

UPR Submission on the United Kingdom of Great Britain and Northern Ireland – 27th session (Apr-May 2017)

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About the National Secular Society

1. This submission is made by the National Secular Society (NSS). The NSS is a not-for-profit organisation founded in 1866, funded by its members and by donations. It campaigns for a diverse society where all are free to practise their faith, change it, or to have no faith at all. The NSS advocates separation of religion and state and promotes secularism as the best means of creating a society in which people of all religions or none can live together fairly and cohesively.
2. The NSS has a long history of positive engagement (both directly and through our partners) with UN Committees, including the UNHRC, UNCRC and UNCAT. We also have special consultative status with the Economic and Social Council.

Introduction

3. Our work encompasses many areas of human rights. Those of greatest concern include equality and non-discrimination, freedom of religion and belief and freedom of expression.
4. The United Kingdom's recent periodic review (2016) by the UNCRC exposed some significant variances between legislation and Government policy, and the UK's Convention obligations. We recommended that the UNHRC's universal periodic review should take note of these variances and subsequent Government announcements.

Discrimination on grounds of religion and belief

5. The previous Report of the Working Group on the UPR urged the UK to “Consider strengthening policies to combat discrimination in all areas, notably in employment and education”¹
6. We are deeply concerned about the UK’s failure to address religious discrimination in ‘faith’ school admissions. Equality Act exceptions permit schools designated as having a religious character to use faith-based oversubscription criteria and allocate all places by reference to faith where the school is oversubscribed.²
7. Newly established schools (‘free schools’) have until now been subject to a 50% cap on faith-based admissions. In September 2016 the UK Government announced its intention to remove the cap and permit new faith-based schools to apply 100% religious selection in admissions.
8. Such discrimination is highly unusual. A 2012 OECD (Organisation for Economic Co-operation and Development) report identified only the UK, Republic of Ireland, Estonia and Israel as allowing state schools to select pupils on religious grounds³.
9. Admissions policies which discriminate on religious grounds are not only unfair on those excluded from these publicly-funded schools on the basis of their religion or belief, they also encourage religious segregation of children and young people to the detriment of social cohesion. There is also compelling evidence that they encourage socio-economic segregation.⁴
10. In minority faith schools in England (Islam, Judaism, Sikhism and Hinduism) the ethnic make-up is overwhelmingly formed of pupils from predominantly similar ethnic (and very likely religious) backgrounds.⁵
11. It is remarkable that whilst the UNCRC called on the UK to “actively promote a fully integrated education system” (in the context of Northern Ireland), the UK’s response has been to facilitate greater levels of religious segregation in English ‘faith’ schools.
12. *We recommend that the UK eliminates religious selection in admissions procedures to publicly-funded schools.*
13. With regard to Northern Ireland we see little evidence of progress in this area despite previous UNCRC recommendations⁶. At present around 93% of children in Northern Ireland attend religiously segregated schools.

¹ UN Ref 66 (Status – accepted, in part)

² <http://www.legislation.gov.uk/ukpga/2010/15/schedule/11>

³ See page 15 Table 2.3. Selection criteria for public schools across <http://bit.ly/2cTUcTD>

⁴ <http://www.integrationhub.net/module/education/>

⁵ https://consult.education.gov.uk/school-frameworks/schools-that-work-for-everyone/supporting_documents/SCHOOLS%20THAT%20WORK%20FOR%20EVERYONE%20%20FINAL.pdf

⁶ CRC/C/GBR/CO/5 – 72 (e) “In Northern Ireland, actively promote a fully integrated education system and carefully monitor the provision of shared education, with the participation of children, in order to ensure that it facilitates social integration.”

14. We recommend that the State Party makes a commitment to phase out religiously segregated publicly-funded schools in Northern Ireland and expand provision of integrated/secular schools within a defined and reasonable timeframe.
15. Faith schools across the UK are also permitted to discriminate against teachers on grounds of religion and belief. Notably, UK legislation⁷ does not limit this discrimination to where a Genuine Occupational Requirement can be established, and therefore can be applied to *all* positions in some religious schools. This significantly limits the career opportunities of teachers who are not of the faith of these schools.
16. We recommend that legislation be amended to ensure religious discrimination in employment in publicly-funded schools is limited to situations where a genuine occupational requirements (GOR) can be demonstrated as per Article 4 of EU Employment Directive 565.

Discrimination: Caste

17. In 2012, the Universal Periodic Review (UPR) recommended that the UK “put in practice a national strategy to eliminate discrimination against caste” by adopting the Equality Act of 2010, which prohibits such discrimination.⁸
18. It reminded the UK of its human rights obligations, including the CERD’s General Recommendation 29 and recommendations of the Special Rapporteur on Contemporary Forms of Racism.
19. The UPR’s recommendation did “not enjoy the support of the United Kingdom”.⁹
20. Four years later, the CERD issued its Concluding Observations on the UK in which it also recommended that the UK invoke Section 9(5)(a) of the Equality Act “without further delay to ensure that caste-based discrimination is explicitly prohibited under law” and for victims to have access to effective remedies.¹⁰
21. The UK has failed to take this action. Instead, it stated that it hopes for “the development of case-law that provides protection.”¹¹ This is grossly inadequate.
22. More worryingly still, in 2016 the UK announced a public consultation on “whether additional measures are needed [on] ... caste discrimination ... under the 2010 Equality Act”.¹² This is concerning as it risks so-called higher caste and those wishing to discriminate on grounds of caste to oppose the legislation.

⁷ Schools Standards and Framework Act.

⁸ http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-9_en.pdf (A/HRC/21/9 recommendation 110.61)

⁹ www.crae.org.uk/media/63271/Government-response-to-UPR.doc

¹⁰ http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GBR/CERD_C_GBR_CO_21-23_24985_E.pdf 21st to 23rd periodic reports (CERD/C/GBR/CO/21-23) Paragraph 8(a)

¹¹ <https://hansard.parliament.uk/lords/2016-07-11/debates/16071120000176/Caste-BasedDiscrimination> House of Lords 11 July 2016, official record col 86 (speech by Lord Cashman)

¹² <https://www.gov.uk/government/news/caste-discrimination-consultation>

23. We recommend the UK legislate to implement its international obligations in respect of caste, in line with its human rights obligations, as recommended by the UN, and indeed as required by the UK Parliament.¹³

Freedom of thought, conscience and religion

24. Since the 2012 UPR of the UK, the UNCRC has expressed its concern over the legal requirement on publicly funded schools in England and Wales to provide a daily act of worship which is "wholly or mainly of a broadly Christian character".
25. As the UNCRC noted, children do not have the right to withdraw from such worship without parental permission before entering the sixth form. In Northern Ireland and Scotland, no pupils (irrespective of age) have the right to withdraw from acts of collective worship without parental permission.
26. The UNCRC recommended the repeal of legal provisions for compulsory collective worship in publicly funded schools and that children should be given an independent right to withdraw from acts of religious worship at school.
27. Regrettably, the Secretary of State for Education in England responded by saying the UK Government has "no plans to change the current requirement for the daily act of collective worship... or the current arrangements surrounding the right to withdraw".
28. The Scottish Government claims its policy on school worship (called "religious observance") complies with Article 9 and Article 2 of the First Protocol to the ECHR and refers to the statutory right of parents to withdraw children from religious observance.
29. In the overwhelming majority of cases, school communities are made up pupils from a variety of religion and belief backgrounds. Even with limited withdrawal rights, requiring acts of "broadly Christian" worship, in which pupils by law are required to "take part", undermines young people's freedom of religion or belief and usurps parental rights in this area.
30. We recommend that the State party:

a.) repeal legal provisions for compulsory collective worship in maintained schools

b.) ensure that children can independently exercise the right to withdraw from any acts of religious worship at school

b.) ensure that all aspects of the school curriculum, including assemblies, are respectful and inclusive of all pupils, regardless of their religion or belief, including non-belief.

Right to education

31. In 2012 the UK supported the UPR recommendation to "Adopt a strategy so that children of vulnerable groups are not excluded from the education system".

¹³ <http://www.legislation.gov.uk/ukpga/2013/24/part/6/crossheading/caste-as-an-aspect-of-race/enacted>

32. For decades children from minority religious backgrounds (mainly Orthodox Jewish and Muslim, with some from minority Christian sects) have been going missing from the mainstream education system. Local and national governmental agencies have failed to adequately address this issue.¹⁴
33. In many cases these children are being home-schooled or attending unregistered (and therefore illegal) unregulated faith schools. Between January and May 2016 the schools inspectorate Ofsted uncovered more than 100 such illegal schools – 50 of which were faith based and noted that the institutions were putting thousands of children “at risk of harm, including the risk of exposure to extremism and radicalisation”.¹⁵
34. In September 2016 the outgoing Chief Inspector of Schools, Sir Michael Wilshaw, said that “political correctness” was causing local authority to turn a blind eye to illegal faith schools, particularly in the case of unregistered Islamic schools. He said that the 150 to 160 illegal schools which are already known about are just the “tip of the iceberg”.¹⁶
35. The failure in some such schools to even teach pupils English endangers their safety and their ability to function in society, as shown in one example where pupils at an illegal ultra-Orthodox Jewish faith school almost drowned after being taken on a hiking trip in Dover.¹⁷ Neither teachers nor pupils could read English and nearly drowned because they couldn’t read the warning signs. The school had been known about by the authorities for five years.
36. *We invite the Committee to recommend that the UK develops a robust strategy for protecting the rights and interests of these children, including instituting a system to ensure it has accurate information about where every child is being educated and regularly reporting on the number of children missing from the formal education system either through home-schooling or illegal unregistered ‘schools’, taking investigative steps where children are unaccounted for, and closing down illegal schools.*

Right to Health

37. The UK Government has failed to act on the 2012 UPR recommendation to “Ensure by legislative and other measures that women in Northern Ireland are entitled to safe and legal abortion on equal basis with women living in other parts of the United Kingdom.”¹⁸
38. Since 2012 the situation in Northern Ireland and the UK Government’s failure to act has, if anything, become more concerning.
39. In June 2015 the Northern Ireland Assembly considered legislation to introduce a ten year prison sentence for carrying out an abortion – including in life-threatening

¹⁴ <https://www.secularism.org.uk/blog/2015/04/allowing-children-to-languish-in-illegal-religious-schools-is-the-bigotry-of-low-expectations>

¹⁵

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523694/Unregistered_schools_advice_note_16_May_2016.pdf

¹⁶ <http://www.thetimes.co.uk/article/councils-ignoring-illegal-faith-schools-zr7qsxtg9>

¹⁷ <http://www.independent.co.uk/news/uk/home-news/pupils-at-illegal-faith-school-almost-died-after-being-taken-on-hike-up-a-cliff-in-traditional-ultra-a7116956.html>

¹⁸ UN Ref 77

circumstances.¹⁹ Fatal foetal abnormalities, rape and incest are not circumstances in which abortions can be performed legally.

40. In November 2015 the High Court in Belfast held that the abortion legislation in Northern Ireland breached Article 8 of the European Convention on Human Rights,²⁰ violating the human rights of women and girls, including rape victims.
41. The Catholic Church in Northern Ireland lobbied the attorney general to appeal the ruling, and has since been recognised as an "interested party" by the courts.²¹
42. In 2016 at least two women were prosecuted in Northern Ireland for purchasing abortion pills online.²²
43. It is openly acknowledged by all sides of the abortion debate that women in Northern Ireland who are seeking an abortion often travel to the mainland UK if they have the financial means, which often costs up to £2,000 plus travel, accommodation and time off work. In 2014, there were 837 abortions performed in England for Northern Ireland residents.²³
44. We note with concern the UK Government's proposals to devolve abortion legislation to the Scottish Parliament – a move which is leading to calls for additional restrictions on reproductive healthcare in Scotland, potentially undermining women's human rights.
45. We urge the Working Group to question the UK Government as to how (in the context of justice and healthcare being devolved issues) they will ensure that all UK Governments meet their international legal obligations on human rights.
46. *We recommend that the recommendation of the 2012 UPR on this issue is reiterated.*²⁴
47. Sex and Relationships education is not mandatory in all schools, its contents and quality varies depending on the school.
48. Successive Governments have permitted parents to withdraw their children from some parts of SRE.²⁵ It is likely that those exercising the right of withdrawal, often on religious grounds, may not be providing this information at home. LGBT children are at particular risk. This risk is enhanced by the ability of faith schools to teach sex and relationship

¹⁹ <https://www.secularism.org.uk/news/2015/06/northern-ireland-anti-abortion-measure-strongly-supported-by-religious-groups>

²⁰ [https://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/SummaryJudgments/Documents/Court%20declares%20abortion%20law%20in%20Northern%20Ireland%20breaches%20European%20Convention%20on%20Human%20Rights%20by%20faili/j.j.Summary%20of%20judgment%20-%20In%20re%20NIHRC%20\(Termination%20of%20Pregnancy\)%2030.11.15.htm](https://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/SummaryJudgments/Documents/Court%20declares%20abortion%20law%20in%20Northern%20Ireland%20breaches%20European%20Convention%20on%20Human%20Rights%20by%20faili/j.j.Summary%20of%20judgment%20-%20In%20re%20NIHRC%20(Termination%20of%20Pregnancy)%2030.11.15.htm)

²¹ <https://www.theguardian.com/world/2016/jan/07/abortion-law-catholic-church-northern-ireland-opposing-high-court-ruling>

²² <https://www.theguardian.com/world/2016/apr/18/northern-ireland-abortion-prosecutions-uk-parliament>

²³ <http://www.newstatesman.com/politics/devolution/2016/06/abortion-and-northern-ireland-human-rights-abuse-we-all-ignore>

²⁴ Paragraph 77 "Ensure by legislative and other measures that women in Northern Ireland are entitled to safe and legal abortion on equal basis with women living in other parts of the United Kingdom"

²⁵ <https://www.gov.uk/national-curriculum/other-compulsory-subjects>

education within their religious framework which can ignore LGBT issues or include negative or discriminatory teachings about LGBT sex and relationships. We are aware of at least one Orthodox Jewish school that went as far as to censor exam questions on human reproduction to shield young girls from such knowledge.

49. We recommend that the State Party be asked to demonstrate concrete measures to ensure that age-appropriate sex education is being comprehensively taught in all schools and that the law be changed so that in all schools there is no legal right to parental opt-out of sex and relationships education.

Gender-based violence

50. In 2012 the UK accepted the recommendation to "Adopt a national strategy to combat all forms of violence against women and girls."

51. We remain seriously concerned at the UK's failure to successfully prosecute a single case of female genital mutilation (FGM).

52. Most alarmingly, 30 years after FGM was made illegal in the UK, a 2016 Home Affairs Committee report found that "some clinicians are ignoring the duty on frontline healthcare professionals, social care workers and teachers to record data on FGM incidence".²⁶

53. The first ever recorded figures for FGM, reported in July 2016²⁷, showed that between April 2015 and March 2016 there were 5,702 new cases in England. However, the scale of the problem could be far higher - there is no reliable data. One study estimated that there were approximately 137,000 women and girls subjected to FGM who were permanently resident in England and Wales in 2011.

54. We urge the Working Group to question the UK Government on the current state of their strategy and reporting on Female Genital Mutilation (FGM), and stress to the UK that the universality of individual Human Rights should be upheld and not overridden on the grounds of religion, tradition or culture.

55. We are concerned with the rise of child abuse cases relating to accusations of witchcraft and demonic possession, and note that such abuse very often has a gendered dimension.²⁸

56. We therefore urge the committee to recommend that the UK Government includes the tackling and reporting of such abuse in their strategy to combat all forms of violence against women and girls.

²⁶http://www.publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf?utm_source=390&utm_medium=module&utm_campaign=modulereports

²⁷ <http://www.bbc.co.uk/newsbeat/article/36838870/the-first-ever-fgm-figures-show-nearly-6000-new-cases-in-england>

²⁸ <http://www.bbc.co.uk/news/uk-34475424>

Freedom of Expression

57. We are concerned about Government proposals to introduce new freedom of speech laws in the name of "combatting extremism". According to the Government, new measures²⁹ will go "beyond [dealing with] terrorism" and "eliminate extremism in all its forms", including non-violent extremism.
58. However the proposals risk capturing a whole range of behaviour and speech which fits under a broad, ill-defined conception of 'extremism'.
59. The UK already has sufficient legalisation in place to combat hate speech, including incitement to violence or hatred. Additional restrictions on free speech can only further jeopardise and chill freedom of expression.
60. *We invite the Working Group to encourage the UK to protect the fundamental right to freedom of expression and recognise that new legal restrictions on speech are not the remedy for tackling 'extremism'.*

Discrimination against women

61. In our submission to the 2012 UPR we noted that the UK was seeing the emergence of a parallel quasi-legal system (Sharia) which is discriminatory and undermines the principal of one law for all and access to justice.
62. The use and flourishing of around 100 sharia 'courts' in the UK poses a serious threat to common citizenship in the UK, and the integrity of secular law. But it is primarily a threat to women's rights and the rights of minorities, even if these councils are used willingly: the existence of these bodies creates a communal pressure on women to use discriminatory religious courts. There is evidence of pressure not to use civil courts to settle marital or child custody disputes, particularly among some Muslims.³⁰
63. A review into the application of sharia law in England and Wales was launched in 2016³¹. Along with other human rights organisations, we strongly objected³² to the makeup and remit of the review. We believe the inquiry must be clearly framed as a human rights investigation, rather than a theological or security one.
64. *We urge the Working Group to raise these concerns with the UK Government.*

Child rights – historical and institutional child abuse

65. Levels of known and suspected historical sexual abuse of minors has been sufficient to prompt formal enquiries throughout the UK. Much of this has been in religious institutions which have demonstrated little, if any, willingness to volunteer evidence that would lead to perpetrators or those who knowingly shielded them from justice being prosecuted or sued for compensation.

²⁹ Extremism Disruption Orders <http://defendfreespeech.org.uk/what-are-edos/>

³⁰ <http://www.telegraph.co.uk/news/uknews/law-and-order/9975937/Inside-Britains-Sharia-courts.html>

³¹ <https://www.gov.uk/government/news/independent-review-into-sharia-law-launched>

³² <https://www.opendemocracy.net/pragna-patel-gita-sahgal/whitewashing-sharia-councils-in-uk>

66. Our assessment of the Scottish³³ and Northern Ireland³⁴ inquiries are that their terms of reference are worryingly narrower and more restricted than the Independent Inquiry into Child Sexual Abuse (IICSA), now led by Prof. Alexis Jay, which covers institutions in England and Wales³⁵.

67. Scotland's only includes children "in care" Northern Ireland's also only includes children in care, specifically not those in schools (nor those abused by clerics). These Inquiries do not cover other cases of clerical abuse.

68. *We recommend*

(a) that the Inquiries in Scotland and Northern Ireland be expanded beyond investigation of children in care to all institutional abuse

And (b) consideration being given to the introduction of mandatory reporting similar that in Ireland³⁶, but with appropriate penalties.

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³³ Terms of reference: <https://www.childabuseinquiry.scot/key-documents/terms-of-reference/>

³⁴ <https://www.hiainquiry.org/terms-reference>

³⁵ Terms of reference: <https://www.iicsa.org.uk/terms-reference>

³⁶ CRC/C/VAT/CO/2 No 44 (e) were: "Establish clear rules, mechanisms and procedures for the mandatory reporting of all suspected cases of child sexual abuse and exploitation to law enforcement authorities."