Elimination of all forms of religious intolerance

III B: Situation of persons with atheistic or non-theistic beliefs

1. Historic overview

64. With regard to the situation of persons with atheistic or non-theistic beliefs, it is important to note that the pertinent international legal standards protect the freedom of “religion or belief”. Article 18 (2) of the International Covenant on Civil and Political Rights, for example, states that “[n]o one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice”. Furthermore, the title of the 1981 Declaration contains the phrase “religion or belief”. These legal instruments, however, do not provide any definition of those notions.

65. At the beginning of his Study of Discrimination in the Matter of Religious Rights and Practices (1960), Arcot Krishnaswami, the Special Rapporteur of the Subcommission on Prevention of Discrimination and Protection of Minorities, included an explanatory footnote: “In view of the difficulty of defining ‘religion’, the term ‘religion or belief’ is used in this study to include, in addition to various theistic creeds, such other beliefs as agnosticism, free thought, atheism and rationalism.” Article I (a) of the draft international convention on the elimination of all forms of religious intolerance provided a similar, albeit shorter, definition whereby the expression “religion or belief” should include “theistic, non-theistic and atheistic beliefs”. This formulation was then taken up by the Human Rights Committee in its general comment No. 22 (1993) and combined with the additional statement that article 18 of the International Covenant on Civil and Political Rights also protects the “right not to profess any religion or belief” (para. 2). During the elaboration of this general comment, the Chairperson-Rapporteur of the working group, Vojin Dimitrijevic, underlined that the concept of belief was very important but also difficult to define and consequently care must be taken to employ suitable wording. Eventually, the general comment stated that the terms “belief” and “religion” are to be broadly construed and that “[a]rticle 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions” (para. 2).

66. This approach was also adopted by the Special Rapporteur, who in several reports (most recently in A/HRC/4/21, para. 46) referred to the formulation of “theistic, non-theistic and atheistic beliefs”. Theism is the belief in the existence of one supernatural being (monotheism) or several divinities (polytheism), whereas a non-theist is someone who does not accept a theistic understanding of deity. Atheism is the critique and denial of metaphysical beliefs in spiritual beings. In order to make the belief aspect of the mandate more apparent, the
second mandate holder, Abdelfattah Amor, suggested that the initial title of “Special Rapporteur on religious intolerance” should be changed to “Special Rapporteur on freedom of religion and belief”. In this regard, Mr. Amor explicitly named agnosticism, freethinking, atheism and rationalism as examples of “belief” (see E/CN.4/1998/6, para. 105). By endorsing the suggested change of title, the Commission on Human Rights, in resolution 2000/33, confirmed that the mandate encompasses not only religions but also beliefs. The new title, “Special Rapporteur on freedom of religion or belief”, acknowledges the fact that some beliefs explicitly deny the religious approach of theism.

2. Issues of concern for atheists and non-theists

68. In the context of previous country visits, the Special Rapporteur’s interlocutors from atheistic or non-theistic backgrounds raised several issues of concern, for example that some of the taxes paid by atheists or non-theists are used to finance religious activities of the State (see A/55/280/Add.1, para. 16) and that many atheists do not publicly admit their belief because this would be perceived negatively by society (see A/55/280/Add.2, para. 7). On the other hand, religious communities complained about obstacles which hampered their evangelizing activities in atheistic totalitarian regimes, whose leaders are hostile to religion (see E/CN.4/2000/65, para. 150).

69. More recently, atheists and non-theists made the Special Rapporteur aware of the following issues of concern with regard to blasphemy laws, education issues, equality legislation, as well as official consultations held only with religious representatives.

(a) Blasphemy laws and “defamation of religions”

70. Several national laws which prohibit blasphemy afford different levels of protection to different religions. Such domestic blasphemy laws for example protect only the prevailing religion in the State concerned, or they are applied in a discriminatory sense. Some laws against blasphemy are used in practice to repress not only religious minorities or dissenters but also atheists and non-theists. The notion of “belief” is usually absent from such legal instruments and consequently these laws against blasphemy establish a normative hierarchy of theistic and atheistic/non-theistic beliefs.

71. Moreover, groups of atheists and non-theists have recently voiced their deep concerns about the present exercise to combat “defamation of religions” at the international level. These atheist and non-theist groups argue that the very concept of “defamation of religions” is flawed, since it is individuals — both believers and non-believers alike — who have rights, not religions. They furthermore assert that the lack of an objective definition of the term “defamation of religions” makes the whole concept open to abuse. In their view, attempts to protect religions from “defamation” are really seeking to protect religion from critical evaluation and aim to stifle religious dissent.

(b) Education issues

72. Further concerns relate to education in publicly funded schools. Atheist and non-theist groups regard an obligation for pupils to take part in collective religious worship, especially
when no adequate rights of withdrawal are provided, as indefensible in terms of human rights. Laws and policies which require education about religions but not about non-religious alternatives are criticized as being discriminatory. Furthermore, they object to the manner in which syllabuses of religious education are drawn up, especially that atheists and non-theists are rarely represented on the relevant committees or advisory bodies. Some countries afford a special status to faith-based schools and allow them to discriminate in their admissions and employment policies. Consequently, teachers with no religious beliefs or with beliefs incompatible with those of the faith-based school are put at a disadvantage in comparison to theistic colleagues.

(c) Equality legislation and faith-based provision of public services

73. In several countries, religious groups enjoy certain exemptions from equality legislation concerning employment or the provision of goods, facilities and services. This is criticized as effectively allowing religious groups to discriminate against other religions and non-religious believers. This problem may increase when public services, for example in the health or social sector, are contracted out to faith-based organizations. Atheists and non-theists are concerned that contractual clauses may not be enough to protect them and religious minorities when seeking services from or employment with public service providers when the service provision has been contracted out to faith-based organizations.

(d) Official consultations only with religious representatives

74. Government bodies which are set up to consult religious groups, for example on policy issues, tend to leave out representatives of non-religious beliefs. In cases where self-styled “faith leaders” with extreme views are given disproportionate influence, there seems to be a risk that those without religious belief or who are dispassionate about religion will be excluded from legitimate debate.

3. Observations

75. On a global level, atheists and non-theists seem not to be as institutionalized and vocal as their theistic counterparts. Apart from historical and cultural reasons, this may partly be attributed to the fact that atheistic or non-theistic beliefs often imply rather personal approaches. Furthermore, there are many different schools of thought of atheistic or non-theistic belief; however, this does not, in essence, distinguish them from theistic beliefs, given the multitude of religions, denominations and individual theistic approaches worldwide. The Special Rapporteur would like to reiterate that the right to freedom of religion or belief applies equally to theistic, non-theistic and atheistic beliefs. Furthermore, the right not to profess any religion or belief is also protected.

76. The Special Rapporteur is grateful for the oral and written submissions she has received from atheistic and non-theistic believers and she takes their concerns seriously. Concerning blasphemy laws, there are worrying trends towards applying such domestic provisions in a discriminatory manner and they often disproportionately punish members of religious minorities, dissenting believers and non-theists or atheists. In one of his annual reports, the second mandate holder stressed his “concern relating to efforts to combat
defamation: these should not be used to censure all inter-religious and intra-religious criticism. Several other communications from the Special Rapporteur illustrate the danger that efforts to combat defamation (particularly blasphemy) may be manipulated for purposes contrary to human rights” (E/CN.4/2000/65, para. 111). Most recently, in its resolution 1805 (2007), the Parliamentary Assembly of the Council of Europe recommended that the Committee of Ministers ensure that national law and practice in Council of Europe member States “are reviewed in order to decriminalize blasphemy as an insult to a religion” and “penalize statements that call for a person or a group of persons to be subjected to hatred, discrimination or violence on grounds of their religion as on any other grounds”. The Special Rapporteur agrees that a useful alternative to blasphemy laws could be to fully implement the protection of individuals against advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence according to article 20 (2) of the International Covenant on Civil and Political Rights. In this regard it is noteworthy that recent legislation in the United Kingdom defines the meaning of “religious hatred” as “hatred against a group of persons defined by reference to religious belief or lack of religious belief”.

77. The Special Rapporteur would like to reiterate that criminalizing “defamation of religions” can be counterproductive, since it may create an atmosphere of intolerance and fear and may even increase the chances of a backlash. Accusations of “defamation of religions” might stifle legitimate criticism or even research on practices and laws appearing to be in violation of human rights but that are, or are at least perceived to be, sanctioned by religion. In the recent thematic report on incitement to racial and religious hatred and the promotion of tolerance, she emphasized that the “right to freedom of religion or belief protects primarily the individual and, to some extent, the collective rights of the community concerned but it does not protect religions or beliefs per se” (A/HRC/2/3, para. 38). In view of the huge number of religions and beliefs, genuine differences of opinion between their believers may arise. Furthermore, it would be difficult and potentially dangerous to define in abstracto what constitutes a “defamation of religion” as well as to find an impartial, independent and non-arbitrary body for adjudicating such cases. Finally, a recent report of the United Nations Educational, Scientific and Cultural Organization emphasized that freedom of religion, thought, conscience and opinion “allows the same rights to atheists, agnostics and secular humanists to express their views, so an agreement which deals only with sacred beliefs would run counter to the fundamental principles of human rights and non-discrimination agreements”.

78. With regard to education, especially in publicly funded schools, pupils and teachers should not be discriminated against on grounds of their adherence (or not) to a specific religion or belief. The authorities should pay specific attention to the contents of syllabuses on religious education, which ideally should aim to be all embracing. In this context, the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination in its Final Document “[deemed] that each State, at the appropriate level of government, should promote and respect educational policies aimed at strengthening the promotion and protection of human rights, eradicating prejudices and conceptions incompatible with freedom of religion or belief, and ensuring respect for and acceptance of pluralism and diversity in the field of religion or belief as well as the right not to receive religious instruction inconsistent with his or her conviction” (E/CN.4/2002/73, appendix, para. 4).
Finally, when contracting out public services to faith-based organizations, the State needs to put in place effective safeguards against discriminatory practices of the contractor in the context of hiring and delivering services. Representatives of non-religious groups should not be deliberately excluded from official consultations where theistic views are prominently taken into account. The State should analyse the possibility of systemic religious bias in such official consultations due to a numerical strength of religious representations in comparison to non-hierarchical and non-institutional perspectives from atheists or non-theists.

30 United Nations publication, Sales No. 60.XIV.2, Introduction, note 1.
31 See E/CN.4/920, annex II, p. 2. The text of the draft international convention on the elimination of all forms of religious intolerance (see Official Records of the Economic and Social Council, Forty-second Session, Supplement No. 6 (E/4322), chap. II and E/CN.4/920) was adopted by the Commission on Human Rights at its twenty-first, twenty-second and twenty-third sessions, held from 1965 to 1967. However, the General Assembly subsequently decided to defer consideration of this draft convention.
33 Report on UNESCO action in favour of the respect for freedom of expression and respect for sacred beliefs and values and religious and cultural symbols (176 EX/23), 28 March 2007, para. 8).