund their religious group and feel they receive sustenance from it. The funding generally goes towards hierarchies which are keen to preserve their own structures.



Appendices to section 1

Appendix I

[This document was due on 1 September 1992 and received on 2 March 1994⁶¹]

UN Convention on the Rights of the Child

COMMITTEE ON THE RIGHTS OF THE CHILD - Tenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES

UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Holy See.

Reference CRC/C/15/Add.46. dated 27 November 1995⁶²

1. The Committee considered the initial report of the Holy See (CRC/C/3/Add.27) at its 255th and 256th meetings (CRC/C/SR.255 and 256), held on 14 November 1995, and adopted* the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the Holy See for its initial report, although, due to the particular nature of the State party, it did not follow the Committee's guidelines. It also expresses its appreciation for the frank and open dialogue engaged with a high-level delegation. The Committee takes note of the answers given to the questions raised by members and the documentation provided to the Committee during the discussion, which enabled the Committee to better assess the role of the Holy See in the implementation of the Convention.



B. Positive factors

3. The Committee welcomes the efforts of the State party with a view to encouraging universal ratification of the Convention.

4. The Committee welcomes the State party's recognition of the important role the Holy See and its constituencies could play throughout the world to achieve the aims and objectives of the Convention. The Committee takes note of the network of institutions and structures set up by the Holy See for the welfare of children, such as the Pontifical Council for the Family, the Congregation for Catholic Education, the Pontifical Council for Pastoral Assistance to Health Care Workers and the Pontifical Missionary Society of the Holy Childhood.

5. The Committee notes the positive efforts made by the State party to disseminate and translate the Convention worldwide and welcomes its readiness to cooperate actively with and to provide assistance to other States parties in that regard.

6. It welcomes the decision taken by the Pontifical Council for the Family, as a concrete contribution to the International Year of the Family, to set up shelters for street children in Brazil, the Philippines and Rwanda.

C. Principal subjects of concern

7. The Committee is concerned about reservations entered by the Holy See to the Convention on the Rights of the Child, in particular with respect to the full recognition of the child as a subject of rights.

8. The Committee is concerned that discrimination between children may arise in Catholic schools and institutions, in particular with regard to gender.

9. The Committee is concerned at the insufficient attention paid to the promotion of education

⁶¹ www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRCC472.doc



of children on health matters, the development of preventive health care, guidance for parents and family planning education and services, in the light of the provisions of the Convention.

D. Suggestions and recommendations

10. In the spirit of the final document of the World Conference on Human Rights, the Committee wishes to encourage the State party to consider reviewing its reservations to the Convention with a view to withdrawing them.

11. In view of the moral influence wielded by the Holy See and the national Catholic Churches, the Committee recommends that efforts for the promotion and protection of the rights provided for in the Convention be pursued and strengthened. In that regard, the Committee wishes to underline the importance of wide dissemination of the principles of the Convention and its translation into languages spoken throughout the world, and recommends to the State party to continue to play an active role to that end.

12. The Committee emphasizes the need for professionals and voluntary workers involved in the education and protection of children to receive adequate training and education, taking into account the principles set forth in the Convention. The Committee also recommends that the Convention be included in the curricula of Catholic schools. In this respect, it is the view of the Committee that the teaching methods used in schools should reflect the spirit and philosophy of the Convention and the aims of education laid down in its articles 28 and 29.

13. The Committee recommends that the position of the Holy See with regard to the relationship between articles 5 and 12 of the Convention be clarified. In this respect, it wishes to recall its view that the rights and prerogatives of the parents may not undermine the rights of the child as recognized by the Convention, especially the right of the child to express his or her own views and that his or her views be given due weight.

14. It also recommends that the spirit of the Convention and the principles set forth therein, in particular the principles of non-discrimination, of the best interests of the child and of respect

⁶² [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.46.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.46.En?Opendocument)



for the views of the child, be fully taken into account in the conduct of all the activities of the Holy See and of the various Church institutions and organizations dealing with the rights of the child.

Appendix II

Note on the rights of the child

(NB - for the benefit of lay readers of this document, not of course for its intended recipients)

European Convention on Human Rights

<http://www.hri.org/docs/ECHR50.html#C.Art9>

Article 9

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others.

United Nations Convention of the Rights of the Child

<http://www.crae.org.uk/rights/uncrc.html>

Article 12

- Every child and young person has the right to express his or her views freely – about everything that affects him or her.



- The child's or young person's views must be given 'due weight' depending on his or her age and maturity.
- The child or young person has the right to be heard in all decision-making processes, including in court hearings. The child or young person can speak for him or herself, or someone else can speak for him or her.

Article 13

- Every child and young person has the right to freedom of expression, including the right to all kinds of information and ideas (unless there are legal restrictions).

Article 14

- Every child and young person has the right to freedom of thought, conscience and religion (unless there are legal restrictions).
- Governments must respect the right of parents and guardians to give advice to the child and young person about this right. The more a child or young person knows and understands, the less advice parents need to give.

*Comment: note that the last bullet point refers to **advice**, not indoctrination.*

Appendix III

A secular/humanist position on Religious Education

We have never been opposed to teaching children **about** religions – indeed, given the tensions in today's world, we regard it as essential that children know something about the religious beliefs and motivations of the world's peoples, as well as of those who govern them. Furthermore, knowledge of the basics of Christianity is necessary for an appreciation of our own European literary and artistic heritage.

We are not, however, convinced that this material is best taught in lessons designated for the purpose: the fact that this material is being taught in separate lessons is bound to give the impression that the school endorses those beliefs, and there would even be a temptation for some teachers to use such lessons for religious instruction. Instead, the basic facts about the



world's religions and non-religious belief systems should be incorporated as appropriate in the rest of the curriculum. In contrast, there are RE syllabus guidelines in existence which aim to do the opposite – draw into RE material on the environment, for example: a blatant instance of empire-building.⁶³

If children must be **instructed** in religion, then this should be done in church, mosque or temple, not in schools supported almost entirely by the tax-payer.

While RE remains as a separate subject, we recommend that Voluntary Aided schools are required to follow the locally agreed syllabus for RE, just as Voluntary Controlled schools are. We propose this policy for schools of a religious character, whatever the faith.

Since organised religion has in recent years begun a concerted attack on civil society and its democratic secular values, should it be considered part of civil society for the purposes of this discussion? After all, the contrast is made between civil society and power structures such as governments, and as religious organisations are nothing if not power structures, as suggested, then it follows that they also should be the subject of the FRA's representations, and not one of the "stakeholders" in civil society. In this context, such stakeholders are individuals who have religious beliefs protected under human rights legislation.

Appendix IV

Thomas Doyle on the 1962 Vatican instruction "*Crimen Sollicitationis*,"

Promulgated on March 16, 1962

Observations by Thomas Doyle, O.P., J.C.D. November 1, 2006

www.priestsofdarkness.com/doyle-comment-11-1-06.pdf

This is a commentary by a former Vatican canon lawyer on two documents, *Crimen Sollicitationis* (1962) and *Sacramentorum sanctitatis tutela* (2001), which prescribe the manner in which accusations of sexual abuse by clergy should be handled.

The writer is co-author of *Sex, Lies and Secret Codes*, previously cited

⁶³ QCA-RE Guidelines, section headed "Learning across the Curriculum" on <http://www.qca.org.uk/ages3-14/subjects/9817.html>



14. *The Instruction specifically states that those involved in processing cases under these norms are bound by the Secret of the Holy Office, the highest form of confidentiality employed by the Holy See. Violation of the secret resulted in automatic excommunication, the lifting of which was especially reserved to the Holy Father. In fact, this represents the highest degree of Vatican secrecy which is imposed for the most serious processes and situations. The Instruction imposes the same oath of secrecy on the accuser and on witnesses but states that the penalty of automatic excommunication is not imposed. However this or other penalties may be imposed on the accuser or witnesses should the church authority handling the case deem it necessary.*

15. *The secrecy that was (and still is) imposed on parties and witnesses in canonical proceedings is intended to assure witnesses that they can speak freely. It is also intended to protect the reputations of the accused and accuser until guilt or innocence is determined. The almost paranoid insistence on secrecy throughout the document is probably related to two issues: the first is the scandal that would arise were the public to hear stories of priests committing such terrible crimes. The second reason is the protection of the inviolability of the sacrament of penance.*

16. *According to the document, accusers and witnesses are bound by the secrecy obligation during and after the process but certainly not prior to the initiation of the process....*

18. *Although the objective reasons for the extreme secrecy may be understandable within the context of the time it was written, the obsession with secrecy through the years has been instrumental in preventing both justice and compassionate care for victims. It has enabled the widespread spirit of denial among clergy, hierarchy and laity. The secrecy has been justified to avoid scandal when in fact it has enabled even more scandal.*

20. *The 1962 document reflects a highly confidential and even secretive attitude with regard to internal church matters that is understandable for the time it was written, but is no longer acceptable as the preferred way of dealing with such heinous crimes. These crimes have a profound impact on the lives of the victims, yet this impact can become lost in the concern for confidentiality. The obsession with secrecy causes denial to flourish...*

Such secrecy did not always exist in such cases.

23. *It appears that the obligation of secrecy on such cases was imposed by Pope Pius IX in 1866. The official document that imposes the secrecy was published on February 20, 1866 by the Sacred Congregation of the Holy Office in the form of an "Instruction".*

Though there are no indications of a policy of cover-up, yet [para 24]...

.....such secrecy has not been well accepted or understood in the present day in light of the official Church's response to reports of clergy sex abuse. This policy of extreme confidentiality, whether it has ever been officially published as such or not, has been deeply rooted in the ecclesial culture for centuries. The documents under consideration are a product of that culture. They did not create it.

25. *On the other hand, there are too many authenticated reports of victims having been seriously intimidated into silence by church authorities to assert that such intimidation is the exception and not the norm. It is quite possible that most of the bishops who have served during the past thirty years were not aware of the existence of the 1962 document until it was publicly acknowledged by the Vatican in 2001. **The cover-up happened whether or not bishops were aware of the 1962 document. It was and remains grounded in a culture of secrecy, clericalism***



and institutional self-preservation. The 1922 and 1962 documents did not create this culture. They arose out of it and gave legal force to the culture of secrecy. If the 1922 and 1962 documents have been used as a justification for any cover-up or intimidation then we possibly have what some of the more critical commentators have alleged, namely, the distinct appearance of a blueprint for a cover-up.

*26. There is also an over-riding omission in both the 1962 document and its descendant, the 2001 declaration. Both documents concentrate on prosecuting the alleged offenders and protecting the institutional church from the fallout of public knowledge of the crimes. Neither document approaches the far more challenging and important task of pastoral care and spiritual healing for the victims of these crimes. **There is no evidence that the official Church ever issued any norms, guidelines or instructions on the pastoral care of those harmed by clergy sexual abuse.***

...

27 d) The obligation of secrecy only went into effect once a case had been initiated. Nothing prohibited a bishop or religious superior from notifying civil authorities of an allegation prior to the initiation of the canonical process.

Note the omission of any reference to the duty of reporting such crimes to the civil authorities as has been remarked above.