

Human Rights for Muslims – Muslim Rights for Humans

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At present – although with the advent of New Labour this is about to change – there is no specific legislation in England, Scotland and Wales that makes discrimination on religious grounds unlawful. As with Gulf War Syndrome, many members of the late Conservative government continually endeavoured to maintain that religious discrimination does not exist, except in Northern Ireland! Not enough humans had died or suffered to warrant official recognition of a phenomenon which for many is a fact of life. Despite mounting evidence and repeated requests from the Muslim community in Great Britain, no protection or deterrent against religious discrimination was provided by domestic English law. And yet religious discrimination – whether blatant or disguised, gross or subtle – is, as with racial and sexual discrimination, experienced by many people – not only by Muslims but also by followers of other faiths.

Muslims have traditionally understood this phenomenon to be a manifestation of *jahiliyya* – meaning ignorance and arrogance, and *kufri* – meaning rejection and covering up. In its consultation paper published in February 1997, the Runnymede Trust has recently given impetus to the relatively new term ‘Islamophobia’, a term which implies an irrational disease of the mind, somewhat akin to the illness in the hearts of those who reject which is described in the Qur’an as *maradhun*. In this consultation paper, the Commission on British Muslims and Islamophobia has this *inter alia* to say:

‘It has been established through case law that members of two world faiths, Judaism and Sikhism, are fully protected under the Race Relations Act, since they are considered to belong to distinct ethnic groups. It is a serious anomaly that no such protection exists for members of other faiths, even though Muslims (as also Christians) would emphatically not wish to be seen as all belonging to a single ethnic group. A further anomaly is that direct discrimination in employment on religious grounds is unlawful in one part of the United Kingdom, Northern Ireland, but not in Great Britain. Officialdom’s slowness to recognise these anomalies in anti-discrimination legislation may well be affected by islamophobia, or by insensitivity to Muslim concerns. If new legislation were to be introduced specifically to outlaw religious discrimination, however, the clear public message would be that islamophobia is unacceptable and that British Muslims have the same rights as all other citizens.’

New Labour is proposing to do just this, not by outlawing religious discrimination *per se*, but by protecting the fundamental human rights of freedom of belief and the freedom to practise that belief. This the new government proposes to do by incorporating the *European Convention on Human Rights* (the *ECHR*) – which was signed and ratified by the United Kingdom government in 1950 and came into force in 1953 – into English domestic law by Act of Parliament. New Labour pledged *inter alia* that it would do this if elected; the new Prime Minister Tony Blair has insisted that all New Labour’s promises will be kept; and it is inevitable that this particular promise must and will be kept. For many years Lord Lester of Herne Hill QC has campaigned tirelessly for this moment, and it would not come as any surprise to find his original private member’s Human Rights Bill (blocked by the Conservatives in 1995) resurfacing in either its original or modified form as the empowering Act of Parliament.

Perhaps Lord Lester will recall the question he was once asked back in 1995 about what the constitutional position would be if HRH Prince Charles exercised his right under the Convention to publicly embrace Islam when at present the reigning monarch of England is obliged by statute law – including *inter alia* the *Bill of Rights 1688*, the *Coronation Oath Act 1688*, the *Act of*

Settlement 1700, the *Treason Act 1702*, the *Union with Scotland Act 1706* and the *Accession Declaration Act 1910* – to be a Protestant Christian. As the law stands at present, if HRH Prince Charles publicly embraced Islam now, he would be barred from becoming king, and if he publicly embraced Islam after becoming king, he would be obliged to abdicate. In both cases this would constitute a fundamental violation of his rights under the ECHR. Perhaps, therefore, this is another law – the result of a historical scenario dating back over three centuries which has ceased to exist or be relevant – which also needs changing by New Labour!

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What does the *European Convention on Human Rights* have to say about religious freedom? *Article 9* of the *ECHR* guarantees everyone living in Europe including the UK the right to *choose* their religion and the right to *practise* their religion:

- (1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
- (2) Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Furthermore, *Article 2* of the *First Protocol* to the *ECHR* guarantees everyone living in Europe including the UK the right to have their children educated in accordance with their religious beliefs:

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

It follows, therefore, that once the *ECHR* has become an integral part of English law, then all Muslims living in the United Kingdom will be guaranteed the fundamental legal right to worship their Creator and to follow the way of Islam without being discriminated against because of this, and to live and bring up their children *as* Muslims without being prevented or deterred from doing so.

Furthermore, any Muslim living in the UK whose religious rights have been denied or violated, and who has been unable to secure justice in the national courts, will be free – after all national remedies have been exhausted – to present his or her case initially to the European *Commission* of Human Rights, and then if necessary to the European *Court* of Human Rights, in Strasbourg, France.

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This all sounds wonderful, but what remedies are there if someone’s rights have been infringed or violated? *Article 1* of the *ECHR* states:

- 1 The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

The United Kingdom is one of the ‘High Contracting Parties’, and ‘Section I’ of the *ECHR* comprises *Articles 2-18*. *Articles 13 and 14* of the *ECHR* elaborate on the present government’s duty to ‘secure’ the rights and duties defined in the *ECHR*:

- 13 Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.
- 14 The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

It follows that further secondary legislation will be needed in order to 'secure' the rights which the ECHR seeks to protect by providing an 'effective remedy' in the English courts 'without discrimination on any ground'. If the new Labour government were to fail to do this, it would itself then be in breach of the *ECHR*.

As regards the rights which are enshrined in *Article 9* of the *ECHR* and *Article 2* of the *First Protocol* to the *ECHR*, and given the national courts' experience and familiarity with the *Race Relations Act 1976* and the *Sex Discrimination Act 1975* (as amended by the *Sex Discrimination Act 1986*), it may well be that the easiest way to provide remedies for religious discrimination will be by amending at least the *Race Relations Act* and perhaps also, for the benefit of Muslim women especially, the *Sex Discrimination Act*. This could be done by including 'religion' as an additional ground for proving discrimination by way of differential treatment, which would mean inserting the words 'or religious' wherever and after the word 'racial' or 'sexual' appears in the wording of these Acts, and inserting the words 'or religion' wherever and after the word 'race' or 'sex' appears in these Acts.

Alternatively, an entirely new Act, the *Religious Discrimination Act 1998* could be promulgated. It may well be that in time a body similar to the Commission for Racial Equality would also be instituted – namely the Commission for Religious Equality. Alternatively, both of these bodies could be assimilated, along with the Equal Opportunities Commission, as different departments within the new Human Rights Commission which the government is proposing to create shortly.

As regards one of the main blocking devices which has been used to neutralise proposals of this nature in the past, and which seeks to argue that 'religion' is such a vague term that it is impossible to define, it is of course possible to suggest a very simple criterion: a 'religion' is 'that system of beliefs and actions centred round the worship of God which is derived in whole or in part from a book revealed by God to one of His messengers.' This definition is wide enough to include all denominations of the Jews, the Christians, the Muslims, the Hindus, the Buddhists and the Sikhs – but not man-made religions such as, for example, Scientology and Communism, neither of which involve worship of God. If a definition of 'God' were also needed, then although *Surat' al-Ikhlās* would be perfect, perhaps 'the Source and Sustainer of the universe and all that exists' would suffice.

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Once the ECHR has been incorporated into English domestic law, and once the further 'securing' secondary legislation has been enacted, Muslims should find that they have far greater protection under the law of this land than at present. It should, for example, no longer be possible for a Muslim lady to be dismissed from her employment simply because she covers her hair with a scarf; nor for any Muslim to be prevented from doing the prayer; nor for Muslim children to be denied a Muslim education in a Muslim school. It may well even be that in time British Muslims will be entitled by law to have a day off work on their *'Id* days, just as the Christians have for centuries.

Securing religious freedom is bound to be a gradual process, not only for the Muslims, but also for members of other religions which are relatively ‘new’ in terms of their coming to the British Isles. It must be remembered that both the Jews and the Christians of whatever denomination experienced similar difficulties when their religions were also once ‘new’. There have been times in fair Albion’s history when Christians were burnt to death for their beliefs and the Jews banished altogether from the realm. The fact that both of these groups have already secured in the passage of time the rights which the Muslims *inter alia* now also seek to secure provides our legal system and our judiciary with a sound precedent which has been overlooked for far too long and should no longer be ignored.

It should be emphasised, however, that simply passing a law against any form of ignorance does not in itself dispel such ignorance, although it may well eventually help to have that effect. Ignorance can only be defeated by wisdom. Arrogance can only be repulsed by humility. Covering up the truth can only be overwhelmed by making the truth clearly apparent. Tyranny can only be conquered by justice. And, as all true Muslims know, there will always be people who cannot understand, whether you talk to them or not, because Allah has placed a veil over their hearts which renders them ‘blind’ and ‘deaf’ even though they can see (but not perceive) and hear (but not listen). For the *muminun*, opposition and trouble from the *munafiqun* and the *kafirun* is the confirmation that their Islam is sound and that they are on the *sirat-al-mustaqim*. The religious intolerance displayed by ignorant people does not come as a surprise to them, nor does it dishearten them, for it is an integral part of life. No-one was more discriminated against because of his *deen* than the Prophet Muhammad, may Allah bless him and grant him peace, but like the sword blade that is repeatedly plunged in the fire, hammered and plunged in water, this only made him sharper, brighter and more victorious.

It is for this reason that British Muslims should not expect religious discrimination to simply disappear overnight as soon as the *European Convention on Human Rights* and the secondary securing legislation have been incorporated into the law of the land – just as the *Race Relations Act* and the *Sexual Discrimination Act* have not abolished racism and sexism after more than twenty years. Naturally it is hoped that these new laws will serve to deter religious discrimination, and to provide both remedies and compensation in the more blatant cases, but ultimately the cure for this illness lies in communication, education and example – not in recourse to the courts. The way of Islam helps to make life simple, sweet and peaceful, but this has to be demonstrated – so clearly that it cannot be demonised by the media in the way that it is at present – and accordingly for the time being British Muslims would be well-advised to seek out employers and schools who are sympathetic and well-disposed towards Muslims, and therefore willing and able to negotiate hours and lessons which make it possible to worship the Lord of the Universe in the way that He has commanded we should.

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