

SUPPLEMENTARY HUMAN DIMENSION MEETING ON FREEDOM OF RELIGION OR
BELIEF

Side-event convened by the European Humanist Federation

SECULARISM AND THE RULE OF LAW ARE A GUARANTEE OF FREEDOM OF
RELIGION OR BELIEF

Introduction

The European Humanist Federation brings together 42 humanist and laique organisations from over 20 countries. It is run by a board elected at annual General Assemblies and has a small office in Brussels. It is recognised in Belgian law as an international association.

EHF's interest in participating in OSCE events is dictated by two pillars of the OSCE mission, namely defence of the rule of law and the prevention of conflicts. In 1986 OSCE member states undertook to "foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers".

This commitment has been widely disregarded. Although non-believers form a large part of the European population they are commonly ignored by national and international institutions in dialogues to promote mutual understanding, in policy consultations, in service provision and even in laws against discrimination. The Advisory Panel of Experts on Freedom of Religion or Belief wrote in The Guidelines for review of Legislation pertaining to Religion or Belief that "It is very common for legislation not to protect adequately (or to not refer at all to) rights of non-believers." By contrast, increasingly deferential attitudes are shown to religious organisations.

This is a growing source of concern as religious groups, particularly the Roman Catholic church, insist on having an institutional role in the law-making process on all matters having an ethical content and, in particular, on questions concerning sexual and reproductive life. While it is perfectly legitimate for churches to promote rules based on their transcendental beliefs to their own followers, to enshrine religious moral principles in legislation and official administration seriously infringes the human rights of those with other beliefs or none, but also of the many religious people who wish to make up their own minds on such issues.

More and more people are losing their religious beliefs. (35-50%) Many adopt Humanism, an ethical non-religious belief or 'lifestance' which Andrew Copson is going to illustrate in a moment. Although Humanism is not universal its values are because they are those natural to humankind, based on our evolution as social animals and on our conscious experience of living together in communities. Besides, the historical heritage of Humanism translates into the political principles of the rule of law, i.e. respect of fundamental freedoms, human dignity, human rights, equality and justice for all. It is part and parcel of the hard-won principles of governance underlying our Western societies.

The European Humanist Federation speaks up for all such people and their beliefs. It demands equality for non-believers, who often suffer discrimination. It advocates separation of religion and politics – that is, secularism or laïcité – and fights against special privileges for the churches and other religious bodies. Especially in multi-belief societies, secularism requires the state and its official institutions to be neutral on the question of religion or belief, or (in its stronger form) that

the state be completely separate from religion or belief. Only thus can it provide equal freedom for all minorities.

We campaign for secularism in Europe. We use our contacts with the EU institutions, including the Commission, to support human rights and to oppose religious privilege.

We work with members of the European Parliament, for example its Working Group on Separation of Religion and Politics, to keep secularism high on the agenda of the EU's institutions.

We take an active part in the OSCE's human rights conferences, especially the annual meeting in Warsaw where NGOs and governments meet on equal terms. There, for example, we vigorously oppose demands for 'defamation of religion' to be treated as a breach of human rights as well as demands for special exemptions to be granted to conscientious objection on religious grounds.

The announcement of this side-event starts with a quotation:

“The OSCE human dimension goes much further in linking human rights with the institutional and political system of a state. In essence, OSCE states have agreed through their human dimension commitments that pluralistic democracy based on the rule of law is the only system of government suitable to guarantee human rights effectively”. (<http://www.osce.org/odihr/13492.html>)

So this Supplementary HDIM is a great opportunity both for checking the implementation of Freedom of Religion or Belief and for monitoring present trends about how to interpret FoRB because times change and, like all political concepts, FoRB undergoes changes as well and may be viewed differently according to the eyes of the viewer and to the context to which it is referred.

An example of a subjective reading of FoRB is the claim that defamation of religion should be punished by law. This would seriously curtail freedom of expression and is therefore to be rejected. But, more importantly, were such a reading to be adopted, religions and religious institutions would become incumbents of rights, which would run counter our legal culture according to which rights belong exclusively to human beings. Believers, like all ordinary citizens, have the right not to be defamed and go to court if they wish. This claim was sponsored at the UN Human Rights Commission by the Organisation of The Islamic Conference and supported by the Holy See. It has been advanced here at the OSCE as well as at the EU. The reason given for this claim is that defamation of religion hurts the feelings of believers! Since when are laws made to protect peoples' feelings? And what about the feelings of non-believers? I think it would be wise for the Holy See to remember that people in glass-houses should not throw stones. Atheists and agnostics have undergone smear campaigns by the Catholic Church for 21 centuries and the new Encyclical *Caritas in Veritate* confirms that the campaign still goes on and has even been extended to humanism: “ *A humanism which excludes God is an inhuman humanism*”

One more alarming aspect of the claim that religious institutions or churches have rights concerns what Pope Benedict calls “the institutional rights” of churches. He stated this when the text of the European constitutional treaty was made public. The Lisbon Treaty carries the same text and gives it greater relevance by placing it under General Provisions instead of under Participative democracy. Why alarming? In the first place because, according to democratic standards, non-elected bodies may not intervene in law-making as this would disrupt the very tenets of representative democracy and of the rule of law. A second reason of alarm is the quasi total absence of reaction on part of our politicians, in particular EMPs whose duty is also to defend our democratic acquis. But over half of them come from states that have a concordat with the Holy See and believe – or act as though they did – that the only source of morals is the Catholic church, which leads me to conclude that to consider religious institutions and communities of faith and conviction as incumbents of rights is both non justifiable legally and dangerous for our democracies.

Can a state that is not secular genuinely guarantee Freedom of Religion or Belief? Can it offer equality and non-discrimination? Throughout Europe discriminatory laws and practices are rife despite the combination of Articles 9 and 14 in the European Convention on Human Rights. Here are a few examples: governments committed to the Convention should not levy church taxes unless they do the same for the humanists, should not subsidise the churches unless they also subsidise other religions and Humanism, should not have unequal treatment in public schools or subsidies for religious schools unless available also for humanist schools. Religion enjoys huge privileges throughout Europe - special access at top levels in the European Union, public subsidies and other favourable treatment in many countries. This is discriminatory enough but it becomes intolerable when religions, or rather churches attempt – as they often do - to force their views on everyone. Laws on embryo research, gay marriage, euthanasia and abortion are heavily influenced by religion and reforms are obstructed by the churches. They are helped with public money – colossal sums are given to religious bodies as subsidies in most European countries. And the religious are exempted from many laws against unfair discrimination.

These examples show that Freedom of Religion or Belief and the laws that govern it in each single state cannot be left to the whim of governments. FoRB must rest on a – possibly - constitutional system of government that cannot be set aside or ignored by the party or coalition in power. Besides, democratic countries have all espoused the rule of law which makes it a duty for government to comply with the constitution and to act in a manner consistent with the law and with the respect of human rights and fundamental freedoms in accordance with international law obligations.

Secularism may have different forms due to historical differences, at best it is the total separation of church and state, but it can also be the neutrality of the state vis-à-vis religions. This is implicit in the rule of law which excludes privileges thereby ensuring non-discrimination of citizens. Consequently, anyone rejecting secularism in the sense of at least state and legal neutrality is seeking privilege despite the discrimination this entails and so is the attempt at making a distinction between secularism and secularity. This is a Vatican favourite, understandable given the over 150 or more concordats with which the Catholic church has locked in its massive privileges and given its tenacious endeavours to force the principles of the Catholic moral doctrine on everyone, but it must be resisted by all those who cherish democracy and the rule of law.

I hope I have explained why Secularism and the Rule of Law are a Guarantee of Freedom of Religion or Belief.

Vera Pegna
European Humanist Federation representative to OSCE