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социальных и культурных прав,
включая право на развитие**

**Доклад Специального докладчика по вопросу о
свободе религии или убеждений Хайнера Билефельдта**

Добавление

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Приложение

[English only]

Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, on his mission to Cyprus (29 March-5 April 2012)

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I. Introduction

1. The Special Rapporteur on freedom of religion or belief visited the island of Cyprus from 29 March to 5 April 2012.¹ The visit involved the entire island with the purpose of identifying good practices as well as existing or emerging obstacles to the full enjoyment of freedom of religion or belief, pursuant to Human Rights Council resolutions 6/37 and 14/11.

2. The Special Rapporteur would like to express his gratitude to the Government of the Republic of Cyprus for inviting him and for extending a standing invitation to all special procedures. He appreciated the high degree of hospitality, cooperation and many substantial discussions, all of which took place in an open and constructive atmosphere. The Special Rapporteur is indebted moreover to all interlocutors from the whole island, from different sectors of society and from different religious communities who helped him better understand the complexities of the political and social situation on the island of Cyprus. The Special Rapporteur benefited immensely from listening to various narratives and open sharing of experiences and assessments of the situation with him in the capital as well as in cities and villages he visited during his field trips both in the southern part (including Larnaca and Limassol) and the northern part (including Kormakiti and Rizokarpaso).

3. In the southern part, the Special Rapporteur met with the Minister of Foreign Affairs and the Minister of Interior, the Special Adviser to the President of the Republic of Cyprus, the Presidential Commissioner and other high-ranking representatives of the Ministry of Education and Culture, the Ministry of Defence and the Department of Antiquities. The Special Rapporteur also met with the Parliamentary Representatives of the religious groups as well as representatives of the Office of the Commissioner for Administration (Ombudsman) and various municipal and local bodies.

4. In the northern part, the Special Rapporteur met with the de facto authorities, including the “Under-Secretary of the Ministry of Foreign Affairs”, the “President of the Nicosia Turkish Municipality”, the “President of Religious Affairs”, the “Special Representative of the President”, the “Speaker of the Legislative Assembly” and the “Legal Affairs Adviser”. He also met with the representatives from the “Evkaf Office” (in charge of religious foundations and related issues) and the “Immovable Property Commission”.

5. During the visit, the Special Rapporteur engaged in discussions with representatives of various religious communities in the northern and southern parts, including the Anglican Church, the Armenian Orthodox Church, the Bahá’í community, the Buddhist community, the Greek Orthodox Church of Cyprus, Jehovah’s Witnesses, the Maronite Church, the Muslim community, and the Roman Catholic Church.

6. He also met with civil society organizations working on different human rights issues, including lawyers who specialize in questions of conscientious objection, academics, journalists who cover various social issues throughout the entire island and members of the bi-communal Gender Advisory Team. The Special Rapporteur found it important to make direct contact with people, in both urban and rural areas of the entire island, and understand the situation of the freedom of religion or belief from their first-hand experiences. The Special Rapporteur would also like to highlight the helpful discussions held with the bi-communal Technical Committee on Cultural Heritage and the Office of the Third Member of the Committee on Missing Persons in Cyprus.

¹ In the present report, the Special Rapporteur specifically focuses on freedom of religion or belief throughout the island without entering into political debate.

7. The Special Rapporteur held a briefing and exchanged with members of the diplomatic community based in Cyprus as well as representatives of various United Nations entities. The Special Rapporteur would also like to warmly thank the United Nations Peacekeeping Forces in Cyprus (UNFICYP) for their valuable logistical support in relation to the visit. He is also grateful for the meetings with the Special Representative of the Secretary-General, and with the Special Advisor of the Secretary-General on Cyprus.

II. International human rights standards

8. The right to freedom of religion or belief is enshrined in various international human rights instruments.² The Republic of Cyprus has ratified the International Covenant on Civil and Political Rights and other international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women.

9. The Republic of Cyprus has also ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, whose article 3 provides that “no State Party shall expel, return (“*refouler*”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” This would apply to members of religious minorities who face or risk religious persecution. The Republic of Cyprus has also ratified the 1951 Geneva Convention relating to the Status of Refugees, which enshrines the principle of non-refoulement in its article 33.

10. The Special Rapporteur is also guided in his mandate by other relevant declarations, resolutions and guidelines of various United Nations bodies, including those of the Human Rights Council, the Commission on Human Rights, the General Assembly and the treaty bodies, in particular the Human Rights Committee. Of these instruments, of particular relevance 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 (1981 Declaration).

11. In addition, the Special Rapporteur takes into account human rights instruments adopted at the regional level containing provisions relating to freedom of religion or belief, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which the Republic of Cyprus is a party, in particular its article 9. In its policy towards minorities, the Republic of Cyprus is also bound by the Council of Europe’s Framework Convention for the Protection of National Minorities.

12. The legal framework of the Special Rapporteur’s mandate also includes relevant provisions of international humanitarian law, including the four Geneva Conventions of 12 August 1949 and their Additional Protocols as well as the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. As emphasized by the Human Rights Committee, the application of international humanitarian law and international human rights law is not mutually exclusive, but complementary.³

² See E/CN.4/2005/61, paras.15-20, and E/CN.4/2006/5, annex, for an overview of the mandate’s legal framework, and the “Rapporteur’s Digest on freedom of religion or belief”, available from <http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/Standards.aspx>

³ Human Rights Committee general comment no. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 11.

III. Domestic legal framework on freedom of religion or belief

13. Article 18 of the Constitution of the Republic of Cyprus, which entered into force in 1960, provides that every person has the right to freedom of thought, conscience and religion and that all religions are equal before the law. The use of physical or moral compulsion for the purpose of making a person change, or preventing a person from changing, his or her religion is prohibited (article 18 (5) of the Constitution) and until a person attains the age of sixteen the decision as to the religion to be professed by him shall be taken by the person having the lawful guardianship of such person (article 18 (7) of the Constitution).

14. The Republic of Cyprus has no official or State religion. Despite the secular nature of the State, however, the bi-communal structure which pervades the entire architecture of the 1960 Constitution implies a close relationship between the State and the traditionally dominant religions – in particular Greek Orthodox Christianity and Islam – which, according to article 2, intimately relates to the Greek Cypriot and Turkish Cypriot ethnic communities. According to article 2 (1), the Greek Community comprises all citizens of the Republic who are of Greek origin and whose mother tongue is Greek or who share Greek cultural traditions or who are members of the Greek Orthodox Church. Likewise, according to article 2 (2), the Turkish Community comprises all citizens of the Republic who are of Turkish origin and whose mother tongue is Turkish or who share Turkish cultural traditions or who are Muslims.

15. Although individual citizens are not required to identify themselves with a particular religious denomination, religion constitutes one of the defining characteristics of the two ethnic communities to which every citizen of the Republic of Cyprus is supposed to belong. Hence, article 2 (3) states that all Cypriot citizens – including those from ethnic, linguistic, cultural or religious origins other than the two dominant ones – have to associate themselves formally with one of the two ethnic communities. Moreover, religious communities also have the option of associating themselves collectively with one of the two ethnic communities. The Armenian Orthodox Church, the Maronite Catholic Church and the Roman Catholic (“Latin”⁴) Church in Cyprus have opted to belong to the Greek Community of Cyprus. The Constitution hence recognizes three minority religious groups: Armenian Orthodox, Maronite Catholics and “Latins”.

16. Pursuant to article 110 (1) of the Constitution, the Autocephalous Greek Orthodox Church of Cyprus has the exclusive right of regulating and administering its own internal affairs and property in accordance with its holy canons and charter. Article 110 (2) of the Constitution provides that “all matters relating to, or in any way affecting, the institution or foundation of Vakf or the vakfs or any vakf properties, including properties belonging to Mosques and any other Moslem religious institution, shall be governed solely by and under the Laws and Principles of Vakfs (ahkamul evkaf) and the laws and regulations enacted or made by the Turkish Communal Chamber”.

17. The three recognized minority religious groups (Maronite Catholics, Armenian Orthodox and “Latins”) are also exempt from taxes and are eligible, along with the Greek Orthodox Church of Cyprus and the Evkaf, for Government subsidies for their religious institutions. Other non-specified religious or belief-related communities do not benefit from similar advantages. Religious groups other than the five recognized ones do not need to register with the Government of the Republic of Cyprus; however, they must register as non-profit organizations if they desire to engage in financial transactions and maintain a bank account.

⁴ “Latins” is a term generally used in Cyprus for Roman Catholics who come from Italy, Malta, France, Portugal or countries with a Latin culture.

18. Beyond the sphere of State institutions, the secular nature of Cypriot law also includes a secular marriage and family law equally accessible to persons from different religious or belief-related orientations. This has also become an option for non-citizens. Indeed, given the predominance of religious personal status laws – and the lack of secular options – in some countries of the Middle East and Northern Africa, Cyprus has become a popular destination for those who wish to contract marriages beyond the confines of their respective denominational marriage and family laws.

19. In the northern part, the “Constitution” provides that every individual has freedom of conscience, religious faith and opinion (article 23 (1)); and that forms of worship and religious ceremonies and rites are free, provided they do not contravene public order or public morals or the laws enacted for these purposes (article 23 (2)). Furthermore, no person shall be compelled to worship; to participate in religious ceremonies and rites or to reveal his religious faith or belief; and no person shall be reproached for his religious faith or belief (article 23 (3)). Religious education and teaching is carried out under the supervision and control of the State (article 23 (4)). Moreover, no person shall exploit or abuse, in any manner whatsoever, religion or religious feelings or things considered sacred by religion for the purpose of founding, even though partially, the basic social, economic, political or legal order on religious precepts or for the purpose of securing political or personal advantage or influence (article 23 (5)).

IV. Religious demography

20. The Cypriot religious landscape has traditionally been dominated by the Greek Orthodox Church of Cyprus and Sunni Islam. Although recognizing the symbolic primacy of the Patriarch of Constantinople, the Greek Orthodox Church of Cyprus has the status of an autocephalous church, tracing its origins back to the first century A.D. During Ottoman rule from 1571-1878, Sunni Islam became the second largest religion of the island. In addition, the three officially recognized religious minority churches which have collectively associated themselves with the Greek community – Armenian, Maronite and “Latin” – have also continued to play an important role in society and public life, as part of the traditional religious mosaic of Cyprus.

21. As a result of violent conflicts in the 1960s and following the military intervention by Turkish troops in 1974 no more than a few hundred Christians continue to live in the northern part (see V. C. 1. below). The number of Muslims living in the southern part is also small (see V. C. 2. below).

22. According to the 2001 census, 94.8 per cent of the population living in the southern part are Christian Orthodox. All other religious groups combined constitute around five per cent of the population in the southern part, including Roman Catholic (1.5 per cent), Church of England (1.0 per cent), Muslim (0.6 per cent), Maronite Catholic (0.6 per cent), Armenian Orthodox (0.3 per cent) and other religions or beliefs.

23. At present the Maronite community in Cyprus is a very small community forming an integral part of the wider Greek Cypriot community, mainly through inter-marriage, but at the same time continuing to exist as a separate community. The Maronite community today numbers around 6,000 people scattered all over the island, including in the northern part in Kormakiti and Karpashia.

24. About 3,500 Armenians currently live in the southern part of the island, mainly in Nicosia, Larnaca and Limassol.

25. The estimated number of “Latins” ranges from 700 in official records to about 2,000 including those non-registered. There are also Roman Catholics who come from Central

America and other immigrants from the Philippines and Sri Lanka, making a total of around 15,000 people.

26. The Jehovah's Witnesses have 11 Kingdom Halls in the southern part and two in the northern part. There are about 2,500 of them on the island.

27. As a legacy of British colonial rule, the Anglican Church is present on the island. Currently the number of its followers is estimated to be around 180 in the northern part and 400 in the southern part. Members of the different Protestant denominations include Baptists, Methodists and Pentecostals. Many of their members do not have Cypriot citizenship.

28. The Jewish community, numbering approximately 2,000, includes a very small number of native Jewish Cypriots and a greater number of Israeli, British and other European Jews who are part of the foreign resident community.

29. There are about 200 Bahá'ís living in Cyprus, both in the northern and southern parts, using three Bahá'í centres. In addition, about 20,000 Buddhists live on the entire island: these are mainly immigrants from Viet Nam, China, India, Bangladesh, Sri Lanka, the Philippines and Nepal.

30. Atheism, at least in an organized form, does not seem to constitute a widespread phenomenon in Cyprus. However, the Special Rapporteur was told that some currents in Cypriot society are not particularly interested in religious affairs.

31. It is estimated that 99 per cent of the population living in the northern part is Muslim, most following the Hanafi school within Sunni Islam. However, due to far-reaching demographic changes in the northern part, the Muslim population also includes an estimated number of up to 10,000 Alevis, mostly migrant workers from Turkey. There are also followers of other schools of Islam living there.

32. As a result of demographic changes due to the settlement of people from Turkey after 1974, the general attitude towards religion in the northern part seems to have changed to a certain degree. While the traditional attitude of Turkish Cypriots vis-à-vis religion has often been described as rather dispassionate, parts of the population living in the northern part whose family roots are in mainland Turkey reportedly display a more traditional pattern of Islamic practice.

V. Issues of concern to the mandate

A. The impact of the Cyprus conflict on freedom of religion or belief

33. Virtually all interlocutors with whom the Special Rapporteur had a chance to speak agreed that the Cyprus conflict is not, per se, a religious conflict and that the political tensions at the heart of the conflict did not chiefly stem from religious differences. For centuries, people of diverse religious orientations – in particular Christians and Muslims – by and large lived peacefully side-by-side, an accomplishment which surprisingly seems to have survived the various political crises and conflicts that have affected the island, especially in the years before and after independence. When talking with representatives of various religious communities, as well as people from different urban and rural areas in the country, the Special Rapporteur received the strong impression that religious diversity has been embraced by the population at large as a hallmark of Cyprus past and present.

34. Although the Cyprus conflict is of a political nature, religion does play a role in that conflict, since it has been seen as a major defining factor of the two ethnic communities on which the "bi-communal" structure of the State is based. As described above, this is even

reflected in the 1960 Constitution, which formally connects ethnic and religious identities. This connection obviously continues to have great significance for understanding the present political situation in Cyprus. As a result, political positions taken by high-ranking religious representatives, in particular the Greek Orthodox Archbishop and the Islamic Mufti, can have an enormous influence on the development of the relationship between the two official ethnic communities.⁵ Although there seems to be a general readiness on the part of religious leaders to work towards reconciliation, the Special Rapporteur also noticed signs of resentment and distrust, possibly stemming from a lack of interreligious dialogue. He generally experienced varying attitudes towards interreligious communication. Whereas the majority of interlocutors spoke positively about the need for more dialogue and cooperation, some representatives of religious communities insisted on first of all preserving their own religious or cultural interests, even at the expense of possible deterioration in relations with other communities.

35. The close connection between religion and ethnicity has repercussions on the perception of the situation of historical religious monuments in various parts of the island. Questions of archaeology and of the preservation of cultural heritage are generally seen through the lens of the Cyprus conflict and hence can become highly politicized. For instance, the deplorable condition of hundreds of Christian monuments in the northern part – partially due to deliberate acts of vandalism or even looting and partially as a result of neglect – is sometimes perceived as a continuation of the political conflict, possibly even with the long-term purpose of eliminating the traces of Christianity in the northern part. At the same time, from the perspective of the northern part, matters such as insufficient maintenance of Islamic cemeteries and restricted access to historical mosques located in the southern part at times tend to be associated with deliberate policies of humiliating the Muslim population. The Special Rapporteur found it impossible to assess the various accounts presented to him in this regard. However, he noticed a tendency towards “over-politicized” perceptions of existing problems.

36. The Special Rapporteur highly appreciates the important work conducted by the Bi-Communal Technical Committee on Cultural Heritage to tackle the numerous unsettled issues in a spirit of tolerance, cooperation, dialogue and respect for differences. As well as helping to preserve the cultural wealth of the entire island, the approach taken by the Bi-Communal Technical Committee on Cultural Heritage may also contribute to overcoming possibly “over-politicized” interpretations of the situation of historical monuments which might poison the relationship between the ethnic and religious communities in Cyprus. The Committee decided to start two restoration pilot projects, agreed to compile a list of the immovable cultural heritage of Cyprus, and decided to create an educational interactive programme that would give the younger generation of Turkish Cypriots and Greek Cypriots the opportunity to learn about each other and the cultural heritage of the island. Furthermore, it agreed to establish an Advisory Board for the protection of cultural heritage on the entire island and form a joint team of experts from the northern and southern parts to prepare the plans for emergency support measures and restoration projects for priority monuments. On 21 February 2012, the Committee agreed to proceed with immediate action for emergency support for the Monastery of Apostolos Andreas as a first stage and to subsequently undertake the restoration of the monument according to the study prepared by the University of Patras.

37. As a result of the Cyprus conflict, much attention is focused on the situation of Christian communities living in the northern part and – albeit to a much lesser degree – the

⁵ According to the State protocol, the Archbishop of Cyprus is considered as number 2 in the order of precedence of the Republic of Cyprus, whereas the heads or representatives of other religious groups are placed at number 24. (http://www.mfa.gov.cy/mfa/mfa2006.nsf/protocol02_en/protocol02_en?OpenDocument).

situation of members of Muslim minorities residing in the southern part. The Special Rapporteur sensed a tangible difference between the narratives he heard from those people themselves, including serious concerns and worries which they voiced, and the political language typically used in the capital to describe their situation.

38. For all the existing frustration about the protracted conflict in Cyprus and many unsettled issues, the vast majority of the interlocutors nonetheless agreed that the political situation has improved in recent years. Improvements chiefly originate from the opening of a number of crossing points since April 2003, which allows people – albeit not all – to move about more or less freely and have access to religious sites, including churches, mosques and cemeteries, previously inaccessible to them. In particular members of religious minorities who had lived in a situation of isolation for more than a generation can now remain in contact with family members, friends and other community members from whom they had been separated for decades. The opening of the crossing points thus clearly has beneficial effects on the enjoyment of freedom of religion or belief.

B. Religion as part of identity politics

39. Given the close connection between religion and ethnicity, religion has become an important part of identity politics in Cyprus. From the perspective of freedom of religion or belief, identity politics typically harbours two risks: on the one hand, the risk of prioritizing collective manifestations of religious identity over more personal religious or belief-related convictions, with possible negative repercussions on the freedom of the individual; and on the other hand, the risk of marginalizing those religions and beliefs that do not fit into the official portrayal of the nation's identity.

40. For all the strong emphasis placed on collective religious identities in Cyprus, the Special Rapporteur has not found evidence that this negatively affects the individual enjoyment of freedom of religion or belief. People can live freely in accordance with their convictions and without undue interference from the Government of the Republic of Cyprus. Interreligious marriages, albeit not a widespread phenomenon, are possible and do exist – not least owing to the secular marriage and family law accessible to all people irrespective of their religious backgrounds. One significant possible exception that requires closer scrutiny is the situation in schools in which religious instruction is not always effectively connected with the possibility of opting out, a situation which may lead to undue infringements of the individual exercise of freedom of religion or belief (see D. below). The situation in the northern part is similar in that people are generally free to live in accordance with their own convictions. However, members of different religious minorities (Christian and others) have reported incidents of “police” presence in their meetings, which can have intimidating effects. A topic that has triggered some debate in the northern part concerns the status of religious instruction in schools (see D. below). Another problem that affects the entire island concerns the limited, even denied, accessibility of cemeteries, religious sites and places of worship.

41. The understanding of the Cypriot national identity obviously accommodates diversity, including religious diversity. However, those religious communities that do not fit into the historic mosaic clearly receive less public attention. As a consequence, they receive less funding and do not enjoy the same privileges as those officially recognized. The Special Rapporteur also heard about difficulties that they encounter when trying to purchase real estate which they may need to establish places of worship or cemeteries.

C. The situation of different religious communities

1. Christian minorities in the northern part

42. While Greek Orthodox Christians constitute by far the largest religious community in Cyprus, their members in the northern part have dwindled to a small minority of only a few hundred people, many of whom are elderly. When travelling to their villages, the Special Rapporteur visited a number of derelict churches, some of which were sadly misused by the village youth for sporting purposes such as football games. Others have been turned into mosques, community halls or youth centres, or are used for storage. The Special Rapporteur saw the deplorable conditions of historic monuments, including the Apostolos Andreas monastery, which requires repairs and restoration. Some churches had obviously been exposed to vandalism and looting. People from Christian Orthodox villages showed him cemeteries where many crosses and tombstones had been broken. Reportedly, some acts of vandalism had occurred recently. Members of the Christian Orthodox communities seem to have little trust in the local “police” and thus generally refrain from asking for protection or remedies.

43. One of the worries highlighted by the Christian Orthodox village population in the northern part was the limited presence of priests in the area. The Special Rapporteur was told that they are only available once or twice a month and sometimes not even for religious services at Easter or Christmas. He also heard reports about intimidation by “police” taking photographs and videos of worshippers. When asked about the disruption by the “police” of a Christmas ceremony in 2010,⁶ however, the worshippers declared this had been an atypical, isolated incident in recent years.

44. Even though the Christian Orthodox community runs a Greek school in the northern part, there is a general feeling that young people will likely leave the villages and that the community has no long-term prospects in the area. In addition, unsettled property issues and fear of deprivation of real estate, in particular in connection with a restrictive and unfair handling of inheritance claims by the “administration” in the northern part, continue to cause bitterness in the community.

45. Members of the Greek Orthodox minority in the northern part opined that their condition has clearly improved in recent years, owing chiefly to the opening of the crossing points between northern and southern parts since April 2003. They can travel freely and receive visits from family members, relatives and friends living in the southern part. Given these opportunities, they no longer feel isolated, which is an enormous improvement in comparison with their situation prior to 2003. Moreover, restrictions on holding religious services in churches – still deemed necessary by the de facto authorities for various “security reasons” – have recently been relaxed to a certain degree.⁷ Since March 2011, the minimum number of days required to make an application for religious services has been reduced from 30 to 10 working days and the de facto authorities indicated that Greek Cypriots living in the northern part could hold religious services on any day of the week without permission if they were conducted by two designated Greek Cypriot priests at three churches located near the areas where they reside.⁸ The Special Rapporteur saw the more or less acceptable conditions of a number of churches currently used for religious purposes by the Christian Orthodox community in the northern part. Also, relations with the Turkish Cypriot neighbouring population seem to have improved, as people on both sides have, mostly on their own initiative, started to learn the language of the other community.

⁶ A/HRC/18/51, p. 53 (allegation letter of 17 February 2011).

⁷ Ibid. (reply of 3 May 2011).

⁸ A/HRC/19/22, para. 35.

46. A particular issue which was brought to the attention of the Special Rapporteur concerns the Greek Orthodox Bishop of Karpasia, Christoforos.⁹ The de facto authorities have put his name on a “stop-list” since January 2012, with the result that he has been prohibited from visiting his Bishopric which lies in the northern part; having no regular access to his Bishopric, he thus cannot discharge his religious obligations in the northern part. After the conclusion of the Special Rapporteur’s mission, he received additional information regarding the rejection of the Bishop of Karpasia’s application for a permit to perform a religious service with the Reverend Zacharias in Agia Triada on 4 June 2012. Similarly, the Community Council of Angastina was denied its request to hold a Divine Liturgy at the Church of Ayios Therapon in Angastina village in October. The Special Rapporteur also received allegations that a Greek Cypriot cemetery in Trachoni village was flattened in order to build a “police” station and that more than 50 places of worship, which are located within the military camps or zones of the Turkish army, are totally inaccessible. Furthermore, the Church of the Virgin Mary (Panagia) in the village is reportedly in poor condition with ruined graves in its churchyard. In addition, the Greek Orthodox Church of Cyprus claims that many properties in the northern part have been destroyed, vandalized, looted or stripped of their religious function and that ecclesiastical vessels have been destroyed or sold.

47. The Special Rapporteur would like to stress that freedom of religion or belief includes the freedoms to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;¹⁰ to train, appoint, elect or designate by succession appropriate leaders;¹¹ to celebrate holidays and ceremonies in accordance with the precepts of one’s religion or belief;¹² and to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.¹³ In addition, pursuant to article 4 of the 1954 Hague Convention for the Protection of Cultural Property During Armed Conflict, the High Contracting Parties undertake to “prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property”. Furthermore, the Third Vienna Agreement of 2 August 1975 provides that Greek Cypriots in the north “will be given every help to lead a normal life, including facilities for education and for the practice of their religion as well as [...] freedom of movement in the north”.

48. Members of the Maronite community living in the northern part, who constitute a tiny minority of not much more than 100 people, emphasized their generally good relations with members of other communities and denominations living in the vicinity. After the opening of the crossing points, they no longer feel isolated. Indeed, many Maronites residing in the southern part travel regularly to their villages in the northern part, in particular on weekends and during holidays, a development which helps to sustain good relations within their larger community. The few children and young people living in the villages attend a Maronite school in the southern part to which they commute on a daily basis.

49. Members of the Maronite minority in the northern part nonetheless also raised the issues of ongoing restrictions. For instance, they do not have regular access to some of their traditional churches and monasteries which are located in military compounds. One of the traditional churches was recently looted, and the condition of cemeteries is far from satisfactory. Compared with members of the Orthodox community, the Maronites seem to have somewhat better relationships with the local “police”, although they too reported cases

⁹ A/HRC/18/51, p. 93 (urgent appeal of 21 April 2011).

¹⁰ Article 6 (a) of the 1981 Declaration.

¹¹ *Ibid.*, article 6 (g).

¹² *Ibid.*, article 6 (h).

¹³ *Ibid.*, article 6 (i).

of unwanted police “protection” and surveillance by the de facto authorities. The Special Rapporteur himself witnessed the presence of an individual who tried to observe one of his meetings with Maronite villagers and learned that the individual was a plain clothes “police” officer.

50. Reportedly, no members of the Latin and Armenian communities currently reside in villages in the northern part. The Special Rapporteur visited the Armenian monastery of St. Makar, which, after decades of neglect, is in very poor condition and partially inaccessible. The restoration work in the Armenian Church and Monastery complex in the north of Nicosia was completed in July 2012 with funding from the international community, and the Special Rapporteur strongly recommends that in the future these sites be used also for religious purposes and be accessible to the Armenian community.

51. The Special Rapporteur discussed the situation of Christian minorities in the northern part with representatives of the de facto authorities. With regard to the poor condition of many churches, he was told that despite limited financial resources the de facto authorities have spent almost USD 400,000 on cultural restoration projects in the last three years. However, the de facto authorities also mentioned incidents of vandalism and looting which they would investigate. When asked about administrative restrictions concerning access to churches and the holding of public religious ceremonies, they referred to various “security” issues, such as preventing damage to historic churches, protecting people from injuries they might incur when meeting in old and partially dilapidated buildings, and reducing the risk of political escalation. With regard to the allegations concerning the Bishop of Karpasia, the de facto authorities noted that he was “well-known for his past statements aimed at stirring [up] enmity and hatred among our Greek Cypriot community against the Turkish Cypriot people” and that his title was not recognized by the de facto authorities.¹⁴ During the mission, they also argued that the purpose of “police” presence in and around religious gatherings was to provide security for the people, including Christian minorities. In his response the Special Rapporteur, inter alia, expressed his concern about the intimidating consequences of some “police” conduct, in particular filming and videotaping of worshippers, and he recommended that the de facto authorities revise the existing rules concerning accessibility of places of worship and restrictions on holding religious services. He also called upon the de facto authorities not to unduly restrict the right of religious leaders to visit their communities in the northern part.

52. The Special Rapporteur would like to reiterate that any restrictions deemed necessary on manifestations of freedom of religion or belief must meet all the criteria of article 18 (3) of the International Covenant on Civil and Political Rights, according to which “freedom to manifest one’s religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others”. Thus, for instance limitations imposed on the right to jointly worship in their traditional religious buildings require a legal basis, they must pursue one of the legitimate aims explicitly mentioned in article 18 (3), they should be narrowly defined and they must be proportionate.

2. Muslim minorities in the southern part

53. Muslims residing in the southern part do not live in closed village communities, but rather with larger communities based in Larnaca and Limassol. Hence their situation differs structurally from the living conditions of Christian Orthodox and Maronite communities in the northern part, who have their own traditional villages. Muslims in the southern part comprise not only Turkish Cypriots but also migrants mainly from Arab and South-Asian

¹⁴ See A/HRC/18/51, p. 93 (reply of 3 May 2011).

backgrounds. The Special Rapporteur visited a number of mosques in which people from different linguistic backgrounds were gathering.

54. The main concern expressed in discussions with members of Muslim minorities in the southern part relates to a lack of professional religious education of their youth. Thus people have to organize religious instruction themselves in the mosque or in private homes – something that many deplore. They also complained about the destruction of more than 30 mosques and inadequate funding for the maintenance of mosques and cemeteries, although the Government of the Republic of Cyprus indicated that the Turkish Cypriot Properties Management Service spent EUR 504,331 in 2011 on the restoration and maintenance of Muslim places of worship in the southern part. However the Special Rapporteur saw one of the Islamic cemeteries which lacked the minimum infrastructure – for instance, running water for washing dead bodies – required for conducting dignified burials in accordance with religious rituals and strictures. Accessibility is also a problem in some mosques, which are open only on Fridays. The community reportedly has no access to these mosques on other days even if they wish to worship or carry out some repair work themselves. There were reports of a kiosk set up next to the mosque selling alcohol and incidents of drunken people breaking the mosque windows. Furthermore, the current opening hours of the Hala Sultan Tekke in Larnaca, which is classified as a monument, restrict the accessibility of this mosque for worshippers, including the Imam, and prevent Muslims from regularly praying five times a day at this religious site.

55. The Special Rapporteur was also told that not all Muslims living in the northern part are able to visit the Hala Sultan Tekke or other mosques in the southern part. Settlers from mainland Turkey and their descendants, who constitute the majority population in the northern part, cannot cross the checkpoints, because the Government of the Republic of Cyprus regards this as an issue of “illegal colonization” with “negative repercussions on the efforts for finding a viable solution to the Cyprus problem”. Pilgrimages from the northern part to the Hala Sultan Tekke have thus been stopped, with the result that those who have not entered the Republic of Cyprus from the “legal points of entry” are prevented from crossing the checkpoints if they wish to visit Hala Sultan Tekke and other religious sites.

56. The Special Rapporteur discussed the situation of Muslim minorities with representatives of various Government institutions, including the Ministry of Education, the Ministry of the Interior and institutions in charge of preserving the cultural heritage of the country. He heard about new programmes of religious education for Muslim children which were in the process of gradual implementation. With regard to the question of travel restrictions which prevent some people from going on pilgrimages to Muslim places of worship in the southern part, the Special Rapporteur would like to reiterate that freedom of religion or belief has the status of a universal human right whose enjoyment does not depend on any specific citizenship status. He also recommends further attempts to preserve and cherish the country’s cultural-religious heritage in such a way that believers can also use the places of worship for specific religious purposes, such as prayers and services.

57. Shortly after the conclusion of the mission, the Special Rapporteur received information regarding an arson attack on the Köprülü Mosque in Limassol on 14 April 2012. The Evkaf administration inspected the premises and found that the front door, window and roof of the gallery had been completely destroyed by the fire; the marble inscription on the mosque entrance door was also missing. Reportedly, there had been similar incidents earlier and the perpetrators were unknown. However, according to the Government of the Republic of Cyprus, the Department of Antiquities had assessed that the damage was not of archaeological significance, indicating that the works for their repair had already begun. The Government of the Republic of Cyprus strongly condemned the intentional actions of arson and destruction of public and private property and had given clear directions to the police to fully investigate the incident and find the perpetrators.

3. Other religious minorities

58. Religious communities outside of the ambit of bi-communalism – such as Anglicans, Bahá'ís, Buddhists, Jehovah's Witnesses, Protestants of different denominations and others – generally receive little attention, although their members together account for tens of thousands of people living in Cyprus. In general, however, they are able to practise their religion without many restrictions.

59. Nevertheless, the Special Rapporteur received credible information about problems concerning the construction of places of worship for which licences in some cases had been pending for many years. One group particularly affected by this problem is the Buddhist community, which has yet to secure a suitable place to build its temple in the southern part. In addition, acquiring land for new cemeteries or using the municipal burying grounds has proved to be difficult for some religious minorities, such as Jehovah's Witnesses and Buddhists. Even though local authorities are obliged to provide space for burial purposes for all the deceased without prejudice to religion, Buddhists in some cases had to “export the dead” to their countries of origin. Religious personnel from abroad also face challenges relating to cumbersome procedures for renewing their short-term visas for Cyprus.

60. The Special Rapporteur would like to emphasize that freedom of religion or belief implies the right to develop a religious infrastructure, including through purchasing real estate needed to build places of worship, schools, training institutions or cemeteries. Moreover, freedom of religion or belief has a broad scope of application and includes traditional and non-traditional, large and small communities. Having the status of a universal human right, freedom of religion or belief should be implemented in a non-discriminatory manner.

61. The Special Rapporteur received reports about cases in the southern part where people seeking asylum on religious grounds – including Bahá'ís from the Islamic Republic of Iran – were deported to their countries of origin despite a serious risk of religious persecution. Shortly after the conclusion of his mission, the Special Rapporteur also sent an urgent appeal to the Government of the Republic of Cyprus concerning the alleged imminent deportation to the Islamic Republic of Iran of a Muslim woman who had converted to the Bahá'í faith in Cyprus.¹⁵ In this context, he would like to reiterate that extraditions or deportations which can expectedly result in violations of freedom of religion or belief may themselves amount to a violation of this human right. In addition, they may violate the principle of non-refoulement enshrined in article 33 of the 1951 Geneva Convention relating to the Status of Refugees and in article 3 of the Convention against Torture. The Special Rapporteur also received allegations that meetings of Bahá'ís in the northern part were frequently attended by “police” officers and at times filmed.

¹⁵ See A/HRC/21/49, p. 39 (urgent appeal of 11 May 2012). The Government of the Republic of Cyprus replied that the Head of the Asylum Service and the Reviewing Authority for Refugees held that the asylum seeker had not succeeded in proving that she had a real fear of being persecuted in Iran, as she had addressed the Iranian Embassy in Cyprus even after applying for international protection, e.g. in order to file for divorce (A/HRC/21/49, p. 39, reply of 30 May 2012). However, the Special Rapporteur would like to stress that such contacts with the Embassy in Cyprus do not necessarily mean that the asylum seeker's life or freedom would not be threatened on account of her religion if she was ultimately returned to her country of origin. The critical assessment is whether the claimant has a well-founded fear of persecution at the time of the examination of the claim and what the consequences of return to the country of origin would be (see A/62/280, para. 63).

D. Freedom of religion or belief and school education

62. A sensitive issue raised in many discussions concerns school education, in particular religious instruction based on the tenets of a particular faith. The Special Rapporteur was told that Orthodox Christianity is taught as part of the mandatory curriculum in public schools in the southern part. Students or parents can apply for an exemption which is generally granted; however, an exemption reportedly needs to be justified by revealing one's religion or belief in a letter to the Ministry of Education. Furthermore, due to a lack of rooms or resources in certain schools, children exempted from religious instruction may have to remain in the classroom, which means that in practice they are still exposed to religious instruction that may go against their convictions. According to the information received, Jehovah's Witnesses are required to apply annually for exemption from religious instruction or ceremonies in order to convince the authorities that they do not participate in such religious activities. In some cases, exemption procedures have reportedly been rather cumbersome.

63. The Special Rapporteur heard reports about confessions to Orthodox priests being regularly organized in public schools and taking place during school hours. This practice seems highly problematic given the specific situation of the school, including the youth of students, the authority of teachers and headmasters, possible peer pressure and the relevance of school education for young people's life opportunities. It can conceivably even amount to a violation of the internal dimension of a person's religious or belief-related conviction (*forum internum*), which is protected unconditionally.¹⁶ Pursuant to article 18 (2) of the International Covenant on Civil and Political Rights, no one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice.

64. The Ministry of Education informed the Special Rapporteur about new teaching programmes which aim at familiarizing students with the diversity of religions and cultures in Cyprus and elsewhere. The Special Rapporteur was impressed to hear about the complex methodology, including giving the teachers freedom to adopt new teaching materials which should enable students to look at different traditions with the purpose of developing a sense of "multi-perspectivity" and critical thinking. In Limassol, Roma students are offered a special programme of Turkish language and history. There are also attempts to promote a mixed school system where Turkish Cypriot and Greek Cypriot students study together with a view to facilitating tolerance and understanding.

65. In the northern part, there have been public debates on the question of mandatory religious and moral instruction, largely based on Islamic teachings, in public schools. As far as the Special Rapporteur could determine, parents or students do not seem to have an option of exemption, which would be an aggravating factor in this context. Reportedly, the largely secular teachers union firmly opposes any religious instruction in public schools in the north.

66. The Special Rapporteur would like to reiterate that religious instruction in the public school system must always go hand in hand with specific safeguards on behalf of members of religious or belief minorities, including theistic, non-theistic or atheistic minorities. A minimum requirement would be that members of minorities have the possibility of "opting out" of religious instruction that goes against their own convictions. Such exemptions should also be available for persons adhering to the very same faith in which instruction is given, whenever they feel that their personal convictions – including dissenting convictions – are not respected. Moreover, the possibility of opting out should not be linked to onerous bureaucratic procedures and must never carry with it *de jure* or *de facto* penalties. Finally,

¹⁶ See A/67/303, para. 22; A/HRC/16/53, para. 53.

wherever possible, students not participating in religious instruction due to their adherence to a different faith should have access to alternative courses provided by the school.

E. Conscientious objection to military service

67. In the southern part, the Special Rapporteur had the impression that the topic of conscientious objection to military service does not receive much public attention and that the few existing cases have not led to larger public discussion. Those who refuse military service for reasons of conscience are given the option of doing either unarmed military service (special service) or alternative civilian service. Unarmed military service is carried out in the National Guard and conscientious objectors neither carry weapons nor participate in any activities relating to weapons. Unarmed military service is between three and five months longer than the period of time the individual would have to serve in the military service. The alternative civilian service is carried out in the public sector within areas relating to the protection of the environment or in the social sector. Alternative military service is between seven and nine months longer than the period of time for military service. Since 2008, approximately 10 to 12 conscientious objectors each year have reportedly served at various public offices in the southern part.

68. In the northern part, there seem to be no provisions dealing with this issue, which means that conscientious objectors face the risk of punitive measures. The Special Rapporteur did not succeed in receiving any details about the numbers of conscientious objectors in the northern part and the consequences they may confront for refusing to serve in the military. However he received information regarding one person who declared his conscientious objection in 2009 and has refused to participate in the annual reservist service in the northern part. In December 2011, his case was transferred from a “military court” to the “constitutional court” in the northern part and is currently pending. Five further individuals have reportedly submitted written refusals to take part in military training in the north.

69. The Special Rapporteur would like to reiterate¹⁷ that a right to conscientious objection can be derived from article 18 of the International Covenant on Civil and Political Rights, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one’s religion or belief. Conscientious objectors should be exempted from combat but may be required to perform comparable alternative service of various kinds, which should be compatible with their reasons for conscientious objection. They may also be asked to perform alternative service useful to the public interest, which may be aimed at social improvement, development or promotion of international peace and understanding. The decision concerning their status should be made, where possible, by an impartial tribunal set up for that purpose or by a regular civilian court, with the application of all the legal safeguards provided for in international human rights instruments. There should always be a right to appeal to an independent civilian judicial body. The decision-making body should be entirely separate from the military authorities and the conscientious objector should be granted a hearing, entitled to legal representation and able to call relevant witnesses. With regard to time limits for applying for conscientious objector status, the Special Rapporteur would like to emphasize that conscientious objection may develop over time, even after a person has already participated in military training or activities, and thus strict deadlines should be avoided.

¹⁷ See Human Rights Committee general comment no. 22 (1993) on the right to freedom of thought, conscience and religion, para. 11; E/CN.4/1992/52, para.185; A/HRC/6/5, para. 22.

VI. Conclusions and recommendations

A. Conclusions

70. The Special Rapporteur is convinced that the political conflict in Cyprus does not originate from religious differences per se. For centuries, people of different religious orientations – in particular Christians and Muslims – have by-and-large lived peacefully side by side, an accomplishment which surprisingly seems to have survived, to a certain degree, the various political crises and conflicts that have affected the island. Rather, political tensions which continue to affect the island may have an impact on the full enjoyment of freedom of religion or belief for everyone, as well as on the relationship among various religious communities, since ethnic and religious affiliations largely overlap and are even seen by many as being inextricably intertwined.

71. Almost all interlocutors with whom the Special Rapporteur had a chance to interact during his mission agreed that the situation has clearly improved in recent years, with positive implications also for the enjoyment of freedom of religion or belief throughout the entire island. This has chiefly to do with the opening of a number of crossing points since 2003, which allows people – albeit not all – to move about more or less freely and have access to religious sites, including churches, mosques and cemeteries, previously inaccessible to them. In particular, members of religious minorities who had lived in a situation of isolation for many years are now able to be in contact with family members, friends and community members from whom they had been separated. The Special Rapporteur heard moving stories about family reunification and people surprisingly discovering common ties with others when visiting their traditional villages. Although he was informed about some incidents and attacks, for example in the context of sporting events, several interlocutors pointed out that the opening of the crossing points in 2003 had fortunately not led to increased physical violence between the communities. This in itself is a very positive phenomenon, given the traumatic history of war, expulsion, displacement and continuing deprivation of property as well as the destruction and desecration of religious sites.

72. The overall picture of the island is largely shaped by the reality of bi-communalism, which has repercussions for the situation of freedom of religion or belief. The basic features of bi-communalism were enshrined in the 1960 Constitution of the Republic of Cyprus. With regard to religion, bi-communalism mainly refers to the Greek Orthodox Church (plus the three official religious minorities of Armenians, Maronites and “Latins”, which have associated themselves collectively with the Greek Community) and Islam. While this understanding of bi-communalism undoubtedly reflects a historic and contemporary reality, religious diversity on the entire island has de facto developed beyond the confines of this concept. For example, migrants, settlers and their descendants have altered the religious landscape in the northern and southern parts, and new religious communities have arrived on the island. The Special Rapporteur also heard about disagreements between secular-minded people and more conservative religious believers.

73. The Special Rapporteur addresses several practical recommendations to the Government of the Republic of Cyprus, to the de facto authorities in the northern part and to other stakeholders. He would like to reiterate the importance of ensuring that there are no human rights protection gaps and that all persons can effectively enjoy their fundamental rights, including freedom of religion or belief, wherever they live.

B. Recommendations to the Government of the Republic of Cyprus

74. The Government of the Republic of Cyprus should further develop its existing policy of appreciating religious and belief diversity with a view to including small communities as well as communities which do not have a long historical presence in Cyprus. In order to guarantee everyone's full and non-discriminatory enjoyment of freedom of religion or belief, members of those religious communities that fall outside the ambit of those religions which have been historically present in the island should also benefit from existing subsidies, including financial support for denominational schools, presence in public media and coverage in school curriculum and teaching materials.

75. Any existing undue obstacles, in particular for small and non-traditional religious or belief communities, to establishing religious buildings, places of worship or cemeteries and purchasing real estate for such purposes should be analysed and removed.

76. The Government should better support the Muslim communities in the southern part, in particular by offering religious education for Muslim students on the basis of voluntary participation, and further subsidizing the infrastructure needed for upholding religious community life. This includes functioning cemeteries for holding dignified burials.

77. The Government should respect pilgrimages, including visits to the Hala Sultan Tekke, as an inextricable part of freedom of religion or belief, whose rank as a universal human right should not be supplanted by citizenship issues.

78. The Government should ensure that during school education no student is exposed to religious instruction that goes against her or his conviction (or the convictions of parents and, where applicable, legal guardians). The right to an exemption from religious instruction should be guaranteed, not only de jure but also in practice.

79. It should also be ensured that students are not exposed to pressure to participate in religious rituals, including confessions to a priest, in the context of their school education. School education should include objective information on the diversity of religions and beliefs, thus promoting multi-perspectivity, as currently envisaged in programmes designed by the Ministry of Education and Culture.

80. The Government should ensure that asylum seekers are not deported to a country in which they may face serious risk of religious persecution, in full compliance with the principle of non-refoulement and applicable international standards.

C. Recommendations to the de facto authorities in the northern part of the island

81. The de facto authorities should instruct the "police" in the northern part to refrain from any behaviour which could have an intimidating effect on religious communities' activities, for instance filming or videotaping assemblies of believers, in particular members of Christian or other minorities.

82. The de facto authorities should revise existing restrictions in the northern part on the accessibility of religious buildings, sites or cemeteries and the holding of religious services in strict compliance with article 18 (3) of the International Covenant on Civil and Political Rights and article 1 (3) of the 1981 Declaration.

83. The de facto authorities should diligently investigate allegations of vandalism of religious sites and cemeteries in the northern part. This should help to build a trustful relationship with religious minorities, in particular Christian minorities, living in the northern part.

84. The de facto authorities should handle heritage claims of Christian minorities in the northern part, including real estate issues, in a fair and transparent manner. This would be an important signal for the Christian minorities that they have long-term prospects in the region.

85. The de facto authorities should respect the right of religious leaders to visit their communities in the northern part without undue restrictions.

86. Religious and moral instruction, largely based on Islamic teachings, in public schools in the northern part should always be connected with an option for an exemption. Exemption procedures should be easy and must not have de jure or de facto punitive effects.

87. The right to conscientious objection to military service should be recognized. Conscientious objectors should have the option to perform alternative civilian service which should be compatible with their reasons for conscientious objection and have no punitive effects.

D. Recommendations addressed to other stakeholders

88. Projects which may contribute to improving the relations between different religious and/or ethnic communities should be further strengthened. An example is the commendable work done by the Bi-Communal Technical Committee on Cultural Heritage. In dealing with sensitive issues which affect the identities of different communities, the Bi-Communal Technical Committee on Cultural Heritage successfully builds up sustainable trust. Another example is the Committee on Missing Persons in Cyprus, whose bi-communal teams are involved in exhumation work and anthropological analysis to look into cases of persons reported missing in the inter-communal fighting as well as in the events of July 1974 and afterwards.

89. Civil society organizations are encouraged to continue the important work on building trust between the southern and northern parts and different communities, based on international human rights standards. In an island torn by conflicting political narratives, civil society organizations can facilitate a “neutral space” for dialogue, communication and cooperation. Active and equal participation of women in civil society programmes should be part of the quality management of civil society programmes.

90. Interreligious communication, both at the level of religious leaders and at the grass-roots levels, should be encouraged and promoted. For instance, religious leaders from the southern and northern parts should be encouraged to collaborate more in the maintenance and repair of religious sites and places of worship. Women should always play an active part in interreligious dialogue initiatives and programmes.

91. When negotiating and implementing peace agreements, all actors involved should adopt a gender perspective, including measures that support local women’s peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements, in line with Security Council resolution 1325 (2000). For example, according to the views of the

Gender Advisory Team,¹⁸ effective representation of women should be guaranteed in decision-making on matters pertaining to property held in common by minority groups and other religious or cultural associations administering property on behalf of communities or minority or cultural groups.

92. Non-governmental organizations should continue and strengthen their efforts to create educational programmes that provide more multiculturalism and interreligious knowledge beyond the bi-communal narratives in order to equip the teachers and students with more accurate historical background knowledge to create more space for reflection.

93. International stakeholders working in Cyprus could support local civil society initiatives and organize more international youth exchange programmes that may help to broaden perspectives and appreciation of the emerging religious diversities in the island.

94. The media should consider giving more attention to the situation of small and non-traditional religious or belief communities, which to date have played a negligible role in public debate.

¹⁸ http://www.uncyprustalks.org/media/Women%20and%20the%20Peace%20Talks/GAT_Recommendations_Property_27._6._2011.pdf.