

**Analysis of the law underpinning  
*Public Benefit and the Advancement of  
Moral or Ethical Belief Systems***

**This legal analysis is designed to be read in  
conjunction with**

***Public Benefit and the Advancement of Moral or  
Ethical Belief Systems***

## 1. INTRODUCTORY NOTE ON THE ADVANCEMENT OF MORAL OR ETHICAL BELIEF SYSTEMS

- 1.1 Belief (i.e. confidence in a proposition) and belief systems (confidence in a set of related propositions) may or may not form part of the subject matter of a charitable purpose. However, of itself, just promoting a formal and highly structured system of belief is not necessarily charitable either for the promotion of moral or spiritual welfare or improvement under the 13<sup>th</sup> description of charitable purposes in the Charities Act 2006 or for the advancement of religion<sup>1</sup>. The aim of such promotion must be shown to be the furtherance of some recognised charitable purpose for the public benefit.<sup>2</sup>
- 1.2 The courts have considered Freemasonry and Theosophy (forming a nucleus of the Universal Brotherhood of Humanity, without distinction of race, creed, sex, caste or colour) and failed to accord the promotion of those systems charitable status<sup>3</sup>.
- 1.3 The promotion of a belief or belief system may be charitable as furthering any one or more of a variety of charitable purposes.
- 1.4 The advancement of education may be shown in some circumstances by promoting generally accepted moral or ethical values. For example, an organisation could be established to advance, in an appropriate manner in schools, uncontroversial and commonly held moral standards as a means of meeting the curriculum requirements for maintained schools in the Education Act 2002 (s78) (i.e. which “(a) *promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and (b) prepares pupils at the school for the opportunities, responsibilities and experiences of later life*”) The court has already held charitable for the advancement of education to instruct children of all classes in the principles of loyalty, discipline and good citizenship<sup>4</sup>.
- 1.5 Similarly the promotion of health may be promoted by yoga and other practices addressing aspects of human behaviour and mind-body-spirit balance<sup>5</sup>; and the advancement of faith healing even without a religious element has been recognised as charitable<sup>6</sup>.
- 1.6 Another potentially relevant charitable purpose is the promotion of the moral or spiritual welfare or of the moral or spiritual improvement of the community.

## 2. PROMOTING THE MORAL OR SPIRITUAL WELFARE OR IMPROVEMENT OF THE COMMUNITY

(other purpose within section 2(2) (m) and (4) Charities Act 2006)

### Description of the purpose

- 2.1 Tudor (9<sup>th</sup> ed) discerns a purpose for the promotion of ‘mental and moral improvement’ (following the terminology of *Re Price*<sup>7</sup> where the charitable character of a bequest depended mainly on the element of moral improvement

and earlier authority). Picarda (3<sup>rd</sup> ed) describes a purpose for ‘the promotion of moral or spiritual welfare or improvement’.

- 2.2 The position of the Commission was set out in the Scientology Decision: “It was clear to the Commissioners that the promotion of the moral or spiritual welfare or improvement of the community is a recognised category of charity falling within the fourth head of Lord MacNaghten’s classification.”
- 2.3 The purpose is distinguished from the advancement of education for, although education also specifically promotes spiritual and moral development of individuals, these do seem to be areas of activity which can be pursued outside the context of education. Such areas of activity relate to principles or teaching on proper behaviour, taking account of right and wrong and ethical responsibility, or belonging to or affecting the spirit or soul and the immaterial and more sensitive aspects of people’s minds.
- 2.4 The purpose is distinguished from the advancement of religion<sup>8</sup>. Characteristics of religion include belief in a god or gods or supreme being and reverence and recognition of that entity or being(s) outside the body and life of the followers. Such faith and worship form no necessary part of a purpose to promote moral or spiritual welfare or improvement. Worship comprises at least some of the characteristics of: submission to the object worshipped, veneration of that object, praise, thanksgiving, prayer or intercession. It would not seem to be possible to worship in this way (ie with reverence) what is simply an ethical or philosophical ideal<sup>9</sup>.
- 2.5 The Commission has long recognised, under this description, bodies for the promotion of a wide variety of moral or ethical purposes in different areas of social and personal life.

### **Characteristics of the purpose**

- 2.6 Sometimes an uncomplicated belief may underpin a charitable purpose. For example, encouraging kindness to animals, bettering their condition and discouraging cruelty to them has been held to stimulate human and generous sentiments in people towards lower animals and thus promote feelings of humanity and morality, repress brutality and elevate the human race<sup>10</sup>.
- 2.7 But it is likely that for moral or spiritual welfare or improvement to be shown a belief system would have to be more extensive, sharing some characteristics with the beliefs attracting the protection of article 9 of the European Convention on Human Rights<sup>11</sup>. This extends beyond religion and religious belief to any similar philosophical belief. The European Commission has held that ‘belief’ in this context extends beyond just mere opinions or deeply held feelings: there must be a holding of spiritual or philosophical convictions which have an identifiable formal content<sup>12</sup>. Thus one may expect it to concern something relating to an important aspect of human life which is ‘compatible with human dignity, serious, important’ and (so far as can be reasonably expected of such beliefs) cogent and coherent<sup>13</sup>. It would require ‘a certain level of cogency, seriousness, cohesion and importance’<sup>14</sup>.

- 2.8 In the Scientology Decision<sup>15</sup>, the Commission considered and interpreted the English authorities<sup>16</sup>, compatibly with ECHR<sup>17</sup>, and concluded that the key aspects of the charitable purpose of promoting the moral and spiritual welfare or improvement of the community which could be discerned from these authorities was that the doctrines, beliefs and practices involved were:
- generally accessible to the public and
  - capable of being applied or adopted by them according to individual judgement or choice from time to time
- in such a way that the moral or spiritual welfare or improvement of the community might result.
- 2.9 In all cases, there must be certainty as to the purpose for which assets are to be applied. A trust cannot be charitable if its objects are too vague to be carried into effect or controlled by the court (the court must be able to come to a conclusion as to the propriety of any application of funds or assets that might be challenged). The body must be one the administration of which the court itself could if necessary undertake and control<sup>18</sup>. In particular, the description of the purpose and the class to be benefited must be sufficiently certain to enable people of common sense to carry out the expressed aims<sup>19</sup>.
- 2.10 The issue of public benefit in this type of charity is normally one of intangible benefit where the legal test effectively requires assent by a consensus of opinion amongst people who are informed, fair minded and free from prejudice or bias<sup>20</sup>.
- 2.11 Thus the position seems to be as follows:
- There must be some corpus of spiritual or philosophical convictions (typically comprising doctrines, practices and beliefs).
  - That corpus should in principle be capable of being accepted and applied by the public at large as a philosophy for living their daily lives or as a way of achieving heightened or special awareness.
  - It must be generally accessible to and applicable within the community according to individual choice and judgment.
  - Its capacity for application or adoption must be such that the moral or spiritual welfare of the community might result.
  - The beneficial nature of the process should be shown (and demonstrated to be accepted on the basis of a consensus of opinion amongst people who are informed, fair minded and free from prejudice or bias<sup>21</sup>.)
  - Public benefit must be present as a matter of fact.

### **3. INTRODUCTION TO PUBLIC BENEFIT**

- 3.1 Every charity must show that its particular aims are for the public benefit<sup>22</sup>. Public benefit must exist as a matter of fact.
- 3.2 The organisation has to show both its impact on the public and that the impact is beneficial.

- 3.3 It is for the Commission to decide this question on the basis of relevant and credible evidence (or in the light of generally well-known facts we are entitled to take into account and where it would be absurd to call for further evidence).
- 3.4 Benefit must be proved at the time we are asked to make a decision. If we conclude that the element of public benefit has not been proved (even where it is not disproved and we decide it is incapable of proof one way or the other), we must decline to afford the organisation any charitable recognition.
- 3.5 Motive is irrelevant<sup>23</sup>.
- 3.6 The benefits, tangible or intangible, must be available to the public at large or to a sufficient section of the public<sup>24</sup>.
- 3.7 The purpose must not simply be for the benefit of the followers of the particular corpus of doctrines, practices and beliefs themselves. It should be outward looking and extend to all members of the public whom the society's teachings may reach<sup>25</sup>. Where the practice of an organisation is essentially private or is limited to a private class of individuals, not extending to the public generally, the element of public benefit will not be established<sup>26</sup>.

#### 4. PRINCIPLES OF PUBLIC BENEFIT

##### ***Principle 1: There must be an identifiable benefit or benefits***

- 4.1 The benefits are to be identified from the organisation's beliefs, doctrines and practices. These should evidence the moral and spiritual values (and how they will be promulgated and the general effect of their promulgation).

##### ***Principle 1a: It must be clear what the benefits are***

- 4.2 To be charitable, the morally and spiritually improving impact of the purpose must be capable of being – and in fact be – demonstrated. The benefits may in principle be of many types. It is likely that each corpus of teaching will have some kind of ethical or moral foundation to it. Charities promoting non-religious philosophical beliefs will usually have to demonstrate social impact by reference to welfare or improvement. It is, however, unlikely that purely 'spiritual' benefits, not having a moral content, could be demonstrated by evidence cognizable by the Court. Certainly, the belief evidenced by an organisation's teachings that any given practices are of spiritual efficacy is insufficient to establish that as a fact. Further any alleged spiritual benefit arising from the edification by the example given to the public by followers of any particular teachings is similarly insufficient to establish public benefit. The court has established that the existence of a benefit of the necessary public character must be shown to exist by proof of matters '*having a demonstrable impact on the community or a section of it*'. Whether a particular purpose is for the public benefit involves a question of fact to be answered '*by means of evidence cognizable by the court*'. Beliefs, '*which in their nature are incapable of proof, cannot be accepted as having for this purpose probative force*<sup>27</sup>.

- 4.3 Benefit might be shown in the consequential effect that the beliefs and practices promoted by the particular teachings, codes and doctrines have on the followers and on wider society (encouraging them to act beneficially in particular ways or more generally as more responsible members of society).

***Principle 1b: The benefits must be related to the aims***

- 4.4 Where it is a case of a trust for the general promotion of corpus of teaching, it will be necessary to establish that the core tenets, doctrines and practices are beneficial and essentially public.

***Principle 1c: Benefits must be balanced against any detriment or harm***

- 4.5 In the *Anti-vivisection Society* case<sup>28</sup>, the principle was clearly stated in that any assumed public benefit from the advancement of morals amongst people, which could, or might, result from the society's efforts to abolish the practice of vivisection was far outweighed by the detriment to medical science and research, and, consequently, to the public health, that would result if the society succeeded in its object. On balance the object of the society was gravely injurious to the public benefit and hence could not be charitable. Lord Simonds protested against the notion that the court must see a charitable purpose in the intention of the society to benefit animals and thus elevate the moral character of men but must shut its eyes to the injurious results to the whole human and animal creation. ....Where on the evidence before it the court concludes that, however well-intentioned the donor, the achievement of his object will be greatly to the public disadvantage, there can be no justification for saying that it is a charitable object..... The test is to be applied from evidence of the benefit to be derived by the public or a considerable section of it, though a wide divergence of opinion may exist as to the expediency, or utility of what is accepted generally as beneficial. The court must decide whether benefit to the community is established. He cited with approval authority to the effect that: "There is probably no purpose that all men would agree is beneficial to the community: but there are surely many purposes which everyone would admit are generally so regarded, although individuals differ as to their expediency or utility. The test or standard is, I believe, to be found in this common understanding." But, the court must still in every case determine by reference to its special circumstances whether or not a gift is charitable.
- 4.6 Where a particular practice or doctrine includes something contrary to the law in England and Wales, or in contravention of public policy, public benefit cannot be established and hence the body will not be a charity (despite the public benefit otherwise established from the totality of the practices and doctrines).

***Principle 2: Benefit must be to the public, or section of the public***

***Principle 2a: The beneficiaries must be appropriate to the aims***

- 4.7 It is the benefit from the purpose that must be considered. The court does not adopt the same yardstick for measuring benefits in every category of legal charity.

- 4.8 We should generally expect to see a wide public benefit going beyond the members of the belief system concerned itself (see South Place above). An evaluation will have to be made on the basis of the particular purpose in individual cases.

***Principle 2b: Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted by -***

- ***geographical or other restrictions; or***
- ***ability to pay any fees charged.***

***Principle 2c: People in poverty must not be excluded from the opportunity to benefit***

- 4.9 The actual number of people who can benefit at any one time can be quite small as long as anyone who could qualify for the benefit is eligible<sup>29</sup>. But public benefit will not be satisfied where the followers are a small number of people who are an enclosed group of followers, who will not have any contact with society in general, even if in theory any member of the public could train to join that group<sup>30</sup>.
- 4.10 Benefit must be accessible. One essential distinguishing feature is whether or not the practices or promotion of the tenets are essentially public in nature. We would need to see that the doctrines, beliefs and practices of the organisation are accessible to the public and capable of being applied by members of the public according to individual judgement or choice from time to time in such a way that benefit may result..
- 4.11 Fee charging is dealt with in a separate consultation<sup>31</sup>.

***Principle 2d: Any private benefits must be incidental***

- 4.12 Private benefits will not be incidental where the practices are essentially private or limited to a private class of individuals not extending to the public generally.
- 4.13 Particular problems may arise in relation to group leaders of belief systems. Any evidence of private benefit which may be more than legitimately incidental would have to be carefully examined. The types of benefits which may arise include the payment of subsistence, accommodation and other living expenses, the payment of remuneration for their services, the enhancement of the leader's personal reputation, increased income from the sale of merchandise such as videos, books and tapes in which the leader has an interest and an increase in the value of their associated intellectual property rights or the payment of other personal gifts to the leader. In many cases, the benefits which arise will not be more than legitimately incidental. However in some cases they may be more than legitimately incidental and affect public benefit. Where there are such concerns, an assessment would need to be made of the nature and extent of the benefit as well as whether there is an express power to provide those benefits in the organisation's governing document.

## Annex

### DIGEST OF CASES

#### **Re Scowcroft [1898] 2 Ch 638, [1895–9] All ER Rep 274**

a devise of property to be maintained *for the religious and mental improvement* of people in the neighbourhood (to be kept free from intoxicants and dancing and to be used for the furtherance of Conservative principles). Stirling J held this charitable for religious and mental improvement, and he held that the reference to conservative principles was merely concomitant or ancillary.

#### **Re Hood [1931] 1 Ch 240, [1930] All ER Rep 215**

trust for the *application of Christian principles to all human relationships* (linked to the reduction and extinguishment of drink traffic). Held charitable. Attorney-General had argued for charity on three grounds: for the advancement of religion, for the advancement of education and for the benefit of the community as being calculated to promote public morality.

#### **Re Macaulay (1931) [1943] 1 Ch 435**

bequest to the Folkstone Lodge of the Theosophical Society *for the maintenance and improvement of the lodge*. Theosophical Society in England was a component of the Theosophical Society founded in 1875 in India by Helena Blavatsky with objects to

- form a nucleus of the Universal Brotherhood of Humanity, without distinction of race, creed, sex, caste or colour;
- encourage the study of comparative religion, philosophy and science;
- investigate the unexplained laws of nature and the powers latent in man

Held by HL: a gift to individual members for their own benefit or a gift on terms that the society could spend capital and income as they thought fit would not create a perpetuity. But “*for the maintenance and improvement...*” imposes a trust. The first object of the society (i.e. merely forming a central body (to which others could be added later) to study and understand the principles of Theosophy) was not charitable.

#### **Re Price [1943] 1 Ch 422**

Bequest to the Anthroposophical Society of GB “*to be used at the discretion of the chairman and executive council of the society for carrying on the teachings of the founder Dr. Rudolf Steiner*” (variously described as spiritual science, anthroposophy and the wisdom of mankind) Aim of the society:

to form a union of human beings who desire to further the life of the soul, both in the individual and in human society, on the basis of a true knowledge of the spiritual world by

- providing adequate facilities for individual study and mutual aid in the study of spiritual science;
- encouraging practical activities which will bring into the civilisation of our time the beneficial results of spiritual science ...

It was to be an entirely public organisation and in no sense a secret society. It was averse to any sectarian tendency and did not consider politics to be among its tasks. A dogmatic position in any sphere whatsoever should be excluded from the society.

The teachings of Steiner are directed to the extension of knowledge of the spiritual in man and in the universe generally and of the interaction of the spiritual and the physical. He sought to show both how this knowledge could be acquired and how it could be applied for the benefit of man in a wide range of activities. It could be acquired by the development of consciousness and with it of the perceptive faculties. He expounded a theory of knowledge in which he sought to show the capacity of the spiritual or supersensible in the world at large. Steiner taught a method of mental and moral discipline designed to train the imaginative, creative and devotional faculties of the mind and so to develop the faculties of spiritual intuition and perception. Steiner taught and developed the application of this knowledge to religion and education generally including medicine, art and agriculture.

Evidence that the sole purpose for which society actually carried on was to carry on the teachings of Dr Rudolf Steiner. But this not the only object that the society had or could have (power to amend). It was held not to be an absolute gift to society. But, even if there was a trust, it did not tend to a perpetuity since there was nothing to prevent members from spending it immediately for the benefit of the class intended. There was the necessary certainty as to the purpose on which the bequest was to be expended (so the court could come to a conclusion as to the propriety of any item of expenditure that might be challenged). The area and content of Steiner's teachings were not so vague and indeterminate as to impede this.

Held on the evidence that the teachings of Rudolf Steiner were directed to the mental or moral improvement of man.

### ***National Anti-Vivisection Society v IRC [1947] 2 All ER 217***

Main object of the society was the *total abolition of vivisection and (for that purpose) the repeal of the Cruelty to Animals Act, 1876, and the substitution of a new enactment prohibiting vivisection altogether.*

It was proved that:—(a) a large amount of present day medical and scientific knowledge is due to experiments on living animals; (b) many valuable cures for, and preventatives of, disease have been perfected by means of experiments on living animals, and much suffering both to human beings and to animals has been either prevented or alleviated thereby. If vivisection were abolished, a very serious obstacle would be placed in the way of obtaining further medical and scientific knowledge calculated to be of benefit to the public. Any assumed public benefit in the direction of the advancement of morals amongst people, which could, or might, result from the society's efforts to abolish vivisection was far outweighed by the detriment to medical science and research, and, consequently, to the public health, that would result if the society succeeded in its object. On balance the object of the society was gravely injurious to the public benefit. It was not charitable.

### ***United Grand Lodge etc v Holborn Borough Council [1957] 3 All ER 281***

[The appellants made no claim to charity - wanted rate relief because their main object was to advance religion (otherwise than as a charity) (see s8 (1) *Rating and Valuation (Miscellaneous Provisions) Act 1955*)].

Objects: to promote and advance those virtues which every Mason is charged to cultivate – good citizenship, honest work, morality and wisdom, brotherly love, compassion, charity to the poor, and belief in a supreme architect of heaven and earth, reverent, honest, compassionate, loyal, temperate, benevolent and chaste. Does not add up to the advancement of religion – “let a man's religion or mode of worship be what it may, he is not

excluded from the order provided he believe in the glorious architect of heaven and earth, and practise the sacred duties of morality. *“Thus it would seem that no Mason need practise any religion but, provided he believes in a Supreme Being and lives a moral life, he may be and remain a Mason.”* To advance religion means to promote it, to spread its message ever wider among mankind; to take some positive steps to sustain and increase religious belief; and these things are done in a variety of ways which may be comprehensively described as pastoral and missionary. There is nothing comparable to that in Masonry..... There is no religious instruction, no programme for the persuasion of unbelievers, no religious supervision to see that its members remain active and constant in the various religions they may profess, no holding of religious services, no pastoral or missionary work of any kind.

***Berry v St Marylebone Corporation* [1957] 3 All ER 677**

The question was whether property was occupied for the purposes of an organisation whose main objects “are ... concerned with the advancement of religion, education or social welfare” (s. 8(1) (a) Rating and Valuation (Miscellaneous Provisions) Act, 1955)

Theosophical Society of England (component national society of the General Council of the Theosophical Society) - see *Re Macaulay* above

Theosophy is the study of the truths which form the basis of all religions and which cannot be claimed as the exclusive possession of any one religion. Theosophists believe that the divine life of God is the source of, is present in, and progressively manifests itself in, all the kingdoms of nature and the supernatural kingdoms. Theosophy as a religion teaches the Fatherhood of God and the recognition of the corresponding brotherhood of humanity; as a philosophy it teaches how the divine life of God progressively manifests itself; and as a science it teaches how this process occurs, the laws which govern it and how human beings can hasten it.

Held: “The teaching of the Fatherhood of God and the recognition of the corresponding brotherhood of humanity without distinction of creed appears to us to be, at best, the teaching of a doctrine which is of a philosophical or metaphysical conception rather than the advancement of religion. If the society is concerned in the advancement of religion, it may well be asked, “What religion does the society advance and how does it advance it?” We can find no satisfactory answer to this question in the language of object (i) or in any of the relevant evidence. In our opinion, it cannot be said that this object is in any way concerned with the advancement of religion.”

“Nor can we find that the object is in any way concerned with the advancement of education” as understood in Devlin J’s judgment in the *Chartered Insurance Institute* case

***Barralet and ors v AG and ors* [1980] 3 All ER 918**

The objects were (i) ‘*the study and dissemination of ethical principles*’, those being the belief that the object of human existence was the discovery of truth by reason and not by revelation by supernatural power, and belief in the excellence of truth, love and beauty as opposed to belief in any supernatural power, and (ii) ‘*the cultivation of a rational religious sentiment*’. Cultivation of that sentiment extended to cultivation among members of the public. The word ‘religious’ in the second part of the objects was used in a sense which eschewed all supernatural belief.

Held: The word ‘religion’, in its natural and accustomed sense, was concerned with man’s relations with God whereas ethics was concerned with man’s relations with man and the two concepts were therefore different and were not made the same merely because ethics

involved a sincere inquiry into the nature of God. Although a sincere belief might fill in the possessor's life a place parallel to that occupied by belief in God in the minds of theists, that did not make the belief a religion. Furthermore, faith in a god and worship of that god by submission, veneration, praise, thanksgiving or prayer were essential attributes of religion, and there could be no worship in that sense of an ethical or philosophical ideal. It followed that the society's objects were not for the advancement of religion.

The correct approach in deciding whether a trust fell within the charitable category of being for purposes beneficial to the community was to determine, by analogy with the preamble to the Charitable Uses Act 1601 and by analogy with decided cases, whether the trust in question was within the spirit and intendment of the preamble. Since the whole of the society's objects were for the mental and moral improvement of man they were, by analogy with decided cases, charitable objects as being for purposes beneficial to the community (see p 926 *j* to p 927 *a* and p 928 *h*, post); *Re Scowcroft* [1895–9] All ER Rep 274, *Re Hood* [1930] All ER Rep 215 and dicta of Cohen J in *Re Price* [1943] 2 All ER at 510–511 and of Lord Simonds in *Williams' Trustees v Inland Revenue Comrs* [1947] 1 All ER at 518–519 applied; dictum of Russell LJ in *Incorporated Council of Law Reporting for England and Wales v Attorney General* [1971] 3 All ER at 1036 considered.

Equally the second part of the objects are charitable for the advancement of education.

<sup>1</sup> Specifically, a “belief system which seeks to be charitable under the [former] fourth head must show that it is for the public benefit in a way recognised by charity law” Decision of the Commission relating to the Church of Scientology (*Scientology decision*) see: <http://ww2charity/Library/registration/pdfs/cosfulldoc.pdf>

<sup>2</sup> *Re Price* [1943] Ch 42; *Re Hood* [1931] 1 Ch 240 - Scientology Decision page 11

<sup>3</sup> *United Grand Lodge v Holborn BC* (Freemasonry); *Berry v St Marylebone BC* (Theosophy).

<sup>4</sup> *Re Webber, Barclays Bank Ltd v Webber* [1954] 1 WLR 1500, cf *Re Alexander* (1932) Times, 30 June

<sup>5</sup> see for example the Commissioners' decision of 15th August 2002 relating to the application of NFSH Charitable Trust Limited

<sup>6</sup> *Re Le Cren Clarke, Funnell v Stewart* [1996] 1 All ER 715, [1996] 1 WLR 288

<sup>7</sup> See digest of cases below.

<sup>8</sup> The government consistently resisted attempts to include the phrase ‘or belief’ after the word ‘religion’; and it was specifically stated during the passing of the Act that the ‘bill allows non-religious belief systems, such as those promoting moral and spiritual welfare to be charitable by another route. We think that all-encompassing approach probably satisfies the demands and interests of most of those organisations seeking charitable status.’ (See Hansard Lords for 28.06.05 col 137-152 and Hansard Lords 12.10.05 cols 292-298 Ld Bassam.)

<sup>9</sup> *South Place Ethical Society* (Dillon J) at page 1573A

<sup>10</sup> *Re Wedgewood* [1915] 1 Ch 113; *National Anti-Vivisection Society* [1948] AC 31, 67 (Simonds).

<sup>11</sup> Article 9(1) provides that: “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. 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 for the protection of the rights or freedoms of others.”

<sup>12</sup> *McFeeley v UK* (1981) 3 EHRR 161

<sup>13</sup> cf *R (Williamson) v Secretary of State for Education and Employment* [2005] UKHL 15

<sup>14</sup> *Campbell and Cosaus v UK* (1982) 4 EHRR 293, 304

<sup>15</sup> page 35

<sup>16</sup> See the annex - *Re Scowcroft* [1898] 2 Ch 638, *Re Hood* [1931] 1 Ch 240, *Re Price* [1943] Ch 422, *Re South Place Ethical Society*

<sup>17</sup> arts 9 and 14

<sup>18</sup> In *Re Hummeltenberg* [1923] 1 Ch 237, Russell J said: *To quote what Lord Eldon said in the case of Morice v. Bishop of Durham (1): "As it is a maxim, that the execution of a trust shall be under the control of the Court, it must be of such a nature that it can be under that control; so that the administration of it can be reviewed by the Court.*

<sup>19</sup> *Weir v Crum Brown* [1908] AC 162, 167 per Lord Loreburn LC. It is sometimes said to be unfair that an object expressed to be for the advancement of Christianity is accepted as charitable whereas an object expressed to be for the advancement of Humanism is not. For an object to be charitable, it must be certain both what it means and that that meaning is necessarily and exclusively confined to a purpose or purposes which the law recognises as charitable. It is not the case that all 'religious' purposes, or all 'Christian' or other denominational purposes, are charitable. An object expressed generally for religious purposes or organisations, or to a particular denominational entity may, following court decisions, be assumed to be intended to be limited to purposes conducive to the advancement of religion for the public benefit as understood in charity law and thus charitable - if public benefit can be positively demonstrated. It is, of course, essential that the proper ambit of such purposes be established and some means must be found of ascertaining what particular form of religious teaching and worship is to be promoted and of demonstrating that to be for the public benefit. Failing more direct evidence, the courts have in a line of cases decided that it can be assumed that the form intended was that professed by the founders of the organisation *AG v Calvert* (1857) 23 B 248, 255-6, or possibly that shown by the actual use to which the property has been put over the years *AG v Pearson* (1817) 3 Mer 353, 410. Purposes whose specific particulars are so ascertained will have to be shown by evidence to be for the public benefit, before the organisation can be accepted as charitable. These principles arise from cases actually considered and ruled on by the courts. The courts have not yet considered a generally expressed purpose for the advancement of Humanism. "Humanism" is a general term with a wide range of meanings. Its precise meaning would have to be ascertained in the context in which it was used and its advancement would have to be shown to be charitable under one of the accepted descriptions for the public benefit before it could be accepted as charitable. It is better to avoid any lack of clarity by specifying the precise purpose and meaning of the terms used in the actual objects from the start. The approach in both cases is the same.

<sup>20</sup> *National Anti Vivisection Society v IRC* [1948] AC 31, Lord Wright at p. 49

<sup>21</sup> *National Anti Vivisection Society v IRC* [1948] AC 31, Lord Wright at p. 49

<sup>22</sup> *Oppenheim v Tobacco Securities Trust* [1951] AC 297; *AG v National Provincial Bank* [1924] AC 262; s3 Charities Act 2006

<sup>23</sup> *Re Delaney* [1902] 2 Ch 642

<sup>24</sup> In case of *The Church of Scientology (England and Wales)*, it was found it was necessary to receive Scientology services before one could access the highly formalised system of doctrines, practices and beliefs of Scientology and this may constitute a filter on public benefit, though requiring membership of or adherence to a particular organisation promoting a belief system may not necessarily be fatal.

<sup>25</sup> cf Dillon J in *Re South Place Ethical Society* [1980] 1 WLR 1576 G

<sup>26</sup> Scientology decision

<sup>27</sup> *Re Coats' Trusts, Coats v Gilmour* [1948] Ch 340, 348

<sup>28</sup> *National Anti-Vivisection Society v IRC* [1947] 2 All ER 217

<sup>29</sup> see *Re Le Cren Clarke* [1996] 1 All ER 715

<sup>30</sup> *Gilmour v Coats*. See also the example of Dominican Convent in *Cocks v Manners* [1871] LR 12 Equity 574

<sup>31</sup> Public benefit and Fee charging consultation can be found at <http://ww2charity/publicbenefit/pbfee.asp>