



jchr@parliament.uk

29 November 2009

Dear Sir,

The Work of the Human Rights Minister

I am sorry that this letter was only written so shortly before the meeting of the committee. There are some issues which would very much appreciate the committee raising with Mister Wills when he attends to give evidence on 3rd December.

Naturism is largely accepted by the general public but we often encounter serious prejudice. Sometimes that is because an individual is prejudiced but more often it is because an individual or organisation acts according to what they imagine are the prejudices of society. We believe that it is a fundamental human right to be treated fairly.

Please ask the minister how he intends to ensure that naturists are treated fairly, according to facts, according to evidence, and not according to urban myth and personal prejudice.

The law on nudity is widely misunderstood which results in conflict between some police and naturists. We have encountered an enormous range of attitudes from police officers, from nudity is illegal nearly everywhere, to nudity is legal nearly everywhere. The law gives them enormous discretion so in practice the legality or otherwise of nudity is often determined by the attitude of the local police.

Please ask the minister what steps can be taken to reduce misunderstandings, to ensure consistency, and to ensure that naturists are treated fairly.

We are aware of a number of miscarriages of justice caused by the inability of some police, CPS, and magistrates to appreciate that there are motivations for being nude apart from an intention to cause alarm or distress. The cost, stress, and damage to family, career, and social life, of defending a case, even in the magistrates court, can make a mockery of justice¹.

Please ask the minister what steps he is taking to ensure the accessibility, consistency

¹ A case we assisted with earlier this year. Arrested, charged, arrested, charged, acquitted both charges, arrested, charged, mortgaged home, acquitted. The circumstances of all three arrests were essentially the same and there was no evidence of the intent required by s.66 Sexual Offences Act. Another of our members goes to trial in January. Again, no evidence of intent.

and intelligibility of law that is essential for a just society?

The definition of an indecent image of a child is inherently vague and it is causing serious problems for both our members and also for many non-naturists. We can not advise our members, the Internet Watch Foundation has removed its guidance from their web site, statements by the major child protection charities differ from those by the courts, and in recent weeks both The Tate Modern and Manchester Airport have had to review their actions and policies. A high court judge ruled that naturist photographs were not illegal but a few months later a man was convicted for naturist photographs². If they can not get it right then what chance has anyone else got?

Naturists can not take ordinary family photographs of their children enjoying their lifestyle for fear of the consequences. Even a suspicion can destroy a career and an investigation by social services and police can have a devastating impact on a family. Clarity is essential so that people know where they stand. We sometimes provide expert witness advice to the police, or we are consulted on individual cases, and it is clear that the present situation is far from satisfactory.

The Coroners and Criminal Justice Act contains provisions which remove any justification for the lack of clarity to continue. Clarity of the law, and law which prevents harm instead of causing it, are important human rights.

Please ask the minister what plans he has to ensure that the law is amended so that it complies with both the spirit and the letter of Human Rights principles. Both the major child protection charities and ourselves have requested that this offence should be defined in a similar way. It would then state unambiguously what Parliament intended when it passed the Act.

I enclose a submission concerning indecent images.

We can provide further information on the issues referred to above if that will be of assistance.

Yours sincerely

Malcolm Boura

Research and Liaison Officer

² R v Oliver followed by R v O'Carroll. O'Carroll deserved to be convicted of something but not possession of indecent photographs.