

Post-Brexit: Hate Crimes and Human Rights Violations in the UK

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Abstract

As discussion of the political, economic, social and cultural consequences of Brexit for the UK continues, this article will explore how Brexit has affected human rights. With hate crimes increasing after the EU Referendum, there is anxiety regarding human rights and the traditional British lifestyle, based on tolerance and pluralism. Therefore, this article will endeavour to find answers to these questions: will Brexit undermine fundamental human rights? Will the Government's policies to tackle hate crimes and Brexit-linked human rights violations work? What is the best way to deal with hate crimes? .

Keywords: Human Rights, United Kingdom, Brexit, EU and International Law

Introduction

The United Kingdom (UK) has a long history and its own unique traditions such as its political and legal system. Currently, it is frequently on the present international agenda because of Brexit. Despite extensive mention of the political, economic, social and cultural effects of Brexit, its effects on human rights have received little attention. Given the increase in incidents of hate crimes after the EU Referendum, it is clear that this is an issue that requires attention.

Politicians, academics, human rights activists and lawyers have also not been clear on this issue. For instance, Lord Keen stated: “departure from the European Union does not change our commitment to human rights, nor is there any reason why it should...” Whereas Baroness Chakrabarti has warned that losing the Charter of Fundamental Rights (the EU Charter) would mean the loss of rights.²

In short, this paper looks at the effect Brexit has had on human rights protections, examining new legislation, institutional adaptations, and socio-political dynamics. In particular, these questions will be asked: Will Brexit undermine fundamental human rights? Will the Government's policies to tackle hate crimes and Brexit-linked human rights violations work? What is the best way to deal with hate crimes?

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In order to answer these questions, this article firstly provides a historical overview of human rights in the UK, tracing key legal developments that have shaped the current framework. Secondly, it explores the implementation of human rights protections, focusing on legislative measures and judicial enforcement. Thirdly, it shifts to the post-Brexit landscape, analysing the rise in hate crimes and discussing potential solutions to address these issues. Finally, it critically assesses whether the UK can effectively safeguard human rights without the influence and legal mechanisms of the EU.

A Brief History of Human Rights in the UK

In a country like the UK, with a multi-cultural population, the state needs to actively protect individual rights and freedoms. The existence of an effective legal system is not by itself enough to safeguard human rights and freedoms. Additionally, it is necessary to have a perception of social tolerance and political impartiality.

The effects of social movements throughout history have brought about the current level of human rights in the UK. Initially, back in 1215, King John signed the Magna Carta, a document that marked the first step in demarcating the powers of the king and enshrining the rule of law. The Magna Carta was the cornerstone of the rights of the individual and the right to a fair trial, which are fundamental principles (Carpenter, 2015).

With the effects of the Renaissance in the 15th and 16th centuries, views concerning morality began to change in Europe. Philosophers like Erasmus paved the way for future scholars by broadening the concept of conscience beyond the narrow confines of theology. They did this by emphasising the humanitarian aspects of religion (Maneli 1984, 85-86; Hammer 2001, 12). After the Reformation in the 16th century, the Church's monopoly on deciding what was right and wrong was broken and the notion that individuals could develop their own concepts of faith began to be accepted. For example, the Treaty (Union) of Utrecht of 1579 stressed complete personal freedom of religion, making clear that no one should be prosecuted for their beliefs (Evans 1997, 49).³ Consequently, England and the Netherlands, aware that religious tolerance led to prosperity, were tolerant of the Jewish minority, permitting them to benefit the country's economy (Kamen 1967, 224-225; Hammer 2001, 13-14). In 1534, following King Henry VIII's schism with the Pope, the Church of England was founded after England left the Roman Catholic Church (BBC, 30 June 2011).

In the 17th and 18th centuries, the Age of Enlightenment broadened the concept of tolerance. Consequently, after the Thirty Years' War (1618-1648) the 'Treaty of Westphalia' (1648) was signed to settle problems between Catholics and Protestants (Croxtton 1999, pp. 569-591). These wars led to the concept of secularism, which thinkers such as John Locke, Voltaire, Jean Bodin, David Hume and James Harrington developed further. For instance, in 1647, the 'Levellers' (an alliance of English radicals and freethinkers) produced 'An Agreement of the People' in which they emphasised the right of freedom of speech and of everyone to worship whatever religion (or none) that they chose. They also called for the safeguarding of the right to conscientious objection to military service and demanded that laws "apply equally to everyone: there must be no discrimination on grounds of tenure,

³ See 1579 Union of Utrecht, Article XIII.



estate, charter, degree, birth or place”.⁴ In 1689, John Locke published: ‘A Letter Concerning Toleration’, stressing the importance of the state protecting all religious beliefs (Locke 1796, 61-62). Moreover, the Habeas Corpus Act was introduced in 1679 to prevent people from being arrested arbitrarily, and the Bill of Rights of 1689, based largely on the ideas of Locke, guaranteed basic civil rights and freedoms and enshrined the supremacy of parliament.

In the 19th century constitutions acknowledging the rights of minorities, both with and without religious affiliation, were introduced in various countries. The Vienna Treaty of 1815 is an example of this.⁵ The 20th century saw greater importance being attached to rights, such as freedom of religion and conscience, freedom of expression, freedom from poverty, and freedom from fear.⁶ This was especially the case following World War II. Consequently, the European Convention on Human Rights (ECHR) was drafted, signed in 1950 and came into force in 1953. The UK, as a founder member of the Council of Europe (CoE), was one of the first states to ratify the ECHR in 1951. The ECHR is a key international document that safeguards fundamental rights and freedoms.

In 1998, human rights protection was consolidated in the UK by the Human Rights Act (HRA), which integrated the ECHR into domestic law. This law allows individuals to stand up for their rights and freedoms in domestic courts.

From the time of the UK's initial accession to the European Economic Community (later becoming the EU) in 1973, until leaving the EU, domestic law in the UK was generally reformed in parallel with EU law. Membership in the EU is credited with enhanced human rights on a broad spectrum of issues, including workers' rights and digital privacy. For instance, EU Directives on labour rights enhanced workers' rights in the UK. Such rights included paid holidays, safe working conditions and parental leave. Since EU law bans discrimination at work based on issues such as gender, age, disability, religion or ethnic origin, the Equality Act of 2010 was based on these EU principles.

Furthermore, the General Data Protection Regulation (GDPR) of the EU was incorporated into domestic law in the UK in 2018 with the Data Protection Act. This act has strengthened individuals' control over personal data and digital rights.

Membership of the EU also consolidated the rights of consumers. EU legislation has enhanced product safety, transparency and fair-trade practices, and environmental protection has had an indirect effect on safeguarding basic human rights such as the right to clean air and water. In turn, the UK, by implementing EU environmental policies, played its part in developing a healthier environment.

Mechanisms enabling judicial co-operation with the EU have also enhanced fair trial standards and legal safeguards. For example, the European Arrest Warrant has also facilitated swift trials for criminals. The EU Charter has made it easier for individuals to get justice and strengthened universal rights like the prohibition of torture.

⁴ See Liberty. *The History of Human Rights*. <https://www.liberty-human-rights.org.uk/human-rights/what-are-human-rights/history-human-rights>, accessed 25 February 2025.

⁵ The 1815 Treaty of Vienna was signed by Austria, Great Britain, Prussia, Russia and France.

⁶ President Franklin D. Roosevelt, US Senate Doc. no. 188, 77th Congress, 2nd Session, pp. 86-87.

In short, the UK has broad experience over the years of safeguarding and promoting human rights. While the UK can play a key role globally, in the modern world, with its constantly changing social needs and international dynamics, the protection of human rights requires both legislative reform and engaging the interest of the public. The concept of human rights is similar to those of pluralism, tolerance and open-mindedness, concepts which have developed over the years after long campaigns.

An Implementation of Human Rights in the UK

The UK's practice regarding international law is not uniform, but national courts are duty-bound to make judgments in accordance with international law. However, on sensitive issues, a country may adopt different responses, despite this clear obligation. Of course, the UK has its own dynamics, which is apparent from its laws and judgments handed down by its domestic courts.

It would now be timely to dwell on the Brighton Declaration, a document adopted by the UK in 2014. This document features changes to the ECHR which highlight the 'principles of subsidiarity' and the 'margin of appreciation'. This signifies that domestic courts would be allowed more leeway in interpreting the ECHR. It is to be hoped that, approximately 20 years after the ratification of the HRA⁷, a virtual copy of the Convention, the aforementioned positive developments in human rights will continue. It is understandable that there are concerns regarding what changes will be in the Bill of Rights expected to replace the HRA. Particularly as the principles in the Brighton Declaration have exacerbated these concerns. However, despite this, as mentioned above the HRA has initiated significant progress in the standards of human rights.

Before the HRA came into force in the year 2000, the UK ranked among the five worst countries as regards violations of the ECHR (European Court of Human Rights Survey 1959-1998). Once the HRA had been introduced, the number of cases taken from the UK to the European Court of Human Rights (ECtHR) fell significantly. By the year 2023 only 201 applications were made, according to the ECtHR's 2023 report (European Court of Human Rights 2023, 111). Hence, the UK no longer ranks as one of the worst countries as regards the contraventions of the ECHR.

One factor involved in this development is that the UK takes its obligations towards the ECHR, and international law in general, seriously, and has as a result endeavoured to make its domestic courts more efficient. Furthermore, heightened awareness of religious and ethnic tolerance, pluralism and multi-culturalism in the UK is a positive. In fact, the State must prove, when introducing restrictions, that these restrictions are proportional and necessary in a democratic society. That is, the State must adopt an impartial stance and stay equally distant from all religions, beliefs, ethnic groups and ideas.

The above principles are especially crucial for countries like the UK, where people of many different religions, beliefs and ethnicities live. The following numbers can be seen from the 2021 census as follows:

⁷ The HRA was enacted in 1998 and came into force in October 2000.



'White' was still the largest ethnic group in England and Wales with 81.7% (48.7 million). This was followed by the category: 'Asian, Asian British or Asian Welsh' (9.3%, 5.5 million); then: 'Black, Black British, Black Welsh, Caribbean or African group' (4%, 2.4 million); the fourth largest group was: 'Mixed or multiple ethnic groups' (2.9%, 1.7 million) and then: 'Other ethnic groups' (2.1%, 1.3 million). In Scotland, 12.9% (around 650,000) of people were of a minority ethnic background in 2022. In Northern Ireland, 3.4% (65,600) of the people belonged to minority ethnic groups (Religion Data 2021) (Ethnic Group Data 2021 for England and Wales, Ethnic Group Data 2022 for Scotland, Ethnic Group Data 2021 for Northern Ireland).

In the same census, 46.2% (27.5 million) of people in England and Wales saw themselves as Christian, 6.5% (3.9 million) as Muslim, 1.7% (1 million) as Hindu, 0.9% (524,000) as Sikh, 0.5% (271,000) as Jewish and 0.5% (273,000) Buddhist. 37.2% (22.2 million) of the population belonged to no religion. In Scotland, 38.8% (2,110,405) of the population defined themselves as Christian and 2.2% (119,872) as Muslim, 51.1% (2,780,900) of the population belonged to no religion and 7.9% (almost 100,000) belonged to other faiths. In Northern Ireland, 89.2% (1,697,300) defined themselves as Christian, 9.3% (177,400) had none, and 1.5% (28,500) of the population belonged to other faiths (Religion Data 2021 for England and Wales, Religion Data 2022 for Scotland, Religion Data 2021 for Northern Ireland).

Given these figures, it is apparent that the UK is cosmopolitan. However, in a democratic country if fundamental political and social values are not protected, then existing rights and freedoms will only be hypothetical. When we say political values, we mean the state accepting the principle of secularism. By social values, we mean the tenets of tolerance, pluralism and multi-culturalism being accepted in society. As the ECtHR emphasised in its judgment *Moldova Church of Bessarabia and Others v. Moldova*, the state has a duty to keep an equal distance from all religions, acknowledging them as expected by the principle of tolerance.⁸ This principle is a *sine qua non* in a secular state.

Consequently, in a multi-cultural country like the UK, there are some detailed questions that need to be asked. First of all, is the UK secular? If it is not, does this make it difficult to protect fundamental rights and freedoms? Do legal and administrative assurances permitting different religions/beliefs/ideas and ethnicities exist?

The UK differs from countries like Turkey and France, where secularism is protected in the Constitution.⁹ However, this does not imply that in the UK the State is biased and intolerant of different beliefs. Just because the UK does not have a codified and fully written constitution or that these principles are not protected by law does not mean they are not recognised. The UK came into existence founded on conventions/customs where society in general accepted tolerance and the impartiality of the State as essential elements of a

⁸ *Metropolitan Church of Bessarabia and Others v. Moldova*, 13 December 2001, No. 45701/99.

⁹ It should be noted that 'secularism' does not have the same meaning in every single country. In this respect, it would be good to distinguish 'legal secularism' (this terminology is enshrined in the Constitution) and 'substantial secularism'. Legal secularism is not quite the same thing as 'substantial' secularism. In fact, it may be maintained that 'substantial' secularism has often been better protected in countries where secularism has not been proclaimed as a legal or constitutional principle (e.g. the UK) than in countries such as France and Turkey whose constitutions have declared that the Republic is secular. In other words, if a country's constitution includes 'secularism', it does not necessarily make this country secular.

democratic society. Furthermore, rights and freedoms are guaranteed by the HRA. For example, freedom of thought, conscience and religion is protected by Article 9 of the HRA, which is the same as Article 9 of the ECHR. Article 14, prohibiting discrimination, is also exactly the same as Article 14 of the ECHR (Çınar, 2013, 73-104).

However, it is not possible to claim that human rights, like freedom of religion and belief, enjoyed general safeguarding before the Courts prior to the HRA. Although it is true that this freedom was protected in certain circumstances (Bradney 2015, 740). An example of this is Section 30 of the Education Act of 1944, which states that the religious beliefs of teachers will be protected. Those who belonged to certain religious groups also enjoyed special protection.¹⁰ Moreover, two legal provisions were introduced for male Sikhs, whose faith requires them to wear turbans. The first of these is the Motorcycles Crash Helmets Act of 1976, which allows Sikhs to ride motorcycles without wearing a mandatory crash helmet.¹¹ There is also the Employment Act of 1989, which allows Sikhs to work on building sites without wearing safety helmets.¹²

- In addition, the Equality Act of 2006 (amended in 2010) prohibits discrimination based on age, disability, gender, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.¹³ It also prohibits discrimination everywhere: at work, in education and in public services. These provisions exceeded the limits introduced by the EU, which merely applied in the working environment (Çınar 2014, 19).¹⁴
- Moreover, in 2007 the Racial and Religious Hatred Act came into force. This act makes inciting hatred against a person on the basis of their religion an offence.¹⁵ In fact, hate speech of any kind towards any faith group has been banned by law, with a maximum sentence of 7 years imprisonment in England and Wales (United Kingdom International Religious Freedom Report 2015, 3).

It would be prudent to remark at this point that the judicial system needs to monitor the practices of state institutions, to ensure that there is no discrimination. Courts in the UK allow the exercise of basic rights, unless this threatens the rights and freedoms of others. Activities that endanger health and safety are not approved, an approach in accordance with the norms of international law, which stresses that state interference in this freedom must be a necessary one in a democratic society. This is exactly the practice that the British judiciary has implemented.¹⁶

¹⁰ Education Act, (1944).

¹¹ Motorcycles Crash Helmets (Religious Exemption) Act, (1976).

¹² Employment Act, (1989).

¹³ See Section 4 of the Equality Act which was enacted in 2010 and came into force in October 2010. See also Equality and Human Rights, Religion or Belief Discrimination, <https://www.equalityhumanrights.com/en/advice-and-guidance/religion-or-belief-discrimination#h1>, accessed 25 February 2025.

¹⁴ According to the Directive of 2000/78/EC of 27 November 2000, people must not be discriminated in the workplace because of their religion or belief, disability, age and gender. See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>, accessed 25 February 2025.

¹⁵ This Act came into force on 1 October 2007.

¹⁶ *Eneida v. British Airways*, (2008) UKEAT 0123_08_2011.



The Equality and Human Rights Commission (EHRC) was also set up in 2007 to prevent discrimination of any faith outside the court environment. The EHRC's main purpose is to look at complaints concerning discrimination in England, Scotland and Wales. This commission functions independently, despite receiving State funding. In Northern Ireland, the Equality Commission plays the same role. After the case of *Eweida and others*¹⁷, the EHRC issued two guides which set out clear standards: public service must in no circumstances discriminate against employees or customers on the basis of religion or other grounds (Equality and Human Rights Commission 2013A, 6; Equality and Human Rights Commission 2013B, 4-6; Çınar 2014, 21). That is, provided an organisation's function is not affected and provided public service is maintained, leave may be granted on a religious or another basis (Çınar 2014, 21).

In short, the fact there is no fully written and codified constitution in the UK, nor a definitive separation of the State and religion, does not mean tolerance, pluralism or the recognition of multi-culturalism is endangered. Moreover, relevant legislation and mechanisms protecting human rights have been introduced. As a result, the exercise of fundamental rights and freedoms, like the freedom of religion and belief, is restricted far less than in many European countries. For instance, after the attacks of 11 September, the UK did not respond like many European countries, where bans against Muslims were brought in. Evidence of this is that Pola Manzila Uddin, a member of the House of Lords, is able to speak in Parliament in a headscarf.

There are other significant points worthy of note: 6,806 'faith schools' (Faith Schools: FAQs, 18)¹⁸ receive state funding, for which they need to be registered as charities. Having charitable status also benefits faith organisations and faith schools as it means they are exempt from certain taxes. The Charity Act of 2006 includes religions which have more than one God and faiths which do not believe in a god. There are also 30 Sharia councils that exist alongside the national legal system.¹⁹ Additionally, as a centuries-old tradition, 26 bishops from the Church of England are members of the House of Lords. Apart from taking part in the legislative business of the House, they can also offer prayers before every session. (United Kingdom International Religious Freedom Report 2015, 5).

However, despite the existence of all these laws and regulations designed to protect freedoms in the UK, since the Brexit referendum cases of hate crimes are on the rise according to reports compiled by both governmental and non-governmental organisations (United Kingdom International Religious Freedom Report 2015, 8-12).

Post-Brexit: Hate Crimes Issues and Potential Solutions

Between 2016 and 2024, according to Home Office data reports (Home Office, England and Wales 2024), there were more than 800,000 incidents of hate crimes in England and Wales. Furthermore, more than 40,000 incidents occurred in Scotland and more than 20,000

¹⁷ *Eweida and others v. United Kingdom*, 15 January 2013, Nos. 48420/10, 59842/10, 51671/10 and 36516/10.

¹⁸ Of these 4,609 are Church of England; 1,985 Catholic; 26 Methodist, 145 other Christian schools; 48 Jewish; 18 Muslim; eight Sikh; four Hindu; two Greek Orthodox, one Quaker, Seventh-day Adventist and United Reform Churches.

¹⁹ See <https://www.london.gov.uk/who-we-are/what-london-assembly-does/questions-mayor/find-an-answer/sharia-courts>, accessed 25 February 2025.

in Northern Ireland (Hate Crime in Scotland 2024, Trends in Hate Motivated Incidents and Crimes Recorded by the Police in Northern Ireland 2024). Hence, since the European Union (EU) Referendum was held on 23 June 2016 it is apparent there has been a steep increase in these offences.

The accepted definition of hate crimes is ‘any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice towards someone based on a personal characteristic.’²⁰ There are 5 main types of hate crimes (Home Office 2024): race or ethnicity; religion; sexual orientation; disability and transgender identity.

Green, McFalls and Smith (2001) state that there are five reasons ‘why people commit hate crimes’: a-) Psychological; b-) Social-psychological; c-) Historical-cultural; d-) Sociological; e-) Economic and political (Green et. 2001, 479-504). We will not delve into all the reasons here, but, undoubtedly, recent terror attacks and increased migration in the UK and all over the world are contributory factors to the increase in hate crimes (European Union Agency for Fundamental Rights 2016; O’Neill 2017). Rising numbers of asylum seekers in Europe and the UK have played a role, while it is abundantly clear that Brexit has also had an effect. The irresponsible anti-refugee language used by politicians before the Referendum is one of the main reasons for the rise in hate crimes (*Al Jazeera*, 15 February 2017). For example, two weeks before the Referendum UKIP published a poster of the party leader Nigel Farage showing a picture of Syrian migrants with the caption: “Breaking Point: The EU has failed us all”. UKIP also published a poster about Turkey, which is mainly Muslim, saying: “Turkey (a country of 76 million) is joining the EU: Vote Leave”. The above-mentioned posters illustrate the hostile language commonly used during the Referendum campaign. Phrases used in mass media or on social media, (for example, ‘refugees not welcome’, ‘defend Europe’, ‘send them home’, ‘f.. Islam’, ‘get out, we vote leave’, ‘white power’...) were also deplorable (Merali 2017, 593, 602).

It would thus be useful to mention the report of the UN Committee on the Elimination of Racial Discrimination, which stated that “the [Brexit] Referendum campaign was marked by divisive, anti-immigrant and xenophobic rhetoric, and that many politicians and prominent political figures not only failed to condemn it, but also created and entrenched prejudices, thereby emboldening individuals to carry out acts of intimidation and hate towards ethnic or ethno-religious minority communities and people who are visibly different.”²¹

Consequently, the Labour Party MP Jo Cox, who worked with refugees and had made clear her opposition to Brexit, was murdered by a far-right racist only a week before the Referendum.²² The attack on London's Finsbury Park Mosque on 19 June 2017 is another

²⁰ This common definition was agreed in 2007 by the police, Crown Prosecution Service, Prison Service (now the National Offender Management Service) and other agencies that make up the criminal justice system. See <https://www.cps.gov.uk/crime-info/hate-crime>, accessed 25 February 2025.

²¹ UN Committee on the Elimination of Racial Discrimination, ‘Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland’, 26 August 2016.

²² Helen Joanne Cox (22 June 1974 – 16 June 2016) was the Member of Parliament for the Batley and Spen constituency from May 2015 until her murder in June 2016. She was killed by Thomas Mair, a man associated with far-right organisations. He was found guilty of her murder in November 2016 and sentenced to life imprisonment.



example of individuals being emboldened by hateful rhetoric. This attack involved a van driver who drove at Muslims, killing one and injuring eleven others (BBC, 20 June 2017). Lord Ahmed received a racist letter in another example of hate crimes (Mirror, 7 July 2016).

The Chair of the Equality and Human Rights Commission, David Issac, commented on the figures mentioned above, stating that they “make it very clear that some people used the Referendum result to justify their deplorable views and promote intolerance and hatred” (Weaver 2016). This rise in racist, intolerant views threatens the reputation of the UK for respect and tolerance of other religions, which goes back centuries.

Hence, prior to the Referendum, in 2014 the Department of Education had appealed to all schools to show respect and tolerance to those of different faiths and beliefs, by encouraging and inculcating ‘Fundamental British Values’, with importance given to the rule of law, democracy and individual freedoms. The purpose of stressing these values is to obviate extremism among young people (Department of Education 2014).

Although a campaign like this may be effective in combatting extremism in the long term, other key issues must be tackled. For instance, according to ‘the Hate Crime Strategy’ announced by the Home Office in August 2016, the UK’s approach to hate crimes is to protect everyone equally (Home Office 2016, para 14). Amber Rudd, who was Home Secretary at the time, claimed in October 2016 that the Government’s policy was proving effective (Weaver 2016). Nevertheless, both Liberty and Amnesty International accused the Government of not doing enough to prevent these developments (Liberty 2016; Amnesty International 2018). The statistics also make clear that, as stressed by the NGOs, the Government has not introduced an effective enough strategy (Liberty 2016, 31).

The Government should put dealing with hate crimes at the top of its agenda. Since, according to NGOs, the Government’s strategy in dealing with hate crimes has been a failure. In this respect, the following things need to be prioritised: the Human Rights Act 1998 and other relevant Acts (e.g. the Racial and Religious Hatred Act of 2007) must be implemented strongly (Landmann et al, 2024). As Wright also suggested, “[i]t is therefore a critical historical moment to consider carefully what the principles and values encapsulated in the UDHR [Universal Declaration of Human Rights] bring to British society. Work undoubtedly needs to be done to ensure that people in the UK understand how human rights are relevant to their everyday lives. Human rights legislation could also be enforced in a more rigorous and consistent manner. In some areas, the rights might need to be adapted to suit rapid advances in technology or social attitudes...” (Wright, 2019, 354-355).

Furthermore, there must be a crackdown on hate crimes and appropriate sentences handed down (Liberty 2016, 31). It is also crucial that state institutions use existing legislation and safeguarding mechanisms properly. As recommended by the Law Commission, the Government should scrutinise legislation regarding hate crimes to see if the existing system works for victims. (Law Commission 2014). It is also essential that police officers, local

government personnel and staff of other organisations are trained to recognise hate crimes, as recommended by Amnesty International. It is also important that victims receive care and support (Amnesty International 2018, 10). Furthermore, public institutions should also pay attention to what members of the community say. Understanding of hate crimes will be increased by contact between public institutions and people in the community (Hardy and Chakraborti 2016). It is also indeed important that people, especially the media and politicians, are careful about the words they use.

Is it possible to protect human rights without the EU?

It is evident what must be done to tackle hate crimes, both short and long term, and it would be useful to ask, when hate crimes are increasing, whether EU rules have had an effect in combatting these offences. Hence, the question arises as to whether leaving the EU will help prevent such offences from being committed.

James Standish states that leaving the EU will not adversely affect human rights. He argues that religious freedom will be enhanced, basing his case on four points:

- Regarding freedom of religion and belief, the track records of those EU states that wield the most influence as regards the enactment and putting into practice EU instruments are a lot worse than the UK's. He refers to a report on the freedom of religion and belief published by the Pew Research Centre in 2015. This report claims the situation regarding these freedoms is a lot worse in Germany, France, Spain, Belgium and Greece than in the UK.
- The attitude adopted by the EU to religious freedom depends on the values and politics of member states, not the guidelines of international human rights bodies.
- The probability is that the human rights policy of the EU will restrict religious freedom in the UK rather than improve it.
- The UK will still be a member of the ECtHR after Brexit, as it is part of the CoE, separate from the EU (Sandish 2016).

However, differing opinions exist on this issue. For example, Liberty believes that leaving the EU will have a negative effect on the freedom of religion and belief. It begins by raising concerns about Brexit's impact on the Data Protection Act of 1998 and the Equality Acts of 2006 and 2010. The Liberty report also mentions the weakening of safeguards for human rights under the auspices of the European Court of Justice (ECJ), especially when invoking the EU Charter, adding that the status of ECJ case law is now vague. Consequently, it fears that the increase in hate crimes that began before the Referendum and has continued since will undermine the reputation of the UK (Liberty 2016).

In short, a variety of views exist as regards the effect of leaving the EU on human rights in the UK. Hence, the question of safeguarding human rights outside the EU needs to be examined at length.

It is evident that EU Law has had a significant impact on UK law, especially in the sphere of data protection (General Data Protection Regulation -GDPR), equality rights, victims' rights and workplace discrimination (Equality and Human Rights Commission, 2017). For instance, as mentioned above, the Equality Act of 2010 bans all kinds of discrimination in the work environment, education and in public services, which goes beyond the EU's



original provision, which merely foresaw a ban in the workplace (Çınar, 2014: 19).²³ We should also mention the Racial and Religious Hatred Act of 2006, which prohibits incitement of hatred against an individual.²⁴

Prior to Brexit, human rights in the UK were closely linked to EU law based on the ECHR. Moreover, the UK was part of the EU Charter giving additional guarantees that were not provided by the ECHR or domestic law. The EU Charter covered rights like data protection, environmental protection and employees' rights, consolidating safeguards in EU member states. UK citizens could also appeal to the ECJ on matters of EU law.

However, as the Brexit process has now been completed, the EU Charter and other EU laws are no longer legally enforceable in the UK. Over 1,000 EU laws have been revoked or reformed by the government since the UK left the EU on account of the Retained EU Law (Revocation and Reform) Act of 2023. This law gives ministers the power to reform or revoke EU laws without substantial parliamentary oversight. Arguably this could undermine fundamental safeguards without necessary public discussion or parliamentary debate. This possibility is concerning as regards the accountability of the parliamentary process.²⁵ Nevertheless, in spite of this, essential human rights legislation like the Equality Acts of 2010, the Racial and Religious Hatred Act of 2006 and the Consumer Rights Act of 2015 will continue to be legally binding (European Union (Withdrawal) Act 2018). All laws that were enacted while the UK was in the EU will continue to be legally binding, which is an important guarantee. Hence, it is evident that victims of hate crimes will continue to safeguard their freedoms in line with EU standards.

There are also other legal safeguards in the UK. For instance, the HRA guarantees basic rights and freedoms. It was the HRA that implemented rights and freedoms enshrined in the ECHR into domestic law.

Also, membership of the CoE means that ECtHR case law still applies in the UK. Courts have endeavored in recent years to strike a balance between victims of rights violations and the rights of others not to suffer discrimination, handing down significant judgments as regards human rights and discrimination²⁶ (Equality and Human Rights Commission, 2012: 321).

Consequently, non-membership of the EU does not hinder tolerance and pluralism, nor does it endanger multi-culturalism. Existing legislation and case law is sufficient to tackle hate crimes. A more pressing question is whether the Government has the desire to focus

²³ According to the Directive of 2000/78/EC of 27 November 2000, people must not be discriminated in the workplace because of their religion or belief, disability, age and gender. See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>, accessed 25 February 2025.

²⁴ See Equality and Human Rights. Religion or Belief Discrimination, <https://www.equalityhumanrights.com/en/advice-and-guidance/religion-or-belief-discrimination#h1>, accessed 25 February 2025.

²⁵ See <https://www.osborneclarke.com/insights/retained-eu-law-act-2023-revolution-cancelled-substantive-change-uk-law-post-brexit>; <https://gowlingwlg.com/en/insights-resources/articles/2023/the-retained-eu-law-revocation-and-reform-act>, <https://ima-citizensrights.org.uk/retained-eu-law-revocation-and-reform-act-2023/> accessed 25 February 2025.

²⁶ See *Ladele v. London Borough of Islington*, (2010) ICR 532; *Abmad v. United Kingdom* (1981) 4 EHRR 126; *R. (S.B.) v. Head Teacher and Governors of Denbigh High School* (2007) 1AC 100; *Eweida v. British Airways* (2010) ICR 890; *Chaplin v. Royal Devon and Exeter NHS Foundation Trust* (2010) ET no. 1702886/2009; *R. (Watkins-Singh) v. The Governing Body of Aberdare Girls' High School* (2008) EWHC Admin 1865, (2008) 3 FCR 203.

on this issue. The Government must realise that it has an obligation to combat hate crimes, since it is protected under international law and, as such, it is not relevant whether it is a member of the EU, since the UK is a member of the international community. Unfortunately, as elaborated above, it is not possible to say that the government has met all its obligations or indicated that it intends to do so. This state of affairs has undermined the UK's reputation as a multicultural, pluralist and tolerant country. Nevertheless, as it is true that other European countries have imposed more adverse restrictions on human rights than the UK, things may turn out after all to prove the pessimists wrong about Brexit.

Indeed, in addition to Belgium, France, Germany and Switzerland prohibiting the wearing of the burka and niqab, the ECJ's recent judgments regarding religious symbols in the work environment have raised eyebrows. The very first time it was asked to reach a verdict on whether employers could ban employees from displaying religious or political symbols while at work, the ECJ decided that employers could indeed ban religious symbols or garments.²⁷ These judgments have led to the opening of Pandora's Box (Silvestri, 2017).

The cases mentioned were brought by two women employees, one from Belgium and one from France. The ECJ was asked to make a judgment on whether employers could prohibit employees from displaying political, philosophical or religious symbols at work. One of the women, Samira Achbita, was a receptionist. Her employer, G4S in Belgium, had sacked her because she insisted on wearing an Islamic headscarf when at work. The other applicant, Asma Bougnaoui, was a design engineer who had been dismissed from her position at an IT consultancy firm, Micropole, after a complaint was made by a client. The client complained to the Company the applicant's wearing a veil had been embarrassing for some of its employees. The client also asked for "no veil next time". The Courts in Belgium and France referred the cases to the ECJ for a judgment on how to apply EU rules on equality in the work environment. The ECJ reached the following conclusion in the case of Achbita:

The Court therefore concludes that the prohibition on wearing an Islamic headscarf, which arises from an internal rule of a private undertaking prohibiting the visible wearing of any political, philosophical or religious sign in the workplace, does not constitute direct discrimination based on religion or belief within the meaning of the directive. By contrast, such a prohibition may constitute indirect discrimination if it is established that the apparently neutral obligation it imposes results, in fact, in persons adhering to a particular religion or belief being put at a particular disadvantage. However, such indirect discrimination may be objectively justified by a legitimate aim, such as the pursuit by the employer, in its relations with its customers, of a policy of political, philosophical and religious neutrality, provided that the means of achieving that aim are appropriate and necessary. It is for the Belgian Court of Cassation to check those conditions (para. 45)...

As for the case involving Bougnaoui, the ECJ stated that "the willingness of an employer to take account of the wishes of a customer no longer to have that employer's services provided by a worker wearing an Islamic headscarf constitutes a genuine and determining occupational requirement within the meaning of that provision" (para. 25).

²⁷ See *Samira Achbita v. Belgium*, 14 March 2017, No. C-157/15; *Asma Bougnaoui v. France*, 14 March 2017, No. C-188/15.



These judgments disappointed religious and human rights groups. For instance, the Church of England observed that this judgment would make it possible for employers to prohibit the wearing of crucifixes in the work environment (Rudgard, 2017). Amnesty International commented, saying: “Today's disappointing rulings by the CJEU give greater leeway to employers to discriminate against women - and men - on the grounds of religious belief. At a time when identity and appearance has become a political battleground, people need more protection against prejudice, not less” (Amnesty International, 2017).

In short, the way things are going in Europe and the judgments of the ECJ referred to above, it is quite possible that the UK could soon be the only place in Europe where Muslims or other ethnic and religious minorities can go to work wearing their religious garments or symbols without fear that they might be asked to remove them. People who feel their freedom to exercise their human rights in EU member states is threatened could wish to move to the UK. In the 16th century, England offered Jewish people a place to live and this both benefitted the country's economy and led to social-cultural diversity. The British government could repeat history by playing a leading role in defending fundamental human rights and freedoms and fighting hate crimes. In this way, the UK could improve its international standing as a country that is seen as multi-cultural and tolerant of diverse religions and cultures.

Conclusion

In order for freedoms to exist, social conditions and the political atmosphere must be suitable for it to develop. It is the responsibility of states to take steps to ensure that the necessary legal and administrative mechanisms exist so that rights and freedoms may be safeguarded. Tolerance and legal recognition of all religions, beliefs and philosophies are essential to achieve this.

It is apparent that the recent rise in hate crimes is largely down to recent terrorist attacks that have taken place all over the world, and the increasing numbers of asylum seekers. It is also apparent that some people took advantage of the Brexit Referendum to publicise their own opinions that are founded on hate and intolerance. However, if tolerance does not exist then nor will this freedom, the State must create an environment where this freedom can thrive. An inclusive education system is necessary so that different religions and ideas can exist side by side. Therefore, it is essential that all students are taught universal values as Fundamental British Values. Additionally, state institutions must apply existing legislation and safeguarding mechanisms properly. Once the mechanisms referred to previously are applied fully, the social and political environment may be shaped accordingly. If this is done, most incidents of hate crimes could be prevented. It is, therefore, incumbent on everyone, especially the media and politicians, to be careful about the way they express themselves publicly.

With the introduction of the Brighton Declaration, and with the Brexit process being completed, time will tell as to whether the Government, the courts and other institutions in the UK apply their obligations under international law fully. Hence, they must understand that, although membership of the EU led to advances in human rights, it is not the case that leaving the EU means giving up existing rights and freedoms. It is therefore crucial that the above-mentioned legislation and mechanisms are protected, consolidating the principles of tolerance, pluralism and multi-culturalism for which the UK is renowned, and guaranteeing

the country continues to play a role in the international community. Without such safeguards, the economic, social and political damage caused by the process of leaving the EU may increase tensions between communities based on ethnicity, religion or sexual orientation, resulting in chaos. Internal conflict could even break out, as our history books contain many such examples.

In conclusion, when countries such as France, Austria, Belgium and Germany where human rights are at stake such as banning the hijab, as we learn from the previous experience, tolerance, pluralism and multi-culturalism could lead to prosperity. The UK could be the ideal destination for people whose freedom is at stake. Thus, it is the perfect time for the new Labour Party Government to take a stand in favor of the relevant freedoms. This will certainly contribute to the UK to rebuild its reputation at international level as a tolerant and pluralist country.

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