

# HUMAN RIGHTS COMMITTEE: REPORT FOR THE REVIEW OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Response from Humanists UK and Humanist  
Society Scotland, February 2024



## ABOUT HUMANISTS UK

1. At Humanists UK, we want a tolerant world where rational thinking and kindness prevail. We work to support lasting change for a better society, championing ideas for the one life we have. Our work helps people be happier and more fulfilled, and by bringing non-religious people together we help them develop their own views and an understanding of the world around them. Founded in 1896, we are trusted to promote humanism by 120,000 members and supporters and over 115 members of the All-Party Parliamentary Humanist Group. Through our ceremonies, pastoral support, education services, and campaigning work, we advance free thinking and freedom of choice so everyone can live in a fair and equal society.

## ABOUT HUMANIST SOCIETY SCOTLAND

2. Humanist Society Scotland is a registered charity that promotes Humanist values to people in Scotland, campaigns for an ethical, rational and secular future and gives voice to the millions of people in Scotland who live without religion. We support a community of 15,000 active members working together for a compassionate, dignified and respectful vision of Scotland and the world. Humanist Society Scotland is part of a UK, European and wider international movement of people and organisations working on behalf of non-religious people who seek to live ethical and fulfilling lives on the basis of reason and humanity.

## Thematic report

3. We submit evidence on the performance of the United Kingdom of Great Britain and Northern Ireland (UK) with regard to ICCPR article 8, the rights to freedom of thought, conscience and religion. It is well established that human rights are 'indivisible, interdependent and interrelated'. The following recommendation aims to improve the UK's performance where the right to freedom of religion or belief (FoRB) intersects with other rights.

## List of recommendations for the Human Rights Committee to adopt in its Concluding Observations

- A. The UK Government should repeal the Illegal Migration Act 2023 or, failing that, repeal the provisions that prevent access to effective remedy namely Sections 5(1)(d), 54 and 55.
- B. The UK Government should refrain from putting forward further legislation where a 'statement of compatibility' cannot be made.
- C. The UK Government should remove all clauses in Bills making their way through Parliament that disapply any part of the Human Rights Act 1998.
- D. The UK Government should review hate crime legislation to provide adequate protection to those holding non-religious beliefs, such as humanism, currently protected by the Equality Act 2010.



- E. The UK Government should make sure that new awareness-raising campaigns aimed at combating hate crimes are fully inclusive of those holding non-religious and philosophical beliefs alongside religious beliefs.
- F. The Scottish Government should undertake a review of Section 21 of the Education (Scotland) Act 1980 to ascertain its impact and compatibility with existing employment and equalities legislation.
- G. The UK should guarantee provision of abortion access in Northern Ireland.
- H. The UK Government should significantly revise its guidance on Safe Access Zones to make sure that women seeking abortion are not subject to harassment – including silent prayer – outside of abortion clinics.
- I. The UK Government should act to decriminalise abortion.
- J. HM Prison and Probation Service should make sure prisoners declaring no religion have de facto equal access to services, including pastoral support, as religious prisoners to help facilitate equal outcomes with regards to mental health, rehabilitation and parole prospects.
- K. The UK Government should make sure its asylum assessors are fully briefed on non-religious asylum claims.
- L. The UK Government should drop the Safety in Rwanda (Asylum and Immigration) Bill in its entirety.
- M. The UK should repeal all existing legal defences for assault cases where the victim is a child across its jurisdiction.
- N. The UK Government and Welsh Parliament should repeal legislation that mandates compulsory participation in acts of religious observance in state-funded schools.
- O. The Scottish Government should legislate to introduce a pupil opt-out that would allow children to independently exercise the right to withdraw from religious observance.
- P. The Scottish Government should review the purpose of religious observance within the wider curriculum and if it should be offered in schools as an opt-in activity given the faith and belief demographics of Scotland.
- Q. The UK Government should cease to allow new voluntary aided schools to open that can select up to 100% of students on the basis of religion, and consideration should be given to ultimately removing religious selection altogether.
- R. The UK Government should make clear that regardless of the religious character of the school, Relationships and Sex Education must be taught in line with the Equality Act 2010 and provide students with comprehensive, accurate, and unbiased information about contraceptives, STIs, abortion, gender identity, and sexual orientation, among other topics.
- S. The Northern Ireland Executive should introduce legislation to the Northern Ireland Assembly, as soon as it is able to do so, to abolish offences of blasphemy and blasphemous libel.
- T. The Scottish Courts and Tribunal Service should update its guidance on oaths and affirmations to better consider the diverse religious and cultural beliefs of jurors and ensure that both options are a genuine free choice.



## **GENERAL INFORMATION ON THE NATIONAL HUMAN RIGHTS SITUATION, INCLUDING NEW MEASURES AND DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE COVENANT**

### Access to effective remedy

4. In its eighth periodic report to the Committee, the UK Government states that as party to the European Convention on Human Rights (ECHR), people in the UK have access to the European Court on Human Rights (ECtHR). This argument is used to claim that effective remedy already exists in the UK negating the need to accede to the Optional Protocol providing for individual communications.<sup>1</sup> Further, it states that with protections under the ECHR and the Human Rights Act (HRA) 1998, human rights in the UK remain protected regardless of its decision to leave the European Union.<sup>2</sup> Both these arguments are undermined by the enactment of the Illegal Migration Act (IMA) 2023.<sup>3</sup>
5. For a remedy to be effective it must be accessible.<sup>4</sup> Yet the IMA 2023 strips away the ECtHR's effectiveness, in particular, by giving Government ministers the power to ignore interim measures imposed by the ECtHR. It also prohibits domestic courts and tribunals from ordering interim measures.
6. Section 5(1)(d) states that the Secretary of State's duty and power to make arrangements for the removal of a person from the UK under the Act applies 'regardless of whether the person makes an application for judicial review in relation to their removal'.<sup>5</sup> Section 54 of the IMA 2023 states that courts and tribunals 'may not grant interim remedy that prevents or delays removal, or that has the effect of preventing or delaying, the removal of the person' under the Act.<sup>6</sup> Section 55 states that if the ECtHR grants interim measure to prevent or delay the removal of a person from the UK then a Minister 'may (but need not)' make a decision that the duty to remove no longer applies to that person.<sup>7</sup> If the Minister does not disapply the duty to remove a person, then the ECtHR's interim measure may be disregarded by immigration officers, courts and tribunals, when making certain decisions.
7. Together, Sections 5(1)(d), 54 and 55 of the IMA remove the possibility of judicial remedy to those falling within the purview of the Act. Limiting access to justice in this way is an erosion of the principle that human rights are universal and that all are equal before the law.

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<sup>1</sup> Human Rights Committee, *Eighth periodic report submitted by the United Kingdom of Great Britain and Northern Ireland under article 40 of the Covenant pursuant to the optional reporting procedure*, due in 2021 CCPR/C/GBR/8, 11 November 2021, paras 4–6, <https://undocs.org/en/CCPR/C/GBR/8>.

<sup>2</sup> Ibid para 7.

<sup>3</sup> Illegal Migration Act 2023, <https://www.legislation.gov.uk/ukpga/2023/37/contents/enacted>.

<sup>4</sup> Human Rights Committee, General Comment 31 [80]: The Nature of General Legal Obligations Imposed on States Parties to the Covenant CCPR/C/21/Rev.1/Add. 13, 26 May 2004, para 15, <https://undocs.org/en/CCPR/C/21/Rev.1/Add.%2013>.

<sup>5</sup> IMA 2023, section 5(1)(d), <https://www.legislation.gov.uk/ukpga/2023/37/section/5/enacted>.

<sup>6</sup> IMA 2023, section 54, <https://www.legislation.gov.uk/ukpga/2023/37/section/54/enacted>.

<sup>7</sup> IMA 2023, section 55, <https://www.legislation.gov.uk/ukpga/2023/37/section/55/enacted>.



### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- A. The UK Government should repeal the Illegal Migration Act 2023 or, failing that, repeal the provisions that prevent access to effective remedy namely Sections 5(1)(d), 54 and 55.

## **SPECIFIC INFORMATION ON THE IMPLEMENTATION OF ARTICLES 1-27 OF THE COVENANT**

### **Constitutional and legal framework within the Covenant is implements**

#### Reform of the Human Rights Act

8. We welcome the scrapping of the UK Government's British Bill of Rights Bill<sup>8</sup> which sought to repeal and replace the Human Rights Act (HRA) 1998<sup>9</sup> with weaker human rights protections. In particular, the Bill of Rights Bill would have repealed Section 3 of the HRA which empowers and imposes a duty on public bodies and the courts to read additional words into laws and policies, where this is required in order to uphold human rights.
9. However, the HRA 1998 remains under threat. The first clause of the Illegal Migration Act (IMA) 2023 disapplies section 3 of the Human Rights Act.<sup>10</sup> Section 3 is similarly disappplied to certain groups in the Victims and Prisoners Bill.<sup>11</sup> The Safety of Rwanda (Asylum and Immigration) Bill,<sup>12</sup> currently making its way through the UK Parliament, goes even further by explicitly disapplying sections 2, 3, 6 to 9. The 'Rwanda Bill', like the Illegal Migration Bill before it, has also been brought forward with a section 19(1)(b) statement<sup>13</sup> that the Government could not say with certainty that it would be compatible with the European Convention on Human Rights, raising concerns that now this taboo has been broken there is an increased risk of more incompatibility statements being made in the future.
10. The HRA 1998 protects the basic, minimum standards that exist to protect everyone. This disapplication of some of its provisions to some groups undermines the principle of the universality of human rights and creates a two-tiered system of protections where some are unable to enforce their rights in domestic courts.

### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- B. The UK Government should refrain from putting forward further legislation where a 'statement of compatibility' cannot be made.

<sup>8</sup> Bill of Rights Bill, <https://bills.parliament.uk/bills/3227>.

<sup>9</sup> Human Rights Act 1998, <https://www.legislation.gov.uk/ukpga/1998/42/contents>.

<sup>10</sup> IMA 2023, Section 1(5) <https://www.legislation.gov.uk/ukpga/2023/37/section/1/enacted>.

<sup>11</sup> Victims and Prisoners Bill, clauses 49-52, <https://bills.parliament.uk/publications/53288/documents/4127>.

<sup>12</sup> Safety of Rwanda (Asylum and Immigration) Bill, <https://bills.parliament.uk/publications/53802/documents/4312>.

<sup>13</sup> HRA 1998, Section 19, <https://www.legislation.gov.uk/ukpga/1998/42/section/19>. Section 19 of the HRA requires a Minister to make a 'statement of compatibility' when presenting a Bill to Parliament, or proclaim that the Bill is incompatible with the HRA but that the Minister wishes to proceed with the Bill anyway.



- C. The UK Government should remove all clauses in Bills making their way through Parliament that disapply any part of the Human Rights Act 1998.

## Non-discrimination

### The definition of hate crime

11. The Public Order Act 1986<sup>14</sup> (as amended by the Racial and Religious Hatred Act 2006<sup>15</sup>), Crime and Disorder Act 1998, and the Criminal Justice Act 2003 define 'religious group' as 'a group of persons defined by reference to religious belief or lack of religious belief.' Therefore, although hatred motivated by *lack of religious belief* is covered, the definition does not cover hatred motivated because of someone positively holding a non-religious worldview, such as humanism.
12. This remains at odds with Section 10 of the Equality Act<sup>16</sup> that positively include those holding non-religious beliefs as a protected characteristic and article 18 of the ICCPR which positively protects those holding 'non-theistic and atheistic beliefs'.<sup>17</sup> Therefore, there is no parity between human rights principles and discrimination law and hate crime legislation for those who positively hold non-religious worldviews.
13. We have long called for the gap in the current legislation to be addressed by clarifying the wording in the POA 1986 and the RRHA 2006 to 'religious or belief group' and 'religious or belief-based aggravation.'
14. Beyond this, we are concerned that public statistics undercount instances of hatred on the basis of non-religious belief. Many do not know they will have been victims of hate crimes due to the fact it is referred to as religious hatred and many non-religious people will not know that the same legal protections are applicable to them. Both humanists and apostates are likely to only encounter understanding of hate crimes they have experienced by associating with others who have had similar experiences. A study conducted by Ellen Johnson at Sheffield Hallam University looked at the experience of hate crime by apostates in England and Wales. A survey was conducted with 77 respondents, which found that 81% indicated at least one experience of hate crime, with over 50% experiencing two or more types of hate crime.<sup>18</sup> However, just 12% of incidents were reported to the police, and a further 4% reported to a third party.<sup>19</sup> By comparison, the Crime Survey for England and Wales reported 53% of hate crimes came to the attention of the police, and the Leicester Hate Crime study found that 24% of victims reported their most recent experience to the

<sup>14</sup> Public Order Act 1986, <https://www.legislation.gov.uk/ukpga/1986/64/contents>.

<sup>15</sup> Racial and Religious Hatred Act 2006, <https://www.legislation.gov.uk/ukpga/2006/1/schedule/enacted>.

<sup>16</sup> Equality Act 2010, Section 10, <https://www.legislation.gov.uk/ukpga/2010/15/section/10>.

<sup>17</sup> Human Rights Committee, *General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)*, 27 September 1993, CCPR/C/21/Rev.1/Add.4: <https://undocs.org/en/CCPR/C/21/Rev.1/Add.4>.

<sup>18</sup> Ellen Johnson, 'Apostasy, Human Rights and Hate Crime in England and Wales: A Mixed Methods Study' October 2019, p34, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3475161](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3475161).

<sup>19</sup> *Ibid*, p46.



police.<sup>20</sup> Johnson concluded, 'these comparative statistics have been collated by different criteria; however, it is clear that reporting rates for apostasy hate crime are extremely low'.<sup>21</sup>

15. Reporting hate crime did not appear to correlate to the severity of the incident; only 50% of respondents who had experienced physical assault reported it to the police, whereas 60% of victims of violent crime recorded by the Leicester Hate Crime Project reported it.<sup>22</sup> The results from this study revealed that 21% stated that they did not report the hate crime to police because they were 'afraid that you wouldn't be taken seriously', 30% because they 'did not think that any action would be taken', 15% were 'worried about wasting police time' and, most significantly, 45% stated that they were 'not aware that this may be considered a hate crime'.<sup>23</sup> There are therefore serious barriers to apostates coming forward to report hate crimes. That there is confusion about the very name 'religious hatred' is all the less surprising given that the hate crime awareness campaign on public transport run in the last few years does not mention the non-religious (merely saying 'religion' is the hate crime category).

#### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- D. The UK Government should review hate crime legislation to provide adequate protection to those holding non-religious or other philosophical beliefs, such as humanism, currently protected by the Equality Act 2010.
- E. The UK Government should make sure that new awareness-raising campaigns aimed at combating hate crimes are fully inclusive of those non-religious and philosophical beliefs alongside religious beliefs.

#### Approval to teach in denominational schools

16. Teachers seeking to work in a denominational school in Scotland require approval from the religious body 'according to their religious belief and character' and must provide a reference from their local parish priest or equivalent. Section 21 of the Education (Scotland) Act 1980 states a teacher appointed to any post on the staff of any denominational school by the education authority '... shall be required to be approved as regards religious belief and character by representatives of the church or denominational body in whose interest the school has been conducted'.<sup>24</sup>
17. Given that most teaching roles do not require extensive knowledge of religious doctrine, Humanist Society Scotland believes that the current requirements to work in a denominational school are unjustifiable, disproportional and amount to systematic discrimination on the grounds of religion and belief. Denominational schools should vet candidates based on their experience and suitability for the role, not on religious affiliation.

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<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid, p47.

<sup>24</sup> Education (Scotland) Act 1980, Section 21, <https://www.legislation.gov.uk/ukpga/1980/44/section/21>.



18. This issue was raised previously by the Equality and Human Rights Commission (EHRC) in 2016, which recommended that the Scottish Government undertake a review of current legislation to better understand its impact.<sup>25</sup>
19. More recently, the Northern Irish Assembly passed a law in 2022 that removed teacher exemptions from existing fair employment legislation.<sup>26,27</sup> In practice, this means that schools will no longer be allowed to refuse the appointment of a teacher based on perceived religious belief. Humanist Society Scotland believes that the Scottish Government should follow suit and end the right for denominational schools in Scotland to vet prospective teaching staff based on religious suitability.

### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- F. The Scottish Government should undertake a review of Section 21 of the Education (Scotland) Act 1980 to ascertain its impact and compatibility with existing employment and equalities legislation.

### **Sexual and reproductive rights and voluntary termination of pregnancy**

#### Abortion in Northern Ireland

20. We are delighted that the UK Government passed The Abortion (Northern Ireland) Regulations 2020,<sup>28</sup> which came into effect on 31 March 2020 as the new law on access to abortion services in Northern Ireland, thereby fully implementing the ICCPR's recommendation from its 2015 review to amend legislation to allow access to abortion in Northern Ireland in cases of rape, incest, and fatal foetal abnormality. The Abortion (Northern Ireland) Regulations 2020 allows access to abortion services for any reason up to 12 weeks' gestation, and up to 24 weeks in cases where the continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman or girl, greater than the risk of terminating the pregnancy. Terminations in cases of fatal foetal abnormality are permitted after 24 weeks.
21. Nevertheless, we are concerned about the continued lack of provisions in Northern Ireland, as abortion services have not been commissioned and funded through the Health and Social

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<sup>25</sup> *Scottish Legal News*, 'Equalities experts call for review of Catholic schools' right to vet applicants for religious suitability', 5 December 2016, <https://www.scottishlegal.com/articles/equalities-experts-call-for-review-of-catholic-schools-right-to-vet-applicants-for-religious-suitability>.

<sup>26</sup> Fair Employment (School Teachers) Act (Northern Ireland) 2022, <https://www.legislation.gov.uk/nia/2022/23/contents/enacted>.

<sup>27</sup> *Belfast Telegraph*, 'A good day for fairness and equality' as Bill to end religious discrimination in recruitment of teachers is passed', 24 March 2022, <https://www.belfasttelegraph.co.uk/news/education/a-good-day-for-fairness-and-equality-as-bill-to-end-religious-discrimination-in-recruitment-of-teachers-is-passed/41484137.html>.

<sup>28</sup> The Abortion (Northern Ireland) Regulations 2020, <https://www.legislation.gov.uk/uksi/2020/345/contents/made>.



Care system, meaning that healthcare trusts in Northern Ireland have had to fund abortion services out of existing budgets, with some having to stop providing services altogether.

#### Safe access zones

22. The UK Parliament passed the Public Order Act 2023 which includes provisions to place Safe Access Zones (SAZ) outside of abortion clinics in England and Wales.<sup>29</sup> These were put into place to counter escalating harassment of women at the hands of evangelical protesters outside abortion clinics. This is in line with upholding women's reproductive rights and rights to privacy, and the measures balance competing rights with Articles 18, 19, 21 and 22 of the ICCPR.
23. Despite recent rulings from both the Supreme Court,<sup>30</sup> which ruled in favour of SAZ when they were legally challenged during their implementation in Northern Ireland, as well as the High Court,<sup>31</sup> the UK Government has dragged its feet when implementing the law, and instead issued a consultation on non-statutory guidance to enact the law. Alarming, this waters down the law which was passed by UK Parliamentarians and seeks to allow, for example, silent prayer to take place within a SAZ.

#### Decriminalising abortion

24. The UN has long called on the UK to decriminalise abortion. Despite this, abortion remains a criminal act under the Offences Against the Person Act 1861,<sup>32</sup> with a maximum punishment of life imprisonment, unless it is carried out in certain, fixed circumstances under the Abortion Act 1967.<sup>33</sup>
25. Increasingly women are facing criminal prosecutions and have been found guilty of ending their own pregnancies. Abortion providers warn that they are being requested women's medical records from police, and medics treating women who have had miscarriages or stillbirths are reporting their patients to the police if they believe they played a role in ending their own pregnancy.
26. The UK Parliament decriminalised abortion in Northern Ireland 2019 through the repeal of sections 58 and 59 of the Offences Against the Person Act 1861.<sup>34</sup> However these laws remain in place in England and Wales.

<sup>29</sup> Public Order Act 2023, Section 9, <https://www.legislation.gov.uk/ukpga/2023/15/section/9/enacted>.

<sup>30</sup> *Reference by the Attorney General for Northern Ireland - Abortion Services (Safe Access Zones) (Northern Ireland) Bill* [2022] UKSC 32, <https://www.supremecourt.uk/cases/docs/uksc-2022-0077-judgment.pdf>.

<sup>31</sup> *R (on the application of Christian Concern) v Bournemouth, Christchurch and Poole Council* [2023] EWHC 3229 (Admin), <https://www.bailii.org/ew/cases/EWHC/Admin/2023/3229.html>.

<sup>32</sup> Offences Against the Person Act 1861, Sections 58-59, <https://www.legislation.gov.uk/ukpga/Vict/24-25/100/contents>.

<sup>33</sup> Abortion Act 1967, Section 1, <https://www.legislation.gov.uk/ukpga/1967/87/section/1>.

<sup>34</sup> The Abortion (Northern Ireland) Regulations 2020, Explanatory Note, <https://www.legislation.gov.uk/uksi/2020/345/note/made>.





**Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- G. The UK should guarantee provision of abortion access in Northern Ireland.
- H. The UK Government should significantly revise its guidance on Safe Access Zones to make sure that women seeking abortion are not subject to harassment – including silent prayer – outside of abortion clinics.
- I. The UK Government should act to decriminalise abortion.

**Right to life and conditions in detention**

Discrimination against non-religious offenders

27. It is established that non-religious offenders are discriminated against in prisons in the provision of chaplaincy and pastoral care services – contrary to Article 2 in conjunction with Article 18 – by depriving them of the ability to connect with like-minded people.<sup>35</sup> This can lead to unequal outcomes for mental health, rehabilitation and parole prospects.<sup>36</sup>
28. Professional pastoral care in prisons is provided almost exclusively through the chaplaincy which is dominated by the Anglican Church. Section 7(4) of the Prison Act<sup>37</sup> provides that '[t]he chaplain and any assistant chaplain shall be a clergyman of the Church of England', that is no longer reflective of modern plural England, or its prison population. Pastoral support offered by other religious representatives tends to be smaller, sessional, and casualised, and non-religious pastoral carers are entirely absent in most cases.<sup>38</sup> Yet fewer than half of prisoners are Christian and only 13% are Anglican, with a higher number of Roman Catholic prisoners.<sup>39</sup> Despite being available to everyone, an exclusively Christian chaplaincy is likely to be unsuitable for prisoners of other faiths and especially off-putting for the non-religious. This is demonstrated in a YouGov poll commissioned by Humanists UK in 2016 which showed that only 4% of non-religious people said they had used a chaplain – compared to 14% of Christians, and 11% of people from other religions.<sup>40</sup> Almost three-quarters of non-religious respondents were 'unlikely' or 'very unlikely' to want support from a chaplain, but 45% would use a non-religious equivalent if available.<sup>41</sup>
29. This creates a hierarchy of access in which the benefits of such services are more available to some prisoners than others, according to the service-users' religion or belief.<sup>42</sup> While some prisons do offer facilities beyond chaplaincy such as counselling, peer support, and official prison visitors as potential sources of care, these services are not non-religious equivalents

<sup>35</sup> Katie Hunt, 'Non-religious prisoners' unequal access to pastoral care', *International Journal of Law in Context* (2022), p.116 <https://www.cambridge.org/core/journals/international-journal-of-law-in-context/>.

<sup>36</sup> *Ibid.* p.118.

<sup>37</sup> Prison Act 1952 <https://www.legislation.gov.uk/ukpga/Geo6and1Eliz2/15-16/52/contents>.

<sup>38</sup> Katie Hunt, 'Non-religious prisoners' unequal access to pastoral care', p.117.

<sup>39</sup> UK Government, 'Prison Population: 31 March 2023', [https://assets.publishing.service.gov.uk/media/64c3dd11f92186000d86677e/Population\\_31Mar2023\\_July\\_2023\\_update ods](https://assets.publishing.service.gov.uk/media/64c3dd11f92186000d86677e/Population_31Mar2023_July_2023_update ods).

<sup>40</sup> Humanists UK, 'Humanists UK Polling on Pastoral Care in the UK', <https://humanists.uk/wp-content/uploads/Humanists-UK-polling-on-pastoral-care-in-the-UK.pdf>.

<sup>41</sup> *Ibid.*

<sup>42</sup> Katie Hunt, 'Non-religious prisoners' unequal access to pastoral care', p.118.



to chaplaincy (indeed they are equally available to religious prisoners, leaving them better supported overall), and referral to these services is often made through the chaplaincy team.<sup>43</sup> Claims that a Christian chaplain offering support to prisoners of ‘all faiths and none’ qualifies as equal treatment fails to recognise that the non-religious are unlikely to seek assistance through a faith-based service, and therefore less likely to be referred to the services they may want and need to access.<sup>44</sup> This ‘equal treatment’ can lead to unequal outcomes for mental health, rehabilitation and parole prospects.<sup>45</sup>

30. Following an announcement in January 2023, the UK Government has now replaced His Majesty’s Prison and Probation Service’s Chaplaincy Council with a Chaplaincy Faith and Belief Forum and this includes non-religious pastoral carers.<sup>46</sup> We welcome this change and want to see it lead to an appropriate level of provision of like-minded pastoral support for non-religious prisoners.

### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

J. HM Prison and Probation Service should make sure prisoners declaring no religion have de facto equal access to services, including pastoral support, as religious prisoners to help facilitate equal outcomes with regards to mental health, rehabilitation and parole prospects.

### **Treatment of aliens, including migrants, refugees and asylum seekers**

#### The Illegal Migration Act 2023

31. We are concerned that the Illegal Migration Act 2023 severely curtails the right to claim asylum in the UK in violation of the UK’s obligations under the Refugee Convention and other international human rights instruments. In particular, IMA 2023 lists 57 so-called ‘safe’ countries to which asylum seekers can be deported.<sup>47</sup> However, Humanists International’s *Freedom of Thought Report* shows that a number of those so-called ‘safe’ countries have on-book prison sentences for blasphemy putting non-religious asylum seekers at risk.<sup>48</sup>

#### Safety in Rwanda (Asylum and Immigration) Bill

32. The Safety in Rwanda (Asylum and Immigration) Bill sets out that Rwanda is a safe country for people to be deported to in order to have their asylum claims assessed and for resettlement. The Bill, should it become law, would require that ‘every decision-maker must *conclusively* treat the Republic of Rwanda as a safe country’ [emphasis added].<sup>49</sup>

<sup>43</sup> Ibid. p.121-122

<sup>44</sup> Ibid. p.121-122

<sup>45</sup> Ibid. p.118.

<sup>46</sup> *Hansard*, ‘Prisons: Chaplaincy Service volume 826: debated on Tuesday 10 January 2023’, <https://hansard.parliament.uk/lords/2023-01-10/debates/2E4D3BD4-3EDB-49B5-ACB1-20415D4C9FFC/PrisonsChaplaincyService>.

<sup>47</sup> IMA 2023, Schedule 1, <https://www.legislation.gov.uk/ukpga/2023/37/schedule/1/enacted>.

<sup>48</sup> Humanists International, *Freedom of Thought Report*, <https://fot.humanists.international/>. Cyprus, Gambia, Germany, India, Kenya, Malawi, Mauritius, Nigeria, Poland, and Rwanda all allow a prison sentence for blasphemy and apostasy. In Nigeria blasphemy is a capital offence.

<sup>49</sup> ‘Rwanda Bill’, Clause 2(1), <https://bills.parliament.uk/publications/53802/documents/4312>.



'Decision-makers' include the Secretary of State, immigration officers, courts and tribunals.<sup>50</sup> This would mean that even when faced with overwhelming evidence to the contrary all decision makers at all levels, including Supreme Court judges would be compelled to find that Rwanda is a 'safe' country in perpetuity. We are particularly concerned that Rwanda retains its blasphemy laws where individuals accused of blasphemy can face imprisonment and/or fines.<sup>51</sup> This law may be intended to protect the right to worship but, it is well established that blasphemy laws are incompatible with the ICCPR.<sup>52</sup> They are open to misuse as non-religious beliefs can easily be framed as an insult to religion and punished under such laws.

### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- K. The UK Government should ensure its asylum assessors are fully briefed on non-religious asylum claims.
- L. The UK Government should drop the Safety in Rwanda (Asylum and Immigration) Bill in its entirety.

## **Rights of the child**

### Corporal punishment

33. Since the UK's 2015 ICCPR review, the Welsh and Scottish Governments have brought forward proposals to remove the defence of 'reasonable punishment' in assault cases where the victim is a child. The defence of 'reasonable punishment' was abolished by the Welsh Government in 2020 and came into effect in 2022.<sup>53</sup> We support all jurisdictions in the UK and Crown Dependencies adopting a similar approach.

### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- M. The UK should repeal all existing legal defences for assault cases where the victim is a child across its jurisdiction.

### Compulsory collective worship in England and Wales

34. The School Standards and Framework Act 1998 mandates that all schools in England and Wales must ensure that pupils 'on each school day take part in an act of collective worship.'<sup>54</sup> For schools with a religious character this act of worship must be in line with that character. For schools without a religious character worship must be 'wholly or mainly of a broadly Christian character' defined as reflecting 'the broad traditions of Christian belief without

<sup>50</sup> 'Rwanda Bill', Clause 2(2) <https://bills.parliament.uk/publications/53802/documents/4312>.

<sup>51</sup> Humanists International, *Freedom of Thought Report: Rwanda*, 9 November 2020, <https://fot.humanists.international/countries/africa-eastern-africa/rwanda/>

<sup>52</sup> Human Rights Committee, *General Comment 34*, 12 September 2011, para 48, <https://undocs.org/en/CCPR/C/GC/34>.

<sup>53</sup> 'Royal Assent to an Act of the Assembly Children (Abolition of Defence of Reasonable Punishment)'; (Wales) Act 2020, <https://senedd.wales/laid%20documents/pri-ld12454-ra/pri-ld12454-ra-e.pdf>.

<sup>54</sup> School Standards and Framework Act 1998, sections 70-71, <https://www.legislation.gov.uk/ukpga/1998/31/contents>.



being distinctive of any particular Christian denomination'.<sup>55</sup> Students under the age of 16 do not have the right to withdraw from such worship without parental permission.

35. The combined sixth and seventh periodic review into the UK's implementation of the UN Convention on the Rights of the Child recommends 'repealing legal provisions for compulsory attendance in collective worship'.<sup>56</sup> The report cites that the current requirement violates the child's right to freedom of thought, conscience, and religion by denying them the opportunity to choose their religion and belief.

### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- N. The UK Government and Welsh Parliament should repeal legislation that mandates compulsory participation in acts of religious observance in state-funded schools.

#### Religious Observance in Schools in Scotland

36. Children in Scotland have no right to independently withdraw from religious observance in schools. All state-funded schools have a statutory duty to provide 'religious observance' to pupils under the Education (Scotland) Act 1980.<sup>57</sup> While parents have the right to withdraw their children from religious observance, there is no equivalent right afforded to pupils no matter their age or competency.
37. Humanist Society Scotland,<sup>58</sup> together with the children's charity Together Scotland, have expressed concern that the law as it stands infringes on children and young people's right to freedom of belief.<sup>59</sup> Furthermore, it is inconsistent with the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 passed by the Scottish Parliament,<sup>60</sup> which places a requirement on public authorities to implement UNCRC rights (within devolved areas).
38. Humanist Society Scotland has consistently engaged with the Scottish Government on this matter and Together Scotland have specifically recommended the introduction of a pupil opt-out from religious observance in five of its last six reports on *The State of Children's Rights in Scotland*.<sup>61</sup> In addition the Children and Young People's Commissioner for Scotland

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<sup>55</sup> School Standards and Framework Act 1998, Schedule 20, <http://www.legislation.gov.uk/ukpga/1998/31/schedule/20>.

<sup>56</sup> Committee on the Rights of the Child, *Concluding observations on the combined sixth and seventh reports of the United Kingdom of Great Britain and Northern Ireland* CRC/C/GBR/CO/6-7, 2 June 2023, <https://undocs.org/en/CRC/C/GBR/CO/6-7>.

<sup>57</sup> Education (Scotland) Act 1980, Section 8(1)-(2), <http://www.legislation.gov.uk/ukpga/1980/44/section/8>.

<sup>58</sup> Humanist Society Scotland, *My Beliefs, My Choice*, <https://www.humanism.scot/campaigns/my-beliefs-my-choice/>.

<sup>59</sup> Convention on the Rights of the Child A/RES/44/25, Article 14, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>60</sup> United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. [https://www.legislation.gov.uk/asp/2024/1/pdfs/asp\\_20240001\\_en.pdf](https://www.legislation.gov.uk/asp/2024/1/pdfs/asp_20240001_en.pdf).

<sup>61</sup> Together Scotland, *The State of Children's Rights in Scotland*, 2023, [https://www.togetherscotland.org.uk/media/3266/socrr23\\_final.pdf](https://www.togetherscotland.org.uk/media/3266/socrr23_final.pdf).



in 2020 recommended that a review of religious observance should happen, including if it should be offered at all in non-denominational schools or if it should be offered as an opt-in activity.<sup>62</sup> As things stand, the Scottish Government has only committed to examining whether to review the policy, and progress on that front has been slow.

### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- O. The Scottish Government should legislate to introduce a pupil opt-out that would allow children to independently exercise the right to withdraw from religious observance.
- P. The Scottish Government should review the purpose of religious observance within the wider curriculum and if it should be offered in schools as an opt-in activity given the faith and belief demographics of Scotland.

### Opening of 100% religiously selective voluntary aided schools

- 39. In 2018, the UK Government announced that it would allow new voluntary aided (VA) schools to open that will be able to select 100% of students on the basis of religion. It is well-established that religious selection does not simply have the effect of discriminating on the basis of religion but also, by extension, that religious selection facilitates discrimination on the basis of socio-economic status.<sup>63</sup>

### **Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- Q. The UK Government should cease to allow new voluntary aided schools to open that can select up to 100% of students on the basis of religion, and consideration should be given to ultimately removing religious selection altogether.

### Relationship and Sex Education

- 40. In April 2017, the Children and Social Work Act was signed into law, introducing compulsory Relationships and Sex Education (RSE) in all English secondary schools and compulsory relationships education in all English primary schools.<sup>64</sup>

- 41. However, despite these provisions applying to all schools in England, section 34(3)(b) of the Act requires that 'when relationships education or relationships and sex education is given - the education is appropriate having regard to the age and religious background of the pupils.' In a written ministerial statement clarifying the legislation, the Department for Education stated that 'faith schools will continue to be able to teach in accordance with the tenets of their faith'.<sup>65</sup>

<sup>62</sup> Children and Young People's Commissioner Scotland, 'Religious Observance', 2020, <https://www.cypcs.org.uk/wpcypcs/wp-content/uploads/2020/02/Religious-Observation.pdf>.

<sup>63</sup> The Sutton Trust, *Selective Comprehensives 2024: Summary Report*, January 2024: <https://www.suttontrust.com/wp-content/uploads/2024/01/Selective-Comprehensives-2024.pdf>

<sup>64</sup> Children and Social Work Act 2017, Section 34, <http://www.legislation.gov.uk/ukpga/2017/16/section/34/enacted>

<sup>65</sup> Department for Education, *Sex and Relationships Education: Written Statement*, 1 March 2017: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2017-03-01/HLWS511/>.



42. Children have a right to comprehensive, age-appropriate RSE under articles 24(e), 28, and 29 of the UNCRC

**Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

R. The UK Government should make clear that regardless of the religious character of the school, Relationships and Sex Education must be taught in line with the Equality Act 2010 and provide students with comprehensive, accurate, and unbiased information about contraceptives, STIs, abortion, gender identity, and sexual orientation, among other topics.

**Areas of concern not covered by the state report**

Blasphemy in Northern Ireland

43. Northern Ireland is the last part of the UK to have blasphemy laws. England and Wales abolished its blasphemy law in 2008, and the common law offence that existed in Scotland was repealed by Part 5 of the Hate Crime and Public Order (Scotland) Act 2021<sup>66</sup> which comes into force this year.

44. Blasphemy is a criminal offence in Northern Ireland under the common law, underpinned in legislation by the Criminal Libel Act 1819,<sup>67</sup> the Libel Act 1843,<sup>68</sup> the Newspaper Libel and Registration Act 1881,<sup>69</sup> and the Law of Libel Amendment Act 1888.<sup>70</sup> This legislation means that blasphemous libel is also a criminal offence. For both the common law and statutory offences, judges have discretion over sentencing and can impose either a fine or imprisonment, or both. A prosecution for blasphemy has not occurred in Northern Ireland since 1855, however these laws can nonetheless be invoked at any time, as demonstrated in Denmark in 2017 when blasphemy laws were invoked after 46 years of being unused.<sup>71</sup> If a prosecution were to occur it would be in breach of Articles 18 and 19.<sup>72</sup>

45. In its 2023 Annual Statement, The Northern Ireland Human Rights Commission recommended that *'the NI Executive introduce legislation to the NI Assembly to abolish the common law offence of blasphemy and blasphemous libel to ensure compatibility with the*

<sup>66</sup> Hate Crime and Public Order (Scotland) Act 2021, Part 5 <https://www.legislation.gov.uk/asp/2021/14/part/5>

<sup>67</sup> Criminal Libel Act 1819, section 1(1) such blasphemous material can be seized and disposed of. <http://www.legislation.gov.uk/ukpga/Geo3and1Geo4/60/8>

<sup>68</sup> Libel Act 1843, section 7: <http://www.legislation.gov.uk/ukpga/Vict/6-7/96/section/7>

<sup>69</sup> Newspaper Libel and Registration Act 1881, section 4: <http://www.legislation.gov.uk/ukpga/Vict/44-45/60/section/4>

<sup>70</sup> Law of Libel Amendment Act 1888, Section 4: <http://www.legislation.gov.uk/ukpga/Vict/51-52/64/section/4>

<sup>71</sup> End Blasphemy Laws, Denmark reactivates 'blasphemy' law to charge man who burned Quran, 23 February 2017, <https://end-blasphemy-laws.org/2017/02/denmark-reactivates-blasphemy-law-to-charge-man-who-burned-quran/>

<sup>72</sup> United Nations General Assembly, *Elimination of all forms of religious intolerance*, A/72/365, 28 August 2017, para 28, <https://undocs.org/en/A/72/365>.



*ECHR and Article 19 of the UN ICCPR.*<sup>73</sup> It has repeated this recommendation every year since 2018. However, as the Assembly has not been sitting for two years, there has been no possibility to implement this recommendation since then.

**Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- S. The Northern Ireland Executive should introduce legislation to the Northern Ireland Assembly, as soon as it is able to do so, to abolish offences of blasphemy and blasphemous libel.

Oaths and Affirmations for Scottish Jurors

46. Jurors in Scotland are treated differently based on whether they choose to swear an oath or make a (non-religious) affirmation. Jurors who swear an oath do so collectively, while those who choose to affirm have to do so individually and name themselves to the court. Humanist Society Scotland believes there is a presumption that most people will choose to swear an oath, which is inconsistent with the fact that the majority of the Scottish public identify as non-religious.<sup>74</sup>
47. Moreover, Humanist Society Scotland does not believe that non-religious jurors are presented with a genuinely free choice. We contend that a large proportion of non-religious people, who may feel anxious at the prospect of speaking individually or have concerns about giving up their anonymity to the court, will choose to swear an oath as the easier and less daunting option. This is further confirmed in the guidance issued to jurors by the Scottish Courts and Tribunal Service, which presents swearing an oath as the default and less onerous than making an affirmation.<sup>75</sup>
48. We have raised our concerns with the Scottish Courts and Tribunal Service, as part of their work to update the *Equal Treatment Bench Book* which provides guidance to judges on ensuring that “*all who come before the courts are dealt with in an understanding and sensitive fashion*”.<sup>76</sup> We await the outcome of this work.

**Recommendations for the Human Rights Committee to adopt in its Concluding Observations**

- T. The Scottish Courts and Tribunal Service should update its guidance on oaths and affirmations to better consider the diverse religious and cultural beliefs of jurors and ensure that both options are a genuine free choice.

<sup>73</sup> Northern Ireland Human Rights Commission, *The 2023 Annual Statement: Human Rights in Northern Ireland*, 11 December 2023, <https://nihrc.org/publication/detail/annual-statement-2023>.

<sup>74</sup> Scottish Government, *Scotland's People Annual Report Key findings 2019*, September 2020, <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2020/09/scottish-household-survey-2019-key-findings/documents/scotlands-people-annual-report-key-findings-2019/scotlands-people-annual-report-key-findings-2019/govscot%3Adocument/scotlands-people-annual-report-key-findings-2019.pdf>.

<sup>75</sup> Scottish Courts and Tribunal Service, ‘Jury Service in the High Court and Sheriff Court’, 2022, [https://www.scotcourts.gov.uk/docs/default-source/scs---court-users/guide\\_to\\_jury\\_service\\_in\\_the\\_high\\_court\\_and\\_sheriff\\_court.pdf](https://www.scotcourts.gov.uk/docs/default-source/scs---court-users/guide_to_jury_service_in_the_high_court_and_sheriff_court.pdf)

<sup>76</sup> Judicial Institute for Scotland, ‘Equal Treatment Bench Book’, 2008, 21 August 2019, <https://judiciary.scot/docs/librariesprovider3/judiciarydocuments/judicial-institute-publications/equal-treatment-bench-book.pdf>



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