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**A Joint UPR Submission on the United
Kingdom of Great Britain and Northern
Ireland – Session 13
(21st May – 1st June 2012)**

On behalf of

Lord Avebury, the International Humanist & Ethical Union
and National Secular Society

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uprsubmissions@ohchr.org

Lord Avebury

Lord Avebury, born Eric Lubbock in September, 1928, is a prominent Human Rights campaigner and sits as Liberal Democrat in House of Lords. He was a Member of Parliament for Orpington 1962–70 and Liberal Chief Whip 1963–70.

He first entered House of Lords in 1971; Elected hereditary peer 1999; Liberal Democrat Spokesperson for: Race Relations and Immigration 1971–83, Foreign and Commonwealth Affairs 1998–2010: with special responsibility for Africa 2004–10, Home Office (civil liberties) 2005–10.

He has held the position of Chair for the Parliamentary Civil Liberties Group 1964–70; Parliamentary Human Rights Group, 1976–1997 (Vice–Chair 1977–); Traveller Law Reform Unit; Cameroon Campaign Group 2003–present.

Lord Avebury is the founder of Parliamentarians for East Timor, 1988; Vice-Chair of the Parliamentary Group for Tibet; Chair of the Department for Education's Gypsy, Roma, Traveller Stakeholder Group 2009– Present; Member, Sub Committee F (Home Affairs) of the House of Lords Select Committee on the European Union 2003–06, 2008–Present.

He is the holder of the civil award Hilal-i-Quaid-i-Azam (Pakistan), patron of Angulimala (Buddhist Prison Chaplaincy) and an Honorary Associate of the National Secular Society.

IHEU

Founded in Amsterdam in 1952, the International Humanist and Ethical Union (IHEU) is the sole world umbrella organisation embracing Humanist, atheist, rationalist, secularist, skeptic, laique, ethical cultural, freethought and similar organisations world-wide.

Its vision is a world in which human rights are respected and everyone is able to live a life of dignity. The mission of IHEU is to build and represent the global Humanist movement that defends human rights and promotes Humanist values world-wide. Based in London, IHEU is an international NGO with Special Consultative Status with the UN (New York, Geneva, Vienna), General Consultative Status at UNICEF (New York) and the Council of Europe (Strasbourg), and maintains operational relations with UNESCO (Paris). IHEU has observer status at the African Commission on Human and People's Rights.

National Secular Society

The National Secular Society (NSS) is a non-profit non-governmental organisation, founded in 1866. Based in the UK, it advocates the separation of religion and state and promotes secularism as the best means to create a society in which people of all religions or none can live together fairly and cohesively. The NSS sees secularism, that is, the position that the state should be neutral in matters of religion as an essential element in promoting equality between all citizens. It therefore takes a keen interest in such causes as social cohesion and the fight against all forms of discrimination.

The NSS campaigns — at the UK, EU and international levels — on issues relating to the protection of Human Rights, non-discrimination, freedom of expression, social cohesion and, education and the rule of law. The NSS seeks a society where law and the administration of justice are based on equality, respect for Human Rights and objective evidence without regard to religious doctrine or belief.

UNITED KINGDOM

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 13th session, 2012

INTRODUCTION

1. We recognise that, in the main, basic human rights are well respected in the United Kingdom and that equalities legislation is well developed.
2. Nevertheless, since the church became a national institution in the middle of the 16th century, the state has tended to defer to the Church of England in matters of religion. This is particularly apparent still today in Parliament and the Education system.
3. While we accept that the retention of the Established Church is an internal matter on which the United Nations would not wish to intervene, we invite the UN to comment on the UK's legislature being the only one — certainly in the Western world — with *ex officio* clerics, 26 bishops and archbishops, not chosen by the state or any election for their suitability, but chosen by the Church of England, despite attendance at that Church on a normal Sunday being less than 2% of the population. More information is shown in this document¹.

ADMINISTRATION OF LAW

4. A parallel quasi legal Alternative Dispute Resolution (ADR) system is developing in the UK which is based on sharia principles and doctrine. Sharia gives women's evidence half the weight of men; this is highly discriminatory and undermines a woman's right to a fair hearing. As much of the work Sharia "tribunals" carry out relates to marital disputes, this discrimination is a fatal flaw.
5. An example of this ADR mechanism is that run by the Muslim Arbitration Tribunal (MAT)² whose website has for several years purported to have the support of the (now former) Lord Chief Justice and (now former) Minister of Justice³. Read carefully, the words do not quite do so – but the intention is clearly to make such tribunals look "official". We believe that many of those who go before such tribunals think this to be their only legal option, and many are unaware that they have rights under British law. The MAT operates as an arbitration tribunal, usually used and intended for commercial disputes, and whose determinations are enforceable under UK law. We understand, however, that their activities also extend to making determinations on child custody, domestic violence and rape; but these areas are not within the lawful scope of arbitration tribunals. The Muslim Arbitration Tribunals are not regulated and there is no right of appeal. Child custody, domestic violence and rape should be determined by the criminal courts or where appropriate the family courts. British law demands that the best of interests of the child must be the paramount consideration of courts in any question of child custody or contact. Sharia law gives custody of children to fathers at a preset age, regardless of the circumstances; this puts children at risk and removes the rights of mothers.
6. The National Secular Society has raised this matter with the European Commission, but it has declined to act as sharia is not law in the UK, although some are treating it as if it were. Nevertheless, there are serious and growing adverse implications for women and

¹ <http://www.secularism.org.uk/uploads/nss-response-to-the-consultation-on-the-house-of-lords-reform-draft-bill.pdf>

² <http://www.thetimes.co.uk/tto/law/article2214492.ece> and <http://www.thetimes.co.uk/tto/law/article2212422.ece>

³ <http://www.matribunal.com/>

children by the growth of this unregulated quasi-judicial process. Baroness Cox has introduced the Arbitration and Mediation Services (Equality) Bill⁴ into the House of Lords in an attempt to impose Human Rights norms on such tribunals, but being a Private Members' Bill is unlikely to become law.

7. More information is included in concise reports by One Law for All⁵ and one by Civitas, an unconnected organisation⁶. They take a similar approach.
8. **We recommend that a Commission of Enquiry is set up to examine the extent and conduct of such tribunals, with particular emphasis on the effects on women and children, the extent to which the tribunals' activities are discriminatory, and whether they breach fair trial norms. The Commission's terms of reference should include the production of a report and the making of recommendations.**
9. The One Law for All Campaign⁷ has expressed their agreement with this section.

CASTE DISCRIMINATION

10. Following evidence of discrimination on grounds of caste being presented to the previous Labour Government, it agreed to incorporate an enabling power in the Equality Act 2010 (Section 9(5))⁸ and commissioned a study confirming that caste discrimination exists in the UK⁹.
11. **We recommend that discrimination on the grounds of caste is outlawed by the operation of the ministerial power contained in the Equality Act 2010.**

Lord Avebury has been active in the UK Parliament on this matter.

ASYLUM FOR SEXUAL MINORITIES WHO IF THEY RETURNED HOME WOULD HAVE TO LIVE DISCREETLY OUT OF FEAR OF PERSECUTION

12. In 2010 the UK Supreme Court ruled unanimously that homosexual asylum seekers should be granted refugee status if going home would result in their being forced to conceal their sexuality.
13. The UK has designated countries whose human rights records are officially regarded as satisfactory, and appeals against refusal to grant asylum to nationals of such countries are automatically refused. The Nationality, Asylum and Immigration Act 2002, Section 94 5C however permits exceptions to categories of persons at special risk in such countries. One category is given in Section 94 5C(a): gender, and so women at risk were they to return to countries whose Human Rights record is regarded as acceptable and would therefore be ineligible for appeal, are nevertheless allowed to appeal under this provision. Section 94 5C(h) permits exceptions also to be made for "any other attribute or circumstance that the Secretary of State thinks appropriate".
14. **We recommend that those members of sexual and gender identity minorities at risk should also be given specific exemption under the Nationality, Asylum and**

⁴<http://www.guardian.co.uk/law/2011/jun/08/sharia-bill-lords-muslim-women> and <http://www.guardian.co.uk/commentisfree/belief/2011/jun/23/lady-cox-bill-sharia>

⁵ <http://www.onelawforall.org.uk/wp-content/uploads/New-Report-Sharia-Law-in-Britain.pdf>

⁶ <http://www.civitas.org.uk/pdf/ShariaLawOrOneLawForAll.pdf>

⁷ www.onelawforall.org.uk/

⁸ <http://www.legislation.gov.uk/ukpga/2010/15>

⁹ <http://www.homeoffice.gov.uk/publications/equalities/research/caste-discrimination/caste-discrimination-summary?view=Binary>

Immigration Act 2002, Section 94 5C(h) from automatic refusal of appeal if the country to which they would return is one where they would be at risk.

EDUCATION

15. A third of schools in England whose running costs are entirely met from public funds are conducted under the auspices of religious bodies or controlled by them, mainly the Anglican and Catholic churches. In many locations, especially rural ones, they are the only schools within reasonable travelling distance.
16. Many of these religious schools (the overwhelming proportion of which are church schools) are permitted to discriminate on admissions, on religious grounds – even requiring parents to attend church frequently to secure admission¹⁰. Yet, in England, less than 7% of the population attend church on an average Sunday, so the majority of the population who do not meet such requirements are disadvantaged in selection for such schools, and may not secure admission. There is no counterbalancing preference for children of non-religious parents at the remaining schools (not that we would advocate this) so they are disadvantaged.
- 17. We recommend that religious discrimination on admissions is made unlawful in publicly-funded schools.**
18. Teachers of no religion or a different religion to that of the school are similarly disadvantaged in publicly funded religious schools in selection, promotion and dismissal under the School Standards and Framework Act 1998 sections 58 and 60. A legal opinion commissioned by the (UK) Equality and Human Rights Commission dated 24 March 2011¹¹ concludes that “there may be significant [ECHR] Article 14 and Article 9 issues [“discrimination” and “freedom of thought, conscience and religion”] over this and associated matters. The National Secular Society has complained to the European Commission that these provisions breach the EU Employment Directive, a contention also confirmed by the opinion.
- 19. We recommend that religious discrimination in employment in publicly funded schools is limited to genuine occupational requirements permitted under Article 4 of the EU Directive Employment Directive.**
20. Having made extensive enquiries, we understand the UK to be the only country where community schools are required by law to conduct worship for pupils. In England and Wales the law requires worship to take place every school day and for pupils to “take part” and the NSS has provided the Government with copious evidence of its unpopularity. We believe that the statutory requirement for pupils to “take part” is a violation of all pupils’ freedom of religion and that attendance of religious services at school should not be mandatory, especially for older children. The UK Parliament’s Joint Committee on Human Rights considers that the children’s freedom of conscience would be better served if pupils with “sufficient maturity, understanding and intelligence” to make an informed decision about whether or not to withdraw themselves were

¹⁰ <http://www.guardian.co.uk/education/2010/sep/20/faith-schools-governor> and <http://www.guardian.co.uk/education/2011/apr/22/church-england-schools-places-non-christians> and <http://www.telegraph.co.uk/education/educationnews/8900101/Anglican-schools-facing-fresh-admissions-curb.html>

¹¹ <http://www.secularism.org.uk/uploads/legal-advice-to-ehrc-mar-11.pdf>

permitted to do so¹². This would be several years younger than the current right to self-withdrawal – limited to pupils over sixteen years old.

21. We do not consider that a statutory right of withdrawal by parents of children of any age overcomes the human rights objections posited above; parents or children may be dissuaded from withdrawal because of a wish to conform or not wishing to be seen to be different. Furthermore, parents may ignore their children’s wishes to withdraw. In such circumstances, the requirement to take part as opposed to simply attend is especially objectionable on Human Rights grounds.
22. **We therefore recommend the repeal of all UK law requiring:**
- I. Religious worship in schools and**
 - II. Pupils to “take part” in or attend any worship**

CHILD ABUSE IN RELIGIOUS INSTITUTIONS

23. Survivors Voice Europe¹³ has expressed their agreement with this section.
24. As in most countries in Europe, adverse publicity on child abuse in the UK is encouraging victims to come forward and the scale of abuse, mainly — but not exclusively — decades old, is significant and much higher than had hitherto been thought. Although there have been problems in the Anglican Church, there is a much greater scale of problems in organisations within the Catholic Church operating in the UK.^{14&15} This follows the pattern in Europe (especially Ireland¹⁶, Belgium, Germany, the Netherlands and Austria) and America (USA, Canada and Mexico)¹⁷. Reports are emerging about problems in France¹⁸.
25. The revelations expose continuing serious systemic weaknesses in protection regimes (and all too often, their total ineffectiveness). Regimes introduced in England and Wales in the last decade by the Church have been demonstrated to be ineffective, mainly through the acceptance of the continued involvement of those with a conflicting vested interest in protecting the Church’s reputation and assets, and sometimes these have even been those with a history of concealment or potentially even abusive activity themselves.
26. Further problems arise from the plethora of largely autonomous catholic bodies beyond the diocesan structure; St Benedict’s School (Recommendation 33. 1 g below, with footnote) is under the control of the Benedictine Ealing Abbey in effect completely unaccountable; it sheltered abusers repeatedly and shamelessly, regardless of the implications for the welfare of the children. Even the child protection diocesan structure seems needlessly complex impeding its effectiveness. It is notable that there remains no requirement to publicise independent helplines in schools, churches etc. for those who

¹² <http://www.publications.parliament.uk/pa/jt200506/jtselect/jtrights/247/24705.htm>

¹³ www.survivorsvoice-europe.org/

¹⁴ <http://www.thetablet.co.uk/article/161972>

<http://www.dailymail.co.uk/news/article-2053106/Vatican-action-Pope-orders-inquiry-child-sex-abuse-claims-London-abbey.html>

<http://www.thetimes.co.uk/tto/news/uk/crime/article3205109.ece>

<http://www.independent.co.uk/news/uk/crime/child-abuse-priest-jailed-for-21-years-2113856.html>

<http://www.channel4.com/news/paedophile-priests-remain-in-catholic-church>

¹⁵ <http://www.incas.org.uk/govtpetitions.html>

¹⁶ <http://www.secularism.org.uk/uploads/briefing-for-examination-of-ireland-july-2011.pdf>

¹⁷ <http://www.secularism.org.uk/unhrc-holy-see-child-abuse-ref1.html>

¹⁸ <http://www.catholicreview.org/subpages/storyworldnew-new.aspx?action=10982>

wish to report concerns, but are not prepared to do so to the very institution that they are alleging has been at fault.

27. There is multiple evidence in the UK, as in other countries, of the following endemic/systemic problems of:
- a. Victims are silenced partly through threats but also as a condition of receiving compensation with the result that perpetrators can continue abuse unchecked,
 - b. The Church does all in its power to suppress knowledge of abuse¹⁹, partly to avoid scandal but also to protect the perpetrators from secular justice and minimise compensation payments, and
 - c. The Church does all in its power to minimise payments of compensation to abuse victims, and delaying them to the point that the victims die²⁰ before compensation is paid
 - d. National laws, regulatory and detection mechanisms in the wider community and in schools etc have failed to detect large scale abuse for decades, if at all²¹.
28. Beyond these recurrent general problems, the Church has demonstrated publicly that its institutional concerns take primacy over the rights of the Child:
- I. by litigating to establish whether the Catholic Diocese of Middlesbrough or the Catholic order the de la Salle brothers are responsible for paying abuse compensation involving multiple victims – leaving victims uncompensated and some likely to die before compensation is paid²²
 - II. by refusing to take responsibility for compensating victims of abuse perpetrated by clerics under Church control and representing the Church on the questionable claim that the clerics were not employees. The church has appealed the decision in *JGE v The English Province of Our Lady of Charity* [2011] EWHC 2871 (QB) (vicarious liability of a Bishop for its priest).
29. Some of these problems originate with the Church's international management from the Vatican, but that does not of course absolve Member States from their own responsibilities under the Convention on the Rights of the Child (UNCRC). The Church has consistently over many decades done everything to keep secret abuse that has taken place, widely believed to be on instructions from the Vatican^{23&24} which requires mandatory reporting of such matters and keeps secret files, probably the only ones containing information that would be needed by prosecutors. Roman Catholic canon law appears to obstruct criminal law in the country where criminal acts are alleged to have taken place. Where Bishops or the Congregation of the Doctrine of the Faith have moved priests who have committed offences rather than turning them over to the police and the priest goes on to abuse, the church official has committed the offence of aiding and abetting the subsequent abuse. More robust exercise of police powers to require the disclosure of evidence of all dealings with abusing priests should be implemented.
30. We do not consider that the level of compensation payments reflect the trauma and damage to many victims' lives and those of their families. We understand neuroscience studies are being conducted into this area.

¹⁹ <http://www.secularism.org.uk/uploads/briefing-for-examination-of-ireland-july-2011.pdf>

²⁰ <http://www.bbc.co.uk/news/uk-england-york-north-yorkshire-14807926>

²¹ As well as Ealing (footnote 24) and <http://www.bbc.co.uk/news/uk-england-devon-15491833>, for example

²² <http://www.bbc.co.uk/news/10605047>

²³ <http://www.guardian.co.uk/world/2003/aug/17/religion.childprotection>

²⁴ <http://www.guardian.co.uk/world/2011/may/16/vatican-sex-abuse-guidelines-criticised>

31. Now that the scale of abuse is becoming apparent, further significant measures are necessary to uncover and punish past abuse, minimise future abuse and ensure compliance with the Convention.
32. The result of the above is that children have failed to receive the protection from member states to which they are entitled under the UNCRC. We accept that this has been unwittingly in the case of the UK, but the situation now having become apparent, the UK needs urgently to take corrective action along the lines we recommend.

33. We recommend:

- 1) A public inquiry or royal commission is conducted into child abuse in institutions run by religious organisations in the UK. The terms of reference should seek to:
 - a. discover the extent of abuse, which should include psychological and physical abuse as well as sexual abuse
 - b. investigate of the whole life effects of abuse victims and their families, which we believe often to be devastating, referring also to the latest medical research in this area including neuroscience²⁵
 - c. establish reasons why detection has been generally so poor and delayed
 - d. examine the extent of reparations provided by the Church, both of medical aid and financial support and the attempts to minimise this and the conditions imposed (e.g. secrecy) on its receipt
 - e. establish appropriate levels of medical aid and financial reparation that should be provided with reference to the above points, including punitive damages where the victims have been obstructed and further abused by the Church when seeking justice or reparations
 - f. propose measures to uncover further past abuse and preventing future abuse
 - g. focus particularly on the efficacy of the role of the Independent Schools Inspectorate which, for example, gave St Benedict's Ealing a clean bill of health²⁶ shortly before wholesale abuse over decades was uncovered.
- 2) The inquiry extends to Northern Ireland and takes into account the fact that some dioceses straddle to border with the Republic of Ireland where the per capita levels of clerical abuse are the highest uncovered anywhere to date and more investigations are ongoing.
- 3) Every institution should be required to publish prominently a helpline number to an organisation unconnected with the institution.
- 4) That the Government tables legislation to:
 - a. make prompt reporting of suspected child abuse mandatory regardless of canon law or the information being obtained in the confessional or other confidential setting
 - b. make it a specific criminal offence for any official in an organisation to move a suspected child abuser to work elsewhere until the suspicions have been investigated by prosecuting authorities and found baseless.
 - c. clarify that religious organisations cannot escape liability for actions by those known to act in the organisation's name (for example clergy) by virtue of their relationship with the organisation not being one of employment
 - d. require organisations where branches of them are in dispute over which pays compensation for child abuse, to pay the compensation when liability has

²⁵ <http://survivorsvoice-europe.org/wp-content/uploads/2011/10/BRAINS-BOMBS-AND-BADDIES.pdf>

²⁶ <http://www.thetimes.co.uk/tto/opinion/thunderer/article3225344.ece>

been established, rather than it being delayed until after the allocation of the liability over the branches has been established

- e. Establish minimum standards for child protection procedures in religious schools, and their inspection and policing, probably making them identical with those in maintained schools.
- f. Ensure that prosecutions or civil actions on child abuse are not impeded by statute of limitations, or its equivalent (we understand there is such a problem over civil claims in Scotland)

(Some of these criminal and civil legislative proposals may already be available through wide-ranging legislation or case law.)

Keith Porteous Wood
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National Secular Society