



## THE ASSOCIATION OF MUSLIM LAWYERS

---

### Further Submissions to the House of Lords Select Committee on Religious Offences

---

May it please your lordships, the following submissions are made on behalf of the Association of Muslim Lawyers (UK), on behalf of all the Muslim communities in the UK, on behalf of all the sincere followers of all the *bona fide* religions in the UK – and on behalf of all the followers of any system of beliefs and practices which is not a *bona fide* religion:

#### Non-Religious Offences :

1. During the course of hearing evidence from representatives of FAIR, the MCB and AML on the 17th October 2002, some members of the Select Committee expressed particular concern for protection under the law for individuals and groups who may be defined by their rejection of – or by their choice of a belief or ideology other than – a *bona fide* religion, as opposed to those individuals and groups who may be defined by their acceptance of a *bona fide* religion. As the learned Chairman pointed out, “We are very aware of the fact that there are people who have very strong non-religious beliefs,” [Question 346].
2. This particular concern and awareness can be expressed as follows : If individuals or groups are unreasonably vilified because they do not accept or follow a *bona fide* religion, or because they follow a system of beliefs and practices which is not a *bona fide* religion, are they entitled to similar protection under the law as those who are unreasonably vilified because they do accept and follow a *bona fide* religion?
3. In response to this particular concern, and in addition to AML’s written and oral submissions dated and made on the 17th October 2002, it is respectfully further submitted as follows :
4. It was suggested by the learned Chairman that “it would be very dangerous for us to recommend to the House legislation which plainly leaves out part of the obligations under Article 9,” [Question 365], and furthermore, that any such selective legislation “plainly does not comply with Article 9,” [Question 366].
5. It is respectfully submitted that in the particular context under consideration neither of these assertions is in fact true.
6. Although *Article 9 of the ECHR* recognises rights concerned with both religious and non-religious belief, the particular concern and remit of the Select Committee on Religious Offences is, as its name clearly indicates, *religious* offences – and this should not be extended to include *non-religious* offences.

7. In so far as the Select Committee recommends to the House legislation which is solely concerned with securing *religious* rights by introducing new *religious* offences, this is not ‘dangerous’ – but rather it is focused and rightly so.
8. In so far as any such legislation secures Article 9 *religious* rights, this will plainly be in strict compliance with *Articles 1, 9, 13 and 14 of the ECHR*.
9. By way of analogy, the *Race Relations (Amendment) Act 2000* could well have extended the application of the race relations legislation to include *religious* discrimination. As with the *Race Relations Act 1976*, this possibility was seriously considered during the consultation process – but was rejected. It was decided to retain and maintain the focus on race alone.
10. Many people criticised the loss of this opportunity to introduce protection from religious discrimination under civil law in employment – but no-one successfully asserted that retaining the focus on race was either dangerous or not in compliance with ECHR obligations.
11. As already submitted, the Select Committee should only consider *religious* offences in the context of *bona fide* religions which are based partly or wholly on a revelation from God and whose principal purpose is the worship of God.
12. As already submitted, protection under any laws governing *religious* offences should not be extended to those whose beliefs and practices do not involve adherence to a *bona fide* religion and the worship of God.
13. As already submitted, protection under the criminal law of the *non-religious* freedom not to believe in or worship God and not to follow any *bona fide* religion – but rather to believe in and worship something or someone else or even nothing or no-one – should be given effect by separate legislation, should this be deemed necessary.
14. In so far as any Select Committee on Non-Religious Offences were to recommend to the House legislation which was solely concerned with securing *non-religious* rights by introducing new *non-religious* offences, this would not be ‘dangerous’ – but rather it would be focused and rightly so.
15. In so far as any such legislation were to secure Article 9 *non-religious* rights, this would plainly be in strict compliance with *Articles 1, 9, 13 and 14 of the ECHR*.

**In the Alternative :**

16. If the Select Committee decides that its remit is wider than its name suggests and that those individuals or groups who formulate or fabricate a ‘religion’ out of beliefs and practices which derive from other than a *bona fide* religion (for example, agnostics, atheists, philosophers, evolutionists, scientologists, animists, naturists, idolworshippers, humanists, communists, freemasons, druids, magicians, warlocks and witches, to name but a few – as well as possibly even the silent majority) should be protected from unreasonable vilification by the same law which protects those who follow a *bona fide* religion, then it is respectfully submitted that this should be done in a separate section and *only* as regards a possible offence of incitement to *non-religious* hatred, but *not* as regards the offence of blasphemy.

17. Since the offence of blasphemy is inextricably linked to protection from vilification of God and His Messengers and of those who seek to obey Him and follow them, it follows that this protection cannot be extended to afford protection to those whose beliefs and practices involve whether explicitly or implicitly rejection of God and His Messengers. To do so would be to render the true meaning of blasphemy meaningless.

18. As regards a possible offence of incitement to *non-religious* hatred, a new statutory definition of incitement to non-religious hatred could be :

1 (1) The crime of *incitement to non-religious hatred* is committed by a person who intentionally makes public words, images or conduct whereby the beliefs, doctrines, practices and rituals of any system of beliefs and practices which are not a *bona fide* religion are unreasonably vilified by abusive or violent words or conduct which lead or are likely to lead the general body of those who follow any such system to fear for the well-being of their lives and their property.

(2) For the purposes of section 1(1) above :

(i) A *bona fide* religion is any religion based partly or wholly on a revelation from God and whose principal purpose is the worship of God;

(ii) God is the Creator, the Sustainer and the Destroyer of all that exists;

(iii) It is for the court to decide, taking all the circumstances and evidence into account, as to what constitutes:

(a) a *bona fide* religion,

(b) a system of beliefs and practices which are not a *bona fide* religion, and

(c) unreasonable vilification

in any particular case.

19. The definitions in *paragraph 31* of the AML submissions dated the 17th October 2002 and in *paragraph 10 above* could be combined as follows :

1 (1) The crime of *blasphemy* is committed by a person who intentionally makes public words, images or conduct whereby the beliefs, doctrines, practices and rituals of any *bona fide* religion are unreasonably vilified by abusive or violent words or conduct which shock and outrage or are likely to shock and outrage the feelings of the general body of believers who follow any such religion.

(2) The crime of *incitement to religious hatred* is committed by a person who intentionally makes public words, images or conduct whereby the beliefs, doctrines, practices and rituals of any *bona fide* religion are unreasonably vilified by abusive or violent words or conduct which lead or are likely to lead the general body of believers who follow any such religion to fear for the well-being of their lives and their property.

(3) The crime of *incitement to non-religious hatred* is committed by a person who intentionally makes public words, images or conduct whereby the beliefs, doctrines, practices and rituals of any system of beliefs and practices which are not a *bona fide* religion are unreasonably vilified by abusive or violent words or conduct which lead or are likely to lead the general body of those who follow any such system to fear for the well-being of their lives and their property.

- (4) For the purposes of section 1(1) to (3) above :
- (i) A *bona fide* religion is any religion based partly or wholly on a revelation from God and whose principal purpose is the worship of God;
  - (ii) God is the Creator, the Sustainer and the Destroyer of all that exists;
  - (iii) It is for the court to decide, taking all the circumstances and evidence into account, as to what constitutes:
    - (a) a *bona fide* religion,
    - (b) a system of beliefs and practices which are not a *bona fide* religion, and
    - (c) unreasonable vilification in any particular case.
20. It is respectfully submitted, however, that the Select Committee should *not* consider or recommend the creation of an additional offence of incitement to *non-religious* hatred – especially since, to the best of my knowledge, no specific need for such an offence has been either convincingly demonstrated or specifically requested by any particular non-religious group.
21. The plight of scientologists in Germany was mentioned on the 17th October 2002, [Question 366], but this lies beyond the jurisdiction of the United Kingdom. If the scientologists in England require charitable status, this can be requested on the basis of education rather than religion.
22. There is no evidence as far as I am aware of scientologists in the UK being made the target of incitement to non-religious hatred. The only comment I have made, for example, is that scientology has made Mr Ron Hubbard a rich man, which is true – whereas most of the *bona fide* prophets, may the blessings and peace of Allah be on all 124,000 of them, made do with very little of this world, since their wealth was knowledge of God.
23. Such a specific need, to create an additional offence of incitement to *non-religious* hatred, would probably only arise – as has been the case in the past – if the country was being governed by members of one particular religious sect who considered themselves the sole proprietors, guardians and interpreters of ‘the truth’.
24. The Conservatives and New Labour have been accused of many things, but not this!
25. It is irrational and illogical and possibly disingenuous to argue that because it is not possible to protect *everyone* under a particular law, therefore the law should not protect *anyone*.
26. Historically, statute law has tended to develop, while in harmony with Jeremy Bentham’s utilitarian philosophy, in direct response to specific social, political or economic needs rather than in accordance with general philosophical and jurisprudential theories.

#### Historical Precedents :

27. As regards the protection of *bona fide* religions in the United Kingdom, during past centuries the protection of the law has at various times been sought by and eventually granted to different religious groups as they gradually became established in the British Isles – and because they had experienced unjust religious discrimination.

28. At one point in history, for example, the Jews were legally expelled from the realm. Today they enjoy the full protection of the law. At other points in history, Christians in the United Kingdom have been legally victimised for being either Unitarian, Trinitarian, Roman Catholic or Protestant. Today they enjoy the full protection of the law, especially in Northern Ireland.
29. It is only relatively recently that some of the other major world religions, including Islam, have become established in the United Kingdom. Their followers, including the Muslims, have yet to receive the legal recognition, protection and status that Jews and Christians in the UK now take for granted. At present the Muslims are by default being legally victimised. Today they too request the full protection of the law.
30. The present need of the members of the *bona fide* religions, especially Muslims, for the protection of the law from unjust and unjustifiable religious discrimination and unreasonable vilification should not be ignored simply because there *may* be other groups who are not members of *bona fide* religions and who *might* not benefit under this particular law.
31. If it transpires that any other group, whether it be religious or non-religious, is in need of the protection of the law but does not have it, then its members can state their case and it can be duly considered.
32. The Muslims in the United Kingdom have been stating their case now for more than a quarter of a century.
33. As the learned chairman pointed out on the 17th October 2002, [Question 332], “I understand the ambition very well, the means to achieve it is another thing.” It may well be another thing, but it is respectfully submitted that the time for defining the means to achieve that ambition is now long overdue.
34. The representatives of FAIR and the MCB have drawn attention in particular to the injustices to which Muslims in the UK have been and are being subjected – and the AML submissions have suggested in particular a possible legal formula which will afford some measure of protection not only to Muslims but also to the followers of all the *bona fide* religions.
35. If any modification will improve that legal formula, then it is of course welcome.
36. St Thomas Aquinas once wrote: “Human law is law only by virtue of its accordance with right reason, and by this means it is clear that it flows from eternal law. In so far as it deviates from right reason it is called an unjust law; and in such case, it is no law at all, but rather an assertion of violence.”
37. Although these words were penned some eight centuries ago, they still ring true today. Wise laws are laws which are in harmony with divine laws – which is what St Thomas Aquinas indicated when referring to eternal laws. Right reason demands that minority *bona fide* religious groups, including Muslims, are protected by the law from unjust and unjustifiable religious discrimination and unreasonable vilification. Until the law provides that protection, the law will unjustly continue to deviate from right reason by blindly permitting the assertion of violence against them.

38. God says in the *Qur'an*: 'I only created *jinn* and man to worship Me.' (*Qur'an* 51:56) [the *jinn* are inhabitants of the heavens and the earth made of smokeless fire who are usually invisible.]
39. Although these words were revealed some fifteen centuries ago, they still remain true today and until the end of time. Any legal system or combination of laws which does not facilitate and protect this primary purpose of our existence, or which hinders it, is clearly deficient and is in need of reform. Of all the countless *Article 9* rights, the right which recognises and protects this primary purpose is paramount – and so therefore is the duty to secure it. This is an obligation imposed by God, not by man.
40. The precedents set by the Jews and the Christians in acquiring recognition and protection by the law should be followed and applied in granting legal recognition and protection not only to Islam and the Muslims but also to all other *bona fide* religions and their followers, in civil law as well as in criminal law.

[The quotation from the *Qur'an* is taken from *THE NOBLE QUR'AN – a New Rendering of its Meaning in English* by Abdalhaqq and Aisha Bewley, (Bookwork, Norwich, 1999). The definition of the *jinn* is taken from *A Glossary of Islamic Terms* by Aisha Bewley, (Ta-Ha Publishers, London, 1998).]

Thank you for considering these further submissions. May they be of assistance in securing Article 9 religious rights for all the sincere followers of all the *bona fide* religions.

Ahmad Thomson

Barrister

Deputy-Chairman, the Association of Muslim Lawyers

24th October 2002