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تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير المقررة الخاصة المعنية بحرية الدين أو المعتقد،  
السيدة أسما جاهانغير

إضافة

بعثة إلى المملكة المتحدة لبريطانيا العظمى وآيرلندا الشمالية\*

\* يُعمَّم موجز التقرير بجميع اللغات الرسمية. أمَّا التقرير المرفق بالموجز فيُعمَّم باللغة التي قُدِّم بها فقط.

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## موجز

بدعوة من الحكومة، قامت المقررة الخاصة المعنية بحرية الدين أو المعتقد بزيارة إلى المملكة المتحدة لبريطانيا العظمى وآيرلندا الشمالية في الفترة من ٤ إلى ١٥ حزيران/يونيه ٢٠٠٧.

ويعطي التقرير فكرة عامة عن الالتزامات الدولية في مجال حقوق الإنسان وعن الإطار القانوني المحلي المتعلق بحرية الدين أو المعتقد. فضلاً عن ذلك، يعرض التقرير باقتضاب الديمغرافية الدينية وأسباب القلق التي عبّر عنها مُحاورو المقررة الخاصة. ثم يركز التقرير بعد ذلك على قضايا مواضيعية من قبيل التعصب الطائفي، وتدابير مكافحة الإرهاب، والتعليم الديني، والعبادة الجماعية، والرموز الدينية، والموازنة بين الحقوق المتنافسة وأحكام الجرح المتعلقة بالأديان، وتعريف "الدين" أو "المعتقد" وكذلك الأوضاع التي تُستضعف فيها النساء والأشخاص الذين يعتنقون ديناً آخر واللاجئون وطالبو اللجوء.

تقول المقررة الخاصة في استنتاجاتها وتوصياتها، إن المملكة المتحدة تتمتع بخبرات وفيرة في مجال التعامل مع التوترات الدينية وأعمال الإرهاب المرتكبة تحت غطاء الدين. فقد أُعجبت للغاية بعمق التحليل والجهد المبذول لحل المشاكل الكامنة على نحو ما أبانت عليه السلطات وكذلك المجتمع المدني والعالم الأكاديمي النابضين بالحياة.

وبالرغم من الاحترام الذي تحظى به عموماً حقوق الإنسان وقيمتها في المملكة المتحدة، فإن هناك بعضاً من دواعي القلق. ففيما يخص التعصب الطائفي، مثلاً، شعرت المقررة الخاصة بالجزع لدى ورود تقارير تفيد بأن أطفال المدارس في شمال آيرلندا يكونون في كثير من الأحيان هدفاً للإيذاء والاعتداءات البدنية بسبب انتمائهم الديني الظاهر. ونتيجة لذلك، في التشريعات المتعلقة بالجرائم التي تزيد الأعمال العدائية من خطورتها، قد لا يكون المستحسن الرجوع إلى المعتقد الديني الحالي فحسب، وإنما ينبغي الرجوع إلى نظرة المتهم إلى الانتماء الديني أو الاجتماعي أو الثقافي للشخص أو المجموعة المستهدفة. علاوةً على ذلك، يساور المقررة الخاصة القلق بشأن ما ورد من تقارير تفيد بأن المسلمين يخضعون بانتظام، في إطار تدابير مكافحة الإرهاب، للإجراءات المتعلقة بكشف الإرهابيين ولعمليات التفتيش والتوقيف بسبب انتمائهم الديني فقط لا غير. أمّا بشأن التعليم الديني، فينبغي أن تولي السلطات اهتماماً خاصاً لمضامين المقررات في المدارس التي تُموّلها الدولة ولتكوين اللجان ذات الصلة على أساس غير تمييزي. وفيما يخص سياسات الزي المدرسي، تحيل المقررة الخاصة إلى مجموعة المعايير العامة المتعلقة بالرموز الدينية التي سبق أن عرضتها بإيجاز في تقريرها لعام ٢٠٠٦ المقدم إلى لجنة حقوق الإنسان (E/CN.4/2006/5، الفقرات من ٥١ إلى ٦٠).

وتشعر المقررة الخاصة بالقلق إزاء قوانين التحديف التمييزية المتحيزة للمسيحية دون غيرها. وهي ترحّب بكون قانون الكراهية العنصرية والدينية لعام ٢٠٠٦، الذي يشير هو الآخر إلى أصحاب الاعتقادات غير الدينية، قد دخل مؤخراً حيز النفاذ في انكلترا وويلز وتود أن تشجع على إحداث تشريع مشابه في اسكتلندا. ويخامر المقررة الخاصة القلق بشأن الوضع الصعب الذي تعيشه النساء ومن يعتنقون ديناً جديداً الذين يواجهون مشاكل مع مجتمع دينهم الحالي أو دينهم السابق. وفيما يخص اللاجئين وطالبي اللجوء، تشدد المقررة الخاصة على أهمية وجود خدمات ترجمة فورية موثوقة ونزيهة إلى جانب وجود معلومات مستوفاة بشأن الاضطهاد الديني في البلدان الأصلية لطلبي اللجوء.

**Annex**

**REPORT OF THE SPECIAL RAPPOREUR ON FREEDOM  
OF RELIGION OR BELIEF, ASMA JAHANGIR, ON HER  
MISSION TO THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND (4 TO 15 JUNE 2007)**

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## Introduction

1. The Special Rapporteur on freedom of religion or belief, Asma Jahangir, carried out a mission to the United Kingdom of Great Britain and Northern Ireland<sup>1</sup> from 4 to 15 June 2007, at the invitation of the Government. The Special Rapporteur welcomes the fact that the Government had already issued a standing invitation to all thematic special procedures starting in March 2001.
2. The Special Rapporteur wishes to thank the authorities of the United Kingdom for the excellent cooperation extended to her before, during and after the country visit. The remarkable practical organization of official meetings made her visit intense and very fruitful. At the request of the Special Rapporteur, the Government immediately facilitated, also at short notice, in situ visits to a school, an immigration removal centre, a police station and a prison, where in each case the Special Rapporteur could freely talk with pupils and detainees.
3. During her visit, the Special Rapporteur had numerous meetings in London and several suburbs from 4 to 7 June and again from 14 to 15 June 2007. Furthermore, she travelled to Birmingham (8 June), Bradford (9 June), Glasgow (10-11 June) and Belfast (12-13 June), where she met with government officials, political leaders, legal professionals as well as representatives of religious or belief communities, members of civil society and academics.
4. The Special Rapporteur held talks with the Prime Minister, the Minister of State for Trade, Investment and Foreign Affairs, the Secretary of State for Communities and Local Government as well as the Chaplain General of HM Prison Service. Furthermore, she met with members of the Home Office, the Ministry of Justice, the Foreign and Commonwealth Office, the Department for Education and Skills, the Department of Communities and Local Government, the Border and Immigration Agency, the Commission for Racial Equality, the Birmingham City Council, the Bradford Metropolitan District Council Equalities Service, the Bradford Standing Advisory Council for Religious Education, Education Bradford, the Scottish Executive, Strathclyde Police Headquarters, the Glasgow City Council, the Equal Opportunities Commission Scotland, the Northern Ireland Policing Board, the Machinery of Government Division in the Office of the First and Deputy First Minister, the Police Ombudsman for Northern Ireland, the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Police Service of Northern Ireland.
5. Moreover, the Special Rapporteur met with several members of the House of Lords, the House of Commons, the Scottish Parliament and the Northern Ireland Assembly. In Belfast, she had the opportunity to talk with the Speaker to Northern Ireland Assembly as well as with members of the Alliance Party of Northern Ireland, the Democratic Unionist Party, Sinn Féin, the Social Democratic Labour Party and the Ulster Unionist Party.

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<sup>1</sup> The term "United Kingdom" comprises England, Wales, Scotland and Northern Ireland. This report does not cover the situation in the Overseas Territories and the Crown Dependencies. For further information on the Overseas Territories and the Crown Dependencies see the Human Rights Committee's concluding observations (CCPR/CO/73/UK; CCPR/CO/73/UKOT, paras. 22-38) and the Government's periodic reports (CCPR/C/UKOT/99/5, paras. 100 and 156 as well as CCPR/C/GBR/6, paras. 612-626).

6. The Special Rapporteur is also grateful for the opportunity to meet with two Lords of Appeal in Ordinary (“Law Lords”) as well as with barristers and solicitors having pertinent experience in the protection of human rights. Furthermore, the Special Rapporteur met with the Director of Public Prosecutions and several staff members of the Crown Prosecution Service.

7. With regard to religious communities, the Special Rapporteur talked, *inter alia*, with Anglicans, Baha’is, Buddhists, Catholics, Hindus, Jews, Latter-Day Saints, Muslims, Presbyterians, Seventh-day Adventists, Sikhs and Unitarians. She also had meetings with humanists and secularists. During her visit, the Special Rapporteur met with representatives of the following religious or belief communities and non-governmental organizations: Ahmadiyya Muslim Association UK, Al-Khoei Foundation, Article 19, Asylum Aid, Bail Circle, Barnabus Fund, Board of Deputies of British Jews, British Humanist Association, British Irish Rights Watch, British Organisation of Sikh Students, British Sikh Consultative Forum, British Sikh Federation, Brook, Buddhist Society, Care, Catholic Bishops’ Conference of England and Wales, Christian Medical Fellowship, Christian Solidarity Worldwide, Church of England, Church of Ireland, Church of Latter-Day Saints, Church of Scientology, Churches Together in Britain and Ireland, Community Dialogue, Committee on the Administration of Justice, Community Security Trust, Consultative Council of Jewish Organisations, Corrymeela, EmbraceNI, Evangelical Alliance, Forum 18, Forum Against Islamophobia and Racism, Hindu Council UK, Hindu Forum of Britain, Humanist Society of Scotland, International Association for Religious Freedom, International Humanist and Ethical Union, Irish Council of Churches, Islamic Foundation, Islamic Human Rights Commission, Islamic Relief, Jewish-Muslim Council, Justice, Lawyers’ Christian Fellowship, Lesbian and Gay Christian Movement, Liberty, Maranatha Community, Marches Secularist, Methodist Church in Ireland, Minority Rights Group, Muslim Council of Britain, Muslim-Jewish Forum, National Council of Gurdwaras, National Spiritual Assembly of the Bahá’ís of the United Kingdom, Northern Ireland Council for Ethnic Minorities, Presbyterian Church in Ireland, Scottish Churches Parliamentary Office, Scottish Interfaith Council, Secular Derby, Serbian-Orthodox Church, Seventh-Day Adventist Church, Sigrid Rausing Trust, Sikhs in England, Sufi Muslim Council, The City Circle, The Family, The Inter Faith Network for the UK, Three Faiths Forum, Union of Muslim Organisations of UK and Eire, the United Nations Association of Great Britain and Northern Ireland as well as UK Asian Christian Fellowship.

8. Further interlocutors included academics with specific expertise in the field of freedom of religion or belief from the universities of Belfast, Birmingham, Bristol, Cambridge, Cardiff, Durham, Glasgow, London, Oxford and Warwick. In addition, the Special Rapporteur met with representatives of a students’ union in London.

9. She is very grateful that the University of London’s Institute of Commonwealth Studies (ICS) offered to the Special Rapporteur use of the ICS facilities for her meetings in London with members of civil society. Furthermore, she appreciated the logistical support in London by the United Nations Development Programme and the Office of the United Nations High Commissioner for Refugees. Finally, the Special Rapporteur would like to express her gratitude for the help provided by several individuals in facilitating joint meetings with non-governmental organizations.

10. In view of the strict word limit of country reports, the Special Rapporteur will not be able to present a complete and exhaustive picture of the situation of religions and beliefs in the United Kingdom or to provide a thorough analysis of all questions related to religion or belief.

However, the Special Rapporteur intends to concentrate on selected aspects of the status of freedom of religion or belief in the United Kingdom. In particular, she will focus on sectarianism, counter-terrorism measures, religious education and collective worship, religious symbols, balancing of competing rights, provisions on offences related to religions, the definition of “religion” or “belief” as well as the vulnerable situation of women, converts, refugees and asylum-seekers.

## I. INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

11. The Special Rapporteur would like to refer to previous reports<sup>2</sup> with regard to the main international legal standards pertinent to her mandate. These include articles 2, 18, 20, 26 and 27 of the International Covenant on Civil and Political Rights (ICCPR), article 13 of the International Covenant on Economic, Social and Cultural Rights, article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, articles 2, 14 and 30 of the Convention on the Rights of the Child and article 12 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

12. Apart from the ICRMW, the United Kingdom has ratified the other above-mentioned human rights treaties. Upon ratification of the ICCPR, the following declaration was made: “The Government of the United Kingdom interpret article 20 consistently with the rights conferred by articles 19 and 21 of the Covenant and having legislated in matters of practical concern in the interests of public order (*ordre public*) reserve the right not to introduce any further legislation. The United Kingdom also reserves a similar right in regard to each of its dependent territories.”<sup>3</sup>

13. Furthermore, the Special Rapporteur is guided by other relevant declarations, resolutions and guidelines produced by various United Nations bodies, including by the General Assembly, the Human Rights Committee, the former Commission on Human Rights and the Human Rights Council. The most important of these instruments for the mandate are articles 2, 18 and 26 of the Universal Declaration of Human Rights as well as the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

## II. DOMESTIC LEGAL FRAMEWORK FOR FREEDOM OF RELIGION OR BELIEF

14. Apart from the common law, which recognizes the freedom of individuals to adopt, practise and change their religion, there are a number of statutory provisions with regard to freedom of religion or belief in the United Kingdom. The Human Rights Act 1998 gave further effect to the rights and freedoms guaranteed under the European Convention on Human Rights, including its article 9 on freedom of thought, conscience and religion. Consequently, primary legislation and

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<sup>2</sup> See E/CN.4/2005/61, paras. 15-20 and E/CN.4/2006/5, annex, as well as the online digest of her framework for communications at <http://www2.ohchr.org/english/issues/religion/standards.htm>.

<sup>3</sup> See [http://untreaty.un.org/humanrightsconvs/Chapt\\_IV\\_4/reservations/UK.pdf](http://untreaty.un.org/humanrightsconvs/Chapt_IV_4/reservations/UK.pdf).

subordinate legislation must be read and given effect in a way which is compatible with the Convention rights. Furthermore, it is unlawful for a public authority to act in a way which is incompatible with a Convention right. In order to minimize State interventions in the internal organization of religious groups, section 13 provides that courts and tribunals must have particular regard to the importance of the right to freedom of thought, conscience and religion if their determination of any question arising under the Human Rights Act 1998 might affect the exercise by a religious organization of that right.

15. When giving an overview of the further statutory framework for freedom of religion or belief in the United Kingdom, attention needs to be paid to the different geographic scopes of application. The Equality Act 2006, which extends only to England, Scotland and Wales, contains a number of detailed provisions in sections 44 to 80 concerning discrimination on grounds of religion or belief. It prohibits both direct and indirect discrimination, for example when providing goods, facilities and services, when disposing of premises, when admitting pupils to educational establishments, when providing schools and transport as well as when public authorities exercise a function of a public nature. Specific exceptions apply to organizations and charities relating to religion or belief, faith schools, care within family and acts justified by national security purposes.

16. The Equality Act 2006 also establishes a Commission for Equality and Human Rights (CEHR), which opened on 1 October 2007. The CEHR may, inter alia, bring proceedings in respect of discriminatory advertisements, instructions to unlawfully discriminate and practices which would be likely to result in unlawful discrimination if applied to persons of any religion or belief. CEHR may not take human rights action in relation to matters falling within the devolved competence of the Scottish Parliament, except with the consent of a person established by Act of the Scottish Parliament whose principal duties relate to human rights.

17. In Northern Ireland, the Equality Commission for Northern Ireland has been established since 1 October 1999 to advance equality, promote equality of opportunity, encourage good relations and challenge discrimination through promotion, advice and enforcement. Under the Fair Employment and Treatment (NI) Order 1998 (as amended in 2003), it is unlawful for those who provide services to the public to discriminate against a person on grounds of religious belief or political opinion in the fields of employment, the provision of goods, facilities and services, the sale or management of land or property as well as further and higher education. Public authorities shall in carrying out their functions relating to Northern Ireland have due regard to the need to promote equality of opportunity between persons of different religious beliefs according to section 75 of the Northern Ireland Act 1998.

18. The Race Relations Act 1976, as amended, makes it unlawful in Great Britain to discriminate directly or indirectly against a person on racial grounds in employment, education, housing and in the provision of goods, facilities and services. The term “racial grounds” is defined as referring to grounds based on colour, race, nationality or ethnic or national origins. Pertinent case law has confirmed that Sikhs and Jews constituted both religious and ethnic groups. However, British courts and tribunals have also held that Muslims, Rastafarians and Jehovah’s Witnesses were outside the protection of the Race Relations Act 1976.

19. After considerable debate and amendments from the House of Lords, the Racial and Religious Hatred Act 2006 was adopted on 31 January 2006 and entered into force on

1 October 2007. Extending to England and Wales only, it creates new offences in the Public Order Act 1986 with regard to stirring up religious hatred, which is defined as “hatred against a group of persons defined by reference to religious belief or lack of religious belief”. A person guilty of these offences may be liable to imprisonment of up to seven years or a fine or both. In order to protect freedom of expression, the Racial and Religious Hatred Act 2006 further provides that “nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system”. According to the Prevention of Incitement to Hatred Act (Northern Ireland) 1970, a person shall be guilty of an offence for publicly using threatening, abusive or insulting words if these are intended and likely to stir up hatred against or arouse fear of any section of the public in Northern Ireland on grounds of, inter alia, religious belief.

20. The Terrorism Act 2000 is the primary piece of counter-terrorism legislation in the United Kingdom, replacing the previous anti-terrorism laws that dealt primarily with Northern Ireland. The Terrorism Act 2000 provides that “terrorism” means the use or threat of an action involving, inter alia, serious violence against a person or serious damage to property where the use or threat is designed to influence the Government or to intimidate the public or a section of the public and the use or threat is made for the purpose of advancing a political, religious or ideological cause. The above-mentioned term “action” also includes action outside the United Kingdom.

21. The Anti-Terrorism, Crime and Security Act 2001 extended the racially aggravated offences contained in the Crime and Disorder Act 1998 to cover offences aggravated by religious hostility. Furthermore, it inserted a new section 38B in the Terrorism Act 2000, making it an offence for a person to fail to disclose information which he either knows or believes might help prevent another person carrying out an act of terrorism or might help in bringing a terrorist to justice in the United Kingdom. Restrictions on an individual’s association, communications or movements can be imposed by “control orders” according to the Prevention of Terrorism Act 2005. A number of new offences were created by the Terrorism Act 2006, including the offence of encouragement of terrorism, an offence of the preparation of terrorist acts and further terrorist training offences. Moreover, it also extended police and investigatory powers in relation to terrorism, such as allowing the extension of detention of terrorist suspects with judicial approval, for up to 28 days.

22. Religious education is a required part of the curriculum in the United Kingdom. In England and Wales, section 375 of the Education Act 1996 provides that agreed syllabuses of religious education “shall reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain”. The Education and Inspections Act 2006 provides for a right of sixth-form pupils (after compulsory school age) at a community, foundation or voluntary school to be excused from attendance at religious worship. In Scotland, the “conscience clause” in section 9 of the Education (Scotland) Act 1980 states that every public school shall be open to pupils of all denominations and any pupil may be withdrawn by his parents from any instruction in religious subjects and from any religious observance in any such school. In Northern Ireland, the curriculum for every grant-aided school shall include provision for religious education for all registered pupils



at the school and the Department of Education may specify a core syllabus for the teaching of religion.

23. The Charities Act 2006 establishes the meaning of charity for the purposes of the law of England and Wales by specifying that a body or trust is a charity if established for charitable purposes only. Such a charitable purpose may also be a purpose for the advancement of religion if it is for the public benefit.

### **III. RESPECT FOR FREEDOM OF RELIGION OR BELIEF IN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

#### **A. Religious demography**

24. The latest official national census of 2001 indicates the following data on religious affiliation for Great Britain: 71.8 per cent Christian, 2.8 per cent Muslim, 1 per cent Hindu, 0.6 per cent Sikh, 0.5 per cent Jewish and 0.3 per cent Buddhist, whereas 15.1 per cent of the population had no religion and 7.8 per cent of people chose not to state their religion. In Northern Ireland, 85.8 per cent of people answered the 2001 census question that they belonged to or were brought up in a Christian religion (40.3 per cent Catholic Church, 20.7 per cent Presbyterian Church in Ireland, 15.3 per cent Church of Ireland, 3.5 per cent Methodist Church in Ireland and 6 per cent other Christian denominations) whereas 13.9 per cent had no religion or did not state any affiliation and 0.3 per cent belonged to other religions or philosophies.

25. However, other surveys and opinion polls, which measure “belief” or “practice”, rather than “religious affiliation”, produce significantly lower figures for the Christian denominations. In 2007, approximately two-thirds of the British either did not claim membership of a religion or said that they never attended a religious service, compared with 26 per cent in 1964. Amongst those who do actually claim to belong to a religion, the proportion who attends a Christian service regularly has been falling. Another 2007 research report on churchgoing in the United Kingdom indicated that 15.5 per cent attend a service at least once a month whereas 28 per cent were former churchgoers unlikely to return and 32 per cent have never been to church and are unlikely to do so. In comparison to Great Britain, there are significantly more regular churchgoers than average in Northern Ireland, i.e. 45 per cent attending a religious service at least once a month. Surveys have also revealed that religious belief is strongly related to age and generations, with young people far less religious than their elders. Furthermore, the total number of people affiliated to non-Christian religions has increased in recent years and for most of them their religion seems to be a more important factor than it is for Christians.

#### **B. Overview of reported concerns**

26. Almost all of the Special Rapporteur’s interlocutors agreed that there was a very satisfactory amount of freedom of religion or belief in the United Kingdom. Many of them stated that the situation of their respective communities was far better than in those countries where they had emigrated from. There were some common concerns among members of all religions or non-religious beliefs, while others were specific to a particular community of people. The interlocutors raised the following issues.

27. Members of various Christian denominations (Church of England, Church of Ireland, Church of Scotland, Methodist, Presbyterian, Protestant, Roman Catholic, etc.) reported discrimination and violence related to sectarianism, not only in Northern Ireland but also in the rest of the United Kingdom. Furthermore, Christian Students' Unions at several universities were reported to face pressures with regard to their adherence to university equal opportunities policies. In general, the Government's Sexual Orientations Regulations were perceived by some Christians as hampering the work of Christian adoption agencies and establishing a hierarchy of rights with religion having a rather low priority. Another example of this trend was a court judgement which ruled that an employee's freedom to manifest his religious beliefs was not infringed by his dismissal for refusal to agree to work on Sunday. On the other hand, the particular role and privileges of the Church of England were criticized by some Christians as no longer reflecting the religious demography of the country and the rising proportion of other Christian denominations.

28. The Special Rapporteur's Muslim interlocutors criticized the application of counter-terrorism legislation and the adverse influence on the situation of British Muslims. They also emphasized that public statements by politicians may have an impact on the society since the discussion of draft bills, even when not adopted finally, affect the public debate and perception. Furthermore, the Special Rapporteur's interlocutors criticized the inflammatory tone of many media reports on issues regarding Muslims, especially with regard to the wearing of headscarves. The Special Rapporteur was also informed about a survey which showed that about 80 per cent of Muslim respondents have somehow experienced discrimination because they were Muslim, while in 1999 only 35 per cent of respondents reported such discrimination. Problem areas for Muslims appear to be employment, education, immigration policies and religious profiling as well as the provision of goods, services and facilities. Many Muslim interlocutors emphasized that since the terrorist attacks of 11 September 2001 they felt extremely vulnerable, not only because of an adverse public opinion against them as a community but also because of counter-terrorism measures, which were mainly perceived to target so-called Islamic terrorism.

29. Hindu representatives reported their concerns that languages of other religions have been included in the British curriculum while the Hindu languages (Hindi and Sanskrit) had been ignored. Furthermore they complained that in contrast to other religious communities the Hindu religion was not represented in the House of Lords. In order to safeguard the minority religious and other rights they claim proportional representation by reservation of seats in Parliament for all minorities.

30. The Special Rapporteur spoke with Sikhs' representatives who voiced their concerns about an increase in attacks on Sikhs and Sikh properties following the terrorist attacks of 11 September 2001 and 7 July 2005. Furthermore, wearing the turban and carrying a *kirpan* has been treated as a problem on health and safety grounds by some employers and organizations. Sikhs also claim to be underrepresented in the Houses of Parliament and that there has been little progress to increase the number and profile of public appointments for Sikhs. They further criticized the selection and appointment of the King or Queen, who has to be a Protestant Christian and takes an oath to "maintain in the United Kingdom the Protestant Reformed Religion established by law". While the Government provides State funding for Christian schools, Sikhs were concerned that there has been little funding for schools to be operated by other religious groups.

31. The Special Rapporteur also met with Jews who shared their concerns about the increasing number of anti-Semitic incidents, including attacks potentially causing loss of life or grievous bodily harm, assaults, threats and damage of Jewish property. A total number of 594 anti-Semitic incidents were recorded in 2006, which represents a 31 per cent rise compared to the previous year. The Special Rapporteur's interlocutors stressed that developments in the Middle East had a direct impact on the situation of their community since the peaks in recorded anti-Semitic incidents in the United Kingdom coincide with international events such as the war in Lebanon. They also reported a number of positive initiatives with regional and local police teams concerning incident reporting, training and community relations.

32. Buddhists primarily were worried about the situation of Buddhists living abroad. Furthermore, difficulties in getting sufficient visas for Buddhist monks to live and teach in the United Kingdom were reported.

33. Baha'i members were concerned about the situation of foreign Baha'i asylum-seekers whose claims were refused in the initial decisions of the Border and Immigration Agency based on country of origin information and human rights reports which were no longer up-to-date.

34. Representatives of the Church of Scientology submitted that the Government discriminates against the Church of Scientology in refusing to recognize it as a religion. Referring to the Charity Commission's determination in 1999 that the Church of Scientology should not be registered as a charity, they also voiced their concerns regarding the development of new criteria to define religion and public benefit under the Charities Act 2006.

35. Atheists, secularists and humanists made the criticism that in practice there are institutional and legal examples of discrimination against non-religious believers. They referred to the establishment of the Church of England and related privileges, e.g. the fact that Anglican archbishops and senior diocesan bishops of the Church of England are entitled to a total number of 26 seats in the House of Lords. These privileges reportedly encourage the "levelling up" of the influence of other religious groups by analogy. Atheistic and non-theistic believers also complained that local and national government mechanisms that are set up to consult religious groups do not include representatives of non-religious beliefs but empowers self-styled "community leaders". Furthermore, while humanist weddings are legal in Scotland since June 2005, marriages conducted by humanist celebrants are not recognized in the law of England and Wales.

### **C. Thematic issues**

36. The Special Rapporteur would like to highlight the following thematic issues with regard to the status of freedom of religion or belief in the United Kingdom.

#### **1. Sectarianism**

37. According to the Government, religious sectarianism means a narrow-minded following of a particular belief by members of a denomination that leads to prejudice, bigotry, discrimination, malice and ill-will towards members, or presumed members, of another denomination. In the United Kingdom the term "sectarianism" is usually coined to refer to the struggle between Catholics and Protestants. While the conflict in Northern Ireland has often been portrayed as intra-faith intolerance, many interlocutors of the Special Rapporteur emphasized that this conflict was

not really about religion but rather about politics, territory and equality issues. At the same time, attacks on Catholic churches and Protestant halls show that some forms of sectarian violence have a clear religious connotation. The latest official statistics indicate that a total number of 1,217 sectarian crimes were recorded in Northern Ireland for 2006-2007.

38. Concerning the labour market, the Special Rapporteur was informed by civil society organizations about the serious level of underrepresentation of Catholics in the Police Service of Northern Ireland, in the prison service, in other criminal justice agencies and at the senior level of the civil service. However, Protestants are underrepresented in sectors such as education and health. In general, inequalities and religious differentials seem to persist in Northern Ireland between Catholics and Protestants in relation to housing and employment.

39. Sectarian violence or religiously aggravated offences do not only occur in Northern Ireland. Throughout Scotland, 699 charges of an offence aggravated by religious prejudice were included in reports to Procurators Fiscal in the year 2006-2007. The Special Rapporteur was also informed about the sectarian divide and related violence with regard to Scottish football. Throughout their respective histories, some football clubs have come to represent either the Irish Catholic group or the British Protestant group. The sectarian divide is so polarized that violence erupts between supporters and people even got killed after matches of teams deemed to represent the two sides. In this regard it is noteworthy that article 74 of the Criminal Justice (Scotland) Act 2003 on offences aggravated by religious prejudice also takes into account the victim's membership or presumed membership of a religious group, or of a social or cultural group with a perceived religious affiliation.

## **2. Counter-terrorism measures**

40. Terrorism is not a new phenomenon in the United Kingdom, as evidenced by the number of terrorist attacks since 1968 as a result of the sectarian conflict in Northern Ireland. More recently, the Government identified the "principal current terrorist threat from radicalized individuals who are using a distorted and unrepresentative version of the Islamic faith to justify violence".<sup>4</sup> The risk of suicide attacks was highlighted by the London bombings on 7 July 2005 which killed 52 commuters and the 4 suicide bombers. Two weeks after the Special Rapporteur concluded her visit, two further terror attacks were attempted in London and Glasgow. Currently, 46 international terrorist organizations are proscribed under the Terrorism Act 2000 and another 14 organizations in Northern Ireland are proscribed under previous legislation.

41. While anti-terror laws do not refer directly to specific religions or beliefs, the implementation of counter-terrorism measures such as police stop-and-search powers and religious profiling are largely perceived as targeting Muslims. The Special Rapporteur has for example received allegations that officers of the special branch asked Muslim tourists at airports how often they and other family members attended mosque. The practical implementation of section 44 of the Terrorism Act 2000, which authorizes the police in designated areas to stop and search people without having to show reasonable suspicion, seems to affect ethnic and religious minorities more than other groups, especially since the attacks of 7 July 2005. The latest figures for England and

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<sup>4</sup> Countering international terrorism: the United Kingdom's strategy, July 2006, p. 1.

Wales (2004/2005 and 2005/2006) show that searches of people with Asian appearance under this provision increased by 84 per cent, compared to an increase of only 24 per cent for White people.<sup>5</sup> The Special Rapporteur was informed that Muslim youths living in the United Kingdom are particularly disturbed at the idea of being stopped and searched simply because they appear to be of Islamic faith.

42. Furthermore, a lawyer informed the Special Rapporteur about the potential abuse of the provisions on the failure to disclose information about acts of terrorism with regard to professional legal advisers who represent terror suspects. Allegedly, police constables threatened to charge a young solicitor under section 38B of the Terrorism Act 2000 after the first meeting with his Muslim client unless the solicitor disclosed the contents of their conversation. Recognizing the possible tension between the duty of solicitors to advance the interests of their clients and the interests of the public as a whole, the Law Society recently published an anti-terrorism practice note on the conflicting duties of maintaining client confidentiality and reporting terrorism.<sup>6</sup>

### **3. Religious education and collective worship**

43. In England and Wales, syllabuses on religious education are prepared separately for each local authority. The Special Rapporteur was informed that - following a 1994 circular by the Department for Education and Skills - only a few “representatives of belief systems such as humanism, which do not amount to a religion or religious denomination”, were included on relevant committees. Furthermore, while the non-statutory National Framework for Religious Education also includes “a secular world view, where appropriate” in the areas of study, this seems to be a concession rather than the result of a legal requirement. At the same time, legislation requires religious education to “reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain”.

44. Most “maintained” schools in England and Wales must provide a daily act of collective worship. According to section 386 of the Education Act 1996, collective worship in county schools and certain grant-maintained schools “shall be wholly or mainly of a broadly Christian character”. Children may be exempted upon request of their parents and since September 2007 pupils in the sixth form also have this right of excusal. Sometimes, however, the daily act of collective worship is hard to miss when important notices are made in assemblies held for the purpose.

### **4. Religious symbols**

45. Domestic courts have recently decided several cases concerning school uniform policies which prevented pupils from wearing particular forms of dress or artefacts associated with a religious belief. The contentious symbols included a *jilbab* (long coat-like garment), a *niqab* (full veil over the face) and a silver ring engraved with a reference to a biblical verse. In these

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<sup>5</sup> Ministry of Justice, Statistics on Race and the Criminal Justice System - 2006, pp. 26 and 34.

<sup>6</sup> The Law Society, practice note of 19 July 2007 available online at [http://lawsociety.org.uk/documents/downloads/dynamic/practicenote\\_terrorismact2000.pdf](http://lawsociety.org.uk/documents/downloads/dynamic/practicenote_terrorismact2000.pdf).

individual cases the courts found the school uniform policies to be justified and not in breach of the right of a particular pupil to manifest their religion.

46. In October 2007, the Department for Children, Schools and Families issued a “guidance” to schools on school uniform and related policies. This non-statutory guidance strongly recommends wide consultations on school uniform policies including community leaders representing minority ethnic and religious groups and calls on schools to act reasonably in accommodating religious requirements. It further explains that restricting the freedom of pupils to manifest their religion may be lawful if justified on grounds specified in the Human Rights Act, including health, safety and the protection of the rights and freedoms of others. Furthermore, the guidance emphasizes that each case will depend on the circumstances of the particular school and that it is for a school to determine what sort of uniform policy is appropriate for it.

### **5. Balancing of competing rights**

47. Some recent statutory equality provisions are reported to lead to a clash of religious convictions with other strands, for example sexual orientation. On the one hand, some Christian interlocutors raised their concerns that religion would have to conform to a non-religious world view; while not being opposed to antidiscrimination legislation as such, they felt discriminated by sexual orientation regulations and indicated that many Christian adoption agencies would close if not given an opt-out from having to place children with homosexual couples. On the other hand, members of the lesbian, gay, bisexual and transgender community argued that the existing statutory exemptions already favour religion and they stressed that non-discriminatory delivery of goods and services is crucial especially when public services are contracted out to faith-based organizations.

48. The Special Rapporteur was informed about the differences of the pertinent regulations in Northern Ireland and in Great Britain. The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006, which make it unlawful to discriminate or subject another person to harassment on the grounds of sexual orientation, provide for an exception to organizations relating to religion and belief. Thus it is not unlawful for such an organization to restrict membership, participation in activities, the provision of goods, services or activities, or the use or disposal of premises on the ground of sexual orientation if this is necessary to comply with the doctrine of the organization or in order to avoid conflicting with the strongly held religious convictions of a significant number of the religion’s followers. The regulations for Northern Ireland, which came into force on 1 January 2007, however, do not extend the exception to organizations whose sole or main purpose is commercial or to those who act under a contract with and on behalf of a public authority. Similar regulations for the rest of the United Kingdom are in force since 30 April 2007, but the Equality Act (Sexual Orientation) Regulations 2007 in Great Britain do not contain harassment clauses as the corresponding regulations for Northern Ireland. These harassment provisions have been subject to judicial review and the High Court of Justice in Northern Ireland decided on 11 September 2007 to quash them, inter alia, because the width and vagueness of the definition of harassment gave rise to a risk of incompatibility with both freedom of speech and freedom of thought, conscience and religion.<sup>7</sup>

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<sup>7</sup> High Court of Justice in Northern Ireland, Queen’s Bench Division, (2007) NIQB 66, paras. 40-43.

## 6. Provisions on offences related to religions

49. Under the common law in England and Wales it is a strict liability offence to utter or publish blasphemous words and writings, but the scope of that offence has been narrowed in the last 150 years. The last conviction in England and Wales for blasphemous libel was upheld in 1979. However, the British Board of Film Classification in 1989 refused to issue a video classification certificate to a short film on the grounds that it infringed the law of blasphemy. Following the controversy over Salman Rushdie's book *The Satanic Verses*, the Divisional Court confirmed in 1991 that the offence of blasphemy remained confined to protect only the Christian religion as exemplified by the established Church of England. In April 2007, the High Court allowed a legal challenge brought by a Christian group against a magistrate's decision not to issue a private prosecution for blasphemy over the musical *Jerry Springer - The Opera* which was also broadcast on television. However, on 5 December 2007 the High Court found that criminal prosecutions for blasphemy should not be permitted in relation to broadcasts and live theatrical productions.

50. In Scotland, the last reported prosecution for blasphemy was in 1843 and it has been argued that blasphemy may no longer be a crime in Scotland. In Northern Ireland, which inherited the blasphemy offence of Irish common law, there has to date been no prosecution for blasphemy.

51. In recent years, there have been debates both in Parliament and in society at large whether the existing religious offences should be amended or abolished. As alternative options to the current common laws of blasphemy and blasphemous libel it has been suggested to either replace them with a new statute protecting all religious faiths and beliefs or to repeal them without replacement. However, a suggested statutory amendment to the Racial and Religious Hatred Bill, which would have abolished the blasphemy offence, was rejected by the House of Lords in November 2005.

## 7. Definition of "religion" or "belief"

52. Both the Equality Act 2006 and the Education and Inspections Act 2006 provide that "religion" means any religion, that "belief" means any religious or philosophical belief and that a reference to these terms also includes a reference to lack of either religion or belief. In addition, judgements have given further guidance on the court's role in identifying a religious belief calling for protection under freedom of thought, conscience and religion, notably the House of Lords in the recent case of *R. (Williamson) v. Secretary of State for Education and Employment* (2005) UKHL 15.

53. Furthermore, the Charities Act 2006 introduced a statutory definition of charitable purposes, one of which is "the advancement of religion". It defines the term religion to include religions which involve belief in more than one god and religions which do not involve belief in a god. Atheists and non-theists informed the Special Rapporteur that the advancement of humanism is not in itself a charitable purpose, whereas the advancement of religion is. Consequently, humanist institutions have to justify their charitable status under some other purpose recognized as charitable under existing charity law or analogous to or within the spirit of purposes enumerated in section 2 (2) of the Charities Act 2006. Under the previous charities law there was a presumption that purposes for the advancement of religion are for the public benefit unless there is evidence to the contrary. The Charities Act 2006 requires all charities to prove that they benefit the public, thus

putting all charitable purposes on the same footing. Following consultation from March to June 2007, the Charity Commission is currently developing guidance on the principles of public benefit and the operation of the public benefit requirement. Furthermore, it intends to start another consultation in 2008 on draft supplementary guidance on public benefit for charities for the advancement of religion.

### **8. Vulnerable situation of women and converts**

54. As identified in many of the Special Rapporteur's reports, women and converts seem to be in a vulnerable position worldwide. Also with regard to the situation in schools in the United Kingdom, the Special Rapporteur was informed that young Muslim girls have been targeted in certain neighbourhoods by leaflets with extreme religious positions, for example stating that girls should not attend school because school education was not important for them. Furthermore, social peer pressure has reportedly been exercised on the girls to wear specific religious symbols, both at school and when walking in the streets.

55. The Special Rapporteur has also received reports of informal matrimonial courts operating within the Muslim community based on sharia law, for example granting divorces under religious law. Although sharia councils are not legally recognized by the authorities in the United Kingdom, the Islamic divorce certificates are perceived to have some impact, for example in cases where a couple had an Islamic marriage only and did not have a civil registration.

56. Conversion usually poses a problem only from the perspective of the community that the individual wants to leave. The Special Rapporteur received allegations that Asian families who converted from Islam to Christianity in the United Kingdom have been subjected to abuse, threats and violent attacks from members of their former religious community. Conversion may also be an important issue in asylum claims especially when the genuineness of the conversion is called into question. The Special Rapporteur was informed that adjudicators asked faith-testing questions with doubtful validity, for example when asylum-seekers were interrogated about the number of books in the Bible or how to prepare a turkey for Christmas.

### **9. Refugees and asylum-seekers**

57. Several interlocutors of the Special Rapporteur stressed that the United Kingdom historically was a hospitable country for people seeking shelter from religious persecution. These interlocutors stated, however, that this no longer seems to be valid and that nowadays there appears to be a presumption against the claims of people seeking asylum, including on religious grounds.

58. The Special Rapporteur has tried to corroborate these allegations but neither the Government nor civil society members provided any precise data on the proportion of asylum-seekers in the United Kingdom on grounds of religious persecution or the respective refusal rate. However, official statistics exists concerning asylum-seekers in general terms, i.e. without a breakdown according to the persecution grounds. Thus, 14 per cent of initial decisions of the Border and Immigration Agency in the second quarter of 2007 were to grant asylum and 9 per cent were to grant humanitarian protection or discretionary leave, whereas 76 per cent of initial decisions were refusals. The Asylum and Immigration Tribunal allowed 23 per cent of the appeals



in the second quarter of 2007 whilst 71 per cent of appeals were dismissed. Including dependants, a total of 18,235 failed asylum applicants were removed from the United Kingdom in 2006.

59. The management of many immigration detention or removal centres is contracted out to private companies and managers of religious affairs are employed to coordinate multi-faith chaplaincy teams to meet the religious and spiritual needs of detainees. In some cases there allegedly have been frictions between managers of religious affairs and the multi-faith chaplaincy teams with regard to the scope of their religious duties.

## **V. CONCLUSIONS AND RECOMMENDATIONS**

60. **There is a great wealth of experience in the United Kingdom in dealing with religious tensions and terrorist acts carried out under the cover of religion. The Special Rapporteur commends the Government for the balanced approaches in responding to difficult situations with regard to freedom of religion or belief and tackling the contentious issues involved. During her meetings both with officials and with members of religious communities or non-governmental organizations, the Special Rapporteur was particularly impressed by the depth of analysis and the endeavour to solve the underlying problems as demonstrated by the authorities as well as by a vibrant civil society and academia.**

61. **Despite the overall respect for human rights and their value in the United Kingdom, there are some issues of concern with regard to freedom of religion or belief. The Special Rapporteur would like to highlight the following areas and make pertinent recommendations.**

### **Sectarianism**

62. **After almost four decades of sectarian violence in Northern Ireland, which claimed more than 3,500 lives, there seems now to be hope for a shared future. The Special Rapporteur welcomes the statutory duty for public authorities in carrying out their functions relating to Northern Ireland to have due regard to the need to promote equality of opportunity between persons of different religious belief. She was informed of promising initiatives which seek to cross the sectarian divide among the Christians, both at the political and grassroots levels. However, there remain several contentious areas such as inequalities along denominational lines in the labour market, housing, education, policing and criminal justice agencies.**

63. **The Special Rapporteur shares the concerns raised by the Committee on Economic, Social and Cultural Rights that the educational structure in Northern Ireland continues to be heavily segregated on the basis of religion, despite the increased demand for integrated schools. Furthermore, Catholic staff is underrepresented in the Police Service of Northern Ireland, the prison service and other criminal justice agencies. In this regard, the Special Rapporteur welcomes affirmative actions strategies to ensure that these agencies can recruit a more representative workforce. She would like to recommend that such measures should also address adequate representation of all religious or belief communities.**

64. **The Special Rapporteur is alarmed about reports that schoolchildren in Northern Ireland are often targets of abuse or physical attacks owing to their school uniforms or their itinerary to school, which are deemed to identify their religious affiliation. The**

Government has a duty to protect children against such attacks and should adopt the best interests of the child as a paramount consideration in all legislation and policy affecting children throughout its territory. In legislation on offences aggravated by hostility it may be advisable to refer not only to actual religious belief but also to the accused's perception of the religious, social or cultural affiliation of the targeted individual or group. The Special Rapporteur was told that sectarianism is deep-rooted in many minds; apparently even in casual conversations people try to seek indications - such as residence, education or support for a specific football team - about the religious affiliation of their interlocutor. In terms of prevention, the Special Rapporteur recommends schools to raise awareness, stimulate debate and encourage people to discuss the root causes of sectarian tensions and what role they can play in challenging religious prejudice. In this regard, football clubs throughout the United Kingdom may also have a role to play in dealing with the sectarian behaviour of their own or visiting fans.

65. The Special Rapporteur would like to emphasize that tackling the sectarian polarization in Northern Ireland should not lead to disregarding the situation and concerns of religious minorities, for example with regard to physical attacks against their members, the siting of non-Christian places of worship and religious education in schools. Furthermore, the low number of followers of some minority faiths in Northern Ireland seems to make adherence to their dietary or worship practices difficult. Consequently, the Government needs to ensure that those wishing to worship, either individually or in community with others, are facilitated in doing so.

#### Counter-terrorism measures

66. The Special Rapporteur notices a significant potential to draw some "lessons learnt" from the response to the sectarian tensions in Northern Ireland and to address new challenges in devising counter-terrorism measures in the United Kingdom. Whilst the Special Rapporteur is conscious of the fact that States are obliged to take effective measures in combating terrorist attacks, she has received allegations of the abuse of counter-terrorism laws which are largely perceived to target the Muslim population in the United Kingdom.

67. The Special Rapporteur is concerned about reports that Muslims are regularly subjected to screening of their personal data, house searches, interrogations and arrests solely because of their religious affiliation. Profiling techniques based on physical appearance seem to cause anger among many young Muslims and may lead to a lack of trust between the police and communities. Consequently, the alienation of certain ethnic and religious groups may also have negative implications for law-enforcement efforts and for the gathering of intelligence in the counter-terrorism context. The Special Rapporteur would like to reiterate the concluding observations of the Committee on the Elimination of Racial Discrimination, which encouraged the Government to implement effectively its decision to ensure that all "stops and searches" are recorded and that a copy of the record form be given to the person concerned.

68. Furthermore, several provisions in counter-terrorism legislation seem to be overly broad and vaguely worded. Under the principles of criminal law, criminal liability is limited to clear and precise provisions in the law in order to ensure that it is not subject to

interpretation which would broaden the scope of the proscribed conduct. Similar concerns have already been expressed by the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Martin Scheinin, who specifically referred to terms and concepts in the Terrorism Act 2006, such as “indirectly encouraging” acts of terrorism and “glorification”, interpreted as including “any form of praise or celebration” (A/HRC/4/26/Add.1, para. 63). In addition, he reiterated the opinion that the possibility of 28 days of detention without charge is too long unless there is a regular judicial review of all aspects of the detention, including the reasons for it and any arguments the detainee may wish to present to contest them. The Special Rapporteur would also like to refer to Mr. Scheinin’s recent conclusions and recommendations with regard to terrorist-profiling practices, including profiling based on religion (A/HRC/4/26, paras. 83-89).

#### **Religious education and collective worship**

69. With regard to religious education, the authorities should pay specific attention to the contents of syllabuses in publicly funded schools. Furthermore, a non-discriminatory membership of relevant committees preparing such syllabuses seems vital to adequately present the various theistic, non-theistic and atheistic approaches. The Final Document of the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination deemed that each State should promote and respect educational policies aimed at strengthening the promotion and protection of human rights, ensuring respect for and acceptance of pluralism and diversity in the field of religion or belief as well as the right not to receive religious instruction inconsistent with his or her conviction (E/CN.4/2002/73, appendix, para. 4). Most recently, the Office for Democratic Institutions and Human Rights (ODIHR-OSCE) Advisory Council of Experts on Freedom of Religion or Belief has prepared the “Toledo Guiding Principles on teaching about religions and beliefs in public schools”<sup>8</sup> which may provide further useful guidance in this regard.

70. The Special Rapporteur notes with appreciation that parents may request that their children be wholly or partly excused from receiving religious education or attending at religious worship. She particularly welcomes the recent adoption of opt-out possibilities for pupils in the sixth form with regard to legal requirements of taking part in an act of collective worship in maintained schools. The right to freedom of religion or belief also includes the right not to manifest a religious belief. The parents or legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and children themselves also enjoy in their own right the freedom of religion or belief. In line with article 12, paragraph 1, of the Convention on the Rights of the Child, the children’s views should be given due weight in accordance with their age and maturity.

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<sup>8</sup> Available online at [http://www.osce.org/odihr/item\\_11\\_28314.html](http://www.osce.org/odihr/item_11_28314.html).

### **Religious symbols**

71. Concerning religious symbols and related school uniform policies, the Special Rapporteur welcomes the case-by-case approach by the authorities and courts. In its guidance, the Department for Children, Schools and Families emphasized that each case depends on the circumstances of the particular school and that the recent judgements do not mean that banning such religious dress will always be justified, nor that such religious dress cannot be worn in any school. With regard to the relevant international human rights standards and their scope the Special Rapporteur would like to refer to the set of general criteria concerning religious symbols as outlined in her last report to the Commission on Human Rights (E/CN.4/2006/5, paras. 51-60).

### **Balancing of competing rights**

72. Concerning the issue of balancing competing rights, the Special Rapporteur would like to emphasize that there exists no hierarchy of discrimination grounds. She welcomes the fact that the mandate of the recently established Commission for Equality and Human Rights includes promoting understanding and encouraging good practices concerning relations between members of groups who share a common attribute in respect of age, disability, gender, race, religion or belief and sexual orientation. The approach taken by the pertinent anti-discrimination legislation seems to be quite balanced and there are specific exemptions or transitional provisions for organizations relating to religion and belief. Ultimately, balancing different competing rights can only be decided on a case-by-case basis taking into account the particular circumstances and implications of the case.

### **Provisions on offences related to religions**

73. While noting that blasphemy charges have rarely been successful in court cases during the last decades, the Special Rapporteur is concerned at the continued existence of the blasphemy offence. The common law still imposes a strict liability on everybody who intends to make a statement on a Christian topic, even though he cannot know at that stage whether or not he will be found to have blasphemed. The Special Rapporteur shares the criticism that the blasphemy offence is discriminatory because it favours Christianity alone and lacks a mechanism to take account of the proper balance with freedom of expression. She also agrees with the Assembly of the Council of Europe which recommended in its resolution 1805 (2007) that the Committee of Ministers ensure that national law and practice in Council of Europe member States be “reviewed in order to decriminalize blasphemy as an insult to a religion”. The Special Rapporteur would like to reiterate that a useful alternative to blasphemy laws could be to fully implement the protection of individuals against advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence according to article 20, paragraph 2, of the International Covenant on Civil and Political Rights.

74. In this regard and in view of the Government’s declarations made upon ratification of the ICCPR (see above paragraph 12), the Special Rapporteur welcomes that the Racial and Religious Hatred Act 2006 has recently entered into force in England and Wales. This closes the partial protection gap for people subjected to hatred because of their religion; they

previously did not have the same protection under the criminal law as those targeted because of their race, especially since courts and tribunals have defined “race” so as to include Jews and Sikhs but no other religions. The Special Rapporteur notes with appreciation that the Racial and Religious Hatred Act 2006 also refers to non-religious believers in defining the meaning of “religious hatred” as “hatred against a group of persons defined by reference to religious belief or lack of religious belief”. Furthermore, the Act tries to strike the delicate balance with freedom of expression by banning threatening words and behaviour rather than restricting discussion, criticism or expressions of antipathy, dislike, ridicule or insult.

75. In order to allow a profounder analysis and to avoid misinformation about the application of the new provisions, the Special Rapporteur recommends that the Government should regularly publish statistics of prosecutions and convictions for incitement to religious or racial hatred. The Government also needs to monitor the situation closely in terms of the background of the victims and perpetrators. In addition, the Special Rapporteur encourages the introduction of similar legislation against racial and religious hatred in Scotland.

#### Definition of religion or belief

76. The Special Rapporteur would like to emphasize that it is not the Government’s role to look for the “true voices of Islam” or of any other religion or belief. Since religions or communities of belief are not homogenous entities it seems advisable to acknowledge and take into account the diversity of voices. The Special Rapporteur reiterates that the contents of a religion or belief should be defined by the worshippers themselves while manifestations may be limited according to article 18, paragraph 3, of the International Covenant on Civil and Political Rights, for example to prevent worshippers from violating the rights of others (A/HRC/4/21, paras. 43-47). She fully agrees with Lord Nicholls of Birkenhead who recently stated: “Everyone, therefore, is entitled to hold whatever beliefs he wishes. But when questions of ‘manifestation’ arise, as they usually do in this type of case, a belief must satisfy some modest, objective minimum requirements. These threshold requirements are implicit in article 9 of the European Convention and comparable guarantees in other human rights instruments.”<sup>9</sup>

#### Vulnerable situation of women and converts

77. While the Special Rapporteur has not received any complaints of discriminatory State policies against women or converts on the basis of their religion or belief in the United Kingdom, yet many women are in a vulnerable situation within their own communities. The Special Rapporteur believes that equality must be all-encompassing and the argument by some religious leaders that traditions should override the rights of women is unacceptable.

78. Furthermore, the Special Rapporteur is concerned about the situation of converts who face problems with the community of their former religion. Even though some religious believers seem to accept a conversion only when it involves a change into their own religion such an approach does not acknowledge diversity and infringes on freedom of religion or

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<sup>9</sup> *R. (Williamson) v. Secretary of State for Education and Employment* (2005) UKHL 15, para. 23.

belief. In that regard both article 18 of the Universal Declaration of Human Rights and article 9 of the European Convention on Human Rights unequivocally state that the right to freedom of thought, conscience and religion also includes the freedom to change a religion or belief. The Special Rapporteur would like to emphasize that theistic, non-theistic and atheistic beliefs as well as the right not to profess any religion or belief are protected.

#### Refugees and asylum-seekers

79. The Special Rapporteur was informed that asylum claims in the United Kingdom, including those based on well-founded fear of religious persecution, are subject to rigid scrutiny and that few applications are successful in the initial decision or in the appeal procedure. Since there is no official data available on how many asylum-seekers sought asylum in the United Kingdom on grounds of religious persecution, further research and aggregated data collection may be useful in order to analyse the issues involved with regard to freedom of religion or belief. Such research by the Government, civil society or academia may also deal with the situation of individuals converting after their departure from their country of origin and their refugee *sur place* claims. The Special Rapporteur would like to reiterate that a post-departure conversion should not give rise to a presumption that the claim is fabricated and the immigration authorities should evaluate the genuineness of the conversion on a case-by-case basis taking into account the applicant's past and present circumstances. Furthermore, the Special Rapporteur stresses the importance of reliable interpretation services and the impartiality of interpreters in order to avoid serious disadvantages for the asylum-seekers.

80. With regard to country of origin information, the Special Rapporteur welcomes the fact that the Operational Guidance Notes as well as the Country of Origin Information Service are publicly available. For the whole asylum determination process it seems crucial not only to have accurate and objective but also up-to-date information on asylum-seekers' countries of origin. The Special Rapporteur would like to emphasize that case adjudicators should not exclusively base their decisions on these selected sources, especially when the situation in the country of origin or the region in question has allegedly changed since they were last updated. With regard to immigration detention or removal centres, especially when their management is contracted out to a private company, the Government should monitor if the religious needs of the detainees are in fact met.

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